



EMPLOYMENT TRIBUNALS

Claimant: Mr J Neoptolemos

Respondents: 1. University of Liverpool
2. Royal Liverpool and Broadgreen University Hospitals NHS Trust

HELD AT: Liverpool **ON:** 3 and 4 May 2018

BEFORE: Employment Judge T Vincent Ryan

REPRESENTATION:

Claimant: Mr O Isaacs, Counsel
1st Respondent: Mr T Gorton, Queen's Counsel
2nd Respondent: Mr G Powell, Counsel

JUDGMENT

The judgment of the Tribunal is:

1. In respect of the claimant's application to amend the claim, dated 19 March 2018 in writing and made today:
 - 1.1 The claimant's application to amend the claim was granted in respect of the following amendments, (by reference to a Schedule of Detriments appearing at pages 110-123 of the preliminary hearing bundle of documents, "the Schedule"):
 - 1.1.1 The addition to/clarification of facts already pleaded in respect of the detriments numbered 2, 5, 7, 9, 11, 12, 16, 21 and 22 (the majority of which the claimant describes as relating to allegations of collusion);
 - 1.1.2 Detriments numbered 16A, 19 and 26, where the claimant states that he did not have knowledge of them prior to presentation of his claim form.
 - 1.2 The following applications by the claimant to amend his claim were refused namely the addition (by reference to the Schedule) of:

- 1.2.1 Detriment numbered 25 (dated 30 July 2017) where the claimant says that this was not known to him at the time he presented his ET1 claim form;
- 1.2.2 Detriments numbered 3, 4, 6, 8 and 20 (all of which are in made in circumstances where the claimant had prior knowledge of the matters of which he complains but he did not include them in his presented claim).

2. The claimant's claims against the second respondent were presented to the Tribunal late but in circumstances where it was not reasonably practicable for them to have been presented within the prescribed time, and the claimant presented them within a reasonable time after the expiry of the primary limitation period. The second respondent's application to strike out the claimant's claims against the second respondent because they are out of time fails and is dismissed.

3. The first respondent's applications to strike out the claimant's detriment claims, specifically those relating to Professor Robert Sutton and Professor Ian Green prior to 13 November 2015 and Professor Greer in April 2015, the detriments in respect of the Scientific Director's role (detriment 2) and detriments 12, 14, 16 and 18 are dismissed as the Tribunal was unable to conclude as requested that the claimant's claims had no reasonable prospect of success in the absence of hearing or receiving formal evidence on the matters. This is by reference to the Schedule

4. The second respondent's application to strike out the claimant's claims against the second respondent, because they have no reasonable prospect of success, is dismissed. The tribunal was unable to conclude, in the absence of evidence, that the claims have no reasonable prospect of success.

5. The first and second respondents' applications in respect of deposit orders are granted only in respect of the following matters but none other and, the claimant having declined the invitation to give evidence as to means, the amounts of the deposits ordered to be paid are specified in each case and will be set out in a deposit order accordingly. These Orders are made because the Tribunal concludes that the following have little reasonable prospect of success:

5.1 Disclosures where the Tribunal found little reasonable prospect of the claimant succeeding to establish that he made a protected disclosure (by reference to the claimant's Further and Better Particulars presented in response to an Order of 21st December 2017):

- Alleged disclosure – 1st – (unnumbered): That the claimant made a protected disclosure on 8 July 2014 in conversation with Professor Sutton – deposit £100.
- Alleged disclosure - 2nd - (but numbered 13): 17 and 22 July 2014 – deposit £100.
- Alleged disclosure – 3rd (but numbered 14): 2 September 2014 – deposit £100.

- Alleged disclosure – 8th (but numbered 19): 7 or 8 January 2015 – deposit £100.

5.2 Alleged detriments where the Tribunal adjudged that the claimant had little reasonable prospect of succeeding with his claims that these allegations amounted to detriments to which the claimant was subjected by either respondent on the ground that he had made a protected disclosure (by reference to the Schedule):

- Detriment 1 – deposit order £100
- Detriment 2 – deposit order £100
- Detriment 3 – deposit order £100
- Detriment 4 – deposit order £100
- Detriment 6 – deposit order £100
- Detriment 8 – deposit order £100
- Detriment 10 – deposit order £100
- Detriment 11 – deposit order £100
- Detriment 13 – deposit order £100
- Detriment 14 – deposit order £100
- Detriment 15 – deposit order £100
- Detriment 26 – deposit order £100

6. The respondents' application for a deposit order on the basis that the claimant has little reasonable prospect of succeeding with his claim that his dismissals were unfair because the reason, or if more than the principal reason, for the dismissals was that he had made a protected disclosure or protected disclosures is granted. The claimant shall pay a deposit of £1,000 apportioned as to £500 in respect of the allegations against the first respondent and £500 in respect of the allegation against the second respondent.

Employment Judge T Vincent Ryan

Date: 14th May 2018

JUDGMENT SENT TO THE PARTIES ON

31 May 2018

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing (and none was) or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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