

**Order revised under CPR 40.12 on 28<sup>th</sup> November 2023**

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**MEDIA AND COMMUNICATIONS LIST**

**Claim No. QB-2020-003558**  
**Claim No. KB-2023-002707**

**Before:**

**BETWEEN**

**JOHN ALEXANDER MELVIN HEMMING**

**-and-**

**SONIA VANESSA POULTON**

**-and-**

**SAMUEL COLLINGWOOD SMITH**

**-and-**

**DARREN LAVERTY**



**QB-2020-003558**

**Defendant**

**Third Party**

**Fourth Party**

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**ORDER**

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UPON hearing Counsel for the Claimant and the Defendant, Third and Fourth Parties in person at the Royal Courts of Justice on 17<sup>th</sup> and 18<sup>th</sup> October 2023

UPON the Claimant's application dated 15<sup>th</sup> February 2022 seeking permission to amend the particulars of claim ('First Application')

UPON the Claimant's application dated 13<sup>th</sup> July 2022 seeking an order disapplying the limitation period in respect of amendments proposed in the First Application ('Second Application')

UPON the Defendant's application dated 13<sup>th</sup> February 2023 seeking permission to amend her defence and counterclaim ('Third Application')

UPON the Claimant's application dated 18<sup>th</sup> August 2023 to lift the stay in the related claim no. KB-2023-002707 ('Fourth Application').

UPON the Defendant's application dated 1<sup>st</sup> September 2023 seeking injunctive relief against the Fourth Party arising out of an alleged breach of their settlement agreement ('Fifth Application').

UPON the Fourth Party's cross-application dated 11<sup>th</sup> September 2023 likewise seeking relief arising from alleged breaches of that settlement agreement ('Sixth Application')

AND UPON considering written submissions filed after circulation on the draft judgment addressing various costs issues

FOR THE REASONS given in the judgment handed down on 24<sup>th</sup> November 2023 with neutral citation reference [2023] EWHC 3001 (KB)

**IT IS ORDERED THAT:-**

1. The Claimant has permission to amend his **Claim Form, and his** Particulars of Claim in the form provided at page 369 of the hearing bundle save that permission is refused for the introduction of Publications 2-4 as defamation claims (they are permitted as data protection and harassment claims). The Claimant must therefore file and serve a further **Claim Form and** amended pleading in accordance with this permission, and consistent with the guidance at [269] of the judgment, by 4pm on 8<sup>th</sup> December 2023.
2. The Second Application is dismissed.
3. The Defendant has permission to amend her Defence and Counterclaim in accordance with the draft annexed to the Third Application, subject to further amendment in accordance with the following and in response to the amended Particulars of Claim, and must file and serve the same by 4pm 22<sup>nd</sup> December 2023:
  - a. The amendments to the introductory wording of paragraph 17 are refused, though the Defendant is permitted if so advised to provide alternative introductory wording to make clear that the matters therein reflect the Defendant's case if the court finds a meaning other than one of those contended for by the Claimant.
  - b. The amendments to paragraph 18 are refused.
4. The Claimant and Third Party are permitted to file and serve an amended Reply to Defence and Defence to Counterclaim by 4pm on 12<sup>th</sup> January 2024.
5. The outcome of the Fourth Application is that KB-2023-002707 is not struck out as an abuse of process, but neither is the stay on it by imposed by Master Stevens on 21 July 2023 lifted. The future conduct of this claim is addressed at [236] of the judgment.
6. For the purposes of resolving the issues raised in the Fifth and Sixth Applications:
  - a. The Defendant shall file and serve Particulars of Claim, setting out the breaches of the settlement agreement she alleges against the Fourth Party by 4pm 22<sup>nd</sup> December 2023.

- b. The Fourth Party shall file a Defence and any Counterclaim, responding to those allegations and setting out any breaches of that settlement agreement that he alleges against the Defendant by 4pm 12<sup>th</sup> January 2024.
  - c. The Defendant shall file a Defence to any such Counterclaim by 4pm on 26<sup>th</sup> January 2024.
7. Disclosure shall be dealt with as follows:
  - a. The parties (including the Defendant and the Fourth Party in relation to the issues raised by the Fifth and Sixth Applications) shall, by 4pm on 9<sup>th</sup> February 2024 file and serve a report verified by a statement of truth which:-
    - i. describes briefly what documents exist or may exist that are or may be relevant to the matters in issue in the case;
    - ii. describes where and with whom those documents are or may be located;
    - iii. in the case of electronic documents, describes how those documents are stored;
    - iv. estimates the broad range of costs that could be involved in giving standard disclosure in the case, including the costs of searching for and disclosing any electronically stored documents;
    - v. includes an Electronic Documents Questionnaire completed in accordance with CPR PD 31B;
    - vi. provides proposals for the scope of disclosure and the appropriate order to be made under CPR r. 31.5(7) and/or (8) and indicates whether the parties wish the court to approve that order without a further hearing.
8. There shall be a case management conference listed on the first available date after 16<sup>th</sup> February 2024, before a judge of the Media and Communications List, with a time estimate of 90 minutes, to consider the following:
  - a. Further directions to trial in the QB-2020-003558 case.
  - b. Directions for resolution of the Fifth and Sixth Applications.
  - c. Consideration of whether there should be a preliminary issue trial on meaning in QB-2020-003558.
9. Costs budgeting shall take place as follows:
  - a. CPR r. 3.13 shall apply to the Claimant and the Defendant.
  - b. The Claimant and Defendant shall each file and exchange costs budgets using form Precedent H by no later than 14 days before the CMC.
  - c. The Claimant and Defendant shall file budget discussion reports using form Precedent R by no later than 7 days before the CMC.
  - d. Costs budgeting for the Third and Fourth Parties is dispensed with.
10. Further:
  - a. All amended statements of case must comply with CPR PD 17 paras 2.3 – 2.4.
  - b. There be permission to any party to apply for further directions if necessary.
  - c. If the claim or any part of the claim is settled the parties must immediately inform the court, whether or not it is then possible to file a draft consent order to give effect to the settlement.
11. Costs:
  - a. The Claimant shall pay the costs of and arising from the amendments granted as a result of the First Application save that the costs of amendments arising

from new events alleged to have occurred after filing of the earlier pleadings be costs in the case.

- b. The Claimant shall pay the costs of the Second Application.
- c. The Defendant shall pay the costs of and arising from the amendments granted as a result of the Third Application save that the costs of amendments arising from new events alleged to have occurred after filing of the earlier pleadings be costs in the case.
- d. Save as above there is no order for costs on the Third or Fourth Applications.
- e. Costs in the Applications on the Fifth and Sixth Applications.
- f. The Defendant shall pay the Third Party £100 in satisfaction of paragraph 4 of the costs order dated 8<sup>th</sup> February 2023 (the 'Norwich Pharmacal' order) by 4pm on 8<sup>th</sup> December 2023.
- g. The Defendant shall pay the Third Party £95 in satisfaction of paragraph 5 of the Norwich Pharmacal order by 4pm on 8<sup>th</sup> December 2023.
- h. The Defendant shall pay the Claimant's costs of the 13<sup>th</sup> July 2022 hearing in any event.
- i. The costs of this hearing shall be costs in the case save insofar as such costs fall within the orders above.

Dated this 24<sup>th</sup> day of November 2023

Revised this 28<sup>th</sup> day of November 2023