Neutral Citation Number: [2024] EWHC 3060 (KB)

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/11/2024

Before :

MRS JUSTICE HEATHER WILLIAMS DBE

- -

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

Case No: KB-2024-0001852

Between :

KUNLE ABAYOMI — **Claimant**

-and-

CIFAS — **Defendant**

- -

IN THE HIGH COURT OF JUSTICE
HIGH COURT APPEAL CENTRE
ROYAL COURTS OF JUSTICE

Case No: KA-2023-000165
KA-2024-000016
KA-2024-000099

Between :

KUNLE ABAYOMI — **Appellant**

- and –

KING'S COLLEGE LONDON — **Respondent**

- -
- -

The **Claimant/Appellant** did not attend
Paul Parker (instructed by **Kennedys Law LLP**) for the **Defendant**
Paul Greatorex (instructed by **Mills & Reeve LLP**) for the **Respondent**

Hearing date: 20 November 2024

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Approved Judgment

This judgment was handed down remotely at 10.30am on 29 November 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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MRS JUSTICE HEATHER WILLIAMS

MRS JUSTICE HEATHER WILLIAMS DBE:

Introductory matters

1. Mr Abayomi has represented himself at all material stages of the various proceedings.

2. He brought four claims against King's College London ("KCL") arising out of the one-year Master of Science in Global Affairs course that he undertook from October 2019. These claims were ordered by the County Court to be consolidated under claim number 324MC558 ("the Consolidated claims"). Mr Abayomi also brought a claim against KCL numbered 426MC711 ("the Data Breach claim").

3. Mr Abayomi applied for an interim injunction in the Consolidated Claims. This was dismissed by Recorder Hill-Smith on 9 August 2023 with an order for costs and a totally without merit marking. On 15 August 2023 Mr Abayomi appealed this order. This is appeal KA-2023-000165.

4. Master Thornett's order of 6 November 2023 made in the Data Breach claim provided that unless Mr Abayomi complied with certain steps that were set out in the order, the claim stood transferred to the High Court and the judgment in default dated 15 August 2023 set aside. By his order of 5 December 2023, the Master declared that this took effect as Mr Abayomi had not complied with aspects of the earlier order. By his order of 22 January 2024, the Master dismissed Mr Abayomi's applications to set aside his 5 December 2023 order, certifying them as totally without merit. On 2 February 2024, Mr Abayomi appealed the 5 December 2023 and 22 January 2024 orders. This is appeal KA-2024-000016.

5. On 8 April 2024, HHJ Parfitt granted KCL's application to strike out the Consolidated claims. On 25 April 2024 he granted KCL's application to strike out the Date Breach claim. On 26 April 2024 Mr Abayomi appealed these orders and related orders made by the Judge. This is appeal KA-2024-000099.

6. By application notice dated 3 April 2024, KCL applied for a General Civil Restraint Order ("GCRO") or such lesser civil restraint order as the court considered appropriate ("the GCRO application").

7. CIFAS is a membership association that provides an information exchange for its members, the National Fraud Database ("NFD"). Mr Abayomi brought claim number 516MC003 in the County Court for defamation and breach of UK GDPR in respect of an entry against him on the NFD made by Barclays Bank plc and maintained by CIFAS ("the CIFAS claim"). On 11 June 2024 this claim was transferred to the High Court. By application notice dated 19 July 2024, CIFAS applied to strike out the claim (now KB-2024-001852) or for reverse summary judgment on the claim, for a declaration that the claim is totally without merit and for an Extended Civil Restraint Order ("ECRO").

The scope of the 20 November 2024 hearing

8. By order of 1 August 2024 Hill J directed a hearing to be held before a High Court Judge on the first available date after 14 October 2024 to determine:

    i) Whether CIFAS' applications of 19 July 2024 should be granted;

ii) Whether permission to appeal should be granted in KA-2024-000099;

iii) Whether KA-2024-000016 has been automatically struck out because Mr Abayomi had failed to comply with the order of Sir Stephen Stewart dated 16 April 2024; and, if not, whether permission to appeal should be granted;

iv) Whether KA-2023-000165 has been automatically struck out because Mr Abayomi had failed to comply with the order of Soole J dated 1 July 2024; and, if not, whether permission to appeal should be granted; and

v) Whether the GCRO application should be granted.

9. The hearing was listed for 20 November 2024. In the CIFAS claim, Mr Abayomi made applications dated 4 October and 17 October 2024 to withdraw the defamation cause of action and for the remainder of the action to be transferred back to the County Court. By order of 24 October 2024, Farbey J listed this to be determined at the 20 November 2024 hearing.

10. On 4 November 2024, Mr Abayomi filed an application dated 28 October 2024 seeking to withdraw the CIFAS claim altogether ("the Withdrawal Application"). CIFAS objected on the basis that it was necessary to serve a notice of discontinuance, which would lead to an order that Mr Abayomi was to pay its costs of the action. By order of 14 November 2024, Collins Rice J listed the Withdrawal Application to be determined at the 20 November 2024 hearing. However, in an email sent to the Court and to CIFAS at 19:55 hours on 19 November 2024, Mr Abayomi indicated that he was now withdrawing the Withdrawal Application. CIFAS accepted he was entitled to do so. Accordingly, the issues before me in relation to the CIFAS Claim reverted to those that had been listed for hearing on 20 November 2024 prior to the filing of the Withdrawal Application.

Other claims brought by Mr Abayomi

11. I understand that Mr Abayomi has also brought a claim against Barclays Bank in relation to the NFD entry. Just after 15:30 hours on 19 November 2024, I was informed that Barclays Bank was seeking to have its applications for an order striking out that claim and for a GCRO also listed before me for the hearing on 20 November 2024. I understand that the claim had been transferred from the County Court with this end in mind, but for reasons I am not aware of, this case had not been listed to be heard on 20 November 2024. I took the view that it was much too close to the hearing to now add these further applications involving different proceedings and that, in particular, it would be unfair to Mr Abayomi to do so. In the circumstances, I have not read the documents on the Court file in respect of the Barclays Bank litigation at the time of writing this judgment and I have not taken them into account. At the outset of the hearing, I indicated to Mr Greatorex and Mr Parker that this would be my position. They both indicated that they were content not to make reference to the Barclays Bank case in their submissions. For the avoidance of doubt, I was not addressed on any other litigation that Mr Abayomi may be involved in against other third parties and I am not aware of the position in that regard.

The 19 November 2024 orders

12. I was first informed on the afternoon of Friday 15 November 2024 that this case was to be listed before me on Wednesday 20 November 2024. I thought it prudent to disclose to the parties that afternoon that I had been an undergraduate law student at KCL in the period 1981 – 1984 and a part-time tutor for approximately 15 months from January 1985. I indicated that my provisional view was that this did not give rise to grounds to recuse myself, but that I would not make any final determination on this point until the parties had had an opportunity to make written representations. On Monday 18 November 2024 Mr Abayomi sent emailed representations contending that I should recuse myself and KCL and CIFAS sent emails agreeing with my provisional view that the test for appearance of bias was not met in the circumstances. For the reasons I set out in my order dated 18 November 2024, sealed on 19 November 2024 ("the first 19 November order"), and thus need not repeat here, I decided that the fair minded and reasonable observer, having considered the facts, would not conclude that there was a real possibility that I would be biased.

13. In the first 19 November order, I also refused Mr Abayomi's application dated 13 November 2024 to vacate the 20 November 2024 hearing in relation to the KCL appeals and application. Mr Abayomi subsequently sent a Statement of Fitness to Work ("SFTW") to the Court and made additional representations. Accordingly, in the interests of clarity, I made a further order confirming that the 20 November 2024 hearing was not vacated ("the second 19 November order"). On 19 November 2024, Mr Abayomi's 15 November 2024 application to vacate the 20 November 2024 hearing in relation to CIFAS' claim was issued. I refused that application ("the third 19 November order"). In each instance my reasons for declining to vacate the hearing were set out in the order. However, as those reasons are also relevant to my decision to proceed with the hearing on 20 November 2024, I describe the applications to vacate and my reasons for refusing them at paras 79 – 85 below.

The hearing

14. As he had foreshadowed in various emails sent to the Court on 19 November 2024 and the morning of 20 November 2024, Mr Abayomi did not attend the hearing. Accordingly, I had to decide whether to proceed in his absence. Having heard submissions from Mr Greatorex and Mr Parker, I decided to do so. I indicated that my full reasons would be set out in the reserved judgment that I would prepare after the conclusion of the hearing. They appear at paras 87 – 99 below. The hearing proceeded with Mr Greatorex and Mr Paul making their submissions. I then reserved judgment, given the multiplicity of the issues that I had to address and the advantage to all parties of having a comprehensive written judgment.

15. The structure of this judgment is as follows:

The material circumstances

The Consolidated claims

16. The Court was provided with a copy of the bundle prepared for the hearing of the strike out application on 8 April 2024. This included three witness statements from Amy Law of Mills & Reeve LLP (KCL's solicitor with conduct of the matter), the consolidated pleadings and documents supplied by Mr Abayomi for that hearing. In these claims Mr Abayomi contends that KCL provided him with inadequate supervision in respect of his dissertation and prevented him from having the extended time that he sought for submission of his dissertation.

17. The first claim (318MC562) was issued on 10 August 2022 and claimed damages for breach of contract and breach of human rights. Claim 2 (324MC558) was issued on 31 August 2022 and relied upon alleged discrimination, victimisation and breach of human rights. Claim 3 (338MC200) was issued on 13 October 2022 and alleged breach of contract and negligence. Claim 4 (326MC897) was issued on 5 January 2023 and relied upon alleged fraud. I will turn to the procedural chronology shortly, but first I will briefly summarise the claims and the defence.

18. Mr Abayomi's Particulars of Claim in the Consolidated claims are dated 16 January 2024. He says that whilst he understood he had obtained an extension of his dissertation submission date from 1 to 17 September 2020, this was not reflected on the system that he was required to use to submit his work and KCL delayed in replying to his communications seeking clarification. He was subsequently offered an extension to 28 October 2020, but indicated he would submit by 6 October 2020 as he was starting full-time employment thereafter. He subsequently tried to re-submit his dissertation on 19 and 23 October 2020, but was not permitted to do so. He also complains about poor

supervision. The Particulars acknowledge that he was told in November 2020 that KCL would mark a version that he had submitted after 6 October 2020. Mr Abayomi also says that the 'pass' degree certificate issued to him by KCL in December 2020 is void and false.

19. The Defence to the Consolidated claims, dated 15 June 2023, contends that the claims are without merit and the damages sought unrealistic. KCL had offered to mark the subsequent versions of the dissertation. No relevant contractual terms are identified and the Equality Act 2010 and Human Rights Act 1998 claims are well out of time. Various pleading deficiencies are also highlighted.

The procedural chronology

20. After Mr Abayomi obtained judgment in default in respect of the first three of these claims. However, by application dated 15 November 2022, KCL successfully applied to have the judgments set aside on the basis that they had received no notice of the proceedings. Deputy District Judge Grant's order of 25 May 2023 set aside the default judgments, directed consolidation of the claims under claim number 324MC558 and transferred the consolidated case to the County Court at Central London. Mr Abayomi was ordered to pay KCL's costs; and the Judge certified Mr Abayomi's application of 24 November 2022 as totally without merit (para 22(i) below).

21. Mr Abayomi applied for an interim injunction that KCL "must not issue another degree certificate or mark Kunle Abayomi final dissertation until the matter is resolved in court". The hearing took place before Recorder Hall-Smith at the County Court at Central London on 9 August 2023. The Recorder gave an ex tempore judgment dismissing the application, certifying it as totally without merit and ordering Mr Abayomi to pay KCL's costs assessed at £4,500.

22. By application notice dated 11 August 2023, KCL applied to strike out the Consolidated claims, alternatively, for the grant of reverse summary judgment and for the claims to be marked as totally without merit. The accompanying Grounds of Application reflected the points made in the Defence. The application was supported by a witness statement from Amy Law of Mills & Reeve LLP. She noted that Mr Abayomi had so far issued 13 applications since KCL's application of 15 November 2022. It is unnecessary for me to refer to every application that Mr Abayomi has made in the various proceedings, but I will list these applications to give a flavour:

    i) An application dated 24 November 2022 to "throw out" KCL's 15 November 2022 application. This was the application that was dismissed as totally without merit in the 25 May 2023 order;

    ii) An application dated 29 November 2022 to lift a stay on the Writ of Control that had been granted by the High Court on 29 November 2022;

    iii) An application dated 20 December 2022 seeking the listing of a hearing before the end of that month;

    iv) An application dated 11 January 2023 regarding a hearing that had taken place before Master Sullivan that day. It included asking that KCL be held in contempt of court because of an email that was sent. This application was dismissed by

order of Master Sullivan on 16 January 2023 and certified as totally without merit. It is apparent from the reasons accompanying the order that the alleged contempt of court related to the Master asking KCL's representative at the hearing to email her with a copy of the draft order;

v) An application to appeal the order made on 29 November 2022 staying the Writ of Control;

vi) An application dated 9 February 2023 which was not served on KCL;

vii) An application dated 7 March 2023 to transfer the claim to Barnett County Court;

viii) Applications dated 29 March and 18 April 2023 which were not served on KCL. The 18 April application was dismissed by order of District Judge Johnson dated 20 April 2023 as "disclosing no basis" for setting aside an earlier order dated 14 April 2023 or for transferring any of the claims to a different court;

ix) An application dated 20 April 2023 relating to appealing Master Sullivan's order from the 11 January 2023 hearing;

x) The application dated 28 July 2023 for an injunction (heard and dismissed on 9 August 2023, as I have described); and

xi) Two applications each dated 4 August 2023 to move the date of the injunction hearing.

23. Ms Law's witness statement also referred to the fact that in her order of 2 December 2022, Master Sullivan had noted that Mr Abayomi had emailed a number of Judges and court staff about his applications even after being directed to use the correct email when contacting the Court. Ms Law said of Mr Abayomi's conduct: "It is my view as the solicitor with day-to-day conduct of this matter that the Claimant has adopted an unreasonable approach, entirely without merits, turning his disagreement with the Defendant into a series of claims which are unreasonable and which have been pursued unreasonably, leading to the Defendant incurring additional and unnecessary costs".

24. On 20 November 2023, the Court ordered that the hearing of KCL's application for strike out / summary judgment would take place on 8 April 2024. In a separate order of the same date, the Court also refused Mr Abayomi's application to appeal the order of 25 May 2023 as being totally without merit. The order recorded that Mr Abayomi was entitled to have the refusal reconsidered at an oral hearing. The order also required Mr Abayomi to file the consolidated Particulars of Claim by 17 January 2024.

25. On 24 November 2023, Mr Abayomi applied to set aside the order of 20 November 2023.

26. A hearing took place before HHJ Parfitt on 8 April 2024 at the Mayor's & City of London Court. The Judge gave an ex tempore judgment. As set out in the order dated 8 April 2024 (issued by the Court on 11 April 2024), the Judge: (i) refused Mr Abayomi's renewed application for permission to appeal the Deputy District Judge's order of 25 May 2023, directing that it be marked as totally without merit; (ii) dismissed the

application to set aside the order of 20 November 2023, directing that it be marked as totally without merit; (iii) struck out the Consolidated claims pursuant to CPR 3.4(2)(a), (b) and (c) and for non-compliance with para 5 of the order of 20 November 2023 regarding the contents of the consolidated Particulars of Claim, directing that the claim be marked as totally without merit; and (iv) ordered Mr Abayomi to pay KCL's costs, to be subject to detailed assessment, but with a payment of £20,000 on account of costs. Mr Abayomi was refused permission to appeal.

27. The Judge also made a Limited Civil Restraint Order ("LCRO") dated 8 April 2024 in respect of both the Consolidated claims and the Data Breach claim. The LCRO was based on the totally without merit certifications of Recorder Hill-Smith in the 9 August 2023 order, his own totally without merit certifications which I have just described in the preceding paragraph and the totally without merit certifications of Master Thornett in his order of 22 January 2024 (referred to at para 35 below).

28. On 24 March 2024, Mr Abayomi had applied for the 8 April hearing to be held at the Central London County Court, rather than at the Mayor's & City of London Court. He also objected to KCL's strike out / summary judgment application in the Data Breach claim being considered at the same hearing. This application was dismissed by HHJ Parfitt in an order dated 22 April 2024 and certified as totally without merit. (There is a typographical error in the recital to the order, which incorrectly refers to the "Defendant's" application, rather than the Claimant's.)

29. By application notice dated 3 April 2024 made in both the Consolidated claims and the Data Breach claim, KCL applied for a GCRO. By order dated 25 April 2024, HHJ Parfitt transferred both claims to the High Court for the management and determination of the GCRO application.

The Data Breach claim

30. The Data Breach claim arose from an email sent by KCL to Mr Abayomi on 25 November 2020. The email contained the outcome of a complaint he had made about the impact of industrial action taken by KCL's staff. However, in error, the email also included the text of the responses to four other students who had made similar complaints. KCL notified Mr Abayomi of the error approximately 90 minutes after sending the emails. Mr Abayomi sought £9,932.56 in damages and interest for KCL having disclosed the personal data of other students to him and for the fear that this had given rise to that his data had been disclosed to others.

31. KCL denied the claim on the basis that Mr Abayomi did not have a cause of action arising out of the disclosure of data relating to others; that the damages sought were plainly exaggerated; and that the claim was abusive, Mr Abayomi having delayed for 2 years and 8 months (it was said) before raising the matter with KCL and making the claim.

The procedural chronology

32. Mr Abayomi obtained judgment in default in respect of this claim. By notice dated 8 September 2023, KCL applied to set the judgment aside on the basis that they had not been notified of the claim. The application was supported by a witness statement from Ms Law dated 8 September 2023.

33. The application was heard by Master Thornett on 3 November 2023. By order sealed on 6 November 2023, the Master adjourned KCL's application on the following terms. By 8 November 2023 Mr Abayomi was to send a single email to a specified Court email address attaching all of the documents that he had been directed to provide in an earlier order of 13 October 2023; and by the same email to file a witness statement setting out precisely what steps he had taken to comply with the 13 October 2023 order (para 2 of the order). Master Thornett's order stated that unless Mr Abayomi complied with the para 2 requirements, the claim would stand transferred to the High Court, the judgment in default and Writ of Control would be set aside and Mr Abayomi would be required to pay KCL's costs (para 4).

34. By order of 5 December 2023, Master Thornett recorded that para 4 of his order of 6 November 2023 had come into effect as Mr Abayomi had not provided a witness statement that complied with para 2(2) of his earlier order. There was no hearing at this stage.

35. By application notices dated 4 December and 13 December 2023 (in identical format), Mr Abayomi applied for various directions including to set aside the order sealed on 5 December 2023. In his order of 22 January 2024, the Master dismissed the applications as totally without merit and Mr Abayomi ordered to pay costs. In his reasons accompanying the order the Master said:

> "Neither Application specifically addresses the recital in the 5 December 2023 Order as clearly stating why the Claimant was in breach of Paragraph 2(2) of the Order sealed on 6 November 2023, at least other than the Claimant to further assert that he had so complied. The Claimant's 8 November 2023 e-mail had not provided a Witness Statement setting out the details directed in the Order and thus evidence his compliance."

36. The Master's reasons went on to explain that Mr Abayomi had sought to rely on a witness statement dated 3 November 2023, which in fact appeared to have been prepared in advance of the 3 November 2023 hearing; and that insofar as it was sworn after the hearing, it did not address the matters he was required to address and simply contained an assertion, at the end of the text, that he had taken the requisite steps.

37. On 20 December 2023, KCL applied to strike out the Data Breach claim or for reverse summary judgment to be entered in its favour and the claim certified as totally without merit. By Notice of Hearing dated 20 November 2023, KCL's application was listed to be heard on 8 April 2024, along with its application in the Consolidated claim.

38. In advance of the hearing, KCL filed a witness statement dated 3 April 2024 from Alexandra Illingworth, the solicitor who now had day-to-day conduct of the case at Mills & Reeve LLP. One of the aspects covered in her statement was that Mr Abayomi had received various warnings from the Court since the hearing on 3 November 2023 concerning his communications. In summary, on 23 November 2023, the clerk to Master Thornett wrote to Mr Abayomi "again reminding you not to write to judges asking for their further engagement or attention in a case the court is aware what the next steps are in this claim and do not need either reminding or chasing". He was subsequently contacted by Chief Clerk Mr Heavy on both 8 and 11 December 2023 as

he had continued to send multiple emails to the Court, including to the Master and his clerk directly, despite being directed only to email the Enforcement Team.

39. In the event, there was insufficient time for the application in the Data Breach claim to be heard on 8 April 2024. By order dated 8 April 2024 (issued on 11 April 2024), HHJ Parfitt directed that the application be listed for the first available date, reserved to him. He indicated that KCL did not need to attend and if at the hearing the Court intended to make any order other than one striking out the claim and awarding costs, then notice would be given to KCL and the hearing relisted.

40. The Court sent a Notice of Hearing indicating that the adjourned hearing would take place on 25 April 2024 at the Mayor's & City of London Court. By an application notice dated 15 April 2024, Mr Abayomi applied to set aside the 8 April 2024 order and to vacate the hearing listed for 25 April 2024. By a further application notice dated 18 April 2024, Mr Abayomi applied to vacate the hearing on 25 April 2024 and for it to be moved to the County Court at Central London. By order dated 18 April 2024, HHJ Parfitt refused the application dated 15 April 2024 as totally without merit, noting that there was a failure to meet the requirements of the LCRO. By order dated 18 April 2024, HHJ Parfitt also dismissed the application dated 18 April 2024 as totally without merit, noting that it failed to meet the requirements of the LCRO. In relation to both orders, the Judge noted that the applications had failed to identify any reason to adjourn the hearing of 25 April 2024 other than a bald assertion that Mr Abayomi was "occupied".

41. Mr Abayomi did not attend the hearing on 25 April 2024 and HHJ Parfitt determined it appropriate to proceed in his absence. By his order dated 25 April 2024, he struck out the Data Breach claim, certifying it as totally without merit. He ordered Mr Abayomi to pay KCL's costs, to be assessed if not agreed and to make a payment of £5,000 on account of costs. The order included the Judge's reasons for striking out the claim as follows:

> "The claim asserts a cause of action under the Data Protection Act 1988. The minimum requirements of such a claim require (a) identification of relevant personal data (2) identification of the defendant being the controller of such data (3) facts which would be a breach of the data protection principles in respect of the processing of such data (4) more than minimal objective loss or damage / distress caused by such wrongful processing. The existing particulars of claim meet none of these requirements. Moreover, they state that the Claimant has a "fear" that a wrong might have been done to him. Necessarily this "fear" cannot amount to an actual claim but at best alleges an inchoate claim which either exists or does not exist outside of the facts alleged in the claim form. Attempting to pursue a claim on that basis is an abuse of process."

The appeals to the High Court

KA-2023-000165

42. By an Appellant's Notice dated 14 August 2023, Mr Abayomi applied to appeal the order of 28 July 2023 dismissing his injunction application as totally without merit and ordering him to pay KCL's costs. The grounds of appeal were set out at section 5 of the Notice. They are not easy to follow, but the main points made by Mr Abayomi appear to be that: the Recorder did not read through the bundle of documents closely; he had served the relevant documents on KCL, contrary to what the Recorder believed; the injunction application had merit as there was reason to stop KCL from making the dissertation without his consent; and the costs order against him should be set aside or reduced as he had limited financial resources due to KCL having ruined his academic life.

43. Pursuant to the order of Sir Stephen Stewart dated 13 February 2024, the appeal bundle was to be filed by 16 March 2024. Mr Abayomi applied for further time to comply. By his order dated 11 March 2024, Sir Stephen Stewart extended the time for filing the bundle to 3 May 2024 and directed that a transcript of the Recorder's judgment be prepared at public expense. Having noted from the file that the time for filing the appeal bundle had expired, Soole J made an order sealed on 1 July 2024, that unless Mr Abayomi filed an appeal bundle containing the documents specified in PD52B para 6.4(1) (and, if relevant, the documents specified in para 6.4(2)), to include a transcript of the judgment of the lower court by 4pm on 31 July 2024, the appeal would be automatically struck out without further order. The order contained the usual "Note to the Appellant" advising Mr Abayomi that if through no fault of his own he was unable to comply by 31 July 2024 and wished to apply for a further extension he "***must*** apply to the court (making a formal application on form N244) ***before*** 31 July 2024" (emphasis in the original).

KA-2024-000016

44. By an Appellant's Notice issued on 2 February 2024, Mr Abayomi applied to appeal the orders made by Master Thornett on 5 December 2023 and 22 January 2024. Section 5 of the form contained four grounds of appeal. Ground 1 asserted that Mr Abayomi had complied with the earlier order of 6 November 2024 and that if he had not done so, this was because the terms of the order were not clear. Ground 2 recited that the claim involved human rights and a data breach. Ground 3 asserted that the Master had had no authority to set aside the judgment in default as it was issued by the County Court and also referred to the orders having been made without a hearing. Ground 4 appears to be a catch-all allegation that there had been a travesty of justice.

45. Sir Stephen Stewart made an order dated 4 March 2024 requiring the filing of an appeal bundle. On 20 March 2024 Mr Abayomi sought an extension of time. By order sealed on 16 April 2024, Sir Stephen Stewart extended the time for filing an appeal bundle, compliant with PD52B para 6.4, to 4pm on 10 May 2024, directing that the appeal would stand struck out at 4.01pm on that date if the bundle was not filed. His order specified that the bundle must be paginated and indexed and contain only those documents which are relevant to the appeal. The order contained a "Note to the Appellant" in similar terms to that which I have quoted in respect of Soole J's order of

1 July 2004. In his accompanying reasons, Sir Stephen Stewart noted that whilst he had granted the extension, Mr Abayomi had not supplied any reasons for granting it.

KA-2024-000099

46. By three Appellant's Notices all dated 26 April 2024, Mr Abayomi applied to appeal a number of orders relating to both the Consolidated claims and the Data Breach claim. The terms of the three Notices are slightly different, but taken collectively, Mr Abayomi applied for permission to appeal the orders of: 20 November 2023, 8 April 2024, 11 April 2024, 18 April 2024, 22 April 2024 and 25 April 2024. In relation to the order of 20 November 2023 he applied for an extension of time for filing the appeal on the basis that this was the first order in a series of orders made by HHJ Parfitt and his application to appeal against that order had only been heard on 8 April 2024. I have already described each of these orders at paras 24 – 28 and 39 - 41 above. There was also an accompanying document headed "Grounds of Appeal", which appears to be a composite articulation of the grounds relied upon. Again, the document is not easy to follow, but the central points that are made include: the hearing on 8 April 2024 was unfair as HHJ Parfitt constantly interrupted Mr Abayomi during his oral submissions; the Judge had not paid sufficient regard to the documentation; the order of 20 November 2023 put an unjust burden on Mr Abayomi in terms of preparing the consolidated Particulars of Claim; DJ Grant had refused to strike out the Consolidated claims on 25 May 2023; at the hearing the Judge had stated or implied that Mr Abayomi could present the master's degree certificate that he was issued with to prospective employers and educational institutions, which would be deceitful and potentially illegal, as it did not reflect his work; to make the LCRO was a violation of his civil liberties and human rights; his availability for the hearing on 25 April 2024 had been ignored; and the Judge had struck out the Data Breach claim even though the Ombudsman had said that KCL was in breach of data protection law.

The 1 August 2024 order

47. In the reasons accompanying her 1 August 2024 order (para 8 above), Hill J acknowledged that the appeals in KA-2024-000016 and KA-2023-000165 may already have been struck out given the orders made, respectively, by Sir Stephen Stewart on 16 April 2024 and Soole J on 1 July 2024. She noted that as at 5.30pm on 31 July 2024, the Court's CE-File system showed that neither bundle had been received. Hill J also observed that: "The Appellant has made a series of applications in his various appeals and communicates with the court staff regularly, such that there is a concern about the level of court resources being diverted to his various applications". She also explained that the fair and proportionate way of proceeding was for all of the remaining issues between the parties to be addressed at a hearing. Hill J directed the parties to file and serve skeleton arguments no later than 3 days before the hearing.

48. Before summarising the developments that followed the 1 August 2024 order, I will describe the CIFAS claim and the earlier procedural chronology in respect of that claim.

The CIFAS claim

49. CIFAS is a membership association that provides the NFD information exchange for its members. Members, such as lending institutions, acquire the right to search the database for adverse records against the names of prospective borrowers. There is a

Handbook that members are expected to adhere to. The combined effect of Principles 1.1 and 4.6 of the Handbook is that where there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted, members must file the details to the NFD. The evidence must be "clear, relevant and rigorous". Principle 3.7 addresses CIFAS' formal complaints policy.

50. Mr Abayomi issued action number 516MC003 in the County Court Business Centre Online Civil Money Claims on 28 March 2024. He complained that Barclays Bank had made, and CIFAS had maintained, an entry against him on the NFD which defamed him and was in breach of UK GPDR. Entries on the NFD are known as "cases" or "markers"; I will use the latter terminology to avoid confusion with legal cases. Mr Abayomi alleged that the marker had caused him injury to feelings, severe distress and inconvenience, serious harm to his reputation and to his livelihood, the latter including the denial of financial products. He sought damages of £4,800 and an order requiring the removal of the marker.

51. The marker had been recorded on the NFD on 3 October 2023. Mr Abayomi was made aware of its terms as a result of a Subject Access Request. The reason for the filing was given as "Falsely reporting loss" and the Filing was set out as follows:

> "Misuse of facility – opening an account, insurance policy, or other facility for a fraudulent purpose or the fraudulent misuse of an account, policy, or facility; or the fraudulent misuse of insurance policy documentation"

52. The circumstances are described in a witness statement dated 22 August 2024 by Lisa Smith, the Deputy Chief Operating Officer of CIFAS, which exhibits the contemporaneous documentation. In summary, between May and September 2023, Mr Abayomi made 11 "chargeback" claims of varying small sums on his Barclays debit card. Chargeback claims are a voluntary scheme operated by payment card service providers that allows customers to dispute card payments where they have paid for and received defective goods or services or where they have not received the goods or services that they paid for at all. On investigation, it appeared to Barclays that Mr Abayomi had been making an unusually high number of chargeback claims over a period of five years.

53. On 18 June 2023, Mr Abayomi applied to Santander UK plc for a loan of £10,900. On 20 July 2023 he decided to cancel his loan application. Nonetheless, he received the loan funds into his Barclays account on 21 August 2023 and he duly returned the monies to Santander on the following day in two tranches of £9,000 and £1,900. Mr Abayomi then made two chargeback claims to Barclays. The claims are made by completing an online form.

54. The first claim related to £9,000. Mr Abayomi selected as the reason for the chargeback claim: "The merchandise is damaged/defective". In answer to the question "What was ordered and how was it damaged or defective?", he said: "Financial product. This return due to issue from outset – late arrival initially. I complained. The resolution was that I would return it cancel and then the hard credit search would be removed. This has not been done. Therefore I should this amount back". He stated that he had returned the merchandise on 22 August 2023.

55. The second claim related to £1,900. In this instance Mr Abayomi completed the form to indicate that "I haven't received the merchandise/service". In answer to the question "What was not received?", he answered that it was merchandise. The details that he provided in response to the request to describe "what was purchased and an explanation of the dispute" were: "Payment was refund to cancel problematic late goods/service and loan. But this still not removed as application on credit file even paid and closed". In answer to a question as to whether the merchandise was delivered late or to the wrong location, Mr Abayomi answered "yes" and he then referred to delivery being delayed by the merchant.

56. CIFAS' understanding is that Barclays formed the view that the two chargeback claims were dishonest, as they amounted to Mr Abayomi seeking reimbursement of money he had spent on financial products that were in some way defective, when he had not in fact spent his own money at all. He had repaid the loan to Santander, but was now seeking a repayment of these sums to him, although the money was not his and he had no entitlement to it. On 5 October 2023, Barclays informed Mr Abayomi that it intended to close his account on the following day.

57. After the marker came to his attention, Mr Abayomi made a complaint to CIFAS. After investigation, CIFAS informed him by letter dated 24 January 2024 that it rejected his complaint.

58. In his Claim Form, Mr Abayomi said that all of his chargeback claims had been approved at the time and the monies reimbursed to him and that if his claims were false, they should have been rejected by Barclays. He said that his complaint to CIFAS had been declined for illogical and limited reasons. He said that the false information was libellous and in breach of UK GDPR, as incorrect information was being held and shared about him. He said that the list of reasons for making a chargeback claim were not exhaustive and "regardless of entitlement to funds a financial dispute is lodged with a merchant when they have either not done what they should in relation to a customer's payment or if the goods and services are not as described, poor quality or not even received or even being charged disportionally [sic]".

59. CIFAS filed a Defence dated 30 April 2024, setting out the circumstances I have already summarised and denying the claim. The Defence contended that CIFAS had considered the evidence in support of the marker and correctly concluded that it met the required standard of proof as set out in the NFD Handbook. It was also pointed out that the causes of action were not properly pleaded and thus it was not possible to respond to them in detail. It was denied that the pleaded loss and damage had been suffered.

60. The Defence indicated that Santander had challenged the chargeback claims on the basis that the payments were not for a "not as described product" that Mr Abayomi was seeking repayment for, but related to the repayment of a loan that Mr Abayomi had cancelled. At the time of the Defence, CIFAS did not know why Elavon, Santander's payment provider, had not disputed the chargeback claims and had paid the sum claimed via Barclays. CIFAS subsequently obtained a letter to Santander dated 13 December 2023 from Elavon's Dispute Resolution Department. It said, "Based on the rules and regulations governed by the Card Associations and the details of this case, we are not able to resolve this dispute with the cardholder's issuing bank". The letter went on to say that Santander's account had been debited for the sums in question and that if

Santander wished to pursue the matter further "you must proceed directly with the cardholder".

61. Mr Abayomi has filed a witness statement dated 31 August 2024. Although bearing the heading of the CIFAS claim, the text of the document appears to be directed towards Barclays Bank, rather than CIFAS. Nonetheless, in fairness to Mr Abayomi, I have borne in mind the contents insofar as they bear on the merits of the CIFAS claim. Mr Abayomi says that he uses the chargeback system to dispute payments if there are issues with the goods and services, that his claims were transparent and that they were approved at the time. He indicates that he stands by the chargebacks. Those for the smaller sums of money related to orders that were not as described or were defective in some way. In relation to the loans, months went by after he had repaid the money without Santander removing the loan marker visible on his credit file and that "regardless of entitlement to funds a financial dispute is lodged with a merchant to dispute a matter". He says that in consequence of the NFD marker, he has suffered ongoing damage from not being able to access financial services for banking and that he has suffered mental health issues in consequence.

The procedural chronology

62. As I indicated at para 7 above, the case was transferred to the High Court. By applications made on 24 June and 25 June 2024 Mr Abayomi applied for a mandatory interim injunction requiring the removal of his information from the NFD.

63. On 1 July 2024, Mr Abayomi commenced a second action in the County Court Business Centre Online Civil Money Claims (action no. 547MC208) claiming damages for continuing losses caused by defamation, breach of UK GDPR, breach of the Consumer Rights Act and breach of the Consumer Credit Act. The case appears to be a duplication of the CIFAS claim in that it relates to the same marker on the NFD. The case remains in the County Court and CIFAS' application to strike out that claim is due to be determined at a forthcoming hearing.

64. By application notice dated 18 July 2024 (issued on 19 July 2024), CIFAS made the application that I referred to at para 7 above, which was listed for hearing in accordance with the order made by Hill J on 1 August 2024 (para 8 above). The application was supported by a witness statement dated 18 July 2024 from Geoffrey Shreeve, the solicitor with conduct of the case at Kennedys Law LLP (the solicitors instructed by CIFAS). Mr Shreeve contended that CIFAS had unassailable defences to the libel claim on the basis of truth or honest opinion and to the UK GDPR claim as the data held on the NFD complied with the accuracy principle. Mr Shreeve subsequently filed a statement dated 6 November 2024 to update the Court in relation to various matters. I return to the procedural chronology from para 71 below. At this stage I will refer to some other matters covered in Mr Shreeve's two statements.

65. On 11 June 2024 (the day that the claim was transferred to the High Court), Mr Abayomi sent three emails to Kennedys. The first said that Mr Abayomi would issue further claims so that CIFAS would incur irrecoverable costs, unless the marker was removed and CIFAS agreed to pay damages of £4,000 within 48 hours. The second said that unless CIFAS did "the aforementioned", Mr Abayomi would publicise the dispute bringing CIFAS into "greater disrepute". The third email in the chain referred to there being civil liability for personal injury and harm in addition. Although the emails were

marked "without prejudice" Mr Shreeve did not consider this to be a proper use of the privilege, as it was being used to try and cloak improper threats.

66. On 12 July 2024 Mr Abayomi sent an email to Mr Shreeve saying:

> "As you can see one of those I hold responsible already got taster as promised.
>
> If you like no further escalation, I suggest you do as I have said.
>
> Really your efforts are wasted on me. I am not type customer you should spend time and effort, resources and incur damages.
>
> Please note, I have no boundaries and the level of damages I have incurred I promise to inflict that however way I can on a personal level."

67. Mr Shreeve replied the same day, saying that Mr Abayomi had made "broad and very worrying threats, which are entirely inappropriate". He observed that the last sentence I have quoted appeared to be a threat of violence, which would not be tolerated. Mr Shreeve said that this conduct would be reported to the Court and to the police. Mr Abayomi responded the same day, saying that Mr Shreeve could "have your interpretation of my words" and that as CIFAS was a public organisation open to criticism, any comment he made was part of his freedom of speech.

68. In his second statement, Mr Shreeve referred to two emails sent by Mr Abayomi on the evening of 20 August 2024 to both him and his client. The first said that if CIFAS did not want to incur costs they should remove the NFD marker. The second email said that it would be extremely costly to keep the marker on the NFD and "your client and employees can't expect to ruin someone's life and expect to be comfortable and unchallenged. Especially someone with my nature". As Mr Shreeve indicated, the communications were marked "without prejudice", but he referred to them as this was not a proper use of the privilege. Mr Shreeve replied on 21 August 2024 reiterating a request that he had made earlier that Mr Abayomi cease emailing his client directly and pointing out that the content of his email was threatening and unacceptable and would be referred to the Court.

69. On 3 September 2024, Mr Abayomi posted a message on LinkedIn naming four CIFAS employees and stating that CIFAS and its employers were "incompetent" and "manage data very poorly". He tagged one of the CIFAS employees and Barclays and CIFAS. On 6 September 2024, Mr Shreeve again reminded Mr Abayomi that it was inappropriate for him to communicate directly with CIFAS and its employees. By an emailed response the same day, Mr Abayomi said that he would "name and shame just as your client have erroneously done" and that he was "entitled to my right of free speech and more". In an email sent the next day he said that the application to Court that CIFAS had made "won't stop this particular action even if successfully". In a further email sent on 9 September 2024, Mr Abayomi said, "I am the only person who will determine what is a threat and harassing me on real time".

70. On 9 October 2024, Mr Abayomi again posted on LinkedIn, naming seven CIFAS employees and tagging two employees, CIFAS, the Serious Fraud Office and the Financial Conduct Authority. He said that CIFAS was incompetent and enabled fraud.

The procedural chronology after 1 August 2024

71. By application notice dated 7 August 2024 (filed on 8 August 2024), in the CIFAS claim, Mr Abayomi applied: to set aside Hill J's order; to remove the CIFAS claim from the High Court Judge listing, so that it could be dealt with by a Master; and for an ECRO against CIFAS. He also reapplied for the injunction that he had sought earlier. In section 10 of the application, he objected to Hill J's order on the basis that the KCL claims and CIFAS claim involved different defendants and different types of cases. He said that hearing the two together was prejudicial and that the order must be discarded and the cases immediately separated. He objected to the High Court dealing with the CIFAS claim, which he had not asked to be transferred from the County Court. Mr Abayomi also referred to the KCL appeals. He said that appeal bundles had been sent in May 2024 but that the King's Bench listings team had been inefficient and had not uploaded them. He said that he had confirmation emails from James Tipp (the King's Bench Division Delivery Manager) that all of the bundles were received. He asked that the order made by Sir Stephen Stewart in KA-2023-000165 for a transcript of the judgment at public expense be extended to the other appeals.

72. By order dated 15 August 2024, Farbey J required CIFAS and KCL to respond to the application. By an order dated 16 August 2024, Farbey J gave directions in relation to the interim injunction application, including requiring Mr Abayomi to file and serve a bundle by 21 August 2024.

73. By application notice dated 20 August 2024, Mr Abayomi applied to set aside part of Farbey J's order of 16 August or for an extension of time for filing the bundle. He also proposed that the injunction be imposed without a hearing. By order dated 21 August 2024, Steyn J refused this application and certified it as totally without merit.

74. On 27 August 2024, CIFAS filed a response to the 7 August 2024 application. On 30 August 2024, Murray J gave Mr Abayomi to 6 September 2024 to file any reply he wished to make, directing that the application then be put before a High Court Judge for determination on the papers. The interim injunction application was heard before Murray J on 30 August 2024. He refused the application, certifying it as totally without merit.

75. On 9 September 2024, Mr Abayomi applied to set aside or vary the order of 30 August 2024 relating to the timetable for filing a response.

76. By order sealed on 23 September 2024, Johnson J dismissed Mr Abayomi's application of the 7/8 August 2024 and his application of 9 September 2024, certifying both as totally without merit. The Judge observed that he could see no basis to set aside or vary the order of Hill J. It did not cause prejudice to Mr Abayomi, it brought the various strands together for a hearing before a judge and "makes entirely appropriate case management directions". He concluded that "the overriding objective now requires that the matters are brought before a judge in accordance with the directions made by Hill J".

77. By application notice dated 30 September 2024, Mr Abayomi applied to amend his Particulars of Claim in the CIFAS case to withdraw the defamation claim and for the remainder of the case to be transferred to the County Court at Barnet. He also applied to set aside or vary the order of Johnson J, although the Judge had pointed out in his reasons that Mr Abayomi had no right to do so. By application notice dated 17 October 2024, Mr Abayomi made a further application to withdraw the defamation claim and for the case to be transferred back to the County Court. By order dated 24 October 2024, Farbey J directed that the application be heard at the hearing on 20 November 2024.

78. I have explained what happened thereafter in relation to the Withdrawal Application at para 10 above.

The applications to vacate the 20 November 2024 hearing

79. By application dated 13 November 2024, Mr Abayomi applied to vacate the KCL aspects of the hearing listed for 20 November 2024 (para 8 above). He said that he was:

> "Unable to prepare or attend hearing as defendant has caused financial and health damages by not providing the services that they should provided in 2020 causing the claimant to claim and successful achieve judgment which was erroneous set aside and case struck out which prompted appeal. Transcript still not received"

80. Mr Abayomi said that the Consolidated claims had never been transferred properly to the High Court and remained in the County Court; that he had not agreed to the hearing on 20 November 2024 and "maintains unavailability and inability due to reasons given". He also asked that the Court extend the grant of a transcript at public expense to the judgments given on 8 April and 25 April 2024 by HHJ Parfitt. He repeated the point made in his 7 August 2024 application that appeal bundles had been filed but had not been uploaded by Court staff. He also observed that if granted, the GCRO would infringe his human rights and it should be considered after the appeals had been resolved. He said that he attached two documents as evidence of KCL having exacerbated his physical and mental health. The first was a letter from NHS Talking Therapies dated 8 November 2023, which indicated that he had attended six sessions for depression between 28 August and 8 November 2023 and had then been discharged back to the care of his GP. The second letter dated 11 November 2024, from Barnet Triage and Wellbeing Pathway, referred to a recent referral having been made by Mr Abayomi's GP and to a future assessment being arranged.

81. In refusing this application in the first order of 19 November, I noted that the only reason given for Mr Abayomi's "unavailability" related to his health and that the two documents submitted fell a long way short of the evidence that would be required for the Court to grant an adjournment on health grounds. He had attended various Court hearings since the 8 November 2023 letter was written and neither document stated that he was unfit to attend or to participate in the forthcoming hearing. I also noted that Hill J was aware that issues had been raised regarding the filing of appeal bundles and delay in obtaining transcripts when she had made her order of 1 August 2024; these were matters that Mr Abayomi would be able to make submissions about at the hearing, but they did not provide a reason to adjourn the hearing.

82. After receiving the first order of 19 November, Mr Abayomi sent an email at 10:03 hours saying he would not be attending the hearing the next day as he was "not fit for any hearing". He attached a GP's Statement of Fitness to Work ("SFTW"). He also said that "the current sudden weather disruption is another factor highlighted". So that Mr Abayomi was not left with the impression that the 20 November 2024 hearing would now be adjourned and in order to give him a further chance to attend, I made the second order of 19 November. In the order I explained that the SFTW did not provide a good reason for adjourning the hearing. It indicated that Mr Abayomi was assessed on 18 November 2024, but said he was unfit for work for the period 16 October – 25 November 2024. The reason given was anxiety disorder and it was said that there was no need to assess his fitness for work at the end of this period. The document did not say that Mr Abayomi was unfit to attend or participate in the court hearing and there was no medical evidence supplied to that effect. In that regard, I referred to *Bruce v Wychavon District Council* [2023] EWCA Civ 1389 at para 36. As regards Mr Abayomi's reference to "weather disruption" I pointed out that he lived in London and there was nothing to suggest that the weather for the following day would be such as to preclude his attendance. I explained that if Mr Abayomi did not attend the hearing on the following day, I would consider at that stage whether to proceed in his absence.

83. On the afternoon of 19 November 2024, the Court issued Mr Abayomi's application notice dated 15 November 2024 seeking an adjournment of the CIFAS aspect of the 20 November 2024 hearing. I had not seen this application at the time when I had made the orders refusing to adjourn the KCL aspect of the hearing. The reasons advanced in this application were somewhat different, in emphasis at least. Mr Abayomi said that the hearing should be vacated because:

> "The court failed to take in consideration if handicap of one party despite several warnings. The claimant gave no availability for hearing. Whether or not if claim withdrawn or moved to County court as requested on applications. This hearing should be vacated. Issues with conflict of interest arisen with judge. Impose injunction and stay imposed.
>
> Inability to proceed with this claim especially given the nature of the claim and be equal footing because the defendant has caused and is causing financial damages and health…
>
> The claimant has not participated and can not participate in any aspect leading to hearing as you still been I without banking facilities as a result of the Defendant. Whether or not claim if withdrawn or moved to County court as requested on applications. This hearing should be vacated.
>
> In the erroneously connected mater of may appeals which I still treat as separate from these proceedings and but instead listed for hearing as well 20th of November along side these proceedings is subject to vacate application as the claimant and appeal court is in no state for hearing and no availability in the near future was given for reasons brought about in this case explained above and because documents ordered by the court is still missing."

84. Mr Abayomi went on to refer to his recent applications to withdraw all or part of the claim, which he considered should have been dealt with without a hearing and to the injunction that he considered should have been granted. He said that absent the injunction his resources were limited and this was handicapping his preparation. He suggested that "if the court truly wants to save resources, claimant pleadings should be accepted". In section 11 of the form, he said that CIFAS had caused and exacerbated his physical and mental health.

85. By the third order of 19 December, I refused this application, pointing out that it was based on a number of contentions that had already been considered by the Court. In particular, the proposition that the Withdrawal Application should be dealt with on the papers without a hearing had been rejected by Collins Rice J in her order of 14 November 2024; the proposition that the CIFAS and KCL proceedings should be heard separately had been rejected by Johnson J in his order of 20 September 2024 and certified as totally without merit; and the proposition that the case could only fairly proceed if a mandatory injunction was granted temporarily removing the NFD marker had been rejected by Murray J on 30 August 2024 and certified as totally without merit. I also pointed out that I had already addressed what was said about Mr Abayomi's health in my first and second orders of 19 November.

86. Mr Abayomi also sent five further emails to me via my clerk on 19 November 2024. They repeated some of the points made in the adjournment applications. In the fourth of the emails sent at 19:06 hours Mr Abayomi indicated that he still considered that there was potential bias and a conflict of interest in me presiding over the hearing the following day. Furthermore, that he saw the fact that I had determined whether I should recuse myself, rather than this being assessed by an independent person, as a judicial conduct matter that he would have to explore "should the hearing proceed as planned or in fact any decision without hearing with your input". In the fifth email sent at 19:55 hours he said that he was withdrawing the Withdrawal Application (para 10 above). He also said that he would not be attending the hearing "for reasons given since August / early September 2024 and recently in applications and evidence". He reiterated his contention that the Consolidated claims had not been validly transferred to the High Court. He pointed out that he had not contributed to or agreed the bundles for the hearing.

Proceeding with the hearing in Mr Abayomi's absence

87. CPR 23.11(1) provides that where a party fails to attend the hearing of an application, the court may proceed in their absence. Mr Greatorex indicated that there was nothing in CPR Part 52 (relating to appeals) which made different provision in respect of a party's non-attendance. Accordingly, I proceeded on the basis that CPR 23.11(1) applied generally to the applications before me, including those for permission to appeal.

88. Guidance on the exercise of the CPR 23.11(1) power was provided by Warby J (as he then was) in *Sloutsker v Romanova* [2015] EWHC 545 (QB), [2015] 2 Costs LR 321 at paras 22 – 23. The power must be exercised in accordance with the overriding objective. Furthermore:

> "…the court should be very careful before concluding that it is appropriate to proceed in the absence of a litigant in person who

> is seeking for the first time to adjourn a hearing: *Fox v Graham Group Ltd* (26 July 2001) (Neuberger J); *SmithKline Beecham Ltd v GSKline Ltd* [2011] EWHC 169 (Ch) (Arnold J), [6]."

89. Warby J indicated that where a litigant failed to appear without giving a reason, it was necessary to consider whether they had had proper notice of the hearing date and the evidence to be considered at the hearing. If the Court was satisfied that such notice had been given, it must examine the available evidence as to the reasons why the litigant had not appeared, to see if this provided a ground for adjourning the hearing (para 23).

90. As I explained in the introductory section, having heard submissions from counsel, I decided to proceed with the hearing as listed on 20 November 2024. I gave brief summary reasons at the time, indicating that as it would involve a lengthy recitation of the history of the proceedings before me, I would set out the full reasons in my reserved judgment.

91. There is no doubt that Mr Abayomi was aware of the 20 November 2024 hearing. He had made unsuccessful applications to adjourn it and had referred to the hearing in multiple communications with the Court. Additionally, Mr Abayomi had been warned that if he did not attend, I would decide whether to proceed with the hearing in his absence (para 82 above). I was satisfied that the evidence to be relied upon at the hearing had been made available to him, in terms of the hearing bundles and skeleton arguments. Mr Abayomi had had the opportunity to submit evidence of his own and/or a skeleton argument but had not done so (beyond the bundle that was available to HHJ Parfitt on 8 April 2024). In any event, I was aware of and intended to take into account the points that he had made in his multiple communications with the Court. In this regard and in fairness to Mr Abayomi, I did not permit counsel to address me on new material that had not been provided to him. I have already explained the course I took in relation to the Barclays Bank litigation (para 11 above). Mr Greatorex suggested, with some persistence, that in the absence of a transcript, I should consider his notes of the judgment given by HHJ Parfitt at the 8 April 2024 hearing. However, I declined to do so, since they had not been provided to Mr Abayomi in advance of the hearing (as they could have been) and thus he had not had an opportunity to comment on them. I was supplied with the Defence to the Consolidated claims during the hearing as this had been inadvertently omitted from the bundles that were before me, but this was a document that Mr Abayomi was already familiar with.

92. I was conscious of the need to be very careful before proceeding in the absence of Mr Abayomi, as a litigant in person. However, I concluded that it was in accordance with the overriding objective to do so, given the particular, indeed exceptional, circumstances.

93. As shown by the account that I have given at paras 71 – 86 above, Mr Abayomi had embarked on a sustained campaign from early August 2024 onwards to try and avoid this hearing from going ahead. He took exception to Hill J's order listing a combined hearing involving both the KCL and CIFAS cases, as he explained in forthright terms (para 71 above), and he had made an application to set aside her order that was certified as totally without merit by Johnson J (para 76 above). Nonetheless, Mr Abayomi maintained his contention that combining the various appeals and applications in one hearing was unfair on him (paras 80 and 83 above). He also maintained that he was unable to prepare for the hearing properly because of his current financial position, in

turn, due to the NFD marker; despite the fact that his application for an interim injunction, sought on that basis, had already been dismissed and certified as totally without merit (paras 83 – 85 above).

94. Furthermore, Mr Abayomi had chosen not to engage with the substance of the 20 November hearing, whilst at the same time sending multiple communications and applications to the Court in which he raised objection to the hearing. The suggestion that the weather would prevent him from attending was less than credible (para 82 above) and, if this was his concern, he could have asked to attend the hearing remotely, which he did not do. For the avoidance of doubt, everyone else who was intending to attend the hearing was able to do so without difficulty.

95. The medical evidence that Mr Abayomi supplied fell well short of showing that he was unable to participate in the hearing on health grounds, for the reasons I explained in the first and second 19 November orders (paras 80 – 82 above). Accordingly, this did not provide a good reason for his non-attendance. The period covered by the SFTW commenced on 16 October 2024 (para 82 above), but Mr Abayomi said he would not be attending the hearing for the reasons he had given since August 2024 (para 86 above). During the period in question, Mr Abayomi had been able to maintain a vigorous and extensive correspondence with the Court and to make numerous applications, as I have described in the procedural chronologies. He was able to attend and participate in the hearing before HHJ Parfitt on 8 April 2024 and the hearing before Murray J on 30 August 2024.

96. Aside from his health, Mr Abayomi's assertion of "unavailability" was put in the most general of terms (as opposed to suggesting that there were specific dates on which he could not attend). There is a parallel with his multiple applications seeking to adjourn the 25 April 2024 hearing of the strike out application of his Data Breach claim (shortly after the Consolidated claims had been struck out and the LCRO made); as I have already described, Mr Abayomi said he could not attend on the 25 April 2024 as he was "occupied". HHJ Parfitt rejected these applications as totally without merit and proceeded with the 25 April 2024 hearing in his absence (paras 40 – 41 above).

97. Given the stance taken by Mr Abayomi, there was no reason to believe that if I had adjourned the hearing for a limited period he would have attended on the next occasion.

98. It was also right to take into account the position of KCL and CIFAS, both of whom had prepared for and attended the hearing and who opposed the granting of an adjournment. If the hearing was adjourned they would incur further costs that would likely be irrecoverable. Furthermore, in light of the way that Mr Abayomi has conducted these proceedings, it was highly desirable for the listed applications to be addressed by the Court without further delay.

99. I mention for completeness that Mr Greatorex did suggest that if, after hearing his submissions, matters had arisen that meant I needed to hear submissions in response from Mr Abayomi, a second hearing could be listed at which KCL would not be required to attend (and thus would not incur further costs). This was the model adopted by HHJ Parfitt in relation to the 25 April 2024 hearing (para 39 above). This appeared to me to be a less than desirable course, given that it brought with it the possibility of a third hearing, as HHJ Parfitt's order recognised. Nonetheless, I indicated to counsel that I would keep this course in mind and that if relevant matters arose during the hearing

that Mr Abayomi had not had an opportunity to address, I would give further consideration to taking this approach. In the event, as I indicated at the end of the hearing, there was no need for a subsequent hearing (primarily because, as I have explained, I did not permit counsel to address me on matters that Mr Abayomi had not had a chance to respond to).

KA-2023-000165: discussion and conclusions

100. As contemplated by Hill J's order, the first question for me to consider in relation to KA-2023-000165 (the appeal from Recorder Hill-Smith's refusal of the injunction application in the Consolidated claims) is whether the application for permission to appeal has already been automatically struck out as a result of the order made by Soole J on 1 July 2024.

101. PD 52B para 6.3 requires an appellant to file an appeal bundle as soon as practicable and in any event within 35 days of the filing of the Appellant's Notice. The bundle must contain only those documents that are relevant to the appeal and the bundle must be paginated and indexed. Para 6.4(1) lists the documents that must be included in the bundle (subject to any order made by the Court). This includes a transcript of the judgment of the lower court or other record of reasons. Para 6.4(2) lists further documents that should be considered for inclusion, but only included where they are relevant to the appeal.

102. I checked the documentation on CE-File, but could not find any record of a bundle being lodged by Mr Abayomi that complied with PD 52B paras 6.3 and 6.4, by 31 July 2024. There were some documents lodged by him back in August 2023 when the appeal was instituted, but they were not in a PD 52 compliant bundle form; and there is no record of a bundle having been filed thereafter. Soole J was also unable to locate an appeal bundle when he checked the file for the purposes of making his order of 1 July 2024, as was Hill J when making her order of 1 August 2024.

103. I bear in mind that Mr Abayomi contends that he lodged an appeal bundle in May 2024 (para 71 above). However, neither Soole J, Hill J or I were able to identify any reference to such a bundle on CE-File. In so far as Mr Abayomi suggests that he lodged the bundle but the Court must have lost it, he has not produced any confirmatory documentation of him doing so. Secondly, if this were the case and he had already prepared a bundle, he could have re-lodged a copy of this bundle after receiving Soole J's order (which would have indicated to him that the Court file did not include such a bundle). Accordingly, I do not accept that a bundle was lodged as Mr Abayomi alleges. Thirdly, and in any event, even on Mr Abayomi's account, any such bundle would not have complied with Soole J's order, as it did not include a transcript of the Recorder's judgment; his position being that this is yet to be provided.

104. I have also checked CE-File to see if a formal N244 application for an extension of time for filing the appeal bundle was made before the period for doing so expired on 31 July 2024. There was no such application.

105. Accordingly, it follows from para 1 of Soole J's order of 1 July 2024 that this appeal was automatically struck out on 31 July 2024. No application was made to set aside or vary that order.

106. I appreciate that Mr Abayomi relies upon apparent delay in the County Court providing a transcript of the Recorder's judgment, following Sir Stephen Stewart ordering a transcript of the judgment at public expense in his order of 11 March 2024 (para 43 above). However, if the transcript had not arrived in good time before 31 July 2024, Mr Abayomi could have applied for a further extension of time for filing the bundle on form N244. As the procedural chronologies I have set out show, Mr Abayomi is very familiar with the form N244 application process. The consequences of not doing so in terms of the appeal being struck out were very clearly spelt out in imperative terms in Soole J's order (para 43 above). Insofar as Mr Abayomi suggests in some of his communications that he should be given greater leeway as a litigant in person, it is well established that the CPR applies to all litigants, whether represented or unrepresented and that an unrepresented litigant is expected to take steps to familiarise themselves with the Rules and Practice Directions: *Ogiehor v Belinfantie* [2018] EWCA Civ 2433, [2018] 6 Costs LR 1329 at para 24; and *Barton v Wright Hassall LLP* [2018] UKSC 12, [2018] 1 WLR 1119.

107. As the application for permission to appeal was automatically struck out, I have no discretion to entertain the appeal at this stage. However, whilst arguing that the appeal had been struck out, Mr Greatorex urged me to take a comprehensive approach and also address what he described as the evident lack of merit in the appeal.

108. I do not intend to address this in detail, as I am conscious that I do not have a transcript of the Recorder's judgment refusing the injunction. It is appropriate for me to make some observations. However, in the circumstances, I do not certify this Appellant's Notice as totally without merit.

109. Permission to appeal may be given only where the Court considers that the appeal would have a real prospect of success or there is some other compelling reason for the appeal to be heard (CPR 52.6(1)).

110. Mr Abayomi's grounds of appeal do not identify any coherent ground of appeal. I have done my best to summarise them (para 42 above). He has not provided a supporting skeleton argument at any stage. His main contention is simply an expression of disagreement with the Recorder's conclusion, without identifying any particular error or flaw in his reasoning. There is nothing in the pleadings, witness statements or documents before me that suggests that KCL was in fact proposing to mark any currently unmarked versions of Mr Abayomi's dissertation without his consent, such that a Court order was required to restrain it from doing so. The Recorder considered that the injunction application was bound to fail, certifying it as totally without merit. No specific basis is provided for the assertion that the Recorder had not properly considered the documentation; in other words, it is not said how this led to error in his reasoning. As regards the costs order, a party's inability to pay is not a relevant factor in determining under CPR Part 44 whether a costs order should be made in civil proceedings.

111. Accordingly, whilst I do not need to decide whether to grant permission to appeal, as the application has in any event been struck out, the circumstances do not suggest that any of the grounds would have a real prospect of success. No "other compelling reason" for granting permission has been identified.

KA-2024-000016: discussion and conclusions

112. As contemplated by Hill J's order, the first question for me to consider in relation to KA-2024-000016 (the appeal from Master Thornett's orders of 5 December 2023 and 22 January 2024 made in the Data Breach claim) is whether the application for permission to appeal has already been automatically struck out as a result of the order made by Sir Stephen Sedley on 16 April 2024.

113. I have checked the documentation on CE-File but cannot find any record of a bundle that complies with PD 52B paras 6.3 and 6.4 having been lodged by the time specified in the order, 4pm on 10 May 2024. At the time when he made his order of 16 April 2024, Sir Stephen Stewart had not been able to locate any such bundle and nor could Hill J when she made her order of 1 August 2024. Mr Abayomi asserts that a bundle was lodged in May 2024. I do not accept this account for reasons equivalent to the first two reasons I identified in respect of KA-2023-000165. The bundle does not appear on CE-File, no documentation to support Mr Abayomi's account has been provided and he has not re-lodged the bundle that he says he had prepared.

114. I have also checked CE-File to see if a formal N244 application for an extension of time for filing the appeal bundle was made before the period for doing so expired at 4pm on 10 May 2024. There was no such application.

115. Accordingly, it follows from para 2 of Sir Stephen Stewart's order of 16 April 2024, that this appeal was automatically struck out at 4.01pm on 10 May 2024. No application was made to set aside or vary this order.

116. No question of transcript delay arises in this instance, as the relevant orders of 5 December 2023 and 22 January 2024 were made on the papers without a hearing.

117. As with KA-2023-000165, Mr Greatorex's position was that I should proceed to consider, in the alternative, whether the test for the grant of permission to appeal was met and in any event certify the appeal as totally without merit. The position is more straightforward in this instance, as there were no hearings and the Master's reasoning is set out on the orders.

118. There has been no appeal, or at least no successful appeal, against the Master's earlier order of 6 November 2023. The order of 5 December 2023 recorded the consequences that flowed from Mr Abayomi's non-compliance with para 2 of that earlier order. I have summarised the grounds of appeal at para 44 above. Again, no skeleton argument has been submitted, although Mr Abayomi has had ample opportunity to do so. Mr Abayomi's central ground of appeal is no more than an assertion that he did comply with para 2 of the earlier order (a proposition that was certified as totally without merit in the 22 January 2024 order). He criticises the earlier 6 November 2024 order as insufficiently clear, but that is not the order under appeal. The fact that the claim involved an alleged data breach does not alter the fact that there was non-compliance with para 2 of the order of 6 November 2023, meaning that para 4 of that order took effect. There was no pleaded human rights claim and, if this had been pleaded, it would have been well out of time. The matter was before the High Court because of the enforcement action that Mr Abayomi had sought to take in respect of the default judgment (which KCL had then applied to set aside). Master Thornett's orders of 6

November 2023, 5 December 2023 and 22 January 2024 followed from the earlier order of Master McCloud dated 13 October 2024.

119. Accordingly, even if a bundle had been lodged in accordance with Sir Stephen Stewart's order of 16 April 2024, I would not have granted an extension of time to appeal the order of 5 December 2023, nor granted permission to appeal. I consider that this appeal was bound to fail and I certify the Appellant's Notice as totally without merit pursuant to CPR 52.20(5) and (6).

KA-2024-000099: discussion and conclusions

120. Mr Abayomi has not complied with PD 52B paras 6.3 and 6.4. Insofar as he contends that he also lodged an appeal bundle in this case in May 2024, there is no record of such a bundle on CE-File. It appears from the Court file that three emails that were uploaded on 10 June 2024 with various attachments, including orders of the lower court, Appellant's Notices and the Grounds of Appeal. In the emails, Mr Abayomi provided an electronic link to the bundles that were before HHJ Parfitt at the 8 April 2024 hearing and asked the Court to add the attached documents to those bundles. Plainly, this did not comply with the Practice Direction requirement to provide an indexed and paginated bundle and one that only contains the documents that are relevant to the appeal.

121. However, it appears that no order has yet been made in this appeal requiring Mr Abayomi to file a PD 52B compliant bundle by a specified date and certainly no "unless" order has been made. Accordingly, there is no question of this appeal having been struck out.

122. I have therefore considered whether and to what extent I am in a position to determine the permission to appeal applications at this stage. There are different considerations that apply in relation to the various orders that Mr Abayomi seeks to challenge. I will consider them in chronological order. As with the earlier appeals, Mr Abayomi has not provided a skeleton argument in support of his grounds.

Order of 20 November 2023

123. There were two separate orders made on this date (described at para 24 above). Mr Greatorex addressed me on the basis that the Appellant's Notice referred to the order listing the hearing for 8 April 2024 ("the first order"). It appears to me to be at least as likely that the target of the Appellant's Notice is the other order of that date ("the second order"). Although it is incumbent on Mr Abayomi to be clear which order he is appealing, in fairness to him I will consider both of these orders. They were made without a hearing, so no question of an outstanding transcript arises and I am able to make an assessment of the merits at this stage.

124. The first order is simply a case management listing decision. No arguable basis for challenging this order is disclosed by the Grounds of Appeal that I have already summarised. In so far as the second order refused permission to appeal the Deputy District Judge's order of 25 May 2023, that decision was then superseded by HHJ Parfitt's decision to refuse the oral renewal of permission at the 8 April 2024 hearing (order of 11 April 2024). There is no second appeal to a higher court from the refusal of permission: section 54(4) of the Access to Justice Act 1999 (discussed at para 52.3.9

of the White Book). The other aspect of the second order, requiring submission of the consolidated pleading by a specified date, was simply a case management decision and no arguable basis for challenging this has been shown. It also appears that the appeal was initiated well out of time. I have noted what is said at section 11 of the Appellant's Notice, namely that this was the first in a series of orders made by HHJ Parfitt. However, that does not provide sufficient reason to extend time; there was a gap of several months between 20 November 2024 and the hearing on 8 April 2024.

125. Accordingly, I refuse permission to appeal against the orders of 20 November 2023 as there is no real prospect of success, no other compelling reason for granting permission and the Appellant's Notice was lodged out of time so far as these orders are concerned.

Order of 8 April 2024

126. This appears to be a challenge to the LCRO, which was issued on 8 April 2024 (as opposed to the order issued on 11 April 2024, also following the hearing on 8 April 2024, which I consider below).

127. The Grounds of Appeal suggest that this order is a violation of Mr Abayomi's civil liberties and human rights, but no supporting specifics are given. The terms of the order indicate that it was on the basis of the totally without merit certifications that I have identified (para 27 above). Even if I leave out of account the totally without merit certification at para 3 of the 11 April 2024 order (for the reason that I identify at para 162 below), the other four certifications identified in the order (the order of 9 August 2023, the applications addressed at paras 1 and 2 of the order of 11 April 2024 and the order of 22 January 2024) were relatively recent and provided a sufficient basis for making the LCRO.

Order of 11 April 2024

128. Paragraph 1 of this order refused the renewed application for permission to appeal the order of 25 May 2023 and certified it as totally without merit. I have already explained that there is no further appeal against this refusal of permission to appeal (para 124 above).

129. Paragraph 2 of the order refused the application to set aside the order of 20 November 2023 and certified it as totally without merit. I have already addressed why there is no merit in Mr Abayomi's challenge to either of the 20 November 2023 orders (para 124 above).

130. Paragraph 5 of the order referred to the separate LCRO order, which I have just addressed.

131. This leaves the order at paragraph 3 striking out the Consolidated claims. There is no transcript before me of HHJ Parfitt's judgment. My inquiries on CE-File indicate that on 5 June 2024 Mr Abayomi made an application on Form EX 105 for a transcript of the judgment at public expense. (He also referred to this in his recent applications seeking to adjourn the hearing.) As far as I can see, this application has not been the subject of any Court order. Although Mr Greatorex tried to persuade me that I should still proceed to refuse permission to appeal, as the Defence showed that the Consolidated claims were hopeless and that it was fanciful to think that sight of the

judgment would make any difference, as I indicated at the hearing, I am reluctant to make that assessment in circumstances where I do not have HHJ Parfitt's reasoning before me and on this occasion Mr Abayomi is not in breach of any order relating to the transcript or appeal bundle. In the circumstances, I conclude that the proper course for me to take, in fairness to Mr Abayomi, is to direct in the order that I make upon handing down this judgment ("the hand down order") that a transcript of the judgment is to be obtained at public expense. (As I do not know which part of the judgment dealt with the striking out of the Consolidated claims, I will simply refer to the 8 April 2024 judgment.)

132. Given that this is the situation, I will not express a view on the apparent merits of the appeal at this stage. For the avoidance of doubt, no basis has been shown for the Court to direct the provision of a transcript of the *proceedings*, as opposed to a transcript of the judgment.

133. I stress that if the transcript is not available and filed by the date and time that I will specify in the hand down order (4pm on 13 January 2025), the appeal will be struck out unless Mr Abayomi makes a formal application for an extension of time before then on form N244, explaining the steps that he has taken to obtain the transcript in the interim. For the avoidance of doubt, I will not require the submission of a PD 52B compliant bundle at this stage, as it appears to me that I have the other relevant material in the bundle prepared by KCL for the 20 November 2024 hearing.

134. Assuming the appeal is not struck out and permission to appeal remains to be considered, it can be determined on the papers in the first instance, in the usual way. As I am aware of the history and the documentation, I will reserve determination of whether to grant permission to appeal to myself (as set out in the hand down order). For the avoidance of doubt, if permission is refused, I will also consider at that stage whether to certify that the Appellant's Notice in KA-2024-000099 is totally without merit.

135. I note for completeness, that the Grounds of Appeal do not suggest a free-standing ground of appeal in respect of para 4 of the order, which relates to costs. However, a determination in Mr Abayomi's favour in respect of para 3 of the order, would plainly have implications for para 4 of the order as well.

Order of 18 April 2024

136. HHJ Parfitt made two orders on 18 April 2024, one dismissing Mr Abayomi's application of 15 April 2024 and the other dismissing his application of 18 April 2024; and in both instances the application was certified as totally without merit (para 40 above). These orders were made without a hearing (as Mr Abayomi had requested), so there is no transcript to be obtained.

137. The Grounds of Appeal disclose no arguable contentions. The applications to HHJ Parfitt identified no basis for the Judge to set aside the LCRO and no basis for him to vacate the 25 April 2024 hearing (the listing of which was a case management decision he was entitled to make). It made good sense for Judge Parfitt to reserve the 25 April 2024 hearing to himself, given his involvement on 8 April 2024 and that he was the named judge on the LCRO. As the Judge indicated, Mr Abayomi showed no proper basis for the adjournment of the 25 April hearing.

138. Accordingly, I refuse permission to appeal in respect of the orders of 18 April 2024; the grounds do not have a real prospect of success and there is no other compelling reason for granting permission to appeal.

Order of 22 April 2024

139. The order of 22 April 2024 was made without a hearing, so no question of a transcript arises.

140. I have summarised the order that was made at para 28 above. This was a case management decision that HHJ Parfitt was entitled to make. No arguable ground for overturning his decision has been shown.

141. Accordingly, I refuse permission to appeal in respect of the order of 22 April 2024; the grounds do not have a real prospect of success and there is no other compelling reason for granting permission to appeal.

Order of 25 April 2024

142. This was the order striking out the Data Breach claim. Mr Abayomi did not attend the hearing and HHJ Parfitt set out his reasons for dismissing the claim in his order (para 41 above). Accordingly, no question of a transcript arises and I can proceed to consider whether to grant permission to appeal.

143. The only point that I can detect in the Grounds of Appeal that specifically relates to this striking out decision is that it is said that the Ombudsman had concluded that KCL was in breach of data protection legislation. I note that Mr Greatorex does not accept that this was the case and that the relevant documentation has not been produced by Mr Abayomi. However, even if I assume in his favour that the Ombudsman did reach such a determination, that does not assist Mr Abayomi as it does not undermine HHJ Parfitt's reasoning. The issues to be considered by the Ombudsman were not the same as those that Mr Abayomi would have to plead and prove in a civil claim. He would have to establish that KCL breached its data protection obligations in respect of his "personal data". Even taking the facts set out in his pleaded claim at its highest, no such claim is articulated. A non-specific fear that this may have happened is plainly insufficient. This is fatal to Mr Abayomi's prospects of success. Accordingly, the Judge was fully entitled to strike out the claim on the basis that it disclosed no real prosect of success.

144. Accordingly, I refuse permission to appeal in respect of the order of 25 April 2024; the grounds do not have a real prospect of success and there is no other compelling reason for granting permission to appeal.

Strike out of the CIFAS claim: discussion and conclusions

145. CPR 3.4(2) provides:

> "(2) The court may strike out a statement of case if it appears to the court-
>
> (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim;

(b) that the statement of case is an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings; or

(c) that there has been a failure to comply with a rule, practice direction or court order."

146. At the hearing Mr Parker confirmed that CIFAS relied upon the (2)(a) limb.

147. When an application is made to strike out Particulars of Claim pursuant to CPR 3.4(2)(a) as disclosing "no reasonable grounds" for bringing the claim and, in the alternative for summary judgment in the defendant's favour, there is no difference between the tests to be applied by the Court under the two rules: *Begum v Maran (UK) Limited* [2021] EWCA Civ 326 ("*Begum*") per Coulson LJ at paras 20 – 21. In para 22(a) he described the applicable test as follows:

> "The court must consider whether the claimant has a 'realistic' as opposed to a 'fanciful' prospect of success: *Swain v Hillman* [2001] 1 All ER 91. A realistic claim is one that carries some degree of conviction: *ED & F Man Liquid Products v Patel* [2003] EWCA Civ 472. But that should not be carried too far: in essence, the court is determining whether or not the claim is 'bound to fail': *Altimo Holdings v Kyrgyz Mobil Tel Ltd* [2012] 1 WLR 1804 at [80] and [82]."

148. The onus lies on a defendant to establish that this test is made out.

149. I have summarised the circumstances, the pleadings and the witness evidence at paras 49 – 61 above. In terms of a defamation cause of action, Mr Abayomi's pleaded claim is seriously deficient in that it does not identify the specific words complained of, the meaning that he alleges those words had, nor that the meaning is defamatory. The allegation of a breach of UK GDPR is made in very general terms. All this leads to the conclusion that no viable causes of action have been pleaded. However, there are also more fundamental underlying difficulties which go beyond pleading defects that *might* in themselves (I put it no higher than that) be capable of cure, albeit in this case they are of a relatively fundamental nature. In my judgment, the underlying difficulties that I will identify show that this is not simply a situation where a viable claim could likely be identified if an opportunity were given to re-plead it.

150. CIFAS' position is that the information contained in the NFD marker is true, as the underlying facts demonstrate that Mr Abayomi had no right to the sum of £10,900 (a loan which he had repaid) and thus no right to make chargeback claims in respect of it. Furthermore, that the terms in which Mr Abayomi completed the two chargeback claims (paras 54 – 55 above) indicate that he was not honest about the true circumstances. In turn, it is said, Barclays Bank had reasonable grounds for believing that the relevant conduct by Mr Abayomi was a dishonest act, so that the test for entering a marker on the NFD was met (para 49 above) and, as it was properly filed, CIFAS was right to maintain it. These points have considerable force. Nonetheless, I have carefully considered Mr Abayomi's position. He has not filed a Reply to the Defence, a witness statement responding to Mr Shreeve's statements or a skeleton

argument for this hearing, but the two central points that he relies upon are apparent from his pleaded claim and his 31 August 2024 statement (paras 58 and 61 above).

151. Mr Abayomi does not dispute that the Santander transactions were loans that he had re-paid. His argument is that he was entitled to make the chargeback claims "regardless of entitlement to funds". This is plainly incorrect. It was not a situation where he had spent his money on goods or services that had been defective or had not materialised. The £10,900 was not his money (even on his own account) and he had no entitlement to receive a payment in that sum. The terms in which he claimed the chargebacks are a matter of record (paras 54 – 55 above) and do, as Mr Parker submitted, provide further support for the proposition that the clams were dishonestly made.

152. Mr Abayomi's second point is that the chargeback claims were paid at the time. However, this does not undermine a conclusion of dishonesty, as chargeback claims below a certain amount are not subject to investigation (a proposition that Mr Abayomi does not dispute) and it is clear from the contemporaneous documentation that Elavon paid the £10,900 in circumstances where they were "not able to resolve the dispute", not because they had investigated and determined Mr Abayomi's claims to be legitimate (para 60 above).

153. Accordingly, I am satisfied that Mr Abayomi's claim of libel would be bound to fail. If it were properly pleaded, then insofar as the identified statement was one of fact, CIFAS would inevitably establish a defence under section 2 of the Defamation Act 2013, that the statement complained of was substantially true; and insofar as the identified statement was opinion, a defence of honest opinion under section 3 of the Act would be shown on the basis that an honest person in CIFAS' position could have held the opinion that Mr Abayomi had acted fraudulently.

154. I am also satisfied that the claim under UK GDPR would be bound to fail. CIFAS accepts that it is the data controller in respect of the NFD and is the joint controller with the filing member in relation to each marker that is filed on the system. It follows, and CIFAS accepts, that it must comply with the Article 5 UK GDPR principles in relation to the processing of personal data, including that such data is processed "lawfully, fairly and transparently" and that such data is "accurate".

155. Article 6.1 UK GDPR provides that processing shall be lawful "only if and to the extent that at least one of the following applies". The list that follows includes at (f) where "processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party". Recital 47 recognises that the "processing of personal data strictly necessary for the purposes of preventing fraud also constitutes a legitimate interest of the data controller concerned". Members of CIFAS are required to comply with the rules contained in the NFD Handbook (para 49 above), which, I accept, seek to balance the members' legitimate interests with the rights of data subjects. As I have already explained, it is the member's responsibility to ensure that the markers meet a required standard of proof. In the circumstances I accept that CIFAS would be able to show that the NFD marker regarding Mr Abayomi constituted a lawful processing of his data. It is also clear that CIFAS would be able to meet the requirement of accuracy, as I have addressed earlier in respect of the defamation claim.

156. As I have concluded that the pleaded claims are bound to fail, I will grant the application to strike out the Claim Form dated 28 March 2024 as disclosing no reasonable grounds, pursuant to CPR 3.4(2)(a) and give judgment in CIFAS' favour.

157. A claim is totally without merit if it is "bound to fail": *R (Grace) v Secretary of State for the Home Department* [2014] EWCA Civ 1091, [2014] 1 WLR 3422 at para 13. Accordingly, for the reasons that I have already identified, I will certify the CIFAS claim as totally without merit.

158. As the CIFAS claim is at an end, there is no need for me to determine Mr Abayomi's applications of 4 and 17 October 2024 to withdraw the defamation element and for the remainder of the claim to be transferred to the County Court.

Civil restraint order applications: discussion and conclusions

159. A helpful summary of the applicable provisions and principles, appears in the recent judgment of Pepperall J in *Achille v Calcutt* [2024] EWHC 2169 (KB):

> "4. Rule 3.11 of the Civil Procedure Rules 1998 and Practice Direction 3C provide for three different levels of civil restraint orders and put the inherent jurisdiction of the court to control vexatious litigation, recognised in a series of cases culminating in Bhamjee v. Forsdick [2003] EWCA Civ 1113, [2004] 1 WLR 88, on a statutory footing:
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> > 4.1 At the lowest end, a limited civil restraint order can be made where a party has made two or more applications which are totally without merit. Such order restrains the party subject to the order from making any further application in the proceedings in which the order is made without first obtaining the permission of the court: Practice Direction 3C, paras 2.1-2.2.
> >
> > 4.2 An extended civil restraint order can be made where a party has persistently issued claims or made applications which are totally without merit. Such order restrains the party subject to the order from issuing claims or making applications concerning any matter "involving or relating to or touching upon or leading to the proceedings in which the order is made" without first obtaining the permission of the court: Practice Direction 3C, paras 3.1-3.2.
> >
> > 4.3 At the highest end, a general civil restraint order can be made where a party has persistently issued claims or made applications which are totally without merit in circumstances where an extended civil restraint order would not be sufficient or appropriate. Such order restrains the party subject to the order from issuing any claim or making any application without first obtaining the permission of the court: Practice Direction 3C, paras 4.1-4.2.

> 5. It follows that a limited civil restraint order can effectively control a litigant who repeatedly makes applications in a single set of proceedings which are totally without merit but provides little control over a litigant who persistently issues claims or makes applications in multiple proceedings that are totally without merit. In such cases, the court will consider whether to make an extended or a general civil restraint order; the essential difference being that:
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> > 5.1 An extended civil restraint order can effectively control a litigant who has become obsessed with a particular incident or set of circumstances and persists in issuing multiple claims or making applications in multiple proceedings relating to those matters which are totally without merit; whereas,
> >
> > 5.2 A general civil restraint order is apt to cover the situation in which a litigant adopts a "scattergun approach to litigation on a number of different grievances without necessarily exhibiting such an obsessive approach to a single topic that an extended civil restraint order can appropriately be made": per Brooke LJ in R (Kumar) v. Secretary of State for Constitutional Affairs [2006] EWCA Civ 990, [2007] 1 WLR 536, at [60].
>
> 6. In order to make the system work, judges are required to record the fact that a claim or application is totally without merit when striking out such a claim (r.3.4(6)) or dismissing such an application (rr.23.12 and 52.20(5)-(6)). Unless disturbed on appeal, a judge's finding that a claim or application is totally without merit is conclusive and the court subsequently considering whether to make a civil restraint order should not entertain argument as to whether such claims and applications were in fact totally without merit: Crimson Flower Productions Ltd v. Glass Slipper Ltd [2020] EWHC 942 (Ch); Chief Constable of Avon & Somerset Constabulary v. Gray [2019] EWCA Civ 1675. In addition, the court can take into account other claims or applications where, although not formally certified as having been totally without merit, the court considering making a civil restraint order is satisfied were totally without merit: Sartipy v. Tigris Industries Inc. [2019] EWCA Civ 225.
>
> …..
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> 8. Once the threshold question of the repeated (or for the higher level orders, the persistent) making of claims and applications which are totally without merit has been met, the court must of course consider all the circumstances in order to determine whether it should make a civil restraint order at all; whether any such order should be a limited, extended or general civil restraint order; and the terms of the order."

160. In *Sartipy v Tigris Industries Inc* [2019] EWCA Civ 225, [2019] 1 WLR 5892, Males LJ confirmed that if the claim itself is totally without merit and if individual applications made in the claim are also totally without merit "there is no reason why both the claim

and the individual applications should not be counted" for the purposes of considering whether to make a civil restraint order (para 29).

161. I am satisfied that Mr Abayomi has "persistently" made claims and applications that are totally without merit. As the list in the next paragraph shows, there have been a considerable number. As explained at para 6 of Pepperall J's judgment in *Achille*, the Court's certification at the time of making the relevant order is conclusive in this regard, if it has not been disturbed on appeal. Accordingly, Mr Abayomi is not in a position to dispute that this is the case.

162. In fairness to Mr Abayomi, I will not take into account the certification of the Consolidated claims as totally without merit at para 3 of the order of 11 April 2024, since there is an outstanding application for permission to appeal in relation to the striking out of these claims (paras 131 – 134 above). Nonetheless, there is a long list of claims and applications that have been certified as totally without merit, specifically:

i) The application of 24 November 2022 in the Consolidated claims, marked as totally without merit in the 25 May 2023 order (para 20 above);

ii) The application of 11 January 2023 in the Consolidated claims, marked as totally without merit in the order of Master Sullivan dated 16 January 2023 (para 22(iv) above);

iii) The application of 28 July 2023 in the Consolidated claims, marked as totally without merit in the order of Recorder Hill-Smith dated 9 August 2023 (para 21 above). The application for permission to appeal this order has been struck out (paras 100 - 106 above);

iv) Two applications of 4 and 13 December 2023 in the Data Breach claim, marked totally without merit in the order of Master Thornett dated 22 January 2024 (para 35 above). The application for permission to appeal this order has been struck out (paras 112 - 115 above);

v) The application for permission to appeal the order of 25 May 2023 made in the Consolidated claims, marked as totally without merit in the initial refusal on the papers on 20 November 2023 and again in respect of the renewed application in the order of HHJ Parfitt dated 11 April 2024 (paras 24 and 26 above);

vi) The application to set aside the order of 20 November 2023, marked as totally without merit in the order of HHJ Parfitt dated 11 April 2024 (paras 26 above). I have refused permission to appeal in respect of this order (para 129 above);

vii) The application of 15 April 2024 in the Data Breach claim, marked as totally without merit in the order of HHJ Parfitt dated 18 April 2024 (para 40 above). I have refused permission to appeal in respect of this order (paras 137 - 138 above);

viii) The application of 18 April 2024 in the Data Breach claim, marked as totally without merit in the order of HHJ Parfitt dated 18 April 2024 (para 40 above). I have refused permission to appeal in respect of this order (paras 137 - 138 above);

ix) The application of 24 March 2024 in the Consolidated claims, marked as totally without merit in the order of HHJ Parfitt dated 22 April 2024 (para 28 above). I have refused permission to appeal in respect of this order (paras 140 - 141 above);

x) The Data Breach claim, marked as totally without merit in the order of HHJ Parfitt dated 25 April 2024 (para 41 above). I have refused permission to appeal in respect of this order (paras 143 - 144 above);

xi) The application of 20 August 2024 in the CIFAS claim, marked as totally without merit in the order of Steyn J dated 21 August 2024 (para 73 above);

xii) The application for an interim injunction in the CIFAS claim, marked as totally without merit in the order of Murray J dated 30 August 2024 (para 74 above);

xiii) The applications of 8 August and 9 September 2024 in the CIFAS claim, both certified as totally without merit in the order of Johnson J dated 23 September 2024 (para 76 above);

xiv) The CIFAS claim, which I have determined is totally without merit (paras 149 - 157 above); and

xv) The Appellant's Notice in KA-2024-000016, which I have determined is totally without merit (paras 118 – 119 above).

163. Accordingly, I go on to consider all of the circumstances to determine whether to make a civil restraint order and, if so, whether it should be a limited, extended or general civil restraint order. I will identify the circumstances that I regard as relevant in the paragraphs that follow.

164. I take into account the sheer number of totally without merit certifications, far above the minimum of three that would be required to make an ECRO or GCRO. Furthermore, these claims and applications have been made over a relatively short period of time and seven of the totally without merit applications have been made this year. It is clear that the totally without merit certifications made before 2024 and/or the costs orders made against him, have not caused Mr Abayomi to pause for reflection or to adopt a more reasonable approach to the way that he litigates these cases. He has brought totally without merit claims and applications against two unrelated defendants (KCL and CIFAS) and in relation to quite distinct events. Mr Abayomi also has a tendency to issue multiple claims in respect of the same matters. As I have explained earlier, prior to their consolidation, he brought four claims against KCL arising out of the dissertation events; and he has commenced a second claim against CIFAS in respect of the NFD marker.

165. As is apparent from the procedural chronologies that I set out earlier, Mr Abayomi has engaged and continues to engage in making multiple applications to the Court, including taking issue with and trying to set aside relatively standard and usually uncontroversial case management orders. At para 22 above I have included a list of the applications that he made at an earlier stage of the Consolidated claims, to give a flavour. This conduct has persisted. Mr Abayomi made two totally without merit applications challenging the listing of the 25 April 2024 hearing in the Data Breach

claim (para 40 above) and he has made multiple applications to the High Court since Hill J's order of 1 August 2024 (paras 71 – 85 above). For reasons that are unclear, he filed three separate Appellant's Notices dated 26 April 2024 in relation to HHJ Parfitt's orders with substantially overlapping content (para 46 above). In short, his conduct seeks to escalate matters at every turn and his energies are channelled into challenging the orders of the Court, rather than engaging with the proper preparation of the proceedings in terms of the submission of evidence, bundles and skeleton arguments.

166. In addition to the multiple N244 applications that he makes, Mr Abayomi repeatedly contacts the Courts, including judges and their clerks directly, without good reason to do so and in defiance of requests and warnings to cease this behaviour: see paras 23, 38 and 47 above. Mr Abayomi sent multiple emails to my clerk on the 19 and 20 November 2024 (with fluctuating other addressees, sometimes the parties, sometimes the KB Judges Listing Office email address and sometimes individual members of the Court staff). He has also sent emails directly to other High Court Judges who have made orders in these proceedings and multiple emails to Court staff.

167. The effect of Mr Abayomi's conduct is that Judges and Court staff have to spend a wholly disproportionate amount of their time dealing with Mr Abayomi's applications and communications. This puts an undue strain on the Court's limited resources and diverts them away from other Court users who are taking a reasonable approach to their litigation.

168. Furthermore, Mr Abayomi's conduct places an undue burden on the other parties (KCL and CIFAS), in having to address the steady stream of meritless applications and multiple, often repetitive, communications. Although costs orders are and can be made, it seems unlikely from events thus far, that KCL or CIFAS will actually recover their costs from Mr Abayomi. Costs orders have been made in KCL's favour on a number of occasions (Deputy District Judge Grant's order of 25 May 203; Recorder Hill-Smith's order of 11 August 2023; Master Thornett's order of 6 November 2023; Master Thornett's order of 22 January 2024; HHJ Parfitt's order of 11 April 2024; and HHJ Parfitt's order of 25 April 2024). However, I was informed by Mr Greatorex that Mr Abayomi has not paid any costs so far, including where orders for payment on account have been made. Furthermore, his emails suggest that the escalation of irrecoverable costs for those he is suing is a deliberate strategy on his part (paras 65 and 68 above).

169. I also take into account the terms of Mr Abayomi's communications to CIFAS' solicitors, Kennedys (paras 65 – 69 above). His emails have included veiled and not so veiled threats, including one that could be interpreted as a threat of violence – an interpretation that he did not dispute when Mr Shreeve raised this. Mr Abayomi's responses indicate that not only he is unwilling to moderate his behaviour and comply with usual norms, but that he has "no boundaries" and regards himself as the sole arbiter of what is permissible behaviour on his part (paras 66 - 67 above). His communications also show that he has repeatedly contacted CIFAS employees directly, despite Mr Shreeve pointing out the inappropriateness of this to him on several occasions.

170. During his oral submissions, Mr Greatorex described Mr Abayomi's approach to litigation as "out of control". Making due allowance for an element of hyperbole, there is force in this description. In particular, I have no doubt that if a restraint order were not granted, Mr Abayomi would continue as he has done up until now. I note too, that after the LCRO was made by HHJ Parfitt on 8 April 2024 in relation to the Consolidated

claims and the Data Breach claim, Mr Abayomi continued to make meritless, multiple applications, as I have described.

171. I have, of course, borne in mind, what Mr Abayomi has said. He has chosen not to file a specific response to the GCRO or ECRO applications, but he has indicated in other communications with the Court that such an order would infringe his human rights. However, this is not the case where the applicable criteria are met, there is a proper basis for making the order and it is a necessary and proportionate step to take. A civil restraint order does not prevent a person from litigating; it requires that they obtain the Court's permission before doing so. I turn to Mr Abayomi's other points. The totally without merit certifications and the communications that he has sent to Courts and to the parties are matters of record, that he is not in a position to dispute. He takes issue with many of the orders that have been made and he has said that his KCL appeals should be determined before the GCRO application, but I have now addressed those appeals and his only extant appeal relates to the striking out of the Consolidated claims, which I have left out of account for present purposes (para 162 above).

172. In all the circumstances I am quite satisfied that a civil restraint order should be made and that it is necessary and proportionate to do so. I have already explained that the LCRO made by HHJ Parfitt on 8 April 2024 has not operated as a wider break or restraint upon Mr Abayomi's unreasonable conduct. I have to decide whether I should make a GCRO on the basis that an ECRO would not be sufficient or appropriate. Mr Parker accepted that if I made a GCRO, it was unnecessary to also grant an ECRO in the CIFAS claim.

173. I have concluded that an ECRO would not be sufficient or appropriate. I do take into account that Mr Abayomi has not (as far as I am aware) been subject to an ECRO thus far. However, in arriving at my conclusion, I bear in mind the concerning nature and scale of Mr Abayomi's unreasonable conduct as summarised at paras 164 – 170 above and his apparent intention to continue as he pleases irrespective of Court orders. Further, the claims before me show that Mr Abayomi's grievances, whilst strongly felt, are not confined to one particular topic, nor one particular person or organisation. There is also force in Mr Greatorex's point that this past conduct gives rise to a very real concern that if an ECRO were to be made (preventing him from "issuing claims or making applications…concerning any matter involving or relating to or touching upon or leading to the proceedings in which the order is made"), Mr Abayomi will craft new claims raising meritless and bogus arguments to the effect that they are outside of the terms of the ECRO as they do not have a sufficient connection to the present proceedings.

174. As to its terms, in light of the matters I have already identified, I conclude that it is necessary, proportionate and appropriate to make a GCRO for the maximum term of three years. In this regard, I also note Mr Parker's submission that the NFD marker will, in the ordinary course of events, stay in place for six years. The GCRO will apply to all High Court and County Court claims and applications, save as is set out in the terms of the GCRO order itself. I will make it in the KA-2024-000099 proceedings, as the other appeal proceedings have already been automatically struck out.

175. The effect of the GCRO is that, unless the Court orders otherwise, the party against whom the order is made (Mr Abayomi) is restrained from issuing any claim or making any application in the specified Courts without first obtaining the permission of the

Judge identified in the order, save that he may apply for permission to appeal the order and, if permission is granted, he may appeal the order (PD 3C para 4.2). He may apply for amendment or discharge of the order provided he has first obtained the permission of the Judge identified in the order. PD 3C paras 4.4 and 4.5 set out the steps to be taken before an application for permission may be made to the identified Judge. I will specify one additional exception to the GCRO. As the hearing proceeded in the absence of Mr Abayomi, he may apply pursuant to CPR 23.11(2) for a re-hearing of the applications that were before the Court on 20 November 2024. However, the caselaw makes clear that this power is to be exercised sparingly and having regard to the overriding objective, as explained at para 23.11.3 of the White Book. I also confirm, for the avoidance of doubt, that the GCRO does not apply to the current outstanding application for permission to appeal in respect of paras 3 and 4 of HHJ Parfitt's order of 11 April 2024, but it will apply to any new applications that are made in KA-2024-000099.

176. The Judge who determines a GCRO application is usually named in the order as the Judge who will decide whether to grant permission to bring future claims and applications. There is no good reason to depart from that practice in this case. It appears sensible given the familiarity that I now have with the cases before me. I have again borne in mind Mr Abayomi's objection to my involvement. However, for the reasons that I explained in my first order of 19 November, the test for appearance of bias is not met. Mr Abayomi's contention that I was wrong to decide the question of recusal myself (para 86 above) is not well-founded; it is for the Judge to determine whether the appearance of bias test is met if the issue arises. Furthermore, as the authorities make clear, if the appearance of bias test is not met, it is the Judge's *duty* to proceed with the case, rather than recuse themselves too readily simply because an objection has been raised: *Locabail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451 at paras 21 – 24. Accordingly, it is my duty to do so in this instance.

177. As I am granting a GCRO, there is no value in the LCRO granted by HHJ Parfitt remaining in force. When I raised this, Mr Greatorex indicated that he had no objection to this order being set aside (and, if needs be, I constitute myself as a Judge of the County Court to do so). Mr Abayomi cannot reasonably object to this course; it would be more onerous for him to have to make two separate applications for permission to two separate Courts, which he would have to do in certain circumstances if the LCRO remained in force.

Application for costs: KCL

178. KCL applied for their costs in respect of the GCRO application and the appeal proceedings that were before the Court on 20 November 2024. Whilst in general costs will not be awarded to a respondent who attends the hearing of an application for permission to appeal, there are a number of exceptions, including where the Court has ordered or requested the attendance of the respondent or where the Court has ordered the application for permission to appeal to be listed at the same time as the determination of other applications: para 8 of PD 52B.

179. KCL has been the successful party in respect of the GCRO application, KA-2023-000165, KA-2024-000016 and the majority of KA-2024-000099 (with one element of that appeal remaining outstanding, as I have explained). In the circumstances KCL is plainly entitled to its costs in principle, which it seeks on the standard basis.

180. KCL sought a summary assessment of its costs. A Statement of Costs was filed and served within the prescribed period. Mr Abayomi did not submit specific representations in response. The overall figure claimed for solicitor's costs (exclusive of VAT) is £10,041.40, including £5,645.00 for work done on documents. A figure of £8,500 is claimed in respect of counsel's fees. The overall total claimed, including VAT, is £22,249.68. I must only allow costs that have been proportionately and reasonably incurred.

181. There were a number of areas where I queried the figures with Mr Greatorex during the hearing. I believe that the areas I discuss below encompass the points that can reasonably be raised against KCL's figures.

182. The "work done on documents" section included the sum of £2,885.60 for "Preparation for hearing on 20 November 2024". I inquired why this figure was so high and what it comprised, not least as counsel was representing KCL at the hearing and there was no separate witness statement prepared by Mills & Reeve for this hearing. After checking with his instructing solicitor's representative, Mr Greatorex told me that the sum included various internal discussions that had been placed in this section as there was no obvious other place to put them on the Statement of Costs. He accepted that this was not "work on documents" in the strict sense of the phrase and he volunteered that there was no authority supporting this approach. In the circumstances I am not satisfied that I should allow this element. I accept that Mills & Reeve needed to undertake some preparatory work for the hearing, but I note that preparation of the bundle of documents is a separately claimed item. I also note that item 2, claimed at the smaller sum of £536.90, includes an element of internal discussions on strategy. In the circumstances, the overall work on documents figure appears to me to be excessive and I will reduce it by £2,000 from £5,645.00 to £3,645.00.

183. Secondly, I queried the figure of £1,164.80 for letters out/emails. I was told that this predominantly related to correspondence with the Court and with Kennedys. I accept that Mr Abayomi's approach to the litigation has caused the other parties to incur more costs than would usually be the case. However, even allowing for this, the figure is on the high side and I will reduce it to £800.

184. Thirdly, I raised issues regarding the size of counsel's brief fee. His skeleton argument was relatively short and did not give the Court the assistance that it is entitled to expect. Whilst appropriate concision is to be commended, this document did not, for example, give me little information about the nature of the Consolidated claims, the Data Breach claims, the pleaded issues or the events giving rise to them. Furthermore, the skeleton contended that the appeals were all hopeless, but did not attempt to address the stated grounds of appeal; and the passages that were relied upon from Ms Law's multiple witness statements were not identified. A significant proportion of Mr Greatorex's advocacy at the hearing was taken up with an unsuccessful attempt to persuade me to refuse permission to appeal the order striking out the Consolidated claims, despite the fact that Mr Abayomi's request for a transcript at public expense had yet to be addressed and his own note of HHJ Parfitt's judgment had not been shared with Mr Abayomi in advance of the hearing. In the circumstances, whilst recognising that Mr Greatorex made a number of well-founded points, I reduce the brief fee to £6,000.

185. It follows that I reduce the overall net costs figure from £18,541.40 to £10,445.00. Once VAT is added, the total sum of costs to be paid is £12,534.00.

Application for costs: CIFAS

186. CIFAS has been successful in its application to strike out the pleaded claim and for judgment to be entered in its favour. Whilst I have not made an ECRO, this is simply because it is unnecessary to do so in light of my decision to make a GCRO on KCL's application. The application for an ECRO was fully justified in the circumstances and the material that was relied upon has supported the making of the GCRO, as I have explained. Accordingly, CIFAS, has been the successful party and is entitled to its costs.

187. As foreshadowed in the application notice, witness evidence and Mr Parker's skeleton argument, CIFAS sought payment of its costs on an indemnity basis.

188. There has to be something about the action which takes it outside the norm before it would be appropriate for the Court to award costs on an indemnity basis: *Digicel (St Lucia) Ltd v Cable & Wireless plc* [2010] EWHC 888 (Ch), [2010] 5 Costs LR 709, Morgan J at para 13. The Judge then cited paras 26 – 30 of Colman J's judgment in *National Westminster Bank plc v Rabobank Nederland (No. 2)* [2008] 1 All ER (Comm) 243; the Court should have regard to all of the circumstances, the discretion to award indemnity costs is extremely wide and where the conduct of a party is relied upon, the test is unreasonableness (which may include both whether it was reasonable to raise and pursue particular allegations and the manner in which the case was pursued). For conduct to fall outside the norm, it must be something "outside the ordinary and reasonable conduct of proceedings": *Esure Services Ltd Quarcoo* [2009] EWCA Civ 595.at para 25.

189. I am satisfied that this is a proper case for CIFAS to be awarded its costs on an indemnity basis. There are a number of features that fall outside of the norm. Firstly, the claim was a very weak one that was bound to fail (paras 149- 156 above). Secondly – and only focusing upon the CIFAS litigation for these purposes - Mr Abayomi has pursued the litigation in a vexatious fashion, making multiple weak applications, a number of which have attracted totally without merit certifications. Thirdly, Mr Abayomi has engaged in the inappropriate, aggressive and threatening communications referred to at para 169 above and has not desisted when reasonably asked to do so.

190. CIFAS did not file a Statement of Costs within the prescribed period, only doing so on the morning of the 20 November 2024. I indicated at the hearing, that as Mr Abayomi would not have had a proper chance to consider the document, I did not intend to summarily assess costs. A secondary reason was that the Schedule of Costs involve the litigation as a whole, rather than simply the costs related to the 20 November 2024 hearing. In the circumstances, I will order that Mr Abayomi pays CIFAS' costs on the indemnity basis, but provide for these costs to be subject to detailed assessment (if not agreed).

Outcome

191. For the reasons that I have explained above:

    i) The hand down order will record that the appeal proceedings KA-2023-000165 and KA-2024-000016 were automatically struck out pursuant to the earlier orders made, respectively, by Soole J on 1 July 2024 and Sir Stephen Stewart

on 16 April 2024. I have certified that the Appellant's Notice in KA-2024-000016 as totally without merit;

ii) In respect of KA-2024-000019, I have refused permission to appeal HHJ Parfitt's orders of 20 November 2023, 8 April 2024, 11 April 2024 (save as indicated below), 18 April 2024, 22 April 2024 and 25 April 2024. Consideration of the application for permission to appeal in respect of paras 3 and 4 of the order of 11 April 2024 is adjourned with permission to be considered on the papers (reserved to myself). The application for a transcript at public expense of HHJ Parfitt's judgment given on 8 April 2024 is granted and the hand down order specifies the time by which Mr Abayomi must lodge this judgment transcript (4pm on 13 January 2025). If the transcript is not lodged by that date, the appeal will be struck out without further order unless an application for an extension of time is made on form N244 before that date and time;

iii) I have struck out the pleaded claim against CIFAS as disclosing no reasonable grounds and will enter judgment in favour of CIFAS. I have certified the claim as totally without merit. In the circumstances, Mr Abayomi's applications dated 4 and 17 October 2024 do not arise for determination;

iv) I have granted the GCRO application for a period of three years, the terms of which are set out in the standard form GCRO order, which accompanies the hand down order. I have also explained the terms and effect of the order at paras 174 – 175 above. In the circumstances, there is no need to grant the ECRO sought by CIFAS and I have set aside the LCRO granted by HHJ Parfitt simply because its reach is now effectively subsumed within the GCRO;

v) I have found that Mr Abayomi is liable to pay KCL's costs in respect of the GCRO application and the appeal proceedings before me at the 20 November 2024 hearing in the reduced sum of £12,534.00 (including VAT); and

vi) I have awarded CIFAS its costs on the indemnity basis and provided that those costs are to be the subject of detailed assessment, if not agreed.

192. Mr Abayomi should cease emailing individual High Court Judges and/or their clerks. There is no good reason for him to do so unless he has been contacted by the Judge's clerk in respect of a particular matter and specifically asked to respond by email. He is aware of the appropriate channels for contacting the Court. If he persists in doing this, I will consider whether it is necessary for me to make a formal order to this effect.

193. Although Mr Abayomi was promptly informed by the Court that I had reserved judgment in this matter, he has repeatedly contacted my clerk and Court staff over the last week. He also filed what were in effect prospective applications seeking to set aside my order/s following the 20 November 2024 hearing before I had actually made them. In the circumstances the Court staff did not issue these applications as they were premature. As I have indicated, the hand down order and the GCRO order will accompany this reserved judgment, which has been prepared as quickly as circumstances have allowed.