Neutral Citation Number: [2013] EWHC 979 (QB)

Appeal No QB/2010/0280 and Others

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
(ON APPEAL FROM HHJ COLLINS AND HHJ MITCHELL
(CENTRAL LONDON COUNTY COURT)

Royal Courts of Justice
Strand, London, WC2A 2LL

Friday, 12th April 2013

Before:

MR JUSTICE HICKINBOTTOM

- -

Between:

ANDREW JAMES GRAHAM

Claimant/ Appellant

- and -

ELTHAM CONSERVATIVE & UNIONIST CLUB & OTHERS

Defendants/ Respondents

- -

The Claimant/Appellant appeared in person

Mr David McNeil (instructed by **Veale Wasbrough Vizards**) for the **Defendants/Respondents**

- -

Approved Judgment

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MR JUSTICE HICKINBOTTOM:

Introduction

1. There are before the court four appeals arising out of a claim in the Central London County Court (Claim No 8CL06590) in which the Claimant claims that he was the subject of racial discrimination and victimisation in his dealings with the First Defendant, the Eltham Conservative and Unionist Club ("the Club"), which is a society registered under the Industrial and Provident Societies Acts.

2. The Claimant has throughout acted as a litigant in person; and therefore he could be forgiven for some imprecision in the causes of action upon which he relies and in his pleaded case as a whole. Certainly, the allegations he makes are not as precisely or coherently formulated as they might be.

3. However, it seems that the Claimant's core claim is that he was the subject of discrimination in the course of his dealings with the Club's Committee, and in particular in the course of elections to that Committee and later selection of Committee members from the otherwise unsuccessful candidates to fill casual vacancies. The Claimant describes himself as "ethnically white"; and it is his case that, on the grounds of his racial background, he was blacklisted so that he was not in any way preferred within the Club. In particular, he claims that an Asian member of the Club was more favourably treated than he on grounds of race. He also claims that his suspension from the Club in 2005 and again in 2008 were the result of discrimination. There are a few broader allegations that do not on the face of them appear to be based on discrimination, e.g. that the Club has "stolen from its members for the future benefit of the Conservative Party" and the Club have otherwise acted outside their own rules.

4. The claim was commenced on 5 September 2008 against 22 defendants. The claims against the 19th to 21st Defendants were discontinued on 7 March 2009, and I need say nothing further about them. As I have already indicated, the Club is the First Defendant. The 2nd to 18th Defendants were at the time of issue of proceedings all members of the Club's Committee, except for the 7th defendant, Don Taylor. He was the Club's Secretary and, as such, an officer of the Club but not a member of the Committee. The 22nd Defendant, Chief Superintendent Jarratt, is or was the Greenwich Division Borough Commander of the Metropolitan Police.

5. Before me now are four appeals lodged by the Claimant in respect of the following Orders.

   i) The First Appeal: The Order of His Honour Judge Collins CBE dated 22 April 2010 (Appeal No QB/2010/280). Burnett J refused permission on the papers on 18 February 2011.

   ii) The Second Appeal: The Order of His Honour Judge Mitchell dated 26 August 2010 (Appeal No QB/2010/559). Again, permission was refused by Burnett J on 18 February 2011.

iii) The Third Appeal: The Order of His Honour Judge Mitchell dated 23 November 2010 (Appeal No QB/2010/737). Norris J refused permission on the papers on 18 January 2011.

iv) The Fourth Appeal: The Order of His Honour Judge Mitchell dated 19 January 2011 (Appeal No QB/2011/65).

The specific applications with which I have to deal are for permission in each of those appeals; in respect of the First, Second and Third Appeals on a renewed basis following refusal on paper.

The First Appeal

6. On 8 February 2010, the 2nd to 18th Defendants applied to strike out the claim against them (or, alternatively, for summary judgment in their favour) on the basis that the Club is a society registered under the Industrial and Providence Acts and, as such, it has a distinct legal personality and limited liability.

7. On 23 April 2010, the claim came before Judge Collins on a case management conference and that application was dealt with as part of that hearing. The judge allowed Dr Suresh Deman to speak on the Claimant's behalf as a lay advocate. However, in his judgment (at paragraph 5), he accepted the submissions of the Defendants on the strike out application, holding that, as a result of the legal nature of the Club, it had a separate legal personality; and a member or officer of the Club, including a Committee member or an officer such as the Secretary, would only be potentially liable for the acts alleged against the Club if there were an allegation made against him or her as an individual. As there were no allegations pleaded against any of the members as individuals, he struck out the claim as against them. He did not strike out the claim against the Secretary, Mr Taylor, because he was specifically mentioned in the Particulars of Claim in the context of a refusal to disclose data following a request.

8. The Claimant seeks to appeal that order, striking out the claims against the individual members of the Club, on several grounds. However, what is fatal to this appeal is that the judge was unarguably right in relation to the legal nature of the Club, and the consequences of that. The Committee members are not personally liable for any act of the Club, even if they contributed to those acts in some way, absent an allegation in respect of any personal acts. No such allegation is made.

9. The judge also struck out the claim against Chief Superintendent Jarratt. He appears to have done so during the course of debate, because there is reference to that in paragraph 1 of his judgment in respect of the strike out of the claims against the members, but nothing more in the transcript I have seen. In any event, the strike out of the claim against Chief Superintendent Jarratt was inevitable. The only thing referable to him in the Particulars of Claim is that an amended version of the Club rules was not lodged with him, as it was contended it legally ought to have been. But, even if the Club had that legal obligation, there would be no cause of action against the police or any particular police officer for its failure to do so. In the papers there is a vague suggestion that the police failed to investigate irregularities in the Club as reported by the Claimant; but (i) it would be impossible to pursue that claim on the basis of the documents I have seen; and (ii) in any event, in so far as the officer had an

obligation to investigate and to the extent that he breached that duty, the Claimant simply makes no allegations about those matters in his Particulars of Claim. No claim is made that the officer breached any legal duty.

10. I will deal with some of the other grounds relied upon by the Claimant in this appeal in the context of the other appeals below; but, for those reasons, this appeal is fatally undermined. It is unarguable.

The Second Appeal

11. On 26 August 2010, the claim came before His Honour Judge Mitchell. Dr Deman again acted as the Claimant's lay advocate. During the course of the hearing, the transcript shows that Dr Deman became extremely agitated: there came a point when the judge refused to allow him to continue as a lay advocate and, indeed, required him to leave the court altogether, a matter to which I shall return.

12. In terms of substance, Judge Mitchell struck out the Claimant's claim against Mr Taylor. He did so on the basis that rule 31 of the Club Rules required the Secretary to act only under the direction and control of the Committee; Mr Taylor's evidence was that he did act in full accordance with that rule, and there was no basis for any contention that he did otherwise. In those circumstances, the judge held that, whilst the Claimant might have a claim against the Club for what Mr Taylor did as Secretary, he did not have a claim against Mr Taylor personally.

13. That was a conclusion to which the judge was clearly entitled to come. There was no sensible suggestion in the claim that the Secretary of the Club had done anything other than follow the instructions of the Committee. In fact, that he did so was fully consistent with the Claimant's primary case that was based on the premise that he was the victim of institutional victimisation and discrimination.

14. The judge struck out the claim against Mr Taylor. For the reason I have given, that decision is unimpeachable. This appeal is, again, unarguable.

The Third Appeal

15. The claim came back before Judge Mitchell on 23 November 2011. That date, it seems, had been set for a hearing because it was convenient for the Claimant. However, the Claimant did not attend. The day before the hearing (22 November), he sent to the court what amounted to an application to adjourn on the basis of ill health, namely stress. The only evidence lodged in support of the application was a doctor's note dated a week before saying he was unfit for work, the results of a blood test, and an Order of the High Court in relation to another matter.

16. In the event, the judge allowed an adjournment. However, the lateness of the request meant that the Defendants could not avoid the costs of the hearing; and, because the judge found that that lateness was avoidable, he ordered the Claimant to pay the Defendants' costs of the hearing thrown away, which he summarily assessed in the sum of £2,467.50. The recitals in the Order make the reasons for the costs order, as I have briefly explained them, quite clear.

17. In paragraph 4 of the Order, it was recorded that the court would not permit Dr Deman to act as the Claimant's "McKenzie Friend" in any future hearing, which was expressly to give the Claimant an opportunity to find someone else to assist him at the January hearing if he wished to do so.

18. The Claimant's grounds of appeal in respect of this costs order are extremely lengthy, but focus on two matters: the judge's alleged bias towards the Claimant in his treatment of Dr Deman, and the judge's failure to sit with assessors. I will deal with those issues in due course; but neither is determinative of this appeal. In so far as the Claimant challenges the costs order, his appeal is unarguable; because the judge was perfectly entitled to find that the application to adjourn was unreasonably late, and that that had caused the Defendants additional and unnecessary costs. In those circumstances, the costs order he made was eminently within his wide discretion in respect of costs.

The Fourth Appeal

19. The case was in the event adjourned until 19 January 2011, when it came back before Judge Mitchell. The Claimant again did not attend, having indicated to the court that he was going on holiday. The judge on this occasion refused a further adjournment, and struck out the claims relating to the 2005 suspension and the 2007 ballot as being outside the six-month limitation period for discrimination claims provided for by section 68(2) of the Race Relations Act 1976 and finding there was no good reason for extending that period. That, expressly on the face of the Order, left the claim in respect of the 2008 suspension and the issues relating to the Club's rule changes in 2007. The Claimant was once more ordered to pay the costs of the hearing, summarily assessed at £2,100; and the judge made an unless order that, unless the Claimant pay the outstanding costs by dates in February 2011, the whole claim should be struck out automatically and without further order. As I understand it, those costs have not been paid. Although the effect of those orders has been suspended pending these appeals by the imposition of a stay, if these appeals fail that unless order will revive with, of course, an appropriately adjusted date for compliance.

20. The Claimant submits that the judge was wrong to strike out the claims that he did, because they comprised continuing acts upon which the limitation provisions did not bite. However, they were clearly individual and severable acts, even if stemming from the same alleged discriminatory motivation upon which the Claimant relies.

21. Before me this morning, the Claimant has also relied upon the fact that he was on holiday at the time of the hearing. However:

    i) that is not set out in the ground of appeal as a ground;

    ii) if that were indeed the case, then it would have been open to the Claimant to seek a variation of the court order from the county court itself; and

    iii) even if it were a ground of appeal here it would not succeed: the Claimant knew of the hearing and the issue to be raised at it and did nothing (e.g. by way of correspondence to the Defendants or the court) to compromise or concede that issue which he quite properly lost.

22. In the circumstances, although costs are always in the discretion of the court, it was all but inevitable that the Claimant was going to have a costs order made against him. By not engaging properly with the court process, he failed to mitigate these costs. In all of the circumstances, the unless orders were clearly appropriate, and again well within the case management powers of the judge. Consequently, there is nothing in this appeal either.

Result

23. For those reasons, I do not consider any of the appeals arguable. Indeed, I consider each totally without merit, and the order should be so marked.

24. That is sufficient to dispose of these appeals. However, I should deal with a number of further, discrete points raised by the Claimant, not covered above.

Lay Advocates and McKenzie Friends

25. The Claimant has complained vigorously and at length in his written submissions, and before me at the hearing this morning, that Dr Deman had been excluded from being his lay advocate. That was, he said, wrong and prejudicial to him as a litigant in person. That contention warrants some comment.

26. Section 13 of Volume 2 of Civil Procedure (the White Book) contains valuable material on the rights to conduct litigation and to act as an advocate, including the Practice Guidance issued most recently in 2010 jointly by the Master of the Rolls and the President of the Family Division (Practice Guidance (McKenzie Friends: Civil and Family Courts) ([2010] 1 WLR 1881) ("the Practice Guidance") which, at paragraphs 18-26, deals with "Rights of audience and rights to conduct litigation". I acknowledge the assistance I have gained from that section in the White Book, and particularly that Practice Guidance, which I commend.

27. Historically, at common law, the right to act as an advocate was governed entirely by the inherent power of the court to regulate its own procedure. That discretion was absolute, save that, by ancient usage in the superior courts, barristers and others similarly qualified could not be prevented from acting as advocates (*Collier v Hicks* (1831) 2 B & Ad 663, 668, 672 cited by Lord Pearson in *O'Toole v Scott* [1965] AC 939, 952C-F).

28. Rights of audience have been the subject of legislation since Part II of the Courts and Legal Services Act 1990, as subsequently amended by Part III of the Access to Justice Act 1999. Those provisions allowed solicitors to have rights of audience in the higher courts, and permitted other professional bodies, once themselves authorised by statutory instrument, to authorise rights of advocacy. Professional bodies which have taken advantage of that provision include the Institute of Legal Executives (SI 1999 No 1077), the Chartered Institute of Patent Agents (SI 1999 No 3137), the Institute of Trade Mark Attorneys (SI 2005 No 240), and the Association of Costs Draftsmen (SI 2006 No 3333). The provision of legal services is now governed by the Legal Services Act 2007, which set up the Legal Services Board to regulate the now various regulators approved to authorise rights of audience. The regulation of advocates, through the statutory scheme, is therefore highly detailed and sophisticated, and subject to rigorous procedures and discipline.

29. Under the 2007 Act, the right to conduct litigation and the right to act as an advocate are limited to persons authorised under the statutory scheme; but it is recognised by section 19 of, and paragraphs 1 and 2 of schedule 3 to, the Act that a litigant in person has the right to represent himself in proceedings to which he is a party, which carries with it the right to conduct the litigation (paragraph 2(4) of schedule 3) and the right to act as his own advocate (paragraph 1(6)). Furthermore, CPR Rule 39.6 and CPR PD 39A paragraph 5 allow a company or other corporation to be represented at trial by an employee duly authorised by the corporation. Although this formally only applies to trials, in practice courts generally allow such employees to appear at any hearing involving a corporate party, to enable that party, in effect, to represent itself as a litigant in person.

30. Additionally, paragraph 1(2) of schedule 3 (which replicates section 27(2)(c) of the 1990 Act) effectively reserves the inherent power of the superior courts to allow an individual other than a litigant himself to act as advocate before it, by exempting from the detailed procedural requirements "a person who has a right of audience granted by that court in relation to those proceedings". This statutory provision recognises that at least the superior courts continue to have the power to grant a special right of audience to any advocate to act for a litigant (*ALI Finance Ltd v Havelet Leasing Ltd* [1992] 1 WLR 455, and *D v S (Rights of Audience)* [1997] 1 FLR 724). Whilst an inferior court has no inherent jurisdiction, no doubt for such courts a similar power can properly be implied as part of their general powers in respect of their own procedure.

31. In exercising the discretion to grant a lay person the right of audience, the authorities stress the need for the courts to respect the will of Parliament, which is that, ordinarily, leaving aside litigants in person who have a right to represent themselves, advocates will be restricted to those who are subject to the statutory scheme of regulation (*Clarkson v Gilbert* [2000] 2 FLR 839, *D v S* especially at page 728F per Lord Woolf MR, and *Paragon Finance plc v Noueri (Practice Note)* [2001] EWCA Civ 1402; [2001] 1 WLR 2357 at [53] and following per Brooke LJ). The intention of Parliament is firm and clear. Section 1(1) of the 2007 Act sets out a series of "statutory objectives" which includes ensuring that those conducting advocacy adhere to various "professional principles", maintained by the rigours of the regulatory scheme for which the Act provides, and without which it is considered lay individuals should not ordinarily be allowed to be advocates for others, appoint also emphasised by the Practice Guidance (at paragraph 19). The strength of this interest and will is enforced by (i) specific legislative provisions allowing lay representation in types of claim in which such representation is considered appropriate, e.g. in small claims in the county court (section 11 of the 1990 Act which is unaffected by the 2007 Act, and the Lay Representatives (Rights of Audience) Order 1999 (SI 1999 No 1225), and (ii) the fact that to do any act in purported exercise of a right of audience when none has been conferred is both a contempt of court and a criminal offence (see sections 14-17 of the 2007 Act).

32. Consequently, it has been said by the higher courts that "the discretion to grant rights of audience to individuals who did not meet the stringent requirements of the Act should only be exercised in exceptional circumstances", and, in particular, "the courts should pause long before granting rights to individuals who [make] a practice of seeking to represent otherwise unrepresented litigants" (*Paragon Finance* at [54] per

Brooke LJ, paraphrasing comments of Lord Woolf in *D v S*). In *D v S*, Lord Woolf indicated (at page 728F) that it would be "monstrously inappropriate" and totally out of accord with the spirit of the legislation habitually to allow lay advocates. The Practice Guidance, in more measured terms, at paragraph 19, states that:

> "Courts should be slow to grant an application from a litigant for a right of audience... to any lay person.... Any application... should... be considered very carefully.... Such grants should not be extended to lay persons automatically or without due consideration. They should not be granted for mere convenience."

33. Of course, in line with the overriding objective of dealing with cases justly (CPR Rule 1.1), the court will be more open to exercising its discretion and granting a right of audience in a particular case when it is persuaded it will be of assistance to the case as a whole if a litigant in person were to have someone who is not an authorised advocate to speak for him or her. That will especially be so if the litigant in person is vulnerable, unacquainted with legal proceedings or suffering from particular anxiety about the case he or she is conducting. As a result, courts have in practice become more flexible about allowing litigants in person to have assistance at a hearing. In particular, they do not infrequently allow a relative or friend to speak on a party's behalf. Often, that relative or friend is well-attuned to the party's case and wishes, and puts the matter more articulately and coherently than the party could himself or herself. As a result, the hearing can become more focused, more efficient and shorter. Such flexibility has become more important as the result of legal aid reforms (including those in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, effective from 1 April 2013), which have resulted in a very substantial reduction in those entitled to public assistance and hence a substantial increase in litigants in person who now appear before the courts.

34. However, even though the legal world has in many ways moved on since the time of the authorities to which I have referred, in my view, as those authorities and the Practice Guidance stress, due deference to the will of Parliament, and general caution, are still required.

35. Therefore, as required by the Practice Guidance (paragraph 24), without undue formality, when a litigant in person wishes to be heard by way of a lay advocate, he should make an appropriate application to the court at the first inter partes hearing. The application should be made by the litigant in person, and not by the person who he or she wishes to be the advocate: although, often, in practice that other person may in fact be heard on the application. The application should be inter partes, to enable any opponent who may have objections to raise them. Generally, once the right to appear as an advocate has been given to lay person, that right will extend to all hearings in that claim, unless specifically directed otherwise or the right is revoked. The court may always revoke the right, any decision to revoke being informed by the same principles that apply to the grant of the right. It may, for example, be appropriate to revoke the right if, contrary to hopes and expectations, the lay advocate proves unhelpful or even positively disruptive.

36. The authorities and Practice Guidance provide little assistance with regard to how the court's discretion should be exercised; and this is an area in respect of which the Head of Civil Justice may wish to consider giving further guidance in due course.

37. However, in the meantime, it seems to me that at any application, to put the court into a position to make an informed decision, the court will wish to provided with information as to (i) the relationship, if any, between the litigant in person and the proposed advocate, including whether the relationship is a commercial one; (ii) the reasons why the litigant wishes the proposed advocate to speak on his behalf, including any particular difficulties the litigant in person might have in presenting his own case; (iii) the experience, if any, the proposed advocate has had in presenting cases to a court; and (iv) any court orders that might be relevant to the appropriateness of the proposed advocate (e.g. orders made against him or her acting in person or as an advocate in previous proceedings, including any orders restraining him or her from conducting litigation or from acting as an advocate). Given the importance of the role of advocate, there is a duty of frankness on both the litigant in person and the proposed advocate in relation to these issues. Often it will be appropriate to deal with such enquiries quite informally, and they will usually take only a short time; but they are essential to ensure that proper respect is given to the principle that, ordinarily, advocates should be restricted to regulated advocates and litigants in person.

38. As with the exercise of any power, whether a lay person is given the right to be an advocate in a particular case or for a particular hearing will depend upon all of the circumstances. However, as I have indicated, given the overriding objective, the court will take particular account of the extent to which allowing the individual to speak will assist the fair and just disposal of the case. The Practice Guidance stresses, at paragraph 22, that the burden of showing that it is in the interests of justice for a lay person to be granted the right to be an advocate at a hearing lies upon the litigant who wishes him to do so. It will only be granted in "special circumstances". Paragraph 21 of the Practice Guidance gives examples of the type of special circumstances which in the past have been held to justify the grant of a right of audience to a lay person, as follows: (i) that person is a close relative of the litigant; (ii) health problems which preclude the litigant from addressing the court or from conducting litigation, and the litigant cannot afford to lay for professional representation, and (iii) the litigant is relatively inarticulate and prompting by that person may unnecessarily prolong the proceedings. Those examples are helpful in indicating the sort of circumstances in which a grant will be made. The Guidance makes clear that those who represent litigants professionally or regularly will only be granted the right in "exceptional circumstances" (paragraph 23).

39. I now turn to the application of those principles to this case. In this claim, the Claimant wished Dr Deman to be his lay advocate. However, I have read the transcript of the previous hearings in this claim in which Dr. Deman has performed that function. Those strongly suggest that Dr Deman has not always assisted the proper and just progress and disposal of the case as a whole. At times the transcript suggests he has been positively disruptive in proceedings. For example, at the 26 August 2010 hearing, in the face of Judge Mitchell's attempts to maintain the discipline and courtesy demanded of any advocate, professional or lay, Dr Deman challenged the judge to call the police to remove him, claiming that the judge was racially biased in not letting him speak out of turn whenever he wanted to (see

transcript at pages 16-17, especially at page 17C). Similar behaviour by Dr Deman, if usually less extreme, appears to have been characteristic of past hearings.

40. In any event, the court is entitled – indeed, bound – to take into account other litigation in which Dr Deman has been involved. On 4 February 2005, an extended civil restraint order was imposed upon him by Brooke LJ in respect of over forty cases brought by him against various educational institutions on the basis that they had exhibited race discrimination against him, in failing to give him a job. That civil restraint order was upheld by Buxton LJ on 15 June 2005, on review. The order was imposed in two appeals to the Court of Appeal from those forty cases brought in the Employment Tribunals and two judicial reviews arising out of the same subject matter. That civil restraint order, of course, only applied to proceedings in the court system because such orders are necessarily so limited.

41. However, the Attorney General brought proceedings against Dr Deman under section 33 of the Employment Tribunals Act 1996 (which is in similar terms to section 42 of the Senior Courts Act 1981, which applies to courts), which makes provision for an application by the law officer under which the Employment Appeal Tribunal ("the EAT") can make a restriction of proceedings order if satisfied that a person has habitually and persistently, and without any reasonable ground, instituted vexatious proceedings before Employment Tribunals or the EAT or made vexatious applications in such proceedings. A restriction proceedings order is an order that no proceedings shall be entered into without the leave of the appropriate court or tribunal, which is, under section 33 of the 1996 Act, the EAT.

42. In May 2006, following a hearing of over three days the EAT (Underhill J as he then was, Mr Yeboah and Mr Beynon), in a detailed judgment (reported as *Her Majesty's Attorney General v Deman* [2006] UKEAT 113), set out the various proceedings in which Dr Deman had been involved in the Employment Tribunals and the EAT. It makes depressing reading.

43. The tribunal made a restriction of proceedings order, of indefinite duration. In doing so, they referred, at paragraphs 170 and 172, to Dr Deman's persistence in asserting discrimination in the many cases in which he had done so, and that, in the tribunal's view, the applications for employment and the following tribunal claims that Dr Deman had made were decreasingly concerned with achieving appointment and increasingly concerned with pursuing a campaign to demonstrate what he believed was discrimination in the world of higher education. Within the employment proceedings he had pursued, they found he had persistently and habitually made vexatious applications for adjournments to proceed (paragraph 182), applications for witness orders (paragraph 184), applications generally (paragraph 185) and applications for review and reconsideration (paragraph 186). In exercising their discretion to make an order, the tribunal took into account the prolongation of proceedings that resorted from the vexatious applications, the "intemperate and offensive correspondence conducted by himself and his associated entities, examples of which are too numerous to need to be particularised"; "the rude behaviour of himself and his associates, particularly Mr Graham [that is, of course, the Claimant before me] in the course of tribunal proceedings"; and "his wanton allegations of bias and racism against lawyers, tribunal staff and tribunal members, again too many to require enumeration" (paragraph 190). The tribunal saw no reliable indication that Dr Deman had changed his ways (paragraph 191).

44. In the circumstances, I am quite satisfied that Judge Mitchell was entitled to revoke the right of Dr Deman to act as an advocate for the Claimant during the 26 August 2010 hearing; and to make it clear that he could not act as a advocate or a McKenzie Friend at any further hearing. Whereas, overwhelmingly, lay advocates and McKenzie Friends are of assistance to a court, unfortunately Dr Deman does not fall into that category. He appears to be one of the very small minority who is not of assistance to the court and those who he purports to assist, but is of an unhelpful and disruptive nature.

45. Not only was Judge Mitchell was entitled to make the declaration that he did – confirming that Dr Deman would not be allowed to act as a lay advocate or McKenzie Friend in these proceedings – but, had the Claimant made an application for Dr Deman to assist him in the appeal before me, on the evidence I have seen I would not have allowed him to the rights of advocacy and would have been extremely cautious about him assisting even in the modest role of McKenzie Friend. I say that in part as a reflection of Dr Deman's litigation history, and in part because it is clear that the Claimant can ably speak for himself.

Other Matters

46. The Claimant raised three other matters with which I should shortly deal.

47. First, the Claimant submitted that both Judge Collins and Judge Mitchell were biased against him. A judge is not biased simply because he does not accede to a submission of a particular party or makes a finding against them. As with Dr Deman in the Employment Tribunals, it appears to me that the Claimant has made wanton allegations of bias in the context of these proceedings. Those traits are particularly exhibited in the manner in which Dr Deman has conducted hearings on the Claimant's behalf in this claim. I am quite satisfied that the hearings conducted by Judge Collins and Judge Mitchell, if they were at times in a robust, were properly conducted. There is no basis for any assertion that they were biased, or that there was any appearance of bias.

48. Second, I should briefly deal with the contention made in several of these appeals that Judge Collins and/or Judge Mitchell erred in failing to deal with hearings without assessors. In *Deman v Commission For Equality and Human Rights* [2010] EWCA Civ 1279, the Court of Appeal made clear that assessors are only required in discrimination proceedings in which their particular attributes are or may be of assistance, that is in the assessment of evidence and, in particular, the assessment of evidence of discrimination. That criterion does not apply to any of the hearings before Judge Collins and Judge Mitchell.

49. Third, the Claimant in these proceedings (and, particularly, during the lengthy course of these appeals) has complained, and at times complained bitterly, about the lack of transcripts and the delays in producing transcripts. Whilst none of those delays lie at the door of the Defendants, very few were attributable to the Claimant either. They were caused, in the main, in the administration and production of the transcripts themselves. It is particularly unfortunate when there are very significant delays in the production of transcripts for the purposes of an appeal, which does nothing to restrain the costs of an appeal. The delays in production of the transcripts has, of course, not affected the merits of these appeals at all, but, in the light of the Claimant's

understandable complaints, it is right that I acknowledge that those delays have not made these appeals any easier, quicker or cheaper.

50. Finally, although I have found that none of these appeals has any merit and it is clear from the documents I have read that at times the Claimant (particularly when Dr Deman has been "assisting" him) may have been less than temperate in the manner in which he has conducted litigation, I should make it clear for the purposes of this judgment that at the hearing before me today, he has been courteous throughout, both to me and to those who defend these claims. I thank and commend him for that.

Conclusion

51. However, for the reasons I have given, I shall refuse all of the applications before me, on the basis that each is not only unarguable, but totally without merit.
