

IN THE HIGH COURT OF JUSTICE

Claim No: QB-2021-000523

QUEEN'S BENCH DIVISION

Media and Communications List

BETWEEN:

DANIEL GUY COLLINS

Claimant

And

- (1) CROSSRAIL LIMITED
- (2) COSTAIN GROUP PLC
- (3) COSTAIN LIMITED
- (4) COSTAIN CIVIL ENGINEERING LIMITED
- (5) COSTAIN ENGINEERING & CONSTRUCTION LIMITED
- (6) COSTAIN INTEGRATED SERVICES LIMITED
- (7) SKANSKA UK PLC
- (8) SKANSKA CONSTRUCTION UK LIMITED
- (9) SKANSKA RASHLEIGH WEATHERFOIL LIMITED
- (10) SKANSKA MAJOR PROJECTS LIMITED
- (11) SKANSKA TECHNOLOGY LIMITED
- (12) T CLARKE PLC
- (13) T CLARKE CONTRACTING LIMITED
- (14) T CLARKE SERVICES LIMITED
- (15) NG BAILEY GROUP LIMITED
- (16) NG BAILEY LIMITED

Defendants

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**STATEMENT IN OPEN COURT FOR DANIEL COLLINS**

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1. Mr Collins is an electrician. During the period from 1998 until 2014 Mr Collins worked in the construction industry on various construction projects including projects at Heathrow Airport, St Pancras Station, Farringdon station and Tottenham Court Road station. During this time, Mr Collins had no significant difficulty in finding work on construction projects and any gaps between periods of employment were relatively short.
2. For simplicity, in this statement, Mr Collins has referred to the 2<sup>nd</sup> to 16th Defendants by the name of the group of companies to which these Defendants belong, i.e. 'Costain', 'Skanska' 'T Clarke' and 'NG Bailey'.
3. From 2011 onwards, Mr Collins' experiences, of the way in which construction workers are treated by construction companies, led him to gradually becoming more active in his union, Unite. In particular, he was concerned about the importance of construction sites being safe places to work.
4. Mr Collins also campaigned against '*bogus self-employment*' in the construction industry, i.e. employment agencies insisting on construction workers working on a self-employed basis. He campaigned for construction companies to comply with construction industry rules which require construction companies to '*make every effort to offer any vacancy on a directly-employed basis*' instead of using employment agencies. Mr Collins knows that workers who are self-employed have no employment rights and that agency workers have very few employment rights and no job security. One such campaign led to NG Bailey agreeing to directly employ Mr Collins, and a group of other agency workers, at Tottenham Court Road station in September 2014. NG Bailey made Mr Collins redundant 3 months later.
5. In February 2015, whilst working on the Crossrail project at Bond Street station, Mr Collins raised a safety concern about workers using what he considered an unsafe makeshift narrow walkway with no handrails, while carrying heavy bags of concrete and other equipment. He was worried about the risk of a worker falling off the walkway and being seriously injured. However, Mr Collins did not consider his concerns were addressed and, 3 days later, he was dismissed, despite having previously

been assured that there was 3 years' worth of work available on the project. After Mr Collins was dismissed, he and other activists demonstrated outside the site, to draw public attention to the fact that he believed that he had been dismissed for raising a health and safety concern. The main contractor at Bond Street station was the Costain Skanska Joint Venture.

6. From February 2015 onwards, Mr Collins found it increasingly difficult to find work in the construction industry, particularly on the Crossrail project. Mr Collins did everything he could to find work. He would find out, from other electricians he knew, which construction sites were recruiting electricians and who the contractor was. He would apply to contractors direct. He would also try to find out which employment agencies the contractor was using and apply to the employment agencies. He followed the employment agencies on 'LinkedIn' and used social media to find out when they were recruiting electricians. He regularly rang employment agencies and emailed them his CV. However, despite Mr Collins' best efforts, he was never again able to get work on the Crossrail project.
7. On more than one occasion, Mr Collins' approach to an employment agency resulted in him being offered work on the Crossrail project and then told, at the last minute, that he was not required. For example, in March 2016, Mr Collins was told, by an employment agency called CSS, that he would be starting work at the Paddington Crossrail site on 21 March 2016. The main contractor at Paddington was the Costain Skanska Joint Venture and T Clarke were a subcontractor. On 18 March 2016, Mr Collins got a call from the employment agency informing him that the order for labour had been cancelled due to all vacancies having been filled internally.
8. Another example is that, in June 2016, Mr Collins was told by an employment agency that there was work available on the Crossrail Old Oak Common project. The electrical contractor on this project was NG Bailey. On 9 June 2016, the employment agency emailed Mr Collins induction forms and directions to the Old Oak Common site. Mr Collins completed the induction forms and returned them that evening. On 13 June 2016, the employment agency phoned Mr Collins and said that the work was no longer available, due to all vacancies having been filled internally by the client. It is

NG Bailey's belief that this was because another project fell through and directly employed staff became available to work on the project.

9. Mr Collins found the process of constantly making applications for work, but not getting anywhere, draining. He suspected that the reason he was unable to get work was because he is a trade union activist. He tried not to think about this and just carried on applying for work but he formed the view that the construction companies did not want to take him on. It was hard for Mr Collins, knowing that he had worked hard to become very skilled at what he does, and feeling that he was being discriminated against for standing up for his principles, as a trade unionist.
10. Mr Collins' difficulties in finding work made it difficult for him to meet his financial commitments. There were times when he was not able to pay his household bills and he had to rely on his partner to pay them. Mr Collins built up credit card debts. At times, he had to rely on financial support from his parents and from trade union activist groups, including the Blacklist Support Group.
11. Mr Collins considers that he has always been good at his job and it was difficult for his family and friends to understand why he was struggling to find work. Mr Collins has always had a very strong work ethic but he sometimes worried that people who did not know him well would think that he was lazy.
12. In 2016 Mr Collins made the difficult decision to leave the construction industry because of the difficulties he had experienced, in finding work in the sector. Since 2016, Mr Collins has worked as Maintenance Electrician in the civil air transport sector. Mr Collins is still an active trade unionist but his experience of being a trade unionist in the civil air transport sector has been much more positive. Unlike when he worked in the construction industry, Mr Collins does not consider that his trade union activities have threatened his ability to earn a living.
13. In 2016, Mr Collins began submitting Subject Access Requests to construction companies. He wanted to know why, despite making numerous applications for work, he had been unable to get work.

14. The responses to the Subject Access Requests are redacted. It is the Defendants' position that these redactions are necessary to comply with data protection legislation. The responses include information which, Mr Collins firmly believes, shows that construction companies and employment agencies misused his private information, for the purpose of preventing him from getting work on the Crossrail project, because of his trade union activities.
15. For example, the response to the Subject Access Request which Mr Collins submitted to Costain included an internal email dated 13 February 2015 which said *'His name is Daniel Collins 33 years old has worked for NG Bailey's not sure how long but was in London and finished last two weeks so see what you can find out cheers'*. Another email, sent the following day, said *'We have a potential issue. Danny Collins is part of the Unite activist group. I will call.'*
16. Another example is that the responses to the Subject Access Requests made to Costain, Skanska and T Clarke included private information about a grievance which Mr Collins had submitted, to an employment agency called Premier People Recruitment, in 2015 when he was working at Heathrow Airport. This dispute had nothing to do with Costain, Skanska or T Clark. Mr Collins believes that there was no legitimate reason for these companies to hold this information. In addition, the Labour Manager at T Clarke forwarded the email correspondence, concerning Mr Collins' grievance against PPR, to the Group Chief Executive and the Group Managing Director on 18 November 2015 commenting: *'Read and Delete!!! I hope we never end up with this bloke on any of our sites! [REDACTED] For your information PPR are a Technical recruitment agency working out at Heathrow supplying labour for the Tunnel work which is what this is all about.'*
17. Another example is that the responses to the Subject Access Request which Mr Collins made to Costain and T Clarke included an email dated 19 March 2016 at 1.54 pm which said *'Investigation so far Collins rang CSS two weeks ago & requested a job specifically for Paddington [REDACTED] Significance of above someone is feeding R&F information from the Paddington location, about when recruitment is taking place, & then to chase for employment at that time. Almost certainly [REDACTED] in my view. It is only thanks*

*to the strict vetting instituted by TC before any electrician commences, after there Romford fight that we are not faced with an issue on Monday. Bond st. CSS are on a potential supplier list for LMOB our preferd electrical contractor, albeit not in contract yet. Action. Will be at Bond St Wednesday & will raise with the team the above event & the importance that LMOB must mirror what TC are doing when there supply chain recruits... [REDACTED] is aware of all of the above, & is totally engaged & supportive on process to ensure CSJV runs trouble free. [REDACTED] in finality the R & F will keep trying, but if we & our supply chain carry out the proper process, we will be ok'.*

18. An earlier email in the same chain, sent on 19 March 2016 at 9.15 am, said 'Close. But well batted & defended by [REDACTED] Trust England defend as well in Paris tonight.'
19. Mr Collins believes that these emails show that T Clarke (TC) were vetting electricians to screen out union activists. Mr Collins believes that LMOB is a reference to another electrical contractor (LMOB Electrical Contractors Limited) and R & F is a reference to Rank and File, a trade union activist group which Mr Collins is a member of.
20. Mr Collins considers that he has always been a reasonable and moderate person and that he has never set out to cause any problems at work. He simply believes that people have a right to have a safe place of work and to have a voice at work. He wants to work with employers, to improve working conditions for the benefit of workers and employers, and his intentions have always been genuine.
21. The Defendants' actions caused Mr Collins a great deal of upset and distress and, he believes, brought his career in the construction industry to an end. Mr Collins feels strongly that the way in which he has been treated by the Defendants is disgraceful and very unfair.
22. Mr Collins' solicitors sent letters before claim to the Defendants, requesting disclosure of unredacted documents, on 14 July 2020.
23. The Defendants refused to provide unredacted documents on the basis of their obligations under the data protection legislation but did provide some limited further

disclosure. The further documents which were disclosed included additional documents which were not in the initial responses to Mr Collins' Subject Access Requests.

24. For example, the further disclosure from T Clarke included an email dated 21 April 2015 saying *'Frank asked me to forward this onto you; careful it is private and confidential. Before you start to read it's 12 pages of an outcome of a recent appeal hearing concerning one Danny Collins (Crossrail engaged agency worker Electrician that was removed from the project).* T Clarke was not Mr Collins' employer at Bond Street. Mr Collins believes that there was no legitimate reason for T Clarke to have this document.
25. Another example is that on 21 March 2016, the T Clarke's Labour Manager sent an email to different employment agency (i.e. not the agency which had offered Mr Collins work at Paddington) saying, *'I have the R&F after me again messers [sic] ... and Collins. CSS offered them a start on Crossrail for us and I cancelled the order.'*
26. Mr Collins issued court proceedings against the Defendants in February 2021 for blacklisting, breaches of data protection and— misuse of private information. The Defendants all filed defences, denying that they had acted unlawfully and denying that they had [blacklisted the Claimant, breached data protection legislation, or](#) misused his private information, for the purpose of preventing him from getting work on the Crossrail project, because of his trade union activities.
27. The Defendants made a Part 36 offer to settle Mr Collins' claim in December 2021, the Defendants' position is that they did so for purely commercial reasons and without admission of liability or wrongdoing. Mr Collins has accepted this offer. As part of the settlement, the Defendants have paid damages to Mr Collins and have agreed to pay Mr Collins' reasonable legal costs. Mr Collins accepted the Defendants' offer in the knowledge that, if he were to reject the offer and go on to either lose or prove his case at trial but be awarded a lower sum in damages, then he could be liable for very substantial legal costs.

28. The settlement comprised no admissions of liability by the Defendants. It remains the Defendants' position that they do not accept liability. However, Mr Collins' belief is that the settlement was tantamount to an acceptance of liability on the part of the Defendants and he, therefore, feels fully vindicated in having brought this claim.
29. As a union activist, Mr Collins is aware of the fact that, in 2009, the Information Commissioner raided the offices of an organisation called the Consulting Association and seized a list of the names of thousands of construction workers, which had been used by construction companies to vet workers who applied for work. As a member of the Blacklist Support Group, Mr Collins knows that a significant number of the workers on the Consulting Association list were union activists, and that many of them have experienced long periods of unemployment and financial hardship. He is also aware that the Second, Third, Seventh, Eighth and Ninth Defendants were also Defendants in the subsequent High Court claims for compensation, which were brought by hundreds of construction workers, and that, in 2016, the Second, Third, Seventh, Eighth and Ninth Defendants made a Statement in Open Court apologising for their actions which, they accepted, had unlawfully caused damage and distress to the construction workers affected. Mr Collins is dismayed that, despite their previous apologies, the Defendants appear to him to have continued to operate a secretive system of misuse of private information about union activists seemingly for the purposes of preventing them from obtaining employment.
30. Nevertheless, Mr Collins hopes that, despite the Defendants' denials of liability, the fact that he brought this claim will have caused the Defendants to reflect on their treatment of him and of other union activists. He hopes that the Defendants will now be prepared to move away from what he believes to be a culture of hostility towards trade union activists in the construction sector and engage with trade unions, in a genuine and constructive way, with the aim of rebuilding trust and improving industrial relations in the construction sector.
31. Finally, Mr Collins would like to express his thanks to his trade union, Unite, without whose support he would not have been able to bring this legal claim. Mr Collins is confident that Unite will continue to support union activists in exposing blacklisting

and misuse of private information in the construction industry and in holding construction companies to account for their actions.

32. A copy of this statement has been shared with the Defendants to Mr Collins' claim. The Defendants maintain their firm denial of liability in respect of the claim and do not agree with Mr Collins' perception of events referred to in this statement. However, they recognise that Mr Collins is permitted to have this statement read in open Court.