

**IN THE CARDIFF COUNTY COURT**

The Law Courts  
Cathays Park  
Cardiff  
South Wales  
Wales  
CF10 3PG

Date : 12 July 2011

BEFORE:

**HIS HONOUR JUDGE SEYS LLEWELYN**

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BETWEEN:

**Mr Maurice Kirk**

**Claimant**

**- and -**

**South Wales Police**

**Defendant**

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**PROCEEDINGS 3**  
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The Claimant appeared as a litigant in person  
Mr Lloyd-Williams appeared on behalf of the Defendant

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**TRANSCRIPT**

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26 folios in transcript  
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- Mr Kirk That just leaves the matter of the 10 July letter that was sent to you in advance of this hearing about Dr Tegwin-Williams being found to be committing criminal offences by knowingly writing Court reports, letters drafted by somebody else. I have put my name to it. I wish to know why this Court appears to be bypassing the content of that (inaudible) suggest that Mr Oliver and yourself, a criminal prosecution of Tegwin-Williams and the...
- HHJ Seys Llewelyn I have seen that. Criminal charges, Dr Tegwin-Williams of Caswell (?) clinic, South Wales Police, forensic (inaudible) on a day between 8 June and 17 December 2009 etcetera, onto the 2 December etcetera. Criminal charges. Nothing to do with me. I do not, sitting in the County Court, have jurisdiction to deal with preferment of a criminal charge. Simple as that.
- Mr Kirk And he is just around the corner.
- HHJ Seys Llewelyn Yes, well, it often feels like that (inaudible).
- Mr Lloyd-Williams Your Honour, there is one further matter to be dealt with and that relates to your Honour's judgment on the preliminary issues and our application to adjourn the substantive trial from the end of last year and that is the question of costs. Your Honour will have received, I have a copy if your Honour wishes to see it, the Defendant's submissions on costs pursuant to paragraph seven of the order 30 November 2010.
- HHJ Seys Llewelyn Yes. I may be subduing matters too simply. Insofar as there was an adjournment of trial on the basis that it may be by a slim head but the Court, a pompous way of referring to myself, I decided that Mr Kirk was not medically fit to deal with the trial, though it went off for reasons which are not of your fault but were also not of his fault. Beyond that, at the end of the proceedings once tried, I will be making findings namely that all or some or none of the claims are proven and that is bound to affect the view of the Court overall, is it not? If Mr Kirk sweeps the board then the Court will have a very different view than if he fails to sweep the board.
- Mr Lloyd-Williams Your Honour, that is a course of action which is very attractive which is putting it off until the end of the day. I know that those who I represent...
- HHJ Seys Llewelyn No, that is not the motivation if that was a polite inference that that was the motivation.
- Mr Lloyd-Williams No, no. It is attractive because, sorry, I meant that for the technical reason in the sense that the type of order that I am going to invite the Court to consider, or going to invite the Court to consider is that there be an issue-based order in terms of costs so leave aside the adjournment for one moment. In respect of the preliminary issue submissions that were heard and decided by your Honour, the Defendant won the majority of those submissions which means that in respect of the first action proceedings which they have had to defend for many years and indeed in respect of the third action that

they have had to defend for many years which themselves took a lot of work because they, as your Honour may recollect they were witness-heavy issues and so for example the bail of (inaudible) show, there were a number of witnesses all of whom had to be spoken to, all of whom new statements, or for the majority new statements were obtained from. There were documents to be obtained in respect of those matters and I was going to invite the Court to consider on behalf of the Defendant that issue based orders be made, namely that the Defendant have the costs of the defending those particular issues and that the Defendant have the costs of the, I know it was not every day but in effect two and a half to three week hearing of the preliminary issues. They should have the costs of those as well. Your Honour, the reason why...

HHJ Seys Llewelyn

It gets very messy, does it not, when one is looking at for example the issue where initially your skeleton said that only one of the claims was barred by prior findings then in oral submissions you developed the submission that each of the claims should be treated as barred and I ruled in your favour as to the single claim but the others went on.

Mr Lloyd-Williams

Your Honour, yes. There were two skeleton arguments of course. One dealt generally with the case and one dealt specifically with the preliminary issues and on the majority of the ones where it was thought that they had been barred or struck out, the Claimant, sorry, I keep saying the Claimant. The Defendant was successful in respect of that. Your Honour, the reason why I indicated that it was an attractive proposal to lead to the end of the case as a whole for costs to be dealt with was for this reason, not simply because it makes it easier for today but more importantly, the Court for the purposes, sorry, under the Rules it is specifically directed when considering whether to make an issue based order to consider whether or not the matter can be dealt with more conveniently not by an issue-based order but by a percentage issue of the costs as a whole. Your Honour, that is CPR 44.3(c) so the reason why it may be more convenient for it to be considered at the end of the whole hearing is because the Court is specifically directed when considering whether to make an issue based order to consider issuing in preference to that a percentage order or an order in respect of costs from a certain date or before a certain date. In order for the Court to consider whether to make a percentage order, it rather presumes that the Court has before it a decision on the whole of the case rather than a decision on the part of the case...

HHJ Seys Llewelyn

Yes.

Mr Lloyd-Williams

...so that is why I made the comment about it being more convenient for the Court's point of view.

HHJ Seys Llewelyn

Yes.

Mr Lloyd-Williams

My instructions today are to urge the Court to conserve the question of costs because these are public funds that are being spent in

defending this case. The case is very old and these are matters upon which the Defendant have been undoubtedly successful, subject to any appeal of course, and so considerable preparation in respect of particular matters have now come to an end and so we would submit it can be dealt with and considered separately from the rest of the action, although I acknowledge that that is not quite so easy to do in a case of this nature.

HHJ Seys Llewelyn  
Mr Kirk

Yes. Thank you very much.

HHJ Seys Llewelyn  
Mr Kirk

Yes, may I respond?

Yes, of course.

May I suggest a selective amnesia here? I have been in this case longer than all of you put together in time and back in Bristol I remember actions one if not two, action one of which is on the list to which you have referred, the one that you have struck out, now before the appeal on 29<sup>th</sup>, not only did I have appeal things being struck out, I actually managed to have actions put back in. Now how is it that they can come up with this story eighteen years down the line, sixteen years down the line I think it is from the first Bristol hearing, when they could have put in an application to strike out many years ago? If we deal with Glamorgan case, and that was around about 2002, we are now ten years on. Now I know there is a great big chain in the way the juggle things so that they can milk the Court case that is given to them that is either paid for by the taxpayer or the unfortunate litigant, the Claimant or the Defendant, but here is a classic example. They wait until ten years down the line to apply for it to be struck out. Well, they could have done that years ago when the costs had not been incurred by lawyers which is one of the reasons why I disapprove of many lawyers and the way they conduct (inaudible) law courts. Taking the Glamorgan show(?) for example, it is one that primarily got me struck off as a veterinary surgeon and I was arrested for breach of the peace which was withdrawn by the police. You did not take that view. You struck it out but I was not even a process through the Courts for breach of the peace because they supplied four different documents writing out the breaches of peace four times, and when it was before the Recorder of Cardiff Evans two years later they wrote a fifth copy. That is what is behind all of this. The appeal Court Judge got the strength(?) of my argument because it is highly political in South Wales about the running of our law courts in Wales and this is a classic example. I consider that any aspect of costs should be (inaudible) and that his argument that he can winkle out an argument of the majority, it is not the majority at all. Only I think six (inaudible) struck out so far, subject to appeal. I have 35 incidents, was it, in the first three actions? I forget. And he put up argument for a number of them. I withdraw what he just said if he only put up about twelve and he got seven, well yes, he did just get the majority but I really cannot remember. I just realise that that may be the true picture.

HHJ Seys Llewelyn All right. Thank you very much. Thank you Mr Kirk.

**Judgment follows.**