

Neutral Citation Number: [2017] EWHC 3881 (QB)

HIGH COURT OF JUSTICE  
QUEENS BENCH DIVISION  
EXETER DISTRICT REGISTRY

Case No: E1PP176A

Courtroom No. 10

Exeter Combined Court Centre  
Southernhay  
Exeter  
Devon  
EX1 1UH

Wednesday, 8<sup>th</sup> March 2017

Before:  
THE HONOURABLE MR JUSTICE DINGEMANS

B E T W E E N:

JOHN ALLMAN

and

AN DARAS MULTI ACADEMY TRUST

THE CLAIMANT appeared In Person  
MR S BRETT appeared on behalf of the Defendant

JUDGMENT  
(Approved)

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MR JUSTICE DINGEMANS:

1. This is a hearing of an application made by the defendant (“the Trust”) to strike-out the claim brought by the claimant, John William Allman, “Mr Allman”, or for reverse summary judgment on the claim.
2. By way of short background and as shortly as possible, because of issues of other parties’ rights and confidentiality of children, Mr Allman and his former partner had a child who I will call “S”. Mr Allman and his former partner separated. There were issues about Mr Allman’s contact with S. In the final event there were Family Court proceedings in which residence was ordered to remain with the former partner. Direct contact between Mr Allman and S was not ordered, but Mr Allman was granted indirect contact three times a year.
3. He retained parental responsibility and he has raised issues about the construction of the Family Court order noting that it is not an order preventing him from approaching S or M, and not a non-molestation order.
4. The Trust operate schools. S was a pupil at one of the Trust’s schools. Mr Allman wanted to attend a Christmas school play in December 2014. It was, on the evidence, a ticketed event and Mr Allman did not have a ticket. Mr Allman was excluded from the play and he complained about other actions carried out by the school. He commenced proceedings by way of a Part 8 claim for harassment.
5. The defendant complained that the proceedings should not have been Part 8 claims, because there was a dispute of fact. I accept that there are disputes fact, but, as Mr Allman had pointed out in his claim form, CPR Part 65.28 requires claims under the Protection from Harassment Act 1997 (“the 1997 Act”) to be brought by way of a Part 8 claim. Whether that is a good thing is neither here nor there. That is what the Rules provide and the complaints about Mr Allman’s use of the procedure in this case are wrong.
6. It is then said that the school has not embarked on any course of conduct and, at page A7 of the bundle, paragraphs A-G are the material on which Mr Allman relies. I am not going to make any findings in relation to that, because it is not necessary for the ground on which I will grant reverse summary judgment. However, it is right to record, as a matter of fairness to Mr Allman, that it does not appear from the material that is before me (I do not make a finding to this effect because I do not have enough information) that the procedures set out in *Wandsworth London Borough Council v A* [2000] 1 WLR 1246 were followed. *Wandsworth v A* provides that there is an implied licence on the part of a parent to attend a school at which their child is a pupil. That licence can be revoked, but as a matter of fairness and public law duties implicitly imposed on a school, a school has to allow a parent in the situation of Mr Allman to make representations about the proposed revocation of the licence. Whether that would have made any difference is a different matter but, of course, one of the reasons for having protections of fairness is that it helps avoid claims of this sort, which the school has said has cost it money in costs.
7. In any event, so far as is material, the claim is brought under the 1997 Act and the details of the claim are that the claimant seeks injunctive relief and the schedule to the order makes it clear that the remedy which is sought is an injunction. I record that because matters have now moved on in the sense that since March 2016, S is no longer a pupil at the school. Where S is being educated is not disclosed on the evidence, there is an inference that might be drawn that S is being educated at home, but again, it is not entirely clear and, indeed, that is one of Mr Allman’s complaints, that he has got simply no idea about what is happening.
8. However in circumstances where S is no longer part of the school and the relevant Head

Teacher identified in the Particulars of Claim is no longer employed at the school, this is a claim for injunctive relief that stands no prospect of success because there is no prospect that S will be part of the school.

9. Mr Allman, in answer to that, effectively agreed that the claim should not go forward, but for one factor. He said that if S had left the school and was settled in education elsewhere, then that would be a different matter. However, it is not and there are only a number of schools in the area where S resides, and a number of those are operated by the Trust. In those circumstances he says that he might need the injunction in the future.
10. These procedures permitting an application for an injunction do not exist to allow speculative claims to be brought. If, in the future, a new cause of action arises, then Mr Allman may have remedies in that respect. However, at the moment, there is no real prospect of Mr Allman's claim succeeding because of events which have occurred since the issue of proceedings.
11. In those circumstances it would not have been right to make an order for costs, and I should record that Mr Brett, to whom I am grateful for his helpful submissions, does not seek an order for costs. I also record, for both Mr Allman and Mr Brett's note, that it has apparently also been agreed that a previous costs order in these proceedings will not be enforced.
12. I am very grateful to both parties for their submissions but for those short reasons, there is a reverse summary judgment on the claim. As I have said that does not prevent future proceedings, but everyone should understand that court proceedings should be a matter of last, and not first, resort.

**End of Judgment**

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This transcript has been approved by the judge.