TRANSCRIPT OF PROCEEDINGS

Ref. QB-2019-000251

**IN THE HIGH COURT OF JUSTICE**
**QUEEN'S BENCH DIVISION**

Neutral Citation Number: [2020] EWHC 906 (QB)

The Royal Courts of Justice
Strand
London

**Before THE HONOURABLE MR JUSTICE MARTIN SPENCER**

**IN THE MATTER OF**

**RORY MACDONALD (Claimant)**

**-v-**

**SIMON BURTON (Defendant)**

**MR M GRANT appeared on behalf of the Claimant**
**MR M DIGNUM appeared on behalf of the Defendant**

**JUDGMENT**
**13th MARCH 2020, 14.50-15.55**
**(AS APPROVED)**

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MR JUSTICE MARTIN SPENCER:

1. In this matter, I am asked to give case management directions in relation to discreet issues concerning proposed neuropsychological testing on behalf of the defendant and also to look at more generally the question of recording of examinations by medical experts in general and neuropsychologists in particular.

2. The issue arises in the context of a claim by Mr MacDonald in relation to an accident that occurred on 25 January 2016 on Guildford Road, Ash, in Surrey, when he sustained serious injuries, including a traumatic brain injury which has led to neuropsychological deficits. On any view, the injuries were serious and the consequences are, to some extent or other, permanent.

3. The claimant according to his neuropsychological expert lacks capacity and the claim has been brought in the name of his mother and litigation friend, Mrs Lindsey MacDonald. In the course of treatment, there have been various reports produced including an immediate needs assessment report by a Trudi Knight, case manager, in May 2017, a neuropsychology report by a Dr Drew Alcott on 4 August 2017, and a speech and language therapy report by Joanna Armstrong in August 2017.

4. This claim was issued on 24 January 2019, that is the day before the expiry of the primary limitation period, and on 11 April 2019, the claimant was examined by a Dr Sembi at his consulting rooms at 10 Harley Street. In that report, Dr Sembi concludes that firstly in his view, the claimant has been under-rehabilitated and secondly that he needs further rehabilitation input.

5. He states that significant neurobehavioral, neuropsychiatric, and organic personality difficulties remain. The Claimant's independence is suboptimal because the element of his care would have allowed generalisation and consolidation of treatment gains have never been in place and treating clinicians have never had the mechanism in place to ensure that their interventions are optimally established, consolidated, and sustained.

6. Dr Sembi takes the view that the claimant's independence and quality of life can be further improved from where he is now this being, as I say, April 2019 and therefore more than three years after the accident. He takes the view that the claimant is not able to manage his affairs for the purposes of the Mental Capacity Act 2005 and is therefore to be regarded as a protected party.

7. That examination by Dr Sembi was reduced to a medical report on 30 June 2019. On 11 July 2019, the defendant served a defence admitting breach of duty and alleging contributory negligence, and therefore it is clear the primary liability is not in dispute subject to the issue of contributory negligence.

8. On 14 August 2019 Mr Christopher Dickinson who is the claimant's solicitor wrote to the defendant's solicitors, BLM, in the following terms:

> "The claimant/his mother have been advised to record his consultations with the defendant's medical experts as an aide memoire and to protect him against errors. As you know, he is unlikely to recall what was said and his mother has a hearing issue.

> Claimants with brain injuries are vulnerable and often during assessments suffer mental fatigue and become confused which increases the risk of misunderstanding. Some, such as this claimant, are suggestable and sometimes the questions asked are clumsy and the answer misinterpreted.
> A recording provides the best evidence of what was said or not said. It is a quick and easy way of correcting any errors made either by the claimant or the medical expert. It is certainly better than any contemporaneous note by the expert - experts whose sole duty is to the court should be glad of the recording so they can cross-reference with their notes and make any adjustments to their reports before the joint statement phase. Please take it that all of the assessments may be recorded and advise your experts accordingly as you did in the *Mustard* case to avoid any confusion or awkward conversations. There is no expectation of privacy during a medico-legal consultation and there is no duty on the claimant to advise any expert of the making of a recording."

9. The reference by Mr Dickinson to the *Mustard* case was a reference to a claim in which Mr Dickinson was involved, involving a Miss Samantha Mustard, in which unfortunately it transpired that the tests carried out by the neuropsychologist instructed by the defendant in that case may have been carried out otherwise than in accordance with the strict protocols laid down for neuropsychological testing with the result that the results obtained by that expert were invalidated or otherwise unreliable.

10. What happened in Miss Mustard's case was that there was an issue over whether the examination and testing should be recorded and it was agreed that whilst she could record the examination, the recording should end at the point of the neuropsychological testing. Miss Mustard incompetently failed to close the recording device so that unknown to her and the psychologist at the time, recording did in fact occur of the neuropsychological testing which she discovered afterwards.

11. As it turned out, this was serendipitous because that enabled the expert instructed on behalf of the claimant, Professor Morris, to discern that there had been some fundamental errors by the psychologist in the administration of those tests, errors which would never have come to light, or potentially never have come to light, had the recording not been made and which cast doubt on the validity of the report.

12. The matter came before Master Davison and on 11 October 2019 Master Davison gave a judgment permitting the claimant to rely on the recording in the circumstances of that particular case. It is unnecessary to refer in detail to the judgment of Master Davison but in effect, he took the view that the probative value of the recording outweighed any prejudice that might exist from the fact that the recording was carried out covertly. As I say, the covert nature of the recording was not a deliberate ploy on anyone's part but, as he found, a facet of that claimant's incompetence in stopping the recording device from recording any further.

13. The advantage of that case though and the report of Professor Morris which was before Master Davison in the *Mustard* case, is that it discloses the way in which claimants may be at the mercy of incompetent experts (or even worse than that), who do not follow the appropriate protocols or guidance when examining claimants and therefore come up with invalid results. And that was not the first or only case in which a claimant has been able to rely on covert recording to expose the deficiencies or even incompetence of experts who have been instructed by defendants.

14. That leads Mr Grant in this case, who represents the claimant, to submit that it would be useful for the court to make some general observations about the advantage of recordings because of the effective surveillance which they allow of experts in medico-legal cases generally. It is submitted that the recording of examinations will encourage experts to carry out their examinations properly, to adhere to the rules, and recordings provide an objective and irrefutable proof of what is both said and not said.

15. Thus, there are examples in the authorities of cases where experts have said one thing in their reports and it has transpired that in fact something else was said in the examination itself. For example, the same team as represent the claimant today, Mr Grant and Mr Dickinson, were the team who represented Janis Williams in her claim against Calvin Jervis which was the subject of a judgment of Roderick Evans J on 8 October 2008, citation number [2008] EWHC 2346 QB. In that case, Roderick Evans J said, at paragraph 110:

> "A potentially important aspect of assessing whether or not a patient suffered a brain injury is deciding whether there is a history of post traumatic amnesia (PTA). Accurate recording of the patient's account is critical. In his first report Dr Gross records that the claimant had no memory of a taxi having to pick her up from hospital but she did recall a later occasion when she was in Tesco's car park and picked up some bottles of wine for a friend and when she put the bottles into a trolley she toppled into the trolley herself. A comparison of what Dr Gross included in his report with a transcript of the tape recording made by the claimant at the time of the consultation shows that both matters are wrongly recorded by Dr Gross. The complainant told Dr Gross that she did indeed recall the taxi but not the journey home in it and that she had no recollection of the Tesco's incident but that she had been told about it.
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> 111. Early in his report Dr Gross said, when commenting on the claimant's recording the consultation, that "the transcription will hopefully demonstrate the significant inconsistencies there are with regard to Miss Williams and the way she presents her history". On this occasion, the transcript indicates the inaccuracy of Dr Gross's report on a central feature of the case. How could the claimant have protected herself against the obvious adverse inference which would have been drawn against her had the transcript of her recording not been available?"
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> 112. In the same report, Dr Gross says that when asked about relationships the claimant initially refused to answer questions. Reference to the transcript shows that she answered such intimate questions fully. Dr Gross's response was that he had got the impression that she was evading the question. I reject that explanation.

> 113 In the same report, Dr Gross quotes from a letter dated 27th January 2003 from Mr Peter Hamlyn, a Consultant Neurological and Spinal Surgeon, to the claimant's General Medical Practitioner in which Mr Hamlyn said that the claimant had a functional stammer and that she was having nightmares about returning to work only to make a mistake and lose her licence. This was an obvious reference to the claimant's fear of losing her licence to practice as a nurse but Dr Gross misinterpreted this as a reference to her fearing she would lose her driving licence. Under cross-examination he refused to accept that he had made this mistake."

16. Not surprisingly, the learned judge in that case rejected wholesale the evidence of Dr Gross and accepted the criticisms made of him on behalf of the claimant by Mr Grant in that case. He referred to clear indications of a lack of thoroughness, a failure to spend adequate time in properly analysing the case, and his unreliability as a witness. As I say, it was in a large part the fact that there was a recording of the interview between Dr Gross and the claimant which enabled the deficiencies in that expert's evidence to be revealed.

17. It would seem that certainly in high value cases, as a result of his experience in that and other cases, Mr Dickinson has been in the habit of advising his clients to record consultations with defendant's experts for the laudable and understandable reason that they are a form of protection against experts who are incompetent or worse.

18. I would expect that in the vast majority of cases those recordings never need to be used and never come to light because in fact the vast majority of experts instructed are competent and honest.

19. In that context, in the present case, the defendant proposes to instruct a Professor Kemp to examine the claimant and carry out neuropsychological testing on him for the purpose of producing a report in answer to that of Dr Sembi. I say in answer to that of Dr Sembi but it may well be for all I know that Professor Kemp agrees with everything that Dr Sembi says in his report and that there is no conflict of evidence at all in this case, but in order to guard against the difficulties which it has been the experience of Mr Dickinson in the past to have arisen, an order is sought allowing the claimant to record the examination by Professor Kemp and the neuropsychological testing.

20. This is resisted strongly by the defendant. The defendant relies upon a witness statement of Miss Claire Collins of BLM for the defendant, in which she deals with the application that the experts instructed by her on behalf of the defendant should have their examinations of the claimant recorded. I should make it clear that we are here talking about audio recording and not video recording.

21. In relation to all experts except the neuropsychological expert, the parties have reached agreement and for example, in relation to orthopaedic neuropsychiatric and occupational therapy experts, they are still to assess on behalf of the claimant, and Mr Dickinson has agreed that their examinations would be recorded even though those are examinations by the claimant's own instructed experts. Thus there is to be reciprocity in that respect and there is no difficulty.

22. However, Miss Collins records having informed Mr Dickinson that Professor Kemp was not prepared to have either his examination or his testing recorded. She says:

> "Professor Kemp has prepared a statement setting out the reasons why he does not want to be recorded. He is not alone in this view. Whilst there are some neuropsychologists who are prepared to be recorded, there are a great many more who are not. It also appears that the BPS [British Psychological Society] will shortly be releasing guidance on recordings. This is detailed in the statements of Professor Kemp and Professor Baker."

23. She goes on to say that the very firm view of Professor Kemp and other neuropsychologists who had been approached by the defendant, is that testing ought never to be recorded. She says:

> "The most important reason behind this is that a patient will perform differently when recorded and as the testing is standardised, the test results may be rendered invalid. A further difficulty is that the claimant who has the ability to re-listen to the testing becomes untestable in the future."

24. She exhibits Professor Kemp's witness statement dated 10 March 2020 in which he states:

> "(6) I am not prepared to allow either to be recorded, that is either the testing or the examination. My normal practice is to ask patients if they are recording or are intending to record the consultation. If they indicate that they are recording then I ask them to cease. I have only recently had to abort an examination part-way through where I discovered that I was being covertly recorded. The claimant told me he had been told to record the examination by his barrister.
> (7) A working party of the Division of Neuropsychology of the British Psychological Society has been set up in task to draft new guidelines on recording of both examinations and testing during neuropsychological examinations.
> (8) I am a member of this working party which is chaired by Professor Gus Baker, and in February 2020 I was co-author of draft guidelines alongside Professor Baker."

25. Professor Kemp goes on to explain his reasons for not being prepared to allow recording of neuropsychological assessments. He says:

> "(14) Recordings change the dynamic of the examination and from my experience where I have been recorded and then discovered the same, it has been the impression of the patient in advance that I will be a hostile medical professional and this immediately affects the doctor/patient relationship.
> (15) Recording changes the behaviour of the patient as it adds an observational element to the assessment.
> (16) This means that the testing is outside the test standardisation conditions and that the test results cannot be interpreted in the normal way. Where one expert's examination has been recorded but another has not, this also complicates the process of joint statements.
> (17) If a patient records the testing, there is also a risk that they may listen to it, perhaps more than once which is likely to render them untestable in future whether by another

medico-legal expert or for clinical purposes. The same can also apply to Judges, lawyers, or transcribers, who listen to the recording and were able to ascertain how the tests were administered.
(18) The test papers are kept confidential and secure to ensure that these do not enter the public domain which risks eroding their reliability and validity of the test procedures and ensures there is no breach of the publisher's copyright.
(19) Recording of the testing also potentially puts the doctor in breach of the copyright licence which they acquire when purchasing the test papers from the publisher and they become liable for breach of copyright. Furthermore, a publisher may refuse future sales of their test papers to a doctor if they are concerned that the testing is going to be recorded.
(20) It is essential that patients can be measured within standardised conditions. If conditions are not standardised this can cause problems with interpretation. It is not possible to say whether or not the normative data would apply.
(21) Where patients are examined by more than one neuropsychologist, it is essential that the conditions are the same so that the results can be accurately compared. If one of those assessments is recorded and another is not, this places the recorded examination and testing outside the standardised conditions."

26. Professor Kemp makes the point that because the examination and testing by Dr Sembi were not recorded, the testing conditions if his assessment were to be recorded would be different from the conditions administered by Dr Sembi and would cause further problems with interpretation.

27. Professor Kemp refers to the authors of a paper entitled "The Secretive Recording of Neuropsychological Testing and Interviewing – Official Position of the National Academy of Neuropsychology" which emanates from the United States, where they advise that in respect of covert and overt recordings the profession of neuropsychology has taken a strong stance against the observation of evaluations in any format. They consider this would affect the validity of results and would have an effect on the copyrighted test materials.

28. Miss Collins has also provided a statement from Professor Gus Baker supporting the position of Professor Kemp. Professor Baker refers to the BPS as an organisation serving the interests of psychologists composed of several divisions. He says it represents their interests but is not a regulatory body, unlike for example the Health and Care Professions Council. He says that following the decision of Master Davison in the *Mustard* case, the executive committee of the Division of Neuropsychology of the British Psychological Society appointed a working party to review the BPS guidance on the recording of neuropsychological assessments and he was asked to chair the working party. The recommendations for guidance of the BPS is in draft form, having been offered up for consultation to members of the working group, and he says that once the third draft is complete which will be in April 2020, that will be sent out to the wider membership of the BPS for consultation and then finally guidelines will be issued which will become a published BPS policy document.

29. He says that he regularly undertakes medico-legal work and like Professor Kemp is not prepared to agree to either his examination or the neuropsychological testing being recorded. He says:

> "(18) The reasons for this are three-fold: (i), the tests have not been standardised for being overtly or covertly recorded, (ii), the presence of recording is likely to influence the relationship between and behaviour of the administrator and testee, (iii), the tests are copyrighted and disclosure of the tests is forbidden by the test manufacturers."

30. I have been provided with the report of Professor Morris prepared for the purposes of the *Mustard* case which was before Master Davison for the purposes of his judgment in October 2019. At paragraph 6.9 of that report, he says:

> "However, I am aware that psychologists would not generally endorse covert recording of neuropsychological testing, this tending to be the professional opinion in clinical neuropsychology internationally. Generally, third party recording of neuropsychological testing is not recommended and it has been ruled against in certain instances, for example, by professional bodies relating to neuropsychology in the USA."

31. He then refers to the statement on the conduct of psychologists providing expert psychometric evidence to courts and lawyers produced by the British Psychological Society. That deals with both the confidentiality and security of tests and also the issue of legal scrutiny. That document says,

> "Some court proceedings are open to the general public and may be a matter of public record. In those cases, where the practitioners use standard materials such as psychometric tests, he or she will need to be careful to ensure that all parties are aware of the possible dangers of discussing the content in open court. This may give rise to a leaking of confidential information and may put information into the public arena which would damage the integrity of subsequent assessments based upon standard materials."

> "Most courts which are open to the public will be sympathetic to a request that the details of such tests remain confidential or are restricted to a small number of participants in a specific case. This will enable the practitioner to make reference to tests in a general manner which will not affect their usefulness following proceedings. Psychologists should not engage in detailed presentation and discussion of the content of test materials in open court. Such a restriction may be less important in cases not routinely open to the public. Nevertheless, it is still wise for the practitioner to guard the integrity of materials in this way."

32. It is instructive to review the basis upon which Professor Morris was able to assess the testing done by his opposite number in the *Mustard* case. He pointed to the various standardised tests which formed the basis of a neuropsychological assessment both in that case and in the present case. He was able to point to the fact that the instructions given by the assessor to Miss Mustard did not accord in some cases with the instructions set out at the start of each test which should be strictly adhered to for the test to be valid. For example, in relation to a test of story memory, the tester had failed to use the appropriate queueing

instructions for recalling the story which invalidated the result. And there were similar failings in relation to other tests.

33. It was only because Professor Morris had access to the recording that he was able to make those observations and inform the court that the testing by the expert instructed by the defendant in that case had been carried out in an invalid way producing invalid results. But for that, the defendant would have been able to rely on the report of its expert and there would have been conflicting results before the court, with the court having the difficult task of distinguishing between the two reports and deciding which held valid results and which held invalid results.

34. In the event, as a result of Master Davison's ruling, the defendant was given permission to instruct an alternative expert in that case. What that case thus demonstrates is that there is a tension between on the one hand the understandable desire on the part of competent neuropsychologists instructed to prepare reports to be allowed to conduct their tests and carry out their work without any form of recording so as to produce results which are standardised in relation to testing which is not intended to be recorded, which enables them to establish an appropriate rapport and relationship with the patient being tested and produce a report which is appropriate, valid, and useful for the court; and on the other hand, the right or ability of a claimant to challenge reports which are adverse and which may betray a lack of competence on behalf of the tester, a lack of competence which would not come to light were it not for the evidence of recording.

35. Certainly, the court in any case which comes to trial would generally wish to be able to try issues arising in the trial, in particular issues between neuropsychologists, on the basis of the best available evidence. And I have no doubt that when it comes to that sort of issue the best available evidence will include evidence of a recording which has been made.

36. In my judgment, these problems and difficulties are best worked out through the joint working party which I understand is in existence between the Association of Personal Injury Lawyers representing claimant lawyers, and the Federation of Insurance Lawyers representing defendant lawyers who again, as a result of the *Mustard* case, are working together to produce a protocol of guidance of some kind.

37. Furthermore, any such guidance or protocol for the courts should be informed by the best possible medical and clinical evidence and again, in the light of the decision of Master Davison in the *Mustard* case, the British Psychological Society through the good offices of Professor Baker, are working to provide guidelines.

38. I would hope that those guidelines will recognise and reflect the competing interests to which I have referred. Thus, it would be disappointing if the guidelines merely stated that psychological examinations and testing should never be recorded because of the clear advantage forensically in the cases with which Mr Dickinson and Mr Grant have been involved of recordings which have shown the lack of competence of certain experts instructed in this field.

39. I would hope that the guidelines from the BPS will recognise that the standards of experts in this field cannot be assumed to be the best standards enjoyed by such experts as Professor Baker and Professor Kemp, and that there are or may be other experts who function

at a lower level, and that every means at the disposal of the parties should be deployed to ensure that the higher standards are adhered to in relation to what is clearly highly important and sometimes critical evidence in cases of this nature.

40. Be that as it may, I am impressed and persuaded by the arguments of Mr Dignum who has represented the defendant today who argues that in relation to psychological testing there needs to be a level playing field; and that level playing field cannot be achieved where the claimant has not recorded the examination and testing by his own expert but where the examination testing by the defendant's expert is so recorded. The reasons are clear and have been set out earlier in this judgment: thus to compare the tests where one set of tests has been subjected to a recording and the other has not, would be to compare apples and pears as it were, in other words, tests which have been produced under different conditions.

41. Secondly, it seems to me that it is important that the playing field should be as level as can be achieved in cases of this kind and that goes for all experts, not just neuropsychological experts. Experts instructed on behalf of claimants are equally fallible and liable to produce results which are less than accurate, sometimes results which are favourable to the claimant and again, defence experts may wish to be able to examine the process by which those results were obtained in order to see whether they are or are not valid. As Mr Dignum put it, what is sauce for the goose is sauce for the gander.

42. Although Mr Grant ingeniously argued that the playing field is not level in any event by reference to the burden of proof, by reference to the provisions to which claimants but not defendants are subject to findings of fundamental dishonesty, and by reference to the fact that the claimant is the person whose psychological position is being examined, in my judgment that is not a reason for the court not to make orders which strive so far as it is possible to produce a level playing field.

43. There is implicit recognition of this in the constructive correspondence that has occurred between the parties in relation to the other reports which are still to be produced and the agreement that those will be recorded on both sides and I can see the sense of that, but in my judgment it would be wrong in these circumstances and given the position in which we now stand, to require any expert instructed on behalf of the defendant to subject himself or herself to recording of the examination or psychometric testing to be carried out for the reasons which have been stated by both Professor Kemp and Professor Baker.

44. As I say, I hope that the BPS and the joint working party of APIL and FOIL will together work through these issues and come up with a solution which satisfies the interests of justice from the point of view of both claimants and defendants, and I would hope that that would allow for recording of some kind in certain cases. But in my judgment it is not appropriate for me to lay down any kind of ex cathedra guidelines or instructions in relation to that at this delicate stage.

45. In this particular case, I have no hesitation in ruling that the defendant's expert, Professor Kemp, should be allowed to conduct his examination testing without any kind of recording. Should the claimant nevertheless covertly record his examination by Professor Kemp in any way, then I would expect that to have serious consequences for his claim and his ability to recover damages in this case because to do so would be in direct conflict with and contrary to the both letter and spirit of this ruling.

46. There is a second issue which has been referred to me which relates to the question of any privilege which may exist in any recordings that are made. After some confusion, the issue resolved itself to whether, where a claimant records an examination and/or testing by his own expert, the disclosure of the expert's report entails a waiver of any privilege that might exist in the recording. Mr Grant had previously understood that the issue was whether there would be any such privilege in the recording of an examination or testing by the other side's expert, and I would have had no difficulty in answering that question that there could be no such privilege on the basis that the recording could equally have been carried out by the defendant's expert or on behalf of the defendant. The recording would of course have been exactly the same and there would have been no question of any privilege attaching.

47. The question of privilege in relation to a recording by a claimant of an examination by his own instructed expert is more difficult or balanced, and I take into account the decision of the House of Lords in *R v Derby Magistrates' Court* [1996] 1 AC 487, in which even where the issue was one of whether a person was guilty of murder, the decision was not to pierce the protection of legal professional privilege. In the course of his judgment Lord Taylor of Gosforth said at page 508 H:

> "One can have much sympathy with McCowan LJ's approach, especially in relation to the unusual facts of this case. But it is not for the sake of the appellant alone that the privilege must be upheld. It is in the wider interests of all those hereafter who might otherwise be deterred from telling the whole truth to their solicitors. For this reason I am of the opinion that no exception should be allowed to the absolute nature of legal professional privilege, once established."

48. In those circumstances Mr Grant argues that the court should be reluctant to rule that there has been a waiver of privilege or go behind what appears to be the very strict rule that legal professional privilege is sacrosanct. I reject that argument. In my judgment, the waiver of privilege in relation to a medical examination of a claimant by his own medical expert when that report is disclosed to the other side, should and does entail waiver of all aspects of the examination by the medical expert. In the course of his report, the medical expert will state what he has been told by the claimant and thus there is a waiver of privilege in relation to those matters. A recording of the examination is simply a different aspect of the same waiver. It enables the parties to know whether the record in the report by the expert of what has been said is or is not accurate, but I cannot see any confidentiality or privilege which should be allowed to survive extant from the disclosure of the medical report. The claimant should have nothing to hide in relation to what is said to the medical expert unless there are reasons to rule in a particular case that something that has been said is irrelevant and in some way embarrassing to the claimant which need not be revealed, but that would be an individual ruling on the basis of a specific matter rather than by reference to general legal professional privilege.

49. Mr Grant makes the point that any decision by this court should carefully not trespass upon the situation where for example, a solicitor or a solicitor's clerk attends the medical examination and makes some notes for himself or herself, and I can see that there might be different arguments in relation to such a document produced by the solicitor or solicitor's clerk whereby that would still enjoy the protection of legal professional privilege and

therefore what I have said in this judgment should not be taken as having any implications for the different arguments that might apply in relation to such a document. But in relation to a recording of the examination itself, I consider that the disclosure of the report carries with it a waiver of privilege of the recording.

50. For those reasons, I rule that the defendant shall be allowed to carry its neuropsychological examination of the claimant without being subjected to any kind of recording of that examination.

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*We hereby certify that the above is an accurate and complete record of the proceedings or part thereof.*

This transcript has been approved by the Judge