# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs B Anthony

**Respondents:** 1. Mr Glyn Meacher-Jones
2. Mr David Meacher-Jones
3. Meacher-Jones & Company Limited
4. Mrs Davina Marjorie Meacher-Jones
5. Chester Business Services

**HELD AT:** Liverpool **ON:** 24 January 2017

**BEFORE:** Employment Judge Tom Ryan

**REPRESENTATION:**

**Claimant:** In person
**Respondents:** Mr Flynn of Counsel

## REASONS

1. These are the written reasons for the judgment sent to the parties on 24 January 2017.

2. This is an application by the claimant to join into the proceedings as 4th and 5th respondents, Mrs Davina Marjorie Meacher-Jones who is known as Mrs Marjorie Meacher-Jones and Chester Business Services Limited ("CBS").

3. In determining this application I have had regard to a witness statement from Mrs Meacher-Jones and various documents from the claimant, some of which are described in her statement. I have heard oral evidence from the claimant.

4. I set out the basis of the application chronologically and by reference to the relevant documents.

5. The claimant was employed by Meacher-Jones & Company Limited ("MJC") between 2 April 2012 and 20 August 2014 when she resigned claiming constructive unfair dismissal and brought an earlier claim to the Tribunal. That claim was in respect of, so the claimant tells me, unfair dismissal contrary to

section 103A of the Employment Rights Act 1996 on the basis that it was because she made protected disclosures. She also, she tells me, named Mr Glyn and Mr David Meacher-Jones in those proceedings as respondents because it appears also to have contained a detriment claim. It is what the claimant has in mind when she made them respondents, on the grounds they were directors of MJC, a point to which I will return.

6. The earlier proceedings were settled by way of an ACAS COT 3 agreement in April 2015.

7. In the meantime the claimant had started new employment on 20 October 2014 with another firm of accounts, Morris & Company. By these proceedings the claimant brings complaints under the protected disclosure provisions of the Employment Rights Act 1996 in respect of allegations of post employment detriments.

8. The first three respondents defended the claims in their response and the matter was listed before Employment Judge Horne for a case management preliminary hearing on 14 October 2016. EJ Horne, based upon the claim form and a document entitled "Response to the ET3" provided by the claimant on 11 October 2016, identified the issues in this case. He set out the detriments upon which the claimant relies at paragraphs 2-5 of the record of the hearing and the issues at paragraphs 6-9.

9. The claimant obtained ACAS early conciliation certificates for the three original respondents. No extension of time is available to the claimant by reason of those certificates because in either case they were either issued on the day or the day after the reference to ACAS and so under the early conciliation provisions no extension of time results.

10. The last allegation in time is one of three allegations factually made against Mrs Marjorie Meacher-Jones and dates back to 10 March 2016. The other allegations stretching between 19 June 2015 and 23 December 2015 were, to put it colloquially, even further out of time when the claimant was presented on 12 August 2016.

11. EJ Horne decided that the Tribunal had jurisdiction to consider the complaint so far as it related to the sixth detriment dating from 10 March 2016 on the reason that it was not reasonably practicable to present the claim and extended the time to 12 August 2016, which is the date of presentation, thus giving the Tribunal jurisdiction. It therefore follows that in relation to all earlier acts it will be an issue at the final hearing as to whether any of those earlier acts, taken together with the last act, if that is established, formed part of a series of acts similar to the last detriment such that it would be possible for the claimant to say that they were within time.

12. The allegations that the claimant makes of detriment are as follows:.

    12.1. that on 19 June 2015 MJC failed to disclose information which she had requested and she makes that claim against the company and against Glyn and David Meacher-Jones as workers for or agents for MJC;

12.2. that on 10 November 2015 Allington Hughes, who I understand to be the solicitors acting for the company, wrote to the company making detrimental allegations;

12.3. The third allegation appears at paragraphs 4.4 and 4.5 of Employment Judge Horne's order, thus:

> "On 11 November 2015 Davina Meacher-Jones wrote a letter under the letterhead of 'CBS' The letter was addressed to the claimant's new employer and made detrimental allegations. It is the claimant's case that Davina Meacher-Jones was a worker for MJC at the time. Despite purporting to act on behalf of CBS she wrote the letter in the course of her employment with MJC and in so doing contravened section 47B(1)(a).
>
> There is another route to liability which is not dependent on Davina Meacher-Jones' employment status. Glyn and David Meacher-Jones as workers for and/or agents of MJC connived with Davina Meacher-Jones to write the letter. The part they played in that decision was contrary to section 47B(1)(a)."

12.4. that Allington Hughes wrote a further letter to the claimant containing detrimental allegations on 7 December 2015;

12.5. that Mrs Meacher-Jones on 23 December 2015 wrote a letter to the claimant containing detrimental allegations, and EJ Horne records that MJC is liable by the same two routes as for detriment 3;

12.6. finally, on 10 March 2016 Mrs Meacher-Jones made a written complaint to ACCA about the claimant, and EJ Horne recorded "liability rests with MJC as for detriment 3".

13. From this I take that in relation to detriments 3, 5 and 6 the current basis of the allegations against the three existing respondents is that either Mrs Meacher-Jones was a worker for MJC and therefore what she did was done in the course of her employment with MJC; or alternatively that her husband, Glyn, and/or her son, David, as workers for or agents for MJC connived with her to write the letter and therefore they would become liable under 47B(1)(a).

14. Employment Judge Horne recorded that in a document that the claimant submitted at that hearing, dated 11 October 2016 and described as a response to the ET3, the claimant applied to join Mrs Meacher-Jones and CBS as respondents to the case.

15. I note that the claimant alleges that CBS and the respondents (in particular David Meacher-Jones) have significant if not ultimate influence over the management and conduct of both CBS and Mrs Meacher-Jones (paragraph 4). The claimant alleges that throughout her own employment with MJC, although not on the payroll of that company Mrs Meacher-Jones worked:

> "As an administrator and credit controller for four days a week for the respondent company. She was an integral part and member of the company

> and was included in all management functions of the respondent company, including but not limited to organisation chart and holiday planner. She was under my supervision and reported to me."

16. In paragraph 6 of her witness statement the claimant refers to Mrs Meacher Jones having stated that she was employed by MJC in her witness statement prepared for the earlier proceedings. Mrs Meacher-Jones does not dispute that in her witness statement but said that it was done in haste and she had intended to say that she was employed by way of being a client or contractor, or providing services as a contractor. The merits of that can be explored at a further hearing if I grant permission to amend.

17. In paragraph 8 she refers to Glyn and Mrs Marjorie Meacher-Jones being held out as integral members of the company on the company's website, and as regards the complaint which is the subject matter of detriment 3, which I think is a letter to the claimant's new employer, the claimant alleges in paragraph 12, that whilst Mrs Meacher-Jones started writing on behalf of the first respondent herself she refers to the fact that Mrs Meacher-Jones made reference to and cited exact wordings from letters that the claimant had addressed to the respondents' legal representative. She said it is apparent from those documents the respondents not only failed to protect her following protected disclosures, they had "intentionally disclosed such information to Mrs Meacher-Jones for no other motive than to continue their campaign to harass and terrorise me".

18. In paragraph 18 the claimant alleges that Mrs Meacher-Jones was directly influenced by the protected disclosures, and in her letter of 1 December 2015, which I believe is not itself a letter that is the detriment, Mrs Meacher-Jones said that she would make a complaint to ACCA following their conversation with the protected disclosure investigation officer, and she submitted that the respondents had deliberately divulged facts inherent to the initial claim and confidential information to Mrs Meacher-Jones.

19. In paragraph 34 the claimant says:

> "I would like to apply to add both CBS and Mrs Meacher-Jones as joint respondents to this claim. Both of them are mentioned in the claim form and are intrinsic to the original claim. The addition would merely be a re-labelling exercise."

20. The application to amend was not determined by EJ Horne but was put over to be determined in December. It came before EJ Rice-Birchall on 5 December 2016. She decided that it was necessary for the claimant to provide to the proposed additional respondents a statement of what claims were being brought in respect of them, the legal basis on which it is said they could be a party, evidence on which the claimant relied to support her application and evidence why there was a delay in making the application. Time was given for the claimant to do that, for the respondents to respond and then the matter was set over until today.

21. On 17 December 2016, the claimant submitted to the Tribunal and copied to the respondents' advisers something she described as her witness statement under the heading "Response to order dated 5 December 2016".

22. The claimant largely repeats what she says before. She says in paragraph 4 that Mrs Meacher-Jones worked under her supervision as administrator for MJC. It is common ground, as the claimant alleges, that they worked in the same premises. Mrs Meacher-Jones' statement evidences that CBS rents a space in the building from MJC. The claimant asserts that Mrs Meacher-Jones was included in the third respondent's organisation chart and holiday planner. She refers to the previous witness statement; and the claimant says:

> "I also was a worker for CBS throughout my employment for the respondent. I oversaw the day-to-day running of the business of CBS and made management decisions similar to those of the third respondent."

23. The claimant points out at paragraph 8 that Mr Glyn and Mrs Meacher-Jones and Chester Business Services had no other employees apart from those two directors, and all clients' work within Chester Business Services was carried out by staff employed by MJC. She then seeks to set out at paragraphs 10 onwards the basis of her claim. Although it is not set out in legal language it is clearly, in my judgment, intended to convey the substance of the detriments as identified in the claim form. The claimant then describes the effects upon her.

24. With regard to delay the claimant refers at paragraph 19 to the reasons given by EJ Horne in extending time in October: that she discovered the ACCA complaint made by Mrs Meacher-Jones towards the end of May 2016/beginning of June 2016; her concentration was solely on making sure she defended the allegation against her. She said that focus was on that and because of that she did not do enough research in ensuring she had covered all aspects of her claim in her ET1. She said that as she had no legal training or experience she had not realised, "unlike my previous unfair dismissal individuals and agents working for my ex employer can be named as respondents to my victimisation claim". I will return to that subject, a matter on which she was cross examined at length by Mr Flynn. She did not foresee that the resisting respondents would argue in their ET3 that Mrs Meacher-Jones was not an employee. She had already included all the details in essence of the claim against Mrs Meacher-Jones and CBS apart from naming the respondents, and she described it again as a re-labelling exercise: "I apply to include the proposed respondents at the earliest opportunity."

25. The claimant assumed that the proposed respondents would have had access to a copy of the response, to the ET3. The remainder of the document is really argument in relation to whether I should exercise discretion in her favour or not.

26. Once that information was provided to the proposed respondents they put in a submission, described as a response, on behalf of Mrs Meacher-Jones and CBS. Attached to that is a witness statement from Mrs Meacher-Jones with a number of documents appended to it.

27. The proposed respondents' position is put in this way. As far as the work is concerned Mrs Meacher-Jones was not engaged by the third respondent, MJC, as a worker or employee. Notwithstanding that it is noted that the claimant says that to all intents and purposes Mrs Meacher-Jones was an employee of the third respondent, it was submitted that she falls short of saying that Mrs Meacher-Jones was an employee because Mrs Meacher-Jones was not.

28. The submission continues: “Mrs Meacher-Jones performed work for CBS who contracted with the third respondent to provide services for it and vice versa.”

29. It is submitted that if Mrs Meacher-Jones was not employed by the third respondent then there can be no claim against under section 47B(1)(a).

30. Without reciting the entirety of Mrs Meacher-Jones’ evidence it is clear that there is a close relationship between the two companies and not only by reason of the family connections.

31. Her son, David, the second respondent, worked for accountants until forming JC in about 2004/2005 as I understand it. By then Mr Glyn Meacher-Jones had retired from employment, and with Mrs Meacher-Jones at that point commenced trading as CBS. That company was originally formed by David Meacher-Jones, it is said. From paragraph 12 and onwards Mrs Meacher-Jones sets out the work that she and her husband have done for CBS. She lists some bullet points in paragraph 13:

    - Office administration
    - Organising conferences
    - Credit control
    - Bookkeeping
    - Tax Returns
    - Payroll
    - Accounts
    - Preparation of business plans

32. Mrs Meacher-Jones’ case is that in making the complaints to Morris & Company and to ACCA she was protecting the interests of CBS. She does not accept that she was doing it on behalf of MJC or her son. In paragraph 75 she says in evidence she did not liaise with David about sending those letters. She did not feel the need to consult David Meacher-Jones about it at the time. She said, “Once I had submitted the ACCA complaint and received confirmation that was being investigated I did notify David of this and I had given his name as a witness. When I told David this he told me he wanted nothing at all to do with the matter and asked that I notify the ACCA that he did not wish to form part of their investigation”. Mrs Meacher Jones refers to two letters which, written in May and August 2016 state that neither David or Glyn Meacher-Jones are party to what she calls “the claim”. I think that was meant to mean the complaint against Mrs Anthony of a form of professional misconduct.

33. From the complaint form which Mrs Meacher-Jones filled in it is difficult to know whether she is writing in a private capacity or on behalf of CBS. I suspect it is probably not disputed that it was on behalf of CBS Limited, although she says that she is complaining on her own behalf. She identified her son as being able to assist in the investigation and she refers to a letter sent to ACCA on 12 February which is a letter written on CBS letterhead and says she is writing to enquire how to make a complaint, and the allegations are that:

> "Mrs Anthony removed confidential accounting information from my company whilst being employed by my son's accountancy practice. This came about as my business and his shares the same office and the information taken has been forwarded to a third party without our permission or knowledge until now, and she has accused my husband and I of tax evasion on a personal and business level."

34. The formal complaint is dated 11 November 2015 and sets out essentially the same allegations but in an extended form.

35. In response to all of that the claimant has submitted outline arguments in writing. I do not believe it is necessary for me to recite them.

36. One thing I should make clear as far as legal matters is concerned is the claimant having told me that she discovered that she can make a claim of what is called personal employment victimisation, she has hit upon the fact that section 27 of the Equality Act 2010 defines victimisation and she has sought to rely upon that. I explained to her in oral argument that the provisions of that Act create a separate statutory scheme. The claims made in these proceedings are like a complaint of victimisation but there are different legal provisions. The complaint which the claimant has made does not engage the sections of the Equality Act 2010 in relation to agency or vicarious liability.

37. The claimant attached to her submissions two documents. The first of those was a letter she had written to Mr David Meacher-Jones on 25 May 2016 alleging breach of the COT3 to which I do not need to refer. The second document was headed "File Note" dated 29 November 2016, which is basically a decision by a senior investigations office of the ACCA, Richard Foster, about the complaints made by Mrs Meacher-Jones. The allegation that the officer felt the ACCA could consider was one of breach of the fundamental principle of confidentiality. The outcome of the investigation was that he considered insufficient evidence had been shown that the claimant had breached that principle, and he gave reasons for that decision.

38. The claimant's oral evidence to me addressed her state of health, the circumstances in which she had come to apply to join these two prospective additional respondents, and the delay in doing so.

39. The claimant's health was a factor taken into account by EJ Horne in October. In my judgment, it is a relevant factor to take into account at this stage as well. The claimant was, as EJ Horne had also recorded, visibly upset and distressed and weeping at various points throughout the hearing before me.

40. She has seen her doctor. She was referred to the Mental Health Team for counselling. She was prescribed an antidepressant, Mirtazapine. At the time with which I am concerned, namely between August and October 2016 principally, she was taking medication daily, and although she was then referred to counselling she has only recently had he first counselling session. She tells me the counsellor said she will write to the GP. She has not received a formal diagnosis, but clearly she presented with symptoms which warranted in the doctor's opinion at least that she be referred to the Mental Health Team and they have obviously taken her on.

41. It is relevant in my judgment also to consider the claimant's response to my question about the visible distress that she manifested to EJ Horne and in the Tribunal. In her written documents she goes into much greater detail, but it is clear to me from the level of her distress and the fact she tells me that this is her daily state. It is evidenced by something she said which I do not think Mr Flynn sought to contradict. The claimant having obtained new employment with Morris & Company was working five days a week for them up to 1 September 2016. However, she found that she was in tears for considerable periods of the working week which she found embarrassing and upsetting, and therefore reduced her work to one day a week. She describes it to me thus "I know it's pathetic but its how I was, it gets embarrassing". It seems to me it is evidence supporting the degree or level of her ill health beyond the fact that she has received medication and counselling. Judges understand that claimants sometimes get upset when asked to talk about or justify their claims before the Tribunal. The fact that this claimant is upset on a daily basis whether she is discussing this case or not indicates to me a level of illness which certainly is a relevant factor in deciding the application to amend to join these respondents. I record that factor aware that I do not have any detailed formal medical evidence.

42. The claimant's basis of application is put by her in the way I have described. In the course of argument I considered with Mr Flynn, an alternative basis on which the claimant, were she represented by competent counsel, might have put her case forward.

43. So far as delay is concerned, Mr Flynn submits that the claimant is an intelligent person, which is obviously right; that she was able to identify when the claim went in that not only could she bring the claim against MJC but against the two named individual respondents. The thrust of his submission on this can be reflected in the rhetorical question, "Well if you could put it in against them (i.e. the first 3 respondents why couldn't you put it in against CBS and Mrs Marjorie Meacher-Jones at that stage?".

44. On the claimant's evidence it is clear that she was represented by solicitors in the initial proceedings. She had tried without success to get her home insurers to provide legal representation and advice in relation to these latter proceedings. However, they enabled her to identify it as a post termination victimisation claim because of protected disclosures, and that is where she got the formulation from in her claim form. The references to the statute that she put in, she tells me and I accept, were copied from the earlier claim form, of course one that was in her possession by reason of having made the earlier claim with the benefit of solicitors. She said that she believed that there should be a remedy because of the actions of Mrs Meacher-Jones. She had thought that she could rightly describe Mrs Meacher-Jones as an employee of the third respondent, and under the extended definition provided by section 43K of the Employment Rights Act 1996 it may be that the such an argument could succeed.

45. It does not seem to be disputed that the claimant did work, whilst in the employment for MJC, in some way, shape or form for CBS. It seems to me there is sufficient evidence at first blush to show this degree of cross working. One of the matters I therefore put to Mr Flynn was the possibility that the claimant could argue, although it is not the way that she has argued the matter at this stage, that

under the extended definition, which I think it section 43K of the Employment Rights Act 1996, the claimant could say that in those circumstances she was a worker for CBS for part of the time, the work having been done under the control of MJC and the worker assigned to work for CBS, or part of that work, by MJC.

46. I think Mr Flynn accepted that as a matter of jurisprudence it is possible that the Tribunal could find that the claimant was a worker for CBS in those circumstances. Thus, if the existing respondents and Mrs Meacher-Jones' argument that what she did was done on behalf of CBS and was not done on behalf of MJC succeeded without CBS being added, the claimant might have a legitimate cause of action against CBS which could not be upheld.

47. Of course if the claimant can establish her case in the way identified by EJ Horne then MJC and the directors may be liable. I think that Mr Flynn also accepts that if the claimant can bring in CBS by being a worker for CBS under section 43K, then she could also claim that Mrs Meacher-Jones was a worker for CBS and name her as a respondent just as she could as if she were employed directly by CBS.

48. Mr Flynn submitted that the claimant should not be allowed to put a case in that way because it is contrary to the way she has put her case at the moment, but in my judgment it is clear from listening to the claimant that she has very little appreciation of the legal intricacies of the legislation. I think Mr Flynn fairly acknowledges that the terminology in the protected disclosure provisions of the Employment Rights Act 1996 are sufficient to baffle lawyers let alone litigants in person, even intelligent ones. Although he makes no formal concession he does not contend that my suggestion that the claimant could put her claim in that way is one that is bound to fail. His case is that if I were prepared to allow the claimant to go forward putting the case on that alternative basis I should still not grant permission to amend to add the respondents because he says they will be prejudiced both because of delay and necessity to have in mind the time limits.

49. So armed with all that I then turn to consider rule 34 of the Employment Tribunals Rules of Procedure 2013 which provides that the tribunal has power "on its own initiative, or on the application of a party or any other person wishing to become a party, add any person as a party, by way of substitution or otherwise, if it appears that there are issues between that person and any of the existing parties falling within the jurisdiction of the Tribunal which it is in the interests of justice to have determined in the proceedings".

50. Guidance in respect of that rule has been published by the President of the Employment Tribunal in 2014 as part of the general case management guidance, and the relevant section is that under the heading "Amendment to the Claim and Response including adding and removing parties".

51. Paragraphs 1 to 11 set out the principles in relation to amendments. The guidance draws substantially on the earlier decisions of Cocking v Sandhurst and Selkent Bus Company v Moore. The factors to be taken into account by the tribunal are the nature of the amendment to be made, the time limits and the timing and manner of the application. Under the heading "Time Limits" paragraph 10 states:

> "The Tribunal will give careful consideration in the following contexts:-
>
> (1) The fact that the relevant time limit has expired will not exclude the discretion to allow the amendment…
>
> (2) It will not always be just to allow an amendment even where no new facts are pleaded. The Tribunal must balance the injustice and hardship of allowing the amendment against the injustice and hardship of refusing it."

52. These principles are relevant where the application is for amendment by way of adding a party.

53. At paragraph 12 the guidance states: "The Tribunal may on its own initiative on the application of a party add any other person." It goes on essentially to reflect rule 34.

54. Paragraph 13 describes some of the circumstances which may give rise to the addition of parties. Sub-paragraph (2) states: "Where individual respondents other than the employer are named in discrimination cases on the ground they have discriminated against the claimant and an award is sought against them."

55. I acknowledge that the claim here is not one of discrimination. However, I consider that this part of the guidance can properly be applicable to public interest disclosure detriment claims. It might be thought to be particularly capable of extension where the claim, as here, is akin to a victimisation claim.

56. In paragraphs 14-18 the guidance makes clear that asking to add a party is an application to amend the claim; that the Tribunal will have to consider the type of amendment sought. The considerations set out in relation to amendments generally apply.

57. Paragraph 15, provides:

> "When you apply to add a party you should do so promptly. You should therefore set out clearly in your application the name and address of the party you wish to add and why you say they are liable for something you have claimed. You should further explain when you knew of the need to add the party and what action you have taken since that date."

58. Applying those principles I consider that the following conclusions may be drawn.

59. The claimant has sought to set out clearly why she says CBS and/or Mrs Meacher-Jones are liable for something she has claimed. I have identified the basis for that by reference to the ET1, EJ Horne's order, the claimant's further submissions and upon the legal basis that the claimant may be able to say that she was a worker for CBS and thus entitled to raise the complaint against CBS and Mrs Meacher-Jones, either in substitution or in addition to the previously identified basis of the complaint against the original respondents.

60. So far as the claimant's knowledge about it, her case is that it was only when she saw the response to this claim and she saw the denial of the employment status that she went online and did Google research and spoke to friends and tried to

get some legal advice that she realised she could name individuals as well as directors. When asked why she had named directors in the first instance and not individuals the claimant said that in her profession she was aware that directors owed duties to companies in relation to its conduct, and of course in accountancy terms that may well be right.

61. In terms of my discretion, whilst I take into account that the claimant is intelligent and has been able to formulate her claim to some extent herself, it is clear to me having heard her that she has no real insight into the legal complexity of making claims of this sort to the Tribunal. One example of that is the fact that she sought to rely on provisions in the Equality Act 2010.

62. I think that the claimant's state of health is a material and significant factor in considering the question of time and delay. Allowing the amendment would in effect require me to grant an extension of time for about two months. The claimant did not in fact delay for the entirety of that period, if as I accept it was when she received the ET3 which I think was the latter part of September that she appreciated the need to make an application. She had managed to formulate her application to amend on 11 October and it went before Employment Judge Horne on 14 October with accompanying documents, and I am told there was a significant volume of documents. I do not consider that delay of this order, or extension of this degree, can properly be said to cause prejudice of itself.

63. As to the balance of prejudice, if I allow the application to amend then it is right that Mrs Meacher-Jones and CBS will have to submit a response. I think it is highly likely, notwithstanding M Flynn's suggestion to the contrary, that Mrs Meacher-Jones would have been called to give evidence in any event. She certainly gave a witness statement in earlier proceedings.

64. I agreed with Mr Flynn that the hearing which had been listed for late March 2017 would not be able to go ahead if permission were granted to amend to include these respondents.

65. In my judgment the claimant has some prospect, I put it no higher than that because I accept that she may ultimately fail, of success in her allegations against Mrs Meacher-Jones. If she succeeds in establishing detriment 6 against Mrs Meacher-Jones and CBS it is more likely than not she will succeed in relation to the detriment in respect of informing Morris & Company. She may succeed in her other complaints as well.

66. I cannot ignore the fact of family relationships and the fact that families discuss matters as being relevant to the motivation for why anybody acts in a family arrangement like this. That is not lifting the corporate veil, it is just common sense. I recognise that there will be extra cost incurred if I allow the application to amend. It will require Mrs Meacher-Jones and CBS to answer a claim they would not otherwise have to meet.

67. If the amendment were not granted it seems to me there is a risk of more substantial injustice and hardship because if, as I think, the claimant has an arguable case on the formulation of section 43K that I have alighted upon, were she not allowed to pursue that in my judgment the risk of injustice and hardship to her I would be greater. If she has an argument at all in relation to detriment for

post termination victimisation for protected disclosures it is one which could lie equally against MJC as against CBS. If the claim against MJC fails because they say Mrs Meacher-Jones was acting only on behalf of CBS and the claimant can be said properly to work for CBS, then the claimant would lose a remedy that she would otherwise have.

68. In those circumstances I consider the balance of injustice and hardship would fall more harshly upon the claimant were I to refuse than it would fall harshly upon Mrs Meacher-Jones and CBS if I were to grant it.

69. For those reasons I allow the amendment to add Mrs Meacher-Jones and CBS has fourth and fifth respondents.

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Employment Judge Tom Ryan 29 March 2017

REASONS SENT TO THE PARTIES ON

30 March 2017

FOR THE TRIBUNAL OFFICE