Case No: HQ13X01923

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

The Royal Courts of Justice,
Strand,
London WC2A 2LL

Friday, 29th November 2013

BEFORE:

MASTER LESLIE

BETWEEN:

PAUL MICHAEL EDWARDS

Respondent/Claimant

- and -

(1) UNITED KINGDOM ATHLETICS LTD
(2) UNITED KINGDOM SPORT
(3) KING'S COLLEGE LONDON

Applicant /Defendant

The Claimant appeared in person

MR N. DE MARLO (instructed by **Pinsent Masons LLP**) appeared on behalf of the First Defendant

---

Judgment
(Draft for Approval)

Digital Transcript of Wordwave International Ltd (a Merrill Corporation Company)
8th Floor, 165 Fleet Street, London, EC4A 2DY
Tel No: 020 7421 4036 Fax No: 020 7404 1424
Web: www.merrillcorp.com/mls Email: courtcontracts@merrillcorp.com
(Official Shorthand Writers to the Court)

No of words: 1497
No of folios: 21

1. THE MASTER: This is an application by the defendants for summary judgment and/or striking out of the clam on the basis that there is no real prospect of success in the claimant making the claim and/or no reasonable grounds for bringing it. The application turns entirely on the Limitation Act 1980, to which I shall refer in a moment.

2. Without making any concessions or admissions, the approach of the defendants is to assume that the claimant can make his case on the facts alleged. However, they say that it fails because it is time or statute barred.

3. The underlying facts of the case can, I hope, be summarised as follows. Mr Edwards is, or was, an international and Olympic shot putter/athlete who, in the 1980s and 1990s, represented Great Britain with some distinction. That career as an athlete came to an abrupt end in 1997 when, as a result of analysis of samples of his urine, the defendants alleged that he had been taking, or was contaminated with, prohibited substances. It does not matter what they were for present purposes.

4. The samples or specimens that he gave were examined and findings were made by the laboratories of King's College London, the third defendant. The United Kingdom Athletics Limited, the first defendant, is the successor to another body that subsequently went into administration, and the second body, UK Sport – I am not quite sure of its legal persona – is the umbrella body for Olympic and Paralympic sport in this country.

5. Mr Edwards has always, persistently and doggedly, and, some would say, obstinately, maintained his innocence. It is entirely regrettable that, in the teeth of such doggedness, he has not had what he would regard as a fair hearing or a fair crack of

the whip. He has exhausted all avenues of appeal and of review, within the athletic world, if I may put it that way. His case has been raised twice in Parliament in, I think, adjournment debates in the House of Commons, and I have been referred to, and will refer to, passages in Hansard relevant to that. All this, as I have said, stems from 1997; that is to say, over fifteen or sixteen years ago. The defendants, for present purposes, concede that the claimant's cause of action, if it exists, is in tort and that it is subject to a six-year limitation period, subject also to, insofar as date of knowledge under section 14A of the Limitation Act 1980 may be engaged, a three-year limitation period from the date of knowledge. It is important to consider what knowledge is required. It is not knowledge of all facts and matters upon which a party might be able to rely.

6. Section 14A starts by its application to:

> "action for damages for negligence, other than one to which section 11 of this Act applies, where the starting date for reckoning the period of limitation under subsection (4)(b) below falls after the date on which the cause of action accrued."

7. Insofar as knowledge is concerned here, it is material facts about the damage in respect of which the damages are claimed, and that the other facts relevant to the current action, namely damages:

> "attributable in whole or in part to the act or omission which is alleged to constitute negligence, nuisance or breach of duty; and
>
> (c) the identity of the defendant; and
>
> (d) if it is alleged that the act or omission was that of a person other than the defendant, the identity of that person and the additional facts supporting the bringing of an action against the defendant"

8. I stress that it is not necessary, in my judgment, to have knowledge of all facts and matters to be relied upon; it is to have knowledge of sufficient facts in order to bring a claim. What is alleged here is that the defendants, in breach of their duty, failed accurately to report on the nature and constituent parts of the samples of urine given by the claimant as long ago as 1997 and that the report that they did give was inaccurate, that there were no prohibited substances in those samples. That is the nature of the claim.

9. Right from the very beginning it might be said that the claimant knew – on the assumption that he is correct, which of course I make – that these results were erroneous; that conclusions had been arrived at as a result of mistakes. Much has been made about the existence or non-existence of calibration data. On what I have read, I do not see that that is central to or a necessary constituent part of the allegation that these samples were erroneously analysed and that the results were therefore mistaken and false. It seems to me that on one view, and on one view only, from the date that Mr Edwards got the results, he knew that they were wrong. That of course is different from alleging that the results were obtained as a result of some lack of care or breach of some duty. At the heart of it is, as it seems to me, the question of whether the samples that were actually analysed were those of Mr Edwards or somebody else or whether they had in some way become contaminated after they had been given and before they arrived at the King's College laboratory. That involves looking at, and examining the way in which, the samples were carried from the place that they were given to the laboratory. They were actually transported by a well-known company, DHL.

10. Mr Edwards has alleged that – and as part of his case it is alleged that – the tracking of the samples, the chain of transport of the samples, is not just unreliable but almost does not exist, to such an extent that seven or eight years ago he involved the police, who obtained a search warrant and got some documentation from DHL. But, earlier than that, in 1999 there were allegations made by or on behalf of Mr Edwards. In a report from an independent committee, dated 1 July 1999, there were allegations that the chain of custody of the samples was questionable, and indeed were challenged. The same allegations were made in 2000 in the debates in the House of Commons. In 2002 there is mention of the container system being allegedly unsatisfactory. In 2004 there was an allegation that the B sample container was damaged and had been opened with a hacksaw: that is in a letter of September 2004. Earlier than that, in 2000 apparently, at a hearing it was said that the defence was not allowed to submit evidence from the DHL employee called Hughes, which clearly put forward evidence about the chain of custody. So all around that time Mr Edwards knew that there was evidence to support the complaint that the chain of custody was unreliable. He says that he was misled; he may have been misled about peripheral matters, but the fact of the matter is that he knew from 2000 onwards, perhaps even earlier than that, that the chain of custody was broken.

11. In the bundle I have seen other examples of evidence that he knew about the faulty procedures in the chain and/or the fact of the allegation that one of the samples had to be hacksawed off. All of those lead me to the conclusion that Mr Edwards knew and had had sufficient knowledge to embark upon these proceedings long before July 2010, the date three years prior to the commencement of this action, because, as I have said, there was a plethora of knowledge deployed on his behalf in other forums,

being forums other than the court: in Parliament, by way of appeal, application to the Freedom of Information commissioner and/or to the Upper Tribunal. All of those show that he had sufficient knowledge of sufficient facts and matters to bring a claim, and the claim that he now brings is statute barred. It follows that there are neither reasonable grounds for bringing the claim nor a sufficiently real prospect of success to warrant the matter going forward. There will therefore inevitably be summary judgment for the defendants.