



# The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

## Report of Finding and Sanction

### Case Reference: PC 2023/2105/D5

Miss Claire Thomas

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of: Gray's Inn, 2008

### Disciplinary Tribunal

#### Miss Claire Thomas

1. In accordance with an appointment made by the President of the Council of the Inns of Court in a Convening Order dated 25 October 2024 I sat as Chairman of a Disciplinary Tribunal on 11 November 2024 to hear and determine 3 charges of professional misconduct contrary to the Bar Standards Board Handbook against Claire Thomas, barrister of the Honourable Society of Gray's Inn.

#### Panel Members

2. The other members of the Tribunal were:

Ian Arundale (Lay Member)

Stephanie McIntosh (Lay Member)

Naomi Ryan (Barrister Member)

Alexander Horne (Barrister Member)

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What follows are our unanimous decisions made at the hearing.

## Charges

3. The charges were found proven.

### Charge 1

#### Statement of Offence

Professional misconduct, contrary to Core Duty 5 and/or rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition, Versions 3.0 - 4.5).

#### Particulars of Offence

Claire Thomas, an unregistered barrister, behaved in a way likely to diminish the trust and confidence that the public places in her and/or the profession, and/or behaved in a way which could reasonably be seen by the public to undermine her honesty and integrity, when she presented inaccurate accounts of her symptoms which she knew to be false resulting from a Road Traffic Accident that occurred on 22 July 2016, to the Department of Work and Pensions, on more than one occasion, between July 2017 and November 2020.

### Charge 2

#### Statement of Offence

Professional misconduct, contrary to Core Duty 5 and/or rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition, Versions 4.1 - 4.4).

#### Particulars of Offence

Claire Thomas, an unregistered barrister, behaved in a way likely to diminish the trust and confidence that the public places in her and/or the profession, and/or behaved in a way which could reasonably be seen by the public to undermine her honesty and integrity, when she presented inaccurate accounts of her symptoms which she knew to be false resulting from a Road

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Traffic Accident that occurred on 22 July 2016, to medical experts instructed in her civil claim for personal injury, on more than one occasion, between August 2019 and July 2020.

### Charge 3

#### Statement of Offence

Professional misconduct, contrary to Core Duty 5 and/or rC8 of the Code of Conduct of the Bar of England and Wales (9th Edition, Version 4.1).

#### Particulars of Offence

Claire Thomas, an unregistered barrister, behaved in a way likely to diminish the trust and confidence that the public places in her and/or the profession, and/or behaved in a way which could reasonably be seen by the public to undermine her honesty and integrity, when she was dishonest about her symptoms in a civil claim for personal injury, that she brought for general and special damages arising out of a Road Traffic Accident that occurred on 22 July 2016, in the Cardiff County Court on 15 July 2019.

#### Parties Present and Representation

4. The Respondent was not present and was not represented. The Bar Standards Board was represented by Mr Barnaby Hone.

#### Findings

#### Introduction

5. Miss Claire Thomas, an unregistered barrister, who was called to the Bar by Gray's Inn in 2008, faces three charges of professional misconduct. It is right to relate as Miss Thomas does in a document dated 23rd January 2024 (B2-5) that having qualified as a barrister in 2008 she did not get a pupillage by 2013 and has never practised at the Bar but rather she has worked as a Judge's clerk and as a Clerk to a set of Chambers.
6. She has chosen not to attend the hearing and informed the Bar Standards Board in advance of her intention not to come (see smaller bundle page 25 dated 8th July 2024).

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Accordingly, today, in her absence, an application was made as a preliminary issue that we hear the case in her absence pursuant to rE183 which allows the Tribunal if satisfied that the procedure for notifying a Respondent and service of all relevant documents has taken place then the matter can proceed in her absence if just to do so. In this case we were satisfied that all the relevant procedure had been complied with and it was just to proceed in Ms. Thomas's absence given her original indication and further indication on 30th September (see smaller bundle page 31) that she "was not planning of participating any further."

7. The Bar Standards Board bring these proceedings. They arise out of a hearing in the Cardiff County Court before His Honour Judge Harrison. Ms. Thomas (hereinafter called "the Respondent") was the Claimant in the action which arose out of a road traffic accident in July 2016 in which it was not disputed she suffered injury and was entitled to damages. However, the Judge found in his judgement that she had been dishonest in what she claimed were the consequences to her health caused by the accident.
8. The burden of proving these charges lies on the Bar Standards Board throughout. The Respondent does not have to prove her innocence or any particular fact. We cannot find any charge against the Respondent proved unless the Bar Standards Board has made us sure that the case is made out.
9. In the absence of the Respondent no live evidence was called before the Tribunal. There is a statement in the Bundle on behalf of the Bar Standards Board made by Ms. Ramita Sharma dated 9th May 2024 which deals with the procedure followed by the Bar Standards Board to obtain a copy of the judgment of His Honour Judge Harrison to which statement there was no challenge. The case was accordingly dealt with entirely on submissions.

## Charge 1

10. Dealing now with the Charges, the first charge relates to the accounts which the Respondent presented to the Department of Work and Pensions (DWP) on more than one

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occasion between July 2017 and November 2020. The Judge records as part of the narrative that in July 2017 an interview was recorded between the DWP and the Respondent, in which she described suffering from fibromyalgia, dizziness, hemiplegic migraine and anxiety. She said she “uses a crutch when outdoors.” “She will go across the shop by herself. There is nowhere else she would go by herself....she cannot get there as she is still nervous of public transport and cannot walk great distances, this is not due to her mental health (Paragraph 18).” The Judge records that two months later she attended a wedding in London and pictures of her dancing were posted on social media. In 2018 the Defendants had put the Respondent under surveillance and she walked 1 kilometre to exercise classes apparently normally and in February 2018 she was looking after her nephew in the park on one day and taking him shopping on the next day (Paragraph 21). In June 2018 she had a further interview with the DWP during which she is recorded as saying “on good days she can manage her stairs, shower and dress and can walk 2 minutes to go shopping and lean on a trolley for a short while to get items. However, she has a nap in the afternoon due to fatigue.” In August of that year she appears to travel to Scotland by car and in October she went to Switzerland for her 35th birthday (Paragraphs 26-27). In an interview with the DWP in June 2020 she is recorded as saying she “may try to go for a short walk on a good day, about once a week around her local area. Finds she has to stop and rest due to fatigue and pain after walking about two minutes. Walks at a slow pace. On a bad day, about 5 days a week she is unable to leave the house due to pain and fatigue.” On 27th July 2020 the Respondent posted on her social media that she had undertaken and completed the Four Waterfalls Walk in the Brecon Beacons. The walk was described as in part hard over a distance of 5.5 miles taking between 3-4 hours and going on to a strenuous section taking a round trip of 23 minutes with an up and down height of 330 feet. At a further interview with the DWP in November 2020 in a Personal Independence Payment (PIP) Review the Claimant stated “As my conditions fluctuate so much day to day, the amount I can walk varies a lot. On a bad day I will not be able to walk properly from my sofa to the toilet without holding on to the surfaces along the way for support. On a good day I may be able to go for a walk in the local park but will need to take breaks but afterwards I will be so worn out and in pain I will likely end up in bed. This is something I struggle with a lot.” The Judge was critical of the Claimant (Respondent) for

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failing to mention to the DWP at all that she had recently undertaken the Four Waterfalls Walk. In March 2021 she is recorded as saying to the DWP worker “She does try to go for a short walk once a week and will drive to the local park because it is flat. She will complete a 10-minute walk at slow pace but doesn’t need any aids or require any rests.” Under “moving around” it was stated that “the [Respondent] has stated she has to take breaks while walking on the few days she can walk. She also has a history of falls, and even on good days she will walk short distances and will do so at a slow pace.” Having reviewed all the evidence the Judge reached the conclusion that there was a significant difference between the description of symptoms given to the DWP in the summers of 2017 and 2018 and that which is recorded in the surveillance evidence and social media at the time.” He said “I also understand that DWP assessments might encourage her to over emphasise the level of disability. However, I find there to be no comprehensible explanation for the difference in the level of symptomatology contemporaneously complained of to the DWP even on a good day.” He criticised the Respondent for failing to mention the Four Waterfalls Walk to the DWP at her assessment in November (Paragraph 101). Having considered all the evidence he said (Paragraph 105) if the Court is satisfied she has not given a true account of her symptoms to the experts and/or to the DWP whose reports have formed part of the Respondent’s case presented to the Defendants and to the Court then she would have been dishonest in relation to matters that go to the heart of the litigation and therefore fundamentally dishonest. In Paragraph 108 he said he was driven to the conclusion that the Defendants have established on a balance of probability that the Respondent has not presented a truthful account of her symptoms, and he was satisfied she had been fundamentally dishonest (Paragraph 108). That is the evidence upon which the Bar Standards Board rely with regard to the first charge.

## Charge 2

11. As to the second charge the Judge related in his judgment the fact that there were 10 medical experts in the case involving various specialities: orthopaedics, neurology, pain medicine, neuropsychology and psychiatry. He reviewed the reports each had filed over the period between May 2020 until the trial. The judge reported there was a large measure of agreement between the respective experts (Paragraph 62). He said “it is also a

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consequence of the particular feature of this case namely that no organic explanation for symptoms can be put forward. It is therefore agreed that the Respondent's alleged disability can only be explained by psychiatric evidence if at all (Paragraph 62). Both orthopaedic experts agreed there was no orthopaedic reason why the Claimant should be limited in walking mobility and they were not called to give evidence. The neurologists agreed there was no neurological reason for any ongoing symptoms (Paragraph 64); the expert for the Defendant said that having seen the surveillance evidence he considered the Respondent's complaints to be misleading. The neuropsychologists' agreed evidence was that the Respondent had not sustained any cognitive impairment and there was no cognitive reason from a neuropsychological perspective why she could not return to the type of work she did before the accident. The two pain experts (Dr. Miller for the Claimant and Dr. Edwards for the Defendant) agreed that from a pain medicine perspective they cannot attribute any reported symptoms of pain and disability to the accident. The psychiatric evidence was set out in some detail by the Judge as he went through the reports of Dr. Stephen Davies for the Respondent and Dr. Leigh Neal for the defence (see paragraphs 73-88). Having reviewed their evidence the Judge said that Dr. Davies accepted that in order to reach the conclusion the Claimant has Somatic Symptom Disorder (SSD) the Court would have to conclude her account is reliable. Without such a diagnosis the Court is left with a factious disorder or malingering as the only available conclusions and each of these would involve sufficient conscious dishonesty as to require the Court to make a finding of fundamental dishonesty and therefore dismiss the case (see Paragraph 89). In Paragraph 94 he referred to the discrepancies between what the Respondent had said to Dr. Davies in August 2019 and what was recorded on social media. He went through the other activities carried out by the Respondent such as going to Switzerland, going to Italy for the 6 Nations Match, attending a Pink concert and volunteering at the Leeds Festival. He found that the Respondent's account of the symptomatology was "unreliable." He said he was driven to the conclusion that the Claimant had not presented a truthful account of her symptoms to the medical experts in the case and her untruthfulness went to the heart of the case and she had been "fundamentally dishonest."

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### Charge 3

12. The third charge relates to the evidence which the Respondent gave to the Court at the hearing. Clearly there is an overlap here with the matters we have already set out. Suffice it to say that the Judge found her evidence was “fundamentally dishonest.”

### Findings

13. Although the Respondent was not present at the hearing today she had submitted a lengthy letter (see B24-11) setting out her position. She attached to it a number of documents which were before the Judge including statements to the DWP and medical reports. In the letter she said that she had always reported her symptoms honestly, accurately and truthfully. She did not file a statement in the proceedings.
14. The Respondent did not appeal the findings of the Judge. We have all carefully read his judgment and endorse the direction he gave himself regarding dishonesty and referring to the case of *Ivey v. Genting Casinos Limited t/a Crocksfords Club* (2017) 3 WLR 1212. We accept that the judge’s finding in the Respondent’s case were made on the civil standard of proof (the balance of probability). However, we are sure from the compelling evidence given to the judge and his findings that we find this proved to the criminal standard that the Respondent was dishonest and accordingly we find all three charges proved and unanimously agree that the Respondent was dishonest to the DWP, to the medical experts and to the Court and in respect of all three charges find that such dishonesty could be likely to diminish the trust and confidence which the public places in her and/or the profession and reasonably be seen by the public to undermine her honesty and integrity.

### Sanctions

15. Turning now to the sanctions we have to determine the category of case, the seriousness of the misconduct by reference to culpability and harm factors apply aggravating and mitigating factors and consider the totality principle.

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16. The relevant category here is “A” Dishonesty. The relevant factors here are “making false declarations and statements and /or lying. It might also be said that the conduct amounts to a criminal offence involving dishonesty such as perjury/fraud whether the subject of a conviction or not. The conduct took place over a period of time and was serious in that she gave evidence in Court which the Judge found to be dishonest. The harm in this case is the likely undermining of public confidence. We are willing to place it in the middle range category although it is arguably in the upper range. For both categories the sanction is disbarment. There is nothing before us to cause us to consider exceptional circumstances although we recognise the Respondent may have vulnerability.
17. In our judgment the Respondent should not apply to the Bar Standards Board for a practising certificate.

### Costs

18. At the conclusion of the hearing the Bar Standards Board asked for costs. These were sought in the sum of over £2,600. We have no up to date knowledge of the Respondent’s means although we understand from an e-mail dated 30th September (small bundle p 31) she has a part time job. We decided she should pay something towards the costs but took into account the fact she had indicated from 8th July onwards she was unlikely to attend the hearing or in reality contest matters and we accordingly decided that she should contribute £500 plus VAT making £600 towards the Bar Standards Board’s costs. Undoubtedly she can discuss with them the terms of payment if she cannot pay the entire sum at once.

The Treasurer of the Honourable Society of Gray’s Inn is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017.

**11 December 2024**

**HER HONOUR JUDITH HUGHES KC**

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