

# OPUS 2

## INTERNATIONAL

(1)Dr Helle Poulsen (2 )Mr Barry Weller v (1)Specsavers Optical Grp. Ltd (2)Bognor Regis Visionplus Ltd (3)Bognor Regis Specsavers Ltd v (1)Shakila Parham (2)John Parham v (1) Specsavers Optical Grp. Ltd (2)Uckfield Specsavers Ltd

Day 19

January 14, 2014

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Tuesday, 14 January 2014

(10.30 am)

(Proceedings delayed)

(10.35 am)

Housekeeping

MR JUSTICE HILDYARD: Good morning.

MR STUART: My Lord, good morning. I just have one matter

I wish to raise. If your Lordship has volume E1, and the document at page 100, it's the redacted business performance update.

MR JUSTICE HILDYARD: Yes.

MR STUART: Your Lordship may recall that yesterday

Mrs Parham was cross-examined about page 102.

MR JUSTICE HILDYARD: Yes.

MR STUART: Which is the only one with the text showing.

The nature of that cross-examination your Lordship will find in the transcript bundle for yesterday at page 66 and page 67.

MR JUSTICE HILDYARD: Yes.

MR STUART: Your Lordship may recall --

MR JUSTICE HILDYARD: Oh dear, hold on.

MR STUART: Oh. Day 18, I think, if my Lord has it.

MR JUSTICE HILDYARD: I haven't got Day 18's transcript yet.

It's normally put into my file. Is this for my very own, or am I being lent this?

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MR KAISER: (Handed). Lent.

MR TROUT: A copy is on its way.

MR STUART: Your Lordship will see that it all starts off at the bottom of page 64, Mr Potts took the witness to page 102.

MR JUSTICE HILDYARD: Yes.

MR STUART: Mr Potts fairly summarised her case about it at line 23 of 64:

"Question: ... you say this is about looking for errors to break your resistance on Sunday trading ..."

Does your Lordship see that?

MR JUSTICE HILDYARD: Yes.

MR STUART: But then Mr Potts cross-examined her about that, effectively, on the basis that that's not going to be the defendants' case as to what this document is.

If one goes to page 66 at line 8, the question was:

"Question: No. Isn't a more reasonable reading of this document, it's a comment that the retail support team need to provide evidence of any compliance issues, otherwise he is going to move the store off the top 20 list to a separate list, a watching list?"

Does your Lordship see that?

MR JUSTICE HILDYARD: Yes.

MR STUART: Then Mr Potts took the witness to the other document, which is at 112, reference to there being two

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lists, a top 20 and watching lists. Line 20 of 66:

"Question: Do you see there are two separate lists, top 20, and he is talking about moving it off this list to a watching list?"

Then at the top of page 67:

"Question: Yes. What he is saying is they either need to provide evidence of compliance issues, otherwise we will move to watch stores. He is talking about moving it off this list on to something else?"

Then the next question down:

"Question: Then separately, there is a reference about no evidence on compliance issues by the RST.

Isn't that consistent with the reference to no paper trail? What he is saying is if they have not got evidence to support these issues, he will move it off to another list. Do you see that? It's not suggesting that they shouldn't create a -- that there must be no paper trail. He is saying if there isn't anything justifying a compliance issue, he is going to move it off this list."

Does your Lordship see that?

MR JUSTICE HILDYARD: Yes.

MR STUART: So, your Lordship will understand the importance of page 102. I hadn't, prior to that line of questioning, understood that that was going to be

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suggested, that that is what this list is or does, and

in order to see whether that explanation of it, given by Mr Potts, that explanation of the meaning of the list, the effect of the list, I would like to see the sections that are blacked out, not the names, I don't need to see the confidential names of other stores on the list, but I need to see the comments and the issues parts, and I need to see it at a time which enables this witness to comment upon it if appropriate. So I would like to see unredacted the sections of that list which show comments and issues.

MR JUSTICE HILDYARD: Yes. I mean, I feel that I am being a bit silly about this. I remember as the evidence was given feeling a little bit confused as to the two lists. One is a performance list and one is a "naughty boy" list, is it?

MR STUART: Your Lordship has the understanding that I had from the way Mr Potts was putting it. One is a performance list, ie --

MR JUSTICE HILDYARD: Stars.

MR STUART: -- "you want to be on the top 20, don't you?"

If you can't show that you have complied with a compliance issue, you are going to be dropped off that, and you are down a level to a watch -- and that was exactly how I understood the cross-examination.

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1 Whereas this witness's evidence was, as Mr Potts  
2 summarised it at the beginning of his cross-examination,  
3 she says this is a list, this is a hit list, these are  
4 the top 20 on Mr Clark's hit list, people who he is  
5 going to -- who he -- who Specsavers have a problem  
6 with, and want to do something about.  
7 MR JUSTICE HILDYARD: Yes. I see.  
8 MR STUART: It's that fundamental difference between: is  
9 this a top 20 list, or is it a hit list, and does one  
10 move down to the watching list, or does one move off  
11 this list on to the watching list? That's why I would  
12 like to see the issues and comments section to see what  
13 this list actually is.  
14 MR POTTS: My Lord, I wasn't suggesting that the top 20 was  
15 a kind of: these are the best stores list.  
16 MR JUSTICE HILDYARD: No.  
17 MR POTTS: What I was suggesting, you see this at page 65,  
18 the point is what I was saying is: this is not a report  
19 just about Sunday trading, it's about compliance and  
20 other issues.  
21 MR JUSTICE HILDYARD: Yes.  
22 MR POTTS: So potential problems, yes, not potential stars.  
23 I wasn't suggesting --  
24 MR JUSTICE HILDYARD: The top 20 is non-compliance?  
25 MR POTTS: Issues where there are compliance and other

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1 issues, yes, was what I put and not just about --  
2 MR JUSTICE HILDYARD: They are on watch but they are not on  
3 the watch list. What is the watch list?  
4 MR POTTS: Yes I was referring to the fact, my Lord, that  
5 there was top 20, I wasn't suggesting that this was the  
6 stars of the group.  
7 MR JUSTICE HILDYARD: No, I understand, I have that wrong,  
8 which is why I said I've been silly, and obviously  
9 I have been. But the list, the top 20 list is a list of  
10 people who, on many possible non-compliance issues, are  
11 under surveillance.  
12 MR POTTS: I wouldn't say under surveillance, my Lord, no.  
13 Mr Clark is saying that there are issues, he has  
14 commented and he refers to them having issues.  
15 MR JUSTICE HILDYARD: Yes, but the only point with that is  
16 to see how they go with respect to those issues.  
17 MR POTTS: My Lord, yes, because the issue was about the  
18 paper trail point, and what was said was that this was  
19 an instruction that there should be no paper trail in  
20 relation to Uckfield, that's what Mrs Parham's  
21 evidence -- and I was pointing out that in both columns,  
22 if you read them together, what it says is:  
23 "The RST team need to provide evidence of any  
24 compliance issues, otherwise move to watch lists."  
25 So I was suggesting that in fact rather than it

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1 being an instruction not to create a paper trail, it was  
2 just a comment that if there wasn't a paper trail it  
3 would be moved to another list. That's as far as it  
4 went.  
5 MR JUSTICE HILDYARD: I still find it a little bit elusive.  
6 No doubt it will become clear in due course. Anyway,  
7 the application is to see the blanked out bits. What do  
8 you say about that?  
9 MR POTTS: As I understand it, my Lord, the document is  
10 both -- it's headed "Legally Privileged  
11 Communication" --  
12 MR JUSTICE HILDYARD: Headed, yes, but on what ground is it  
13 possibly -- I mean, neither David Clark nor Derek Dyson  
14 are lawyers, are they?  
15 MR POTTS: I don't believe that they are, my Lord.  
16 MR JUSTICE HILDYARD: No.  
17 MR POTTS: But there is also confidentiality issues as well.  
18 MR JUSTICE HILDYARD: But that's not a head of privilege, we  
19 all know that.  
20 MR POTTS: It's not, my Lord, but confidentiality documents  
21 have been redacted in this case.  
22 MR JUSTICE HILDYARD: Yes, but then that's always a matter  
23 of balance.  
24 MR POTTS: Of course.  
25 MR JUSTICE HILDYARD: What I worry about, and you can set my

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1 mind at rest, is that in some way the heading "Legally  
2 Privileged Communication" has guided, in which case it  
3 may have guided on a completely false basis. Is it  
4 maintained that this is a privileged document?  
5 MR POTTS: My Lord, my friend has just raised it with me  
6 before --  
7 MR JUSTICE HILDYARD: I am sorry. I always imagine that you  
8 have had discussions between you.  
9 MR POTTS: No.  
10 MR STUART: My solicitors raised it yesterday orally and  
11 then in writing and then again this morning, and I've  
12 raised it with my learned friend this morning because  
13 this is a matter which I think needs to be dealt with  
14 before Mrs Parham completes her evidence.  
15 MR JUSTICE HILDYARD: I'm not sure I can deal with it now,  
16 because Mr Potts isn't able to tell me. I had, as  
17 a matter of fact, circled this as -- around the legally  
18 privileged communication as being a puzzle.  
19 MR POTTS: Yes.  
20 MR JUSTICE HILDYARD: And a puzzle which may -- it worries  
21 me -- have infected the approach lest it be thought that  
22 confidentiality is a ground of privilege, or sensitivity  
23 may be a ground of privilege, which we all know it is  
24 not.  
25 MR POTTS: No, my Lord, obviously I am aware of that.

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1 MR JUSTICE HILDYARD: It baffles me why a business  
2 performance update, sent by David Clark -- who is  
3 I think in retail -- to Derek Dyson, who is a main board  
4 director, could possibly be privileged. But that may be  
5 a second display of ignorance, I don't know.  
6 MR POTTS: My Lord, we did discuss last term the point that  
7 privilege can include patterns of communication in  
8 relation to advising in relation to commercial matters  
9 as well, and this document does, I hesitate to go too  
10 far into this because I need to take instructions, but  
11 this document as we accept deals with issues and  
12 potential problems. So it's not --  
13 MR JUSTICE HILDYARD: But it would be interesting in itself  
14 if it were, for example, litigation privileged.  
15 MR POTTS: My Lord, legal advice privileged would be  
16 sufficient.  
17 MR JUSTICE HILDYARD: Yes.  
18 MR STUART: But which is claimed? I need to know which is  
19 claimed so I can then make a point about it.  
20 MR POTTS: Well, my Lord, the other point -- I'll take  
21 instructions.  
22 MR JUSTICE HILDYARD: I think you need to take this further  
23 on instructions.  
24 MR POTTS: My Lord, yes. Just on the confidentiality point  
25 in terms of revealing these, each of these items are --

1 plainly I think it is fair -- it is I think clear that  
2 it deals with a different store. So they are separate  
3 and there is confidentiality in relation to each of  
4 those different companies, and in terms of sort of  
5 revealing the balance of the document other than the  
6 name, which is what my friend says, that -- I would have  
7 some hesitation about that not giving rise to  
8 a difficulty over revealing confidentiality, because  
9 it's possible to put two and two together in relation to  
10 material.  
11 MR JUSTICE HILDYARD: I can just say "too bad", can't I?  
12 MR POTTS: Your Lordship can, but there is a concern in this  
13 case, my Lord, in relation to the way in which material  
14 is going out into the wider world, transcripts are on  
15 the website of every day of the solicitors, links have  
16 been sent, as I understand it, to all -- if not all JVPs  
17 in the country in relation to the transcripts.  
18 MR JUSTICE HILDYARD: Right.  
19 MR POTTS: I am afraid, I have to say, that seems to me  
20 fairly unusual, and --  
21 MR JUSTICE HILDYARD: I didn't know that.  
22 MR POTTS: Certainly links have been sent to certainly  
23 I think a very large number, and we do have concerns  
24 about confidentiality in the case and misuse of  
25 effectively of what might amount to --

1 MR JUSTICE HILDYARD: Well, there will be a balance.  
2 MR POTTS: Of course, my Lord.  
3 MR STUART: My Lord, if I can make it clear, any reference  
4 to names anywhere within the document I'm happy to be  
5 redacted just like Mr Raines -- do you remember  
6 Mr Raines' notebooks?  
7 MR JUSTICE HILDYARD: I understand that. With privilege,  
8 it's not a question of privilege, it's a right. With  
9 confidentiality, it's a question of balance. I would be  
10 very sensitive to exposing the -- any confidential  
11 material, the more so if I thought it was given unusual  
12 circularity. So if it was being circulated generally,  
13 of course I would. But it would be a matter of balance.  
14 Privilege, on the other hand, is something which  
15 I can't --  
16 MR POTTS: My Lord, privilege is a right and  
17 confidentiality, I accept, my Lord, is a balance.  
18 I just do make the point there are very real concerns  
19 about confidentiality in this case, given the  
20 circumstances, it is a very unusual circumstance to have  
21 transcripts dealt with in that way.  
22 MR JUSTICE HILDYARD: Yes.  
23 MR POTTS: And indeed I think there have been other matters  
24 in terms of the press, matters being released to the  
25 press in Australia, where Mr Dyson is, and so on, in the

1 last few days. So there are real concerns about  
2 confidentiality.  
3 MR JUSTICE HILDYARD: Well, logistically, how do we deal  
4 with this?  
5 MR POTTS: My Lord, perhaps it would be sensible if I could  
6 take instructions over the short adjournment.  
7 MR JUSTICE HILDYARD: Now?  
8 MR POTTS: No, over the short adjournment, so I could  
9 complete ...  
10 MR JUSTICE HILDYARD: We were going to finish Mrs Parham  
11 within the hour, weren't we? Within the hour and a half  
12 at worst.  
13 MR POTTS: Yes.  
14 MR STUART: Perhaps, my Lord, we could, given she will be  
15 here anyway, if we could -- I don't want to deal with it  
16 after her re-examination, but I am perfectly happy for  
17 my learned friend to finish his cross-examination and  
18 then he can deal with it, if he is able to show me the  
19 documents, then we can deal with them. If he is not,  
20 then we will have to have a short argument about it.  
21 MR JUSTICE HILDYARD: Are you content with that?  
22 MR POTTS: My Lord, yes, we will see how we go, I am quite  
23 keen to press on.  
24 MR JUSTICE HILDYARD: Can I just ask one thing: is there any  
25 witness who explains what the top 20 list is?

1 MR POTTS: My Lord, I am not sure.  
 2 MR STUART: Mr Clark is not coming to give evidence,  
 3 my Lord.  
 4 MR JUSTICE HILDYARD: No.  
 5 MR POTTS: Mr Dyson of course is here, and is of course  
 6 subject to -- will be subject to cross-examination.  
 7 MR JUSTICE HILDYARD: Yes. But there is no witness who has  
 8 given evidence-in-chief about this?  
 9 MR POTTS: I don't think so, my Lord, no. But he is here.  
 10 MR JUSTICE HILDYARD: All right.  
 11 MR POTTS: May I press on?  
 12 MR JUSTICE HILDYARD: Yes.  
 13 Mrs Parham, I'm so sorry for that interruption, and  
 14 we will now continue with your evidence; more important  
 15 than our discussion.  
 16 MR POTTS: My Lord, if we are just dealing with privilege,  
 17 may I mention one other matter?  
 18 MR JUSTICE HILDYARD: Yes.  
 19 MR POTTS: Mr Parham mentioned that he had, I think you may  
 20 recall, boxes of documents which he said he had, which  
 21 were Specsavers documents, which were in his either,  
 22 I think, attic or shed. We have been making enquiries  
 23 about this and requests for those were made on Thursday  
 24 and Friday. The response back is that these documents  
 25 have not been disclosed because it was considered that

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1 they were our documents and therefore there was no  
 2 obligation of disclosure in relation to them.  
 3 MR JUSTICE HILDYARD: Right.  
 4 MR POTTS: Now, that raises two concerns. The first point  
 5 is it's just plain wrong, because they are in his  
 6 physical possession. The second point of concern it  
 7 raises is as to the understanding that he has in  
 8 relation to his disclosure obligations and what  
 9 explanation has been given to him. We have asked for  
 10 them to be provided, those boxes, so that we can inspect  
 11 them. It does raise a concern about the general scope  
 12 of disclosure, that if that was considered  
 13 an appropriate objection to disclosure. I am sure --  
 14 I assume it should be straightforward. We did ask for  
 15 them to be brought today, I don't believe they have.  
 16 MR JUSTICE HILDYARD: Is this something I can --  
 17 MR STUART: I don't have any instructions, my Lord, at the  
 18 moment. Mr Potts didn't even tell me he was going to  
 19 raise this issue. I would have taken instructions had  
 20 I known.  
 21 MR POTTS: I wasn't going to --  
 22 MR JUSTICE HILDYARD: All right. You have a disclosure  
 23 point, and so's he, and we will return to it and get on  
 24 with Mrs Parham.  
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1 MRS SHAKILA PARHAM (continued)  
 2 Cross-examination by MR POTTS (continued)  
 3 MR POTTS: Yes. Mrs Parham, just one matter, please: can  
 4 you turn up the transcript from yesterday, Day 18,  
 5 page 201?  
 6 A. Yes. Line?  
 7 Q. Just at the bottom of the page, you refer to a -- this  
 8 is in relation to the cleaner, the cleaning services,  
 9 okay, Myhome?  
 10 A. Yes.  
 11 Q. Just for the context. You refer at the bottom about  
 12 advice to a partner brief, which is the May 2008 partner  
 13 brief which we looked at yesterday; do you remember that  
 14 document?  
 15 A. That's right.  
 16 Q. Okay. What you say in your witness statement is that  
 17 you were encouraged to get the company to pay for your  
 18 home cleaner as a result of that briefing note, that  
 19 partners' brief; correct?  
 20 A. What I say on the partners' brief is that benefits in  
 21 kind --  
 22 Q. No, I am just saying in your witness statement you said  
 23 you were encouraged to do it in this way because of that  
 24 document; correct?  
 25 A. Yes, correct.

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1 Q. I pointed out to you that that was a different  
 2 explanation in relation to expenses than had been given  
 3 by you in front of the ET. Do you remember that? Which  
 4 was you said it was a benefit in kind, and you didn't  
 5 refer to the partner brief?  
 6 A. No, as I said, the home cleaning is a business related  
 7 expense, that's how I saw it. I didn't misrepresent it.  
 8 So, like I said, the storage, the office, that's how  
 9 I saw it, the business relation to my business. The  
 10 benefits in partners' 2008 guide, yes, you can have  
 11 personal benefits, but how I saw it was that the home  
 12 cleaning was a business one, like my nursery fees.  
 13 Q. The point you made in relation to the reason why you  
 14 didn't refer to the partner briefing in your ET witness  
 15 statement is at lines 17 to 21, because you said that --  
 16 A. I'm not going to comment on anything on the ET. We  
 17 didn't have full extensive disclosures, Mr Potts, so  
 18 I didn't get the partners brief --  
 19 Q. Right, that's what I am asking you. You say at lines 17  
 20 to 21 that you have had more extensive disclosure,  
 21 because you are saying that you didn't have that  
 22 document at the time of the ET; is that right?  
 23 A. No. Even at the time of the Myhome in 2008 --  
 24 Q. No, can you just listen to my question, please,  
 25 Mrs Parham?

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1 A. Sorry.  
 2 Q. You were saying that you didn't have that document --  
 3 the reason you didn't refer to it at the time of your ET  
 4 claim is because you didn't have that document in  
 5 disclosure; is that right?  
 6 A. What I am saying to you is, without that partners'  
 7 brief, even before the ET, how I saw it, that the Myhome  
 8 is a direct relationship to the business, an extension  
 9 of the store --  
 10 Q. You're not asking --  
 11 A. It's got nothing to do with the partners' brief, that's  
 12 how I saw it. Specsavers could have questioned it, and  
 13 that would have been the end of that.  
 14 Q. You are not answering my question again, Mrs Parham.  
 15 Let me just ask it again.  
 16 The evidence you gave yesterday was that the reason  
 17 you didn't mention the partner brief as a reason or  
 18 something you relied upon at the time, at the time of  
 19 your ET claim, was because you hadn't had disclosure?  
 20 A. Why do you keep going back on the ET claim? I tell you  
 21 as it is now, since 2008 --  
 22 Q. No, Mrs Parham, I am not asking you about now --  
 23 A. Well, I'm not -- I disagree. I disagree.  
 24 MR JUSTICE HILDYARD: Mrs Parham, I think we will move  
 25 quicker and more fairly if you listen carefully to the

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1 question and then address your answer to it. I think  
 2 what you are being asked is this: yesterday I think you  
 3 told me that it was the partners' brief which had  
 4 encouraged you to treat these expenses in a certain way,  
 5 and you are being asked whether you had the partners'  
 6 brief at that time.  
 7 MR POTTS: No, my Lord, the point was that -- your Lordship  
 8 is right, your evidence was that you were encouraged to  
 9 treat it in this way because of the partners' brief, and  
 10 that is what you say in your witness statement for these  
 11 proceedings, correct?  
 12 A. That's correct.  
 13 Q. Right. The point I put to you yesterday was that in  
 14 your evidence for the ET you did not refer to the  
 15 partners' brief as being a reason for the way you  
 16 treated the expenses; correct? That's the first point.  
 17 A. Right.  
 18 Q. Do you accept that?  
 19 A. But as I said, at the 2000 -- yes, correct.  
 20 Q. I am asking you about the time at the ET, yes. The  
 21 second point you made was in justification for the  
 22 reason, your explanation as to why you hadn't referred  
 23 to it at the time of your ET evidence was because you  
 24 had not had disclosure of the document; correct?  
 25 A. No, incorrect. As I always saw it, the Myhome cleaning

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1 expense claim was a business related expense, and that's  
 2 when I set up the direct debit, Specsavers set up the  
 3 direct debit for me.  
 4 Q. Mrs Parham, I think you do actually understand the  
 5 question I'm asking you. If you look at lines 17 to 21  
 6 of page 202, the explanation, I put the point to you,  
 7 the inconsistency in your case, compared to what you  
 8 said at the ET and what you say now, and your  
 9 justification for the change and the new reference in  
 10 your evidence to the briefing note, was because you say  
 11 that there was new disclosure, and I think what you are  
 12 saying is that the briefing note, you didn't have the  
 13 briefing note at the time of the ET claim and you have  
 14 looked at it afresh.  
 15 A. What I did have was the nursery fees. I connected it  
 16 with the nursery fees. That was set up in 2003 on the  
 17 same understanding that it was released -- any domestic  
 18 chores were released so that I could actually be more  
 19 source to the business. That's how I looked at it, at  
 20 the back of the nursery fees that were set up. I did  
 21 not realise when that was set up --  
 22 Q. Mrs Parham, that was not your evidence yesterday, at  
 23 page 202, lines 17 to 21. The explanation you gave as  
 24 to why this wasn't referred to in your evidence for the  
 25 ET was because you say:

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1 "Answer: ... because we have [had] more  
 2 extensive disclosures ... we didn't [have] all the  
 3 information ..."  
 4 A. But as I said, I understood it, with the nursery fees it  
 5 was the same connection, both of those released me more  
 6 time to do the domestic chores so that I can be directly  
 7 related to the business, it was how I saw it, related to  
 8 the business, that's how I saw it, it wasn't  
 9 misrepresenting anything.  
 10 Q. I am not asking you about misrepresentations,  
 11 Mrs Parham, I am just asking you as to the explanation  
 12 you --  
 13 A. No, you're asking --  
 14 Q. Just please listen to my question, and then see if we  
 15 can get through this point. The evidence you gave  
 16 his Lordship yesterday was the justification for you not  
 17 referring to this partner briefing at the time of the ET  
 18 claim but only now is because you had not had it  
 19 disclosed to you at that time?  
 20 A. Correct.  
 21 Q. Right. Now could you turn up, please, E1, page 95?  
 22 That's the document which we are talking about; correct?  
 23 A. Let me read it.  
 24 Q. This is the briefing document, the May 2008 document;  
 25 yes?

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1 A. (Pause) Yes.  
 2 Q. The point I'm putting to you, if you look at the bottom  
 3 of the page, it's not terribly clear but there is  
 4 a manuscript number in a circle. We have looked at  
 5 a number of documents which were from the ET bundle  
 6 which have pagination in manuscript in a circle at the  
 7 bottom of the page. The point I'm putting to you is  
 8 that in fact this document was disclosed at the time of  
 9 the ET claim and it was in the bundle; okay? That's the  
 10 position. Do you understand that? So your --  
 11 A. That's what you are saying. I won't remember that.  
 12 Q. Well --  
 13 A. I won't recollect that. That's what you are saying,  
 14 that was in the ET.  
 15 Q. The point is, Mrs Parham, is that you did have this  
 16 document disclosed at the time, and the fact is that you  
 17 have changed your evidence now in order to try and come  
 18 up with a more convincing answer?  
 19 A. That's incorrect, I disagree. At any time, Mr Potts,  
 20 Specsavers could see that that said "Myhome". Where did  
 21 it actually say -- they could have, as I said, picked up  
 22 that I put that as a business code, they could have  
 23 picked up the phone and said "What is this for?" That's  
 24 how I saw it. At any time, at any point, them acting as  
 25 my agents, I was not deceiving them or misrepresenting

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1 anything. That's how I believe that I was able to do  
 2 that as a business expense, and show that. You know,  
 3 storage, office, that's all it was.  
 4 Q. Mrs Parham, that long answer you have just given has  
 5 absolutely nothing to do with what I have just been  
 6 asking you about, but shall we move on? You can put the  
 7 transcript away, please.  
 8 Can you turn to page 137?  
 9 A. Of?  
 10 Q. H, sorry. That's a schedule of flowers ordered from  
 11 The Flower Shop Uckfield?  
 12 A. Correct, yes.  
 13 Q. We went through this with your husband, do you remember,  
 14 you were in court?  
 15 A. Correct.  
 16 Q. You remember your husband's statement said that he  
 17 bought flowers fairly regularly, do you remember --  
 18 A. Well, from 2006 right from 2011.  
 19 Q. I am just saying his witness statement, I can take you  
 20 to his --  
 21 A. Over the years.  
 22 Q. Paragraph 75 of his witness statement says he has bought  
 23 flowers fairly regularly through the store?  
 24 A. Correct.  
 25 Q. Your witness statements, you don't choose to mention

22

1 that you ordered any flowers and got the company to pay  
 2 for them, do you?  
 3 A. No, because that was my husband's witness statement, we  
 4 didn't repeat everything that's on mine and his.  
 5 Q. The fact that you ordered flowers as well and put them  
 6 through the business is relevant, isn't it?  
 7 A. Correct. It's the same. Both of us, husband and wife,  
 8 we didn't have to repeat everything in my statement  
 9 that's on his.  
 10 Q. Was the lack of mention in your witness statement  
 11 because you were seeking to distance yourself from this  
 12 issue?  
 13 A. No, not at all. Not at all. I disagree. It's the  
 14 same. There is no point in repeating the same in my  
 15 witness statement on his. It was 100 per cent, you  
 16 know, one sole director partnership, that's how we saw  
 17 it.  
 18 Q. Okay. Could I ask you just to turn forward to H/155?  
 19 That's April 2008. It's annotated "waiting area".  
 20 Whose annotation was that?  
 21 A. That's John's.  
 22 Q. That's your husband's, okay. 156, 1 June.  
 23 A. Yes, I see that, that's mine.  
 24 Q. That's initialled by you?  
 25 A. That's correct.

23

1 Q. And you are distinguishing there, between shop floor and  
 2 staff leaving; correct?  
 3 A. Yes, correct.  
 4 Q. Are you saying that those were displayed on the shop  
 5 floor?  
 6 A. That's correct, and the only person that you ask on the  
 7 hearsay evidence is Noel Whittaker, and Noel Whittaker  
 8 is our lab technician so he is never on the shop floor.  
 9 You should have asked all the rest of the staff.  
 10 Q. He walks into the shop, though, doesn't he?  
 11 A. Yeah, but you know, this, Noel Whittaker, the lab is at  
 12 the back of the shop. 2008, that one he wasn't even  
 13 there.  
 14 Q. On 1 June 2008?  
 15 A. This one is 7 -- yeah, 156. But --  
 16 Q. Sorry, are you saying he was there or he wasn't there?  
 17 A. Actually, he was there --  
 18 Q. Yes.  
 19 A. -- at that point, he was there.  
 20 Q. So on the shop floor, would he walk through the shop  
 21 floor to get to the --  
 22 A. Why don't you ask all the rest of the staff?  
 23 Q. Could you answer my question, please, rather than asking  
 24 them?  
 25 He would have walked through the shop floor to get

24

1 to the lab, wouldn't he?  
 2 A. That's right.  
 3 Q. So if there were flowers in the store he would have seen  
 4 them?  
 5 A. Yeah, it -- that's right, if he was there. But he had  
 6 to walk through the shop, but as I said he is at the  
 7 back of the shop. So yes, he would --  
 8 Q. It's not a massive building, is it, Mrs Parham, it's  
 9 a small shop?  
 10 A. We are a very small shop, yes.  
 11 Q. And he would have walked through the shop to get to  
 12 them?  
 13 A. Correct.  
 14 Q. So he would have seen them --  
 15 A. Yes.  
 16 Q. -- if they were there?  
 17 A. But he is our lab technician, so I am surprised in the  
 18 hearsay that Mel McAlindon could have asked the rest of  
 19 the staff.  
 20 Q. So you are saying he is wrong about that, when he said  
 21 that they --  
 22 A. No, he is not wrong --  
 23 Q. When he said that they --  
 24 A. He could have, I am surprised that Mel McAlindon didn't  
 25 ask all the staff that was on the shop floor, because

1 Noel Whittaker's statement says he didn't see any, so  
 2 why he didn't see any if he has come through the shop  
 3 like you just said?  
 4 Q. He said that flowers were not on display in the store.  
 5 Are you saying that's wrong?  
 6 A. That's wrong, yes, I agree, that's wrong.  
 7 MR JUSTICE HILDYARD: When did Mr Whittaker start working  
 8 for you?  
 9 A. I think about beginning of 2008.  
 10 MR JUSTICE HILDYARD: Beginning of 2008.  
 11 A. Yes.  
 12 MR POTTS: So 155, when it says "Waiting area,  
 13 April 2008" --  
 14 A. You have taken me to that one already.  
 15 Q. He was working for you then?  
 16 A. Yes.  
 17 Q. Previous, 154 "1 March 2008, store"?  
 18 MR JUSTICE HILDYARD: Perhaps it's fairer to the witness to  
 19 say the dates applied unless they were very long-lasting  
 20 flowers, but it may make no difference.  
 21 MR POTTS: I am sorry, my Lord?  
 22 MR JUSTICE HILDYARD: It may be fairer to test by reference  
 23 to the date on which the flowers were supplied, but it  
 24 is probably the same answer.  
 25 MR POTTS: Sorry, my Lord, quite right, 7 February.

1 12 February 2008, at page 154.  
 2 A. No, I don't think Noel was there then.  
 3 Q. You don't think he was there then?  
 4 A. No.  
 5 Q. What about 13 March?  
 6 A. I can't be exact of Noel's starting date.  
 7 Q. Okay. 153, there is a reference, will you are saying he  
 8 was not there, there is a distinction between someone's  
 9 birthday and then flowers for the store; correct?  
 10 A. Yeah, Dee -- Deborah Pilbeam was our staff there, and  
 11 yeah, for store that could have been customer, that  
 12 could have been anything we saw it.  
 13 Q. It could have been a customer, it could have been  
 14 anything?  
 15 A. Yeah.  
 16 Q. It doesn't mean display?  
 17 A. That's correct, it's business related.  
 18 Q. At 160, it refers to a hand tie, supplied on 20 June.  
 19 A. Yes, I can see that.  
 20 Q. I obviously don't order flowers enough, I should have  
 21 referred to the date of supply. 20 June, hand tie, do  
 22 you remember what that was for?  
 23 A. No.  
 24 Q. This document isn't signed by you or your husband, is  
 25 it?

1 A. Yes, so that's a compliance issue, accounts department  
 2 could have picked that up. These get sent to them and  
 3 get rejected.  
 4 Q. It's not stamped with the store stamp, is it, either?  
 5 A. No, we don't use the store stamp. Well, you have to ask  
 6 John about this, because John does the administration.  
 7 Q. Does that mean that you understood, because this is not  
 8 signed or stamped, this to be a personal invoice which  
 9 should not be paid by the company?  
 10 A. Well, as I said, you have to ask John all that  
 11 because --  
 12 Q. I am asking your understanding.  
 13 A. I understood we didn't have a store stamp, okay, this  
 14 has not got a description on it, so how I understood it,  
 15 that it didn't have a description on it, it  
 16 automatically gets put down as a P11D. Looking at the  
 17 disclosures, I can see that Specsavers, if it hasn't --  
 18 I didn't realise, if there is one rejection on flowers,  
 19 if it hasn't got the Specsavers logo on, it, I don't  
 20 know how flowers can have no logo on it, but it gets  
 21 rejected. So Specsavers accounts team are looking  
 22 through each and every invoice.  
 23 Q. The point I'm asking you, Mrs Parham: is it your  
 24 understanding that if you sent through an invoice to the  
 25 accounts payable department to be paid by the company



1 but you didn't sign it or stamp it, that you understood  
 2 that therefore what you were telling them was that this  
 3 was a personal expense?  
 4 A. Yeah, well, how I understood it, if you don't put  
 5 a description on anything, a business or personal, it  
 6 gets automatically put down as personal.  
 7 Q. So if you chose not to do that, therefore you were  
 8 telling them that this was in fact personal and not  
 9 business; is that right?  
 10 A. Well, I would expect them to query it or they would just  
 11 reject it. When any of all the invoices go through,  
 12 with the flowers, with the description, say like this  
 13 hand tie, and it's not explained what it is -- you know,  
 14 if it is business related, then it will get put straight  
 15 through as a P11D.  
 16 Q. Your husband's evidence was it was the fact of him  
 17 signing it or stamping it that meant that --  
 18 A. That's what he would do, because he would do all the  
 19 administration.  
 20 Q. -- therefore it was intended by him to be a personal  
 21 expense; is that right?  
 22 A. No, I disagree.  
 23 Q. That was his evidence. That wasn't your understanding  
 24 as to how the system worked?  
 25 A. No.

1 Q. So what was your understanding of the system? That was  
 2 his evidence to the court and you were in court at the  
 3 time?  
 4 A. Correct.  
 5 Q. Are you saying that wasn't your understanding of how it  
 6 worked in terms of stamping and labelling?  
 7 A. How I -- if I put anything through, through The Flower  
 8 Shop, that was for customers, friends, that were  
 9 patients of ours, the code I would put it as ... John  
 10 did mainly, most of the accounts, but how I understood  
 11 it is I put a description in, and you know, it's  
 12 business related, that's how I saw it, and at any time  
 13 that Specsavers felt that it wasn't business related  
 14 they could pick up the phone and ask me.  
 15 MR STUART: My Lord, I hesitate, but I have just re-read the  
 16 question that was put, and Mr Potts said that  
 17 Mr Parham's evidence was that if he signed or stamped  
 18 it, it was a personal expense, whereas my clear --  
 19 MR POTTS: Sorry, I meant business.  
 20 MR STUART: I know, but you said personal.  
 21 MR POTTS: I am not sure the witness understood me to be  
 22 saying -- I am sorry --  
 23 MR STUART: Well, she heard your question.  
 24 MR POTTS: -- if I confused. I will ask the question again.  
 25 His evidence was that if he stamped --

1 A. He didn't have the stamp.  
 2 Q. -- or signed by putting the numbers, the store numbers  
 3 on it, that that was communicating that this was  
 4 intended to be a business expense, and that if he didn't  
 5 label an invoice which he sent to Specsavers, that it  
 6 was intended to be a personal expense?  
 7 A. Correct.  
 8 Q. He was intending it to be a personal expense; is that  
 9 right?  
 10 A. Correct.  
 11 Q. Are you saying that because this document, that was your  
 12 understanding as well, that if it wasn't signed with the  
 13 store number or a stamp, that it would be -- that he was  
 14 communicating that this was a personal expense?  
 15 A. Well, we always understood that if anything didn't have  
 16 a description on it, or we didn't use the stamp, we  
 17 would always sign it, it would automatically go as  
 18 a P11D.  
 19 Q. Forget the description, his evidence was it was the  
 20 signing of it with the, I think he put his store number?  
 21 A. Correct.  
 22 Q. Or his unique code number, or some other stamp which had  
 23 the same numbers on it?  
 24 A. Well, I never recollect a stamp. So when I did things,  
 25 it was always by signature, so that's John's account

1 of -- he did the majority of the administration.  
 2 I can't remember the stamp.  
 3 Q. Or the signing of the numbers. This one doesn't have  
 4 numbers on it either, does it?  
 5 A. No.  
 6 Q. Are you saying that you would have therefore understood  
 7 this to have been intended to be a personal one --  
 8 A. I don't know why that's not been -- I don't know why --  
 9 Q. -- or was it just that someone has forgotten to sign it?  
 10 A. Yeah, either way.  
 11 Q. Which is it? They are different.  
 12 A. If that hasn't got a signature on it, I assume, because  
 13 that hasn't got a signature on it, that must have been  
 14 personal.  
 15 Q. I see. Can we turn to 161?  
 16 A. That's John.  
 17 Q. But he hasn't signed that, and he hasn't put his numbers  
 18 on it either, has he?  
 19 A. He has put a description on it, that's business related.  
 20 Q. But there is no stamp?  
 21 A. Yeah, as I said, we don't have a stamp.  
 22 Q. And he hasn't signed it?  
 23 A. Yeah, but he has put a description on that, so that's  
 24 how -- a business description. The other one didn't  
 25 have a business description at all. All of the rest,

1 that you can see, the different descriptions written  
 2 down on all of them, what it's for, and then there is  
 3 some that hasn't got any.  
 4 Q. 162, where it says "Store", that was your birthday?  
 5 A. That's correct. There is nothing wrong with that, I'm  
 6 an employee of Uckfield.  
 7 Q. Isn't the reality, Mrs Parham, that you appreciated that  
 8 the green bag system, that if you were submitting  
 9 a third party invoice to the accounts payable department  
 10 for the company to pay, that that was for business  
 11 expenses only and by sending them the invoice for the  
 12 company to pay, you were telling them that this was  
 13 a company expense?  
 14 A. No, that's not true. You have had kitchen appliances,  
 15 as I've said, through the business, and that's  
 16 a personal expense. So that goes through. We have had  
 17 gym fees go through. So a third party supplier could be  
 18 business or personal. It's how you put the description,  
 19 how you -- everything that was business was business and  
 20 everything that was personal was personal. If there is  
 21 no description, how I understood it, it automatically  
 22 goes as a P11D. So third supplier was not just for  
 23 business, it could be used for personal, but as long as  
 24 you write, put the correct description of what it's  
 25 generally for. If it's business related, you write the

1 description. Just how we saw it, that it went to  
 2 patients or staff or friends, if that was incorrect for  
 3 a business, it was not showing a direct benefit to the  
 4 business, then automatically the accounts department  
 5 would not sanction it and put it into our P11D, which  
 6 they have done in the past. There is, as I said, I've  
 7 seen in disclosures where they have not sanctioned it  
 8 because it hasn't got the company logo.  
 9 Q. Isn't the reality that you and your husband were happy  
 10 to order flowers for yourselves and to get the company  
 11 to pay for them?  
 12 A. 2006 --  
 13 Q. And you were also happy not to pay personal income tax  
 14 on that?  
 15 A. That's totally incorrect. Like I said before, I don't  
 16 understand tax at all, but what I do know, the little  
 17 I do know, company tax and personal tax, even -- what  
 18 was business related had to pay for the company tax. If  
 19 Specsavers disallowed it, it would go back into and out  
 20 of our distributable profits anyway. So how  
 21 I understood it, we put the correct information down,  
 22 what we believed was a business expense, and then we  
 23 send it off, it's the accounts department or the -- them  
 24 being our business tax agents, who will then decide that  
 25 that is not a direct business related expense. Ie if

1 they felt a staff or a customer or a friend was not  
 2 business, direct business related how I understood it is  
 3 that they would put the correct coding. They were the  
 4 ones who do the code. Every single one, we don't do the  
 5 code, as long as we get this information correctly.  
 6 That's what we did.  
 7 So on page 160, because there is no description at  
 8 all, how would accounts department know -- you are  
 9 right, how would they know what's that for? So all they  
 10 have to do is either pick up the phone or reject it. We  
 11 never question any rejections.  
 12 Q. Isn't the reality that if you are sending through to  
 13 them for the company to pay, the logical assumption in  
 14 relation to supplying a third party invoice is that  
 15 these are flowers for the store, that's what they would  
 16 have thought?  
 17 A. No, no, if the description -- if there is no description  
 18 on it, then it will go straight on a P11D. They have to  
 19 have the description to know what it's for. So if we  
 20 put down "for the store" they know it's for the store.  
 21 If they are saying -- we put down the patient's name or  
 22 Deborah Pilbeam or someone they don't know, they say  
 23 "Well, that's not business related, we will reject it".  
 24 They have done it before, Mr Potts, so they can't say  
 25 now that they only do a few and not the others. In the

1 disclosure it shows they rejected it. The information  
 2 we have given them is exactly how we saw it, and as  
 3 I said, at any point they can reject it. Because I am  
 4 not a tax expert, I didn't realise that, you know, it's  
 5 got to be directly involved to the business. When  
 6 I send things off to like, flowers to Hammersmith, say,  
 7 another director, Rita Francis or Chris Howarth, another  
 8 store, that's how I wrote it down. So at all times --  
 9 that's how I saw it. Another Specsavers was business  
 10 related, but it obviously wasn't. So they could have  
 11 just rejected it. But I didn't realise that from branch  
 12 to branch that was not business related. That's how  
 13 limited tax knowledge I knew.  
 14 Specsavers do the accounts for us, I don't do the  
 15 company accounts, so the information I give, I rely on  
 16 them, the trust on them, to put it right.  
 17 Q. They are not in the store, are they?  
 18 A. They are not in the store, so they rely on my  
 19 information to be genuine, and I understand that, that  
 20 the description is, there, if it says a patient's name  
 21 that is not a staff, then they would pick up the phone  
 22 and say, "Look, this is not business related".  
 23 Q. Forget the patients, there were flowers being bought  
 24 here, ordered by your husband and yourself for each  
 25 other?

1 A. No, we are employees of Uckfield --  
 2 Q. You don't disclose --  
 3 A. This is not weekly --  
 4 Q. -- that the flowers are for you, do you?  
 5 A. Mel McAlindon was taken -- in his hearsay evidence to  
 6 the staff that we were ordering it weekly for home.  
 7 That's ridiculous. When was it weekly for home? 2006  
 8 to 2011. If we were doing all this incorrect for five  
 9 years, why was it an issue only now in 2011 when we were  
 10 kicked out? That's what I want to know. Why wasn't it  
 11 an issue of compliance raised before? You know, what  
 12 I thought I was buying into, I pay a management fee to  
 13 Specsavers to give me guidance, remedy any failings that  
 14 I do, they help me to remedy it.  
 15 Q. You do --  
 16 A. They obviously can see that if we are not doing the  
 17 description right, all these, it's got "no description,  
 18 no signature", why do they know it's a compliance issue.  
 19 Q. You do accept that you and your husband received flowers  
 20 which were paid for by the store company; correct?  
 21 A. Yeah, as an employee, gifts on a birthday, a birthday is  
 22 once a year, this is not weekly, this is not -- you  
 23 know, displaying in my home every week, like  
 24 Mel McAlindon put forward to the staff, well,  
 25 Noel Whittaker.

1 Q. Can I take you to E2/445, please? This is a note  
 2 prepared, I think, by your sister or you of a meeting  
 3 you had on 30 March 2011 --  
 4 A. Correct.  
 5 Q. -- with Mr McAlindon. If you go down to the second  
 6 holepunch, I think some of this document isn't  
 7 necessarily accepted as an accurate --  
 8 A. Yeah, that's convenient.  
 9 Q. -- account.  
 10 A. That would be convenient, wouldn't it, because Mel calls  
 11 me --  
 12 Q. Can I put the point to you? There is a reference to  
 13 Mr McAlindon saying "Flowers sent every week to the  
 14 house". Your response was, as you say, rightly so, it  
 15 wasn't every week, it wasn't to the house, but it was  
 16 for occasions to others such as 40th, and you accept  
 17 that you agree that you knew about it; correct?  
 18 A. I have always known about the flowers --  
 19 Q. Is that what you said to Mr McAlindon?  
 20 A. That's correct. But when I say to myself, yes,  
 21 a birthday, once a year.  
 22 Q. Well, let us break that down. The first thing is you  
 23 don't suggest there that flowers were displayed at the  
 24 store, do you? You don't say that at all?  
 25 A. Yeah, because he is implying to me that -- because he's

1 implying to me that this is all personal.  
 2 Q. Can you just answer the question: you don't say to  
 3 Mr McAlindon that flowers were in fact displayed at the  
 4 store, do you?  
 5 A. Well, if Mr McAlindon at that time of the meeting had  
 6 given me everything in advance, the audit report,  
 7 because this is the audit report you are talking about,  
 8 then I could have explained matters more clearly,  
 9 considering that John did 90 per cent of the  
 10 administration, so that we could sit down and work out  
 11 what invoices he was talking about. It was very unfair  
 12 the way he was putting everything forward to me because  
 13 he was treating me already as guilty. I had my  
 14 experience with him on 7 March in the investigation --  
 15 this is the first time he raised flowers to me at that  
 16 meeting, he never raised flowers to me at the 7 March.  
 17 So it was another new allegation.  
 18 Q. I think the answer to my question is that you accept  
 19 that you didn't suggest there that flowers were in fact  
 20 displayed at the store? I think that was a yes to my  
 21 answer, but then with a comment afterwards. Is that  
 22 right? Is that fair?  
 23 A. What I am saying to you is this is a new fresh  
 24 allegation. The way he is saying I'm deceitful, I am  
 25 a liar in there, and I explained, yes, they were for me,

1 but that is a birthday, you can see on the invoices that  
 2 this is not a personal item. He was trying to make out  
 3 that I am having it once a week.  
 4 Q. Let's break it down. Firstly this interview took place  
 5 after you resigned, so just to set the context of the  
 6 document, okay?  
 7 A. That's correct.  
 8 Q. The second point is, the point I put to you is that you  
 9 did not suggest to Mr McAlindon that flowers were in  
 10 fact displayed at the store at all in your response, and  
 11 I think you accept that, but you say that this was  
 12 unfair questioning; is that a fair summary of what you  
 13 are saying?  
 14 A. This is a summary of my sister's notes at the time  
 15 when -- at the meeting on the 30th, yes.  
 16 Q. Are you accepting that you didn't tell him that in fact  
 17 flowers were displayed at the store?  
 18 A. Because the way he questioned me, that these are flowers  
 19 for you --  
 20 Q. Could you just answer my question first, and then say --  
 21 A. Yes.  
 22 Q. So the answer is you accept that you didn't tell him  
 23 that they were displayed at the store?  
 24 A. Not at the time because as I said, it was a new fresh  
 25 allegation. If he had given me the audit report well in

1 advance, I could have sat down with him and John and  
 2 explained all matters to him.  
 3 Q. The second thing you didn't mention here was that you  
 4 and your husband bought flowers for each other?  
 5 A. Yeah, we are both employees of the company.  
 6 Q. No, that's not what you say. You say it wasn't to the  
 7 house, but for occasions to others?  
 8 A. Yes, absolutely.  
 9 Q. Such as 40th. The clear impression there, Mrs Parham,  
 10 is you are saying this wasn't for us, we did it  
 11 occasionally for other people?  
 12 A. Yeah, like I said, Rita Francis, business at  
 13 Hammersmith, we saw that as business related.  
 14 Haywards Heath, you look at all the invoices and it  
 15 says, like with Haywards Heath, Deborah Pilbeam, our  
 16 staff, friends and others. Friends are customers. When  
 17 we came to Uckfield, we had no friends in Uckfield when  
 18 we started. These were originally our customers who had  
 19 become friends. So --  
 20 Q. Mrs Parham, you are not answering my question again.  
 21 The point I am saying is that you didn't tell him that  
 22 the people that you bought flowers for including  
 23 yourselves, in fact the clear impression you were giving  
 24 was that occasionally you bought them for other people  
 25 but not for yourselves?

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1 A. That's incorrect, I disagree.  
 2 Q. You say it wasn't to the house but for occasions to  
 3 others, are you saying that that was trying to give the  
 4 impression that it included yourself?  
 5 A. No.  
 6 Q. In fact it's the opposite, you were trying to give the  
 7 clear impression that you didn't buy them for yourselves  
 8 but you did occasionally buy it for other people, and  
 9 that was incorrect, wasn't it?  
 10 A. No, I disagree.  
 11 Q. Well, you accept that you had bought them on occasions  
 12 for yourselves; correct?  
 13 A. Correct.  
 14 Q. What you were telling him here was it wasn't to the  
 15 house but it was for occasions to others, ie for other  
 16 people, not for yourselves, that is the clear impression  
 17 you were trying to give to him?  
 18 A. Yeah, back to the point of, that the gifts to others,  
 19 the partners' brief in 2008 in plain English says that  
 20 you can give gifts to others, "others" meaning staff,  
 21 friends that we saw, Haywards Heath, Hammersmith, people  
 22 that we knew, yes, that's how we saw it, you know, that  
 23 we were allowed to do that.  
 24 Q. I am not talking about -- are you suggesting that the  
 25 reference to, when you say "Not to the house but

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1 occasionally to others", that the others includes  
 2 yourselves?  
 3 A. No.  
 4 Q. That's not what you are saying, is it? The impression  
 5 you were giving him is that these were nothing to do  
 6 with you but you did occasionally give them to other  
 7 people. That was untrue, wasn't it?  
 8 A. No, not at all, I disagree.  
 9 MR JUSTICE HILDYARD: Mr Potts, are we in danger of  
 10 statutory interpretation of a note which isn't agreed?  
 11 MR POTTS: Well, my Lord, I am asking her for her --  
 12 MR JUSTICE HILDYARD: I don't want us to spend that much  
 13 longer on this, but I think I want to clarify one of two  
 14 things, if you will permit me, with the flowers.  
 15 As I understand your evidence, sometimes flowers  
 16 were bought and counted by you or your husband as  
 17 a business expense for display in the store?  
 18 A. That's correct.  
 19 MR JUSTICE HILDYARD: The question of whether they were  
 20 truly displayed in the store was a matter for your or  
 21 your husband's say-so, and couldn't be cross-checked by  
 22 Specsavers themselves?  
 23 A. That's correct.  
 24 MR JUSTICE HILDYARD: So you were put on your oath, as it  
 25 were, as to what the purpose for those flowers is; is

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1 that right?  
 2 A. That's right.  
 3 MR JUSTICE HILDYARD: You sometimes also at the expense of  
 4 the company gave flowers to customers or to employees?  
 5 A. Both.  
 6 MR JUSTICE HILDYARD: Yes, and you counted that as  
 7 a business expense, subject to the review of Specsavers?  
 8 A. Correct.  
 9 MR JUSTICE HILDYARD: In that case you would normally state  
 10 that on the invoice?  
 11 A. Correct.  
 12 MR JUSTICE HILDYARD: You also say that Mr Parham gave you  
 13 on your birthday flowers.  
 14 A. Correct.  
 15 MR JUSTICE HILDYARD: Did he charge those to the company?  
 16 A. Correct.  
 17 MR JUSTICE HILDYARD: He did?  
 18 A. Yes.  
 19 MR JUSTICE HILDYARD: Where were those flowers displayed?  
 20 A. Home.  
 21 MR JUSTICE HILDYARD: And that only happened on high days  
 22 and holidays like birthdays?  
 23 A. Birthday and anniversary.  
 24 MR JUSTICE HILDYARD: Yes. The only remaining question  
 25 I have is: when you take a look at H/160, which was the

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1 one Mr Potts showed you relating to a hand tied bunch,  
 2 I imagine, which wasn't signed nor any description given  
 3 to its purpose, what sort of thing would that cover?  
 4 A. Well, I don't know why it wasn't, you know, the  
 5 description there, there at all, so hand tie, maybe  
 6 a bereavement or something, but I don't know why that  
 7 wasn't a description put on there.  
 8 MR JUSTICE HILDYARD: I think you told us that you thought  
 9 that the lack of a signature and the lack of  
 10 description --  
 11 A. Would go straight as a personal.  
 12 MR JUSTICE HILDYARD: -- meant that it would be treated by  
 13 Specsavers as a personal expense and go on the P11D.  
 14 A. That's correct.  
 15 MR JUSTICE HILDYARD: Is that right?  
 16 A. That's correct.  
 17 MR JUSTICE HILDYARD: Obviously you can't remember what that  
 18 was for?  
 19 A. Anything without a description goes straight as a P11D.  
 20 MR JUSTICE HILDYARD: All right. I am sorry, Mr Potts.  
 21 MR POTTS: No, my Lord, I am grateful we have moved through  
 22 it.  
 23 Can I ask you about the City Electrical Factors  
 24 invoices briefly?  
 25 A. No, you can't, because I don't know anything about

1 those.  
 2 Q. Well, Mrs Parham, sorry, maybe I was implying, I am  
 3 going to ask you a couple of questions about those. Can  
 4 you turn to H/99 to 136? Starting at 99, there is  
 5 a large number of invoices, we have explored this with  
 6 your husband, between July 2010 and October 2010, and  
 7 your husband accepted that these were for works done at  
 8 your home; correct?  
 9 A. That's what he said, yes.  
 10 Q. Now, you must have been aware that electrical work was  
 11 being carried out at your home?  
 12 A. Yes.  
 13 Q. Were you aware that Specsavers -- that these were put  
 14 through your husband -- through the books at Specsavers  
 15 to pay them as a business expense?  
 16 A. No.  
 17 Q. You weren't aware of that?  
 18 A. No.  
 19 Q. Okay. Could you turn to 242, please?  
 20 A. Yes.  
 21 Q. Kent Home Cinema. This is an invoice stated for buying  
 22 a new music system in store, which came to light in  
 23 June 2011 after your resignation but prior to the  
 24 exercise of the option.  
 25 A. Okay.

1 Q. Firstly, can I just ask who -- is there any manuscript  
 2 by you or your husband on this?  
 3 A. Well, it would be on my husband's because --  
 4 Q. Can you just look, are any of the writing, is that yours  
 5 or your husband's, just to be clear?  
 6 A. Of 242?  
 7 Q. Yes.  
 8 A. It's John's.  
 9 Q. Which is his writing?  
 10 A. Well, none of that. You have to ask John about any of  
 11 the home cinema because I was --  
 12 Q. I am just asking you about this document, Mrs Parham.  
 13 A. Which ones are his signature?  
 14 Q. Not his signature, his handwriting, is there anything  
 15 written on here by you or him?  
 16 A. The 640.  
 17 Q. That's him, is it?  
 18 A. Yeah.  
 19 Q. Okay. According to your husband, this new system was  
 20 brought home by your husband in January 2011, a few  
 21 months after it had been purchased; correct?  
 22 A. Correct, that's what he says, yeah.  
 23 Q. I assume you are aware of --  
 24 A. No, anything that --  
 25 Q. Could you let me finish the question first, before your

1 denial. You must have been aware of him bringing this  
 2 home?  
 3 A. No.  
 4 Q. So you didn't see --  
 5 A. Because I am not a techie person, so whatever John done  
 6 with the technical stuff, this was what he purchased for  
 7 I believe the telephone system, so when he had got this,  
 8 I was, you know -- that for him, when he put this  
 9 through as a business --  
 10 Q. I am not asking about when you put it through. His  
 11 evidence was that he brought it home to your home in  
 12 January 2011?  
 13 A. Correct.  
 14 Q. Do you remember him doing that?  
 15 A. I remember him saying that.  
 16 Q. At the time?  
 17 A. At the time.  
 18 Q. Did he tell you that he had brought it home from the  
 19 store?  
 20 A. No, because to be honest with you, my Lord, for the home  
 21 cinema system that he had got for the store, everything  
 22 that he purchased for the business or anything that was  
 23 techie, I didn't get involved with. For me, when it  
 24 comes to high tech equipment, anything like that, that  
 25 was not ... I didn't, you know, whatever he purchased,

1 you know, what he got for the store on a technical  
2 level, I didn't actually get involved with. So at the  
3 time when he got this for the store --  
4 Q. That's not what I am asking you about, Mrs Parham.  
5 A. Yeah.  
6 Q. Can I try again: his evidence was that he brought it  
7 home in January 2011?  
8 A. That's right.  
9 Q. And I asked you, I think, whether you remember him  
10 bringing it home in January 2011?  
11 A. Well, as I said to you, I don't remember him bringing  
12 this home, because I don't actually look at what he  
13 brings in at home, anything from a business point of  
14 view or takes back, I don't actually get involved with  
15 all the --  
16 Q. Forget the business point of view, I am not asking you  
17 about the business point of view --  
18 A. I can't comment, basically.  
19 MR JUSTICE HILDYARD: The answer to the question is: you do  
20 remember him bringing it home in January 2011; is that  
21 right? Is that right? Do or don't?  
22 A. I don't.  
23 MR JUSTICE HILDYARD: You don't remember?  
24 A. I don't get -- remember anything about the home cinema  
25 system, you know, if he brought it home or not.

1 MR JUSTICE HILDYARD: You don't recall him bringing it home?  
2 A. No.  
3 MR JUSTICE HILDYARD: Right.  
4 MR POTTS: So this turned up at your house but you didn't  
5 see it turn up at your house and didn't notice the fact  
6 that a new system had arrived at your house?  
7 A. I don't even know what the system is, to be honest with  
8 you, so -- because he bought it for, I am not a gadget  
9 person, so I don't know what a music system -- I know  
10 that he got a new music system for the store --  
11 Q. Almost £1,000 worth of kit turned up at your house but  
12 you --  
13 A. And I actually don't know what that is, to be honest  
14 with you, I don't even know what it's for.  
15 Q. I put it to you, Mrs Parham, that that's just not  
16 credible, that --  
17 A. Yeah, well, I am not a techie person or anything like  
18 that, so I don't even know what that system is for, for  
19 work that -- you know, for music system -- what would we  
20 use that for at home? I mean ...  
21 Q. I thought you said your husband told you about this at  
22 some point; is that right?  
23 A. No.  
24 Q. I will check. Are you saying firstly that your husband  
25 firstly didn't tell you that he had bought something for

1 the store?  
2 A. Anything that John bought for the business that is  
3 required for the business, I didn't actually get  
4 involved with anything on the technical side of the  
5 business. That was John's department and the ophthalmic  
6 department was mine. So whatever John bought for the  
7 business, he didn't have to check with me. That was  
8 what it was for, for the business.  
9 Q. So are you saying you didn't know about it at the time  
10 he bought it for the business and you are saying you  
11 didn't notice this new piece of kit arrive at your  
12 house; correct?  
13 A. That's correct.  
14 Q. You are saying that he didn't tell you about this new  
15 piece of kit arriving at your house or indeed where he  
16 had got it from?  
17 A. As I said, John always made the decisions of buying what  
18 he needed for the store and he didn't have to get  
19 authorisation from me, so --  
20 Q. I am not asking about the store, I am talking about when  
21 it came home?  
22 A. When it came home, because it didn't work for the store,  
23 he brought that home.  
24 Q. So you knew that -- so he told you that it didn't work  
25 at the store --

1 A. He didn't tell me, that is what he has obviously done.  
2 Q. How do you know he has obviously done that?  
3 A. Because that's from his evidence.  
4 Q. When was the first time that you discussed this item  
5 with him?  
6 A. I didn't discuss any item, I didn't know anything about  
7 the home cinema phone system.  
8 Q. When you are saying that you first became aware of this  
9 as an issue?  
10 A. Issue of what?  
11 Q. As to a purchase which appeared to Specsavers to have  
12 been personal or to have been used for personal use, put  
13 through the business?  
14 A. Always for the business, because as John bought it for  
15 the phone system, and the music system for the store, it  
16 didn't work for the store so he has brought it home.  
17 All I am saying is --  
18 Q. So when did you know about that, I am asking when did  
19 you first know about --  
20 A. No, I don't -- I didn't get involved with the decision  
21 when he bought it or purchased it for the store.  
22 Q. That's not my question. I asked you: when did you first  
23 know about it?  
24 A. I only first know about it through this litigation about  
25 what he purchased and what there's a query about the

1 home cinema kit.  
 2 Q. That's not right, is it? Can you turn up E2, please,  
 3 page 517? It starts at 515. This is a letter to your  
 4 solicitors on 10 June. As I said, this was a subject  
 5 which came to light in June after your resignation, and  
 6 we went through this letter with your husband while you  
 7 were in court. If you look at 517, there is a reference  
 8 there ...  
 9 A. Yeah, that's through the process of when we were exited  
 10 through the business, that's from our solicitor.  
 11 Q. This is after your resignation but well before  
 12 litigation. The issue of this, what was said was:  
 13 "It's been discovered that this has been put through  
 14 the business, we think it's personal, and therefore we  
 15 are going to put it -- we have an obligation on your  
 16 P11D, we will put it on your P11D as personal"; correct?  
 17 That's what this letter is saying.  
 18 A. Say the question again, sorry?  
 19 Q. I'm giving you the context. This letter is saying --  
 20 A. Yes.  
 21 Q. "Kent Home Cinema, that invoice we consider to be  
 22 personal, it's come to light and we are putting it on  
 23 your P11D". So are you saying you were aware of it at  
 24 that point in June --  
 25 A. I was aware that that was the query, that Specsavers had

1 with us, with these expenditures.  
 2 Q. Did you not ask your husband why he hadn't notified  
 3 Specsavers in January that this in fact was personal  
 4 rather than business, because he hadn't, had he?  
 5 A. No, it's always, as John stated, when this came to  
 6 light, that this was what Specsavers had a problem with  
 7 us, that it looked suspicious. John, as he explained in  
 8 the court, why he brought that system for the store, and  
 9 it didn't work, so therefore he brought that home. It  
 10 was at the time -- it was at the store at the time of  
 11 the audit investigation, and then it wasn't at the time  
 12 in January when he has brought it home because it  
 13 doesn't work with the system. So that's what he has  
 14 explained to the court, you know, that was his  
 15 reasoning, and so that's why it came to light that  
 16 obviously Specsavers had a query -- a problem with it.  
 17 Q. Can I move on to some petty cash items? You appreciated  
 18 that petty cash is money taken from the till to pay for  
 19 business related expenses only?  
 20 A. Correct.  
 21 Q. Lunches for you and your husband worth, according to  
 22 him, about £500 or £600 in a year were put through petty  
 23 cash; correct?  
 24 A. Only since March 2010.  
 25 Q. But his evidence was about £500 or £600 of lunches for

1 you?  
 2 A. That's right.  
 3 Q. Did you know that your husband was taking money out of  
 4 the till to buy you and him lunches?  
 5 A. Yeah, because it was a working lunch and he took the  
 6 decision that, because we weren't getting our 20 minutes  
 7 and it was getting busier since our shop refit, very  
 8 busy indeed, that because we weren't getting it he would  
 9 nip out for me because I didn't have time to get  
 10 a sandwich, and obviously we would have our lunch, just  
 11 the sandwich.  
 12 Q. The question I asked was: did you know that your husband  
 13 was taking money out of the till to buy you the lunches?  
 14 A. No, no.  
 15 Q. You didn't know that?  
 16 A. No.  
 17 Q. You see, because your husband's evidence was that you  
 18 and he discussed starting to get the company to pay for  
 19 the lunches in 2010; are you saying that didn't happen?  
 20 A. Well, no, at the time when John made that decision of  
 21 getting the working -- taking for a working lunch,  
 22 I was, yeah, busy, so he would go off, get the sandwich  
 23 and come back, we would have that. So, yeah, I didn't  
 24 actually know that that was actually taken from the  
 25 petty cash.

1 Q. His evidence to the court was that you and he actually  
 2 discussed getting the company to pay for the lunches?  
 3 A. Well, he took the decision because he obviously felt  
 4 that a working lunch is allowed.  
 5 Q. His evidence wasn't that he took the decision, he is  
 6 saying that he discussed it with you; are you saying  
 7 that he didn't? Sorry, you are shaking your head. Is  
 8 that yes or no?  
 9 A. No. No.  
 10 Q. No, so he didn't discuss it with you?  
 11 A. He made the decision.  
 12 Q. Are you also saying that over this entire period of your  
 13 husband taking money out of the till that you never saw  
 14 him take the money out of the till?  
 15 A. No. Busy testing.  
 16 Q. I put it to you, Mrs Parham, that you were aware of this  
 17 practice and you were happy to go along with it?  
 18 A. Disagree.  
 19 MR JUSTICE HILDYARD: Did you know he had decided that the  
 20 company should pay for your sandwiches? That's point  
 21 one. Did you know that?  
 22 A. No.  
 23 MR JUSTICE HILDYARD: Because the second point is whether  
 24 you knew he paid for those sandwiches by taking money  
 25 out of the till. They may be separate, but you didn't

1 know either?  
 2 MR POTTS: There wouldn't be any other way of getting the  
 3 company to pay for lunches other than taking it out of  
 4 petty cash, would there?  
 5 A. No.  
 6 Q. You accept that?  
 7 A. Can you repeat the question?  
 8 Q. Yes. There wouldn't be any other way of getting the  
 9 company to pay for the lunches than out of petty cash,  
 10 would there?  
 11 A. You can use a credit card, you can use a business credit  
 12 card.  
 13 Q. But it wasn't on your credit card, was it?  
 14 A. No.  
 15 Q. Now, can I take you to E2, please, page 428-10?  
 16 Actually starting at 428-9. This is the transcript of  
 17 your --  
 18 A. Yeah.  
 19 Q. -- interview with Mr McAlindon. You were asked in the  
 20 middle paragraph, do you recall, about a number of  
 21 invoices for meals put through as business expenses  
 22 where there was no information as to who attended?  
 23 A. That's right, yes.  
 24 Q. You remember that?  
 25 A. Yes.

1 Q. Then if you go over the page to the top of the page, you  
 2 were asked, you can see, so you can go through the  
 3 system, you can see:  
 4 "Would you agree, from an outsider's point of view,  
 5 it looks like money has been taken out of the system  
 6 inappropriately?"  
 7 You accepted that from an outsider's point of view  
 8 it did look like money had been taken out  
 9 inappropriately; correct?  
 10 A. Bear with me one sec. (Pause). Yeah, because  
 11 Mel McAlindon says to me that, yeah, that there is no  
 12 receipts there, so of course to an outsider --  
 13 Q. I think it was the fact that there was no details as  
 14 well as to who had been attending the meals?  
 15 A. Yeah, so there if is no receipt, no information, of  
 16 course the common man would think that looks dodgy,  
 17 there is no receipts.  
 18 Q. Okay. Then on page 10 you were also asked about the  
 19 McDonald's Happy Meals and other examples?  
 20 A. That's correct.  
 21 Q. You are shaking your head, and you said:  
 22 "I am shocked because this is a shocked response."  
 23 A. Because at the time of this meeting I was ambushed  
 24 without any, you know, evidence in front of me.  
 25 Mel McAlindon's in the room with Phil Barnes with loads

1 of files, so they had the evidence, so they are making  
 2 me respond to something that's quite historic. And now  
 3 to light through the litigation and evidence in front of  
 4 me, that was a charity event, like John explained, which  
 5 Sue Willmott, one of our staff, was in charge of. As  
 6 I said, the charity event, late night, it was the kids,  
 7 I was testing for the late night, it's for the Guide  
 8 Dogs Association. So when I was ambushed at the time,  
 9 and having to respond, already in shock of serious  
 10 financial irregularities, because that's what he put it  
 11 forward to me, and when it was serious, I thought, "Oh  
 12 my gosh, why has John put that?", so straightaway, of  
 13 course I am going to say, "That's odd, what's he done  
 14 that for?" But now looking back at it, it was  
 15 a business related expense and it was valid.  
 16 Q. You were saying you were shocked and you were saying  
 17 that he should speak to your husband about it; correct?  
 18 A. Well, yeah, because all of this, this whole meeting is  
 19 all about John and what he spent on the business. So  
 20 John could have explained everything quite happily in  
 21 that hour, especially with the ambush tactics, because  
 22 there was no evidence put forward to us well in advance.  
 23 You know, how can I be explaining all these, you know,  
 24 business expenses without anything in front of me? And  
 25 especially when they are all -- he knew John did all

1 the -- 80 per cent of the administration.  
 2 Q. Your husband gave an explanation for the McDonald's and  
 3 some of the beer invoices on Friday by reference to  
 4 a small charity opening day?  
 5 A. That's right. It's the same event.  
 6 Q. You didn't, firstly, mention that in this interview, did  
 7 you?  
 8 A. No, because as I said, you know, the circumstances and  
 9 the conditions and -- on this day was absolutely  
 10 shocking because he is talking about an audit report  
 11 that he did in November 23rd, four months before this  
 12 meeting, so he has advance knowledge of everything, and  
 13 I haven't got anything in front of me. I could be  
 14 saying yes or no to anything, couldn't I?  
 15 Q. Okay. So I think the answer to my question is it's also  
 16 not mentioned in any letter from you or solicitors  
 17 acting for you, is it?  
 18 A. Well, why would it, because at the time when this  
 19 happened, when he, you know, this investigation meeting,  
 20 why would I have a legal adviser because I wasn't given  
 21 any --  
 22 Q. I am talking about at any time, later, it wasn't  
 23 referred to at any time in a letter from you or from  
 24 solicitors acting for you?  
 25 A. No -- rebuttal, you mean, any rebuttal?



1 Q. Just the explanation which she gave on Friday?  
 2 A. We still don't get the audit report until this  
 3 High Court litigation, you know, any litigation we have,  
 4 we only get the audit report through those. I went  
 5 through a subject access request when I was forced out  
 6 to get the information, because I went into this  
 7 litigation blind, basically, because when I decided to  
 8 go to court, I had nothing in front of me, I had no  
 9 proof or evidence what I was fighting.  
 10 So as this litigation's gone through and Specsavers,  
 11 as you know Specsavers, drip drab disclosures, so as  
 12 things go along, the evidence is coming through that me  
 13 and John can sit down and explain it.  
 14 Q. It was not in your witness statements for the ET either,  
 15 that explanation?  
 16 A. Yeah, because again, back to full extensive disclosure.  
 17 You can see your -- Specsavers' behaviour here. They  
 18 don't disclose anything. I went through a subject  
 19 access request, my Lord, from Guernsey on 5 April, and  
 20 Guernsey themselves couldn't get my investigation file  
 21 to me, or the audit report, and that 5 April 2011 they  
 22 wrote back to me July 2012 and said it was only through  
 23 the High Court system because it was legally privileged,  
 24 that I could not get this information. So when me and  
 25 my husband decided to take Specsavers to court in July,

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1 with our solicitor, he was struggling, our solicitor,  
 2 getting all the information. So it was quite scary,  
 3 going into litigation not knowing what I was up against,  
 4 against me and my husband. So it was terrible. It was  
 5 absolutely a nightmare knowing what they had, because  
 6 when -- this is all about tax. How I saw it, this is  
 7 all about tax. I chose Specsavers to be my tax agents  
 8 and my personal. So you are giving me -- Specsavers are  
 9 giving me information only through the High Court --  
 10 Q. Mrs Parham, sorry, that's just not true. The H file in  
 11 relation to which these documents appear was disclosed  
 12 in the ET tribunal. You had them in the ET tribunal.  
 13 They have ET document references on the bottom. So what  
 14 you have just said is not true. You did have --  
 15 A. Yeah, through litigation.  
 16 Q. You just said it was through this litigation, you said  
 17 you didn't have it in your ET. I was asking about your  
 18 ET witness statements. These documents were disclosed  
 19 at the time of the ET?  
 20 A. You are asking about my ET witness statement?  
 21 Q. Yes, I did ask you. I said the explanation that your  
 22 husband gave about this event did not appear in either  
 23 of your witness statements for the ET proceedings, and  
 24 your response to that was "that's because I didn't have  
 25 the documents relating to this, the invoices and so on,

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1 at the time of the ET proceedings". But you did?  
 2 A. But also the allegations were not on those petty cash  
 3 receipts. The allegations was those of the home cinema,  
 4 the Fluffy Side Up, the allegations weren't on this  
 5 petty cash.  
 6 Q. You appreciated that --  
 7 A. Specsavers never put that through as allegations to us  
 8 on the petty cash. It was only about those items of the  
 9 home cinema --  
 10 Q. Mr McAlindon did, he was discussing it with you on this  
 11 occasion?  
 12 A. On this occasion but the litigation wasn't about petty  
 13 cash at the end, was it?  
 14 Q. It was also not referred to in your witness statements  
 15 for these proceedings, that explanation, either, was it,  
 16 or in the pleadings for this case?  
 17 A. Because we referred to the -- of the tax return, the  
 18 bunch, as I said, the home cinema, the flowers, the  
 19 flights to Spain, they were the allegations that we were  
 20 rebuttalling. At no point was it the petty cash, the  
 21 robust system that Specsavers put in place.  
 22 Q. Mrs Parham, the reference to the McDonald's Happy Meals  
 23 and so on was even pleaded in this case. The  
 24 explanation which your husband gave in relation to this  
 25 charity event was not pleaded, it was not in your

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1 witness statements, and the first time it emerged was in  
 2 his evidence under cross-examination; correct?  
 3 A. No, I disagree, just because it's not in my witness  
 4 statement and it's in John's witness statement, we  
 5 classify those together.  
 6 Q. In relation to the point about petty cash not being  
 7 raised, the issue about suspicious petty cash claims was  
 8 raised in the witness statements in the ET, for example  
 9 it was in Mr McAlindon's witness statement; it was  
 10 an issue in the ET proceedings, do you accept that now?  
 11 A. If that's what you say so, because I won't remember from  
 12 two years ago of Mel McAlindon's witness statement.  
 13 Q. Well, it was, take it from me it was reference to  
 14 children's meals, lunches, evening meals, and alcohol?  
 15 A. Yeah --  
 16 Q. The very items were referred to in the evidence, it was  
 17 in issue in the ET, and it wasn't given by your husband  
 18 as an explanation or you in those proceedings?  
 19 A. Well, our staff, Sue Willmott will verify what those  
 20 expenses were for, because it was her that was doing the  
 21 Guide Dogs charity event for the store on that day, and  
 22 she will be under oath, and she will be able to explain  
 23 to you that that's what those items were for.  
 24 Q. Mrs Parham, the only point I am putting to you is that  
 25 the first time this story has emerged for the first

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1 time, although this has been a live issue since the time  
 2 of Mr McAlindon's discussions with you, is in evidence  
 3 on Friday, it's the first time this explanation has been  
 4 given?  
 5 A. And you are talking about the Happy Meals, is that what  
 6 you are saying, those ones.  
 7 Q. Yes, children's meals, and the alcohol and beer, this  
 8 charity event?  
 9 A. Disagree.  
 10 Q. So where was your explanation given previously?  
 11 A. Well, I am sorry, say the question again?  
 12 Q. Where was the explanation of the charity event given in  
 13 relation to the Happy Meals and the beer purchases prior  
 14 to your evidence, the evidence of your husband on  
 15 Friday? On what occasion?  
 16 A. Sorry, you will have to repeat the question because  
 17 I don't understand it.  
 18 Q. Okay. The explanation given by your husband on Friday,  
 19 the point I'm putting to you is that this issue has been  
 20 live for a very long time and it's not mentioned in your  
 21 interview, in any letter from you or your solicitors, in  
 22 the witness statements for the ET, in your witness  
 23 statements or pleadings for this action, and that the  
 24 first time the explanation of the charity evening in  
 25 relation to these matters emerged in cross-examination

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1 from your husband. Now, I am asking you: do you accept  
 2 that the first time this explanation has been given in  
 3 relation to those items is in fact your husband's  
 4 evidence on Friday?  
 5 A. No, because they -- no, because when, how I saw it, when  
 6 the problems that Specsavers had with us was of the  
 7 items that were listed by Stephen Moore in his legal  
 8 letter that he sent to us on 5 April, they were the ones  
 9 that they had issues with.  
 10 Q. You are not answering my question again, Mrs Parham.  
 11 I am asking you --  
 12 A. I can't -- I don't know the answer.  
 13 Q. Are you able to identify any occasion where that  
 14 explanation has been given prior to your husband's  
 15 evidence? I put it to you that there isn't one.  
 16 A. Well, I don't know.  
 17 MR POTTS: My Lord, a break for the typists?  
 18 MR JUSTICE HILDYARD: Yes. I should think they will be  
 19 needing a break by now. Five past 12.  
 20 (11.55 am)  
 21 (A short break)  
 22 (12.05 pm)  
 23 MR POTTS: Mrs Parham, I would like to ask you a couple of  
 24 questions about the --  
 25 A. Can I ask you something, Mr Potts? The question that

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1 you asked me about the Happy Meals, now I have had time  
 2 to think about that.  
 3 Q. Yes.  
 4 A. At the time of the ET, during the time of the ET,  
 5 when -- obviously the investigation meeting, I do  
 6 actually mention that I was aware that it was a charity  
 7 event, when I talked to Mel McAlindon at the time of  
 8 this 7 March investigation meeting. During the ET,  
 9 because you can see when I talk about --  
 10 Q. That's not right, Mrs Parham.  
 11 A. Yes, it's in my investigation meeting on 7 March, he  
 12 asked me that question, I say it's for a charity event,  
 13 the beer, if you look. McDonald's I was shocked of,  
 14 yes, but when you talk about the beer, beer for staff.  
 15 Q. You say, "All for charity, beer and wine, we donate to  
 16 raffles". That's for charity.  
 17 A. That's the same event. I didn't realise John bought the  
 18 kids' meals and during the process of the High Court,  
 19 Sue Willmott reminded me that it was all the same  
 20 evening. So it only got revealed later on, because at  
 21 the time we didn't associate the two together.  
 22 Q. I see. Okay. Now can I ask you about this interview,  
 23 please, 428-1. That's the transcript. Now, this was  
 24 recorded. Do you accept that the tone of the interview  
 25 was not aggressive?

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1 A. The tone was not aggressive, but it was the whole  
 2 demeanour of it, the intimidating demeanour, being in  
 3 a hotel, all the files, you know, in front of him,  
 4 Mel McAlindon that is, and Phil Barnes, and then coming  
 5 into a room and my husband in the reception room and my  
 6 witness, Ray Hutchings, from Wimbledon. It was the  
 7 whole demeanour, it didn't have to be a raised voice, he  
 8 is very controlled, Mel McAlindon, when he is on tape,  
 9 but when he is off tape, he is a bully.  
 10 So it is the way -- the questioning as well, it is  
 11 all leading, you know, leading questions, I found that  
 12 sort of trying to incriminate John first, and I felt  
 13 every time he was saying something to me and put forward  
 14 to me, it was like everything he was doing was: guilty,  
 15 guilty, guilty.  
 16 Q. You accept that Mr McAlindon's tone wasn't aggressive  
 17 and that was a point raised at the ET and you accepted  
 18 that at the time?  
 19 A. Yeah, I accepted that.  
 20 Q. Okay.  
 21 A. It didn't have to be aggressive.  
 22 Q. Just running through, a lot of this we have covered.  
 23 There was a discussion about the NPower payment, do you  
 24 remember that?  
 25 A. Yes.

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1 Q. 428-1, the first holepunch.  
 2 A. 428?  
 3 Q. 428-1. Sorry, it deals with the recording. Yes?  
 4 Then-4 is the NPower, the first holepunch, there is  
 5 a reference to the NPower, the processing --  
 6 A. Sorry.  
 7 Q. Sorry, 428-4, the first holepunch, I am sorry about  
 8 that, my reference. Yes? There was a discussion about  
 9 how that was dealt with.  
 10 A. Correct, yeah.  
 11 Q. Then at 428-6 --  
 12 A. Yes.  
 13 Q. -- you were asked in relation to this action, the way it  
 14 was done, as to whether it was reasonable to conclude it  
 15 was gross misconduct, and you were asked whether that  
 16 was an unreasonable conclusion, and you accepted that it  
 17 was not unreasonable; is that right?  
 18 A. No, it wasn't to this, it wasn't about the rebate  
 19 cheque, it was about the scenario of a retail manager  
 20 taking money out of the till. That's my response to  
 21 that.  
 22 Q. I see, and you were accepting that, what, even if it was  
 23 done as an one-off, that could be dishonest? Is that  
 24 the point you were accepting?  
 25 A. Of the scenario of the retail manager, yes.

1 Q. Retail manager taking money out of the till as a once  
 2 off?  
 3 A. That's right, yes.  
 4 Q. That that could be dishonest?  
 5 A. Yes, correct.  
 6 Q. There was then a discussion about the Blu-Ray player,  
 7 just the purchase of it at that point; correct?  
 8 A. Yes.  
 9 Q. And you discussed with that. Then there was a reference  
 10 to the discussion to a number of other matters, the trip  
 11 to Spain, I've dealt with that?  
 12 A. Yeah, and explained it exactly how it was, you know,  
 13 that's how John done the trip to Spain, looking out for  
 14 another business, as he said, his parents actually live  
 15 out there, they still do.  
 16 Q. Just the fact you were asked about it?  
 17 A. Yeah, and I --  
 18 Q. At the end of the interview, Mr McAlindon read out the  
 19 terms of Mr -- certainly part of Mr Whittaker's witness  
 20 statement to you.  
 21 A. Which page?  
 22 Q. 428-12.  
 23 A. Yeah.  
 24 Q. You were asked:  
 25 "Question: Is there anything you would like to say

1 about that?  
 2 "Answer: It's a lie, it's not true."  
 3 Then at that point you felt ill, and the meeting was  
 4 suspended?  
 5 A. Yeah, because before he goes on to Noel Whittaker's  
 6 statement he talks about that GOC scenario, of  
 7 an ophthalmic director who had taken money out of the  
 8 business the wrong way and got his licence -- he was up  
 9 for a GOC fitness to hearing meeting for that  
 10 dishonesty, and his licence was in question. And then  
 11 he talks all about that scenario, that, and he actually  
 12 has the papers in front of him, and talks about it, and  
 13 then goes into that conversation about the  
 14 Noel Whittaker, and Noel Whittaker's false allegation  
 15 that I was standing at the door with the DVD,  
 16 incriminating me, and that's the point I fainted,  
 17 because putting the two together I knew what  
 18 Mel McAlindon was trying to say: I was dishonest and  
 19 therefore that dishonesty could lead to my GOC being  
 20 taken away.  
 21 Q. The GOC obviously did come up during the course of your  
 22 interview, and you can see that at 428-10?  
 23 A. Yes.  
 24 Q. It goes over the page to 428-11?  
 25 A. Yes.

1 Q. Mr McAlindon there, he was just giving an explanation of  
 2 standards of behaviour to be expected from a JVP, and he  
 3 referred to something that had been said at a GOC  
 4 disciplinary case, didn't he? That's what he did?  
 5 A. Yes, but what's his position to do that? He is head of  
 6 loss prevention. What's the GOC got to do with him?  
 7 The reason why he said it to because Specsavers have  
 8 people, directors, Paul Carroll from professional  
 9 services is on the committee of the GOC, everyone in  
 10 Specsavers, the UK stores, know that Specsavers have  
 11 people on the committee, they had the influence over the  
 12 GOC, and that's a fact, because -- and so that's why  
 13 Mel McAlindon uses it as a threat that this is what can  
 14 happen if you are dishonest.  
 15 Q. You were having a discussion with him at that point  
 16 about the standards of honesty and integrity required of  
 17 JVPs, including opticians, weren't you?  
 18 A. I disagree, we weren't having a -- it wasn't  
 19 a discussion. Where was my response to that? That  
 20 wasn't a discussion. That wasn't, you know, why was  
 21 a fitness -- a discussion about an ophthalmic director  
 22 taking money out of the business just before he leads me  
 23 into a Noel Whittaker --  
 24 Q. During the interview you had had a discussion about the  
 25 standards of integrity and honesty to be expected?

1 A. It wasn't a discussion, he us telling me.  
 2 Q. I see, he is telling you.  
 3 All he was doing was explaining the standards of  
 4 honesty and integrity required of JVPs, he was not  
 5 threatening to report anybody to the GOC, was he?  
 6 A. Yeah, but we all know that Specsavers do have the  
 7 influence over the GOC to do that because they had done  
 8 that, they had done it to me two years later,  
 9 March 2013, so his threat came true.  
 10 Q. So he didn't make a threat to report you to the --  
 11 A. It is an indirect threat --  
 12 Q. I see, so it's --  
 13 A. -- talking about a scenario of an ophthalmic director  
 14 having his licence taken away from him is definitely  
 15 an indirect threat, and as an optician who has been  
 16 working -- I am 46, I've been working in the optician  
 17 industry since I was 16, that's a threat, that's what it  
 18 was all about, I knew he has the power to do it, he has  
 19 done it to an ex-employee of mine, there was a chap  
 20 Martin Shaw from Cannock, a director who turned up to  
 21 court, my Lord, in the Bognor case, he is an existing  
 22 director for 20 years, he came passing because he heard  
 23 about these court cases, which is why all these other  
 24 JVPs are listening into it, he is an existing director  
 25 who has just come out of his fitness and hearing review,

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1 because he was reported by Specsavers, and so he's  
 2 cleared his name, and he turned up and was discussing to  
 3 me that it's been -- he has had allegations by  
 4 Specsavers four times for gross misconduct, but he has  
 5 not got the bad leaver clause 19.6 in his contract, so  
 6 that's why they haven't got rid of him yet. But for me,  
 7 you know, you have done it, Specsavers have done it,  
 8 they have reported me.  
 9 Q. I put it to you, Mrs Parham, he wasn't making a threat  
 10 to report you to the GOC, he was explaining standards of  
 11 honesty and integrity by reference to a case?  
 12 A. How can you say that? I am going into a fitness -- GOC  
 13 fitness and hearing interview after this High Court  
 14 action. How can you say that? Specsavers can't do  
 15 that. Indirect, direct, I don't care what you call it,  
 16 I am going to see the GOC after this High Court. This  
 17 is my whole livelihood here, and, you know, everything  
 18 has been taken away from me by Specsavers. You know, my  
 19 shop, I have not been able to get employed because I am  
 20 under investigatory review with the GOC. So when you go  
 21 to a employer, they look up your licence to make sure  
 22 you are registered, and on that licence it's ticked that  
 23 I'm under investigatory hearing, so I've had to locum.  
 24 So it's a big threat for all ophthalmic directors, so  
 25 it's massive. I am living proof of the consequences.

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1 So as far as I am concerned, that was a threat.  
 2 Q. Okay, could I go back to my question, which is that you  
 3 fainted and felt ill and the interview was suspended  
 4 after you heard Mr Whittaker's witness statement was  
 5 read out to you; correct?  
 6 A. Yeah, because it was incriminating me.  
 7 Q. I am just trying to take up the timing, Mrs Parham.  
 8 Yes. The interview was suspended and you went out and  
 9 sat near the reception; correct?  
 10 A. Correct, because I fainted, twice.  
 11 Q. Could I take you to your witness statement?  
 12 MR JUSTICE HILDYARD: I am so sorry, Mr McAlindon asked  
 13 quite long questions at 428-11. Do you mind if I took  
 14 two minutes to read, so I understand fully where we are  
 15 going, the questions he put and the context in which  
 16 they were asked? If you give me two minutes, I'll read  
 17 from 428-10 down to the middle of 428-11.  
 18 (Pause)  
 19 Yes, thank you.  
 20 MR POTTS: Now, could I take you to your witness statement,  
 21 paragraph 139?  
 22 A. My witness statement?  
 23 Q. Yes, your first witness statement. The final sentence,  
 24 you say that while you were recovering, Mr McAlindon and  
 25 Mr Barnes returned from outside and told your husband

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1 that they felt that the evidence that you had given them  
 2 in the course of the interrogation was damning and that  
 3 you were both going to be dismissed; correct?  
 4 A. Well, at the time when I fainted, this is the after --  
 5 this is after the event, that I write this witness  
 6 statement.  
 7 Q. Yes.  
 8 A. Knowing that this is what my husband told me. When  
 9 I fainted and he saw the shock and horror that I had  
 10 fainted, he thought oh my God, what's happened, and then  
 11 while Ray comes to rescue me, I believe that's when he  
 12 had that conversation with Mel McAlindon, and then John  
 13 addresses me and then we go back into the room.  
 14 Q. Your evidence here is that Mr McAlindon told your  
 15 husband, in your presence presumably, which is why you  
 16 are talking about it?  
 17 A. No, it's not in my presence. I fainted at this point,  
 18 so these are after the events. This is me telling you  
 19 that this is what they, Mel McAlindon told John,  
 20 I fainted, told John, so these are after the events,  
 21 I didn't hear that conversation, I had fainted by this  
 22 time. So he has whispered or told John while he is with  
 23 him, and then the next minute I know we are going back  
 24 into the room, me, Ray and John.  
 25 Q. So you are saying in fact you had no idea at the time

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1 that this had been said to your husband at all; is that  
2 right?  
3 A. That's correct.  
4 Q. That's not the impression you were giving in your  
5 witness statement, is it?  
6 A. Well, that's what happened.  
7 Q. The impression you were giving in this witness  
8 statement, and you appreciate this is a serious  
9 allegation, serious issue, is that they had told your  
10 husband --  
11 A. Where does it say that I was present? I said, what I've  
12 written down there is that the Specsavers loss  
13 prevention team returned from outside the hotel and told  
14 my husband, it doesn't say that I was there, present,  
15 listening.  
16 Q. Mrs Parham, you are giving your evidence as to what  
17 happened --  
18 A. That's right.  
19 Q. -- in this witness statement. Are you actually saying  
20 in fact you don't know whether it happened or not?  
21 A. Well, I do know what's happened because my husband has  
22 told me. So if that's --  
23 Q. You don't say in this witness statement at any stage  
24 that "my husband later told me" or "at some other point  
25 told me that they had said to him something", do you?

1 The impression that you are giving is that this was said  
2 to your husband and that you are able to verify it  
3 because you were there?  
4 A. All I can say is the true events of the matter is that  
5 I faint, my husband's told me that's what Mel McAlindon  
6 said to him, if the wording of the English is incorrect  
7 there, that is what's happened.  
8 Q. I put it to you this is not an accident, Mrs Parham,  
9 that was the clear impression you were seeking to give  
10 in your witness statement here?  
11 A. No.  
12 Q. Could I take you to volume G, please, page 7? The  
13 position is Mr McAlindon's evidence is that he said no  
14 such thing, in fact it was Mr Hutchings and you who said  
15 to your husband that the evidence --  
16 A. Sorry --  
17 Q. Let me just give you the point first. Mr McAlindon  
18 didn't say that to your husband at all. In fact it was  
19 you and Mr Hutchings who said to your husband that the  
20 evidence against you both looked damning; isn't that the  
21 case?  
22 A. I totally disagree.  
23 Q. You didn't say that?  
24 A. No.  
25 Q. Okay, G/7 is your application to the employment tribunal

1 dated 3 June 2011. Correct? Is that your ET  
2 application?  
3 A. Yes.  
4 Q. So it's two months after your husband's?  
5 A. Yes.  
6 Q. Could you turn on to page 9?  
7 A. Yes.  
8 Q. At the bottom of the page, it says:  
9 "Outside the room [dealing with this stage] JP  
10 [that's your husband] was at this point made aware from  
11 SP and RH that they felt evidence verbally given against  
12 [you] by MM was damning and was going to be dismissed by  
13 MM."  
14 That's you saying that it was you and Mr Hutchings  
15 telling your husband that they felt --  
16 A. Can you bear me with a second? Sorry. (Pause). Right,  
17 I've read it.  
18 Q. So you accept that that is what you are saying, your  
19 husband said something similar, you are accepting that  
20 in this statement you are saying that it was you and  
21 Mr Hutchings who indicated to your husband at this point  
22 that they felt that you and he felt the evidence given  
23 verbally against you was damning and that you were going  
24 to be dismissed; correct?  
25 A. Mm.

1 Q. That's what it says, isn't it?  
2 A. I disagree with that, so I don't know why that's --  
3 Q. Are you saying that's not what it says?  
4 A. Well, I take it as it is, that's what's written down so  
5 that's what's written down.  
6 MR JUSTICE HILDYARD: Who did you mean by "they" in the  
7 penultimate line?  
8 A. Mel McAlindon.  
9 MR JUSTICE HILDYARD: "JP was at this point made aware from  
10 SP and RH that they felt evidence verbally given ..."  
11 Who are you referring to?  
12 A. Mel McAlindon.  
13 MR POTTS: This is not in any way suggesting that it's  
14 Mr McAlindon who is saying this to your husband; this is  
15 a communication, you accept, between you and  
16 Mr Hutchings and your husband, and that you were  
17 communicating that you felt that the evidence given  
18 verbally -- that you felt that the evidence given  
19 verbally was damning?  
20 A. No, not at all. Not at all.  
21 Q. Do you accept this is a communication on any basis that  
22 you and Mr Hutchings are making to your husband?  
23 A. No.  
24 Q. That's what it says. Do you accept that?  
25 A. No. No, I don't.

1 Q. Sorry, do you accept that's what the document says, that  
2 this is a communication that, something that you are  
3 saying to your husband? Just look at the document,  
4 Mrs Parham. I am asking you about what the document  
5 says first. (Pause). "JP was made aware from SP and  
6 RH ..." so this is reporting a conversation that you and  
7 Mr Hutchings have with your husband, referring to  
8 something being damning?  
9 A. I can't remember --  
10 Q. There is no reference to it being Mr McAlindon telling  
11 your husband that it's damning, is there? Do you accept  
12 that?  
13 A. When I look at the 7 March interview, everything that  
14 Mel McAlindon says to me is that it's quite conclusive  
15 that the evidence that he's -- that he treats the rebate  
16 cheque and treats the breaches of suspension as damning.  
17 So I don't even remember having a conversation with John  
18 at all at that point when I faint. The only time we are  
19 back in the room is when we were going into discussions.  
20 Q. I am just trying to deal with this position of what  
21 happened outside the result. Are you saying that coming  
22 out of the room you felt that Mr McAlindon considered  
23 the evidence damning against you at that point? Just to  
24 break it down, do you accept that?  
25 A. Can you repeat the question?

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1 Q. Yes. When you came out of the room --  
2 A. Yes.  
3 Q. -- is the position that you felt that Mr McAlindon felt  
4 that the evidence was damning against you? Did you feel  
5 that?  
6 A. What I felt was, what he had put for the false  
7 allegation of Noel Whittaker connected with the GOC  
8 that, oh my gosh, he is threatening me here, because he  
9 is saying that I am dishonest, and Noel Whittaker, as  
10 I knew I was not dishonest because I knew that was  
11 a false statement, so I knew that that was a threat to  
12 my GOC licence. So all I was looking at that is that,  
13 oh my gosh, I am going to be kicked out.  
14 Q. Is the answer to my question yes, that you did feel that  
15 Mr McAlindon felt that the evidence was damning against  
16 you?  
17 A. Yes.  
18 Q. The point I'm making here is, outside the room, the  
19 allegation that you have made in your statement is that  
20 it was Mr McAlindon at this point who communicated that  
21 the evidence was damning to your husband, and the point  
22 I'm putting to you is that the communication which you  
23 refer to in your claim form is a communication that you  
24 make to your husband and indeed that you and  
25 Mr Hutchings make to your husband, that the evidence

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1 given verbally against you was damning. Do you accept  
2 that, that this is in fact a communication that you make  
3 to your husband?  
4 A. I can't remember myself talking --  
5 Q. I am asking you firstly what it says in the document.  
6 Do you accept firstly that that's what it says?  
7 A. Okay.  
8 Q. You accept that?  
9 A. If that's what you say.  
10 Q. Do you accept that that is different from Mr McAlindon  
11 saying to your husband at this point "the evidence is  
12 damning and you are going to be dismissed", which is  
13 what you now allege? Do you accept that?  
14 A. No, because John definitely remembers -- well, John  
15 knows that Mel McAlindon spoke to him and said that. So  
16 both -- you know, so --  
17 Q. I am asking you about what you have written in your  
18 form. (Pause)  
19 A. Well, I take it as read. I'll take it as read.  
20 Q. It goes on. The next sentence says:  
21 "Once SP was recovered, the investigators called us  
22 back to the room and stated that the evidence against JP  
23 was damning and that JP and SP had been breaching their  
24 suspension" and so on, it goes on?  
25 A. Yes.

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1 Q. There is a distinction there, you have clearly  
2 understood the distinction, because what you are saying  
3 is in the first case, is that you communicated to your  
4 husband, you and Mr Hutchings, that the evidence was  
5 damning. There may be an issue about who the "they" is.  
6 But I put it to you that the "they" in this context, you  
7 have distinguished between the investigators in the next  
8 paragraph, that the "they" is you and Mr Hutchings felt  
9 the evidence verbally was damning --  
10 A. No --  
11 Q. -- against you by MM because it refers to --  
12 A. No, "they" definitely refers to Mel McAlindon and  
13 Phil Barnes, who put the evidence towards us that what  
14 John had done was damning, and conclusive.  
15 Q. In that sentence you are referring to evidence verbally  
16 given against you by MM, not by two people?  
17 A. Mel McAlindon, MM.  
18 Q. Yes, that's one person?  
19 A. Yeah.  
20 Q. So you are saying that the evidence given against you by  
21 one person was damning, and earlier it says that you  
22 were made aware from SP and RH that they felt the  
23 evidence given against you by MM was damning, so the  
24 first -- and then you go on to say, make a separate  
25 allegation that once you were back in the room the

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1 investigators said that the evidence was damning. But  
 2 I'll come on to that in a moment. At this stage, the  
 3 point is that you accepted that this discussion that you  
 4 were reporting was you communicating and Mr Hutchings  
 5 communicating to your husband, rather than Mr McAlindon,  
 6 a point about the evidence being damning, looking  
 7 damning or appearing damning; correct?  
 8 A. No. As I said, you will have to cross-examine  
 9 Ray Hutchings on that.  
 10 Q. No, I am asking you -- this is your document, I am  
 11 asking about what you said at the time.  
 12 A. I can't remember, so ...  
 13 Q. You were asked about this in -- so you can't remember?  
 14 Do you accept that that is what you are saying? You  
 15 accept that that is what you are saying here, are you  
 16 just saying it's just that it's wrong; is that right?  
 17 A. No, no.  
 18 (Pause). I'll just take it as read. I'll just take  
 19 that as read then.  
 20 Q. What do you mean take it as read? Do you accept that  
 21 that is what it says, that the meaning is that it is you  
 22 communicating that to your husband?  
 23 A. Well, what I'll say is that when I fainted and I come  
 24 out of the room, I can't remember having a conversation  
 25 with John at all, at all. So I don't know why that's

1 written like that. I can't remember having  
 2 a conversation with John at all.  
 3 Q. Are you saying you accept that --  
 4 A. When we go back in the room --  
 5 Q. -- that is the sense of the document but you are saying  
 6 that it's wrong and you don't remember?  
 7 A. Well, it must be, because I can't remember having  
 8 a conversation with John outside the room, when  
 9 I fainted, because they brought me back in the room once  
 10 I'd recuperated and gone back in the room. So I can't  
 11 actually remember a conversation with John outside the  
 12 room.  
 13 Q. That's not true either, is it, Mrs Parham? You were  
 14 asked about this issue in cross-examination at the ET  
 15 and you were asked --  
 16 A. I'm not going --  
 17 Q. I'm not going to put the point. You were asked about  
 18 whether you recall saying and Mr Hutchings saying the  
 19 evidence looks damning and you accepted that you had.  
 20 Can I take you to page 174?  
 21 A. No. 174?  
 22 Q. Yes. You see it says towards the top of page 23, do you  
 23 remember you were asked --  
 24 A. No, I don't remember anything from the ET, to be honest  
 25 with you.

1 Q. I put it to you you were asked:  
 2 "Do you or RH recall saying that the evidence was  
 3 damning?"  
 4 This is in relation to this point. You said "Yes".  
 5 You said that, yes.  
 6 A. As I said to you before, I don't remember.  
 7 Q. I put it to you that you did say that, consistent with  
 8 your --  
 9 A. These are your transcripts, and I am telling you now, as  
 10 said, I don't remember from the ET, you know, what was  
 11 said. These are your words, it's your -- Specsavers'  
 12 solicitors' words, so I can't remember what I said on  
 13 the ET.  
 14 Q. And it was said you didn't mention this in your  
 15 statement, and you said you accepted that you had not  
 16 mentioned this fact in your statement; correct?  
 17 A. Correct.  
 18 Q. So do you remember this exchange of questions in the ET?  
 19 A. No.  
 20 Q. This isn't a new point, is it? Could you pick up  
 21 tab C(sic), Mr McAlindon.  
 22 A. Tab, which one?  
 23 Q. Volume C, tab 1. Sorry, I apologise, it's tab 3,  
 24 paragraph 64, Mr McAlindon's evidence. Sorry, that's  
 25 a wrong reference. Give me one second. Sorry, 62.

1 Mr McAlindon's evidence is that:  
 2 "In the ET proceedings ... Mr Parham alleged that,  
 3 whilst outside ... the room ... [I had] told him that  
 4 I 'felt the evidence that ... had been given ... was  
 5 damning and that he ... was going to be dismissed'.  
 6 This is not ... true. I did not say this, nor did  
 7 Mr Barnes, in fact during the ... [cross-examination]  
 8 I heard both Mr and Mrs Parham each admit during  
 9 cross-examination that it was Mr Hutchings and  
 10 Mrs Parham who actually said that the evidence against  
 11 Mr and Mrs Parham looked damning, and not me or  
 12 Mr Barnes."  
 13 That's the true position, isn't it?  
 14 A. That's what Mel McAlindon says, but I disagree.  
 15 Q. So despite the fact that you accepted that the sense of  
 16 your claim form is that -- I think you accepted -- the  
 17 sense of the claim form is that this is something --  
 18 a communication that you made to your husband, so that's  
 19 the sense of the document, you accept that?  
 20 A. Yes, I did.  
 21 Q. And despite the fact that Mr McAlindon had raised this  
 22 point in his evidence expressly that you each had in  
 23 fact admitted during cross-examination that that was the  
 24 case, and I've shown you that document, are you saying  
 25 that that's all not true and you didn't make that

1 admission and you didn't have that conversation? Is  
 2 that right?  
 3 A. Well, if I put that on that ET ... I'll take that as  
 4 read, and if that's what Mel McAlindon is saying, but  
 5 the evidence that was given in that 7 March that was put  
 6 forward to by Mel McAlindon saying that the scenario  
 7 basically and the false allegation with Noel Whittaker,  
 8 I felt that he had made the conclusion that the whole  
 9 thing was damning against us.  
 10 Q. That's not what I am asking you about, Mrs Parham, and  
 11 this point about saying it's taken as read. I want to  
 12 get to the bottom of what you are actually saying here.  
 13 The point is, I am putting it to you clearly, that  
 14 consistent with what you put in the ET document and what  
 15 you said in cross-examination, the position is that you  
 16 accepted and indeed is the case that it was you and  
 17 Mr Hutchings who made a reference to the evidence  
 18 looking damning to your husband and not Mr McAlindon at  
 19 that point? Do you accept that?  
 20 A. Well, Ray Hutchings will have a better idea, so when you  
 21 cross-examine him --  
 22 Q. I am asking you about your evidence.  
 23 A. Yes.  
 24 Q. Can you answer my question, please, Mrs Parham?  
 25 A. I can't agree -- I agree. I'll just agree.

1 Q. So you accept that then?  
 2 A. I accept that then.  
 3 Q. You accept that your evidence in this regard is  
 4 incorrect in your witness statement; correct?  
 5 A. Well, no, because John has definitely had the  
 6 conversation with Mel McAlindon at some -- outside of  
 7 the -- when I fainted, I remember John saying, after the  
 8 event, that this is what Mel McAlindon said. So I can't  
 9 remember having a conversation with John outside the  
 10 room anyway, but that's what it says on my ET, I'll take  
 11 it, accept it as read.  
 12 Q. I just want to understand, when you say "accepted as  
 13 read", you accept that (a) that is what you said and (b)  
 14 you accept that that is what happened? I just want to  
 15 understand your answer. Is that right?  
 16 A. Okay, yes.  
 17 Q. I put it to you that the position is that in fact you do  
 18 not care what you say in evidence as to whether it is  
 19 truthful or not if you think it will advance your case?  
 20 A. No, I totally disagree.  
 21 Q. What actually happened at that point is once you had  
 22 recovered, Mr Hutchings and your husband returned to the  
 23 interview room with you; correct?  
 24 A. Yes.  
 25 Q. And Mr McAlindon asked you both if you were happy to

1 continue with the interview, the meeting, the  
 2 investigatory interview, or whether in light of you  
 3 fainting you wanted to adjourn the meeting to a later  
 4 date, and you said that you wanted to continue; is that  
 5 right?  
 6 A. Totally disagree, no, he never said that at all. We go  
 7 back in the room, he says -- he stops the tape, he then  
 8 says "I'll give you an ultimatum, we can continue but  
 9 it's conclusive and you will be dismissed, which means  
 10 the par value". So I'm thinking at this stage, and I am  
 11 still in shock with the whole thing, I am thinking to  
 12 myself, "Oh my God, why is he saying that?", because he  
 13 stops the tape, and John is thinking, right, I am coming  
 14 in for his talk with Mel McAlindon. So when we sit  
 15 down, I am not quite sure what's happening, because it's  
 16 changed, everything's changed, it's about an ultimatum,  
 17 a deal going on here and I am thinking: what deal? So  
 18 I am sitting there thinking this is changing quickly  
 19 from investigative to a disciplinary now, all in one go.  
 20 Q. Right, let's just break that down. The first stage,  
 21 when going back into the room, his position is that he  
 22 asked you if you were happy to continue or whether you  
 23 wanted to adjourn as a result of you fainting?  
 24 A. Well, he definitely didn't say that.  
 25 Q. I put it to you that he did?

1 A. No, disagree, definitely disagree, because I would have  
 2 definitely taken the time out. There is no way, after  
 3 fainting, that I wanted to continue with anything. You  
 4 know, I wanted to get out of that room asap and recover.  
 5 Q. Do you accept that Mr McAlindon informed you both that  
 6 he was willing to discuss matters on a WP basis if he  
 7 wished?  
 8 A. No, he didn't say that at all.  
 9 Q. He didn't say that either. At that point Mr McAlindon  
 10 informed you both that he was willing, after you had  
 11 indicated a wish to continue, but let's move on from  
 12 that, that Mr McAlindon informed you that he was willing  
 13 to discuss matters on a WP basis if you wished?  
 14 A. What's a WP basis?  
 15 Q. Sorry, off the record basis if you wished, did he tell  
 16 you that?  
 17 A. Yeah, he said an ultimatum, yeah, he said -- what he  
 18 said was, and this has to still be vague, because I've  
 19 fainted now, we go back in the room and he says "I'll  
 20 give you an off the record, an ult -- you know, an offer  
 21 on the table, or we can continue the investigation, and  
 22 it's conclusive anyway, which will lead to the par  
 23 value". They are the words I heard, because don't  
 24 forget I've fainted by now. So I'm thinking oh --  
 25 Q. So you are saying that he didn't refer to anything at



1 that point, before that he didn't refer to anything  
 2 being off the record, he just delivered an ultimatum to  
 3 you; is that right?  
 4 A. Well, he stops the tape, we are not on the tape now, so  
 5 I thought that was a bit odd, why is this not being  
 6 recorded, and he talks about "we can do a deal, I can  
 7 put you an ultimatum, an offer, an ultimatum", I am not  
 8 good with my words, "but you can listen to, or we can  
 9 continue the investigation, but it's damning anyway, so  
 10 it's conclusive", and he talks about par value. They  
 11 are the words I heard.  
 12 Q. We will come on to that in a second. Before this  
 13 discussion, you are saying that he didn't say anything  
 14 about having a willingness on his part to have an off  
 15 the record discussion with you if you wished, you are  
 16 saying he just launched into an ultimatum; is that  
 17 right?  
 18 A. No, he said -- he offered us, you know, we could listen  
 19 to an ultimatum, an offer, it wasn't, you know we could  
 20 listen to it or continue with the investigation --  
 21 Q. He didn't say anything in relation to an off the record  
 22 discussion or without prejudice, he just said "You can  
 23 have an ultimatum"; is that right?  
 24 A. I fully can't remember the full words, but how  
 25 I understood it, and, you know, under the pressure I was

1 under, I can't remember the full words, but how I saw it  
 2 in the room was "you can listen to an offer,  
 3 an ultimatum," whatever, I don't know the exact words,  
 4 but "you can listen to it" or he can continue, but it  
 5 was conclusive anyway, he had -- you know, it was  
 6 conclusive by the evidence given, that it would be  
 7 a dismissal and par value. So that's how I understood  
 8 it, we can either listen to it or continue but it was  
 9 conclusive anyway.  
 10 Q. Listen to what?  
 11 A. The offer.  
 12 Q. I see, so you can listen to an offer or --  
 13 A. Continue with the investigation.  
 14 Q. Yes?  
 15 A. But which was concluded by him, this is how I saw it,  
 16 you know --  
 17 Q. I am asking you what he said, your recollection of what  
 18 he said, Mrs Parham?  
 19 A. I can't remember actual words, but this is how I saw it,  
 20 it was basically, you know, "you can listen to a deal or  
 21 you can continue but it was conclusive anyway and you  
 22 can use the par value", so it was one or the other. So  
 23 I was thinking, "Oh my gosh, if I don't" -- I was in  
 24 a situation, it's all happening too quickly, you know.  
 25 I don't even know what's going on. So I'm thinking, oh,

1 this is a nightmare.  
 2 Q. Isn't the position that he did inform you that he was  
 3 willing to discuss matters on a without prejudice or off  
 4 the record basis if you wished and you said yes? That's  
 5 the first stage. Do you agree with that?  
 6 A. No, I disagree. I totally disagree. It wasn't  
 7 a case -- it's one or the other, you know. You know, it  
 8 was basically how I saw it was that I was, when he  
 9 came -- I went back in that room, you can either do a --  
 10 you can listen to a deal or you can continue, but it was  
 11 conclusive anyway so they can do the par value.  
 12 Q. Isn't the reality what he did say at this point, you  
 13 having indicated a desire to speak on an off the record  
 14 basis was that he indicated that the matters under  
 15 investigation were potentially very serious and could  
 16 not be ignored and that the investigation would need to  
 17 continue, but he was reluctant to do so given that you  
 18 had fainted?  
 19 A. No, not at all, if he said that, I would have taken the  
 20 time out definitely and gone to get legal advice,  
 21 definitely, I wanted to get out that room.  
 22 Q. He didn't make a statement that the evidence was damning  
 23 at that point to you, did he?  
 24 A. I can't say the exact words but I knew it was  
 25 dismissive, I knew he had come to that conclusion.

1 Q. He didn't say either that the continuation of the  
 2 interview would inevitably result in dismissal, did he?  
 3 A. He mentioned the word "par value".  
 4 Q. I am just dealing with the first point. He didn't say  
 5 that the continuation of the interview would inevitably  
 6 result in dismissal, did he?  
 7 A. He didn't say those words, but he did say "the par  
 8 value".  
 9 Q. Paragraph 142, you do say that, you say:  
 10 "The ultimatum was that they would continue with the  
 11 interrogation and dismiss us."  
 12 A. 142 of my witness statement?  
 13 Q. Yes. Are you saying that's wrong?  
 14 A. Yeah, so that's the words, the par value, all I remember  
 15 the words are par value.  
 16 Q. I am asking you about the dismissal point first.  
 17 A. Yeah, because he had made that conclusion. He  
 18 definitely made that conclusion himself, definitely.  
 19 Q. He didn't say anything about an entitlement to purchase  
 20 the shares at par either?  
 21 A. He definitely did. What option was there, you know? It  
 22 was either take your money or it would go to  
 23 disciplinary, you know, anyway, which was going to be  
 24 the end of par value. You can use the 19.6 clause, the  
 25 bad leaver clause.

1 Q. Did he refer to 19.6?  
 2 A. No, just par value, but the par value is the 19.6  
 3 clause.  
 4 Q. Mr McAlindon was there to investigate, he didn't have  
 5 a power of dismissal, did he?  
 6 A. He absolutely did, does, because I am in that room and  
 7 that's the choice I've got. He says in the transcript  
 8 that he's no decision-maker. Then why did he come  
 9 prepared with the value of my shares?  
 10 Q. I'll come on to that in a moment. You also say that he  
 11 hinted that unless you resigned Specsavers would report  
 12 you to the GOC which could revoke your licence and  
 13 prevent you from practising; you are saying he said that  
 14 at that point; is that right?  
 15 A. Yeah, reminds me of my GOC, of what it would lead to,  
 16 because, you know, how I looked at it, you know, if  
 17 I ... you know, the dishonesty element of the -- because  
 18 I knew what he was talking about, the Noel Whittaker  
 19 statement, that false allegation, he reminds me of that  
 20 dishonesty element of my GOC licence.  
 21 Q. So you are saying that the words -- he hinted that  
 22 Specsavers would report you to the GOC which could  
 23 revoke your licence?  
 24 A. That's correct.  
 25 Q. What did he say?

1 A. I can't --  
 2 Q. You say hinted. I don't understand. What was the hint?  
 3 How did he hint?  
 4 A. Like the dishonesty element.  
 5 Q. Are you saying he referred to the GOC?  
 6 A. Yeah, he mentioned the word GOC. As I said --  
 7 Q. Sorry, I am just trying to understand what he said. How  
 8 did he --  
 9 A. I can't remember the exact words, Mr Potts, but I know  
 10 the GOC was reminded again back in that room.  
 11 Definitely, because they are the only words that are  
 12 coming up to me, because this affects me, this is my  
 13 licence.  
 14 Q. Mrs Parham, you say here that he hinted unless you  
 15 resigned they would report you to the GOC which could  
 16 revoke your licence; are you saying that that's what he  
 17 said?  
 18 A. In that manner of words. Remember I fainted now, and so  
 19 I am not, you know, no oxygen to the brain, basically.  
 20 So yes, I had been reminded again about the GOC when we  
 21 go back in that room, definitely.  
 22 Q. You say reminded, in what way? What's your  
 23 recollection?  
 24 A. Mel McAlindon, the head of loss prevention, used the  
 25 GOC, I know what that means.

1 Q. He just said the word "GOC"?  
 2 A. Yes, I've just told you. I've just told you again and  
 3 again and again. The words are not exact because  
 4 I fainted, but why does he mention it again? All I know  
 5 he's mentioned it so I know why it's mentioned, because  
 6 it's my licence, isn't it?  
 7 Q. That's not what you say in 143. You don't say that he  
 8 mentioned the GOC?  
 9 A. Hinted, mentioned, sorry, that's what I am trying to  
 10 say, explain, that I go back in the room and he's  
 11 mentioned that GOC again.  
 12 Q. But you can't remember in what way he mentioned the GOC  
 13 at all?  
 14 A. No.  
 15 Q. Is that right?  
 16 A. That's right, yeah.  
 17 Q. You are saying now you can't remember what was said  
 18 really; is that right?  
 19 A. Well, the exact words I can't fully remember but I do  
 20 know that he reminds me about the GOC when I go back in  
 21 that room.  
 22 Q. That's not what you said before. Can I take you to G/3  
 23 please?  
 24 A. Why do you keep referring to my ET notes?  
 25 Q. Because this is a witness statement that you verified as

1 being true, Mrs Parham.  
 2 A. That's fine. Page?  
 3 Q. Page 57.  
 4 A. Point?  
 5 Q. Paragraph 33. I've asked you about the ultimatum. I am  
 6 asking you about the second half of the paragraph which  
 7 says:  
 8 "Mel McAlindon specifically said that unless we both  
 9 resigned as directors, SOG [Specsavers] would see to it  
 10 that the General Optical Council would revoke my  
 11 practising licence which would prevent me from  
 12 practising as an optician."  
 13 That's not a reference to some vague reference that  
 14 you can't remember to a hint, is it? It's quite  
 15 different, your evidence at that point.  
 16 A. Well, all I can say, my Lordship, is from whatever the  
 17 wording is in here, they have done it. So --  
 18 Q. No, I am asking you about your evidence as to what was  
 19 said at the time, Mrs Parham.  
 20 A. Well, it's --  
 21 Q. Do you accept that the evidence in that paragraph 33 is  
 22 very different from the evidence that you are giving  
 23 his Lordship now?  
 24 A. Well, specifically and hinted are two different  
 25 meanings, yes. But the content of it is the same.

1 Q. Not just the hinting. Your evidence is to his Lordship  
2 that you couldn't really remember what was said at all.  
3 A. Well, it's about to do with my GOC, so in all respects,  
4 Mr Potts, my licence is in threat at the moment, okay?  
5 So --  
6 Q. I am asking you about what was said, Mrs Parham, if you  
7 could try and focus on that. The point I'm making to  
8 you is that your evidence to his Lordship in this court  
9 under oath orally is that you couldn't remember really  
10 what was said but there was a reference to the GOC;  
11 correct? The evidence that you gave in your witness  
12 statement is very different, isn't it? It's that he  
13 specifically said -- nothing about a hint -- that SOG,  
14 Specsavers, would see to it that the GOC would revoke  
15 your licence? So that's not about reporting you to the  
16 GOC, is it? It's a much further, much more serious  
17 threat, isn't it, that you are making in this witness  
18 statement?  
19 A. Of the ET --  
20 Q. Yes, the ET one. It's not just that they are going to  
21 report you, but actually that Specsavers are going to  
22 procure that your licence is revoked. It's quite  
23 a different allegation, isn't it?  
24 A. It is from the ET to the High Court one, yes.  
25 Q. Isn't this just another example of you, like your

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1 husband, trying to put words into Mr McAlindon's mouth  
2 because you think it will advance your case?  
3 A. No, I totally disagree, because it actually has  
4 happened.  
5 Q. The reality is that Mr McAlindon didn't make any threat  
6 about the GOC during this part of the discussion at all,  
7 or indeed at all?  
8 A. I totally disagree, because that's the only reason why  
9 I signed, so it was to do with my GOC and my licence,  
10 because that was my whole livelihood, I know for a fact  
11 that there is no way I'm going to have them report me  
12 and have my licence taken away. So that was the reason  
13 I had signed the resignation letter then and there.  
14 Q. Mrs Parham, isn't the reality that you are prepared to  
15 make these serious allegations because you think it will  
16 advance your case --  
17 A. Definitely not, definitely not.  
18 Q. You have no care as to the accuracy of what you are  
19 saying?  
20 A. Definitely not. The GOC is the main reason why I signed  
21 in that room under the conditions I was on. It was  
22 not -- I know for a fact that I did not breach  
23 suspension with Noel Whittaker and the evidence that was  
24 given to me on 7 March was, you know, not the reason why  
25 I signed the resignation at all. It's not, you know, it

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1 was to do with my licence, the GOC licence, the threat  
2 that he put me under, and I knew the fact that he was  
3 incriminating me and John in that evidence that he put  
4 forward to us. Why was the whole necessity, the whole  
5 ambush, you know, not giving us prior notice with our  
6 invoices, the audit report that was 23 November, the  
7 fact that at the end of the 23 November they had  
8 already, Phil Barnes -- sorry, Les Gutteridge, when they  
9 do the audit, they actually say the outcome of the audit  
10 is good, you will get a report in two or three weeks'  
11 time. You know, it wasn't an issue, they only made  
12 an issue out of things on that meeting on 7 March to  
13 advance the fact that they had already got the directors  
14 on 1 March, so they already found the directors, they  
15 already had the plot behind, so it's absolutely rubbish,  
16 I know for a fact that, you know, what you are telling  
17 me now and what was going on behind the scenes was what  
18 the agenda was about. The agenda was let's get them out  
19 and seize the shares.  
20 Q. I am sorry to interrupt you, but I am asking you about  
21 what was said during this part of the conversation, not  
22 your views as to what subsequently happened or  
23 otherwise. Perhaps if I can try and get you to focus on  
24 that. The position is that Mr McAlindon did point out,  
25 having given you an option, expressed his reluctance to

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1 continue given that you fainted, but he did point out  
2 that the investigation needed to be concluded before he  
3 went away in four days' time to avoid a long delay. Do  
4 you remember him saying that?  
5 A. He said that we can have just the hour for lunch,  
6 because it was about 12 o'clock at the time, we had got,  
7 he had to -- we can have the lunchtime hour. John asked  
8 for 24 hours and he said "No, I need to conclude this by  
9 the end of the day because I am going to Australia on  
10 Friday". That's the words he said to us. Because if it  
11 was longer than that, I would have taken it.  
12 Q. That was in relation to the conclusion of the  
13 investigation and a possible adjournment of the meeting;  
14 correct?  
15 A. No, totally not. Go back in the room, he gives us the  
16 ultimatum, John asks "can I have 24 hours?" He said  
17 "No, I need to conclude this by the end of the day  
18 because I am going away to Australia on Friday".  
19 Q. Isn't it you who asked about your and your husband's  
20 shareholdings at that point and as to how much they  
21 might be worth if Specsavers bought you out?  
22 A. Absolutely not. He had already come advanced with the  
23 value of our shares. Why would the value of the shares  
24 come up and we asked how much they are? No.  
25 Q. Are you saying you didn't ask what your shares might be

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1 worth?  
 2 A. Well, he -- no. I can't remember, you know, me asking  
 3 him. He's put down that we can do a deal, and he  
 4 scribbles on a piece of paper. So of my recollection at  
 5 the time -- yeah, on my recollection of the time, he has  
 6 given us the ultimatum, he comes out with a piece of  
 7 paper and scribbles the value of our shares on this  
 8 piece of paper. He says in his notes that he made  
 9 a phone call to find the value of the shares. He  
 10 didn't, he had already known the value of the shares  
 11 when he came in the room.  
 12 Q. Are you saying you didn't ask him at any time what your  
 13 shares might be worth?  
 14 A. I can't remember fully, to be honest with you, I can't  
 15 still fully remember.  
 16 Q. So you are saying that might have happened or you can't  
 17 remember one way or the other?  
 18 A. No. I definitely know I was not asking him for the  
 19 value of my shares. That's for sure.  
 20 Q. You are saying you definitely didn't ask him what your  
 21 shares might be worth at any time? Or you are not sure  
 22 now, you can't remember?  
 23 A. Not fully, fully 100 per cent confident.  
 24 Q. Okay. Isn't the position that he said that he would, he  
 25 didn't know, he would telephone the business transfer

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1 services and ask for a valuation and referred to there  
 2 being a set formula?  
 3 A. Definitely not, he did not do that.  
 4 Q. There was no reference to business transfer services or  
 5 a set formula? He didn't refer to that at all?  
 6 A. No.  
 7 Q. You went off for lunch and on your return you indicated  
 8 that you had decided to resign, and he indicated that  
 9 Specsavers was willing to buy your shares for 315,000,  
 10 with 15,000 deducted to take out of costs, and so the  
 11 net figure was 300,000; do you remember that?  
 12 A. Yeah, I remember that.  
 13 Q. That was discussed after lunch, this was after lunch you  
 14 had a --  
 15 A. No, definitely before lunch because why would I be going  
 16 for lunch and doing what? You know, I remember it was  
 17 before lunch, because during lunch I'm sick in the  
 18 toilets, so -- because I can't believe that he's, we are  
 19 looking at the value of my shares, and he's taking my  
 20 shares off me. So it's definitely before lunch, it  
 21 wasn't after lunch, he didn't make no phone call,  
 22 nothing to business transfer, it was before lunch, and  
 23 the whole experience was a shock, but it was definitely  
 24 before lunch. What would we be going for lunch for, for  
 25 an hour, sitting doing what? I am sick in the toilet

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1 thinking, "Oh my God, he has given me the value of the  
 2 shares, so what choice have I got? Take the shares or  
 3 take nothing." What's that?  
 4 Q. You see, his evidence is that he telephoned Mr Ryan at  
 5 the business transfer services for a valuation over  
 6 lunch, was given a figure, and then he also phoned  
 7 Mr Dyson to get authority to make an offer explaining  
 8 what he had done.  
 9 A. No, he didn't.  
 10 Q. You are saying nothing like that happened?  
 11 A. No, no.  
 12 Q. So you are saying that the discussion about the value of  
 13 your shares took place before lunch and not after lunch;  
 14 is that right?  
 15 A. Definitely before lunch, definitely before lunch.  
 16 Q. I put it to you that's not what you said before the ET.  
 17 Could I take you to G, please, page 174?  
 18 A. I'm not doing the transcript at all.  
 19 Q. Well, I'm going to put a point to you, Mrs Parham?  
 20 A. I won't be answering.  
 21 Q. Mrs Parham --  
 22 A. I disagree with the transcript notes, they are not --  
 23 Q. Mrs Parham, could you please turn up page 174? At the  
 24 second holepunch, the question was put to you about  
 25 discussion of value of the shares before or after lunch,

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1 and your response was "after".  
 2 A. Well, I disagree with that, definitely it was before  
 3 lunch, definitely before lunch.  
 4 Q. I understand you disagree with it. Are you saying that  
 5 you didn't say that in your answer to the ET?  
 6 A. Yes, yes, I didn't say that.  
 7 Q. I put it to you that that is what you said to the ET,  
 8 and in fact whilst there was a discussion about the  
 9 price payable for your shares on either side of lunch,  
 10 the price of 315,000 less deductions and distributions  
 11 was discussed and agreed after lunch?  
 12 A. Disagree. And Ray Hutchings will be there to be the  
 13 witness for that. It was definitely before lunch.  
 14 Definitely before lunch.  
 15 MR POTTS: My Lord, that would be a suitable moment.  
 16 MR JUSTICE HILDYARD: Yes.  
 17 Discussion re timetable  
 18 MR POTTS: I don't have too much more.  
 19 MR JUSTICE HILDYARD: What in the context is too much more?  
 20 MR POTTS: I think probably 15 minutes, my Lord.  
 21 MR JUSTICE HILDYARD: What are we going to do, then, about  
 22 the -- what has happened about the videolink?  
 23 MR STUART: My Lord, the videolink is now firmly fixed for  
 24 11 am tomorrow morning.  
 25 MR JUSTICE HILDYARD: Oh, I see.

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1 MR STUART: What I am concerned about --  
 2 MR JUSTICE HILDYARD: No telly today.  
 3 MR STUART: No telly today. What I am concerned about is  
 4 that I have my other three live witnesses here, and I am  
 5 more than keen that we get through those three live  
 6 witnesses today, and I am obviously concerned that, as  
 7 things stand, my cross-examination of the defendants'  
 8 witnesses is going to be shoehorned into whatever  
 9 Mr Potts lets me have of the rest of a day and a half.  
 10 MR JUSTICE HILDYARD: Mr Potts' estimate of how long he  
 11 would be has been inaccurate. Now, Mr Potts would say  
 12 the answers have been less concise than he had  
 13 anticipated or expected.  
 14 MR STUART: Yes.  
 15 MR JUSTICE HILDYARD: There we are.  
 16 MR STUART: I would say the questions have been less concise  
 17 than they could have been.  
 18 MR JUSTICE HILDYARD: Well, we can't get into tit for tat.  
 19 The question is what we do. Now, although I am  
 20 extremely conscious of how much over estimate we are,  
 21 and I feel a sense of personal embarrassment about this,  
 22 if there was anything that I could have done, but we are  
 23 where we are, you cannot be shoehorned into any  
 24 artificial restriction by reference to a timetable which  
 25 was falsified. Equally I will want you to be as

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1 economic and efficient as possible. I am going to ask  
 2 you over the short adjournment to work out exactly where  
 3 this takes us.  
 4 MR STUART: My Lord, from my point of view, even now I can  
 5 say if we could get through these three witnesses this  
 6 afternoon, and I would hope that Mr Potts could, they  
 7 are short witnesses, and then that would only leave from  
 8 our evidence just the television link, so then we are  
 9 into starting the defendants' witnesses, whatever time  
 10 in the morning your Lordship is prepared to start.  
 11 MR JUSTICE HILDYARD: Yes.  
 12 MR STUART: And dealing with their witnesses, as it were,  
 13 for a whole day on Wednesday and perhaps half of  
 14 Thursday. I understand I should be aiming to try and  
 15 finish by lunchtime Thursday.  
 16 MR JUSTICE HILDYARD: I want you to give me a timetable at  
 17 2 o'clock. I will sit early tomorrow if that is wanted.  
 18 I cannot sit late tonight, for the reasons I have  
 19 already explained.  
 20 MR STUART: Understood, my Lord.  
 21 MR JUSTICE HILDYARD: Mr Potts, the notes of the meeting  
 22 before the ET have acquired some prominence. Is the  
 23 maker of those notes giving evidence, or were these  
 24 covered by hearsay notices?  
 25 MR POTTS: My Lord, they are not, they have been in the

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1 bundle for a long time. I am entitled to put a --  
 2 MR JUSTICE HILDYARD: I am not saying what you are entitled  
 3 to do, I am just asking the question.  
 4 MR POTTS: The answer is no, my Lord, there is no ...  
 5 obviously your Lordship will -- there is an issue of  
 6 weight, I accept, my Lord, but prior inconsistent  
 7 statements are entitled to be put.  
 8 MR JUSTICE HILDYARD: Yes. Okay. I just wanted to know  
 9 whether I had missed something. All right, then.  
 10 Well, Mrs Parham, I am afraid it continues, and the  
 11 light at the end of the tunnel hasn't been entirely  
 12 snuffed out, and we would hope that you would finish  
 13 your cross-examination in about 15 to 20 minutes' time,  
 14 and your re-examination within the hour. We will then  
 15 have to see where we get to. No discussions, please, in  
 16 the meantime. We had better say five past 2. It's been  
 17 a long morning for everybody, I think.  
 18 (1.08 pm)  
 19 (The short adjournment)  
 20 (2.05 pm)  
 21 MR STUART: My Lord, I think you asked me just to over the  
 22 adjournment firm up on a proposed timetable. (Handed)  
 23 MR JUSTICE HILDYARD: Yes.  
 24 MR STUART: My learned friend has it, hopefully we can try  
 25 and get close to it.

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1 MR JUSTICE HILDYARD: Thank you. Is this agreed?  
 2 MR POTTS: My Lord, I have only just looked at it. Frankly,  
 3 I am focusing on trying to get through, progress  
 4 matters. I think the order of witnesses is slightly  
 5 different.  
 6 MR JUSTICE HILDYARD: Well, it's a tall order to get  
 7 everyone finished this afternoon, I should imagine, but  
 8 if it can be done, well and good.  
 9 MR STUART: I hope it can, my Lord, their evidence is really  
 10 very short and to specific issues.  
 11 MR JUSTICE HILDYARD: Let's see how we go.  
 12 MR POTTS: The alternative, my Lord, is we have to finish  
 13 a little bit off before 11 o'clock tomorrow if there is  
 14 a small one, maybe we can do that.  
 15 MR JUSTICE HILDYARD: Thank you very much.  
 16 Cross-examination by MR POTTS (continued)  
 17 MR POTTS: Mrs Parham, moving on to the resignation  
 18 letters --  
 19 A. Can you show me where?  
 20 Q. I'll take you to it. Let me take you to the document,  
 21 E1/209.  
 22 A. Yes.  
 23 Q. That's signed by you and your husband, Mr Hutchings,  
 24 Mr McAlindon and Mr Barnes?  
 25 A. Yes.

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1 Q. Now, the letter says:  
2 "We have decided to resign with immediate effect as  
3 employees and directors ... agreed in principle we will  
4 sell our shares at an agreed price of 315,000, but  
5 15,000 and any distributable profits will be set aside  
6 to offset including a contribution towards investigation  
7 costs and ongoing management costs of the business in  
8 the share transfer period."  
9 Yes?  
10 A. Yes.  
11 Q. It says:  
12 "We have asked Mel McAlindon to write this letter  
13 for and on our behalf ..."  
14 A. Yes, but under --  
15 Q. And then I just want to deal with that point.  
16 A. Sure.  
17 Q. Now, it does go on, yes, if you wanted to read the whole  
18 thing:  
19 "... but we are clear that neither he nor anyone  
20 else has placed us under any duress to resign. We have  
21 been given time to consider the resignations."  
22 Now, the first point is don't suggest in your  
23 witness statement, you don't challenge the point that  
24 you asked him to write out the letter, do you, in your  
25 statement?

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1 A. That's correct. Can you point me to the part of my  
2 witness statement?  
3 Q. Well, do you accept that?  
4 A. Yes, that's correct.  
5 Q. You do take a point about the duress and time?  
6 A. Yes.  
7 Q. Do you accept that you did ask him to write out the  
8 letter?  
9 A. Yes, after when I couldn't -- under the condition I was,  
10 I started to write it, and then I said, "Actually,  
11 I can't do it, Mr Mel McAlindon, so you do it".  
12 Q. Okay, so that bit is correct.  
13 A. Because John doesn't want to do it and I can't do it, so  
14 I tell him to do it.  
15 Q. Your evidence here is that the bit about --  
16 A. Can you show me the paragraph?  
17 Q. Paragraph 154 of your statement.  
18 A. Yeah.  
19 Q. That you challenged him about inserting this line about  
20 being not being put under duress?  
21 A. John wanted that line crossed off.  
22 Q. And that Mr McAlindon flatly refused?  
23 A. Yes.  
24 Q. Correct? Now could I take you to G, please, your  
25 witness statement before the tribunal, at page 58?

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1 Obviously this is in an employment context.  
2 A. Paragraph?  
3 Q. Paragraph 35.  
4 A. Yeah.  
5 Q. First of all, it doesn't say anything about this issue  
6 about the challenging, so it doesn't mention the fact  
7 that he wrote out the letters at your request, but you  
8 say that the point about duress was untrue because of  
9 unbearable psychological pressure; correct?  
10 A. In the employment tribunal, where it's written down, on  
11 further events after the employment tribunal, don't  
12 forget that's the same year that we were taken out,  
13 everything now that John declares I now remember him  
14 saying it, that he would want that line crossed off.  
15 Yes, that was not mentioned on the ET, but a clearer  
16 picture now for the High Court, that he did ask the  
17 duress to be taken out.  
18 Q. This was quite an important point for the ET claim,  
19 wasn't it, because you were seeking to challenge the  
20 terms of your resignation, weren't you?  
21 A. It is, but I don't know why we have forgotten to put  
22 that in.  
23 Q. Isn't the reality that the reason it isn't in there is  
24 because it didn't happen?  
25 A. I disagree.

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1 Q. And you didn't ask him to take it out, and he didn't  
2 flatly refuse to do so?  
3 A. I disagree.  
4 Q. Isn't the reality that there were no threats or duress,  
5 you chose to resign in order to avoid an investigation  
6 of matters which you, indeed you and Mr Hutchings, said  
7 you thought looked damning?  
8 A. I disagree.  
9 Q. Can I take you to E2, please, page 429?  
10 A. Yeah.  
11 Q. Now, we went through this email with your husband, do  
12 you remember? This was an email --  
13 A. Yes.  
14 Q. -- you wrote on the following day --  
15 A. Yes.  
16 Q. -- apparently with your husband, in relation to this,  
17 and you were requesting a second chance for yourself,  
18 and you claimed to be naive and trusting of your  
19 husband's responsibilities in that --  
20 A. Yeah, in the sense that this is a begging letter, this  
21 is actually on the next day, and John's actually typing  
22 it, and we are discussing it together, and, my Lord, all  
23 we were doing here was actually begging, and in mercy  
24 because at the end of the day our salaries are all  
25 together, it was like all eggs in one basket, and we

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1 were begging at least if we can save one job, you know,  
 2 we have a family and two kids and that's what I was  
 3 doing. It's just basically a begging letter.  
 4 So trusting and naive of John's responsibilities, it  
 5 was not being a tax expert, it was just being on  
 6 Mel McAlindon's mercy, really, that I wanted one of us  
 7 and our job to be saved. At the time of the  
 8 investigation he said I could actually work at the  
 9 store.  
 10 Q. So what you say here, for example, in relation to --  
 11 about two-thirds of the way down the first page -- you  
 12 admit that Mr Parham had conversed with Noel,  
 13 Mr Whittaker, about the DVD and came to your home, and  
 14 you admitted that you had spoken to him as well, to  
 15 Mr Whittaker?  
 16 A. I had spoken to Mr Whittaker, and that --  
 17 Q. Yes?  
 18 A. Yes.  
 19 Q. And you accepted you should have ignored him, it was  
 20 wrong to speak to him?  
 21 A. Yes.  
 22 Q. You accepted there were financial irregularities at  
 23 Uckfield but you were suggesting that you didn't have  
 24 personal involvement in them; correct?  
 25 A. That's if what Mel McAlindon was telling me was true,

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1 because he labelled it as serious financial  
 2 irregularities, and without no evidence in front of me.  
 3 Q. And what you were seeking to do was to distance  
 4 yourselves from those saying that you didn't have  
 5 personal involvement in them?  
 6 A. Well, like I said, it was a begging letter, I didn't  
 7 disagree.  
 8 Q. Do you accept that that wasn't what you were doing, you  
 9 were seeking to say that you didn't have personal  
 10 involvement?  
 11 A. No, it was a begging letter to get my job back.  
 12 Q. That's what the letter says, though, doesn't it, it said  
 13 that you didn't have personal involvement?  
 14 A. I was 90 per cent not doing the administration so ...  
 15 Q. The bottom of 430. That was not entirely true either,  
 16 was it? You had been involved in at least some of these  
 17 matters, the cleaner, flowers, lunches, the issues with  
 18 Mr Whittaker, the discussions with Mr Whittaker?  
 19 A. Correct.  
 20 Q. You also said that you accepted you had been at fault  
 21 for being naive and trusting of your husband's  
 22 responsibilities?  
 23 A. Like I said, this is a begging letter for both of us,  
 24 one of us salary-wise to at least -- the salvation of at  
 25 least one of the jobs.

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1 Q. And you indicated you were prepared to pay for all the  
 2 investigation and reimburse all payments on credit cards  
 3 and other tax, hand back the credit cards?  
 4 A. That was actually what was necessary to have, you know,  
 5 both of our -- at least one of our jobs back.  
 6 Q. Wasn't that --  
 7 A. It was a case of begging them. And I knew straightaway  
 8 at the end of the day that me and John are not  
 9 dishonest.  
 10 Q. Wasn't that an acknowledgement that matters that were  
 11 being indicated were personal expenses that shouldn't  
 12 have been put through the company?  
 13 A. No, I disagree.  
 14 Q. You also indicated that a fair sanction for your  
 15 involvement would have been a final written warning  
 16 under the disciplinary procedure, didn't you?  
 17 A. Yeah, absolutely, it's over the top, it was well over  
 18 the top, exaggerated, as serious financial  
 19 irregularities. It was not serious financial  
 20 irregularities at all. I didn't realise that me and  
 21 John had to be tax experts.  
 22 Q. Your willingness to accept a final written warning was  
 23 acknowledgement that you realised that your conduct had  
 24 been very seriously wrong, wasn't it?  
 25 A. Disagree.

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1 Q. Wasn't it?  
 2 A. Disagree.  
 3 Q. The final --  
 4 A. It was a begging letter, like I said.  
 5 Q. The final written warning, Mrs Parham, is a very severe  
 6 penalty, isn't it, you appreciate that?  
 7 A. I'll do anything to get my job back.  
 8 Q. Can you answer my question? Do you appreciate that  
 9 a final written warning is a very severe penalty --  
 10 A. Agree.  
 11 Q. -- given for conduct falling just short of that  
 12 justifying immediate dismissal; you appreciate that?  
 13 A. I agree.  
 14 Q. And you appreciate that it involves such that if there  
 15 is any other offence, however minor, during the period  
 16 of it, you can be dismissed, however minor the  
 17 subsequent offence; you appreciated that, didn't you?  
 18 A. Like I said, my Lord, it was a begging letter, so  
 19 whatever it took, I needed to save my salary, at least  
 20 one of our salaries, and on the Monday when I was forced  
 21 out, I was working for Specsavers by the Friday, so if,  
 22 you know, at the end of the day, if they felt I was  
 23 really seriously dishonest, me and my husband, they  
 24 wouldn't actually let me carry on locumming for them, so  
 25 that's how I saw it. I knew that straight away they

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1 didn't even believe it, they never believed it, and my  
 2 husband carried on working for Specsavers. So surely if  
 3 you are that dishonest, that fraudulent, you wouldn't be  
 4 taken back on. Why did Specsavers do that? They were  
 5 showing behaviour --  
 6 Q. When you were acting as a locum, you weren't handling --  
 7 making expenses claims and dealing with the financial  
 8 side of the business, were you?  
 9 A. I agree, but if you are dishonest, you are dishonest,  
 10 I can sell glasses in the room, you know, with the GOC  
 11 Act, dishonest is dishonest, it doesn't have to be with  
 12 money.  
 13 Q. You didn't make any request in relation to your husband  
 14 in this email for reinstatement for him, did you?  
 15 A. He was going to do his own reinstatement by the SOG  
 16 board. He felt that Mel McAlindon would not be open --  
 17 in the three episodes that he has had with  
 18 Mel McAlindon, he knew it was biased, and he felt if we  
 19 could save one job, save yours, he would have done his  
 20 SOG letter the next day, but because we were waiting for  
 21 Mel McAlindon to respond with a phone call by the  
 22 Friday, he was going to wait and see what the outcome of  
 23 that was, and then Mel McAlindon says he is not going to  
 24 be back from Australia until the 30th and that's why me  
 25 and John -- John logs his litigation, well, the letter

1 21

1 to the SOG on 5 April. He waited to see what the  
 2 meeting would be about with me and Mel McAlindon on the  
 3 30 March.  
 4 Q. Isn't the reality that whilst you were prepared to --  
 5 you were accepting that you deserved a final written  
 6 warning, you didn't mention your husband because you  
 7 appreciated that his conduct was such that there was no  
 8 prospect of reinstatement for him?  
 9 A. Not at all. It was, like I said, a begging letter, at  
 10 least get one income going while we wait for what  
 11 Mel McAlindon says. We felt at the end of the day John  
 12 did not want to see Mel McAlindon at all. He was going  
 13 to go straight to the SOG route. It was me to say "Hold  
 14 up, let me see if he has made a massive mistake, so  
 15 let's hold up before you put in your complaint to  
 16 Derek Dyson and the board".  
 17 Q. I don't believe that's an explanation that your husband  
 18 gave in his evidence, it's inconsistent with his case;  
 19 do you accept that?  
 20 A. Well, this is what I am telling you.  
 21 Q. You had a subsequent meeting on 21 April with  
 22 David Clark, a without prejudice meeting; do you  
 23 remember that?  
 24 A. Correct, yes.  
 25 Q. And then there were matters from that meeting which were

1 22

1 set out in a letter to you on 26 April which you find at  
 2 E2/481. I think we looked at this document before.  
 3 A. Yes.  
 4 Q. This made it clear that they were willing to purchase at  
 5 300 less the matters that we have previously discussed;  
 6 correct?  
 7 A. Well, this onwards is, you know, all about, you either  
 8 take your shares or if you don't we will do it at par  
 9 value.  
 10 Q. Can you just answer my question, Mrs Parham?  
 11 A. Yes.  
 12 Q. It did indicate a willingness to purchase your shares at  
 13 300,000; correct?  
 14 A. Correct.  
 15 Q. The other option was the impasse continued, and as you  
 16 rightly say there was a reference in that letter to the  
 17 possibility of the use of either 19.6, which is the par  
 18 value option --  
 19 A. Yeah, it's --  
 20 Q. -- or 19.5 by valuation as well; correct?  
 21 A. Correct.  
 22 Q. So you appreciated that at that point there was  
 23 a prospect of Specsavers exercising its option under  
 24 19.6?  
 25 A. Well --

1 23

1 Q. If you weren't able to agree terms for the purchase of  
 2 the shares otherwise?  
 3 A. Yeah, but I'll give you the history before, because we  
 4 write a letter to the SOG board just to ask the SOG  
 5 board what's going on, because we feel that  
 6 Mel McAlindon has made the decision himself, so being  
 7 a bully as he is we thought we will put it towards the  
 8 SOG board thinking they don't know the guy is going  
 9 round doing this 19-point -- you know, these threats,  
 10 and so we put a letter to the SOG board thinking that,  
 11 well, letting them know what's going on, what's the  
 12 behaviour going on in the loss prevention team. We  
 13 write a letter to the SOG board. They are not  
 14 interested at all to even have a phone call or  
 15 discussion. It goes straight into legal. So we know  
 16 straightaway something's going on here, they are not  
 17 ready to listen.  
 18 So then we get these letters from legal saying you  
 19 either take it or get nothing. So they are not even  
 20 interested in what the behaviour or everything or what  
 21 we are saying, declaring our innocence or knowing what  
 22 we have been -- what the whole thing is about. So it  
 23 goes straight into blackmail letters right from 21 April  
 24 down to July, when they actually do the par value.  
 25 Q. If you remember, you had further negotiations with them

1 24



1 after April in relation to the price, do you remember  
 2 the price went up to -- you agreed to a price at  
 3 307,000? In fact, you accepted at 300,497; do you see  
 4 that?  
 5 A. What page?  
 6 Q. 497.  
 7 A. Yeah, this is being basically where the history here  
 8 now, my Lord, is that we are getting nowhere, not about  
 9 price, this is not about the money or the value of the  
 10 shares, I am getting to the situation where no-one is  
 11 helping us within the head office, no-one is prepared to  
 12 listen or give us any evidence or audit or what it's all  
 13 about. So we then decide, well, you know, we are  
 14 getting nowhere here. So I relent that we have no money  
 15 to take litigation against them, because they have my  
 16 money, so let's just, you know, call it a day, and then  
 17 we find out that obviously we have been short-changed by  
 18 the value of our price anyway, but it's -- so we are  
 19 being short-changed.  
 20 Q. 515 is a letter to your solicitors of 10 June,  
 21 Hamilton Pratt?  
 22 A. Yeah.  
 23 Q. The second solicitors?  
 24 A. Yeah.  
 25 Q. Where there is a reference to, again, the prices, and

1 25

1 also in that letter we referred at 517 to a number of  
 2 additional items added on to your P11D, which we  
 3 discussed during the course of these proceedings as  
 4 well?  
 5 A. Yes.  
 6 Q. At this point you were legally advised; correct?  
 7 A. No.  
 8 Q. This is a letter to your solicitors?  
 9 A. This one, sorry, yes.  
 10 Q. You were aware that the issue of the option under 19.6  
 11 had been indicated to you?  
 12 A. Yes.  
 13 Q. Back in the letter on 26 April?  
 14 A. Correct.  
 15 Q. Now, neither you nor your lawyers chose to provide any  
 16 further justification of the transactions in response to  
 17 this letter or indeed any letter after April, did they,  
 18 before the exercise of the option?  
 19 A. No, because at this stage of the process -- no, we  
 20 didn't rebuttal it, actually, no. No, we didn't  
 21 rebuttal it, no.  
 22 Q. No. Finally can I just ask you to turn to your third  
 23 witness statement at page 110? We have seen effectively  
 24 this witness statement already in the other proceedings,  
 25 some tax points made here.

1 26

1 A. On page, sorry?  
 2 Q. Page 110. It's the final document in the bundle. Do  
 3 you remember that?  
 4 A. Yes.  
 5 Q. Paragraph 7 you refer to, this makes some points in  
 6 relation to tax, your understanding of a legal case;  
 7 correct?  
 8 A. Yes.  
 9 Q. This document is almost in identical wording to  
 10 a witness statement produced by Mr -- for Mr Vos in the  
 11 other proceedings. You were in court during his  
 12 evidence, weren't you?  
 13 A. Yes.  
 14 Q. Do you remember that? You were. The basis of your  
 15 understanding in relation to the points made, I think  
 16 I dealt with this with Mr Vos, I think he accepted that  
 17 really these were his lawyer's points rather than  
 18 matters on which he -- his understanding was really  
 19 based on what he had been told by his lawyers. Is that  
 20 the same for you in relation to this? Paragraph 7, for  
 21 example, referring to your understanding of a legal  
 22 case.  
 23 A. Correct.  
 24 Q. So is this witness statement in fact not actually your  
 25 evidence on the matters given, it's in almost the

1 27

1 identical language in another witness statement, that  
 2 this is really effectively just submissions given by  
 3 your lawyers rather than evidence by you?  
 4 A. That's correct.  
 5 MR POTTS: On that basis, given that it is not evidence,  
 6 I don't have any further questions on it and I have no  
 7 further questions.  
 8 A. Can I tell you, my Lord, because I am not coming through  
 9 here: this whole thing of my case is actually not -- you  
 10 know, as a Christian, and I didn't want to open Sundays,  
 11 I feel that this whole -- for me personally, it's God's  
 12 battle. The bigger picture here is all about the 19.6  
 13 clause, that this is why the whole of the group are  
 14 listening to the case, because the 19.6 clause, it's  
 15 called a bad leaver clause, and it's used against people  
 16 that don't comply, the JVPs that don't comply to what  
 17 Specsavers want them to do. As the JVPs are all bound  
 18 by Specsavers Guernsey, they are controlling all the  
 19 store companies in the UK, of any -- if they don't  
 20 comply, they use this bad leaver clause willy-nilly,  
 21 basically, on a grounds to believe.  
 22 Now, we sign up, as I see it, I have been there in  
 23 the business for 12 years, and they have always been my  
 24 tax agents, they have been my business and personal. So  
 25 I found that the failings -- if there was any failings

1 28

1 that could have been raised or picked up, and they are  
2 using it, this 19.6 clause, to achieve their results,  
3 and due to my faith, as I said, I didn't want to open  
4 Sundays, that's what they used against me, because  
5 I wouldn't open, and that's why I am here today, for the  
6 group and the others, to test the 19.6 clause in court,  
7 not their Specsavers law, in court to see if this is  
8 really valid, if this is lawful, and that's what I am  
9 here for.  
10 It wasn't about the money, I know that the way  
11 Mr Potts looks at it, I don't care if I get no money,  
12 I don't care if I lose on it, I want the courts to  
13 decide if this is -- the 19.6 clause -- a test of law,  
14 and that's why everybody is watching it. Because there  
15 is hundreds out there that Specsavers have used this  
16 clause on, and I want to know that there has got to be  
17 genuine grounds to conclude of dishonesty and fraud, not  
18 a suspicion. You know, at any point Specsavers could  
19 have come down and, you know, asked us, but they have  
20 gone on a distance with that suspicion.  
21 MR JUSTICE HILDYARD: Thank you.  
22 Re-examination by MR STUART  
23 MR STUART: Mrs Parham, I have some questions in  
24 re-examination. I am going to take them in the order in  
25 which they arose. There are not too many of them.

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1 You were asked early yesterday about the question of  
2 Sunday trading?  
3 A. Yes.  
4 Q. And specifically you were asked about Tim Smart's  
5 involvement, and you said that -- you mentioned the  
6 spawn of the devil, you kept referring to this spawn of  
7 the devil email?  
8 A. Yes, as a Christian in my faith I felt insulted that,  
9 you know, just because we don't want to open Sunday we  
10 are called the spawn of the devil, it is an insult to my  
11 faith.  
12 Q. Could you be passed E1/117?  
13 A. Yes.  
14 Q. Is that the email you are referring to? Sorry, the  
15 bottom one. There are two emails on that page, it's  
16 a string.  
17 A. Yes.  
18 Q. From Tim Smart?  
19 A. That's right.  
20 Q. 18 November 2008.  
21 A. Yes.  
22 Q. Did you have any dealings or conversation with Tim Smart  
23 yourself about this issue of Sunday trading?  
24 A. No.  
25 Q. Did you personally --

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1 A. No.  
2 Q. -- speak to him?  
3 A. No.  
4 Q. All right. The other matter of Tim Smart arose -- no,  
5 actually, we will move on to Trish Lofting. You were  
6 asked about the Trish Lofting allegation. Could you go  
7 to, still in E1, I think you were taken to page 221. It  
8 was suggested to you by Mr Potts that this deadline  
9 date -- do you remember you were asked about the  
10 deadline date of 26 September --  
11 A. Yeah.  
12 Q. -- 2010?  
13 A. Yeah.  
14 Q. It was suggested to you that that deadline date was only  
15 really a deadline date as at July 2010, do you remember  
16 Mr Potts saying to you all about before the school  
17 holidays?  
18 A. Oh yes, yes.  
19 Q. Or the holiday. Do you remember that?  
20 A. Yes.  
21 Q. July 2010. I want you then to go to page -- we do see  
22 it there as a proposal in July 2010.  
23 A. Yes.  
24 Q. Just below the second holepunch --  
25 A. Yes, I can see it.

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1 Q. -- the timescale is 26 September. I want to take you  
2 on in time to the end of August. Will you go to  
3 page 239?  
4 A. Yes.  
5 Q. Specifically at page 241, the end of this email from  
6 Mr Godfrey. Do you see that?  
7 A. Yes.  
8 Q. My question is this: at that time, that is the end of  
9 the school holidays, end of August 2010 or the beginning  
10 of September 2010, so shortly before  
11 26 September 2010 --  
12 A. Yes.  
13 Q. -- did you have any conversations with people about  
14 Sunday trading?  
15 A. No. Not me personally, but John might have, but not me.  
16 Q. Okay, did your husband speak to you about any  
17 conversations that he had at that time?  
18 A. I can't remember.  
19 Q. Fine. We will move on to yesterday afternoon's  
20 cross-examination. You were asked about the incident on  
21 1 March, 2 March, with Mr Whittaker at the door, coming  
22 to the door and you coming down; do you remember?  
23 A. Yes.  
24 Q. You can put away E1 and go to E2.  
25 A. What page?

132

1 Q. If you go to page 404.  
2 A. Yes.  
3 Q. To get you the context, 401, this is the record of  
4 conversation with Mr Whittaker on 2 March. Do you see  
5 that?  
6 A. Yes.  
7 Q. 401. At 404, he deals with the meeting with you on the  
8 day in question; do you see that?  
9 A. Yes, yes.  
10 Q. So if you just look at his last reply starting at 115;  
11 do you see that?  
12 A. Yes.  
13 Q. That's where he is talking about that day.  
14 A. Yeah.  
15 Q. Then at 123, line 123, do you see the sentence starting:  
16 "When I got there ..."  
17 A. Yeah, that's right.  
18 Q. "When I got there this morning, John handed me a bin  
19 liner with a box inside and asked me to put it into the  
20 stock room. I did not look inside the bag until I got  
21 into the store, and when I did, I put the Blu-Ray player  
22 box in the stock room and the bin liner is still in  
23 there as well."  
24 Do you see that?  
25 A. Yes.

133

1 Q. Contrasting that with 412, which is his  
2 Criminal Justice Act witness statement --  
3 A. Yes.  
4 Q. -- if you go to the bottom of 412, do you see the last  
5 paragraph, it starts "this morning"?  
6 A. Yes, yeah.  
7 Q. It says:  
8 "Both John and Shakila were both stood at the door  
9 and he gave me a black bin liner. He asked if I could  
10 put it in the stock room. I could see from the top of  
11 the bag it was a Blu-Ray player. Whilst at the door,  
12 a brief discussion took place between myself, John and  
13 Shakila. Both John and Shakila started mentioning that  
14 they were still in shock, that they were being  
15 investigated for expenses and tax reasons. They were  
16 seeking advice from their solicitor and they intended to  
17 send a letter to Derek Dyson. Shakila mentioned as well  
18 that if it all went wrong and she would go and work for  
19 Vision Express across the road."  
20 Do you see that?  
21 A. Yes.  
22 Q. When you were asked about this yesterday, you said that  
23 Mr Whittaker mentioned the conversation with you in his  
24 first statement. What did you mean by that? What is  
25 his first statement that you are talking about?

134

1 A. I thought he mentioned in the first statement. I don't  
2 know --  
3 Q. Can you answer the question: what are you talking about  
4 "the first statement"? What are you pointing to? What  
5 is the first statement that you are referring to? Page  
6 number, give us a page number.  
7 A. I can't remember actually.  
8 Q. Okay. Can I just deal with 412, then? You see 412?  
9 This is the written witness statement, not the record of  
10 conversation. Do you have page 412 or not?  
11 A. Yes.  
12 Q. I've taken you to that paragraph at the bottom. Do you  
13 see it?  
14 A. Yes.  
15 Q. Just going to it and starting with the words "whilst at  
16 the door" -- no, let us start at the top:  
17 "Both John and Shakila were both stood at the door  
18 and he gave me a black bin liner."  
19 Do you see that?  
20 A. Yes.  
21 Q. Is that right or wrong?  
22 A. That's wrong. But I must have seen -- this must be  
23 witness statement 1 of Noel's.  
24 Q. So that line is wrong. How is it wrong?  
25 A. Because I wasn't stood at the door with him, with John.

135

1 Q. Okay. Then a line further on:  
2 "Whilst at the door a brief discussion took place  
3 between John, myself and Shakila."  
4 That sentence, is it right or wrong?  
5 A. Well, I come down the stairs and then I have a brief  
6 discussion with Noel, with John.  
7 Q. Okay:  
8 "Both John and Shakila started mentioning that they  
9 were still in shock ... being investigated for expenses  
10 and tax reasons."  
11 Is that part of his statement right or wrong?  
12 A. That bit's wrong.  
13 Q. Okay. How is it wrong?  
14 A. Well, I don't go into it. I don't go into it, I have  
15 a conversation with him about, you know, that I was  
16 stressed out and that I had been suspended, and that  
17 I am just going to go off and work for Vision Express if  
18 things went wrong.  
19 Q. Okay, so "they were seeking advice from their  
20 solicitor", is that right or wrong, did you mention that  
21 to him or not?  
22 A. No.  
23 Q. "... intended to send a letter to Derek Dyson."  
24 Did you mention that to him or not?  
25 A. Yes, actually, sorry, I take that back.

136

1 Q. You take what back? The bit about seeking advice from  
 2 the solicitor?  
 3 A. No, sorry. No, I didn't say that.  
 4 Q. Did you mention sending a letter to Derek Dyson?  
 5 A. Yeah, I think I might have said that.  
 6 Q. So that bit is right.  
 7 "Shakila mentioned as well that if it all went  
 8 wrong, she would go and work for Vision Express across  
 9 the road ..."  
 10 A. I remember that.  
 11 Q. Did you say that?  
 12 A. Yes.  
 13 Q. So that part of it is right?  
 14 A. Yeah.  
 15 Q. "... and felt comfortable that all her customers would  
 16 follow".  
 17 Do you think you said that?  
 18 A. Yes, I said that.  
 19 Q. Yes, you did say that, all right.  
 20 Would you just go to your first witness statement?  
 21 A. Yes.  
 22 Q. You were next asked about mentioning of the GOC.  
 23 A. Paragraph?  
 24 Q. 135 on page 23 in bundle B.  
 25 A. Yeah.

137

1 Q. You were asked about this?  
 2 A. Yeah.  
 3 Q. Actually what you were asked and what was put to you was  
 4 that you fainted because -- only because -- of the  
 5 reading to you of Mr Whittaker's statement?  
 6 A. That's right, because it was false.  
 7 Q. Just look at paragraphs 135 to 136 of your witness  
 8 statement.  
 9 A. Yes.  
 10 Q. So I want to be clear as to what your evidence is now.  
 11 Is it that you fainted because of the mention of  
 12 Mr Whittaker's statement, it being read out to you; or  
 13 is it also because of the GOC issue being raised by  
 14 Mr McAlindon just before that?  
 15 A. It's both.  
 16 Q. It's both, okay.  
 17 Next you were asked about various financial matters,  
 18 and we start with credit cards. You were asked at  
 19 length about the involvement of the two of you, you and  
 20 your husband, in checking off credit cards et cetera.  
 21 A. Yes.  
 22 Q. I just want to be clear, or I want your evidence to be  
 23 clear to the court: how many credit cards -- company  
 24 credit cards -- did you and your husband have?  
 25 A. One each.

138

1 Q. If you would go to E1, we have what appears at least to  
 2 be your credit card --  
 3 A. Page?  
 4 Q. Sorry, page 14. E1/14 onwards. Do you see that? That  
 5 appears to be a corporate credit card statement --  
 6 A. Yes.  
 7 Q. -- for a card number, and it's got your name on the  
 8 left-hand side.  
 9 A. Yes.  
 10 Q. And then the Specsavers finance address as being the  
 11 address to which the credit card statements were  
 12 actually sent. Do you see that on the left-hand side?  
 13 A. Yes.  
 14 Q. Did your husband's credit card have a separate  
 15 statement?  
 16 A. Yes.  
 17 Q. You described in cross-examination to Mr Potts how your  
 18 husband would print off for you your credit card  
 19 statement, and you would then go through it and mark  
 20 those which were personal and those which were --  
 21 A. Yes, this one here is in 2004, the eBis system that I am  
 22 talking about, about printing it off, that comes in  
 23 2006. So this is the old credit card system, where you  
 24 got it sent to you, you know, these statements. So this  
 25 is different to the eBis system.

139

1 Q. Okay. My question is just about the credit cards, you  
 2 see, because we want to understand what it is that you  
 3 are comparing, as you sit down together, as you  
 4 described it to Mr Potts.  
 5 A. Yes, just typical business ones.  
 6 Q. Did you have just your own personal credit card  
 7 statements, your own --  
 8 A. Yes.  
 9 Q. -- Specsavers credit card statement?  
 10 A. Yes.  
 11 Q. Or did you have John's as well?  
 12 A. I had my own.  
 13 Q. Okay. Fine. Did you ever see his statements?  
 14 A. No.  
 15 Q. You were asked about home cleaning.  
 16 A. Yes.  
 17 Q. And you were asked about this at length again this  
 18 morning. I just want you to make it clear to the court  
 19 what it is you say about home cleaning. The home  
 20 cleaning invoices --  
 21 A. Yes.  
 22 Q. -- which were paid by Specsavers --  
 23 A. Yes.  
 24 Q. -- are you saying that they were business expenses, or  
 25 are you saying that they were personal expenses which

140

1 you could take as a P11D personal -- that you could pay  
2 through the company but which would be your liability  
3 for the purpose of tax?  
4 A. No, I want it as business related.  
5 Q. So Mr Potts took you at length to your witness statement  
6 where you mentioned that this was triggered by the  
7 receipt of a Specsavers tax brief --  
8 A. The partners' brief 2008, yes.  
9 Q. Exactly, which was about taking bonus, taking money out  
10 of the company as an alternative to bonus or dividends?  
11 A. Correct.  
12 Q. Through the P11D method, and there were examples such as  
13 golf membership and new car, et cetera?  
14 A. Correct.  
15 Q. How do you say that that is connected to not taking  
16 money in that way but to paying a business expense? How  
17 do you say the connection --  
18 A. I just saw it as a benefit that I could take out, that  
19 it's business related, for the home cleaning, and so  
20 therefore I felt that I was -- it was justified to put  
21 that as a business. But that's how I understood it.  
22 Q. Okay. You were asked about flowers. I just want to  
23 check this with you. First of all, Mr Whittaker had  
24 apparently said that -- it was put to you that he had  
25 said -- there were no flowers in the shop.

141

1 A. That's correct.  
2 Q. If you just go to -- I think you have a bundle called  
3 X1 -- page 107 of that. Just to be clear, this X1 and 2  
4 are the full copy of Specsavers' report in relation to  
5 all this. At 107, I am sure it's in quite small  
6 writing, but do you see this is a list, Specsavers'  
7 list, of all the staff who have worked at the Uckfield  
8 store?  
9 A. Yes.  
10 Q. Not just the ones who were there at the time, but all of  
11 them. So for some of them, we see there their date of  
12 entry and their date of exit?  
13 A. Yes.  
14 Q. If you go down, just above the first holepunch?  
15 A. Yes.  
16 Q. Do you see "Noel", then capital, "Noel Whittaker"?  
17 A. Yes.  
18 Q. We see a starting date of 17 March 2008, and a question  
19 mark as to leaving date?  
20 A. Oh yes.  
21 Q. Do you know when Noel Whittaker stopped working for  
22 Specsavers Uckfield store?  
23 A. He left the year I left.  
24 Q. That's 2011, you left in 2011?  
25 A. Yeah, he left --

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1 Q. Before or after you?  
2 A. After me.  
3 Q. After you in 2011, okay. So he was there for three  
4 years?  
5 A. Yes.  
6 Q. Starting, it appears, on 17 March 2008, according to  
7 Specsavers?  
8 A. Yes.  
9 Q. Does that accord with your recollection of when he  
10 started?  
11 A. Yes.  
12 Q. March 2008?  
13 A. Yes.  
14 Q. So going back to the question of flowers, which is what  
15 was put to you, he has said that there were not flowers  
16 in the store?  
17 A. That's right.  
18 Q. In the period March 2008 to 2011, we had better say  
19 March 2011, because that's when the investigation had  
20 finished, in that three-year period, how often did you  
21 actually put flowers in the store? Was it every week,  
22 every month, every few months, just occasionally, once  
23 a year?  
24 A. I think it was only, you know, there was eight in total,  
25 and I think --

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1 Q. What, in the three years or in a longer period?  
2 A. In 2006 to 2011, there was only eight.  
3 Q. So in the five year period there were eight occasions --  
4 A. Eight in total, that's right.  
5 Q. -- when you put --  
6 A. I think three or four was before Noel's time.  
7 Q. Okay.  
8 A. But there was --  
9 Q. Can you just explain to his Lordship where the flowers  
10 would be in the store on those four or five occasions  
11 that you put them in the store?  
12 A. They can either be behind, in the front of the desk,  
13 behind the reception area, but more likely the waiting  
14 area outside my sight test room, which is --  
15 Q. Okay.  
16 A. So you come through the shop, there is the reception  
17 area (indicated), you come through and there is a small  
18 waiting room and there is my --  
19 Q. Is there a table there they can be put on or are they  
20 just put on the floor, or --  
21 A. A little table there.  
22 Q. A side table that you can put things on?  
23 A. That's it.  
24 Q. Okay. There was one last one on the flowers: you were  
25 taken to H by Mr Potts. You can put away bundle X1 now.

144

1 Bundle H, you were taken to the receipts, including the  
2 one at 160, and you gave an explanation about something  
3 about if a description was given, then that was  
4 a business related; if no description -- my note said at  
5 least, and I think I looked at the transcript -- then  
6 automatically P11D?  
7 A. Yes.  
8 Q. That's the evidence you gave to Mr Potts'  
9 cross-examination. I just want to understand, if you  
10 take 157, there one of the items has "store" written  
11 next to it, and the other hasn't. Do you see that?  
12 A. Yes.  
13 Q. Is that your writing?  
14 A. No.  
15 Q. Whose writing is that?  
16 A. John.  
17 Q. Okay. Do you know, what is the effect of that?  
18 A. Well, I look at it that he has put the whole thing as  
19 "store".  
20 Q. Okay. You also -- sorry, on this, you mentioned in  
21 answers, you said to Mr Potts quite forcefully "they had  
22 [they, Specsavers] rejected matters such as this  
23 before", you said to him?  
24 A. Yes, and that's --  
25 Q. I would like you to go to page H/147 whilst we are here.

145

1 A. Yeah, this is ...  
2 Q. It's not particularly easy to read what's highlighted,  
3 but next to it someone has written "store waiting room".  
4 Do you see that?  
5 A. Yes.  
6 Q. Is that your writing?  
7 A. Yes.  
8 Q. That is your writing?  
9 A. Yes.  
10 Q. Can you just explain what this document is, then, for  
11 the court?  
12 A. Basically it's telling us that that is disallowed.  
13 Q. Yes?  
14 A. You have to put the reason for it.  
15 Q. Okay, so it's dated 12 October 2007:  
16 "Dear partner, the attached invoice has been  
17 returned to you."  
18 A. That's right.  
19 Q. So there must have been an invoice?  
20 A. There must have been an invoice that hadn't got anything  
21 written on it.  
22 Q. Right.  
23 A. And we have had to put an explanation on it.  
24 Q. Okay.  
25 MR JUSTICE HILDYARD: What does it say?

146

1 A. I can't read it very well.  
2 MR JUSTICE HILDYARD: It's very difficult, isn't it?  
3 MR STUART: It's quite difficult, isn't it?  
4 (Pause)  
5 "Specifics of staff related expense, not indicated."  
6 A. Right.  
7 MR JUSTICE HILDYARD: Specifics of?  
8 MR STUART: "... of staff related expense, not indicated".  
9 Sorry:  
10 "(Who, what, where, why?) Not indicated. [tax  
11 regulation]."  
12 MR JUSTICE HILDYARD: I see.  
13 MR STUART: That seems to have been highlighted by somebody  
14 anyway.  
15 A. Yeah, that's accounts.  
16 Q. Okay, and then you have written the words "store waiting  
17 room"; is that right?  
18 A. That's right.  
19 Q. Can you just explain what would happen, then, you would  
20 receive this --  
21 A. Yes.  
22 Q. -- with the attached invoice saying "we are rejecting  
23 this"?  
24 A. We are rejecting it, so we have to correct it and give  
25 it back.

147

1 Q. I see, and then you would send it back?  
2 A. Corrected, yes.  
3 Q. Corrected with "store waiting room" or whatever written  
4 on it?  
5 A. Exactly, yes.  
6 Q. I understand.  
7 You were asked about lunches, and your evidence this  
8 morning was that your husband didn't tell you -- I think  
9 you said -- that he was putting the lunches as a --  
10 getting the shop to pay for your lunches?  
11 A. That's right.  
12 Q. And that he also -- his Lordship pointed out there is  
13 two steps to the process -- didn't tell you that he was  
14 taking the money out of petty cash to pay for those  
15 lunches?  
16 A. That's correct.  
17 Q. Those two elements?  
18 A. That's right.  
19 Q. Could you just be passed the transcript bundle for  
20 Day 17? The way it was put to you was that your husband  
21 had said, and I just want to get clear -- if you go to  
22 Day 17, page 96 to page 97, start on 96. Do you have  
23 it?  
24 A. Yeah.  
25 Q. If you go to the bottom at 95, you will see:

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1 "Answer: As I say, we were doing working lunches.  
2 I was putting working lunches -- working lunches have  
3 never been disallowed ..."  
4 Do you see that?  
5 A. Yes. Sorry, the bottom of 96?  
6 Q. Bottom of 95, just the last two lines of 95. Do you see  
7 it? This was the evidence your husband gave.  
8 A. Yes.  
9 Q. Do you see that?  
10 A. Yes.  
11 Q. He said:  
12 "Answer: We had tax letters, tax news that came  
13 through. I think at one point there may have been, you  
14 know -- they were saying there was a discussion between  
15 Specsavers accounts ... it was never disallowed.  
16 "As long as we offered it to the staff ..."  
17 A. That's right.  
18 Q. "... we did. The staff never -- they would prefer to  
19 have their lunch break. We then decided, okay, look, we  
20 are entitled to these working lunches, that's how we  
21 will do it. As I say, it was a couple of pounds a day  
22 each. We are not going out on lunches, my Lord. This  
23 was a couple of pounds a week."  
24 Do you see that?  
25 A. Yes.

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1 Q. So my question is: it may be that -- I'll just ask you  
2 the straight question. Did you discuss with your  
3 husband the issue of working lunches for the staff?  
4 A. Yes.  
5 Q. You did?  
6 A. (Witness nods)  
7 Q. What was said?  
8 A. Well, anybody who didn't get their full -- their working  
9 lunch, they were entitled to have lunch paid from the  
10 till.  
11 Q. Okay. So what was discussed at the time? I should have  
12 asked: at the time of this starting, what was discussed  
13 between you and your husband, relating to working  
14 lunches?  
15 A. Sorry, can you repeat the question? Sorry, again.  
16 Q. At the time what was discussed between you and your  
17 husband relating to working lunches? You have just  
18 answered my question "yes, we discussed it", so I'm  
19 asking you to explain to his Lordship what you  
20 discussed.  
21 A. Yeah, that a bit -- what we discussed, if it was busy,  
22 that we would take a working lunch.  
23 Q. Okay. Was there any discussion about the staff choosing  
24 not to take a working lunch?  
25 MR POTTS: My Lord, I think the question is somewhat

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1 leading, I think.  
2 MR STUART: I am trying not to lead, my Lord.  
3 MR JUSTICE HILDYARD: I agree.  
4 MR STUART: Was there or was there not a discussion about  
5 the staff --  
6 A. Yes.  
7 Q. -- choosing not -- and what was said? (Pause)  
8 MR JUSTICE HILDYARD: It's difficult to remember the exact  
9 words.  
10 A. Yeah.  
11 MR JUSTICE HILDYARD: But what was the gist of the  
12 discussion between you and your husband as regards  
13 working lunches for staff?  
14 A. That it was available for all staff.  
15 MR JUSTICE HILDYARD: What was available?  
16 A. To have a sandwich.  
17 MR JUSTICE HILDYARD: Yes.  
18 A. On a busy day, you are allowed to have a sandwich, they  
19 would buy them for lunch.  
20 MR JUSTICE HILDYARD: At whose expense?  
21 A. The business.  
22 MR JUSTICE HILDYARD: Right, and how would that expense be  
23 met?  
24 A. Through the petty cash.  
25 MR JUSTICE HILDYARD: Through what?

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1 A. Petty cash.  
2 MR JUSTICE HILDYARD: Right.  
3 MR STUART: My Lord, I cannot take it any further.  
4 MR JUSTICE HILDYARD: Sorry?  
5 MR STUART: I can't take that point any further. I will  
6 move on to my last question, subject to instructions  
7 I am about to be given, I am sure.  
8 You were asked late on about your employment  
9 tribunal claim, and the way -- do you remember you were  
10 taken to G/7 -- and the way in which it was put there as  
11 to who had said what outside the room at G/9?  
12 A. G/9?  
13 Q. Yes, but you were actually taken to G/7, your employment  
14 tribunal claim.  
15 A. Yes.  
16 Q. So G/7 is the start of your employment tribunal claims,  
17 the form.  
18 A. Yes.  
19 Q. Then G/9 at the bottom, there is a chunk of text which  
20 has been inserted into the form.  
21 A. Yes.  
22 Q. Do you see that?  
23 A. Yes.  
24 Q. At the bottom of that, you were asked at length about  
25 the precise way in which -- what was meant by the word

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1 "they" and who is "they", et cetera, et cetera. Do you  
 2 remember?  
 3 A. Yes.  
 4 Q. I just want to ask you this: your husband was asked  
 5 about his form, page G/1; do you see that? Just to be  
 6 clear, you and your husband have to each issue  
 7 a separate claim form in the employment tribunal?  
 8 A. Yes.  
 9 Q. It's not like the High Court. Do you see that?  
 10 A. Yes.  
 11 Q. There are two claim forms?  
 12 A. Yes.  
 13 Q. G/1 and G/7. G/1 is your husband's form, and at  
 14 page G/3 your husband was taken to a block of text. Do  
 15 you see that?  
 16 A. Yes.  
 17 Q. My question is this: who drafted your form, G/9?  
 18 (Pause). Mrs Parham?  
 19 A. Yes.  
 20 Q. Sorry, it's a very simple question: who drafted  
 21 page G/9?  
 22 A. Myself.  
 23 MR STUART: Yourself. I am sorry, my Lord, would you excuse  
 24 me just a second?  
 25 MR JUSTICE HILDYARD: Yes.

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1 (Pause)  
 2 MR STUART: My Lord, I have no more questions. Does  
 3 your Lordship have some questions for Mrs Parham?  
 4 Questioned by MR JUSTICE HILDYARD  
 5 MR JUSTICE HILDYARD: Just one or two. I am sorry to delay  
 6 you, Mrs Parham. On that last question, the wording you  
 7 will have seen is very similar in your statement to the  
 8 employment tribunal as in your husband's. Did you draft  
 9 his as well?  
 10 A. To be honest with you, I can't even remember who drafted  
 11 whose.  
 12 MR JUSTICE HILDYARD: Right.  
 13 A. We must have sat down together and drafted it.  
 14 MR JUSTICE HILDYARD: Thank you. You were taken --  
 15 a completely different question now -- to those  
 16 handwritten notes which have been printed up and  
 17 typewritten stuff as to the events before Judge Elliott.  
 18 Were you shown a copy of those notes and asked whether  
 19 you agreed with them at any time?  
 20 A. No.  
 21 MR JUSTICE HILDYARD: When did you first see those notes?  
 22 A. A week before November, the start of the trial.  
 23 MR JUSTICE HILDYARD: The start of this trial?  
 24 A. Yes.  
 25 MR JUSTICE HILDYARD: Thank you. Help me a little bit,

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1 thirdly -- again completely separately -- on the 7 March  
 2 meeting at the Arora Hotel in Gatwick, as I understand  
 3 it.  
 4 A. Yeah.  
 5 MR JUSTICE HILDYARD: It was a hotel room. How was everyone  
 6 set out? There was Mr McAlindon, Mr Barnes, yourself  
 7 and Mr Hutchings.  
 8 A. That's right.  
 9 MR JUSTICE HILDYARD: They were there at all times until you  
 10 fainted; is that right?  
 11 A. Yeah. We were in separate room, my husband is in the  
 12 reception area of the hotel.  
 13 MR JUSTICE HILDYARD: So he was downstairs, was he, or was  
 14 it all on the same floor?  
 15 A. All on the same floor.  
 16 MR JUSTICE HILDYARD: All on the same floor.  
 17 A. He is waiting in the reception area, I am called into  
 18 an empty room, they have obviously hired that room out,  
 19 a desk like this, Phil Barnes, Mel McAlindon, and files  
 20 like that (indicated), three files like that.  
 21 MR JUSTICE HILDYARD: So they were peering over the files,  
 22 were they?  
 23 A. Yes, it was very intimidating. All those files like  
 24 that, and I don't get any documents in front of me.  
 25 Ray Hutchings is there, and then (indicated) --

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1 MR JUSTICE HILDYARD: Were you sat at the same desk?  
 2 A. Yes. So those two there (indicated), I am there, and  
 3 Ray Hutchings is there.  
 4 MR JUSTICE HILDYARD: How many of those sort of lever-arch  
 5 file cases would you say there were? One, two?  
 6 A. About three.  
 7 MR JUSTICE HILDYARD: Three?  
 8 A. Yeah.  
 9 MR JUSTICE HILDYARD: And Mr Barnes and Mr McAlindon were  
 10 sat together, were they?  
 11 A. Yes.  
 12 MR JUSTICE HILDYARD: It seems from the transcript that  
 13 Mr Barnes occasionally helped Mr McAlindon identify  
 14 documents, if Mr McAlindon couldn't.  
 15 A. Yes.  
 16 MR JUSTICE HILDYARD: One of those was the --  
 17 A. GOC.  
 18 MR JUSTICE HILDYARD: -- report, I can't remember quite  
 19 where it was, with respect to the GOC?  
 20 A. That's right.  
 21 MR JUSTICE HILDYARD: I think at page 428-11 in the third  
 22 and fourth line. I think the context of this, but you  
 23 may be able to confirm or put me straight on this, is  
 24 that Mr McAlindon is explaining that in effect the  
 25 gravity of what you had done might be measured against

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1 what is expected of you as a professional person?  
 2 A. Absolutely.  
 3 MR JUSTICE HILDYARD: Is that right?  
 4 A. Absolutely.  
 5 MR JUSTICE HILDYARD: He says:  
 6 "... [I] think okay maybe that's not dismissal  
 7 that's somebody else's decision they might think it is  
 8 gross misconduct and it is they will have to think about  
 9 that in the context but when you come to whole things  
 10 when the investigation is finished people are going to  
 11 have to look at your explanation today and do I think  
 12 your explanation was sufficient for a partner and  
 13 I think where is the piece of paper on the GOC stuff do  
 14 you know Phil because I underlined certain relevant bits  
 15 in it that I would like to explain."  
 16 Now, was that in a sense Mr McAlindon asking  
 17 Mr Barnes to help him identify this bit of paper with  
 18 respect to the GOC?  
 19 A. That's right.  
 20 MR JUSTICE HILDYARD: Yes, and was that put, was that found  
 21 and put to you?  
 22 A. No.  
 23 MR JUSTICE HILDYARD: Right. Okay. Is there anything  
 24 else -- it's a broad question, and say if it's too  
 25 broad -- about the set-up of the room which you feel

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1 I should know about in terms of understanding what it  
 2 was like to be in it?  
 3 A. Well, basically I just found that I couldn't even talk  
 4 to my witness, they only make you take another  
 5 shareholder, and I think that's a conflict of interest,  
 6 like we are now with Mr Ray Hutchings, because anyone  
 7 you take as another director, everyone knows throughout  
 8 the group they are going out. That's why no-one's been  
 9 able to take Specsavers to the High Court. You always  
 10 go through this employment tribunal and every director  
 11 that's gone through the employment tribunal has failed.  
 12 So there's no union for the directors --  
 13 MR JUSTICE HILDYARD: I understand that. I am sorry, and  
 14 that's helpful, but I was really asking you about the  
 15 physical room, you know, the way it all looked. Was  
 16 there anything which you think I should know about to  
 17 help me, long after the event, form an impression of  
 18 what it was like to be there?  
 19 A. You just feel like it's like in a police room, when  
 20 I see in the TV, you are in this room, empty room, and  
 21 the way the set-up, it's just like a police  
 22 interrogation type, that's how you feel, interrogated.  
 23 MR JUSTICE HILDYARD: Was there a tape recorder or some  
 24 such?  
 25 A. Yeah.

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1 MR JUSTICE HILDYARD: On the table?  
 2 A. It is a CD tape, by the way, this transcript is off the  
 3 CD.  
 4 MR JUSTICE HILDYARD: And that was just on the table in  
 5 front of them and in front of you?  
 6 A. It was on the table, and that's when he switched it when  
 7 we go off the record or the deal.  
 8 MR JUSTICE HILDYARD: Right.  
 9 A. That's when he changes, and it's off record, off the  
 10 tape. That's why he said not an intimidating voice,  
 11 because he knows he is on tape. As soon as that tape  
 12 stops, that's where all the "goes ballistic" bit comes.  
 13 MR JUSTICE HILDYARD: When the meeting reconvened after you  
 14 had fainted and there is no longer any transcript, were  
 15 you aware there was a transcript -- that there wasn't  
 16 a transcript?  
 17 A. No.  
 18 MR JUSTICE HILDYARD: As far as you were concerned it might  
 19 have been taped or might not have been taped?  
 20 A. That's right.  
 21 MR JUSTICE HILDYARD: Right. Those are my questions. Thank  
 22 you very much. Have they given rise to any questions  
 23 from counsel?  
 24 Further re-examination by MR STUART  
 25 MR STUART: Only as to the last point. Can I just get it

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1 clear, when you come back for the second part of the  
 2 meeting --  
 3 A. Yes.  
 4 Q. -- did somebody turn off the tape recorder or whatever?  
 5 A. Yes.  
 6 Q. Or was it not on?  
 7 A. No, someone turns it off.  
 8 Q. Somebody turned it off?  
 9 A. Yeah. Because they have switched it off when we have  
 10 gone to lunch to discuss --  
 11 Q. No, his Lordship asked you about the second part of the  
 12 meeting. That is, you go out because you have fainted?  
 13 A. Yes.  
 14 Q. You faint again outside?  
 15 A. Yeah, yeah.  
 16 Q. And then you come back in with your husband, as  
 17 I understood it?  
 18 A. And Ray Hutchings.  
 19 Q. So now there are the five of you in the room?  
 20 A. Yes.  
 21 Q. At that point, did anybody turn on or off -- I had  
 22 better ask an open question -- the CD recorder?  
 23 A. It was switched off. It was switched off, the CD was  
 24 switched off.  
 25 Q. When you say it was switched off, do you mean somebody

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1 switched it off there and then in front of you?  
 2 A. That's right.  
 3 Q. Who did that?  
 4 A. Phil Barnes.  
 5 MR JUSTICE HILDYARD: I see, so there was -- it was obvious  
 6 to you that it was being switched off?  
 7 A. That's right.  
 8 MR JUSTICE HILDYARD: I see. I understand.  
 9 Further cross-examination by MR POTTS  
 10 MR POTTS: My Lord, just one other question.  
 11 You said that you weren't able to speak to  
 12 Mr Hutchings, I think you said in your answers. Can you  
 13 just look at 428-8?  
 14 A. Well, I do talk to --  
 15 MR STUART: I think she said she felt unable to confide in  
 16 Mr Hutchings because he is not her friend, he is her --  
 17 A. I ask him a question because to help me on the skiing  
 18 trip thing that Mel McAlindon accuses us that it's a  
 19 personal family thing again and it's the group  
 20 directors' skiing trip.  
 21 So Ray Hutchings had been on one of these trips so  
 22 I asking Ray, "Oh, you can help me because you have been  
 23 on this trip", and then Mel McAlindon says, "Oh no, you  
 24 know, I won't get you into this conversation."  
 25 MR POTTS: That's in the room you are talking about?

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1 A. Yes, it's in the transcript as well.  
 2 Q. Can I ask you to look at 428-8?  
 3 A. Yes.  
 4 Q. At the first holepunch, in terms of you being able to  
 5 speak to him you also said "Can you give me five minutes  
 6 with Ray, can I please adjourn for five minutes?" You  
 7 ask for an adjournment?  
 8 A. Yes.  
 9 Q. And you were given that adjournment?  
 10 A. Yeah, but it's assisting me and helping me to respond to  
 11 the allegations that's put forward to me, that's what  
 12 I meant.  
 13 MR POTTS: Okay, thank you.  
 14 A. He is not helping me, he is not allowing me to ask my  
 15 witness to help me on the allegations that was met.  
 16 It's just that Ray had been on this trip and so I was  
 17 trying to prove it was a directors' trip.  
 18 MR POTTS: Which was the point you were talking about  
 19 actually in the meeting which we talked about.  
 20 Okay, thank you.  
 21 MR STUART: So could Mrs Parham be released from the witness  
 22 box at least? I know she will be here, she has been  
 23 here every day.  
 24 MR JUSTICE HILDYARD: There is an issue, though, with  
 25 respect to your request to me earlier this morning?

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1 MR STUART: Yes, I have asked for a response.  
 2 MR POTTS: I have provided a letter, my Lord. Can I deal  
 3 with that now?  
 4 MR JUSTICE HILDYARD: Yes. Mrs Parham, you are free to go  
 5 for the moment. I know you have been interested in your  
 6 own case, and you will be here, and there is the  
 7 possibility, without wishing to be gloomy about it, that  
 8 you might be asked some further questions by one or both  
 9 counsel relating to the matters we discussed briefly  
 10 this morning.  
 11 (The witness withdrew)  
 12 Discussion re privilege / confidentiality  
 13 MR POTTS: My Lord, could I pass up a letter in relation to  
 14 this, 1 February 2013, I have provided it to my friend  
 15 at lunch, my friend's junior, at lunchtime.  
 16 MR STUART: Thank you.  
 17 MR POTTS: Could your Lordship read this? This was a letter  
 18 which was provided along with our disclosure list on  
 19 1 February 2013. This is not a new point.  
 20 (Pause)  
 21 MR JUSTICE HILDYARD: Yes.  
 22 MR POTTS: My Lord, this is not a new point. The first  
 23 point, at the very time that we served our disclosure  
 24 lists on 1 February 2013, a specific reference was made  
 25 in relation to these notes. Your Lordship was concerned

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1 about a knee-jerk reaction, a sort of knee-jerk lack of  
 2 consideration about the issue of privilege. This makes  
 3 the point that that is not the case. It's on careful  
 4 consideration that the issue of privilege has been dealt  
 5 with and asserted, and redaction has been made in  
 6 relation to privilege issues.  
 7 It also makes the point that there is also redaction  
 8 in relation to confidentiality and irrelevance, and the  
 9 concerns in relation to confidentiality at that time are  
 10 set out below in relation to disclosure of confidential  
 11 information to the BBC and in all likelihood to  
 12 Private Eye, and a concern in that regard, and a concern  
 13 expressly referred at that point in relation to wider  
 14 disclosure.  
 15 Now, my Lord, that concern remains. It has been  
 16 exacerbated by the point that I raised, mentioned to  
 17 your Lordship this morning. Transcripts of this trial  
 18 are on the website. Mrs Parham, indeed, herself  
 19 referred to the fact that people are watching. Links  
 20 have been sent, we understand, to a significant number,  
 21 if not all, of the UK JVPs.  
 22 MR JUSTICE HILDYARD: Just so that I understand what your  
 23 position is in that regard, there is nothing wrong with  
 24 that, is there? It's a curious thing, because they are  
 25 quite long transcripts, and maybe one's attention isn't

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1 entirely gripped at all stages, but they could be here  
 2 if they wanted. Is there any problem with that?  
 3 MR POTTS: My Lord, there is nothing per se wrong with it  
 4 but it does highlight the issue of confidentiality --  
 5 MR JUSTICE HILDYARD: It does highlight how far these things  
 6 are likely to be disseminated.  
 7 MR POTTS: Yes, and there are 700 JVPs in the UK, roughly.  
 8 It's not just that. For example, the links to the  
 9 transcripts have been sent by Mr Vos, for example, we  
 10 understand, to the press in Australia on the basis that  
 11 it's said to be a story idea for Insight News in  
 12 Australia as well.  
 13 MR JUSTICE HILDYARD: Right.  
 14 MR POTTS: Mrs Parham herself in her closing salvo, after  
 15 I had finished my questioning, made some point in  
 16 relation to sort of the world at large, et cetera,  
 17 et cetera.  
 18 MR JUSTICE HILDYARD: Yes.  
 19 MR POTTS: My Lord, there are very real concerns about it,  
 20 there are very legitimate, there are 700 stores,  
 21 companies, they are all separate, they have rights of  
 22 confidentiality, and they are entitled, subject of  
 23 course to issues of privilege and -- sorry, of the  
 24 overriding confidentiality obligations and disclosure,  
 25 to protection. It is a balancing exercise, as

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1 your Lordship has said.  
 2 The first point is: there are privilege issues in  
 3 these documents, that point was made, as I said, this is  
 4 not a new point, this was made on 1 February 2013. This  
 5 has not just emerged now. This document was also  
 6 referred to expressly in the witness statement of  
 7 Mrs Parham. This is not a new issue. If concerns in  
 8 relation to that have been taken, they have had a great  
 9 deal of time to raise them, and the concerns in relation  
 10 to confidentiality we say in relation to the  
 11 non-privileged matters in the documents, and they are --  
 12 your Lordship's primary concern, I think initial  
 13 concern, was that this is just some sort of lack of  
 14 thought in relation to privilege. This document shows  
 15 that actually not only was there a careful consideration  
 16 of it but there was careful consideration at the  
 17 appropriate juncture when disclosure was given, and the  
 18 issues in relation to confidentiality are there, they  
 19 are legitimate, and the court will have regard to issues  
 20 of parties and indeed non-parties' legitimate rights of  
 21 confidentiality and the balancing exercise and the issue  
 22 to which it was taken was the wording within those  
 23 matters which were disclosed itself. It wasn't  
 24 a complicated point, it was a matter of putting the two  
 25 columns next to each other and putting matters in

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1 relation to this idea about no paper trail by reference  
 2 to what was said in the next column. It was not  
 3 a complicated point.  
 4 We would say the balancing of that, my Lord, given  
 5 this response, is that firstly privilege is properly  
 6 claimed, it is asserted, it has not been waived, and in  
 7 relation to matters which are not within pure privilege  
 8 point the confidentiality issues remain. We say the  
 9 balance at this stage -- again, if this had been  
 10 an issue, they have had a great deal of time to raise  
 11 it. Now is not the appropriate time, and we say the  
 12 balance at this point is in favour of keeping the  
 13 confidentiality of the parties, given the very wide  
 14 circulation that is plainly intended by the other side.  
 15 MR STUART: My Lord, then, if I have understood rightly, it  
 16 is said that this is not legally privileged, its  
 17 confidentiality is the reason that this has been blacked  
 18 out, the chunks that I am talking about.  
 19 MR POTTS: That's not right, my Lord, it's both. It's said  
 20 that there are matters which are privileged and that  
 21 there are matters blanked out which are privileged,  
 22 there are also matters which are blanked out for  
 23 confidentiality.  
 24 MR JUSTICE HILDYARD: How satisfactory is that?  
 25 MR POTTS: I am sorry, my Lord?

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1 MR JUSTICE HILDYARD: How satisfactory is it that it should  
 2 not discriminate between those parts blanked out for  
 3 privilege and those parts blanked out for confidence?  
 4 MR POTTS: Sorry, I am not sure I understand the point,  
 5 my Lord.  
 6 MR JUSTICE HILDYARD: My understanding is that there is  
 7 great blank swathes, and they might denote privilege or  
 8 they may denote confidence, but you can't tell which.  
 9 MR POTTS: I don't believe it's usual, my Lord, if one  
 10 redacts -- it's clear, my Lord, from the description  
 11 that it's both.  
 12 MR JUSTICE HILDYARD: Yes.  
 13 MR POTTS: From this letter.  
 14 MR JUSTICE HILDYARD: Some of the notes aren't in fact  
 15 protected by privilege.  
 16 MR POTTS: No, but some of them are.  
 17 MR JUSTICE HILDYARD: And some of them are.  
 18 MR STUART: I am sorry, my Lord, where does it say that this  
 19 document has been blanked out in part for  
 20 confidentiality reasons, not privilege?  
 21 MR POTTS: No, what it says --  
 22 MR STUART: I know that's what you are now telling me is the  
 23 position, but where does it say that?  
 24 MR POTTS: It says "These documents are marked as legally  
 25 privileged, these are the documents we are talking

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1 about."  
 2 MR STUART: Page 100, my Lord, in E11.  
 3 MR POTTS: "We have on careful consideration that some of  
 4 the notes are not in fact protected by privilege. These  
 5 documents have been disclosed as they contain  
 6 information which is relevant. Such disclosure is not  
 7 taken as a waiver of legal privilege in other  
 8 documents."  
 9 MR JUSTICE HILDYARD: I am sorry. I see. So everything  
 10 that is blacked is privileged?  
 11 MR POTTS: No, my Lord, it is either privileged -- well,  
 12 it's all confidential, certainly, and a large number of  
 13 the entries are privileged.  
 14 MR JUSTICE HILDYARD: Where, as Mr Stuart asks, does it say  
 15 that some of them have been blacked, though not  
 16 privileged, solely on grounds of confidentiality?  
 17 MR POTTS: Well, it says that the documents, the notes have  
 18 been disclosed to the extent relevant. And then there  
 19 is a discussion in relation to privilege, and privilege  
 20 is asserted in relation to parts of those documents.  
 21 MR JUSTICE HILDYARD: Yes.  
 22 MR POTTS: My Lord, if there is any ambiguity, I am  
 23 certainly happy to confirm that the matter has been  
 24 reviewed and the position is exactly the same position,  
 25 there is legally privileged material in those matters

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1 which are blanked out.  
 2 MR JUSTICE HILDYARD: Let me just get clear in my own mind.  
 3 This may be a mountain out of a molehill. I can take  
 4 it, can I, that in the document I have been shown, those  
 5 passages which are deleted in black have been so deleted  
 6 because they are privileged in the estimation of the  
 7 reviewer?  
 8 MR POTTS: There are.  
 9 MR JUSTICE HILDYARD: Yes?  
 10 MR POTTS: There are.  
 11 MR JUSTICE HILDYARD: Confidentiality on that footing is  
 12 irrelevant, because they would be --  
 13 MR POTTS: Yes.  
 14 MR JUSTICE HILDYARD: -- covered by privilege?  
 15 MR POTTS: Yes.  
 16 MR JUSTICE HILDYARD: And you, I don't ask what the  
 17 conversation was, have satisfied yourself -- I am sorry  
 18 to put it this way -- that the grounds on which  
 19 privilege have been claimed, which I take it are grounds  
 20 of legal advice --  
 21 MR POTTS: It is legal advice and litigation advice  
 22 privilege.  
 23 MR JUSTICE HILDYARD: Both?  
 24 MR POTTS: In different circumstances, yes.  
 25 MR JUSTICE HILDYARD: So there was in contemplation

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1 litigation in 2008?  
 2 MR POTTS: My Lord, we are talking about a large number of  
 3 different stores, 20 stores.  
 4 MR JUSTICE HILDYARD: Yes, but it's one list, isn't it?  
 5 What date is the top 20 list?  
 6 MR POTTS: I think it's May 2008.  
 7 MR STUART: Page 100, my Lord, in E1.  
 8 MR JUSTICE HILDYARD: E1/100. So at that time there was no  
 9 contemplation litigation?  
 10 MR POTTS: My Lord, I am sorry, I don't know if there is any  
 11 ambiguity about not your Lordship's question, but my  
 12 answer. I am saying that -- I am not saying that every  
 13 entry on the document is privileged, but a significant  
 14 number -- a number which are blacked out -- I think  
 15 your Lordship's question was: are there matters which  
 16 are blanked out which are privileged?  
 17 MR JUSTICE HILDYARD: No, no, the whole purpose of my  
 18 question was -- and that's why I said "So  
 19 confidentiality is irrelevant" -- my question to you is:  
 20 can I take it that all blanked out material on that page  
 21 has been blank the out, because in the estimation of the  
 22 reviewer it is privileged?  
 23 MR POTTS: I am sorry, my Lord, if there was any  
 24 misunderstanding on my part. The answer is not every  
 25 entry blanked out for privilege, no.

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1 MR JUSTICE HILDYARD: So some unidentified parts are not  
 2 claimed to be privileged --  
 3 MR POTTS: Correct.  
 4 MR JUSTICE HILDYARD: -- but are claimed to be  
 5 confidential?  
 6 MR POTTS: Correct.  
 7 MR JUSTICE HILDYARD: But we are not told which is one and  
 8 which is the other?  
 9 MR POTTS: No, that's correct.  
 10 MR JUSTICE HILDYARD: Secondly, as regards the claim for  
 11 privilege, the claim is based in each case on both  
 12 grounds of legal advice or litigation privilege?  
 13 Because you must specify between them if called on to do  
 14 so.  
 15 MR POTTS: Some are litigation privilege, some are legal  
 16 advice privilege, and indeed where there may be cases  
 17 where it is arguably both, could be both.  
 18 MR JUSTICE HILDYARD: So it was by reference as to some to  
 19 the possibility, real possibility of legal proceedings,  
 20 that they were deleted?  
 21 MR POTTS: Some.  
 22 MR JUSTICE HILDYARD: Some. And you personally have asked  
 23 for the basis in each category and have been satisfied  
 24 that it's a proper claim to privilege?  
 25 MR POTTS: Yes. But there are others, I accept, which are

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1 blanked out which are not blanked out for privilege but  
 2 on the basis of confidentiality. I hope, I intended to  
 3 be clear with your Lordship and with my friend.  
 4 MR JUSTICE HILDYARD: Thank you.  
 5 MR STUART: Could I just ask, my Lord, or through  
 6 your Lordship: the legal privilege asserted, whether it  
 7 be advice privilege or litigation privilege, is in  
 8 relation to some third party, nothing to do with the  
 9 Uckfield store?  
 10 MR POTTS: Yes, correct.  
 11 MR STUART: So if I could, let's leave to one side for the  
 12 moment the privilege issue and just deal with those  
 13 items where there are said now to be -- it's been  
 14 blanked out --  
 15 MR JUSTICE HILDYARD: Confidential.  
 16 MR STUART: Confidential. I'm not asking to see the  
 17 identity of those stores, I am not asking to see  
 18 anything which within the comments and issues section  
 19 identifies those, you know, "Mr Bloggs said", you know,  
 20 identifies any names of anybody or store names. I just  
 21 want to see the actual text of the comments and issues  
 22 in those confidential but not privileged sections.  
 23 MR JUSTICE HILDYARD: How is it likely to help you?  
 24 MR STUART: Because, my Lord, as I remind you, page 102 is  
 25 where this all started.

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1 MR JUSTICE HILDYARD: Yes.  
 2 MR STUART: Mrs Parham was cross-examined at length on the  
 3 basis that this is not -- can I call it the left-hand  
 4 column?  
 5 MR JUSTICE HILDYARD: Yes.  
 6 MR STUART: Not the far left, but there are two columns  
 7 here. I should mention one thing, my Lord, whilst I say  
 8 that: I'm slightly concerned in that page 100, which is,  
 9 as I understand it from Mr Potts now, this is all one  
 10 document. There were not two separate documents here.  
 11 But page 100 seems to have a different layout, to my way  
 12 of looking at it, to page 102.  
 13 MR JUSTICE HILDYARD: What, because in one it's "Action,  
 14 issue, comments" and the other is "Action, comments,  
 15 JJ"?  
 16 MR STUART: "Action, comments, JJ" and a timescale. Then we  
 17 have this thing, whatever this is. Anyway, let us leave  
 18 that to one side. On the left-hand side, Mr Potts  
 19 asserts that what's in this left-hand block is not in  
 20 any sense to be taken as a comment by one member of the  
 21 team to others who read this document as no paper trail.  
 22 I am taking an example, no paper trail. And, as he puts  
 23 it, that this is really a list of stores containing  
 24 matters to do with health and safety, and other  
 25 compliance issues as he calls it. It's not simply

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1 a list of those stores who are going to be targeted.  
 2 Now, if --  
 3 MR JUSTICE HILDYARD: Targeted generally or targeted by  
 4 reference to a specific thing?  
 5 MR STUART: Both. Targeted generally or targeted by  
 6 reference to Sunday trading.  
 7 MR JUSTICE HILDYARD: Right.  
 8 MR POTTS: I think the issue was Sunday trading, my Lord,  
 9 actually from recollection that was discussed.  
 10 MR STUART: That's what we say is the issue.  
 11 MR POTTS: Yes, that was her evidence.  
 12 MR STUART: So if I can see what comments and issues are  
 13 being raised, and if all the ones that are disclosed to  
 14 me, for example, have Sunday trading on them, then  
 15 your Lordship will be asked to infer that that line of  
 16 cross-examination was not factually founded. I should  
 17 remind your Lordship that we are not going to hear from  
 18 Mr Clark, he is not a witness who I can cross-examine.  
 19 We are going to hear from Mr Dyson, but he doesn't  
 20 mention this document in his witness statements at all.  
 21 And this issue, or the relevance of this and the blanked  
 22 out parts, has only really come about as a result of the  
 23 way in which it is now being put.  
 24 My Lord, in those circumstances, I feel that to put  
 25 my clients' case properly I should be entitled to see at

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1 least the non-privileged part and to see what this  
 2 really was, what Mr Clark's list really is.  
 3 Your Lordship will recall even from the Bognor case  
 4 that both my sets of clients maintain that being put on  
 5 Mr Clark's list means -- escalating to Mr Clark means  
 6 you are in serious trouble and you end up either out or  
 7 complying. If the contents of those columns appear to  
 8 coincide with that, I will suggest it's relevant  
 9 evidence. I cannot actually see any prejudice to the  
 10 defendants, to the fair trial of this matter, to showing  
 11 me the non-privileged parts of that document.  
 12 MR POTTS: Is my friend suggesting, when he says "showing  
 13 me" -- I am just trying to clarify, and possibly even  
 14 see a way through -- that it's on a counsel only basis?  
 15 MR STUART: Well, initially if it turns out that within  
 16 those chunks there is absolutely nothing that I would  
 17 wish to have put to the witness, or to put to a witness,  
 18 because it is indeed wholly irrelevant to any issue in  
 19 this case as it now stands, then I am not going to press  
 20 it forward, I am not going to make an issue out of it  
 21 for no reason, I am raising this because I am seriously  
 22 concerned --  
 23 MR JUSTICE HILDYARD: That may be a way forward, Mr Potts,  
 24 I won't require you to answer now, but it may be that  
 25 you can have a look, then with your clients' agreement

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1 that you should see things that they should not, which  
2 you must obtain obviously.  
3 MR STUART: Yes.  
4 MR JUSTICE HILDYARD: If you then think that there is  
5 material that should be in evidence then I will rule on  
6 that.  
7 MR STUART: Thank you, my Lord.  
8 MR POTTS: My Lord, as I say, I put forward the point  
9 because actually I am trying to find a way through it.  
10 I am happy, my Lord, to answer the point now. I am  
11 happy for my friend to see it, that's why I suggested  
12 it.  
13 MR JUSTICE HILDYARD: Yes.  
14 MR POTTS: The second point, my Lord, I would make, so  
15 your Lordship is aware, my clients do have concerns and  
16 they are genuine and legitimate, in relation to wider  
17 dissemination of those matters. They are plainly -- on  
18 any basis they will have been highly commercially  
19 sensitive and revealing them in a wider sense, even with  
20 the names blacked out, given the world of Specsavers,  
21 creates difficulties in relation to confidentiality.  
22 MR JUSTICE HILDYARD: I understand that, but I think your  
23 suggestion, which is helpful and constructive, is that  
24 with the agreement of his clients, who would otherwise  
25 be entitled to see what he sees --

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1 MR POTTS: On this document, my Lord, that can be done.  
2 MR JUSTICE HILDYARD: -- he will have a look at that.  
3 Obviously he will not disseminate, and then if there is  
4 to be any question of the revelation, we will have to  
5 have another bash at suitable protection, either by  
6 blanket "no, we are not going to have it at all" or some  
7 other --  
8 MR POTTS: My Lord, can I make a suggestion, given forward  
9 I put forward the suggestion, what my suggestion is  
10 my friend looks at it and he then, if there is a further  
11 issue, he speaks to me about it.  
12 MR JUSTICE HILDYARD: That's fine.  
13 MR STUART: My Lord, the next witness I'm going to call is  
14 Mrs Birdi because she is only available this afternoon.  
15 I note the time. I know your Lordship is finishing  
16 promptly at 4.20, but I also note the transcribers  
17 haven't had a break.  
18 MR JUSTICE HILDYARD: Yes, I am sorry, I have been very  
19 remiss about that. Shall we reconvene at quarter to?  
20 MR STUART: Thank you, my Lord.  
21 MR JUSTICE HILDYARD: Will you be able to finish this  
22 witness by 4.20?  
23 MR POTTS: My Lord, I was under the impression from the list  
24 it was Ms Willmott.  
25 MR STUART: I have changed that to Mrs Birdi because --

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1 MR JUSTICE HILDYARD: Did you tell Mr Potts?  
2 MR STUART: I told him earlier I will call them in the order  
3 which is convenient to depending on the amount of time  
4 he leaves me.  
5 MR POTTS: That's not what I understood at all.  
6 MR JUSTICE HILDYARD: Mr Potts, are you able, ready, willing  
7 and able to do it, or is this something which has taken  
8 you sufficiently by surprise?  
9 MR STUART: My Lord, he was due to be cross-examining all of  
10 these three witnesses, so I rather considered that it's  
11 appropriate for me to choose which order I will call  
12 this witness in. She is giving evidence next with your  
13 Lordship's --  
14 MR JUSTICE HILDYARD: It's a fair point, that we were going  
15 to deal with the whole lot in those glory days about two  
16 days ago --  
17 MR POTTS: My Lord, I wasn't -- I was just a little  
18 surprised, I am not raising an objection. It was  
19 just --  
20 MR JUSTICE HILDYARD: You are making a point. I will  
21 consider that point --  
22 MR POTTS: Not even --  
23 MR JUSTICE HILDYARD: -- very carefully over the next seven  
24 minutes, when we will reconvene.  
25 (3.40 pm)

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1 (A short break)  
2 (3.50 pm)  
3 MR STUART: My Lord, a slight change of plan, we are going  
4 to hear from Ms Willmott. Don't worry, Mr Potts knows  
5 about it. Her statement is less than two pages long,  
6 my Lord.  
7 MR JUSTICE HILDYARD: Right.  
8 MS SUSAN WILLMOTT (sworn)  
9 MR JUSTICE HILDYARD: Thank you, Ms Willmott.  
10 Examination-in-chief by MR STUART  
11 MR STUART: Ms Willmott, hopefully you have in front of you  
12 bundle B, page 98.  
13 A. I do.  
14 Q. Over to page 100, there is your signature on the witness  
15 statement that you made?  
16 A. That's right, yes.  
17 Q. Have you read that witness statement recently?  
18 A. Not recently, I haven't, but I probably know what it  
19 says.  
20 Q. Are the contents of it true?  
21 A. The contents of it are completely true.  
22 MR STUART: If you just wait there, Mr Potts has some  
23 questions for you.  
24 Cross-examination by MR POTTS  
25 MR POTTS: Ms Willmott, there is one matter I want to ask

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1 you about, which is in relation to part of paragraph 14  
2 of your statement. You may be aware that this issue was  
3 raised for confirmation as to what was being inserted in  
4 this paragraph.  
5 A. Yeah.  
6 Q. In the second sentence of paragraph 14 you state that:  
7 "Loss prevention were making it more and more  
8 difficult to believe John and Shakila, because when they  
9 arrived they increased all our salaries and our bonuses,  
10 stating that John and Shakila had not been paying us  
11 enough even though everyone was already happy with what  
12 we were receiving."  
13 Correct?  
14 A. That's correct, yes.  
15 Q. How would a pay rise make it more difficult for you to  
16 believe the Parhams?  
17 A. Because they were making out that the Parhams were  
18 underpaying us so they were saying, "We are going to  
19 make up for this, we are going to give you a pay rise"  
20 and so you are thinking, "Oh, maybe I should have been  
21 getting this pay rise, maybe John and Shakila had been  
22 doing us." But then they took us all out separately.  
23 They took us all to the Costa Coffee, they sat us all  
24 down and they told us we had been underpaid, then given  
25 us pay rises and extra bonuses. So you are thinking:

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1 oh, has something strange gone on here that we just  
2 don't understand?  
3 Q. In relation to that, you are saying as to whether or not  
4 you had been underpaid; is that right?  
5 A. Yes, you are questioning yourself then, you are  
6 thinking: have I been underpaid or is this just them  
7 making me feel that I was underpaid? I was quite happy  
8 with what I was earning anyway.  
9 Q. The payslips, you provided a few payslips --  
10 A. I did, yes, the only ones I could find, yes.  
11 Q. Those show that you received a pay rise in May 2011?  
12 A. That's right.  
13 Q. That was an increase in your monthly salary from  
14 £1,041.62 --  
15 A. Yeah.  
16 Q. -- to £1,083 a month?  
17 A. It went up from 12,500 a year to 13,000.  
18 Q. Okay, and I think on the maths, I think that's  
19 a 4 per cent increase?  
20 A. Possibly, yes.  
21 Q. This was two months after Mr and Mrs Parham had  
22 resigned?  
23 A. That's right, yes.  
24 Q. You had been working at the store since January 2010?  
25 A. That's right, yes.

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1 Q. In the business, so about six -- and had you had any  
2 further increases in your salary since you started?  
3 A. Not that I can recall.  
4 Q. So you have been working for 16 months without a pay  
5 rise?  
6 A. Possibly, but I can't say that for definite, it's  
7 a possibility that when I first started I got one but  
8 I cannot remember that far back.  
9 Q. Okay. Salaries are usually reviewed annually, aren't  
10 they?  
11 A. Yeah.  
12 Q. So a 4 per cent pay rise after 16 months working in  
13 a business isn't particularly exceptional, is it?  
14 A. It's not exceptional, but it's quite good because  
15 I wasn't working for the salary, I was working for my  
16 own self-esteem.  
17 MR POTTS: I have no further questions, my Lord.  
18 Re-examination by MR STUART  
19 MR STUART: My Lord, just one question arising.  
20 You mentioned in the evidence you gave being taken  
21 out, I think you said "Took us all out to Costa"?  
22 A. Yes, they did, actually, when the loss prevention came  
23 in, they interviewed all the staff except for myself and  
24 Ruhela Choudhury, and then they made an arrangement that  
25 the next day we would all go out to Costa Coffee, each

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1 individually and at Costa Coffee we were sat down and  
2 told we had been underpaid, told that we were getting  
3 a pay rise and that we were also getting extra bonuses  
4 for all our good work. Normally bonuses were paid on  
5 sales, things like that, but sales were very low at the  
6 time.  
7 Q. So what are these bonuses you are talking about?  
8 A. Well, the bonuses normally came at the end of every  
9 month, John and Shakila would tell us how well we had  
10 done and we would get bonuses related on sales. These  
11 bonuses were extra bonuses given to us by the loss  
12 prevention team, and --  
13 Q. Who was that?  
14 A. Somebody called May and somebody called Zoe from loss  
15 prevention. The first bonus I do believe was an extra  
16 £100 to each member of staff and then we got extra ones,  
17 which was unusual because sales at that time weren't  
18 that great, sales were dropping and we were paying out  
19 a lot more on locums, and so the figures weren't good,  
20 so we shouldn't really have been getting extra bonuses.  
21 MR STUART: My Lord, I think that's the only question I can  
22 ask arising from that brief cross-examination.  
23 MR JUSTICE HILDYARD: Thank you very much, Ms Willmott.  
24 MR STUART: Could Ms Willmott be released, my Lord? I know  
25 she needs to go to hospital tomorrow to see her

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1 terminally ill nephew?  
 2 MR JUSTICE HILDYARD: Yes. Thank you very much for your  
 3 attendance, thank you for waiting all this time for  
 4 a brief appearance.  
 5 (The witness withdrew)  
 6 MR STUART: My Lord, I'll call Mrs Birdi, then, please.  
 7 MRS SWARANDEEP BIRDI (sworn)  
 8 MR JUSTICE HILDYARD: Hello again, Mrs Birdi, you have all  
 9 that you had previously?  
 10 Examination-in-chief by MR STUART  
 11 MR STUART: Mrs Birdi, if you would go to bundle B,  
 12 page 105.  
 13 A. Yes.  
 14 Q. A rather shorter statement in this part of the  
 15 proceedings, page 105, it's signed by you on 107; is  
 16 that right?  
 17 A. That is.  
 18 Q. Have you read that recently?  
 19 A. I have.  
 20 Q. Do you confirm the contents of it are true?  
 21 A. Yes, they are.  
 22 MR STUART: Mr Potts will have some questions for you.  
 23 Cross-examination by MR POTTS  
 24 MR POTTS: Good afternoon, Mrs Birdi.  
 25 A. Good afternoon.

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1 Q. Could I take you to your witness statement, at  
 2 paragraphs 6 and 7 of your statement?  
 3 A. Yes.  
 4 Q. You refer to a dispute in your proceedings in relation  
 5 to an equalisation dividend concerning Mr Patel;  
 6 correct?  
 7 A. That's right.  
 8 Q. Now, just briefly in terms of the dividend policy, you  
 9 understood that dividends were based on the profits as  
 10 shown as bottom line reports; correct?  
 11 A. Yes.  
 12 Q. And that there was a dividend policy under the  
 13 shareholders' agreement?  
 14 A. Mm.  
 15 Q. And it required consent of Specsavers in relation to the  
 16 payment of dividends in accordance with that policy and  
 17 the accounts?  
 18 A. My understanding of the shareholders' agreement is that  
 19 dividends should be paid to the maximum amount and they  
 20 should be equal. So if one director has taken out  
 21 a certain amount, the other director should be allowed  
 22 to seek the same amount when there is money in the  
 23 business.  
 24 Q. Just in terms of the equalisation, if you had a 50/50  
 25 shareholding, the profits as shown in the bottom line

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1 accounts would be split 50/50 in accordance with the  
 2 dividend policy under the shareholders' agreement?  
 3 A. Yes.  
 4 Q. Sorry, I can't hear you.  
 5 A. Yes.  
 6 Q. Right. Now, you have a complaint in relation to  
 7 a non-payment of that equalisation dividend, I think  
 8 it's back in 2006?  
 9 A. That's right.  
 10 Q. Correct?  
 11 A. Mm.  
 12 Q. If you have E1, do you have page 78? Is that a request,  
 13 it's not terribly clear, in relation to dealing with the  
 14 request for the equalisation bonus? In fact 79 I think  
 15 is also --  
 16 A. Yes, 79 was the form that I was sent in December, but  
 17 it's very faded.  
 18 Q. It is, okay, but this was because you said that Mr Patel  
 19 had received greater benefits in kind than you had, and  
 20 you went through it with him?  
 21 A. That's right.  
 22 Q. Is that right? And sent that off to them, to  
 23 Specsavers?  
 24 A. That's correct.  
 25 Q. That was because he had had a greater amount of P11D

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1 personal expenses on his credit card than you had, and  
 2 this was to sort it out?  
 3 A. His credit card and also anything he would have put  
 4 through the business as a P11D as well.  
 5 Q. His personal expenses?  
 6 A. That's right, yes.  
 7 Q. You appreciated, for example, just to touch on your  
 8 credit cards, that it was important that each of you,  
 9 when you were going through credit cards to separate out  
 10 personal expenses from business expenses on your credit  
 11 card?  
 12 A. Yes.  
 13 Q. That was important firstly for the accounting function  
 14 of the company; did you appreciate that?  
 15 A. Yes, I do.  
 16 Q. And you also appreciated it was important because you  
 17 would pay income tax on your P11D personal expenses on  
 18 the credit card?  
 19 A. That's correct.  
 20 Q. You were also aware of the system for the payment of  
 21 third party suppliers to the Dartford company. So  
 22 moving away from the credit card. So if you would send  
 23 an invoice through to the accounts payable department  
 24 for that invoice to be paid by the company in terms of  
 25 business suppliers to the company; correct?

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1 A. Yes.  
 2 Q. Now, you are not suggesting you could just send any  
 3 invoice from a third party supplier to the accounts  
 4 payable department for payment without an explanation as  
 5 to whether, if you were saying that actually this was  
 6 a personal matter rather than a business matter, you  
 7 would need to explain that to them, wouldn't you?  
 8 A. Yes, in my case I did, yes.  
 9 Q. In --  
 10 A. If there was something that was not done on a credit  
 11 card, I would inform accounts of such.  
 12 Q. You were aware of the idea of, for example, getting the  
 13 company to pay a golf club membership, for example, out  
 14 of profits, that it might be possible to take  
 15 a distribution that way if you spoke to financial  
 16 planning?  
 17 A. I don't believe -- I have taken P11Ds out where, similar  
 18 to that, like gym membership, but I haven't spoken to  
 19 financial planning, I think I spoke to accounts, from my  
 20 recollection.  
 21 Q. So if you just sent through an invoice from a third  
 22 party supplier to accounts, to accounts payable, to get  
 23 the company to pay for that, they would need to know, if  
 24 you were saying that that wasn't actually for the  
 25 benefit of the company, they would not know unless you

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1 told them, would they?  
 2 A. No, that's not correct, because when Nimesh Patel was  
 3 disposed of, when he was found stealing, Specsavers  
 4 unilaterally allowed a payment to his personal  
 5 accountants after he had left, for work done after he  
 6 had left. And accounts actually highlighted that and  
 7 sent that invoice to the store, to Specsavers employee  
 8 Carol Slark and she objected to the payment, she sent it  
 9 to Hull, I believe that is where Mel McAlindon is based,  
 10 and then subsequent to her first not wanting to pay it,  
 11 she agreed to have all these THP invoices paid.  
 12 Q. I am talking about during the average running of the  
 13 business. I am suggesting to you that if you sent  
 14 an invoice from a third party supplier to the accounts  
 15 payable department for payment by the company, they  
 16 would presume that that was a business expense, and if  
 17 you were trying to say that actually this was P11D,  
 18 a personal matter, you would tell them, wouldn't you?  
 19 A. That's what you would think, but the accounts  
 20 department, that particular invoice didn't say P11D on  
 21 it.  
 22 Q. I am asking you generally in relation to --  
 23 A. That's what you would expect but accounts do check  
 24 things and they do highlight it.  
 25 Q. That's not my question. I am saying you in store, if

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1 you sent an invoice, third party invoice, to the  
 2 accounts payable department, if you were suggesting that  
 3 this was actually not a business expense, because it  
 4 would be paid by the company, wouldn't it, yes? That's  
 5 why you were sending it to the accounts payable  
 6 department?  
 7 A. Are you saying if I didn't highlight it was not -- are  
 8 you saying -- sorry, I don't understand the question.  
 9 Q. Let me break the question down. If you had an invoice  
 10 from a third party supplier and you sent it to the  
 11 accounts payable department, that was in order for them  
 12 to pay it, for the company to pay it; correct?  
 13 A. That's correct.  
 14 Q. They would need to know that if you were saying "this  
 15 isn't actually for the benefit of the company, it's for  
 16 me", you would tell them, wouldn't you?  
 17 A. I personally would, yes.  
 18 Q. Thank you. Because otherwise they would understand this  
 19 to be a business expense, unless you told them, wouldn't  
 20 they?  
 21 A. No, that's not true, because they do pick up invoices  
 22 that are not business expenses, like this particular  
 23 invoice that I am talking about Nimesh Patel, it said  
 24 looking at independent businesses in Canterbury,  
 25 et cetera, so they picked up that it was not a Dartford

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1 business related expense and they said that, but still  
 2 it was paid. So accounts did pick it up, even though  
 3 nothing was written on there to say, "Oh, we have  
 4 decided that even though he has left for stealing, we  
 5 are going to pay this invoice". So accounts picked it  
 6 up and said "This doesn't seem to be a Dartford business  
 7 related invoice". So even though P11D was written on  
 8 it, it was picked up.  
 9 Q. It was put on his P11D and he paid tax on it?  
 10 A. That -- I don't know when that was done, but  
 11 I highlighted it to head office --  
 12 Q. That is indeed what happened?  
 13 A. I'm not sure, because I haven't had disclosures on that  
 14 yet.  
 15 Q. I put it to you that is what happened. I understand,  
 16 because you have issues in relation to Mr Patel,  
 17 paragraph 8 you make further allegations in relation to  
 18 Mr Patel. I'm not going to ask you in relation to the  
 19 issue about the circumstances of his leaving the  
 20 business, because it's not relevant for these  
 21 proceedings. I just want you to understand I don't  
 22 accept your evidence there, but it's not relevant for  
 23 today, so I am not going to ask you about that. Okay?  
 24 Paragraph 9, you deal with an issue in relation to  
 25 your suspension. Now, we discussed that last time we

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1 met in December as well; do you remember?  
 2 A. Yes.  
 3 Q. The issue of certain parts of your suspension. Again,  
 4 I don't accept that the reason for your suspension, as  
 5 we discussed, and I think you accepted, that in fact the  
 6 main allegation made by Mr Patel was that you had  
 7 employed your husband, father and Mr Patel's wife, but  
 8 they were not in fact providing services for the  
 9 payments that they had received; do you accept that?  
 10 I think you accepted it before.  
 11 A. I don't agree with it but I accept that's what was said,  
 12 yes.  
 13 Q. I think you accepted in fact that that was the main  
 14 issue?  
 15 A. Yes, that's what the issue was.  
 16 Q. I'm not saying you accept it's true, but that was the  
 17 allegation.  
 18 A. I don't agree with it, but that was the issue.  
 19 Q. The disciplinary process by Mr Raines found some  
 20 misconduct on your part but you were not dismissed,  
 21 I think you received a first written warning?  
 22 A. No, it was a final written warning.  
 23 Q. Oh, final written, okay.  
 24 You appealed against that decision; correct?  
 25 A. I did.

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1 Q. Your appeal was not upheld?  
 2 A. No.  
 3 Q. But the allegation by Mr Patel about employing members  
 4 of your family who weren't doing work was dismissed on  
 5 the original complaint, it wasn't found against you;  
 6 correct?  
 7 A. Correct.  
 8 Q. In paragraph 10 you state in your statement that  
 9 Mr McAlindon bullied and threatened you in the course of  
 10 your interview and specifically threatened to report you  
 11 to the GOC; correct?  
 12 A. That's correct.  
 13 Q. That's your allegation. Mr McAlindon didn't actually  
 14 carry out the investigatory interview with you in 2007,  
 15 did he? It was by Mr Neil Hamilton; correct?  
 16 A. My suspension is where he actually threatened me with  
 17 the GOC, and the investigation, he was, even though  
 18 I raised a grievance about his impartiality, he was  
 19 still allowed to continue part of the investigation.  
 20 But my investigation meeting, as you say, was with  
 21 Neil Hamilton, after I protested greatly to have  
 22 Mr McAlindon removed.  
 23 Q. The reality is that the investigatory interview was by  
 24 Mr Hamilton, not Mr McAlindon, you accept that?  
 25 A. I accept that, yes, the investigation with me, my

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1 investigation meeting.  
 2 Q. Yes?  
 3 A. Yes.  
 4 Q. Just to understand, so Mr McAlindon wasn't the person  
 5 who conducted your interview, was he?  
 6 A. He was the -- he threatened me in the -- in my  
 7 suspension, when I had my meeting, and when I was thrown  
 8 out of the store.  
 9 Q. You had a very short meeting with him where he gave you  
 10 your suspension letter, it wasn't an interview, was it?  
 11 A. Actually, I wouldn't say interview, it was a sit down in  
 12 a room with Phil Barnes, Mel McAlindon, and it was quite  
 13 a very threatening meeting with him, yes.  
 14 Q. So you are saying it wasn't an interview?  
 15 A. No, it was a meeting, but I demanded to have a notetaker  
 16 and a companion, because it was very intimidating and  
 17 aggressive and the meeting wasn't being conducted in the  
 18 way it should have been conducted but I was refused  
 19 a companion despite repeated requests.  
 20 Q. This was just a short meeting when you were provided  
 21 with your suspension letter?  
 22 A. No, no, no, no.  
 23 Q. Before the investigation -- could I just finish the  
 24 question?  
 25 A. It wasn't a short meeting, no.

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1 Q. It was a meeting where you were handed a suspension  
 2 letter, it was a short meeting, before -- it wasn't  
 3 an interview, it was before the investigation took  
 4 place?  
 5 A. It wasn't a short meeting.  
 6 Q. And no threat was made?  
 7 A. Oh yes, it was, and I have brought it up since 2007 in  
 8 many correspondences with Specsavers.  
 9 Q. And your grievance, which you did raise a grievance  
 10 against Mr McAlindon, your grievance was investigated  
 11 and rejected?  
 12 A. Of course, everything I raised was whitewashed by  
 13 Specsavers, they did not follow the processes properly  
 14 and fairly.  
 15 MR POTTS: My Lord, I have no further questions.  
 16 Re-examination by MR STUART  
 17 MR STUART: Just two very quick ones. You were taken to E1,  
 18 you might still have it open in front of you.  
 19 A. Yes.  
 20 Q. You were taken to page 78. This is about your -- these  
 21 credit cards and things, do you remember, payments?  
 22 A. Yes, I do, yes.  
 23 Q. Page 81 is the actual credit card statement; is that  
 24 right?  
 25 A. That's correct.

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1 Q. Did you and Mr -- was it Mr Patel?  
2 A. That's right.  
3 Q. At the time, you were the two shareholders?  
4 A. That's correct.  
5 Q. Did you have separate credit cards or one account?  
6 A. We had separate credit cards, yes.  
7 MR POTTS: I'm not sure that's re-examination, my Lord,  
8 I have to say.  
9 MR STUART: Then I just want to get it clear about this  
10 threat of the GOC. You are saying that that was done by  
11 Mr McAlindon and Mr Barnes, sorry, at a meeting where  
12 you, Mr McAlindon and Mr Barnes were present. When was  
13 that meeting?  
14 A. That was on 27 March 2007.  
15 MR STUART: Thank you. Those are all my questions. Does  
16 your Lordship have any questions of Mrs Birdi?  
17 MR JUSTICE HILDYARD: I do not. Mr Potts?  
18 MR POTTS: My Lord, no. I am sorry, it was an observation.  
19 MR JUSTICE HILDYARD: Thank you very much.  
20 (The witness withdrew)  
21 MR STUART: My Lord, given that we have got through two  
22 witnesses in twenty minutes, could I possibly try to get  
23 through an even shorter witness?  
24 MR JUSTICE HILDYARD: Go for the treble.  
25 MR POTTS: My Lord, it won't be such a short witness.

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1 MR JUSTICE HILDYARD: Right. Well, Mr Potts, I am in your  
2 hands. I really do have to leave by at the very latest  
3 25 past.  
4 MR POTTS: My Lord, I think it might be sensible to draw  
5 stumps at this point, and we will start tomorrow  
6 morning.  
7 MR JUSTICE HILDYARD: Is that all right with your witness,  
8 Mr Stuart?  
9 MR STUART: Do you remember, my Lord, I had to ask your  
10 Lordship to give me a witness summons to get him here,  
11 do you remember last Friday?  
12 MR JUSTICE HILDYARD: I do.  
13 MR STUART: This is the gentleman.  
14 MR JUSTICE HILDYARD: Regrettably, once started he will have  
15 to finish anyway --  
16 MR STUART: No, he is here, my Lord, I would be keen -- who  
17 knows, he might give such good answers to Mr Potts'  
18 questions, this could all be over in 15 minutes.  
19 MR POTTS: I don't think it will, my Lord.  
20 MR JUSTICE HILDYARD: Shall we get him started and see where  
21 we get to?  
22 MR RAYMOND HUTCHINGS (sworn)  
23 Examination-in-chief by MR STUART  
24 MR STUART: Mr Hutchings. Thank you. Hopefully you have in  
25 front of you B/96 and your signature is on page 97.

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1 A. Yes.  
2 Q. A short statement running to just over a page, and have  
3 you read that statement recently?  
4 A. Yes.  
5 Q. Are the contents of it true?  
6 A. Yes.  
7 MR STUART: Thank you. Just wait there, Mr Potts has some  
8 questions for you.  
9 Cross-examination by MR POTTS  
10 MR POTTS: Good afternoon, Mr Hutchings. You refer in  
11 paragraph 3 to making this statement having been shown  
12 Mr McAlindon's statement in this matter; that's right?  
13 This was evidence in reply to his statement; correct?  
14 A. Yes.  
15 Q. Now, the meeting on 7 March, you went along to that, to  
16 accompany -- both in anticipation of accompanying both  
17 Mrs Parham and Mr Parham in respect of their respective  
18 investigatory interviews; correct?  
19 A. Yes.  
20 Q. Just to be clear, volume C, tab 3, page 32, you were  
21 provided in making your witness statement with a copy of  
22 Mr McAlindon's statement to review; is that right?  
23 A. As far as I remember, yes.  
24 Q. If you just keep that open, and turn to page 46, this  
25 was where the meeting is dealt with. Could you just

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1 read paragraph 50 to yourself? I am sorry, before that,  
2 it was determined that Mrs Parham was going to come  
3 first; is that right?  
4 A. Yes.  
5 Q. Could you just read paragraph 50?  
6 (Pause)  
7 A. Paragraph 50 I've read.  
8 Q. Do you remember Mr McAlindon saying that prior to the --  
9 A. I can't remember, but it was so long ago.  
10 Q. So you can't really remember one way or another, your  
11 recollection is not that great?  
12 A. Not after three years, no.  
13 Q. Were you provided with -- have you seen a transcript of  
14 the interview, prior to making your witness statement or  
15 indeed later?  
16 A. No, I don't think so.  
17 Q. You have never been shown a transcript --  
18 A. I don't think so, not that I --  
19 Q. Because you know it was recorded, wasn't it?  
20 A. Yes.  
21 Q. Do you remember that?  
22 A. Yes, it was recorded. I've said in my statement that it  
23 would be recorded.  
24 Q. Okay, but your recollection as to actually what was said  
25 during the course of the interview is --

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1 A. I can't remember.  
 2 Q. Okay. Paragraph 5 of your witness statement, you say  
 3 that various questions were asked by Mr McAlindon to  
 4 obtain information on several queries relating to  
 5 accounting issues at the store, and then you say:  
 6 "After a period of time Mrs Parham felt unwell and  
 7 passed out for a few seconds."  
 8 A. Yes.  
 9 Q. In terms of the tone of the interview, Mrs Parham  
 10 accepted that the tone of the interview wasn't  
 11 aggressive; do you agree with that?  
 12 A. Wasn't aggressive?  
 13 Q. Wasn't aggressive?  
 14 A. I would say that's probably right.  
 15 Q. Okay, in fact at paragraph 5 you talk -- obviously  
 16 dealing with the statement now, after raising a number  
 17 of expenses issues with Mrs Parham, Mrs Parham actually  
 18 asked for a five-minute break to discuss something with  
 19 you. It's referred to in paragraph 59 of Mr McAlindon's  
 20 statement. Do you have that? If you want to just read  
 21 that. (Pause)  
 22 Do you remember her asking for a break and you  
 23 having a discussion with her?  
 24 A. No.  
 25 Q. Are you saying it didn't happen or --

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1 A. No, I can't remember. You asked me whether I could  
 2 remember, not whether it happened.  
 3 Q. Absolutely?  
 4 A. I can't remember.  
 5 Q. You don't remember one way or another --  
 6 A. No.  
 7 Q. -- because your recollection of what happened at the  
 8 meeting is hazy with the passage of time; is that fair?  
 9 A. It is certainly hazy with the passage of time, yes.  
 10 Q. Okay. Did you discuss with her, for example, that the  
 11 evidence against them looked damning and that she should  
 12 go gracefully? Does that ring any bells with you?  
 13 A. Did I say that?  
 14 Q. To her?  
 15 A. No.  
 16 Q. Are you saying you didn't or you don't remember?  
 17 A. I can't remember saying that.  
 18 Q. You don't remember saying it. Are you saying you  
 19 definitely didn't or you don't remember?  
 20 A. I am saying I would be unlikely to say something like  
 21 that, in that situation.  
 22 Q. But you are saying you don't remember what you did  
 23 discuss with her?  
 24 A. No.  
 25 Q. Paragraph 6 you refer to the conversation stopping after

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1 Mrs Parham felt unwell, and she appeared to faint for  
 2 a few seconds?  
 3 A. I think she did faint.  
 4 Q. Sorry, yes, okay.  
 5 A. I don't think she appeared to faint.  
 6 Q. Okay. That was after -- do you remember that this was  
 7 after Mr McAlindon read out a witness statement from  
 8 an employee, Mr Whittaker, concerning a Blu-Ray player?  
 9 Do you remember that?  
 10 A. I think that was when it happened, yes.  
 11 Q. Do you remember that being done, or the recollection is  
 12 hazy?  
 13 A. I can remember part of that statement being read, and  
 14 that part of the interview, yes.  
 15 Q. Mr Parham was then called to the room?  
 16 A. After we left, after she had fainted?  
 17 Q. She faints, yes.  
 18 A. Yeah.  
 19 Q. You then leave the room?  
 20 A. Yeah.  
 21 Q. With her and Mr Parham?  
 22 A. Yes.  
 23 Q. Is that right?  
 24 A. Mr Parham wasn't in the room at that stage.  
 25 Q. No, but he had been called in because she had fainted?

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1 A. Yeah.  
 2 Q. Can I ask you to read paragraph 62?  
 3 A. Yeah.  
 4 Q. Mr McAlindon's statement. (Pause). You have read this  
 5 obviously, before making your statement; correct?  
 6 A. Yes.  
 7 Q. So you were aware that he says that it had been asserted  
 8 in the ET proceedings that while Mrs Parham was outside  
 9 the room Mr McAlindon and Mr Barnes had said that the  
 10 evidence against Mrs Parham was damning and that she was  
 11 going to be dismissed. Now, Mr McAlindon here denies  
 12 that, and in fact the position is that Mrs Parham has  
 13 accepted in evidence before this court that in fact it  
 14 was you and her who mentioned that rather than  
 15 Mr McAlindon. Do you remember that?  
 16 A. (Pause) No.  
 17 Q. Are you saying you don't remember it?  
 18 A. I don't remember it.  
 19 Q. Not saying it didn't happen, you just can't remember one  
 20 way or another?  
 21 A. No, don't remember it.  
 22 Q. Can't remember one way or another? Sorry, just to be  
 23 clear.  
 24 A. You asked me the question did I remember, and the answer  
 25 is no, I don't remember it. You asked me the question

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1 did it happen, and I can't remember.  
 2 Q. You can't remember one way or another?  
 3 A. No.  
 4 Q. If I suggested to you that in fact it was her and you  
 5 who said that the evidence looked damning, your answer  
 6 is you just can't remember?  
 7 A. Again it would be I can't remember, yes.  
 8 Q. Okay. Now if you look at paragraph 63 of Mr McAlindon's  
 9 statement.  
 10 A. Yeah. (Pause) Okay.  
 11 Q. Then paragraph 67 as well, you might want to just read  
 12 that. Sorry, 66 and 67. (Pause)  
 13 A. Okay.  
 14 Q. Now, so Mr McAlindon says that he asked Mr and  
 15 Mrs Parham when he went back to the room, whether they  
 16 were happy to continue in light of the fact that she had  
 17 fainted or whether they wanted to adjourn the meeting to  
 18 a later date. Now, they say that in fact he said there  
 19 was an ultimatum, "I'll continue with the investigation  
 20 and dismiss you or resign".  
 21 As I said, Mr McAlindon says that he asked them  
 22 whether they wished to continue or adjourn. Do you  
 23 recollect one way or another what was said?  
 24 A. Let me just read my statement again. (Pause). In my  
 25 statement, in paragraph 7, is what I can remember.

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1 Q. It talks about continuing his investigation?  
 2 A. Yes.  
 3 Q. His case is saying in terms of the interview itself he  
 4 said that if they wanted to adjourn he offered them that  
 5 possibility given that she had fainted?  
 6 A. Okay.  
 7 Q. Are you saying --  
 8 A. I can't remember that.  
 9 Q. -- it didn't happen or you just can't remember one way  
 10 or another?  
 11 A. Can't remember.  
 12 Q. One way or another?  
 13 A. No, I can't remember that.  
 14 MR POTTS: My Lord, I am conscious of the time.  
 15 MR JUSTICE HILDYARD: Right. Well, Mr Hutchings, I'm so  
 16 sorry, but we will have to continue tomorrow, though not  
 17 for long, I hope. We will discuss now briefly at what  
 18 time.  
 19 What time would you wish?  
 20 MR STUART: My Lord, we have the video at 11.  
 21 MR JUSTICE HILDYARD: Yes.  
 22 MR STUART: I wonder if we started at 10 we could perhaps  
 23 deal with finishing Mr Hutchings and if any issue  
 24 arises, my seeing that document and asking your Lordship  
 25 to let me use it, because I imagine we will then soon be

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1 on to cross-examination of the defendants' witnesses and  
 2 I really would like to see that document before that  
 3 starts. So could you start at 10 o'clock?  
 4 MR JUSTICE HILDYARD: 10 o'clock?  
 5 MR POTTS: My Lord, I am content with that.  
 6 MR JUSTICE HILDYARD: Mr Hutchings, will you be all right  
 7 for 10 o'clock? You should then be free by latest  
 8 10.30.  
 9 THE WITNESS: (Witness nods)  
 10 MR JUSTICE HILDYARD: Will that be all right for you?  
 11 THE WITNESS: Yes, I will be here by 10 o'clock.  
 12 MR JUSTICE HILDYARD: Very well. We will start at  
 13 10 o'clock tomorrow.  
 14 MR POTTS: My Lord, could your Lordship give the  
 15 appropriate ...?  
 16 MR JUSTICE HILDYARD: I will, yes.  
 17 Mr Hutchings, as you will probably have seen from  
 18 all the other witnesses where they have gone over any  
 19 adjournment, I have made a completely standard warning  
 20 that you are not to discuss the case with anybody at all  
 21 during the time that you are in the witness box.  
 22 THE WITNESS: Okay.  
 23 MR JUSTICE HILDYARD: Thank you very much. Tomorrow at  
 24 10 o'clock then.  
 25 (4.25 pm)

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(The court adjourned until 10.00 am on Wednesday, 15 January 2014)

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