

# OPUS 2

## INTERNATIONAL

Ms Swarandeeep Birdi v (1) Specsavers Optical Group Limited (2)  
Mr Kamaljit Singh (3) Dartford Visionplus Limited (4) Dartford  
Specsavers Limited

Day 4

October 28, 2014

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1 Tuesday, 28 October 2014  
 2 (10.30 am)  
 3 MR STUART: My Lord, just before Mr Potts continues,  
 4 a couple of late documents.  
 5 MR JUSTICE NUGEE: Thank you.  
 6 MR STUART: It needs a little explanation from me. Could  
 7 I just hand up to your Lordship, basically two  
 8 documents, one which is a letter dated yesterday from  
 9 Akin Palmer which attaches a one-page calculation  
 10 document and a police report. Then the other document  
 11 I'm handing up to your Lordship is a schedule.  
 12 I'm handing up those two documents and I'll explain  
 13 to your Lordship what they are.  
 14 MR JUSTICE NUGEE: Do we have somewhere to put them?  
 15 MR STUART: Yes, I believe the letter with the police report  
 16 and the schedule has already been inserted into your  
 17 Lordship's correspondence bundle.  
 18 MR JUSTICE NUGEE: Respondent's bundle?  
 19 MR STUART: Correspondence bundle.  
 20 MR JUSTICE NUGEE: Yes, bundle F.  
 21 MR STUART: F. I'm not sure where; presumably right at the  
 22 back of F2.  
 23 MR JUSTICE NUGEE: Yes, F2. 562. Thank you.  
 24 MR STUART: And the schedule has not yet been added anyway.  
 25 MR JUSTICE NUGEE: No, but it has got a number on it?

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1 MR STUART: Yes, it is planned to put it in -- I'll just  
 2 explain to your Lordship what it is.  
 3 MR JUSTICE NUGEE: That's E15, isn't it?  
 4 MR STUART: Yes.  
 5 MR JUSTICE NUGEE: Thank you.  
 6 MR STUART: Your Lordship will recall -- the evidence has  
 7 come out that Mr Rehman produced that schedule, the  
 8 first schedule. Mr Potts provided to me on the first  
 9 day of the trial what we call the second schedule, which  
 10 we put into E15.  
 11 MR JUSTICE NUGEE: Yes.  
 12 MR STUART: And this is Mr Rehman's counter-analysis that he  
 13 has done in answer to Mr Potts' schedule. Mr Rehman is  
 14 hopefully giving evidence this afternoon, so for that  
 15 reason, it was thought better to just provide it. It's  
 16 in there for what it is.  
 17 I understand -- it will become clear -- that the  
 18 figures are still Mr Rehman's figures, so the issue  
 19 about taking some items out of the bonus figures still  
 20 exists. Mr Rehman has stuck with his figures, not the  
 21 respondent's figures.  
 22 MR JUSTICE NUGEE: Yes.  
 23 MR STUART: So all that really does, as far as I can see, is  
 24 to change the three periods over which the average is  
 25 taken from approximately a two-year period prior to the

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1 suspension in March 2007.  
 2 Then the middle block is the period when the new  
 3 bonus scheme brought in by Ms Slark was in place, and  
 4 then the third block is the period after that bonus  
 5 scheme ceases to be in place, when Ms Birdi and Mr Singh  
 6 decide that they are going back to the old -- to  
 7 a different bonus scheme.  
 8 MR JUSTICE NUGEE: Yes. Understood.  
 9 MR STUART: Is that clear as mud?  
 10 MR JUSTICE NUGEE: No, I have understood. The column in  
 11 bold, it's not all aligned because -- where it's a round  
 12 number, it doesn't add 0.00p and the like, but it  
 13 doesn't really matter. I shall put that in 4334-2, just  
 14 behind the other schedule of bonuses.  
 15 Yes, thank you.  
 16 MR STUART: Thank you.  
 17 Then, just returning briefly to the two documents  
 18 attached to the letter of yesterday, those two documents  
 19 are a police report. I don't know whether your Lordship  
 20 has -- it's an issue that has arisen --  
 21 MR JUSTICE NUGEE: No, I'm not aware of any --  
 22 MR STUART: No. I'm not asking your Lordship to read it.  
 23 It has been disclosed because it was demanded -- it was  
 24 being requested. It was obtained and now it has been  
 25 disclosed. It's about an incident at Ms Birdi's house

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1 very recently. It doesn't form part of our case and at  
 2 the moment I haven't heard any cross-examination about  
 3 it, so I don't ask your Lordship really to do much with  
 4 it.  
 5 MR JUSTICE NUGEE: Thank you very much.  
 6 MR STUART: And then the final document is that one-page  
 7 schedule.  
 8 MR JUSTICE NUGEE: Also attached to the letter?  
 9 MR STUART: Yes. Possibly just before --  
 10 MR JUSTICE NUGEE: Yes, which is an explanation of how the  
 11 £76,000 --  
 12 MR STUART: That's right. Your Lordship will remember that  
 13 Ms Birdi gave evidence that it was Mr Voss -- she gets  
 14 her £39,000 figure from half of the £79,000 figure,  
 15 which she explained in evidence yesterday was a figure  
 16 that had been provided to her by Mr Voss.  
 17 MR JUSTICE NUGEE: Yes. And this is an explanation.  
 18 MR STUART: This is Mr Voss's document, which we have now  
 19 obtained and disclosed.  
 20 MR JUSTICE NUGEE: Okay.  
 21 MR STUART: Which is the figure as to where he got -- well,  
 22 which is said to be the figure where he got the £78,000  
 23 from. So we have disclosed that.  
 24 MR JUSTICE NUGEE: It might be helpful if reliance is going  
 25 to be placed on this figure -- at some stage, I don't

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1 suggest you do it now, or with Ms Birdi in the witness  
2 box -- but identifying where in the accounts these  
3 underlying figures are drawn from.  
4 MR STUART: Absolutely. Of course.  
5 MR JUSTICE NUGEE: And incidentally, there was a document  
6 put to Ms Birdi at the outset of her cross-examination  
7 in which again it was Mr Voss who back-calculated from  
8 a PAYE adjustment to suggest that some extra money --  
9 MR STUART: Yes, the £20,000 figure, yes.  
10 MR JUSTICE NUGEE: Again, it would be helpful if reliance is  
11 placed on that to have some cross-reference to where in  
12 the underlying accounting information those figures are  
13 drawn from.  
14 MR STUART: I have actually asked for that. That is in  
15 train. We are trying to find the exact page of the  
16 exact set of accounts where those exact figures come  
17 from.  
18 MR JUSTICE NUGEE: Since this is now in the F27 bundle, I'm  
19 going to give this copy back to you. Otherwise I'll  
20 just get spare documents. Thank you very much,  
21 Mr Stuart.  
22 MR POTTS: My Lord, just on that single Voss document, just  
23 to be clear, that's a new document that has been just  
24 been disclosed.  
25 MR STUART: Did I not say that?

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1 MR JUSTICE NUGEE: Yes, that is disclosure.  
2 MR POTTS: It is disclosure.  
3 MR JUSTICE NUGEE: I have not understood whether it was  
4 a document which was in your possession already, or  
5 whether it was created as a result of the evidence.  
6 MR STUART: I don't know the answer to that myself.  
7 MR JUSTICE NUGEE: It doesn't matter at the moment.  
8 MR STUART: I can find out --  
9 MR JUSTICE NUGEE: It doesn't matter at the moment.  
10 MS SWARANDEEP BIRDI (continued)  
11 Cross-examination by MR POTTS (continued)  
12 MR POTTS: Good morning, Ms Birdi.  
13 A. Good morning.  
14 Q. Yesterday afternoon we were looking at the investigation  
15 into the mutual grievances that you and Mr Singh raised  
16 in late 2009 and in the appeal. Do you remember that?  
17 A. I do, yes.  
18 Q. At around this time the relationship between you and  
19 Mr Singh wasn't improving, to put it neutrally. Is that  
20 fair?  
21 A. That's fair, yes.  
22 Q. Could you turn up, please -- I think if you could have  
23 volume B and volume E10, please. If you could turn  
24 volume E10 to page 2573, please. {E/768/2573}  
25 A. Okay.

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1 Q. I don't think you need to open B at the moment, but E10.  
2 Have you got 2573?  
3 A. I have, yes.  
4 Q. Okay, lovely. Mr Raines wrote to you on 4 December?  
5 A. He did.  
6 Q. And he reminded you of the board resolution passed on  
7 20 July in relation to testing. Do you see that in the  
8 second paragraph?  
9 A. I do, yes.  
10 Q. And he refers to the repetition of the instructions in  
11 a letter of 8 October?  
12 A. That's correct.  
13 Q. And he wrote to instruct you to do so and suggested if  
14 you didn't, you would be called to a disciplinary  
15 hearing?  
16 A. That's correct.  
17 Q. Because you were not carrying out the four days' testing  
18 at the time?  
19 A. I was not, no.  
20 Q. At the same time as this was going on, you were  
21 contending that you were owed £8,705 going back  
22 to December 2006. Is that right?  
23 A. Yes, I had actually been saying that since,  
24 I believe, April 2007.  
25 Q. And you were refusing to agree any distributions to

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1 Mr Singh at all on the basis of that assertion. Is that  
2 right?  
3 A. I was -- yes, I was told by Specsavers that any monies  
4 owed to me would be paid first before any distributions  
5 were made to myself or the new director.  
6 Q. If you turn on to E10/2624, {E/800/2624} Mr Singh wrote  
7 to Mr Ryan and he raised a query in the first line about  
8 an equalisation of credit cards. That's the point you  
9 were referring to, wasn't it?  
10 A. Yes, it wasn't just credit cards, it was any monies that  
11 we had put through the business that needed to be  
12 equalised between us, as explained to Mark Raines in my  
13 disciplinary in 2007.  
14 Q. And he was asking for assistance in sorting out what the  
15 issue was over that sum; is that right?  
16 A. From this email, yes; as was I.  
17 Q. At 2637 {E/807.2/2637} there is a letter to you, and  
18 indeed to Mr Singh, from Mr Moore of Specsavers?  
19 A. That's correct.  
20 Q. And he is setting out the details in relation to monies  
21 which were owed to you?  
22 A. That's correct.  
23 Q. And then turning on to 2641, {E/810/2641} Mr Singh wrote  
24 to you by email -- I think this is 15 January -- setting  
25 out his understanding of the issue in relation --

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1 A. That's correct.  
 2 Q. -- to distributions?  
 3 A. That's correct, but it's not actually factually correct.  
 4 Q. He noticed that you weren't prepared to agree any  
 5 distribution of profits until this outstanding issue was  
 6 resolved. Is that right?  
 7 A. That is true, yes, because I was told that any monies  
 8 owed to me would be paid to me before any distributions  
 9 were made between me and my new director.  
 10 Q. And he made it clear, if you look just down by the  
 11 second holepunch, that he has told you in confidence  
 12 that he is having a hard time financially and could do  
 13 with a bonus payment?  
 14 A. That's absolutely not true. Me and Mr Singh were not  
 15 getting on. He was very bullish with me. He is not  
 16 going to come to me and tell me he needs cash at hand.  
 17 That is absolutely not true at all.  
 18 Q. You are saying he had not told you that before?  
 19 A. No, he had not told me that before.  
 20 Q. But he is certainly making that point to you in this  
 21 email, isn't he?  
 22 A. He is, yes.  
 23 Q. And he is suggesting an equal distribution in December  
 24 as a compromise, whilst leaving sufficient reserves to  
 25 cover the sum that you were claiming?

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1 A. My point here is Specsavers, if they had behaved in the  
 2 way they should have behaved, then we wouldn't be having  
 3 this issue. It is causing a breakdown in our  
 4 relationship.  
 5 Q. Ms Birdi, sorry, could I ask the question again?  
 6 A. Ask me again, sorry.  
 7 Q. No problem. He was suggesting a compromise of an equal  
 8 distribution in December, and leaving sufficient  
 9 reserves to cover the amount that you were claiming by  
 10 way of compromise. Do you see:  
 11 "I have tried to compromise..."  
 12 Do you see that?  
 13 A. I don't think that's really a fair representation  
 14 because Mr Singh had not been authorising my ebis. At  
 15 one point I was owed £2,222; at one point I was owed  
 16 £4,000, and these were business expenses that he wasn't  
 17 authorising. So how he is representing himself here,  
 18 that he is compromising, it's not correct.  
 19 MR JUSTICE NUGEE: You referred to "ebis". Could you  
 20 explain what that is?  
 21 A. It's when you make a business expense, so personally,  
 22 and then you put it on the computer system and your  
 23 co-director has to authorise it in order for the monies  
 24 to be paid into your account from head office.  
 25 MR JUSTICE NUGEE: Thank you.

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1 MR POTTS: Okay. Sorry, just to go back to what he is  
 2 saying, in this email he is saying that he suggested an  
 3 equal distribution in December of a small amount,  
 4 leaving enough cash in the business to pay any monies  
 5 owed to you?  
 6 A. As you can appreciate, I had a lot of money that was  
 7 outstanding and Mr Singh was not fulfilling his  
 8 responsibility to get those monies paid to me, and I was  
 9 struggling because he wasn't paying my business  
 10 expenses. Now I was being -- my money was not being  
 11 paid, that I was told would be paid, and what he is  
 12 saying in this email, I don't believe that I should have  
 13 to authorise any distributions until my money has been  
 14 paid.  
 15 Q. I understand the point you are making there, Ms Birdi,  
 16 but I'm sorry, you are not actually answering the  
 17 question. You accept that he said in this email --  
 18 well, first: did he propose to you an equal distribution  
 19 of a small amount in December, leaving the cash that you  
 20 were claiming in the business whilst waiting for the  
 21 investigations, and that you refused that? It's the  
 22 paragraph that starts: {E/810/2641}  
 23 "I have tried to compromise with you ..."  
 24 That paragraph.  
 25 A. I think he may have done. I think he may have done but

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1 if you look at the email before, he responded to my  
 2 email before, the 2640, {E/809/2640} where he was saying  
 3 that he would only authorise my loan backs and my  
 4 outstanding ebises, if I authorised the distribution of  
 5 profits for him.  
 6 Q. So is the position that you weren't authorising his  
 7 expenses either? Is that right?  
 8 A. No, I had been authorising his expenses but there were  
 9 two or three expenses that I hadn't authorised because  
 10 they contained a fuel element, but the other ones I had,  
 11 even to the point where I was still owed quite  
 12 a substantial amount. I still authorised some of his  
 13 what I considered legitimate ebis expenses.  
 14 Q. But apart from the expenses, this is a proposal in  
 15 relation to a distribution and he made that proposal to  
 16 you, but you have said no?  
 17 A. He did, but the thing is, if you look at my email, the  
 18 same day, before he sent that email, he had said to me,  
 19 "I'm not going to authorise your ebises or your loan  
 20 backs unless you authorise the distribution of profits".  
 21 So it's not really fair for you just to look at his  
 22 email and say that I wasn't compromising, because my  
 23 monies were being held back repeatedly. Like I say,  
 24 I had £4,000 owed to me at one point, £2,222 owed to me  
 25 at one point and then:

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1 "I will not authorise your ebis expenses unless you  
2 authorise a distribution of profits."  
3 And this is all because Specsavers had not been  
4 clear and transparent in the salary package and what  
5 should be done between Mr Singh and myself. If they  
6 had, we would not be having this issue.  
7 Q. Okay, let's move on. If you could turn on to 2725,  
8 please, {E/851/2725} these are minutes of a board  
9 meeting which you attended on 23 February?  
10 A. Are these Specsavers' minutes or my minutes?  
11 Q. I think they are --  
12 A. Yes, they are Specsavers' minutes.  
13 Q. Okay.  
14 A. Yes.  
15 Q. Yes, they are signed by Mr Raines, you will see at 2737?  
16 {E/851/2737}  
17 A. Because I did send amendments in.  
18 Q. Okay. If you look on the second page, 2726,  
19 {E/851/2726} just further up the page, 2726, the first  
20 hole punch, Mr Raines said that you and Mr Singh:  
21 "... needed to let go of historical  
22 gripes/complaints. The grievances had been investigated  
23 and the outcome ... was final. Both now needed to work  
24 together in a spirit of cooperation and in the best  
25 interests of the business going forward rather than in

1 any personal interest or personal animosity. [They]  
2 should put all previous issues behind them and  
3 concentrate on building and maintaining a cohesive  
4 working relationship in the best interests of the  
5 business."  
6 Do you see that paragraph?  
7 A. I do, yes.  
8 Q. Are you saying that Mr Raines didn't believe what he was  
9 saying there?  
10 A. Mr Raines, from the very beginning -- his email says it  
11 all:  
12 "Don't let Mr Singh go native with Swarandeeep. Keep  
13 an eye on the relationship. I'm sure he won't but just  
14 keep an eye."  
15 That was in 2008. So I do not believe Mr Raines was  
16 genuine.  
17 Q. Okay. At the bottom of the page:  
18 "Motion 1.  
19 "That the actions to date of SOG as a Director of  
20 the Dartford business in relation to the grievances made  
21 by Swarandeeep Birdi against Kamaljit Singh and vice  
22 versa (and the appeal) be ratified as being in the best  
23 interests of the business and in compliance with  
24 Dartford's internal procedures."  
25 That motion was carried unanimously. You voted in

1 favour of that resolution, didn't you?  
2 A. Okay, I did, yes.  
3 Q. So you ratified the investigation of the grievances and  
4 the appeal as being in the best interests of the  
5 business and in compliance with internal procedures?  
6 A. That's right, I did, yes.  
7 Q. However, you are now seeking to challenge Specsavers'  
8 actions in relation the grievances as not being taken in  
9 good faith and not in compliance with procedures. Is  
10 that right?  
11 A. It is right, yes.  
12 Q. How does your present attitude fit with the resolution  
13 that you voted in favour of at that meeting?  
14 A. I voted it. I mean, I did vote it. I must say that  
15 when I went to that meeting, I really wasn't very well.  
16 I tried to attend it by conference call. I was feeling  
17 quite ill. I had been off work as well with all the  
18 stress and, yes, I voted it. But it doesn't mean it was  
19 right.  
20 Q. And at 2727, {E/851/2727} at the first punch, Mr Raines  
21 suggested that you meet to agree to review your roles  
22 and responsibilities and the working relationship and  
23 agreed together how to move forward. You agreed to that  
24 suggestion?  
25 A. I did. As regards the roles and responsibility document

1 as well, Mr Raines at my disciplinary hearing in 2007,  
2 when I showed him the roles and responsibilities for me  
3 and Mr Patel, Mr Raines didn't really put much emphasis  
4 on it and he said, "That's just something for the  
5 start-up of the store, but it doesn't abrogate your  
6 responsibilities as directors; you are responsible for  
7 everything". So, to me, the roles and responsibilities  
8 document wasn't a key issue, as Mr Raines had said in  
9 2007.  
10 Q. Did you meet and agree together as to how to move  
11 forward your relationship with Mr Singh?  
12 A. After this meeting?  
13 Q. Yes.  
14 A. No, after this meeting Mr Singh's behaviour became  
15 worse. His attendance at the store was very sporadic  
16 and I sent emails to this effect, which I sent to  
17 Specsavers and to Mr Singh. So it was very difficult to  
18 have any meetings with him and he would walk off if we  
19 were having a meeting, or he would answer his mobile  
20 phone when we were having a conversation. So it was  
21 very difficult to have any communication with him.  
22 Q. Then if you turn over the page to agenda item 8 at 2729,  
23 at the first holepunch, {E/851/2729} it was resolved to  
24 pay you an outstanding amount of £7,595, wasn't it?  
25 A. It was, yes.

1 Q. That was a positive point, wasn't it?  
 2 A. It was, yes.  
 3 Q. Did that not indicate to you a genuine desire on the  
 4 part of Specsavers to move things forward?  
 5 A. No.  
 6 Q. No?  
 7 A. No.  
 8 Q. But that was Specsavers doing something you wanted them  
 9 to do, wasn't it?  
 10 A. They should have done this in the first place. I think  
 11 they knew that they had to pay me this money because --  
 12 they paid it, but they didn't pay it all. I was still  
 13 owed the £8,705.  
 14 Q. Then motion 4 --  
 15 A. May I say as well, this loan back money has been owed to  
 16 me since 2006. Why has it taken so long? The business  
 17 was cash rich. In December 2009, I queried a bonus  
 18 that was paid to Mr Singh for over £15,000,  
 19 unilaterally, without my involvement at all, and I asked  
 20 Mr Moore to explain it and I asked him to help me with  
 21 my loan back, and he said, "Refer to your grievance  
 22 outcome; you and Kam Singh sort it out together".  
 23 It's only when Mr Singh wrote to Specsavers  
 24 in January to say, "She is not authorising any monies,  
 25 I need to pay my capital gains tax", did Mr Moore

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1 actually look at the figures again and then assist with  
 2 this money.  
 3 So it was -- it was something they had to do but  
 4 they hadn't assisted me; they just did it to make  
 5 themselves, I believe, look like they were being  
 6 compliant and helpful.  
 7 Q. But the issue of this sum was something you had raised  
 8 with Mr Moore quite recently, wasn't it, in  
 9 correspondence?  
 10 A. I raised it in December 2009 but I was told that me and  
 11 Kam sort it out among ourselves.  
 12 Q. So December 2009; we are now February 2010?  
 13 A. That's correct, yes.  
 14 Q. Then motion 4 at the bottom of 2729 {E/851/2729} was  
 15 a proposal for a £50,000 dividend to each of you. That  
 16 was consistent with the discussion that you had had with  
 17 Mr Singh, wasn't it?  
 18 A. Yes, it was £25,000 to each of us; yes.  
 19 Q. I'm sorry, you are quite right. I'm sorry, £25,000  
 20 each.  
 21 A. Yes.  
 22 Q. And you made the point again that you disagreed, at the  
 23 top of the page, because you said that you were owed an  
 24 amount of £8,705.61?  
 25 A. That's correct, which Mr Raines knew about since 2007.

18

1 Q. And Mr Raines indicated that he would reinvestigate the  
 2 issue, didn't he, and that if there was any sum  
 3 outstanding, it would be paid.  
 4 A. He did.  
 5 Q. Do you see that in the fifth paragraph down?  
 6 A. He did.  
 7 Q. So that was a positive point for Mr Raines, wasn't it,  
 8 saying that he would investigate the issue?  
 9 A. It was, if it had been genuine.  
 10 Q. Are you saying he didn't intend to investigate it?  
 11 A. I don't believe any of his intentions were good.  
 12 Q. And you voted against this resolution?  
 13 A. I voted against this resolution, yes.  
 14 Q. Something different was proposed in terms of smaller  
 15 monthly distributions; is that right?  
 16 A. Yes.  
 17 Q. In fact --  
 18 A. Well, I voted against this resolution because, like  
 19 I had always stated, the £8,705 needs to be paid first  
 20 and then, when I was assured that he would look into it,  
 21 I had to take his word for it. What else could I do?  
 22 The evidence was with head office since 2006, in fact.  
 23 Q. In fact, after the meeting you and Mr Singh did agree  
 24 a dividend, in fact of £100,000. £50,000 pounds each?  
 25 A. We did, that's correct.

19

1 Q. And that was requested?  
 2 A. That's correct.  
 3 Q. So that was a positive point?  
 4 A. That's correct.  
 5 Q. Did that not indicate to you a genuine desire on the  
 6 part of Specsavers to move things forward in a positive  
 7 way?  
 8 A. No. Mr Singh -- when I had asked for my monies to be  
 9 sorted out, nobody was helping me at all at Specsavers:  
 10 "Sort it out amongst yourselves". I couldn't, because,  
 11 like I said, Mr Singh said, "Unless you authorise an  
 12 equalisation of profits or a distribution of profits,  
 13 you are not going to get your loan backs". Only because  
 14 Mr Singh had said, "Look, I need money", that was when  
 15 SOG went into action.  
 16 I wasn't asking for anything special. I was asking  
 17 for equal treatment but I wasn't getting it. So this  
 18 was to give Mr Singh money, and the £8,705 can't be  
 19 extinguished because Mr Ryan says the business went  
 20 insolvent because of Specsavers' artificial charges to  
 21 the store. That's the excuse I have been given: the  
 22 business went insolvent.  
 23 Q. We will come back to the £8,705 dividend a bit later,  
 24 but this was money being put in your pocket, wasn't it,  
 25 by way of a dividend?

20

1 A. That's correct.  
 2 Q. Because the company was trading profitably at that time?  
 3 A. It was. There were no artificial losses created by Loss  
 4 Prevention department, so, yes.  
 5 Q. At 2732, agenda item 9, there was then a discussion  
 6 about the testing? {E/851/2732}  
 7 A. That's correct.  
 8 Q. And you confirmed that you would not test four days  
 9 a week and that you would not follow the board's  
 10 instruction as to when you would test. Is that right?  
 11 A. That's correct, yes.  
 12 Q. And you said you would test anywhere between five and  
 13 zero days?  
 14 A. That's what I said, yes.  
 15 Q. Do you think that was a helpful approach --  
 16 A. I do.  
 17 Q. -- to the issue?  
 18 A. I do. First of all, it's a day-to-day management issue.  
 19 Why are Specsavers getting involved? That's the first  
 20 question.  
 21 Secondly, in order for me to fulfil my roles as  
 22 an ophthalmic director, I needed that time, and when  
 23 I joined Specsavers, as all literature says, "You have  
 24 got professional freedom to run the businesses as you  
 25 want to run the businesses".

1 I truly believed, in the best interests of the  
 2 business, I could not commit to four full days' testing,  
 3 in order to fulfil my roles. Especially on the line  
 4 that I had been held to a final warning, because  
 5 I wasn't aware that Mr Patel hadn't done his things --  
 6 his roles within the store.  
 7 Plus, Specsavers, they were encouraging directors  
 8 repeatedly to lead from the front, come out of the test  
 9 room. I was already doing that before this was all  
 10 emphasised, you know? So why is it different for  
 11 Dartford but different for all the other directors in  
 12 the country?  
 13 Q. Just in terms of the day-to-day management, this wasn't  
 14 just a day-to-day management issue, was it Ms Birdi? In  
 15 the first place, you had agreed to carry out testing  
 16 four days a week on 12 September 2008, hadn't you?  
 17 A. Like I said to you yesterday, I said I will test four  
 18 days while the business is in TAPS. The business was  
 19 out of TAPS in November 2008. I would never have  
 20 committed to a full four days' testing.  
 21 Q. A trial was also being carried out that showed that  
 22 spending time on the sales floor was financially  
 23 detrimental to the business?  
 24 A. That trial, I did my own figures on that trial and  
 25 I actually took it to the board meeting in February, but

1 Specsavers, they were just listening to what Mr Singh  
 2 was saying.  
 3 If we looked -- I looked at the figures six months  
 4 prior to me leading on the shop floor, and then I looked  
 5 at figures from after I was leading on the shop floor up  
 6 to February 2010 -- there is a disclosure in there --  
 7 and it actually shows, yes, figures had dropped. They  
 8 had dropped on Tuesday when I was leading from the  
 9 front; they had dropped more markedly on Wednesday and  
 10 they had dropped on Friday.  
 11 So if Specsavers were genuine, they would have  
 12 looked at it in a manner that was fair and they would  
 13 have said, "Look, Wednesday, more figures are dropping  
 14 and Swarandeep is telling me Kam is not putting enough  
 15 staff in", because repeatedly I was sending emails, "You  
 16 are really making me short-staffed on Tuesday, it's  
 17 really causing problems in the store".  
 18 So obstacles were put in my way, so the day, on  
 19 Tuesday, when I was leading from the shop floor it was  
 20 chaotic, and I was having to do walk-in appointments as  
 21 well. So, you know, to look at those figures, it was  
 22 very unfair.  
 23 Q. And a board resolution had been passed that you should  
 24 test on four days a week?  
 25 A. When are we talking about?

1 Q. There had been an earlier board meeting, I think  
 2 in August?  
 3 A. Yes, and it referred to this meeting on 12 September, at  
 4 which apparently I committed to four full days' testing  
 5 forever and a day, which is not true.  
 6 Q. Under your service agreement you were obliged to perform  
 7 such duties and exercise such powers as you were  
 8 assigned by the board, weren't you?  
 9 A. Right.  
 10 Q. And this was something which was assigned to you by the  
 11 board, by board resolution?  
 12 A. Like I say, it wasn't in the best interests of the  
 13 business; it was malicious. Nowhere in my contract does  
 14 it say I have to test four full days a week. You can't  
 15 expect me to do that and get me to fulfil my fiduciary  
 16 duties. If my duties were done, I would test four full  
 17 days. If my duties were not done, I would reduce my  
 18 days.  
 19 I'm not just an optician, I'm a director of the  
 20 business, and this was made very clear to me when  
 21 I faced my disciplinary, when I went to my appeal.  
 22 Q. This issue was poisoning the relationship and the  
 23 operation of the business, wasn't it?  
 24 A. This issue was an issue that was used -- Mr Singh was  
 25 used as a conduit to change my working pattern. We can

1 see before he even joined, they were discussing how many  
 2 days I would be testing. Mr Singh was saying, "I want  
 3 her to test five days", Michael McGonagle was saying,  
 4 "She will test four days". I was told Mr Singh would be  
 5 testing. This was all to damage the relationship from  
 6 the start. As Mr Raines said, "Mr Singh, don't let him  
 7 go native with Swarandeeep. I don't think he will but  
 8 make sure he doesn't."  
 9 Q. Can I go back to the question. The issue was poisoning  
 10 the relationship and the operation of the business.  
 11 I think you accept that, don't you? Is that the effect  
 12 of your answer?  
 13 A. Say it again?  
 14 Q. This issue was poisoning the relationship and the  
 15 operation of the business?  
 16 A. No, the relationship had been poisoned by Specsavers  
 17 from the very beginning and with Mr Singh's bullish  
 18 attitude, "You will test four days and I will make sure  
 19 it's enforced", which is in the first week. It's clear  
 20 to me that this was the way they were going to affect my  
 21 working pattern, bully me into doing something that was  
 22 not right for me or for the business, and then  
 23 eventually push me out.  
 24 And it all stems back to Mr Patel in 2007. It has  
 25 been an ongoing course to have me out the business.

1 Q. Both you and Mr Singh had raised grievances concerning  
 2 this issue, hadn't you? That's not day-to-day?  
 3 A. Grievances as regards?  
 4 Q. In relation to this issue. He had raised an issue about  
 5 the testing. That was a grievance?  
 6 A. Yes, he had, and in this board meeting, they are telling  
 7 us to let go of our grievances and yet they are still  
 8 pursuing Mr Singh's grievance against me.  
 9 Q. How else do you say the issue should have been resolved  
 10 when you and Mr Singh were at loggerheads over the issue  
 11 and it was threatening the entire business relationship?  
 12 A. From the very beginning, they have given Mr Singh all  
 13 the support to use him as a conduit, to change my  
 14 working pattern and make me very unhappy and take me out  
 15 of the business.  
 16 In a normal practice, if a new director had come in  
 17 and they were behaving in this manner and there was an  
 18 independent party there, they would have said, "Look,  
 19 you two, this is your business, you have got to run it,  
 20 day-to-day management, sort it out amongst yourselves".  
 21 Even Mr Dyson said in the board meeting of  
 22 25 June 2008, "It's a day-to-day management issue, the  
 23 directors need to sort it out themselves". If  
 24 Specsavers hadn't got involved, we would have had to  
 25 deal with it and get on with it.

1 Q. The reality is you couldn't sort it out yourselves and  
 2 it was poisoning the relationship, wasn't it?  
 3 A. No, because that was Specsavers' intention from the very  
 4 beginning.  
 5 Q. Ms Birdi, you were legally advised during this period,  
 6 weren't you?  
 7 A. Let me think. 27 February. Yes, I was, yes.  
 8 Q. You didn't refer this issue to expert determination, did  
 9 you?  
 10 A. Sorry, say that again?  
 11 Q. You didn't refer this issue to expert determination, did  
 12 you?  
 13 A. What does that mean?  
 14 Q. Okay. Could I ask you to take up volume D1, please. If  
 15 you could turn, please to, page 181. {D/15/181} I think  
 16 we have looked at clause 4.2, which allowed you to refer  
 17 a dispute as to the amount of profits available for  
 18 distribution to an independent expert. Do you see that?  
 19 A. I do, yes.  
 20 Q. And then 3.4 at the top of the page says that:  
 21 "Any dispute as to the extent of the delegation of  
 22 powers ... or as to whether a matter constitutes  
 23 a matter of day to day management shall be referred to  
 24 an independent expert."  
 25 A. Okay.

1 Q. A similar provision. You didn't seek to assert that  
 2 this was a matter which should be referred to an expert,  
 3 did you?  
 4 A. I didn't, but this here -- I wasn't aware that clause  
 5 was in there initially. As regards to the distribution  
 6 of the amount of profits, I think that was brought to my  
 7 attention by Mr Kidd or Mr Moore in 2009, but as regards  
 8 to that, if that's in the clause -- I'm an optician, I'm  
 9 not a legal person but if that's in the clause, then  
 10 surely Specsavers should have said, "Look, you guys,  
 11 you're not getting on from the very beginning. Look, we  
 12 need to sort this out. If you two can't agree, let's go  
 13 to an independent expert," before, as you say, the  
 14 relationship became poisoned. But the reason of the  
 15 poisoning was it was Specsavers' intention to drive me  
 16 out of my business by making me unhappy, uncomfortable,  
 17 and forcing me to do things in the business that  
 18 I didn't want to do.  
 19 Q. If we go back to the board minutes at 2733.  
 20 A. I haven't got it.  
 21 Q. I'm sorry, E10?  
 22 A. Yes.  
 23 Q. We were looking at 2733. {E/851/2733} just above the  
 24 first pinch, Mr Raines asked the two of you how you were  
 25 going on move forward on the issue. Do you see that?



1 A. I do, yes.  
 2 Q. And then there was a discussion about various points  
 3 about how this was working and Mr Raines questioned you  
 4 about the fifth day, where you were spending your time  
 5 on NHS admin, and I think the point he was making was  
 6 that this was something which could be done by a junior  
 7 member of staff. He makes that point at the second  
 8 bullet?  
 9 A. Okay.  
 10 Q. Do you see that?  
 11 A. Yes, but the day I did my admin wasn't just NHS. I had  
 12 many other things to do, okay? And the NHS -- if that's  
 13 wrong, there's grave consequences for the business,  
 14 which would affect every single director in the Dartford  
 15 store.  
 16 Secondly, I had to watch that NHS very carefully,  
 17 not because of my duty as a director -- that was  
 18 a priority -- also because Mr Singh had made a grievance  
 19 against me and he had accused me of NHS fraud of  
 20 a repair voucher, which he never showed to me, never  
 21 told me about it, he just went straight to the board.  
 22 So I had this added pressure that I was being  
 23 monitored excessively and the working environment was  
 24 a nightmare.  
 25 So NHS was crucial anyway, but it was extra crucial

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1 for me because I knew that Mr Singh was trying to catch  
 2 me out.  
 3 Q. At 2734, {E/851/2734} Mr Raines ran through a number of  
 4 points in terms of the agreement, the trial, the board  
 5 meeting, the resolution, the issues in terms of costs,  
 6 and so on?  
 7 A. As regards costs, costs -- I mean, if you look at costs,  
 8 a locum for the day, it's going to be less than  
 9 1 per cent of the weekly turnover. Is this what you say  
 10 to a director:  
 11 "Right, you have invested so heavily in this  
 12 business, you have paid £125,000. You have spent  
 13 £130,000 on a refit, but because you are having an extra  
 14 locum in because you have other duties to do in the  
 15 store -- we don't agree with you because your  
 16 co-director wants you to do four days' full testing. We  
 17 are going to drive you out of your business and you are  
 18 going to face a disciplinary on it."  
 19 It's just not acceptable in, my view.  
 20 Q. In the middle of the page you responded that you would  
 21 only agree to test four days a week when the business  
 22 was in TAPS?  
 23 A. That's correct.  
 24 Q. You didn't say there that your agreement had been  
 25 conditional; you were just describing the circumstances

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1 at the time. Is that right?  
 2 A. Sorry, say that again?  
 3 Q. You were just describing that the business was in TAPS  
 4 at the time. You weren't saying that your agreement had  
 5 only been conditional on four days' testing whilst the  
 6 business was in TAPS there, did you?  
 7 A. No, I said I would test four days a week whilst the  
 8 business was in TAPS. It's not something I had  
 9 committed to do forever and a day.  
 10 Q. Then there was some further discussion about it and you  
 11 were invited by Mr Raines to take some time out by way  
 12 of an adjournment, to see how things were going to move  
 13 forward and to find a solution to the issue of four  
 14 days' testing?  
 15 A. The solution, as has always been the case since I was  
 16 threatened in 2009, was, "You will test four days and  
 17 we'll make sure it's enforced". That was the first  
 18 meeting I had with Mr Singh on 31 July 2008. They were  
 19 the exact words he said to me. I sent him an email,  
 20 12 August, I believe, and now it goes to show in  
 21 fruition: in 2010 I face a disciplinary for the same  
 22 thing.  
 23 Q. Ms Birdi, I'm sorry, I don't think you quite answered my  
 24 question. Do you accept that you were invited by  
 25 Mr Raines --

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1 A. Yes, I do.  
 2 Q. -- to take some time out by way of an adjournment to  
 3 discuss how you were going to go forward and to try and  
 4 find a solution?  
 5 A. I do, yes.  
 6 Q. Okay. And then when you came back, you confirmed that  
 7 you weren't prepared to move on the point?  
 8 A. What is there to say? I'll test between 0 to 5 days  
 9 depending on the needs of the business and my  
 10 directorial duties. Why is it that I am being forced to  
 11 do something which I do not believe is in the best  
 12 interests of the business; whereas Mr Singh, I'm told he  
 13 doesn't have to have a rota, he doesn't have to do  
 14 anything, he can do what he wants. It's only you,  
 15 Swarandeeep, that has to do anything because we are going  
 16 to drive you out of your business.  
 17 Q. It was only at that point that the board voted to  
 18 initiate disciplinary procedures. Isn't that right?  
 19 A. I'm not sure. Well, the 2009 board meeting, following  
 20 that, I received several letters that, "You are going to  
 21 face a disciplinary if you do not comply".  
 22 Q. Can we just look at 2726 at motion 7? {E/851/2726}  
 23 A. Yes.  
 24 Q. So at that point, a resolution was passed in relation to  
 25 initiating disciplinary procedures?

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1 A. Yes, but I had been threatened repeatedly by Mr Raines  
 2 that I am going to face a disciplinary if I do not test  
 3 four full days. There were numerous letters.  
 4 Q. Can I suggest that what happened at this board meeting  
 5 is hardly consistent with a plot, a pre-determined plot,  
 6 to drive you out, Ms Birdi?  
 7 A. Oh, it was. It has been the case since 2007. When  
 8 I came back, I started raising objections to all the  
 9 monies gone out the business, how the money is going to  
 10 be put in that was stolen. Soon after that, Neil Lunn,  
 11 2 January 2008, "She is not suitable for the business".  
 12 And I have never been let go.  
 13 You have to look at the whole thing in context. You  
 14 have to look at the native emails; you have to look at  
 15 the private communications, sterile emails; you have to  
 16 look at the Loss Prevention charging. I was threatening  
 17 Loss Prevention's modus operandi of overcharging the  
 18 stores and making money, personally, and for their Loss  
 19 Prevention department, Phil Barnes and Mr McAlindon.  
 20 Q. Can I suggest to you that the events at the meeting,  
 21 with Mr Raines's discussions with you, you being asked  
 22 to take time out, the adjournment to consider positions  
 23 and the lengthy discussions of it, suggest that this  
 24 resolution was taken as a last resort in the face of  
 25 your intransigence?

1 A. I don't believe that last word is correct, but...  
 2 Q. Okay. In fact, disciplinary procedures weren't  
 3 immediately initiated, were they?  
 4 A. No, they weren't, because I believe Specsavers knew they  
 5 were on very difficult ground, trying to discipline me  
 6 for not doing four days' testing. It totally goes  
 7 against the whole concept of the joint venture  
 8 partnership that I had signed up to, and led to believe  
 9 that I would run -- I mean, there is documentation of  
 10 Chris Howarth in a franchise magazine. He said, "You  
 11 can run your stores how you wish, we are just here for  
 12 support". Okay? "You have got all the professional  
 13 freedom you need."  
 14 What's happening in Dartford? Why is Dartford  
 15 different? Why is Specsavers telling everyone in the  
 16 other regions, "You must lead your team. You must do  
 17 what's in the best interests of your business. You must  
 18 lead from the front. We have proven it's good."  
 19 But in Dartford, it's different.  
 20 Q. Okay. Can I ask you to turn on to page 2777.  
 21 {E/860.2/2777} This is a letter a few weeks later, on  
 22 19 March, from Alison Girollet. Do you remember this  
 23 letter?  
 24 A. Yes.  
 25 Q. And she is chasing you up about whether there had been

1 progress, agenda item 6, about the relationship between  
 2 you. Do you see that, point 1?  
 3 A. I do, yes.  
 4 Q. And she deals with the position in relation to your  
 5 claim for £8,705?  
 6 A. That's right.  
 7 Q. And suggested that there was no evidence -- that it had  
 8 been investigated and no evidence of such a dividend  
 9 being owed?  
 10 A. That's right.  
 11 Q. And then at item 5, you were asked if you had  
 12 reconsidered your position on the testing issue and  
 13 sought a response?  
 14 A. It was disingenuous. I have made my point very clear in  
 15 all my letters in 2009, that being forced to test four  
 16 full days a week is not in the interests of the business  
 17 and it's not something I will do. I will do between  
 18 zero to five days depending on the needs of the  
 19 business. My position was made very clear on that.  
 20 Q. And then at 2780, {E/862/2780} Mr Singh wrote to  
 21 Mr Raines, because I think the letter was written to  
 22 both you, wasn't it? It was also to Mr Singh, the  
 23 letter we have just looked at?  
 24 A. I think so, yes.  
 25 Q. Mr Singh responded to that letter at 2780?

1 A. Okay.  
 2 Q. And he said, towards the bottom of the page, it was  
 3 impossible to agree on key issues?  
 4 A. Where is that?  
 5 Q. He says:  
 6 "Since the board meeting ..."  
 7 Towards the bottom of the page:  
 8 "... we have had discussions about key issues, none  
 9 of which have been resolved satisfactorily."  
 10 A. If you look at the email I sent to Specsavers and to  
 11 Mr Singh, we couldn't have had any discussions because  
 12 his attendance was so sporadic. I have listed all the  
 13 days where he was absent from the business and he knew  
 14 my timetable, so he knew when I was free. I didn't know  
 15 his timetable at all because it was so sporadic. He  
 16 didn't discuss things with me. And I made this point to  
 17 Mr Raines as well. I said, "His attendance is sporadic,  
 18 we haven't had discussions", but Mr Raines chose to  
 19 believe Mr Singh, that I was the one who was not having  
 20 meetings with him. I was refusing to meet with him.  
 21 That's not true.  
 22 Q. And at 2781, {E/862/2781} he made the point that staff  
 23 morale, he considered, was being seriously affected?  
 24 A. Yes, staff morale would have been affected, yes, but  
 25 again, this is Specsavers. If they had acted properly

1 when Mr Singh was brought into the business, if their  
 2 intention was good, we wouldn't be having this problem.  
 3 We are two directors running this business: get on with  
 4 it. Do the best for your business.  
 5 The business was so profitable at that time. There  
 6 was no reason to put all this pressure on me for  
 7 something that was going to cost less than 1 per cent of  
 8 the week's turnover.  
 9 Q. 2782, {E/862/2782} over the page, he also made the point  
 10 that you had still not authorised his outstanding  
 11 expenses but he had authorised all of yours, your ebis?  
 12 A. That's right. I can't remember whether there was two or  
 13 three expenses that were on there that hadn't been  
 14 authorised because they contained a fuel element, and  
 15 because he had received this unilateral bonus from  
 16 Specsavers, which Mr Singh signed himself  
 17 in November 2009, he had already received a fuel  
 18 allowance and my understanding was that he couldn't  
 19 claim fuel if he has received a fuel allowance.  
 20 It's very difficult to see why I came to that from  
 21 these board meeting notes. You need to look at my board  
 22 meeting notes, because the fuel element side is not  
 23 explained properly. But every other ebis that did not  
 24 have a fuel element on, I did authorise. Even where  
 25 I was owed so much money, I still authorised Mr Singh's

1 ebis which I felt were legitimate.  
 2 Q. At 2782, {E/862/2782} he made the point that you weren't  
 3 doing a full four days' testing as well?  
 4 A. That's correct.  
 5 Q. Yes.  
 6 MR JUSTICE NUGEE: Can you just explain to me, Ms Birdi, how  
 7 the fuel works? There are two ways of doing it. There  
 8 is fuel allowance or reimbursement of fuel?  
 9 A. What happened -- I had a company car and when I spent  
 10 any fuel, I would put it through the ebis system and  
 11 then I would get it claimed back. And what happened in  
 12 November 2009 -- I don't understand it myself, but what  
 13 happened in November 2009, Mr Singh was paid my P11D  
 14 fuel equivalent of £4,225, the notional figure that the  
 15 taxman charges me on, even though I hadn't spent that  
 16 much money from the business. And he was given the P11D  
 17 figure for the value of my car, the notional figure that  
 18 the taxman pays me. So I was putting my fuel expenses  
 19 through but he was getting a bigger amount.  
 20 So -- I don't know whether I explained myself to  
 21 you. Have I not?  
 22 MR JUSTICE NUGEE: I don't think I have fully understood it,  
 23 but thank you.  
 24 A. No, sorry.  
 25 MR POTTS: Then if you could turn on to 2788, {E/865/2788}

1 this is your response to the new rota on 10 April.  
 2 A. That's right.  
 3 Q. In response to the letter of 19 March?  
 4 A. Yes.  
 5 Q. In the first couple of pages, you are raising complaints  
 6 going back to 2007 and the previous grievances again,  
 7 aren't you?  
 8 A. I am, yes, because I'm being pressurised to do something  
 9 that I did not feel was in the best interests of the  
 10 business.  
 11 Q. But these are the complaints going back to 2007?  
 12 A. They are, because they haven't been resolved.  
 13 Q. Despite the fact that they have been subject to your  
 14 grievances and they have been investigated?  
 15 A. Okay. Let's go back to the grievance, Alan Goddon's  
 16 report. At the very last page, he says he will  
 17 investigate how much Nimesh Patel stole. He will  
 18 investigate these Loss Prevention charges. He never  
 19 came back to me.  
 20 This is the problem. I never let that issue lie  
 21 down. If I had just gone back to the business, shut up,  
 22 didn't enquire, all these monies to go back into the  
 23 store, I may have been left alone.  
 24 Q. Those are not points I think that you are raising  
 25 specifically in this letter, though, are you?

1 A. No, but you can see where my frustration is coming from.  
 2 Q. And then you indicate you are not going to test four  
 3 days a week?  
 4 A. I have indicated that since I was threatened with it.  
 5 Q. You say it in the letter, as well?  
 6 A. Yes.  
 7 Q. And that you wouldn't comply with the board resolution?  
 8 A. No.  
 9 Q. In the final paragraph of 2789. {E/865/2789}  
 10 Then at 2799, Mr Raines writes to you. Do you have  
 11 that? {E/871.2/2799}  
 12 A. I have, yes.  
 13 Q. And at the bottom of the page he points out that you are  
 14 seeking to re-open and debate the outcome of recent  
 15 grievances and appeals, which are closed and final?  
 16 A. Okay.  
 17 Q. That was a fair enough position, wasn't it, having gone  
 18 through those procedures?  
 19 A. If the procedures had been dealt with fairly, then, yes,  
 20 but let me say again that my grievance outcome was not  
 21 just against Mr Singh; it was against Specsavers as  
 22 well, and Specsavers had investigated it. They hadn't  
 23 even looked into their cause of the issues. So it  
 24 hadn't -- it wasn't bona fide.  
 25 Q. And these are grievances and appeals and procedures

1 which you had ratified at a board meeting?  
 2 A. Yes, I had ratified it. And I'm being told to let go of  
 3 my grievances, yet they are pursuing Mr Singh's  
 4 grievances.  
 5 Q. Then at 2800, {E/871.2/2800} the third paragraph down,  
 6 he is asking you and Mr Singh to move on from historical  
 7 issues and to work together in the interests of the  
 8 business?  
 9 A. Yes, that would have been nice, but, like I say, since  
 10 Mr Singh was brought in, he was brought in with the  
 11 intention to change my working pattern, to make me  
 12 unhappy and uncomfortable at work so I should leave.  
 13 Q. And you are saying that Mr Raines didn't believe what he  
 14 was saying in that paragraph; is that right?  
 15 A. No, if we refer back to the native email.  
 16 Q. And also, towards the bottom of 2800, he says that  
 17 Mr Singh has sought to meet with you to agree an action  
 18 plan and you have refused to meet with him, saying you  
 19 are too busy. He says that's unacceptable?  
 20 A. Yes, again, this is a clear example. He is believing  
 21 what Mr Singh has told him. That's absolutely not true.  
 22 Mr Singh knew my timetable. When I was free, he knew  
 23 when I was free. We could have had a meeting. I sent  
 24 an email to SOG and to Mr Singh about his sporadic  
 25 attendance and this was all documented, and I actually

1 raised the point to Mr Raines to say, "This is not true  
 2 but you are taking Mr Singh's side again. You are  
 3 believing what he is telling you."  
 4 Q. The third paragraph that we just looked at, at 2800,  
 5 that's phrased in neutral terms, isn't it? It's aimed  
 6 at both of you?  
 7 A. Which one is that paragraph? {E/871.2/2800}  
 8 Q. "As stated ... yourself and Mr Singh must now move on  
 9 from all historical issues/complaints and accept ... the  
 10 outcome of the grievance and appeal process is final."  
 11 A. I think we need to -- like I say, you have to look at  
 12 everything in context. When you see everything in  
 13 context, there are things, when I felt that things were  
 14 being done behind my back, et cetera. Now, from  
 15 disclosure you can see there are things and there's  
 16 cracks in what they were doing and this is showing what  
 17 they were doing to me. You can't look at one little  
 18 letter and say, "Oh, no, he is being fair and  
 19 impartial".  
 20 It's like bullying. You can't look at one instance  
 21 or two instances. You have to look at a few of them and  
 22 then you can get the context of what's happening.  
 23 Q. If you go over to 2802, {E/871.2/2802} just below the  
 24 middle of the page, the paragraph that says:  
 25 "As such, we are now in a position where the

1 disciplinary procedure could be initiated against you.  
 2 However, in one final effort to avoid initiating the  
 3 disciplinary procedure against you I propose that both  
 4 yourself and Mr Singh participate in an external  
 5 mediation process, using an external 3rd party  
 6 mediator."  
 7 Do you see that?  
 8 A. I do see that, yes.  
 9 Q. So rather than rushing to throw you out, he was actually  
 10 proposing mediation?  
 11 A. Yes.  
 12 Q. Can I suggest that that's not consistent with the idea  
 13 of a plot to drive you out of the business?  
 14 A. There is an email in April, before this was set, from  
 15 the HR department in Specsavers, where it was saying  
 16 that, "Well, we can look at mediation and anyway, we can  
 17 cover our backs legally if we say we have tried  
 18 mediation".  
 19 But the mediation again wasn't genuine because I had  
 20 asked for the mediation to involve all three parties:  
 21 myself, Specsavers and Mr Singh. And I asked Mr Raines  
 22 at the board meeting in May to change the resolution to  
 23 include them, so we can resolve these things dating back  
 24 to 2007, because that's when the issues arose. But  
 25 Mr Raines refused to change the resolution.

1 I wrote to Mr Raines before the board meeting and  
 2 I said, "Does the outcome have to be, 'You will test  
 3 four days', because if it is, what is the point of  
 4 mediation? And it needs to involve all three parties."  
 5 There is no point having just two parties because  
 6 Specsavers had caused the problems by not being clear  
 7 and transparent and not being honest in their actions.  
 8 Q. Can I suggest to you that the suggestion of mediation in  
 9 this letter was a genuine attempt by Mr Raines to sort  
 10 out the problems and move forward?  
 11 A. No, I don't believe it was, and obviously Specsavers  
 12 were aware there was this clause in the contract. They  
 13 should have offered this well before, if they were  
 14 genuine. They would have said, "You two aren't getting  
 15 on, come on guys, let's look after the interests of the  
 16 business, let's get an independent party to sit down and  
 17 discuss it with you", but no, they didn't.  
 18 Q. If you turn back to 2798, notice was given of a board  
 19 meeting to be held on 13 May? {E/871.1/2798}  
 20 A. That's correct.  
 21 Q. This is dated the 23rd. Item 7 deals with a proposal of  
 22 mediation?  
 23 A. It does, yes.  
 24 Q. Which is consistent with Mr Raines's letter to you?  
 25 A. That's right, and I sent him a letter to say, "Look, can

1 you confirm that it's not just one outcome that the  
 2 board will be happy with, that, 'You will test five  
 3 days', and will Specsavers be involved?"  
 4 Q. Could you be passed, please, E11. These are the minutes  
 5 of that meeting?  
 6 A. Where are we?  
 7 Q. 2903, I'm sorry. {E/896/2903}  
 8 A. Again, the meeting was -- I did send in my meeting notes  
 9 of that because there were some fundamental points  
 10 missed off there.  
 11 Q. Okay, look at 2903, though. At 2905 in the middle of  
 12 the page Mr Raines says: {E/896/2905}  
 13 "The heart of the problem is your relationship as  
 14 partners isn't working. You both need to make this  
 15 partnership work. You both need to sit down and discuss  
 16 the fundamental issues for the business not just agree  
 17 to authorise forms."  
 18 A. That's true.  
 19 Q. That was the concern, because you had still not signed  
 20 off his pension forms for Mr Singh. Is that right?  
 21 A. That's correct, yes. Mr Singh hadn't presented the  
 22 pension form to me, like he said he would. When we  
 23 signed the distribution request for £50,000, he said he  
 24 would get the pension form done and he never did.  
 25 And he was complaining in it, I think, of his letter

1 of 5 May, and I wrote to Mr Raines -- I don't know  
 2 whether it's in my letter of 10 May but it was before  
 3 the board meeting, and I said, "Can you please get  
 4 Mr Singh to produce the form and I'll sign it".  
 5 Q. In terms of the form, at 2906, at the penultimate  
 6 paragraph, in terms of the form, Mr Raines said:  
 7 {E/896/2906}  
 8 "You had the form and the figures at the board  
 9 meeting on 23 February and you were instructed to sign  
 10 it. You haven't signed it. If you had had reservations  
 11 about the form I would have expected you to have found  
 12 the correct figure and then signed it. You haven't even  
 13 had a conversation in the last eight weeks to discuss.  
 14 You have simply not signed the form despite having  
 15 a board instruction to do so."  
 16 A. "You had the forms and the figures at the board  
 17 meeting."  
 18 I don't think this is corrects. You need to look at  
 19 my meeting notes. I think I amended it.  
 20 Q. Are you saying --  
 21 A. The fact is --  
 22 Q. -- Mr Raines didn't say that?  
 23 A. You will have to look at what I said but, what it was,  
 24 Mr Singh was supposed to produce the form to me. When  
 25 we signed the distribution request, that evening he said

1 he would get the form done. He didn't. He complained  
 2 about it, I believe on 5 May. I wrote to Mr Raines  
 3 saying, "Look, can you please produce the form? I have  
 4 no problems signing it."  
 5 He didn't, and then I'm getting told off at this  
 6 board meeting for not doing it, when Mr Singh said he  
 7 would produce the form. And I asked for Mr Raines's  
 8 assistance.  
 9 Q. Then at 2907, {E/896/2907} towards the bottom of the  
 10 page, I think you accepted that Mr Singh had authorised  
 11 your expenses but you had not authorised Mr Singh's?  
 12 A. No. Like I said, the fuel element. In February I had  
 13 said -- I had been told -- I can't remember the exact  
 14 words. If you look at my meeting notes I have made it  
 15 very clear what was said because it's not reflected  
 16 properly in those meeting notes.  
 17 I was told that Mr Singh can't claim fuel if he is  
 18 getting a fuel benefit, a fuel allowance. So every ebis  
 19 that I had authorised didn't have a fuel element on it.  
 20 So I was under the impression that he couldn't claim  
 21 that, and it was only after I phoned -- after this  
 22 meeting I phoned the tax department, and she said,  
 23 "Well, the way Mr Singh has been equalised is not right.  
 24 I'm using your notional figures because that's all the  
 25 money you have actually taken out of the business."

1 And then she said, "It's up to you if you want to  
 2 authorise those payments or not. It's your choice."  
 3 I just did it then.  
 4 Q. But there had been a board resolution that you should  
 5 authorise?  
 6 A. Like I said, if you look at my meeting notes, because  
 7 the meeting notes of February do not explain it  
 8 properly. My understanding was that Mr Singh had been  
 9 given a fuel allowance of £4,225 so he couldn't claim  
 10 fuel as well.  
 11 If you look at my board meeting notes there, and  
 12 then when I spoke to the lady, Jacqui Mancini, she said,  
 13 "Well, it's up to you as to whether you want to  
 14 authorise it".  
 15 There is a transcript of the conversation we had,  
 16 a contemporaneous note of it.  
 17 Q. Okay. And then if we could turn over to page 2908,  
 18 {E/896/2908} the issue of mediation was raised.  
 19 A. Yes.  
 20 Q. And then Mr Raines set out the history of matters in  
 21 relation to that and your refusal to test on four days  
 22 a week. He expresses the view that that's an express  
 23 instruction on behalf of the employer and that you were  
 24 making it clear you were unwilling to do so.  
 25 Then at the second holepunch, set out in the letter,

1 he refers to a final attempt to avoid disciplinary  
 2 action and a proposal that you both participate in  
 3 a formal mediation. Do you see that?  
 4 A. I do.  
 5 Q. He said that, didn't he?  
 6 A. He did, yes.  
 7 Q. And then towards the bottom of the page he suggested  
 8 that that would only be successful: {E/896/2908}  
 9 "If both 'A' directors (and indeed [Specsavers]) are  
 10 willing to enter into the process willingly with an open  
 11 mind?  
 12 A. Yes. I said to -- the motion that was proposed didn't  
 13 actually involve SOG actually within the mediation. SOG  
 14 were basically saying, "It's you and Mr Singh that need  
 15 the mediation", and I said, "No, we all three need to,  
 16 because you have been party to breaking down this  
 17 relationship and we all three need to have mediation and  
 18 is there another outcome that the board will be happy  
 19 with apart from four days' testing?"  
 20 But Mr Raines refused to change the resolution.  
 21 Q. In fact, what you were saying was that the mediator  
 22 should also discuss matters going back to 2007, weren't  
 23 you?  
 24 A. Yes.  
 25 Q. That was your position?

1 A. It is my position because that's when -- I never had  
 2 a problem with Specsavers, never had a problem with my  
 3 co-director. It's only when they transgressed from the  
 4 resolution on 20 February 2007 that all these troubles  
 5 began.  
 6 Q. And if you turn over to 2910, the fourth entry down, you  
 7 were making the point that you wanted to discuss other  
 8 matters. Mr Raines says -- {E/896/2910}  
 9 A. Where is that, sorry?  
 10 Q. Sorry. You refer to the fact that you wanted to refer  
 11 to 2007 issues --  
 12 A. Yes.  
 13 Q. -- as well in mediation, and then Mr Raines said:  
 14 "Can I refer you to my previous answer. SOG will be  
 15 included in the mediation. The mediator will try to  
 16 find solutions to any issues that are preventing you/the  
 17 working relationship from moving forward. This will  
 18 include --"  
 19 A. Sorry, I have lost myself.  
 20 Q. I'm sorry, 2910?  
 21 A. Yes, which paragraph, please.  
 22 Q. The fourth paragraph down. It starts:  
 23 "Can I refer you..."  
 24 A. Yes.  
 25 Q. "SOG will be included in the mediation. The mediator

1 will try to find solutions to any issues that are  
 2 preventing you/the working relationship from moving  
 3 forward. This will include what you describe as the  
 4 2007 issues if the mediator feels this is appropriate.  
 5 It will up to the skills of the mediator to decide how  
 6 they move all parties forward. I don't know the process  
 7 they will use, I'm not a mediator."  
 8 And so on. So he was indicating that it would be up  
 9 to the mediator to decide if that was appropriate, for  
 10 you to widen things out?  
 11 A. What I said, I don't want to vote. I had written to  
 12 Mark Raines prior to this meeting and I wrote to SOG  
 13 straight after the meeting to say that I'm happy for  
 14 mediation but it has to involve Specsavers, not just as  
 15 a B director, but to discuss our relationship, because  
 16 there is no point me and Kam just having this issue when  
 17 Specsavers had been heavily involved in breaking down  
 18 our relationship. So we need to go, all three of us,  
 19 for mediation, not just SOG as a B director.  
 20 Q. Do you accept that Mr Raines said what is reported in  
 21 that paragraph that I have just read to you at 2910?  
 22 A. I'm not sure. If you look at my meeting nodes, then --  
 23 if we can refer to my meeting notes, then I can see if  
 24 that's what was said, because there is so much  
 25 documentation, I can't remember everything word for

1 word.  
 2 Q. You don't have a recollection one way or the other; is  
 3 that right?  
 4 A. I know he was referring to mediation but he was  
 5 referring to the relationship between me and Kam, me and  
 6 Mr Singh, not between all three of us.  
 7 Q. He was making the point that Specsavers would be  
 8 included in the mediation, didn't he?  
 9 A. Yes, but the resolution just said the working  
 10 relationship between me and Mr Singh, but I was saying,  
 11 no, it's all three of us, and issues from 2007 had still  
 12 not been resolved.  
 13 Q. And he was also saying that it would be up to the  
 14 mediator to decide if it was appropriate to deal with  
 15 other issues from 2007?  
 16 A. If Mr Raines was genuine, he would have changed the  
 17 board resolution --  
 18 Q. Could you just answer my --  
 19 A. -- to include SOG.  
 20 Q. I'm sorry to interrupt you, Ms Birdi, but can you just  
 21 try and focus on my answer and see if you can answer it?  
 22 A. Yes, I will try.  
 23 Q. He also said that it would be up to the mediator to  
 24 decide if it was appropriate to deal with other issues  
 25 from 2007. Do you accept that he said that?

1 A. Yes, I think he did say that.  
 2 Q. You voted against the resolution for mediation?  
 3 A. Yes, I did, because, like I say, the resolution didn't  
 4 make it clear that SOG would be party to the mediation  
 5 in the relationship issues between all three of us. And  
 6 I made this clear to Mark Raines before the meeting and  
 7 if you look at my letter after the board meeting that  
 8 I sent to the legal department, I made my position clear  
 9 on what I meant by mediation, where all three parties  
 10 should be involved.  
 11 Q. And that was despite the fact that Mr Raines had made it  
 12 clear that Specsavers would participate in the  
 13 mediation?  
 14 A. I think you need to look at the letters that I sent  
 15 prior and after, and then you will get a true  
 16 reflection, because I don't know how correct these  
 17 meeting notes are. I can only say if you refer to those  
 18 letters, you can see what I was asking, where my  
 19 confusion was as regards to mediation.  
 20 Q. You voted against it, despite the fact that Mr Raines  
 21 made it clear that Specsavers would participate in the  
 22 mediation, and furthermore, that if the mediator thought  
 23 it was appropriate, the mediation could cover matters  
 24 going back to 2007?  
 25 A. Like I said, look at my letters I sent after and prior

1 and look at my meeting notes of the board meeting,  
 2 because, like I have said, sometimes these Specsavers'  
 3 notes only reflect what they want to reflect. It  
 4 doesn't reflect the true content of the meeting.  
 5 Q. I suggest to you that the notes are accurate and it does  
 6 reflect what was said at the meeting?  
 7 A. No, if you look at my meeting notes that I sent to  
 8 Specsavers, that is the true reflection of the meeting  
 9 notes.  
 10 Q. And at 2912, {E/896/2912} having indicated that you were  
 11 against the resolution, he noted that the success of  
 12 the mediation depended on all parties being in favour of  
 13 participation and, on that basis, he proposed to  
 14 withdraw the resolution?  
 15 A. Yes. And I say here my reasons against a mediation --  
 16 I think it is a good way forward, but mediation needs to  
 17 look at all three parties and this is not included in  
 18 this motion. Three parties: SB, Kam Singh and  
 19 Specsavers Optical Group.  
 20 Q. They are in the resolution, aren't they?  
 21 A. As B directors, not -- they were not looking at it as  
 22 they were part of the relationship breakdown. There's  
 23 no point trying to fix mine and Mr Singh's relationship;  
 24 Specsavers need to be involved as well because they have  
 25 caused the breakdown in the relationship.

1 Q. And it was only --  
 2 A. Sorry, I'll just say again: if you look at my letter  
 3 after the board meeting, you will see what I was saying.  
 4 It's very clear there and before.  
 5 Q. And it was only then, as you can see at 2912, that on  
 6 the basis that mediation had been rejected, he said:  
 7 {E/896/2912}  
 8 "I consider the company now has no choice but to  
 9 proceed to put into effect the resolution motion 5."  
 10 That was the disciplinary resolution?  
 11 A. That's correct.  
 12 Q. Can I suggest again that this is not consistent with the  
 13 plot that you refer to, Ms Birdi, is it?  
 14 A. It is consistent.  
 15 Q. It's Mr Raines seeking to do everything possible to  
 16 avoid having to implement disciplinary procedures  
 17 against you?  
 18 A. No, Specsavers knew they were on difficult ground to  
 19 dismiss me for four days' testing. So then later, they  
 20 involved other issues. So, no, it wasn't. If they were  
 21 on sound ground, they would have dismissed me then.  
 22 Q. Sorry, when you say "then", when do you mean then?  
 23 A. They would have initiated disciplinary against me, if  
 24 they felt that point was so strong.  
 25 MR POTTS: My Lord, I think that might be a convenient

1 moment for the break?  
 2 MR JUSTICE NUGEE: Yes. Five minutes.  
 3 (11.43 am)  
 4 (Short break)  
 5 (11.49 am)  
 6 MR JUSTICE NUGEE: Yes, Mr Potts.  
 7 MR POTTS: Now, both you and Mr Singh were suspended on  
 8 8 June 2010 pending an investigation, weren't you, by  
 9 Mr Clark? The investigation was carried out by  
 10 Mr Clark?  
 11 A. That's correct.  
 12 Q. And the investigation was to be into your respective  
 13 actions, the state of the relationship, compliance with  
 14 board instructions and resolutions?  
 15 A. That's correct but this process, it was not genuine.  
 16 Q. Okay, we will explore that.  
 17 A. Yes.  
 18 Q. Mr Singh was interviewed on 16 June?  
 19 A. That's correct.  
 20 Q. And you were interviewed on 22 June?  
 21 A. That's correct.  
 22 Q. Do you have E11?  
 23 A. Yes.  
 24 Q. 2978. {E/927/2978} You received an email from Mr Clark  
 25 dated 8.37 am on the 14th, asking you to attend at

1 a hotel on the 16th for a meeting --  
 2 A. That's correct.  
 3 Q. -- with him?  
 4 A. That's correct. I didn't see this until the 16th, after  
 5 the time of the meeting. And I phoned Mr Clark straight  
 6 away and I said to him, "Look, can I come down now?" He  
 7 said, no, he can't wait, he has to come back to the  
 8 store. So we re-arranged another date.  
 9 Q. Yes, because he had come specially to the store to do  
 10 that?  
 11 A. He had, but he had sent it to my old email address. As  
 12 soon as I saw that, I rang him straight away and what we  
 13 agreed -- he said he can't see me that day but what we  
 14 had agreed is that he would organise another meeting  
 15 because he has to come back to the Dartford store, and  
 16 that he would ring me to inform me of the new meeting  
 17 that was to take place so there wouldn't be any  
 18 confusion. But he failed to do that.  
 19 Q. At 3003, there is an email from you to Mr Clark?  
 20 {E/932/3003}  
 21 A. That correct.  
 22 Q. That's point you have just referred to?  
 23 A. Yes, what I did, after my phone call I sent an email to  
 24 him so there was no confusion and it was clear.  
 25 But this suspension -- if you look at Mark Raines's

1 diary on 3/6/10, it was already pre-determined. In his  
 2 diary it says: Agreed. David Clark to investigate the  
 3 suspension. Pauline's team -- which is the HR team at  
 4 Specsavers -- to do disciplinary regarding four days'  
 5 testing and relationship breakdown and Kam off the  
 6 record suspension.  
 7 And I knew that this was disingenuous because  
 8 Mr Singh never came into the Dartford store on his day  
 9 off, only once when he forgot to leave the safe key at  
 10 the store. And he suddenly turned up on his day off.  
 11 So I knew Mr Singh knew that the suspension was off the  
 12 record and Mr Raines's diary on 3 June, five days before  
 13 we were suspended, confirms this.  
 14 Q. Okay. You were interviewed by Mr Clark on 22 June?  
 15 A. I was, yes.  
 16 Q. And if you turn forward to page 3033, there are some  
 17 manuscript notes of an interview, and those pages run  
 18 through, I think, to 3080. {E/941/3033}  
 19 A. That's right.  
 20 Q. So this shows that you were interviewed; the interview  
 21 took place, between -- I think it started at 12.30 pm  
 22 and finished at 4.06 pm?  
 23 A. That's correct, but I don't think time is of an issue.  
 24 I think the issue is what's being said in the meeting  
 25 and is it being considered properly. So I don't think

1 time is an issue. Someone can spend eight hours doing  
 2 a job, but if the job is not done properly, it makes no  
 3 difference. Someone can spend two hours doing a job and  
 4 it's done brilliantly. So this time issue, I don't  
 5 understand.  
 6 Q. Ms Birdi, it was a simple question. I was just asking  
 7 you how long the interview took?  
 8 A. Okay, yes.  
 9 Q. And I think you accept it was between 12.30 and 4.06?  
 10 A. That's what it says here, yes.  
 11 Q. And --  
 12 A. As you can appreciate, I don't remember all of this.  
 13 Q. No, no, that's fine. We will come on to some matters in  
 14 due course.  
 15 Mr Clark asked you to attend a further interview to  
 16 discuss matters raised in a letter dated 16 June 2010,  
 17 which had been received from a number of members of  
 18 staff?  
 19 A. No, I received -- what actually happened, I received  
 20 a letter to say there is a further meeting to be held  
 21 and I questioned, "What is this meeting, because  
 22 I understand Mr Singh has been let back into the store  
 23 before the investigation has been concluded".  
 24 After that I got a letter from Specsavers to inform  
 25 me about the staff letter, which in effect was

1 a grievance and should have been dealt with -- in the  
 2 partners' guide to disciplines -- as a grievance should  
 3 be dealt with. But it wasn't; it was being tagged on to  
 4 this.  
 5 But I should have been told about this letter when  
 6 I was first called to the meeting, as procedures are:  
 7 "A grievance has been raised against you, Ms Birdi,  
 8 these are the issues, we would like you to attend  
 9 a meeting", but I wasn't told that. I was just told  
 10 further investigation interview, and I couldn't  
 11 understand it because Mr Singh had already been put back  
 12 by the investigator -- not by DVL, but by the  
 13 investigator, back into the store.  
 14 Q. The position is you did refuse to attend a further  
 15 interview?  
 16 A. Yes, I said, "This needs to be dealt with as  
 17 a grievance; follow procedure".  
 18 Q. Could you put E11, please, to one side, but keep it up  
 19 there on the desk. If you could take out, please, E12.  
 20 3226 is an email to you --  
 21 A. Sorry, 3 ...?  
 22 Q. Sorry, 3226. {E/980/3226}  
 23 A. That's correct.  
 24 Q. That's an email to you which enclosed a copy of  
 25 Mr Clark's investigation report?



1 A. Yes.  
 2 Q. And the report starts at 3227? {E/980.1/3227}  
 3 A. Yes.  
 4 Q. So it was sent to you on 23 July?  
 5 A. It does seem to be, yes.  
 6 Q. Mr Clark sets out some relevant background on the first  
 7 couple of pages?  
 8 A. Yes.  
 9 Q. He deals with the suspension of 8 June there?  
 10 A. Yes.  
 11 Q. And then at 3229 he says: {E/980.1/3229}  
 12 "During the course of my investigation, a letter  
 13 dated 16 June 2010 and addressed 'to whom it may  
 14 concern' was received ... from six members of staff..."  
 15 A. Sorry, where are we?  
 16 Q. I'm sorry, it's the final bullet point on 3229. He sets  
 17 out at some length some chronology. Towards the end of  
 18 the chronology --  
 19 A. We are on 3229?  
 20 Q. Yes, the final bullet point in the middle of page.  
 21 A. Okay.  
 22 Q. He refers to that letter and says that:  
 23 "As part of my investigation, I therefore  
 24 interviewed both the staff members who had put their  
 25 names, and others, as discussed below."

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1 A. On this, I would just like to point out bullet point 3.  
 2 It says:  
 3 "On 2 June SOG received a letter from [Kam Singh]  
 4 wherein [Kam Singh] stated that as a result of the  
 5 working environment/staffing issues in store, five of  
 6 the eight retail staff in the store had how advised him  
 7 that they were considering resigning."  
 8 Q. Yes.  
 9 A. Now, on this issue, it's really important that I make  
 10 that clear, if you would allow me to?  
 11 Q. Ms Birdi, you have referred to it, yes.  
 12 A. Okay. There was a girl who had raised a grievance  
 13 against Mr Singh because she felt she had been  
 14 victimised, because she had supported another girl who  
 15 had raised a grievance against him. She had handed her  
 16 notice in and -- she had raised a grievance and handed  
 17 her notice in.  
 18 So she had asked -- because her job fell through,  
 19 she had asked for an extension to her leaving date. So  
 20 I approached Specsavers and said, "What do we do,  
 21 because we have got a grievance issue here", and I was  
 22 worried for the store in case an employment tribunal was  
 23 progressed by her. And Specsavers actually said, "Yes,  
 24 keep her on while her grievance is going, extend her  
 25 probation", and it was on that that I then learned that

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1 Mr Singh had told the staff that I wanted to keep her on  
 2 as employed, which wasn't the case, and it was that time  
 3 that I learned that the staff didn't get on with her.  
 4 Before that, I had no clue.  
 5 So this here refers to the staff getting upset  
 6 because Mr Singh had told them I wanted to keep Fatima  
 7 Khan in the store.  
 8 Q. If it assists, Ms Birdi, I'm going to come back to that  
 9 point, if it's all right?  
 10 A. Okay. So it wasn't referring to mine and Kam Singh's  
 11 relationship as such; it was referring to the point of  
 12 Fatima Khan being kept on.  
 13 Q. I'll come back to Ms Khan in due course.  
 14 Towards the bottom of the page, he refers to  
 15 the fact that there were 13 other staff, apart from the  
 16 A directors, at the time, and that he had interviewed  
 17 11 of the 13 staff?  
 18 A. Okay.  
 19 Q. Perhaps we should just briefly look at this letter,  
 20 which is at E11. If you keep E12 open, actually, we  
 21 will come back to it.  
 22 E11/3009. {E/935.1/3009} In the first paragraph, it  
 23 says:  
 24 "We are all employees ... and have been very  
 25 distressed by recent events in-store."

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1 A. Yes.  
 2 Q. And in the second paragraph, it says:  
 3 "As a team we have been affected by Kam not being  
 4 in-store to support us on and off the shop floor as we  
 5 find him very helpful. We don't want to lose Kam as our  
 6 director as he has helped the store grow and achieve so  
 7 much in the two years he has been with us."  
 8 Do you say that's untrue; they didn't mean what they  
 9 said when they wrote that?  
 10 A. Obviously they did.  
 11 Q. Then in the third paragraph they said:  
 12 "We have felt ostracised by Swarandeep since Jas and  
 13 Fatima ..."  
 14 That's Miss Khan and Miss Khunkhuna; is that right.  
 15 A. Khunkhuna, that's correct, yes.  
 16 Q. "... began working with us."  
 17 A. Okay, now, on that side, I understand from disclosure  
 18 that Lucy -- well, from the meeting -- Lucy Hornby was  
 19 heavily involved in writing this letter:  
 20 "We have felt ostracised by Swarandeep since Jas and  
 21 Fatima began working with us."  
 22 Lucy Hornby had been away from the store on  
 23 maternity leave. She came back at the beginning of May,  
 24 so she only actually worked with me, Jas and Fatima on  
 25 three Saturdays and I would have been in clinic all day.

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1 So she felt ostracised since Jas and Fatima started?  
 2 I can't see how three Saturdays could have made her felt  
 3 ostracised.  
 4 Q. So you are saying that the staff who wrote that did not  
 5 mean what they said when they said they felt ostracised?  
 6 A. They obviously had the impression that me, Jas and  
 7 Fatima were special together and I favoured them more  
 8 than the rest of the staff, which was absolutely not  
 9 true. They had been given false information. Like  
 10 I say, they couldn't get on with Fatima. I had no idea  
 11 until 2 June 2010, when the staff told me, and obviously  
 12 they were getting upset because I wanted to keep her on,  
 13 which was not the case; I was just extending her leaving  
 14 date, on the advice of Specsavers. But, obviously, when  
 15 you look at the staff interviews, you can see they are  
 16 saying, "We told Swarandeep we didn't get on with  
 17 Fatima, yet she wanted to keep her on. She had no  
 18 regard for us." That's not true.  
 19 Q. Right. Just to break that down, is your position that  
 20 they did not genuinely believe what they said in that  
 21 sentence, that they felt ostracised by you since those  
 22 two members of staff --  
 23 A. Yes, it is.  
 24 Q. So you are saying that they are lying there?  
 25 A. Well, Lucy most certainly is and she was one of the main

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1 constructors of this letter.  
 2 Q. Are you saying the other five were as well?  
 3 A. Well, they had been given wrong information and they had  
 4 been misled, so this letter -- in the eight and a half  
 5 years that I have been at the store I have never had  
 6 a grievance raised against me, never had an issue; all  
 7 my staff were long-term staff.  
 8 Q. Which is it, Ms Birdi? Are you saying that they  
 9 genuinely believed it but they had been misled or  
 10 they --  
 11 A. I think they --  
 12 Q. -- didn't genuinely believe it?  
 13 A. I think they had been misled and they -- I think they  
 14 were induced to make this -- to do this letter to get  
 15 rid of me.  
 16 Q. So they didn't genuinely believe what they --  
 17 A. No, I don't believe --  
 18 Q. -- said in that sentence?  
 19 A. No, I don't believe they did, no.  
 20 Q. I'm sorry, Ms Birdi, I don't want us to talk over each  
 21 other.  
 22 A. Sorry.  
 23 Q. Quite rightly, I'm trying not to interrupt you but could  
 24 you wait until the end of my sentence?  
 25 A. Yes, sorry.

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1 Q. No problem.  
 2 They go on to say:  
 3 "We felt that she has given them preferential  
 4 treatment."  
 5 Were you saying that they didn't believe that?  
 6 A. I believe they were disingenuous, yes.  
 7 Q. Okay. And they say:  
 8 "There has been many occasions on the shop floor  
 9 where we have felt awkward because of whispering  
 10 conversations and huddles between the three of them?"  
 11 A. Yes, I don't believe that to be true.  
 12 Q. They didn't believe that?  
 13 A. That's what I'm saying yes.  
 14 Q. Okay. Then it goes on:  
 15 "We have been distressed by the grievances that they  
 16 have been brought in their short time in the store."  
 17 Just pause there. They had not been employees for  
 18 a very long time, had they?  
 19 A. No, they hadn't.  
 20 Q. Are you saying that staff were not distressed by the  
 21 grievances that had been brought by those two members of  
 22 staff?  
 23 A. Yes, they may have. I was certainly distressed about  
 24 it.  
 25 Q. So you think that might -- that might have been -- you

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1 don't --  
 2 A. I think it was true, yes. Obviously, anybody raising  
 3 a grievance within a practice, that is distressing:  
 4 It's distressing for the directors and it's distressing  
 5 for the staff as well.  
 6 Q. And they then expressed the feeling that you had taken  
 7 a big part in them being brought to head office's  
 8 attention.  
 9 A. That's absolutely false, if you are asking me if that's  
 10 true.  
 11 Q. So you are saying that they didn't genuinely hold that  
 12 feeling?  
 13 A. They may have had that feeling but they would have been  
 14 misinformed.  
 15 Q. Are you saying there that the feeling they had was  
 16 genuine but it was a result of the fact that they had  
 17 been told something untrue?  
 18 A. Well, I think that this letter was disingenuous in the  
 19 fact that they were encouraged to give this in order to  
 20 get rid of me.  
 21 Q. I'm not sure you have quite answered my question, but  
 22 I think the effect of your answer is you are saying that  
 23 they didn't genuinely believe that. Is that right?  
 24 A. Yes. These staff had been with me for many, many years  
 25 and they had never had a problem with me. They had

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1 left -- Lucy Hornby had left twice and she came back to  
 2 me.  
 3 Q. Okay. Could we move on to the fourth paragraph. They  
 4 say:  
 5 "We are aware that she has approached other members  
 6 of our team, asking if they have any issues/grievances  
 7 with Kam. This has been instigated by herself and not  
 8 by those members of staff."  
 9 A. That's not --  
 10 Q. You are saying that's not true?  
 11 A. That's absolutely not true.  
 12 Q. And you are saying they knew it wasn't true when they  
 13 wrote this?  
 14 A. No, I think that they probably had been given the  
 15 impression that that would be true.  
 16 Q. They had been given that impression by whom?  
 17 A. Well, by other staff, and -- I mean, Mr Singh telling --  
 18 I mean, on 2 June, when I had spoken to Specsavers about  
 19 extending Fatima's leaving date, not to re-employ but  
 20 her leaving date so she was not out of pocket, Mr Singh  
 21 actually went to the staff before he spoke to me and he  
 22 told the staff and said the staff were really upset with  
 23 me and then he said to me five staff were going to leave  
 24 if Fatima stays on. If he was genuine in his interest,  
 25 he would have come to me and said, "Look, this is

1 a problem. Staff don't like her. This is a real  
 2 issue." But he didn't.  
 3 Q. This isn't about that point. This is about raising  
 4 grievances about Mr Singh, isn't it, this point here?  
 5 A. Yes.  
 6 Q. And they said that they would have got that impression  
 7 from other staff?  
 8 A. Yes.  
 9 Q. Which other staff are you talking about?  
 10 A. Well, staff who were obviously siding with Mr Singh --  
 11 Q. Well, which --  
 12 A. For example, Helen Tidmass, for example.  
 13 Q. But she is one of the signatories?  
 14 A. Yes, she is. That's what I mean. Amongst themselves.  
 15 If you look at the interview notes, you can see there  
 16 are such -- it's full of lies. I can't remember every  
 17 single one but I'll give you a clear example.  
 18 Q. Could you just answer my questions, Ms Birdi?  
 19 A. Okay.  
 20 Q. I hesitate to interrupt but I want you to answer my  
 21 questions, please.  
 22 The allegation there being said is that they were  
 23 aware that you had approached other members of the team  
 24 asking if they had issues with Mr Singh and that that  
 25 had been instigated by you and not by the members of

1 staff.  
 2 A. I had not done that.  
 3 Q. Okay, and you are saying that they made that up?  
 4 A. Yes. For example, Darshan Jhita, she -- Lucy -- I can't  
 5 remember all the interview notes, there is just too much  
 6 information there, but Lucy Hornby, she said that I had  
 7 encouraged Darshan Jhita to raise a grievance against  
 8 Kam regarding her supervision. I had not done that.  
 9 Q. So you are saying that the staff made this up amongst  
 10 themselves?  
 11 A. I don't know who told her that I had got Darshan to  
 12 raise a grievance against Mr Singh. It was not  
 13 factually true.  
 14 Q. I'm talking about this generally, this point generally?  
 15 A. Well, I'm saying somebody has given them that  
 16 information. I don't know who has given that  
 17 information, but somebody within the store has said,  
 18 "Swarandeeep gave Darshan a letter to sign, to raise a  
 19 grievance against Kam Singh -- Mr Singh," and that's  
 20 absolutely not true.  
 21 Q. And they say -- they go on to say:  
 22 "We realise that you and Kam have a difficult  
 23 relationship."  
 24 Are you saying that they genuinely believed that?  
 25 A. I do believe that, yes, it was obvious, and that

1 relationship issue -- again, I go back to the point that  
 2 Specsavers, had they been acting in the best interests  
 3 of the business when he was introduced, we wouldn't have  
 4 been having this issue.  
 5 Q. Okay.  
 6 A. If they had stuck to their agreements, day-to-day  
 7 management issue, we wouldn't be having this issue.  
 8 Q. They go on to say that:  
 9 "[You] are always commenting on this fact and [you  
 10 have] made it an issue in regards to store issues in the  
 11 past, even on the shop floor."  
 12 A. Where is that?  
 13 Q. "We realise that Swarandeeep and Kam have a difficult  
 14 relationship."  
 15 Then it goes on: {E/935.1/3009}  
 16 "Swarandeeep is always commenting on this fact and  
 17 has made it an issue in regards to store issues in the  
 18 past, even on the shop floor."  
 19 A. It's clear from this that they are against me.  
 20 Q. Are you saying that that's not true?  
 21 A. I'm saying that's not true, yes. They knew we were  
 22 having a difficult relationship. It was obvious.  
 23 Anybody could see we were having difficult  
 24 relationships, but the relationship issue was due to  
 25 Specsavers.

1 Q. That's not the point which is made here, Ms Birdi, which  
 2 I'm asking you about. It's the fact that you commented  
 3 about this and made an issue of it on the shop floor?  
 4 A. No.  
 5 Q. You are saying that's not the case?  
 6 A. No, they could see there was great tension between us.  
 7 Q. And you are saying that when they said that, they knew  
 8 that that was not the case?  
 9 A. Yes, it was disingenuous to have said so; yes.  
 10 Q. By way of contrast, they said:  
 11 "Kam does not involve us in their 'problems' and  
 12 tries to make our working environment as happy and  
 13 smooth running as possible."  
 14 That's the contrast.  
 15 A. That's the contrast, and also -- it's a very upsetting  
 16 letter, this, for me, especially since there were lots  
 17 of long-term staff here and I have never had a grievance  
 18 raised against me. But they knew where the power lay.  
 19 They knew and they were protecting themselves.  
 20 You know, they knew that when Mr Singh came on  
 21 board, four long-term staff members had left and three  
 22 of them had raised grievances. They had left. More  
 23 people were raising grievances. I would never encourage  
 24 staff to raise grievances because I knew they wouldn't  
 25 stay in the store. So the record speaks for itself,

1 really.  
 2 Q. So are you saying that their account there, in relation  
 3 to the differing approaches that you and Mr Singh  
 4 adopted on the shop floor, was untrue?  
 5 A. Yes, I am.  
 6 Q. And are you saying that they knew it was untrue?  
 7 A. Yes.  
 8 Q. And then in the final main paragraph, they say this:  
 9 "In the past many of us have had issues with  
 10 Swarandeeep but have been very scared of repercussions  
 11 had we decided to make a complaint."  
 12 Are you saying that they didn't genuinely believe  
 13 that?  
 14 A. They didn't genuinely believe that.  
 15 Q. So that was a lie as well?  
 16 A. That was. Where have they got this impression from?  
 17 I have never had a grievance raised against me, except  
 18 by Mr Singh; never. And these staff had been with me  
 19 for so many years. Why would they leave, why would they  
 20 come back and ask, "Please can I join the Dartford  
 21 store?"  
 22 Lucy Hornby, she lived in Gravesend, right next door  
 23 to Gravesend Specsavers. She could have got a job there  
 24 but she came to me, caught a train every day to come to  
 25 Dartford after she had left twice. Why? Because I was

1 horrible? Because she was scared of repercussions of  
 2 a complaint? It's not true.  
 3 Q. So the lack of complaints and formal grievances is  
 4 explained there. They said they were scared of  
 5 repercussions and that's why they didn't make  
 6 a complaint, and they said that you can make them feel  
 7 very intimidated and pressured and they had been  
 8 frightened that, had they made a complaint, you would  
 9 have made it impossible for them to work with you?  
 10 A. If you actually look at the opposite, staff didn't  
 11 leave. Never had a grievance in eight and a half years.  
 12 Mr Singh comes in. As soon as he comes in, we started  
 13 to lose key staff. I'm asking for Specsavers' help  
 14 because I don't want to lose these key staff. Why is  
 15 this -- how have they got this impression? They knew if  
 16 somebody raised an issue against Kam Singh, Mr Singh,  
 17 their life is going to be made difficult.  
 18 There is no evidence to show if they raised  
 19 a grievance against me their life is going to be  
 20 difficult, because a grievance had never been raised  
 21 against me by staff.  
 22 Q. So that final paragraph, you are saying they are lying  
 23 in that paragraph as well?  
 24 A. Yes, it's not true, it's disingenuous.  
 25 Q. When you say "disingenuous" --

1 A. It's not true.  
 2 Q. -- it's not true and they are lying?  
 3 A. No, it's not true.  
 4 Q. They are making it up?  
 5 A. Where are they getting this idea from? I've never had  
 6 a grievance against me.  
 7 Q. Okay. I think you can put E11 to one side. If we could  
 8 turn in Mr Clark's report to 3233, {E/980.1/3233} one  
 9 of the issues that he raised was actions towards store  
 10 staff?  
 11 A. Yes.  
 12 Q. Do you see the first line; he said:  
 13 "The evidence arising from the investigation  
 14 suggests the following behaviour by SB."  
 15 And he refers to -- the title is:  
 16 "Encouraging staff to raise formal grievance  
 17 complaints against KS."  
 18 That's Mr Singh, isn't it?  
 19 A. It is, yes.  
 20 Q. He says:  
 21 "In my interview with SB, SB denied having solicited  
 22 or encouraged any employee to raise a grievance against  
 23 KS."  
 24 A. That's true.  
 25 Q. And he said that:

1 "Evidence arising from the investigation however  
2 suggests otherwise."  
3 Can you see that?  
4 A. It's not true.  
5 Q. That's what it says.  
6 A. That's what it says, yes.  
7 Q. He said:  
8 "... a number of staff interviewed each advised me  
9 that SB has sought to persuade them to raise formal  
10 grievance complaints against KS and/or presented them  
11 with typed documents which SB had typed which contained  
12 complaints against KS and asked them to sign them."  
13 A. No, that's not true. I referred to, for example,  
14 Darshan Jhita. They got the impression that I got  
15 Darshan to raise a grievance; I didn't. I got her to  
16 sign a document to say that Mr Singh was responsible for  
17 her contact lens clinics, and the reason behind that was  
18 because she, as a trainee, had had a clinic that was not  
19 supervised. So Mr Singh sent me two text messages to  
20 say, "You had better check your emails, it's very  
21 urgent". He didn't tell me what the issue was, and then  
22 it transpired that she had had a clinic that wasn't  
23 supervised and he was blaming me for it.  
24 Q. I will come on to Ms Jhita in due course --  
25 A. But he was blaming me for it. I was under a great deal

1 of duress. I knew Specsavers and him were colluding  
2 together and I wanted to protect myself, because I could  
3 lose my profession with this and it wasn't my fault. It  
4 was a genuine mistake by both of us.  
5 Q. We will come on to Ms Jhita in due course. Can I just  
6 draw your attention to the first bullet point on 3233?  
7 {E/980.1/3233}  
8 A. Yes.  
9 Q. He refers to an interview with Patrice O'Brien. And  
10 sets out:  
11 "Question: Have you ever been asked by SB about any  
12 grievance you may have with KS?  
13 "Answer: Yes, she called me into her room a few  
14 weeks ago and said others had complained about KS and  
15 that if I had grievances about KS I shouldn't feel bad  
16 about raising them and that I should go to her if I had  
17 any."  
18 A. It's absolutely false.  
19 Q. Just keep E12 open, please. Could you also, please,  
20 pick up E11, please. If you could turn towards the back  
21 of that at 3082 {E/942/3082} that's some notes of an  
22 interview with Ms O'Brien?  
23 A. Hm-mm.  
24 Q. And then at 3083, do you see the third -- well, in fact,  
25 just the first -- it says: {E/942/3083}

1 "DC: Have you ever ..."  
2 A. Yes.  
3 Q. That sets out what's referred to in the report.  
4 A. Yes.  
5 Q. We have looked at the letter, which makes this issue  
6 about raising grievances against Mr Singh. She is not  
7 one of the signatories to the letter?  
8 A. No, she is not.  
9 Q. Is she lying when she says that?  
10 A. She is lying, and -- she is lying and what I would say  
11 to you is, Patrice O'Brien was one of the girls who was  
12 interviewed in 2007 by Mr McAlindon, so my reputation  
13 with her had been damaged anyway. But secondly, when  
14 I had come back in the store, I was aware that my  
15 reputation had been damaged with Patrice O'Brien and  
16 Lorraine Frondigoun and there is no way, after what was  
17 said in those meeting notes, would I ever say something  
18 like that, if I was going to, to Patrice O'Brien because  
19 I knew that the element of trust between us had been  
20 damaged by Mr McAlindon.  
21 Q. So you --  
22 A. I would never say that to a member of staff and if I was  
23 going to say it, Patrice O'Brien would be the last  
24 person I would say it to.  
25 Q. So when she refers to a specific meeting with you, she

1 was called into your room, that didn't happen?  
2 A. That didn't happen, that's correct.  
3 Q. I suggest to you that this is you instigating a member  
4 of staff to make a complaint against Mr Singh, isn't it?  
5 A. No. Like I said to you, if staff raised a grievance  
6 against Mr Singh, they would leave. We had invested  
7 a lot of money in staff, a lot of time in staff.  
8 I didn't want staff to leave. I lost a lady who had  
9 been with us ten years; I lost a guy who was our hardest  
10 working chap who had been with us five years. I didn't  
11 want to lose staff and if I encouraged them to raise  
12 a grievance, they left the store. Anybody who left, who  
13 had raised a grievance or complained against Mr Singh,  
14 left -- had to leave.  
15 Q. Could I ask you to turn up -- do you have volume B in  
16 front of you?  
17 A. I do, yes.  
18 Q. Could you, please, turn to page 117 in your first  
19 statement, paragraph 504. {B/1/117}  
20 A. Sorry, paragraph?  
21 Q. 504. It's at the second holepunch on page 117:  
22 "I recognise and accept that advising staff who wish  
23 to take out a grievance how to go about it is part of  
24 a director's responsibility, which is all that I ever  
25 did."

1 Then you were making the point that you say that  
 2 Mr Singh has had a secret meeting with staff, which is  
 3 something you would never do?  
 4 A. That's right.  
 5 Q. Based on what Ms O'Brien said, what you say in that  
 6 statement isn't true, is it?  
 7 A. No, it is true.  
 8 Q. She hadn't given you any indication that she wished to  
 9 take out a grievance against Mr Singh, had she?  
 10 A. No, she hadn't.  
 11 Q. But you were inviting her to do so?  
 12 A. No, I never invited Patrice to do anything of the sort.  
 13 Q. Do you still have E12 to hand?  
 14 A. No -- yes, I do, yes.  
 15 Q. The report?  
 16 A. I do, yes.  
 17 Q. If we could go back to 3233? {E/980.1/3233}  
 18 A. Yes.  
 19 Q. The next bullet down, there is a reference there to an  
 20 interview with Miss Hornby?  
 21 A. Yes.  
 22 Q. And she says:  
 23 "SB will latch on to and discuss any niggles you may  
 24 have, particularly if they are about Kam."  
 25 A. Yes.

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1 Q. Do you see that?  
 2 A. I do see that.  
 3 Q. If you could keep that open and just turn, please, to  
 4 E11 and if you could turn to page 3092 {E/945/3092}.  
 5 This is the notes of an interview -- it starts at 3091,  
 6 just to see the context?  
 7 A. Yes.  
 8 Q. Over the page at 3092 at the second bullet point, the  
 9 question was asked:  
 10 "Could you give me your perception and overview of  
 11 Swarandeeep's personality towards members of staff."  
 12 A. This is 3092?  
 13 Q. Yes, just above the second holepunch:  
 14 "DC: can you give ..."  
 15 A. Yes.  
 16 Q. It says:  
 17 "Over the last year she comes over very sweet but  
 18 doesn't talk to us."  
 19 Then it says:  
 20 "If she latches on to you about you having any  
 21 niggles she will talk to you about these and discuss  
 22 them, particularly if they are about Kam."  
 23 A. Yes.  
 24 Q. And then if you go back to 3091. {E/945/3091}  
 25 A. Yes.

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1 Q. There is a reference there towards the bottom of the  
 2 page, and there is a reference to the fourth paragraph  
 3 of the letter, which we have looked at, which talks  
 4 about grievances and you instigating grievances, and  
 5 then the question -- she responds:  
 6 "Swarandeeep has influenced and put up other people  
 7 to put in grievances against Kam."  
 8 So you see that?  
 9 A. I do, yes.  
 10 Q. And she refers to:  
 11 "We had an issue before with John, lab tech, who was  
 12 struggling in lab and Swarandeeep was very supportive of  
 13 John's grievance."  
 14 She says.  
 15 A. No, if you actually look at John Ko's meetings that  
 16 I had, where Tracey Hilton was the note-taker, I was  
 17 actually supporting Kam in issues that John was raising.  
 18 I didn't want to lose John. I wanted John and Kam to  
 19 get on. I got Mike Rowe involved because I really  
 20 didn't want to lose this chap because he was our hardest  
 21 worker. In those you can see that I am supporting Kam,  
 22 asking John to understand that Kam is -- doesn't mean  
 23 anything but he is the manager, basically, of him.  
 24 Q. And she also refers to a grievance from Kevin in the  
 25 lab; there is a reference to Kevin in the lab as well?

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1 A. Yes.  
 2 Q. What was Kevin's name?  
 3 A. Kevin Taylor.  
 4 Q. Okay. Then could you go in E11, that volume, to 2943?  
 5 {E/911/2943}  
 6 A. Yes.  
 7 Q. And it goes over the page.  
 8 A. Yes.  
 9 Q. This is a two-page document setting out -- who produced  
 10 this document?  
 11 A. I produced it. I made notes of the meeting and I typed  
 12 them up.  
 13 Q. So this is you making notes of a meeting with him and in  
 14 this meeting, this reports complaints about Mr Singh; is  
 15 that right?  
 16 A. Yes, he came to me and he was very upset because he had  
 17 been forced to work excessive hours. What do I do? Do  
 18 I just ignore his complaints? What do I do?  
 19 Q. Why did you type this up as a formal document?  
 20 A. This is what I always do. When I have a meeting, like  
 21 when Jas raised a grievance meeting, I made notes, then  
 22 I typed them up. Then I give them to the staff and if  
 23 they are happy with them, they will sign.  
 24 Q. Was this based on manuscript notes or just your  
 25 recollection of the meeting?

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1 A. It was manuscript notes. Like I told you the other day,  
2 I write them, I type them.  
3 Q. And what happened to the manuscript notes?  
4 A. They get thrown away. They are really rough and tatty  
5 notes.  
6 Q. Was this document created by you as ammunition in your  
7 war against Mr Singh?  
8 A. Absolutely not. Because I know if a staff member raises  
9 a grievance against Kam Singh, I know they are going to  
10 end up having to leave, but what do I do? I can't  
11 ignore the grievance because I wouldn't be doing my duty  
12 towards the staff. If I do the grievance, what do I do?  
13 I'm in a sticky position here. I have to -- if someone  
14 complains to me, I have to take that complaint  
15 seriously. I can't just ignore it.  
16 Q. Okay. If we put that to one side, if we could go back  
17 to volume 12, please. Do you still have 3233?  
18 {E/980.1/3233}  
19 A. I do, yes.  
20 Q. The next bullet is a reference to the interview with  
21 Miss Hilton?  
22 A. Yes.  
23 Q. She says:  
24 "SB was always trying to get staff to raise  
25 grievances against KS, especially new ones [new staff]

1 John was Lab Tech, had a few issues with KS but SB  
2 encouraged him to make a complaint to head office, it  
3 could have been sorted in store and John eventually felt  
4 he had to leave."  
5 A. Again, what you need to do -- I ask you to look at the  
6 meeting notes. I had two meeting notes where she was  
7 actually the note-taker and you can see that it's not  
8 the case.  
9 Q. So Miss Hilton accompanied Mr Ko?  
10 A. She came as a note-taker, yes. Read the notes and you  
11 will see.  
12 Q. So she had personal knowledge of the event?  
13 A. She did, yes.  
14 Q. Are you saying that she is incorrect in what she said,  
15 about you encouraging that complaint?  
16 A. She is, yes she is.  
17 Q. Are you saying she is making it up?  
18 A. She is, yes, if you look at those meeting notes.  
19 Q. Are you saying she is lying?  
20 A. Yes, she is. I mean, at another point she actually says  
21 that I -- which I find so upsetting. She says that when  
22 her mother passed on, she came back to work and I said  
23 that she was very unprofessional talking about her mum  
24 on the shop floor. Me and Mr Patel had given her full  
25 paid leave when her mother had passed on. You know, we

1 had families, we had very big family commitment and for  
2 her to say that broke my heart, you know. She was just  
3 lying.  
4 Q. You are saying she has just made that up?  
5 A. She has made that up or someone has told her that and  
6 she has got upset. I would never, ever say that.  
7 Q. It's a funny thing to make up, isn't it?  
8 A. It is. It's horrendous. She even talks about the  
9 7/7 bombing which happened. Her son and her daughter  
10 were working in London and she said I got upset because  
11 she used the landline. What is that all about? It's  
12 witch hunt. It's nasty.  
13 Q. So you are saying that she was engaged in a witch hunt?  
14 A. Yes.  
15 Q. A nasty witch hunt?  
16 A. It is.  
17 Q. And she was making things up in a nasty way against you?  
18 A. Yes, they -- all those things said, that is absolutely  
19 not true.  
20 Q. Okay. Could we go back to 3233, the final bullet point  
21 of the page, she said: {E/980.1/3233}  
22 "She [SB] printed off a letter and got me to come to  
23 her test room and asked me to sign it. I briefly scan  
24 read it as I was busy that day. It just mentioned about  
25 clinics ..."

1 Perhaps you would just read it to yourself,  
2 actually. (Pause)  
3 A. Yes.  
4 Q. So are you saying that that's not true?  
5 A. That's not true and in disclosure -- it's in disclosure  
6 what I actually said, and if I was getting her to sign  
7 something that was as she says, why would I give her  
8 a copy to take away?  
9 Q. She is saying that you got her to sign something. She  
10 then considered it, saw that it was untrue?  
11 A. I gave her something to sign and it said that, because  
12 of the pressure I was under, Mr Singh was holding me  
13 responsibility for her contact lens clinic. I knew that  
14 SOG and him were working to drive me out the business.  
15 I was scared I was going to lose my status as  
16 an optician and I actually got her to sign to say that  
17 her clinics were organised by Mr Singh. It's in  
18 disclosure. And also that she had asked for him --  
19 I can't remember the exact words but that he was to be  
20 her supervisor.  
21 She withdrew part of it, but not all of it. So she  
22 kept the part where he was responsible for her contact  
23 lens clinics. Why am I in this position, getting her to  
24 sign this? I'm in this position because Specsavers and  
25 Mr Singh are working to undermine me and get me out of

1 the business.  
 2 If he was working with me, if Specsavers were not  
 3 behaving in the way they were behaving, I would not be  
 4 in this position.  
 5 Q. Could I ask you to keep those two bundles there and  
 6 could you have E8, please, as well. Could you turn to,  
 7 please, page 2204. {E/678/2204}  
 8 Is that a document you produced for her to sign?  
 9 A. That is, yes.  
 10 Q. And you see in the third paragraph saying that she has  
 11 repeatedly asked Kam to be your supervisor and she is  
 12 aware of it because you have repeatedly refused?  
 13 A. She did.  
 14 Q. She withdrew that, didn't she?  
 15 A. She withdrew that because she said, now she had got  
 16 a supervisor she didn't want to sort of have any  
 17 difficulties.  
 18 Q. And in 2205 --  
 19 A. But -- yes.  
 20 Q. In 2205, that is another document produced by you?  
 21 A. Yes, it's the same one.  
 22 Q. Oh, I see.  
 23 A. But she just took the second part away and she just kept  
 24 the first part. So she was happy to sign for that.  
 25 Q. So this is you producing documents for members of staff

1 to sign?  
 2 A. Yes, and Mr Singh did the same, actually, when he  
 3 cancelled the contact lens clinic. He was actually the  
 4 first one to do that. He got Matthew Dando to sign  
 5 a letter.  
 6 But why am I in this position that I have to protect  
 7 myself like this so I don't lose my profession and get  
 8 thrown out? Why am I in this position? Why am I having  
 9 to work in this kind of environment? I invested  
 10 £125,000. I invested £130,000 in a refit. Never had  
 11 a problem with Specsavers. Only from 2007 have I had  
 12 these issues. Why am I under this duress? Because  
 13 there is an ulterior motive.  
 14 MR POTTS: If we go back to 3234 in volume E12?  
 15 {E/980.1/3234}  
 16 MR JUSTICE NUGEE: Can you tell me, Ms Birdi, what does "CL"  
 17 stand for.  
 18 A. Contact lens.  
 19 MR JUSTICE NUGEE: Thank you.  
 20 MR POTTS: You see the next -- I have referred to Ms Jhita's  
 21 interview. Miss Hornby. The quote there says:  
 22 "We had an issue with Darshan being supervised in  
 23 the past and SB wouldn't sign off her supervision. In  
 24 the end KS had to sign it off last minute and by this  
 25 time it was too late for the exams and Darshan missed

1 out. A few weeks later SB presented Darshan with  
 2 a typed letter raising a grievance with KS over him  
 3 signing the supervision late."  
 4 A. Okay. So on that side, the first bit you can clearly  
 5 see that that's not actually, factually, what happened  
 6 because Darshan's supervision, I couldn't supervise her  
 7 because my previous co-director had done all the contact  
 8 lenses in the business. So I hadn't been doing them for  
 9 seven years. I didn't have the experience to supervise  
 10 this lady and I kept telling Mr Singh I didn't have the  
 11 confidence or the experience to do that. And on the day  
 12 that we had to fill these forms in, he took me for  
 13 a walk outside and he said to me, "Right, if you want me  
 14 to supervise her I want £5,000 increase in salary and  
 15 I want you to authorise it today".  
 16 I said, "You can't do that".  
 17 He said, "No, that's what I want".  
 18 So I phoned head office and it's the only time  
 19 I have had a fair person listen to me. George Parker  
 20 wasn't aware of the situation that was being put upon me  
 21 to get rid of me and he said to Mr Singh in a conference  
 22 call, "Mr Singh, it's your fiduciary duty to do it. You  
 23 are not going to get paid extra. You need to do it."  
 24 So, here, the staff think that I'm the cause of the  
 25 problem, when really it's Mr Singh and his insistence of

1 getting £5,000 extra in his remuneration to supervise  
 2 this lady, when he should have done it because it's his  
 3 fiduciary duty.  
 4 Q. So you are saying that the account that Miss Hornby  
 5 gives is untrue?  
 6 A. It's absolutely untrue, yes.  
 7 Q. Are you saying that she made it up?  
 8 A. She is obviously been given information that is  
 9 absolutely wrong, and this letter, where she refers to  
 10 this grievance -- this is the letter that you have  
 11 referred to in 2204 and 2205. {E/678/2204} It's not  
 12 a grievance.  
 13 Q. It's a complaint against Mr Singh, isn't it?  
 14 A. No, it's not. That is there because I'm in fear of  
 15 losing my profession because she has had an unsupervised  
 16 clinic, and Mr Singh sent me these text messages,  
 17 telling me, "You had better check your email", and  
 18 I check and he is blaming me for having an unsupervised  
 19 clinic.  
 20 And not only that, he sends me these text  
 21 messages -- I was at the hospital at the time when he  
 22 sent these. He sends me these text messages and then  
 23 the next day, he has got a day off and he allows her to  
 24 still have a contact lens clinic without a supervisor.  
 25 How is that in the interests of the business? The



1 pressure that's being put on me is immense.  
 2 Q. Ms Birdi, we have looked at the letter. The letter says  
 3 that he had been asked to do something and he had  
 4 refused to do it. That's a complaint about his conduct,  
 5 isn't it?  
 6 A. No, it's not a complaint. It's to protect me so if it  
 7 comes back on me, Specsavers come back on me, I've  
 8 already had a final warning, I'm under a lot of duress.  
 9 It is to protect me, and why am I in this position?  
 10 Q. But it is a complaint that he has not done something --  
 11 A. No, it's not a complaint at all. And Mr Singh, like  
 12 I say, he had got Matthew Dando to sign the letter  
 13 regarding a clinic that got cancelled because Mr Singh  
 14 wasn't going to do that clinic because one of our  
 15 opticians was ill or something of that fact, and he got  
 16 Matthew Dando because -- Matthew told me that Mr Singh  
 17 told him to cancel the clinic and he got Matthew to sign  
 18 to say, no, I didn't tell -- I wasn't told by Mr Singh  
 19 to cancel the clinic.  
 20 But this is not a complaint; this is to protect me.  
 21 It's not a position I should be in.  
 22 Q. By this point -- you say to protect yourself. The final  
 23 written warning had expired by this point, hadn't it?  
 24 A. It had, it had, but like I said to you, since 2007,  
 25 February, 2010, I have not been let go. I have been

1 working under the most awful situation. Awful  
 2 situation. Like I say, NHS. He reports me for NHS  
 3 fraud to the board. And to this date I don't know what  
 4 that voucher is.  
 5 I'm in fear of being struck off. I'm in fear of  
 6 losing my profession. I'm in fear of losing  
 7 the business I have invested heavily and my life into.  
 8 Moving from the north up here for this business. Why am  
 9 I in this position? Because Specsavers wanted to get me  
 10 out of the store.  
 11 Q. Okay. If I can go back to the page 3234, the bullet  
 12 points, the report. The second bullet point down says:  
 13 {E/980.1/3234}  
 14 "In my interview with SB she accepted that she had  
 15 prepared the above letter and asked Darshan to sign it.  
 16 SB further accepted that Darshan had then 'revoked the  
 17 letter'. SB however commented that 'I don't remember  
 18 what [Darshan] revoked the signing of for'.  
 19 A. Yes, but it's here.  
 20 Q. Is that right?  
 21 A. Yes. She revoked part of the letter. Here it is.  
 22 Q. But is that a fair summary of what you said to him in  
 23 the interview?  
 24 A. It's something along that lines, yes, that she revoked  
 25 the letter. I don't think I used those words,

1 "revoked", but I must have told him that she took part  
 2 of it out but she was happy to sign the other part, and  
 3 this is the evidence here.  
 4 Q. Have you got E11 there still? If you keep E12 open.  
 5 I think we can put E8 away.  
 6 Page 3066. This is notes of your interview and then  
 7 3066 at the bottom of the page: {E/941/3066}  
 8 "Question: I believe Darshan withdrew the letter?  
 9 "Answer: Yes, she did, Kam dealt with all her  
 10 clinics and he did her timetable."  
 11 Do you see that?  
 12 A. Yes.  
 13 Q. And then if you go on to 3068, just above the second  
 14 bullet point. {E/941/3068}  
 15 "Question: Darshan revoked the signing of the  
 16 letter.  
 17 "Answer: No she revoked the letter --"  
 18 A. I don't know where I am. Oh, yes, I can see.  
 19 Q. "Answer: No she revoked the letter saying she was happy  
 20 to sign for her clinics, I don't remember what she  
 21 revoked the signing of for."  
 22 A. There is a star, my amendments, which were made on the  
 23 day.  
 24 Q. I see.  
 25 A. Where it says:

1 "She was happy --"  
 2 Q. "She was happy to confirm that he was responsible --"  
 3 A. "-- for her clinics."  
 4 Yes.  
 5 Q. Isn't this another example of you preparing  
 6 a pre-prepared complaint about Mr Singh's conduct for  
 7 a member of staff to sign?  
 8 A. No, I have explained to you why I did this letter. It's  
 9 not a complaint. I did it to protect myself.  
 10 Q. Okay. Can we go back -- you have got E11 still?  
 11 A. Yes, I have, yes.  
 12 Q. 3148. No, actually, I'm sorry. Let's go to E13 at  
 13 3551. {E/995/3551} It says:  
 14 "Lorraine Storey, telephone interview."  
 15 If you go towards the bottom of the page, do you see  
 16 that?  
 17 A. Yes.  
 18 Q. "DC: has either director either encouraged you to make  
 19 a complaint or grievance against the other?"  
 20 A. Yes.  
 21 Q. She says: {E/995/3680}  
 22 "SB spoke to me about it when we were working in the  
 23 office. She said that if I want to know anything about  
 24 how to do it, look here. She pointed to have the file  
 25 that had the staff handbook in it."

1 A. It doesn't say "look here".  
 2 Q. I'm sorry:  
 3 "About how to do it..."  
 4 I thought that said, "look here"?  
 5 A. It says, "look here", yes.  
 6 Q. Do you think it is "look here"?  
 7 A. Yes.  
 8 Q. "... she pointed to the file that has the staff handbook  
 9 in it. I never did as I just didn't want to get  
 10 involved."  
 11 Then she says:  
 12 "And KS, has he ever?"  
 13 "LS: No."  
 14 A. Can we look at the typed notes of this meeting?  
 15 Q. E11/3148. {E/960/3148} And if you look at the second  
 16 bullet point.  
 17 A. Yes.  
 18 Q. "Question: Has either director ever encouraged you to  
 19 make a complaint or grievance against the other?  
 20 "Answer: SB spoke to me about it once when we were  
 21 working in the office. She said that if I wanted to  
 22 know anything about how to raise a grievance 'look  
 23 here'. She pointed to the file in the office that has  
 24 the staff handbook in it. I never did as I didn't want  
 25 to get involved.

1 "Question: And KS, has he ever encouraged you to  
 2 make a grievance or complaint?  
 3 "Answer: No."  
 4 A. Okay. I do remember what she is referring to there.  
 5 I don't remember saying "look here", but what had  
 6 happened, she had told me that Mr Singh had got a new  
 7 person to come in, a new lab technician, to look around  
 8 the lab, when we had two lab technicians in the lab and  
 9 the lab were very upset and I think this forms part of  
 10 Kevin Taylor's grievance. The lab were very upset that  
 11 a new lab tech was coming to look at -- they felt their  
 12 job was insecure.  
 13 And she had actually said to me that she was very  
 14 upset in the manner that she had been removed from  
 15 dispensing on the shop floor and how it was done in  
 16 front of all the staff and she felt very humiliated that  
 17 that role had been taken away from her.  
 18 So, like I say in my paragraph here:  
 19 "I recognise and accept that advising staff who wish  
 20 to take out a grievance how to go about it is part of  
 21 a director's responsibility, which is all that I ever  
 22 did."  
 23 Q. This is Ms Storey saying, unprompted, that you told her  
 24 how to make a complaint?  
 25 A. Yes, I said to her, "The staff file is there. If you're

1 not happy, the staff file is there."  
 2 Q. She is not suggesting in that interview that she wanted  
 3 to make a complaint, was she?  
 4 A. Lorraine Storey's not here to comment on this, plus  
 5 I also say none of these meeting notes were signed,  
 6 whereas the 2007 meeting notes were signed, so I don't  
 7 know how true this is a reflection of the meeting notes.  
 8 Procedures aren't followed. But I have told you exactly  
 9 what happened and that is what I told her.  
 10 Q. I would suggest to you that the notes from the interview  
 11 which I have just shown you show that Ms Storey is  
 12 indicating that you, unprompted, told her how to make  
 13 a complaint?  
 14 A. I told her where the staff information file was. I did  
 15 do that. And like I say to you, as I have said there,  
 16 I recognise and accept that advising staff who wish to  
 17 take out a grievance, how to go about it or what their  
 18 rights are, yes, point to the staff file. I did not  
 19 have a secret meeting like Mr Singh did.  
 20 Q. She is saying that you were encouraging --  
 21 A. No, wouldn't do that.  
 22 Q. She took the view you were encouraging her to make  
 23 a grievance?  
 24 A. No, no, I don't know how factual these notes are. They  
 25 are not signed. Lorraine is not here to be questioned

1 about it.  
 2 Q. And she is also saying that Mr Singh did not do the same  
 3 sort of thing.  
 4 A. My same point arises there. I don't know how factual  
 5 these are. I don't know if Mr Singh did or did not.  
 6 I don't know.  
 7 Q. Ms Storey wasn't one of the signatories to the letter,  
 8 was she?  
 9 A. No, she wasn't.  
 10 Q. If she said that, are you saying she made it up?  
 11 A. No, I've just told you exactly what I said to her.  
 12 Q. If we could go back, please, to 3234 in E12.  
 13 {E/980.1/3234}  
 14 In the penultimate bullet point at the second  
 15 holepunch, Mr Clark refers to the six staff who had  
 16 signed the letter, which we have looked at?  
 17 A. Yes.  
 18 Q. You are saying that they are making that up, are they?  
 19 A. Let me read it. (Pause)  
 20 Yes, it's not true.  
 21 Q. It's not true?  
 22 A. It's not true.  
 23 Q. And Mr Clark fairly pointed out that in three  
 24 interviews -- at the bottom -- that three members of  
 25 staff had not spoken to them personally about submitting

1 a grievance/signing of the complaint. Do you see that,  
 2 the final bullet point?  
 3 A. Sorry. (Pause)  
 4 That's what it says there, yes.  
 5 Q. So that's him fairly summarising the evidence?  
 6 A. It's not -- it's not factual evidence but that's  
 7 Mr Clark's version. Like I said, this investigation had  
 8 already been pre-determined. I was going to face  
 9 a disciplinary. I have said that, Mark Raines's diary,  
 10 3/6/08, 5.10, five days before we were suspended. It  
 11 was pre-organised.  
 12 Q. Ms Birdi, I'm going to suggest to you that the evidence  
 13 that we have looked at and which is set out in these  
 14 sections of the report represent compelling evidence  
 15 that you have been going way beyond telling staff who  
 16 wanted to issue a complaint how to do so?  
 17 A. Absolutely not true. I deny it.  
 18 Q. This was you approaching staff, wasn't it?  
 19 A. I have just told you, I wouldn't approach staff. If  
 20 they came to me and they had a problem, I would point  
 21 them in the right direction because it's the director's  
 22 responsibility, but I know if someone raises a grievance  
 23 against Mr Singh, they are going to end up leaving.  
 24 Q. The example that we have seen shows you encouraging  
 25 staff to make formal grievance complaints against

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1 Mr Singh, doesn't it?  
 2 A. No, I disagree.  
 3 Q. Instead of dealing with staff issues informally, this  
 4 was you seeking to use the staff as weapons in your  
 5 battle against Mr Singh?  
 6 A. I have just told you that if staff raised a grievance  
 7 against Mr Singh, they would end up leaving.  
 8 Q. I suggest to you that this conduct by you was  
 9 inappropriate?  
 10 A. I disagree.  
 11 Q. I suggest to you that it was unfair on the staff?  
 12 A. No. If I did it, yes, it would be unfair, but I didn't  
 13 do it.  
 14 Q. And I also suggest to you --  
 15 A. And I find it quite offensive that this is being said  
 16 about me because I had an eight and a half year history,  
 17 never had a grievance against me. We didn't have any  
 18 issues in the store when Mr Patel was there, apart from  
 19 Mr Patel stealing. The staff were very united. It was  
 20 a brilliant team and they went, they left, but they came  
 21 back to me because it was a good working environment.  
 22 It was only when Mr Singh came on board, all staff  
 23 started leaving. They knew where the power lay.  
 24 I wouldn't get staff to raise grievances. It would  
 25 not be in their interests and the store would lose

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1 staff.  
 2 Q. And I would also suggest to you that is certainly  
 3 evidence upon which Mr Clark could properly form the  
 4 view that there was a disciplinary case to answer?  
 5 A. Like I say to you, it had already been pre-determined.  
 6 They were just following the rules.  
 7 When I had my meeting with Mr David Clark, in the  
 8 meeting, as you will see, he refers to the fact that  
 9 I have got legal advice, so we know we have to do  
 10 things -- you know, I can't remember the words he uses,  
 11 but they are following procedure. So following  
 12 procedure and doing the right things are two different  
 13 things.  
 14 Q. Are you saying that this evidence is not such as could  
 15 lead a person to form the view that there was  
 16 a disciplinary case to answer -- a case to answer; not  
 17 that it's right?  
 18 A. If the evidence was true, but it's not true. And there  
 19 are issues that I raised with Mr Clark in my interview  
 20 that he never dealt with, like the issue of Lucy Hornby,  
 21 where she knew the policy was when any new standard  
 22 operating procedure changed in the store, both directors  
 23 would sign the document before it was initiated in  
 24 store.  
 25 She signed a standard operating procedure that

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1 Mr Singh had initiated after he had had an altercation  
 2 with me, regarding four days' testing. She signed it.  
 3 He had been making very many changes in the store  
 4 and this one was a repair voucher -- repair procedure,  
 5 which meant if a patient came in for repair, unless  
 6 there was a Specsavers rim we weren't going to do it.  
 7 It was going to impact on customer service immediately.  
 8 After so many changes I let him off with, I couldn't  
 9 let him off with this because it was really not in the  
 10 best interests of the business. So I issued a memo to  
 11 say, "Look guys, me and Kam haven't discussed this.  
 12 When we have discussed this, when both directors have  
 13 discussed it, we'll issue a memo."  
 14 And I got them to sign, to say that the normal  
 15 procedure goes in place. She refused to sign that and  
 16 she told me she hadn't signed the first one because we  
 17 both hadn't signed it, and she had. So she was very  
 18 biased towards Mr Singh.  
 19 Q. The point I'm putting to you, Ms Birdi, is that the  
 20 evidence we have looked at was evidence upon which  
 21 a person could properly find that there was a case to  
 22 answer?  
 23 A. No, the evidence -- like I say, the staff were not being  
 24 truthful, and it is modus operandi to use the staff to  
 25 oust directors. They've tried it with me in 2007; they

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1 are doing it again. In Uckfield they were trying to  
 2 turn the staff against them. It's modus operandi.  
 3 Q. So you are saying that Mr Clark was acting dishonestly  
 4 in relation to his report?  
 5 A. Yes, he was, and look at Mark Raines's diary. It had  
 6 already been pre-determined.  
 7 Q. Could we move on to the next issue, at the bottom of  
 8 3234: {E/980.1/3234}  
 9 "Preferential treatment of Fatima Gulamali and Jas  
 10 Khunkhuna."  
 11 A. Yes.  
 12 Q. We saw that that was an issue raised in the June letter  
 13 as well, wasn't it?  
 14 A. It was, yes.  
 15 Q. At the bottom of the page it says you denied any  
 16 preferential treatment and he said:  
 17 "The evidence arising from the investigation  
 18 suggests otherwise. Rather, evidence arising from the  
 19 investigation suggests preferential treatment ...  
 20 towards Fatima and Jas to detriment of cohesive team  
 21 working."  
 22 Do you see that?  
 23 A. I do see that, yes.  
 24 Q. Are you saying that Mr Clark didn't believe that?  
 25 A. It's not true.

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1 Q. Are you saying there was no evidence to suggest  
 2 preferential treatment?  
 3 A. There is no evidence. What evidence? These six staff  
 4 saying it? There was no evidence.  
 5 Q. Let's turn over the page to 3235. There is some  
 6 references to interviews. {E/980.1/3235}  
 7 A. Yes.  
 8 Q. Mr Hummell says:  
 9 "Fatima and Jas was given preferential treatment by  
 10 SB. She [SB] has really split the team in the store  
 11 though and her unprofessional conduct has ruined the  
 12 team."  
 13 Are you saying that Mr Hummell didn't honestly hold  
 14 that view?  
 15 A. He didn't hold that view and also, like I say, when  
 16 I found out -- when I had asked for Fatima's extension  
 17 because she had lost her other job and Specsavers told  
 18 us to extend her leaving date, and -- then Mr Singh told  
 19 the staff and they were really aggrieved with me before  
 20 he even discussed it with me. So I asked to speak to  
 21 the staff to see what the issue was. They refused to  
 22 meet with me. They had been told not to have any  
 23 meetings with me alone on that day.  
 24 So then Stephen Hummell and Tracey Hilton came into  
 25 my room together to discuss the issues they had with

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1 Fatima -- and this was the first time I realised there  
 2 were any issues with Fatima. It had never been brought  
 3 to my attention before. And after that I realised that  
 4 they really did have an issue with her.  
 5 Stephen Hummell says that, "Despite me having told  
 6 Swarandeeep that we didn't get on with Fatima, she just  
 7 totally disregarded us and just made us feel like we  
 8 were nothing".  
 9 It's in his meeting notes. That's absolutely not  
 10 true. They didn't know that it was actually Specsavers  
 11 who told us to extend her leaving date. They thought it  
 12 was me wanting to re-employ her. They had been given  
 13 false information. They think I don't care about them.  
 14 They think I just want Fatima back. Fatima couldn't  
 15 work in the store any more because she had raised a  
 16 grievance against Kam Singh.  
 17 Q. We will come on to the grievance in a moment. You are  
 18 saying that Mr Hummell, when he said what he said, as  
 19 reported at the top of the page, he didn't honestly  
 20 believe what he was saying there. Is that right?  
 21 A. He probably did believe it because he had been given  
 22 lots of false information. He felt his worth was  
 23 nothing to me.  
 24 Q. Then in the third bullet point, Mr Hummell -- there's a  
 25 reference to his interview again. He refers to:

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1 "... Fatima had left the business and SB was trying  
 2 to get her back in ... None of the staff wanted this as  
 3 she was not good for the business. SB told Tracey to  
 4 come in to [the] test room with her, I went in with  
 5 Tracey and we both said she should not bring Fatima in  
 6 as she was would 'lose the staff'. The next day SB  
 7 still tried to get Fatima in, I felt like my services  
 8 meant nothing to her."  
 9 A. That's exactly what I referred to. Does he know that  
 10 it's actually Specsavers that said, "While the grievance  
 11 is live, just keep her in store"? Does he know that it  
 12 wasn't to keep Fatima on, it was to protect the business  
 13 because she had a grievance and she had lost her job,  
 14 just to extend her probation? No, he didn't know that.  
 15 Q. You are saying you accept, though, that there was  
 16 a meeting with Tracey?  
 17 A. Yes, that's --  
 18 Q. And they both said to you that should not bring Fatima  
 19 in, or you would lose the staff?  
 20 A. So, not to re-employ her. That's exactly what I've just  
 21 mentioned to you, that I wasn't seeking to re-employ  
 22 her. She couldn't stay at the store.  
 23 Q. Did you tell him that?  
 24 A. No, I didn't tell him that. It was not my position to  
 25 tell him that.

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1 May I say another thing as well, that when we --  
2 Q. Sorry, could you just answer the question?  
3 A. Sure.  
4 Q. My question was did you tell him that, and I think you  
5 are saying you didn't?  
6 A. Did I tell him that Fatima was not coming back?  
7 Q. No, that you weren't seeking to re-employ her?  
8 A. No, I didn't, because they are staff. It's not for me  
9 to discuss that with staff. That's for me to discuss  
10 with my co-director or with Specsavers. It's not for me  
11 to discuss with staff. I was shocked that they didn't  
12 get on with Fatima. I had no clue whatsoever. Mr Singh  
13 had not brought it to my attention at all.  
14 Q. Can we look at the second bullet point, Ruth Wotton?  
15 A. Yes.  
16 Q. Can you read that to yourself?  
17 A. Which one is that?  
18 Q. The second bullet point:  
19 "We saw a real divide in the team though when Fatima  
20 and Jas started working there, this really split the  
21 team. SB took sides with them and there was a real them  
22 against us attitude ..."  
23 Are you saying that Ms Wotton didn't genuinely  
24 believe that?  
25 A. No, it's not true. It's absolutely not true.

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1 Q. Are you saying she didn't genuinely believe that?  
2 A. I think she didn't believe that, no.  
3 Q. So she is lying?  
4 A. That's right, yes, and also it says here:  
5 "[She] desperately tried to get Fatima back in the  
6 store."  
7 Where has she got this information from?  
8 Q. Then if we go down to the Tracey Hilton interview, the  
9 fourth bullet point down:  
10 "Tracey also referred to the meeting, stating  
11 'I took Steve with me. SB wanted Fatima back. I said  
12 there were many reasons not to, Steve also said this.  
13 Fatima was divisive and frequently got caught lying --  
14 contradicted herself. SB insisted that she should come  
15 back."  
16 A. That's not true. Again, she has been given wrong  
17 information. I'd never said that.  
18 Q. Are you saying that's not what happened in the meeting?  
19 A. I did not say -- "she insisted that she should come  
20 back". That did not happen in the meeting.  
21 Q. What about the rest of it?  
22 A. "She wanted Fatima back". No, I didn't say that.  
23 I took them in the room to discuss this issue about  
24 Fatima, which Kam had just brought to my attention, that  
25 staff were going to leave if Fatima came back. And she

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1 didn't.  
2 Q. Did Tracey say that there were many reasons not to?  
3 A. Yes, they both expressed really strong views on Fatima;  
4 yes, they did.  
5 Q. Do you accept that she said that Fatima was divisive and  
6 frequently got caught lying?  
7 A. I can't remember those exact words but they both  
8 expressed very strong views against Fatima.  
9 Q. "SB insisted that she should come back."  
10 A. That's not true. I wouldn't have discussed that with  
11 the staff.  
12 Q. And then Miss Hilton's interview:  
13 "Fatima and Jas came in late frequently. We had to  
14 make up time or had pay docked. I saw this regularly.  
15 Split the team as they were both new."  
16 A. Any staff member to come in late, the girls would note  
17 it on the rotas. If you look at the rotas, you can see  
18 when people do overtime or they come in late, it's  
19 recorded. I didn't do payroll, Mr Singh did payroll.  
20 I would have expected that to be deducted.  
21 Q. So there was no preferential treatment?  
22 A. Absolutely none whatsoever.  
23 Q. So, Tracey Hilton's impression is wrong?  
24 A. Absolutely.  
25 Q. You say she is making that up?

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1 A. Yes, she is.  
2 Q. What about Gladstone Revers: {E/980.1/3235}  
3 "Jas and Fatima moved straight to bifocal dispense,  
4 it was preferential treatment."  
5 A. Again, I have a point on that, on Mr Rever's notes.  
6 There's a point there where he says -- I can't remember.  
7 This was -- I will have to look at the notes, the  
8 handwritten notes, but basically I think the typed-up  
9 notes had an additional thing, compared to the written  
10 notes. So, how factual these notes are I don't know.  
11 Q. Okay. And then --  
12 A. Oh, it says -- in Mr Gladstone's one set of notes, it  
13 said, about him dispensing:  
14 "It was immaturely deal with."  
15 And then, in the other version of the notes, it  
16 says:  
17 "It was immaturely dealt with by SB."  
18 I wasn't responsible for the dispensing staff.  
19 Mr Singh delegated the roles to the staff for the  
20 dispensing, so it wouldn't have even been my role, but  
21 these two notes didn't coincide.  
22 Q. Are you saying --  
23 A. None of these notes were signed and the notes did not  
24 reflect -- or were not reflective. Things were being  
25 added.

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1 Q. Are you suggesting that the notes didn't refer to  
2 preferential treatment?  
3 A. They may refer to preferential treatment but like I said  
4 to you, these notes, they are not signed. They are  
5 different -- the same meeting notes have different bits  
6 in them and I wasn't responsible for that.  
7 Q. Then if we look at the Helen Tidmass:  
8 "In my interview with Helen Tidmass..."  
9 A. Which one is that?  
10 Q. The next one down:  
11 "... she also reported that she had witnessed Fatima  
12 and Jas being given preferential treatment, with Helen  
13 describing it as 'A lot of whispering [between SB,  
14 Fatima and Jas], Fatima in SB's room when on the shop  
15 floor. She [SB] always backed them up. Timekeeping  
16 issues all the time, we have to make time up but SB  
17 never asked Fatima or Jas."  
18 A. I wouldn't ask Fatima or Jas. If they came in late, the  
19 girls who were at reception, they would record it. If  
20 you look at the rotas, that is their handwriting. It's  
21 not my handwriting. They would record when they came in  
22 and they would deduct their pay or they would say, "You  
23 can't have a break because you're in late", or whatever.  
24 I didn't get involved in that. I don't know where this  
25 preferential treatment came from.

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1 As regards to them coming into my room, yes, maybe  
2 they did, Tracey came into my room when she had  
3 problems. If they had raised a grievance, maybe they  
4 did come into my room because they were upset about  
5 something. What do I say? "Go out, I don't want to  
6 talk to you?"  
7 Any member of staff who came to me, if they came to  
8 me and they wanted to discuss something, I would discuss  
9 it with them. It's not preferential treatment.  
10 Q. Are you saying that Miss Helen Tidmass didn't genuinely  
11 believe that you were giving them --  
12 A. Yes, I am. It's her --  
13 Q. Let me finish the question; sorry, Ms Birdi.  
14 A. Sorry.  
15 Q. Are you saying that Miss Tidmass didn't genuinely  
16 believe that you were giving them preferential  
17 treatment?  
18 A. I can't see how she came to that conclusion.  
19 Q. Yes or no? Are you saying that she didn't believe it?  
20 A. I'm saying I can't believe how she came to that  
21 conclusion.  
22 Q. So, you are saying she may have genuinely believed it?  
23 A. No, I don't believe she did.  
24 Q. Okay.  
25 We have referred to the letter, where the six

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1 members of staff say:  
2 "We felt ostracised by Swarandeeep since the two  
3 members of staff started working with us. We felt that  
4 she has given them preferential treatment."  
5 Are you saying they didn't genuinely believe that?  
6 A. I genuinely believe they didn't and, like I say, I have  
7 referred to Lucy. She was the person who mainly wrote  
8 this letter, I understand, and she had only worked with  
9 me, Jas and Fatima on three days and that was when I was  
10 in the test room, so I wouldn't have even been on the  
11 shop floor and she has made that statement.  
12 Q. Then the final bullet point. Mr Clark fairly refers to  
13 the four other interviews, where they didn't express  
14 concerns about your actions towards the two members of  
15 staff.  
16 A. Where is that?  
17 Q. The final bullet point. Just by the second hole punch:  
18 {E/980.1/3235}  
19 "Contrary to the above ..."  
20 A. Yes.  
21 Q. Yes? So that's Mr Clark fairly setting out a summary of  
22 the evidence, isn't it?  
23 A. Like I say, it was a pre-set agenda.  
24 Q. So you are saying that that wasn't a fair summary of the  
25 evidence?

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1 A. Well, the evidence had been concocted. Mr McAlindon's  
2 Loss Prevention team were in the store. They were in  
3 there, the staff, by making -- these six staff who made  
4 this, it was to get rid of me.  
5 Q. I don't think you have answered my question. I asked  
6 you whether that was a fair summary of the evidence?  
7 A. No, I don't think it was, because when -- no, I don't  
8 think it was, no.  
9 Q. Okay. And then he cites the interview he had with you  
10 and a letter which you sent, where you denied any  
11 preferential treatment or close relationship, and you  
12 just said you:  
13 "... had a good relationship like with all my  
14 staff."  
15 A. Yes.  
16 Q. Is that right? You said that? Do you agree?  
17 A. I treated Jas and Fatima the same as I would treat any  
18 member of staff.  
19 Q. Sorry, I'm just asking the question: is that a fair  
20 summary of something that you said?  
21 A. I don't know, you will have to refer to my meeting  
22 notes. I do remember saying something along the lines  
23 of, "All the staff are important to me and I would treat  
24 all the staff the same".  
25 Q. Okay. In relation to why the store staff perceived you

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1 as having a close relationship, you said:  
 2 "[You] didn't know why the staff had this perception  
 3 but that 'Kam may have said or coerced the staff' into  
 4 saying this."  
 5 Is that right?  
 6 A. That's right, that's right. I said to you, on 2 June,  
 7 when Specsavers sent the email to say, "Look, keep Jas  
 8 on while she has got the extended probation while this  
 9 disagreement is going ahead", instead of coming to me to  
 10 say, "Look, Swarandeeep, the staff don't get on with  
 11 Fatima", he went straight to the staff and they were  
 12 really upset with me. Why did he do that? Why didn't  
 13 he come to me? It was because they wanted to cause this  
 14 divide between me and my store staff, whom I had never  
 15 had grievance, never had problems with before.  
 16 Q. Then he said: {E/980.1/3235}  
 17 "... I have found no evidence as part of my  
 18 investigation to support such an allegation of  
 19 coercion/instruction by KS."  
 20 That's his conclusion, isn't it?  
 21 A. That's his conclusion, yes.  
 22 Q. That's his honest conclusion, isn't it?  
 23 A. He wasn't honest in his -- in taking this.  
 24 Q. And then finally --  
 25 A. I actually asked him to look about this repair memo

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1 which Lucy didn't sign and why she didn't sign it and  
 2 why she signed Mr Singh's when she knew that wasn't the  
 3 procedure to be followed, and I don't believe he even  
 4 went back to interview her about the issue.  
 5 Q. Then he refers to, in relation to the re-employment of  
 6 Fatima, you said that you:  
 7 "... 'didn't know the staff didn't like her'."  
 8 A. I didn't know until 2 June.  
 9 Q. But that's not consistent with the evidence arising from  
 10 the staff interviews, is it?  
 11 A. I can only tell you what I can tell you. I had no clue  
 12 that they didn't get on with Fatima. The day I found  
 13 out was when Specsavers said, "Re-employ her. Keep her,  
 14 either re-employ her or extend her probation."  
 15 Mr Singh told the staff, the staff were really upset  
 16 with me, then I had a meeting with them. Like I say,  
 17 Tracey and Stephen came in and they made very strong  
 18 points against Fatima, and that was the first time  
 19 I knew the staff had a problem with her.  
 20 MR POTTS: My Lord, that might be a convenient moment?  
 21 MR JUSTICE NUGEE: Yes, 2 o'clock.  
 22 (1.03 pm)  
 23 (The short adjournment)  
 24 (2.00 pm)  
 25 MR POTTS: Ms Birdi, before the short adjournment we were

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1 looking at E12/3234 and 3235, {E/980.1/3234} the  
 2 allegation of preferential treatment of Fatima Gulamali  
 3 and Jas Khunkhuna?  
 4 A. That's correct.  
 5 Q. Just to go through the next page, 3236, {E/980.1/3236}  
 6 Mr Clark also explored the issue about inappropriate  
 7 behaviour towards store staff, about six points on those  
 8 two pages.  
 9 Then 3238 {E/980.1/3238} he deals with failure to  
 10 comply with instructions and board resolutions dealing  
 11 with expenses and the pension, which I think we looked  
 12 at this morning as well. Do you see that?  
 13 A. I do.  
 14 Q. And then, 3239, {E/980.1/3239} there is a section  
 15 dealing with:  
 16 "Refusal to accept compromise/outcomes and move  
 17 forward..."  
 18 And there are a number of examples given there.  
 19 Having looked at the issue of encouraging staff to  
 20 make grievances this morning and the issue of  
 21 preferential treatment towards Ms Khunkhuna and Ms Khan,  
 22 I would like to explore with you the grievance  
 23 complaints that those two employees raised with  
 24 Mr Singh?  
 25 A. Yes.

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1 Q. Because those were also matters which were raised in the  
 2 16 June letter, weren't they? We saw that?  
 3 A. They were.  
 4 Q. Is E10 in front of you? If it isn't, could it be  
 5 provided, please. What files have you got there?  
 6 A. E12 and 11.  
 7 Q. Okay. Can you keep 11 and 12. You need 10 as well.  
 8 At page 2811 and over the page -- {E/873/2811}  
 9 A. Yes.  
 10 Q. -- this is a typed document setting out details of  
 11 a meeting between you, Ms Khunkhuna and Ms Khan?  
 12 A. That's correct.  
 13 Q. And this relates to a complaint by Ms Khunkhuna against  
 14 Mr Singh; is that right?  
 15 A. That's correct.  
 16 Q. Who typed the notes?  
 17 A. I typed the notes.  
 18 Q. And this was the complaint which was dealt with  
 19 subsequently by Mr Rajan. Is that right?  
 20 A. That's correct, yes.  
 21 Q. I think we can close E10 and put it to one side --  
 22 A. I think it's very important that -- the fundamental  
 23 point is missed that with these grievances that the  
 24 staff raised against me, this clearly was a grievance  
 25 and it should have been dealt with as a grievance.

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1 Specsavers know the policy. They have followed it with  
 2 Jas Khunkhuna's grievance, they have followed with it  
 3 Fatima Khan's grievance, but they don't follow it here.  
 4 They just add it on to the investigation into me and Mr  
 5 Singh. It should have been followed in a grievance  
 6 procedure, but I had a formal invite, I put my case  
 7 forward, but it wasn't.  
 8 Q. You were interviewed, though, weren't you?  
 9 A. When you follow --  
 10 Q. The points of the staff were put to you and you had an  
 11 opportunity to respond?  
 12 A. No, no. A grievance meeting, you get a formal invite,  
 13 the allegations are put to you, you sit there and then  
 14 the investigator, if he is fair, he will look at that,  
 15 he will go back and question the staff, he'll come back,  
 16 et cetera, and a decision is made.  
 17 If Specsavers were genuine and bona fide in this,  
 18 they would have done that; followed proper procedure.  
 19 Q. Okay. Could I ask you to turn up E11, please?  
 20 A. Yes.  
 21 Q. 2886. {E/893.1/2886} This is a letter from you to  
 22 Mr Raines. This is a week after the meeting which had  
 23 taken place, I think it was on 5 May, and you notified  
 24 him of --  
 25 A. Yes, six days after, yes.

1 21

1 Q. You notified him of a complaint --  
 2 A. I did.  
 3 Q. -- concerning Mr Singh?  
 4 A. I did, yes.  
 5 Q. And then if you could turn forward to 2903 -- we have  
 6 looked at this, I think, already this morning, the  
 7 minutes of the meeting on 17 May. {E/896/2903} And if  
 8 you turn forward to 2913? {E/896/2913}  
 9 A. Yes.  
 10 Q. There is a section:  
 11 "There is one further thing ..."  
 12 A. Yes.  
 13 Q. That was you at the end of the board meeting raising  
 14 a potential complaint by Ms Khan about the extension of  
 15 her probation period; is that right?  
 16 A. That's correct, yes.  
 17 Q. Even though no formal complaint had actually been made  
 18 by that point, had it?  
 19 A. No, it hadn't. In these situations I clearly wasn't  
 20 an independent investigator for Jas Khunkhuna's  
 21 complaint and it would not have been right for me to  
 22 investigate it, so I had to pass it on to Specsavers.  
 23 Q. Okay. Then E11/2939, {E/910.1/2939} some ten days  
 24 later, that's an email from Ms Khan to Mr Rajan of  
 25 Specsavers?

1 22

1 A. Yes.  
 2 Q. And she is there setting out a grievance complaint?  
 3 A. That's correct.  
 4 Q. In relation to the extension of her probationary period?  
 5 A. That's correct. I only saw this through disclosure, but  
 6 I had learned that she had raised a complaint, yes.  
 7 MR JUSTICE NUGEE: Fatima Gulamali is Fatima Khan?  
 8 A. That's correct, yes.  
 9 MR POTTS: Then if we turn forward to page 3019 in the same  
 10 bundle. {E/937.1/3019} This is the grievance report by  
 11 Mr Rajan into Ms Khunkhuna's grievance. Is that right?  
 12 A. Yes, I haven't read it properly. I have only seen it  
 13 through disclosure.  
 14 Q. Okay, but it's --  
 15 A. It is, yes.  
 16 Q. -- it's in the bundle and it runs through -- I think it  
 17 is a seven-page report?  
 18 A. Okay.  
 19 Q. Do you see that?  
 20 A. I do, yes.  
 21 Q. And he interviewed Ms Khunkhuna, Mr Singh, four members  
 22 of staff?  
 23 A. That's correct.  
 24 Q. And Mr Rajan didn't uphold the grievance complaint?  
 25 A. That's correct, yes. And may I also say that if you

1 23

1 look at the meeting notes for Stephen Hummell, he  
 2 actually admits that Mr Singh told him about the  
 3 grievance of a sexual nature, and that was wrong,  
 4 really. He shouldn't have. Mr Singh shouldn't have  
 5 told Stephen Hummell that. But there is no mention of  
 6 that anywhere.  
 7 Q. Okay. On 3020 {E/937.1/3020}, looking at the grievance  
 8 issues, one of the allegations was that Mr Singh had  
 9 been "touchy feely" with her and not to other members of  
 10 staff?  
 11 A. Okay.  
 12 Q. And the allegation specifically was that this had  
 13 happened while she was around or near the till?  
 14 A. Okay.  
 15 Q. Mr Rajan carried out some interviews and he says that  
 16 Mr Singh strongly denied the allegation and also that no  
 17 other members of staff had ever raised such an  
 18 allegation against him. And he also refers Mr Rajan to  
 19 the fact that this was not supported by the interviews  
 20 conducted with the store team. Do you see that?  
 21 A. I do, yes.  
 22 Q. And also the fact is noted that in fact, she wasn't  
 23 authorised to use the till at the store?  
 24 A. I don't know about that. I'm not sure.  
 25 Q. Then, moving forward to another allegation, at 3023,

1 24



1 {E/937.1/3023} an allegation that Mr Singh had kept her  
 2 behind to help cash up on 17 April 2010:  
 3 "Whilst [Ms Khunkhuna] does not allege that KS did  
 4 or said anything to her on this occasion which was  
 5 inappropriate, [she] alleges that, in effect, she was  
 6 kept behind alone to cash up as he is attracted to her."  
 7 Mr Singh strongly denies acting inappropriately and  
 8 indicated that he is happily married and denied the  
 9 allegations. Do you see that?  
 10 A. I do, yes.  
 11 Q. Now, again, the staff didn't support this allegation,  
 12 did they?  
 13 A. I don't believe they did, no.  
 14 Q. In fact, Mr Hummell, for example -- you have referred to  
 15 the fact that the allegation was mentioned to  
 16 Mr Hummell, but Mr Hummell was interviewed as part of  
 17 this grievance, wasn't he?  
 18 A. No, I think he was told -- he actually said in his  
 19 interview that he had been told by Mr Singh. I don't  
 20 know the exact words but he knew -- Mr Singh had told  
 21 him about the grievance before he had his meeting.  
 22 Q. I see.  
 23 A. That's what I'm saying. With this kind of thing, we  
 24 shouldn't be sort of telling staff that.  
 25 Q. So Mr Hummell confirmed that he was present at the time

1 25

1 on that day, at the cashing up?  
 2 A. Right, okay.  
 3 Q. And contrary to the suggestion that she was kept back  
 4 alone, there were four staff present at the relevant  
 5 time?  
 6 A. Okay.  
 7 Q. He also confirmed that in fact, it was Mr Hummell who  
 8 had closed up at the store on that day, so that Mr Singh  
 9 could not have kept her behind on this day?  
 10 A. Okay.  
 11 Q. So the allegations were dismissed.  
 12 A. Okay.  
 13 Q. And Ms Khunkhuna didn't appeal against that decision.  
 14 A. Okay. Yes, I saw that -- from disclosure I could see  
 15 that wasn't upheld; yes.  
 16 Q. Yes. Are you suggesting that Mr Rajan's grievance  
 17 decision was not an honest determination by him of the  
 18 grievance?  
 19 A. No, I'm not because I hadn't witnessed anything.  
 20 I hadn't witnessed anything to suggest that Mr Singh had  
 21 behaved inappropriately. A grievance had been raised.  
 22 I couldn't deal with it because I wasn't impartial.  
 23 I realised the conflict I had and I handed it to  
 24 Specsavers to deal with.  
 25 Q. And you are not asserting that Mr Rajan didn't carry out

1 26

1 his investigation properly?  
 2 A. No, I'm not.  
 3 Q. Could we turn back to 3011. {E/936.1/3011} This is the  
 4 grievance report in relation to the complaint by  
 5 Ms Gulamali, or Khan?  
 6 A. Okay.  
 7 Q. Again, this is a fairly detailed report, some seven  
 8 pages there. Mr Rajan interviewed her, Mr Singh, you  
 9 and four staff members.  
 10 A. Yes.  
 11 Q. You state in your first witness statement that Mr Singh  
 12 had victimised Ms Khan in deciding to extend her  
 13 probationary period?  
 14 A. Yes, it did seem to be that way. That's how she felt.  
 15 Q. Mr Rajan rejected the grievance complaint in that  
 16 regard, didn't he?  
 17 A. Okay. He did, yes.  
 18 Q. So your position is you don't accept Mr Rajan's  
 19 conclusion?  
 20 A. Not necessarily, but -- she did feel victimised and  
 21 there was a worry on the business because if she had  
 22 been victimised, she could potentially raise an issue in  
 23 an employment tribunal.  
 24 Q. That's slightly different, Ms Birdi. The allegation you  
 25 make in your witness statement is that Mr Singh had

1 27

1 victimised her?  
 2 A. Well, I did feel that she had never had any issues.  
 3 Mr Singh had never told me there were any issues with  
 4 her and suddenly I get a phone call after being on  
 5 holiday that her extension -- her probation has been  
 6 extended, and she felt it was because she was  
 7 a companion to Jas Khunkhuna.  
 8 Q. Whatever she may have felt, that matter was investigated  
 9 by Mr Rajan and he did not uphold the grievance?  
 10 A. Okay.  
 11 Q. But you continue to maintain that allegation in your  
 12 witness statement?  
 13 A. Yes.  
 14 Q. Is that another example --  
 15 A. Where am I saying that?  
 16 Q. I'm sorry, yes. Paragraph 412 in B. {B/1/95} It's  
 17 under a heading, saying:  
 18 "Specsavers mishandled grievance hearings."  
 19 A. Okay.  
 20 Q. And you refer in 412:  
 21 "The manner in which Ms Khunkhuna's grievance was  
 22 dealt was particularly bad ... allegations of a sexual  
 23 nature ... highly credible ..."  
 24 Et cetera. You say:  
 25 "... Mr Singh knew that he could get away with

1 28

1 anything... {B/1/96}

2 "Thus he victimised Ms Khan who had been a witness

3 to his conduct towards Jas by extending her probation

4 period for a further three months unilaterally."

5 A. From my point of view, Mr Singh had never mentioned

6 anything about Ms Khan's performance to me at all and

7 the first time I knew that her probation was extended

8 was on the 15th and she was very upset. She couldn't

9 understand. No issues had been raised with her

10 previously. And when I asked Mr Singh as to why he had

11 done this, it's only through disclosure can I see there

12 were these potential meetings that Ruth and him had in

13 regards to her performance. But this had never been

14 discussed with me at all.

15 Q. You didn't investigate this grievance, did you?

16 A. I didn't, no.

17 Q. Because you appreciated that you weren't independent?

18 A. Well, this grievance, I wasn't aware of. I think Fatima

19 went straight to Mr Rajan about it.

20 Q. You are aware that Mr Rajan investigated it?

21 A. I am, yes.

22 Q. And Mr Rajan rejected the grievance?

23 A. Okay.

24 Q. Notwithstanding the fact that Mr Rajan rejected the

25 grievance, you continued to make the allegation that

1 29

1 Mr Singh had in fact victimised Ms Khan?

2 A. Yes, well, like I have said to you, I didn't see the

3 reason why we had extended her probation, so I suppose

4 I did feel that he had.

5 Q. Even though you hadn't in fact carried out any

6 investigation of it yourself?

7 A. No, I hadn't. Like I said, I had said in the past, when

8 somebody raises a grievance against Mr Singh, they end

9 up leaving.

10 Q. So you are willing to make an allegation of

11 victimisation in your witness statement, notwithstanding

12 the fact that the allegation was investigated and

13 rejected by somebody independent?

14 A. Well, I wouldn't say it's independent but, yes, I have

15 made that allegation because I did feel that.

16 Q. So this is you not accepting the outcome of another

17 grievance complaint?

18 A. Well, I did feel that she had been victimised.

19 Q. Are you saying that Mr Rajan didn't reach his

20 conclusions honestly?

21 A. No, I'm not saying that. I'm just saying that's how

22 I felt.

23 Q. But you hadn't investigated it?

24 A. No, I hadn't.

25 Q. So isn't the true position that you had no proper basis

1 30

1 for making that allegation in your witness statement?

2 A. No, not really. Mr Singh, like I said, had never

3 discussed anything with me. The first time I knew that

4 there was an issue with Fatima was when she phoned me.

5 And he wasn't explaining himself to me. And then

6 through disclosures, I see that he has had these

7 meetings with Ruth, our supervisor, and I had never,

8 ever seen any of these meeting notes before, and in

9 fact, one of the meetings was on a day when she was on

10 a course. So all of this was new to me and that's --

11 that's how I felt, yes.

12 Q. You had been provided with Mr Rajan's report before you

13 made your witness statement, hadn't you?

14 A. I had.

15 Q. In disclosure?

16 A. But like I say, I hadn't read them.

17 Q. So you are prepared to make an allegation of serious

18 impropriety against Mr Singh, without even reading the

19 grievance itself?

20 A. That's how I felt; I have explained to you why I felt

21 like that.

22 Q. Could you just answer my question, Ms Birdi. You were

23 prepared to make an allegation of serious impropriety,

24 against Mr Singh, without even reading the grievance

25 investigation and decision itself?

1 31

1 A. Yes, I did feel he had victimised, yes, I did. I did

2 make that allegation, yes.

3 Q. Do you think that was fair?

4 A. Okay. Well, that's how I felt but ... I can see why you

5 are saying maybe it wasn't fair.

6 Q. Just looking at the report briefly, the allegation was

7 that her three-month probationary period was extended

8 and this was unwarranted. The motivation is stated to

9 be that she had accompanied Ms Khunkhuna at a meeting on

10 29 April. {E/936.1/3012}

11 You can see that at 3012 at the top.

12 A. Yes.

13 Q. The findings start at the bottom of the page.

14 In terms of working attitude, she was questioned and

15 said that her working attitude was perfectly acceptable

16 and alleged that the real reason for her probation to be

17 extended -- the same point about attending at the

18 meeting. Do you see that?

19 A. I do, yes.

20 Q. So Mr Rajan deals with the fact that he explored this

21 issue with other staff and said:

22 "The interviews reveal that (as set out below) there

23 is ... clear evidence that [her] working attitude during

24 her probationary period was unacceptable."

25 Do you see that?

1 32

1 A. I do, yes.  
 2 Q. It refers to the fact that duties are to undertake  
 3 pre-screening and handovers. Team members interviewed  
 4 cited that she would often shy away from and this caused  
 5 delay. Do you see that?  
 6 A. I do, yes.  
 7 Q. "... the manner in which FG would respond to directions  
 8 given to her by the store supervisor, Ruth Wotton.  
 9 Staff members interviewed commented on the manner in  
 10 which FG would respond to tasks that would be delegated  
 11 ... advising that FG would 'roll her eyes' and/or 'tut'  
 12 when being asked by Ruth to complete a task."  
 13 Do you see that?  
 14 A. I do, yes.  
 15 Q. You have no reason to believe that that's not the case,  
 16 do you?  
 17 A. No, I don't.  
 18 Q. And then Mr Singh says that he advised that he had made  
 19 her aware during her probationary period of the concerns  
 20 about her attitude and that she had received coaching  
 21 and feedback on a regular basis. Do you see that?  
 22 Do you have any reason to say that didn't happen?  
 23 A. Fatima Khan was very vocal. If she had had -- and she  
 24 was always seeking approval. If she had had a problem,  
 25 I'm sure she would have told me if her performance

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1 wasn't good, but I have no physical evidence to show  
 2 that to be the case. The first time I have seen any  
 3 meetings or anything is in disclosure.  
 4 Q. And then she says that Ruth Wotton, she's the  
 5 supervisor: {E/936.1/3013}  
 6 "... supplied to me written evidence of management  
 7 meetings that have taken place between herself and KS  
 8 wherein concerns about FG's working attitude had been  
 9 discussed."  
 10 Do you see that?  
 11 A. I do, yes.  
 12 Q. And if you turn back to 2897. {E/895.1/2897}  
 13 A. Yes.  
 14 Q. That's stated to be Miss Wotton's log of management  
 15 meetings. Do you see that?  
 16 A. I do, yes.  
 17 Q. And so there's a number of dated matters which are  
 18 signed by both of them, where issues are raised in  
 19 relation to Fatima's attitude?  
 20 A. Yes, I have seen this and it's the first time I have  
 21 seen any of this and it's the first time I have seen  
 22 this invite on 10 May and 15 May. And the only query  
 23 I have, on 13/5 -- I think it's 13/5 if you look at the  
 24 rota that was supplied with this disclosure.  
 25 Q. Yes.

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1 A. Ruth had a meeting with Mr Singh, but Ruth is actually  
 2 on a course that day and Ruth actually did this  
 3 timetable, Ruth and Mr Singh.  
 4 Q. So you are saying that these meetings didn't happen?  
 5 A. I don't know if they happened or not because like I say  
 6 to you, I have never seen this but if you look at the  
 7 rota -- I think it is 13 May -- she appears to be on  
 8 a course.  
 9 Q. So are you saying that Miss Wotton, when this was  
 10 presented as a log of management meetings -- are you  
 11 saying that this is a false document?  
 12 A. What I'm saying is it's a query.  
 13 Q. So the position is you're not saying this is a false  
 14 document?  
 15 A. That's right. I'm not sure if it is or it's not, but  
 16 I've never seen these before. The first time I saw  
 17 these was in disclosure.  
 18 Q. Fine. You obviously weren't at these meetings?  
 19 A. No, but you would think as a co-director I would be  
 20 aware if there is going to be a meeting for the  
 21 three-month probation; you would think I would be aware  
 22 if her probation was going to be increased, and this  
 23 happened while I was on holiday.  
 24 Q. What that document plainly shows -- purports to show and  
 25 Miss Wotton says that it does show -- is that at

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1 management meetings, the issue of Ms Khan's attitude was  
 2 raised?  
 3 A. It was.  
 4 Q. And that it was unsatisfactory?  
 5 A. It looks to be the case in these notes, yes.  
 6 Q. And then if we go back to 3014, {E/936.1/3014} similar  
 7 issues were raised in relation to her communication  
 8 style. Point 2. Mr Singh said that he had raised  
 9 concerns about her communication style on a number of  
 10 occasions and he gave specific examples?  
 11 A. Yes.  
 12 Q. Are you saying that didn't happen?  
 13 A. I was never informed as a co-director.  
 14 Q. But you are not in a position to say one way or the  
 15 another?  
 16 A. I'm not, no.  
 17 Q. The report also says that members of staff also advised  
 18 that they had approached Mr Singh to discuss her  
 19 behaviour on the shop floor, saying that it was  
 20 unprofessional and inappropriate. Do you see that?  
 21 A. Yes, I do, yes.  
 22 Q. And that staff were stating that she was often loud on  
 23 the shop floor; at times would discuss her personal sex  
 24 life whilst standing at the reception desk.  
 25 Are you saying that that didn't happen?

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1 A. I have never witnessed it.  
 2 Q. Are you saying that the staff didn't say that to  
 3 Mr Rajan?  
 4 A. No, I'm not saying that.  
 5 Q. Do you have any reason to believe that the staff were  
 6 lying about that?  
 7 A. No, I haven't.  
 8 Q. And also that she made inappropriate comments to members  
 9 of staff, which upset them?  
 10 A. I have never witnessed that. I have never been told  
 11 that by my co-director or any -- like I say, the first  
 12 time I heard that Fatima had problems with the staff was  
 13 on 2 June 2010.  
 14 Q. And also that her approach in relation to selling was  
 15 inappropriate as well and that Mr Singh had to  
 16 intervene?  
 17 A. I have never witnessed that. I have never heard  
 18 a customer complaint about her.  
 19 Q. You are not saying it didn't happen, though, are you?  
 20 A. No, I'm not, no.  
 21 Q. Because you would have spent most of your time testing,  
 22 wouldn't you?  
 23 A. No, I was doing three days testing. I was one day on  
 24 shop floor and obviously I had administration as well.  
 25 Q. You are not saying it didn't happen?

1 3 7

1 A. I'm not saying it didn't happen, no. I would say she  
 2 was very bubbly, so I could say that maybe she was  
 3 a little loud; yes.  
 4 Q. I think what's said here, it's more than, "She's  
 5 a little loud"?  
 6 A. I'm just saying on that point, yes, but the others,  
 7 I wouldn't know. I've never witnessed it.  
 8 Q. Right. The finding by Mr Rajan was that Mr Singh was  
 9 justified in extending the probationary period on those  
 10 matters as well?  
 11 A. Okay. Whether he was justified or not, the issue is,  
 12 surely -- as a co-director, I'm responsible for  
 13 day-to-day management, it should have been something  
 14 that should have been discussed with me. If she did go  
 15 to an employment tribunal for victimisation, it's going  
 16 to affect me, it's going to affect my business. Okay?  
 17 So I should have been involved in this process.  
 18 Q. The grievance was investigated by somebody independent,  
 19 wasn't it?  
 20 A. Yes, but what I'm saying -- decisions were being taken  
 21 which should have involved me.  
 22 Q. The allegation that the decision to extend her probation  
 23 was done effectively maliciously, that allegation was  
 24 rejected by Mr Rajan, wasn't it?  
 25 A. Sorry, which allegation?

1 3 8

1 Q. The allegation that the extension of the probation was  
 2 unwarranted --  
 3 A. Yes.  
 4 Q. -- and had been motivated by the fact that she had  
 5 accompanied Ms Khunkhuna --  
 6 A. Yes, it got rejected, I can see that.  
 7 Q. That allegation was rejected?  
 8 A. By Mr Rajan, yes.  
 9 Q. And you are not seeking to say that it wasn't open to  
 10 him to form that view, are you?  
 11 A. No.  
 12 Q. Over the page on punctuality, 3015, {E/936.1/3015} again  
 13 there are references there to reports from members of  
 14 staff about her lack of punctuality and references to  
 15 the rotas which were also considered?  
 16 A. Yes.  
 17 Q. And also that this was raised with her as well?  
 18 A. Yes, it was.  
 19 Q. So, again, Mr Rajan's findings were consistent with the  
 20 views of members of staff?  
 21 A. Yes.  
 22 Q. With the rotas?  
 23 A. Yes.  
 24 Q. You are not continuing to maintain, are you, that in the  
 25 light of all those findings, the motivation of the

1 3 9

1 extension of the probationary period was because she had  
 2 accompanied Ms Khunkhuna?  
 3 A. No, looking at this now, no, I won't be (inaudible).  
 4 I do feel that -- initially I did believe that she was  
 5 victimised, yes.  
 6 Q. Ms Birdi, I put it to you that you had no proper basis  
 7 for making the serious allegation that you did in your  
 8 witness statement about Mr Singh?  
 9 A. Well, I have just told you I hadn't read this but I did  
 10 feel she was victimised.  
 11 Q. Whether you believed it, you didn't have a proper basis  
 12 for that belief. Do you accept that now?  
 13 A. I accept that.  
 14 Q. E11/2951 is a letter from Mr Singh to Specsavers?  
 15 {E/915.1/2951}  
 16 A. That's right, yes.  
 17 Q. And he notes his shock that you would like to re-employ  
 18 Ms Khan:  
 19 "... an employee who had resigned and left work  
 20 yesterday (without working her notice)."  
 21 Do you see that?  
 22 A. That's correct, and, like I said to you before, I wasn't  
 23 to re-employ her. I had sought advice from Specsavers  
 24 and they had said, "Extend her probation or re-employ  
 25 her".

1 4 0

1 Q. I'll come on to that. The first point is correct; she  
 2 had resigned, hadn't she?  
 3 A. Yes, she resigned on the 27th.  
 4 Q. And she had left without working her notice?  
 5 A. I don't think she did, no, she did work her notice. She  
 6 had some holiday left.  
 7 Q. Are you saying that Mr Singh is lying there, or he is  
 8 just incorrect?  
 9 A. She did work her notice. I had worked it out. She had  
 10 worked her notice.  
 11 Q. Mr Singh pointed out that he had serious reservations  
 12 about this?  
 13 A. Yes.  
 14 Q. And that the staff displayed a unified show of defiance  
 15 and five employees out of the retail team advised that  
 16 they would hand in their resignations and look for  
 17 alternative employment if they had to work with her  
 18 again?  
 19 A. The same thing was said about the staff when I returned  
 20 in 2007 to the store. Carol Slark was telling the  
 21 board, "Oh, the staff are going to leave if Swarandeeep  
 22 comes back. You have a duty of care to the staff."  
 23 Not a single member of staff left.  
 24 Q. Are you saying that they didn't say that to Mr Singh?  
 25 A. They may have said that, but whether it's -- they may

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1 have said that but this threat of staff leaving is  
 2 something that seems to be used quite often.  
 3 Q. This is five of the eight retail staff, including two of  
 4 the key staff, the top team?  
 5 A. I don't know.  
 6 Q. That's a pretty serious matter?  
 7 A. Yes, it is, and like I said to you, I wasn't aware that  
 8 they had issues with Fatima until 2 June, when I spoke  
 9 to Tracey and Stephen Hummell. I had no clue, and  
 10 I wasn't seeking to re-employ Fatima; I was seeking to  
 11 extend her probation because her job had fallen through  
 12 and I had sought advice from Specsavers and the legal  
 13 people told me, "Yes, it's best while her grievance is  
 14 going through to keep her on board at the Dartford  
 15 store".  
 16 Mr Singh should have come to me and said to me,  
 17 "Look, there's real issues with the staff here,  
 18 Swarandeeep, with this girl. The staff really don't get  
 19 on with her."  
 20 But instead, he went to the staff and they were told  
 21 not to have any meetings with me by themselves, thus  
 22 causing a total division in the team there.  
 23 Q. You accept that the potential departure of five of the  
 24 eight retail staff, including two key staff, was  
 25 a serious matter?

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1 A. If that was to be so, it is a serious matter, yes.  
 2 Q. You suggest in your witness statement that Mr Singh, in  
 3 refusing to allow this -- paragraph 414 -- again, this  
 4 was him taking out his vengeance out on Ms Khan?  
 5 {B/1/96}  
 6 A. Like I said to you, I had believed that he had  
 7 victimised her, so it follows on from that as well.  
 8 Q. And you have accepted that you didn't have any proper  
 9 basis for making that allegation?  
 10 A. That's right. But what Mr Singh should have done, he  
 11 should have come to me and then we could have discussed  
 12 it and then we could have gone a way forward. SOG had  
 13 said it was best to keep her on board while her  
 14 grievance is going through, and instead of upsetting the  
 15 staff and making out that I wanted to re-employ her, he  
 16 should have come to me and we should have gone to the  
 17 staff and said, "Look, it's just an extension of her  
 18 probation", or we decided, "No, we will take -- we will  
 19 see -- we can't extend her probation and that's it".  
 20 But SOG made that decision to say, "Keep her on".  
 21 I didn't make that decision.  
 22 Q. Just deal with the first point, of vengeance.  
 23 A. Yes.  
 24 Q. Do you accept that wasn't vengeance?  
 25 A. Like I said to you, at the time I felt she was

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1 victimised, so I guess --  
 2 Q. I'm asking you for your evidence to his Lordship now,  
 3 paragraph 414. Do you or do you not accept that this  
 4 was not Mr Singh exacting vengeance on Ms Khan?  
 5 A. Yes, I accept that.  
 6 Q. I suggest to you that this was genuine concern that the  
 7 majority of the retail staff were going to leave if she  
 8 was reemployed?  
 9 A. Yes, and like I said, if he had made me aware of how the  
 10 staff felt with Fatima Khan, maybe I would have sat back  
 11 and thought, "Right, okay, we'd better not extend her  
 12 sort of leaving date".  
 13 Q. So do you accept --  
 14 A. It's a decision that we should have made together, not  
 15 to involve the staff like they did.  
 16 Q. Do you accept that Mr Singh's concern, as expressed in  
 17 this letter, was genuine?  
 18 A. I do, but like I said, it was causing a division between  
 19 me and the staff. He shouldn't have done what he did.  
 20 Q. We have looked at Mr Rajan's grievance conclusions and  
 21 the evidence about her attitude and approach?  
 22 A. Yes.  
 23 Q. Do you really think it was appropriate to re-engage her  
 24 after she had resigned?  
 25 A. Like I said to you, on 2 June -- that's the first time

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1 I became aware that the staff had issues with her.  
 2 Mr Singh had not informed me at all. I had no clue that  
 3 her probation was going to be extended. These letters  
 4 and these meetings between Ruth Wotton and Kam Singh  
 5 were never disclosed to me as a co-director. I wasn't  
 6 aware until I had a meeting with Tracey and  
 7 Stephen Hummell on 2 June, after Specsavers had said,  
 8 "Extend her probation".  
 9 Q. Are you saying you had no idea of any of the problems in  
 10 relation to her conduct, her approach, her punctuality?  
 11 A. I knew about her punctuality. I did, yes.  
 12 Q. And her conduct, her approach?  
 13 A. No.  
 14 Q. Her communication style?  
 15 A. No, I didn't.  
 16 Q. In the light of what you have seen in Mr Rajan's report,  
 17 do you still think it was appropriate to seek to  
 18 re-employ her?  
 19 A. Probably not.  
 20 Q. So, Mr Singh's approach was justified?  
 21 A. Which part of his approach are you talking about?  
 22 Q. When he said he had serious reservations and did not  
 23 think it was in the interests of the business to  
 24 re-employ her?  
 25 A. That's fine, but as his co-director who is responsible

1 4 5

1 for day-to-day management and who is at risk if  
 2 something from the ET or whatever falls on Dartford, he  
 3 should have discussed it with me. We should have made  
 4 this decision together. It shouldn't have been  
 5 a decision that he just took unilaterally, kept me  
 6 uninformed, didn't tell me of the problems that she was  
 7 having with the staff, which caused obviously discontent  
 8 because the staff felt I was favouring her, which wasn't  
 9 the case.  
 10 Q. He was the retail director, wasn't he?  
 11 A. He was the retail director, yes.  
 12 Q. And he had extended her probationary period. She was  
 13 a retail employee, wasn't she?  
 14 A. So you are saying that extending her probation, he  
 15 didn't need to consult with me?  
 16 Q. I'm just asking you those questions. He was the retail  
 17 director?  
 18 A. He was the retail director, yes.  
 19 Q. He had extended her probationary period?  
 20 A. He had, but it wasn't for him to do. It should have  
 21 been a joint decision. We are both responsible for  
 22 day-to-day management. What he does impacts on me and  
 23 what I do impacts on him.  
 24 Q. But you are saying that the extension -- having seen  
 25 Mr Rajan's report, you are no longer suggesting that the

1 4 6

1 extension of that period was improper?  
 2 A. Sorry, the --  
 3 Q. The extension of her probationary period, having seen  
 4 what her approach had been during the three-month period  
 5 and the problems that had been caused, do you accept  
 6 that that was a reasonable decision?  
 7 A. It appears to be, yes, but the way it was conducted was  
 8 putting the business at risk and it should have been  
 9 handled in a better way and I should have been kept  
 10 informed so it didn't cause this division, which is  
 11 clearly obvious between me and my team.  
 12 Q. At this stage, the issue wasn't that. She had resigned.  
 13 You were seeking to re-engage her as an employee,  
 14 weren't you?  
 15 A. Like I said to you, I went to head office to say, "Look,  
 16 I know there's a grievance against this lady, she feels  
 17 victimised" -- and, to be honest with you, like I said,  
 18 I did feel she had been victimised and that's probably  
 19 because of the way I was feeling with Mr Singh. And  
 20 Specsavers told us to extend her probation or re-employ  
 21 her. And it was just for an extension because she was  
 22 hard up for cash, her job had fallen through, she felt  
 23 victimised. I didn't think it was unreasonable.  
 24 Specsavers had told us to do that. They sent us a joint  
 25 letter, which is disclosure 2949. {E/915/2949} So

1 4 7

1 I had sought advice and I had followed that advice.  
 2 Mr Singh should have come to me and said, "Look,  
 3 Swarandeeep, it's just the staff do not like her. It's  
 4 going to cause a real problem."  
 5 I had no clue. If I had a clue, then -- all these  
 6 staff were really upsetting me because they think I'm  
 7 not taking anything they say into consideration. That  
 8 would have been avoided.  
 9 Q. Yes. So you referred to 2949, which is some initial  
 10 discussion from Alison Girollet. This is while the  
 11 grievance procedure is still ongoing?  
 12 A. That's right.  
 13 Q. And that's the point you are referring to?  
 14 A. I am.  
 15 Q. And this was after you had made a call to her?  
 16 A. Yes.  
 17 Q. Could you look then at 2958. {E/917.1/2958}  
 18 Miss Girollet then refers to the telephone call and  
 19 subsequent email and then she refers to having received  
 20 further correspondence from Kam. I think that's the  
 21 letter, which I think we have looked at:  
 22 "I understand from the above that Ms Khan's  
 23 employment ... ended on Tuesday 1 June due to her  
 24 resignation. However, Ms Khan has now enquired whether  
 25 the Dartford business would be willing to make an offer

1 4 8

1 to re-employ her (either for a limited or indefinite  
 2 period) and you both, as A directors, are not in  
 3 agreement as to whether Dartford business should make  
 4 such an offer..."  
 5 She says: {E/917.1/2958}  
 6 "In the absence of an agreement from you both ... as  
 7 to whether an offer of re-employment should be made,  
 8 Specsavers ... considers that it would be inappropriate  
 9 for such an offer to be made."  
 10 So the position is that when you made your initial  
 11 contact, you hadn't explained the full picture to  
 12 Miss Girollet at all, had you?  
 13 A. Because I didn't know the full picture. I spoke to  
 14 Mrs Girollet, then she sent -- is this an email? She  
 15 informed me and Kam of the situation and then Kam went  
 16 and spoke to the staff. The staff were really upset and  
 17 Mr Singh came to me and said the staff were going to  
 18 leave and I went to speak to the staff because I had no  
 19 idea that there was this issue.  
 20 They wouldn't -- they were told not to have  
 21 a meeting with my by themselves, which I found shocking.  
 22 Tracey and Steve came into my room and that's when  
 23 I found out they had real issues with Fatima Khan.  
 24 Q. So in fact, the position was that rather than Specsavers  
 25 telling you to re-employ her, Specsavers' position was

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1 that it was inappropriate for such an offer to be made  
 2 if you couldn't agree on the point?  
 3 A. First they said extend her probation -- like I have just  
 4 shown you -- and then they changed their stance.  
 5 Q. Yes.  
 6 A. But I had specifically asked for their advice on the  
 7 matter and I was doing it in the best interests of the  
 8 business. And this was before I was told that there  
 9 were great issues with Fatima Khan with the staff.  
 10 Q. Fine, but once the fuller position was made known to  
 11 Specsavers --  
 12 A. Yes.  
 13 Q. -- they made it clear -- a matter which you didn't refer  
 14 to in your evidence this morning -- that in fact, they  
 15 considered it would be inappropriate for such an offer  
 16 of re-employment to be made?  
 17 A. Yes.  
 18 Q. And that's not something you mentioned this morning?  
 19 A. Sorry?  
 20 Q. When you referred to this exchange with Specsavers, you  
 21 didn't mention the fact that Specsavers had in fact  
 22 concluded that it was inappropriate to make an offer of  
 23 re-employment?  
 24 A. No, I just -- I didn't hide it. I just said, on the  
 25 2nd -- I can't remember what I said but on the 2nd they

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1 did say keep her on or the grievance was going ahead,  
 2 and I was complying with that.  
 3 Q. Okay. Can we go back, please, to E12, Mr Clark's  
 4 report, at 3240? {E/980.1/3240}  
 5 A. Just bear with me. (Pause)  
 6 3240?  
 7 Q. Yes.  
 8 A. Yes.  
 9 Q. In this section Mr Clark is saying how important it is  
 10 for the success of the business for the A directors to  
 11 have a working relationship, so they can discuss matters  
 12 and so on, so that they can move forward together. Do  
 13 you see that?  
 14 A. I do, yes.  
 15 Q. And at the bottom of the page you make the allegation  
 16 of:  
 17 "... a prolonged conspiracy against her over many  
 18 years, orchestrated by SOG and involving KS being placed  
 19 as a 'stooge' in the Dartford business, so that SOG  
 20 could bully her, undermine her and reduce her  
 21 authority."  
 22 Is that right?  
 23 A. That's what I believed, yes.  
 24 Q. And that's what you told Mr Clark?  
 25 A. Yes.

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1 Q. Then those points are made again on 3241. {E/980.1/3241}  
 2 Then Mr Clark refers to speaking with and obtaining  
 3 a written statement from Mr Raines, which he then sets  
 4 out in italics?  
 5 A. Yes.  
 6 Q. And he says that Mr Clark has done so in order to  
 7 understand his views on the state of the working  
 8 relationship?  
 9 A. That's correct.  
 10 Q. The first paragraph, Mr Raines expresses the view that  
 11 the relationship between you and Specsavers had severely  
 12 broken down. Would you accept that that was accurate?  
 13 A. Yes, that was Specsavers' intention, yes.  
 14 Q. You accept that Mr Raines honestly believed that?  
 15 A. He did believe it because he was one of the people who  
 16 was saying, you know, "Let Kam Singh -- make sure he  
 17 doesn't go native". So he was fully aware of what was  
 18 happening.  
 19 Q. He also goes on to say that he discussed at board  
 20 meetings the need for partners to let go of and move on  
 21 from previous issues and concentrate on working  
 22 together. That had happened, hadn't it?  
 23 A. Sorry, what had happened?  
 24 Q. That during board meetings, he had discussed the need to  
 25 move on from previous issues and concentrate on working

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1 together. We have seen minutes of meetings?  
 2 A. He had, but, like I say, you know, I am to let go of all  
 3 my grievances, but Mr Singh can still pursue his agenda  
 4 for me to test four days a week, which he said he wanted  
 5 doing, and the first week we met: "You will test four  
 6 days and I will make sure it's enforced".  
 7 Q. And Mr Raines expresses the view that, based on your  
 8 comments and numerous letters, he formed the view that  
 9 your comments were aimed more at blaming your fellow  
 10 directors, Mr Singh and Specsavers, or trying to re-open  
 11 past, closed issues, rather than moving the business and  
 12 relationships forward?  
 13 A. Like I said --  
 14 Q. That was a reasonable -- I'm sorry, that's what he said.  
 15 You see that?  
 16 A. That's what he said, but like I say, I always suspected  
 17 that this is what they were doing. When you look at the  
 18 evidence that's available now and you look at what has  
 19 been happening since 2007, you can see that it was to  
 20 get me out of the business, make my working life  
 21 uncomfortable and get me out of the business. And it  
 22 has taken three years. Eventually, I'm out of the  
 23 business.  
 24 And on the 3rd, when this letter was sent about  
 25 staff, Fatima Khan, et cetera, 3 June 2010, they struck

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1 when the iron was hot, when the staff were really upset  
 2 with me about Fatima Khan. In Mark Raines's diary it  
 3 says there quite clearly: {E/914/2948}  
 4 Agreed. David Clark to do an  
 5 investigation/suspension. Pauline's team -- that's the  
 6 HR department at Specsavers -- to do an investigation  
 7 into the four days' testing and the relationship issues,  
 8 and Kam Singh, off the record suspension.  
 9 So they struck when the iron was hot. The staff  
 10 were upset with me: "That's it, let's gets in there now  
 11 and deal with her".  
 12 Q. Going back to Mr Raines's assessment, which we just  
 13 looked at, would you accept -- you may not agree with it  
 14 but would you accept that somebody looking at the events  
 15 might reach the conclusion which he expresses in that  
 16 paragraph?  
 17 A. No, I don't accept it because, like I say, if you look  
 18 at the whole picture now, that -- I have got that  
 19 evidence through now, you can see there are -- what  
 20 I was complaining about is the store being overcharged.  
 21 I want that money back. The store has been overcharged.  
 22 Loss Prevention, clear email there: overcharging the  
 23 store to depreciate share value.  
 24 There are things in there:  
 25 "She is not suitable for the business."

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1 2008, January. If you put all these things  
 2 together, you can see. You can't take things in  
 3 isolation.  
 4 Q. So you are saying that no one could honestly have  
 5 reached that view?  
 6 A. If they looked at everything that was happening, if they  
 7 read my notes of the investigation meetings, they saw  
 8 what was happening and how things weren't being dealt  
 9 with fairly, I do not believe so.  
 10 Q. And so when he goes on and says: {E/980.1/3241}  
 11 "In my dealings with her she has appeared incapable  
 12 of letting go of an issue, or accepting an outcome of an  
 13 issue, if that outcome is anything other than  
 14 100 per cent agreement with whatever her own point of  
 15 view is."  
 16 A. No. I'm not asking for any special treatment; I'm  
 17 asking to be dealt with in a normal way, according to  
 18 the shareholders' agreement, according to what is done  
 19 with other directors. I'm asking -- I want the money  
 20 back into the Dartford store that was taken out. I'm  
 21 not asking them for anything unusual. It was  
 22 overcharged. I am asking for grievances to be dealt  
 23 with as grievances. Like Mr Singh's grievances were  
 24 dealt with formally, mine should have been with this  
 25 six-staff letter.

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1 Q. Are you saying that Mr Raines didn't honestly hold the  
 2 view set out in that third paragraph?  
 3 A. That's exactly what I'm saying, yes.  
 4 Q. Are you saying that you don't believe that anybody could  
 5 have formed that view?  
 6 A. Not if they had looked at all the evidence that is now  
 7 available. I do believe that's so.  
 8 Q. And he goes on in conclusion to say that:  
 9 "Swarandeep appears unwilling to accept that, just  
 10 because SOG may not agree with her point of view on an  
 11 issue ... that does not mean that SOG is biased against  
 12 her or that there is some kind of conspiracy against  
 13 her -- rather, it simply reflects a genuine difference  
 14 in opinion."  
 15 A. Yes, human nature is such that people don't agree. In  
 16 family, people don't agree. That's absolutely true.  
 17 That's why we have agreements in place, procedures in  
 18 place. It's for this very reason. And like I say, I'm  
 19 not asking to be treated special. I'm saying, "Follow  
 20 what you do, what is the norm. Follow the procedures,  
 21 follow the shareholders' agreement, don't drain the  
 22 money from money -- don't drain the business from money,  
 23 don't overcharge, put the money back that was stolen,  
 24 like I was told would be done."  
 25 I'm not asking for anything unnatural. Because I'm

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1 pursuing this money for the store, they want to get rid  
2 of me, because I'm jeopardising Loss Prevention's  
3 cashflow, I'm jeopardising Phil Barnes's cashflow  
4 personally. You know, it's just not acceptable.  
5 Q. So you don't accept that Mr Raines could honestly have  
6 held that view?  
7 A. I do not, no. And you can see from this email:  
8 "Make sure Mr Singh does not go native with  
9 Swarandeeep."  
10 Why? It's good that he goes native. It's good we  
11 work together. It's in the best interests of the  
12 business.  
13 Q. And your position is nobody could have legitimately  
14 formed that view?  
15 A. Like I say, nobody who had looked at this -- if they  
16 look at all the evidence, I really do believe that  
17 nobody could come to that conclusion. When they look  
18 from 2007 to what's happened to me up til 2010, I truly  
19 do believe that no one can form that view.  
20 Q. Can I suggest to you, Ms Birdi, that your refusal now to  
21 accept that Mr Raines might have honestly believed this  
22 is yet further proof of the very point he is making at  
23 the end of that report?  
24 A. No. There have been many instances where I have  
25 accepted. For example, Sunday trading. I didn't want

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1 to do Sunday trading, but I did it. Mr Singh, when he  
2 joined, Thursday evenings; he didn't want to do Thursday  
3 evenings any more. We stopped doing it. When he joined  
4 the store I was doing less hours because I was doing  
5 37.5 hours. He complained about it. I increased my  
6 hours, even though I didn't want to do it.  
7 There are compromises you make, but here, we had  
8 shareholders' agreement, we had procedures, we had the  
9 norm, what was done with other directors. But for me it  
10 was different, and it was different because I was  
11 challenging what happened in 2007. And until 2010,  
12 I was not left alone.  
13 Q. Can I just ask you about Mr Clark's report as a whole.  
14 He determined that there was a disciplinary case to  
15 answer in relation to these matters?  
16 A. Yes. We can see that that was going to happen anyway,  
17 from Mr Raines's diary on 3 June 2010. {E/914/2948}  
18 Q. In paragraph 509 of your witness statement, {B/1/118}  
19 you are suggesting there that the exercise -- I think  
20 you are saying that's his investigation and report --  
21 was a sham and the outcome was known before the process  
22 began?  
23 A. Yes, it was. I believed it.  
24 Q. So are you saying that Mr Clark was a knowing  
25 participant in the plot to get rid of you?

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1 A. He was doing what he was told.  
2 Q. And are you saying that he didn't honestly believe the  
3 opinions that he was expressing in his report?  
4 A. He was doing as he was told.  
5 Q. Could you just answer my question: are you saying that  
6 he didn't honestly believe the opinions he was  
7 expressing in his report?  
8 A. Yes, I do believe that, yes, and he hadn't investigated  
9 it fairly because he had no intention to investigate it  
10 fairly.  
11 Q. So in fact he didn't believe what he was saying in his  
12 report?  
13 A. Yes, he didn't. And he didn't investigate it fairly.  
14 For example, Mr Singh, when he was suspended. On the  
15 day, he was talking to the staff, and I raised it as an  
16 issue. The following day he was outside the store and  
17 I raised that with Mr David Clark and he had never  
18 investigated it. So he wasn't an impartial  
19 investigator.  
20 Q. And you are saying he did what he was told?  
21 A. Yes, he was following orders.  
22 Q. Following orders? From whom?  
23 A. Derek Dyson, Mr McAlindon; they were the instigators of  
24 it.  
25 Q. Do you have any evidence of them providing him with

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1 orders to do this?  
2 A. No. Like I have said to you, it's very difficult, when  
3 you are in this kind of situation, to have clear  
4 evidence of these facts. You have to look at everything  
5 in context and when you look at the broader picture and  
6 look at all the evidence that's presented and what I'm  
7 saying, it can be seen there are cracks there, and where  
8 I believed that things were happening, they happened.  
9 I believed Kam's suspension was off the record and now  
10 in Mark Raines's diary, it showed, yes, it was off the  
11 record, which I knew, because he suddenly turned up at  
12 the store to be suspended, and he never turned up at the  
13 store on his day off except on one occasion when he took  
14 the safe key home.  
15 Q. In terms of Mr Clark, you are saying that Mr Clark's  
16 exercise was a sham?  
17 A. Yes.  
18 Q. By the word "sham", what do you mean?  
19 A. It was just following process. Mr Clark even said in  
20 the interview, "We know you have got legal advice and we  
21 are following procedures". They knew I had legal  
22 advice. They were just going through the motions.  
23 Q. So following procedure, but with no genuine belief in  
24 the task he was carrying out; is that fair?  
25 A. Yes, that is fair, yes.

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1 Q. Mr Clark had interviewed almost all the staff. We have  
 2 seen that?  
 3 A. Yes.  
 4 Q. He interviewed you once and tried to interview you  
 5 again?  
 6 A. Yes.  
 7 Q. Is that right?  
 8 A. Mr Clark had actually let Mr Singh -- he hadn't asked  
 9 DVL. He let Mr Singh back into the store before he had  
 10 even finished interviewing the staff.  
 11 Q. Can I ask my question again?  
 12 A. Yes, you can.  
 13 Q. He interviewed you once and tried to interview you  
 14 again?  
 15 A. He asked to interview me again and I questioned what the  
 16 interview was about, because I had heard Mr Singh had  
 17 been let back into the store, and then the letter of the  
 18 staff was presented and I said, "Look, you can't just  
 19 tag this on to my investigation with Mr Singh. This  
 20 needs to be dealt with as a grievance."  
 21 If he had held a grievance meeting, as it should  
 22 have been done according to Specsavers' policies guide  
 23 to disciplines and appeals, I would have attended the  
 24 meeting.  
 25 Q. It wasn't just the June letter, was it; he had also

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1 conducted a large number of interviews and considered  
 2 a lot of other material as well, hadn't he?  
 3 A. Well, like I said to you, I wrote back and I said, "This  
 4 is a grievance, it needs to be dealt with as a grievance  
 5 procedure". They didn't follow the grievance procedure.  
 6 Q. Can I suggest to you that the evidence, from the staff  
 7 and from the documents provided, provided strong  
 8 evidence in support of a conclusion that there was  
 9 a disciplinary case to answer?  
 10 A. No, I disagree with you.  
 11 Q. So you are suggesting that nobody could properly have  
 12 formed the view that there was a case to answer based on  
 13 the materials, some of which we have looked at?  
 14 A. That's right. Like I say, with the staff it should have  
 15 been dealt with as a grievance, like they dealt with  
 16 Mr Singh's grievances, should have heard the staff,  
 17 should have heard my side, then we could have come to  
 18 some conclusion. But here, they just used the staff  
 19 letters to use against me, to use it as a tool to  
 20 dismiss me from the business.  
 21 Q. He did hear your side, didn't he, because having  
 22 received the letter, he asked to interview you again in  
 23 relation to the matters raised in that letter?  
 24 A. He didn't follow the grievance procedures. Grievance  
 25 procedure is to have a formal invite, you sit down, you

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1 discuss it, then -- what did they do with Mr Singh?  
 2 Q. I'm not sure you have answered my question. He did hear  
 3 your side, didn't he, because having received the  
 4 letter, he asked to interview you again --  
 5 A. Yes, he did. Did he go back to the staff and interview  
 6 them? Did he --  
 7 Q. He did interview the staff in relation to the letter,  
 8 yes.  
 9 A. No, did he go -- when I raised things, for example, why  
 10 is Lucy signing a document when she knows that's not  
 11 procedure, but she refuses to sign mine, when she signs  
 12 Kam's -- and he never went back to her. Did he go back  
 13 to Mr Singh and ask him what he was doing outside the  
 14 store the following day, when he was suspended and he  
 15 doesn't even live in the area? No, he didn't.  
 16 Q. Can I suggest to you, Ms Birdi, that Mr Clark carried  
 17 out an honest exercise and it was a genuine attempt by  
 18 him to investigate those matters and see whether there  
 19 was a disciplinary case to answer?  
 20 A. No, the disciplinary case had already been decided upon  
 21 and you can see that from Mr Raines's diary on  
 22 3 June 2010.  
 23 Q. This is another example of you making the most serious  
 24 allegations of impropriety against someone who disagrees  
 25 with your view?

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1 A. It's not true.  
 2 Q. Just to complete the picture, there then followed  
 3 a board meeting. You were provided with notice of the  
 4 board meeting on 23 July for a meeting on 9 August, to  
 5 consider the report. Is that right?  
 6 A. That's correct, yes.  
 7 Q. And you excused yourself from attending that meeting?  
 8 A. I did. I just couldn't -- it was very difficult to deal  
 9 with.  
 10 Q. And then at 3254 in E12 {E/988/3254} are the minutes of  
 11 the meeting. You weren't present, obviously?  
 12 A. No.  
 13 Q. But there was consideration of the report and the  
 14 matters in the report and the investigation of -- and  
 15 his report was ratified; correct? You are aware of  
 16 that?  
 17 A. Our suspension was ratified on that day. The suspension  
 18 had taken place on 8 June and, yes, it was a done deal.  
 19 Q. And it was resolved to delegate authority to conduct  
 20 disciplinary procedures, and that was delegated to  
 21 Specsavers?  
 22 A. It was and -- I mean, there you go. Specsavers knew  
 23 I had an issue. If they were being honest, clear and  
 24 transparent, they would say, "Look, we really can't do  
 25 this", like I did when a grievance was raised against

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1 Mr Singh: "I can't deal with this, there is a conflict".  
 2 Here: "We shouldn't deal with it. We should get  
 3 someone else to deal with it because it's very difficult  
 4 for us to be fair and impartial."  
 5 But no, they didn't, because they had an agenda to  
 6 get me out of the business.  
 7 Q. Could we move forward to 3302. You received a letter of  
 8 20 August? {E/993/3302}  
 9 A. Just bear with me. 3302?  
 10 Q. Yes.  
 11 A. Yes.  
 12 Q. That informed you that Ms McIntyre would conduct the  
 13 disciplinary hearing on 1 September?  
 14 A. That's correct.  
 15 Q. And she is the director of HR Corporate?  
 16 A. She is. Like I said, in Mark Raines's diary:  
 17 "Pauline's team to do a disciplinary."  
 18 Q. I'm sorry, I think that dropped off -- I didn't hear it  
 19 and I think it fell off the transcript as well?  
 20 A. Did it?  
 21 Q. She said:  
 22 "Like I said in Mr Raines's diary...?"  
 23 A. Like I said, in Mr Raines's diary, Pauline Best belonged  
 24 to the HR department and they had already decided they  
 25 were going to do a disciplinary regarding four days'

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1 testing and the relationship issues, which could only  
 2 report to me -- which could only sort of refer to me,  
 3 should I say, sorry.  
 4 Q. You were legally advised throughout this period, weren't  
 5 you?  
 6 A. I was, yes.  
 7 Q. At 3305, there is a schedule of materials that you were  
 8 provided with? {E/993.1/3305}  
 9 A. That's correct.  
 10 Q. And the first hearing eventually took place on  
 11 20 October. Is that right?  
 12 A. I think so, yes.  
 13 Q. And in fact, it took place over two days, on 20 and  
 14 29 October?  
 15 A. I think so.  
 16 Q. And then if you turn forward, please, to E14 -- E12 can  
 17 go.  
 18 Could you turn to 3872, please. {E/1033.1/3872}  
 19 That's a letter from you. In the second line you can  
 20 see it refers to 20 and 29 October?  
 21 A. Yes.  
 22 Q. And this was you providing a package of materials to  
 23 Ms McIntyre?  
 24 A. Yes.  
 25 Q. It runs quite a long way through. In fact, I think it's

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1 380 pages of material?  
 2 A. It's, what, 380 pages? Oh, yes, yes.  
 3 Q. Does that sound about right?  
 4 A. It was a folder-full.  
 5 Q. It was a folder-full, yes, and I think it's actually in  
 6 this bundle. If you turn through, please, to 3985.  
 7 {E/1041/3985}  
 8 MR JUSTICE NUGEE: Could you tell me where that runs to?  
 9 MR POTTS: I think it's probably -- well, could I check that  
 10 at the short adjournment?  
 11 MR JUSTICE NUGEE: Certainly.  
 12 MR POTTS: I think it runs all the way through -- can  
 13 I check that reference, my Lord?  
 14 But if I can come to the question, I think the point  
 15 about the pages I can deal with now.  
 16 3985. That's a copy of Ms McIntyre's report?  
 17 A. Just bear with me. (Pause)  
 18 3985?  
 19 Q. 3985.  
 20 A. Okay.  
 21 Q. And it refers there -- it's 14 December. Do you have  
 22 that?  
 23 A. I do, yes.  
 24 Q. And it runs through to page 4012?  
 25 A. Okay.

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1 MR JUSTICE NUGEE: Mr Potts, I hesitate to query your  
 2 arithmetic but if it starts at 3872 and it's all in the  
 3 bundle, it doesn't run through --  
 4 MR STUART: It's definitely not in the bundle, my Lord.  
 5 MR JUSTICE NUGEE: It's not in the bundle?  
 6 MR STUART: If you note, for example, page 3902 is another  
 7 letter, a completely different letter. {E/1035.1/3902}  
 8 MR JUSTICE NUGEE: Right.  
 9 MR STUART: 24 November:  
 10 "Please find attached some amended meeting notes."  
 11 So I don't think the attachment to 15 November,  
 12 page 3872, is in the bundle thereafter. {E/1033.1/3872}  
 13 MR JUSTICE NUGEE: Fine.  
 14 MR POTTS: Can I deal with the 380 point?  
 15 MR JUSTICE NUGEE: Certainly.  
 16 MR POTTS: On the following page at 3986, {E/1041/3986} in  
 17 the middle of the page, she refers to the fact you have  
 18 obviously had the two meetings and then she says:  
 19 "The hearing itself was extremely lengthy (approx.  
 20 10 hours)."  
 21 And she refers to the documents submitted  
 22 afterwards, the 380 pages.  
 23 MR JUSTICE NUGEE: Yes, thank you.  
 24 MR POTTS: I got there in the end. That's right. Does that  
 25 accord with your recollection?

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1 A. I'm not sure whether she is referring to -- now I knew  
 2 the procedure, when you have a disciplinary they say,  
 3 "Can you submit some documents?"  
 4 Is she referring to the documents I submitted for  
 5 the disciplinary?  
 6 Q. I think she is referring to statements -- she refers to  
 7 statements made by you in the hearing and/or documents  
 8 submitted by you following the hearing on the 20th,  
 9 approximately 380 pages. I think she is referring --  
 10 well, I would suggest that she is referring to 380 pages  
 11 that you submitted following the hearing on the 20th?  
 12 A. I don't think that's right. I think she is referring to  
 13 the whole disciplinary package I sent -- I gave at the  
 14 meeting or -- I think I had to bring it with me because  
 15 it was too late to send it to head office, I can't  
 16 remember. But the letter I sent to her on 15/11 didn't  
 17 have 380 pages.  
 18 Q. No, okay, I see. But you did submit --  
 19 A. It was a small package, yes.  
 20 Q. A small package. Did you submit a large package as  
 21 well?  
 22 A. Yes, at the beginning of the meeting, yes, I supplied  
 23 documents, like Specsavers supplied documents. Yes. It  
 24 was an A4 folder.  
 25 Q. Either way, you submitted a considerable volume of

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1 material. Would you accept that?  
 2 A. Yes. Yes, as did Specsavers, yes.  
 3 Q. Yes. If you could turn forward, 3986, the first issue  
 4 she raised was the testing issue, the testing  
 5 resolution. {E/1041/3986}  
 6 A. 3985?  
 7 Q. 3986, actually. Point 1 in the bold. Do you see that?  
 8 A. I do, yes.  
 9 Q. We have discussed that already; I'm not going to go back  
 10 all the way through that.  
 11 Over the page at 3987. {E/1041/3987}  
 12 A. Hm-mm.  
 13 Q. Just above the second holepunch, she said that it was  
 14 clear that this was an issue which had been a point of  
 15 conflict between you and Mr Singh for a considerable  
 16 period of time prior to the meeting. You would see  
 17 accept that, wouldn't you?  
 18 A. It was from the first week of our -- our first meeting  
 19 together in the first week of working together, yes.  
 20 Q. You had been unable to agree the issue between you.  
 21 That's true, isn't it?  
 22 A. That's true, yes. But that was encouragement by  
 23 Specsavers, yes.  
 24 Q. And the issue had been discussed at previous BRMs.  
 25 That's true?

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1 A. That's true, yes.  
 2 Q. And that you had both written to Specsavers regarding  
 3 the matter?  
 4 A. Yes, that's true.  
 5 Q. And it had also been raised within a formal grievance as  
 6 well?  
 7 A. Yes, I think that's true, yes.  
 8 Q. And she expresses the view in the next paragraph that:  
 9 "In circumstances where the 'A' Directors have been  
 10 unable to agree on a matter, over a sustained period of  
 11 time, and the matter is also raised by either/both 'A'  
 12 Directors to SOG, in my view it is reasonable for a  
 13 board meeting to be held to seek resolution to the  
 14 matter."  
 15 A. No, I don't agree with that.  
 16 Q. You may not agree with it, but would you accept that  
 17 Ms McIntyre honestly held the view she expressed there?  
 18 A. No, I don't, no.  
 19 Q. So you are saying that she was lying when she wrote  
 20 that?  
 21 A. It's very clear in the shareholders' agreement that we  
 22 are responsible for day-to-day management. Specsavers  
 23 repeatedly tell the store directors to come out of the  
 24 test room. I had been doing this before this was all  
 25 emphasised.

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1 So it's not an opinion that Specsavers hold but in  
 2 the Dartford case, it was, because it was the way they  
 3 wanted to make my life uncomfortable and remove from my  
 4 business, and Mr Singh was a conduit to do that.  
 5 Q. I have asked you that she has expressed a view in that  
 6 paragraph, and I think I asked you whether she honestly  
 7 held that view?  
 8 A. No, she didn't honestly hold this view because she knew  
 9 what Specsavers' belief was as regards to four days'  
 10 testing.  
 11 Q. So, your position is that when she wrote that, she was  
 12 lying?  
 13 A. Yes.  
 14 Q. She also reviews the arguments that you had raised, over  
 15 the page, about leading on the shop floor? {E/1041/4013}  
 16 A. That's correct.  
 17 Q. And her issue was that you were spending a day a week  
 18 doing admin work in the office which could have been  
 19 done by more junior members of staff?  
 20 A. The work I did in the office was the work I had to do as  
 21 a director of the business.  
 22 Q. And you are saying that she didn't honestly hold the  
 23 views that she was expressing in that paragraph?  
 24 A. Yes, I do. Yes, I do.  
 25 Q. And then at the conclusion --

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1 A. Where are we, sorry?  
 2 Q. Sorry, 3988, at the bottom of the page. {E/1041/3988}  
 3 She expressed the view that she felt that this was  
 4 a reasonable instruction, which you could have complied  
 5 with. Are you saying she didn't honestly hold that  
 6 view?  
 7 A. Yes, I am. Again, like I said, Mr Potts, if you look at  
 8 the beginning, when my troubles started, I had no  
 9 problems up to 2010 [sic] Mr Singh joins in 2008. The  
 10 first week, "You will test four days and I will make  
 11 sure it's enforced". He got his wish.  
 12 Q. And the conclusion at 3989 at the second hole punch.  
 13 {E/1041/3989} She found that you consistently refused to  
 14 follow a board instruction given and a resolution passed  
 15 and she did not agree with the assertion that you had  
 16 reasonable justification for your refusal?  
 17 A. I disagree with that.  
 18 Q. You may disagree with it, but are you saying that she  
 19 didn't believe it?  
 20 A. She didn't believe it. Yes, I believe that.  
 21 Q. Are you saying that she is part of the conspiracy plot  
 22 against you?  
 23 A. She is doing as she is told. If you look in April 2010  
 24 they were saying that, "Let's follow procedures because  
 25 if she goes legal, then we are covered".

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1 Q. You are saying she is doing what she is told. What had  
 2 she been told?  
 3 A. To find against me.  
 4 Q. And who had told her this?  
 5 A. I believe it was come from Derek Dyson.  
 6 Q. Anyone else?  
 7 A. I believe it was Mel McAlindon as well.  
 8 Q. You are saying Mr McAlindon was in a position to give  
 9 her orders?  
 10 A. Well, Mr McAlindon was telling Mr Dyson --  
 11 Q. Are you saying that Mr McAlindon was in a position to  
 12 give orders to Mr Dyson?  
 13 A. He was doing to Mr Dyson and Mr Dyson was supporting  
 14 him. The thing is, when you look at it, since 2007  
 15 I have challenged what's happened with Mr Patel.  
 16 Specsavers are looking after their own interests. They  
 17 are not looking after the interests of the Dartford  
 18 store; they are not looking after the interests of their  
 19 co-director.  
 20 And it all stems from 2007 and if you look at the  
 21 whole information provided, you will see -- if you look  
 22 at Mark Raines's diary, 3 June, that disciplinary --  
 23 Pauline's team to do the disciplinary on four days'  
 24 testing et cetera. I believe you can see that there was  
 25 intention.

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1 Q. Do you have any evidence to support your assertion that  
 2 Mr Dyson gave her an instruction to find against you?  
 3 A. I don't have any evidence but, like I have said before,  
 4 for example, if someone is being bullied, sometimes --  
 5 things happen and it's very difficult to prove things  
 6 are happening. You have to look at the whole picture  
 7 and get a view what's happening.  
 8 Q. You accept that it's very difficult to prove these  
 9 things; is that right?  
 10 A. I'm saying that it's very difficult. It is difficult,  
 11 but if you look at the evidence that's provided now, I'm  
 12 sure some people can see what has been happening.  
 13 Q. Do you have any evidence of Mr McAlindon giving her an  
 14 instruction?  
 15 A. I don't. Same thing applies, like I have just said  
 16 about Mr Dyson.  
 17 Q. I suggest to you that there was material upon which  
 18 Ms McIntyre could have reached the conclusions that she  
 19 did in this regard.  
 20 A. No, she was not honest in making her decisions. If you  
 21 look at the letter I sent on 15 November, if someone who  
 22 was fair and impartial looks at the evidence I have  
 23 provided for her in that letter, about Mr Singh's  
 24 behaviour, Mr Singh's conflicts, Mr Singh's behaviour  
 25 towards me and the grievances raised -- if someone had

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1 looked at that, they would make a different decision, if  
 2 they were fair and impartial.  
 3 Q. Finally on this point, Ms Birdi, I put it to you that  
 4 she honestly expressed the views that she expressed in  
 5 this section of the report?  
 6 A. I don't accept that.  
 7 MR POTTS: My Lord, that might be a moment.  
 8 A. I'm sorry, I don't.  
 9 MR JUSTICE NUGEE: Take five minutes.  
 10 (3.14 pm)  
 11 (Short break)  
 12 (3.18 pm)  
 13 MR POTTS: Ms Birdi, just finally in relation to the idea  
 14 that she is following orders: Ms McIntyre, she works for  
 15 Pauline Best, doesn't she, the group HR Director?  
 16 A. She is in the HR department. I don't know who works for  
 17 who.  
 18 Q. Her boss isn't Mr Dyson, is it; she doesn't report to  
 19 Derek Dyson?  
 20 A. I don't know.  
 21 Q. She doesn't report to Mel McAlindon either, does she?  
 22 A. I don't know who reports to who.  
 23 Q. Okay.  
 24 A. But I don't think that makes an issue.  
 25 Q. I'm sorry?

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1 A. I don't think that makes a difference, should I say;  
 2 sorry.  
 3 Q. If we have got E14 still open? If you turn to 3990.  
 4 {E/1041/3990} The next issue, the second issue she looks  
 5 at, set out in Mr Clark's report, is:  
 6 "Actions towards KS/Actions destructive of the  
 7 working relationship with KS."  
 8 And she starts with:  
 9 "Undermining of KS."  
 10 Do you see that?  
 11 A. I do, yes.  
 12 Q. She refers in the second paragraph:  
 13 "Patrice O'Brien stated in her interview with David  
 14 Clark that 'If SB doesn't like what KS says she will  
 15 tell staff to ignore what he has said' and 'SB also  
 16 asked me how many people had left because of KS.  
 17 I can't believe one director would ask this of another  
 18 director in the store'."  
 19 Do you see that?  
 20 A. I do. I have never said that and if I was going to say  
 21 that, if ever I was, I certainly wouldn't have said it  
 22 to Patrice O'Brien because I know my position would have  
 23 been compromised because of Mr McAlindon's interview  
 24 with her.  
 25 Q. Are you saying that Ms O'Brien didn't say that, or that

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1 she did say it but she was lying?  
 2 A. What I'm saying is that it is false. What she is saying  
 3 is not correct.  
 4 Q. You are accepting that Ms O'Brien said that, but you are  
 5 saying that it was untrue?  
 6 A. If that's what she said, yes.  
 7 Q. Just to assist on that, E11 -- keep E14 open, thank  
 8 you -- at page 3082. {E/942/3082} Do you see? It's  
 9 a manuscript page. It says:  
 10 "Investigation interview with Patrice O'Brien."  
 11 A. Yes.  
 12 Q. And then right about the middle, it says:  
 13 "If she doesn't like what Kam says, she will tell  
 14 staff to ignore what he has said."  
 15 Do you see that?  
 16 A. I wouldn't do that.  
 17 Q. No, but --  
 18 A. Yes, I can see it says that, yes.  
 19 Q. Yes. Do you accept that's what she said?  
 20 A. Well, that is what's written in the notes but, like  
 21 I say, none of these meeting notes have been recorded,  
 22 and, like I said in Gladstone Revers, the typed-up notes  
 23 didn't match the handwritten notes and nothing was  
 24 signed.  
 25 Q. So are you saying that it wasn't said or are you just

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1 not --  
 2 A. I'm not sure.  
 3 Q. You are not sure. Going further down the page, just by  
 4 the second holepunch:  
 5 "She also asked me how many people had left because  
 6 of Kam, I can't believe one director would ask this of  
 7 another director in the store."  
 8 Do you see that? That's the other quote which is  
 9 referred --  
 10 A. I do see that but it's untrue.  
 11 Q. You are saying that if she said that, she was making it  
 12 up?  
 13 A. Yes.  
 14 Q. She was lying?  
 15 A. Yes.  
 16 Q. Going back to E14 at 3990 {E/1041/3990}, your response  
 17 to that point in the hearing -- that's the hearing with  
 18 Ms McIntyre, isn't it?  
 19 A. Yes.  
 20 Q. That you stated that the behaviour alleged by Patrice  
 21 was untrue?  
 22 A. That's true.  
 23 Q. So that is what you had said?  
 24 A. Yes.  
 25 Q. You did not -- you do not provide any further

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1 information to support this assertion. Is that right?  
 2 A. What information could I provide?  
 3 Q. But that's the case, isn't it? You didn't provide any  
 4 further information to support the assertion?  
 5 A. No, because I don't think there is any evidence you can  
 6 supply. When someone is lying, unless you record  
 7 them -- how do you -- how do you -- how do you  
 8 provide -- to support that assertion? I don't  
 9 understand.  
 10 Q. Okay. Then, going on, Ms McIntyre says:  
 11 "Given that you state that Patrice's comments are  
 12 untrue, I have therefore considered these in the context  
 13 of other information provided."  
 14 Do you see that?  
 15 A. I do, yes.  
 16 Q. That was a reasonable approach for her to take in  
 17 relation to the issue, wasn't it?  
 18 A. No.  
 19 Q. No?  
 20 A. No.  
 21 Q. So you are saying that it wasn't reasonable? You having  
 22 said that her comments were untrue, it wasn't reasonable  
 23 for Ms McIntyre to then look to see what other people  
 24 had said as well?  
 25 A. If she was a fair, impartial investigator and she looked

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1 at it properly and she didn't have an ulterior motive or  
 2 she wasn't instructed to do what I believe she was  
 3 instructed to do, then it would be a different case, but  
 4 with all the evidence I have provided and with the  
 5 interview notes that I have provided, if you read those,  
 6 you will get a true picture of the information  
 7 I provided her, and why she came to this conclusion is  
 8 not reasonable.  
 9 Q. Well, she goes on to say:  
 10 "For example, in ... Patrice's statement that 'If  
 11 Swarandeeep doesn't like what KS says, she will tell the  
 12 staff to ignore what he says' ..."  
 13 She said:  
 14 "... comments consistent with this [were provided]  
 15 by other staff in ... interviews -- for example,  
 16 [Helen Tidmass]. 'If you sort of take KS's side of an  
 17 argument she (Swarandeeep) will cut you off dead' ... "  
 18 Do you see that?  
 19 A. I do see that, yes.  
 20 Q. Do you accept that Helen Tidmass may have said that?  
 21 A. She may have said that but it's not true.  
 22 Q. I see. So is she lying there? Miss Helen Tidmass  
 23 a lying too?  
 24 A. She is, yes.  
 25 Q. And Lucy Hornby:

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1 "She will latch on to you and discuss any niggles  
 2 you may have, particularly if they are about KS."  
 3 A. That's true, yes.  
 4 Q. That's Lucy Hornby. Do you accept that she might have  
 5 said that, Ms Hornby?  
 6 A. She may have said that.  
 7 Q. But you are saying that, if she did say that, that's  
 8 a lie?  
 9 A. That's untrue, yes.  
 10 Q. Can I suggest to you --  
 11 A. I think with the staff -- my position had been severely  
 12 undermined with the staff. I was in a very difficult  
 13 position. I was undermined regularly and -- it's a very  
 14 sad situation, really.  
 15 Q. Can I suggest to you that the evidence of Patrice was  
 16 supported by that of Ms Tidmass and Ms Hornby and it was  
 17 consistent?  
 18 A. It's not true.  
 19 Q. Would you accept that it is supported by that evidence  
 20 and it's consistent with that evidence? Even if you  
 21 don't accept the evidence, it is all consistent, isn't  
 22 it?  
 23 A. Yes, I suppose -- yes, it is.  
 24 Q. And she went on to consider -- Ms McIntyre went on to  
 25 consider an issue about frame repair.

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1 A. Yes.  
 2 Q. And they made reference to your actions as being seen to  
 3 undermine KS. Do you see that?  
 4 A. I do, yes.  
 5 Q. And then --  
 6 A. Even in that instance, the frame repair issue, this was  
 7 brought up in the grievance against me and Mr Singh, and  
 8 Mr Goddon actually said that it wasn't right -- that  
 9 frame repair wasn't correct.  
 10 Q. Yes.  
 11 A. And Mr Singh had repeatedly changed operating  
 12 procedures, despite in August 2008 us agreeing that we  
 13 would both sign a document so the staff knew that we  
 14 were both agreeing to this new standard operating  
 15 procedure. Yet Mr Singh flouted it repeatedly, and then  
 16 with this one, like I've said, it would impact on  
 17 customer service immediately, and I had to intervene  
 18 because he had done so many changes and I just -- "Let  
 19 it go, let it go, just let it go," but this was going to  
 20 have a clear impact from a customer who could walk  
 21 through our doors immediately --  
 22 Q. Can I just have a look --  
 23 A. -- so I had to deal with that.  
 24 Q. -- at this issue in terms of what's said here:  
 25 "At the hearing you stated that the protocol in

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1 store between [the two of you] was 'to discuss, agree  
 2 and then ... sign a memo and then communicate to the  
 3 staff.'  
 4 You said that, didn't you?  
 5 A. That's correct, yes.  
 6 Q. "As such, in relation to the ... repair issue, you  
 7 stated that on the previous day KS had sent out a memo  
 8 to the staff which you were not aware of and had not  
 9 signed because it was your day off."  
 10 Correct?  
 11 A. I don't think that's correct. I think it was done on  
 12 a day I was in and I was testing because I remember one  
 13 of the girls came up to me with a board and said,  
 14 "I have to sign it as well." I think it was a Saturday.  
 15 Q. I see --  
 16 A. Mr Singh had --  
 17 Q. -- you are saying you think you were in --  
 18 A. Told her to come to me and sign it.  
 19 Q. -- okay:  
 20 "On your return to the store the next day, you ...  
 21 sent a second memo --"  
 22 A. No, it --  
 23 Q. "-- to the staff countermending what KS had stated in  
 24 his memo [and] you confirmed that you asked the staff to  
 25 sign [the] second memo."

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1 A. Yes, it wasn't --  
 2 Q. Is that right?  
 3 A. -- the next day. I thought about it over the weekend,  
 4 then I sent Mr Singh an email to say, "Look, this  
 5 procedure is not correct," and then, when I went into  
 6 work -- when I was back at work -- it probably was the  
 7 Tuesday -- then, yes. If you look at the actual  
 8 disclosure, I actually say that the directors hadn't  
 9 agreed to the new standard operating procedure, which  
 10 the staff would have been aware of because we both  
 11 didn't sign the original. So it was actually Mr Singh  
 12 undermining me and putting the staff in a situation  
 13 where he is getting them to sign a memo when they all  
 14 knew that we both had to sign it. So it was actually me  
 15 being undermined.  
 16 Q. Could I ask you to hold that open, if you may. Could  
 17 you have E7, please, at page 1950. {E/614/1950} Do you  
 18 have 1950?  
 19 A. I have, yes.  
 20 Q. This is a memorandum which you prepared?  
 21 A. That's correct, yes.  
 22 Q. Dated 7 July?  
 23 A. Yes.  
 24 Q. I think, looking at the previous email, that suggests  
 25 that that might have been a Tuesday, the 7th?

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1 A. That's correct.  
 2 Q. And you write that memo to all staff?  
 3 A. I do, yes.  
 4 Q. You say:  
 5 "The memo issued by Kam on Saturday regarding no  
 6 repairs to be undertaken on non-Specsavers ... was not  
 7 discussed."  
 8 A. Yes.  
 9 Q. "Please disregard that memo and return to the existing  
 10 policy, ensuring that you inform all patients of the  
 11 risk of breakage before any repairs ... "  
 12 Et cetera, et cetera:  
 13 "It is imperative that we cater for all customers  
 14 ...  
 15 "WE ... "  
 16 In capitals:  
 17 "... will issue a fresh memo if the policy is to  
 18 change."  
 19 Then you ask them to sign.  
 20 A. That's correct, yes.  
 21 Q. So his memo had been sent out on the Saturday?  
 22 A. On the 3rd, yes. It's disclosure 1945. {E/611/1945}  
 23 Q. Thank you?  
 24 A. And the transcript of Lucy's handwriting is on 1946.  
 25 {E/611/1946}

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1 Q. Okay. Thank you very much.  
 2 And this was on your day off --  
 3 A. No.  
 4 Q. -- this had happened.  
 5 A. I was told to sign this. A staff member had been  
 6 instructed to come to my room to sign this letter  
 7 because Mr Singh had instructed her to do that.  
 8 Q. If we go back to E14/3990. {E/1041/3990}  
 9 A. Yes.  
 10 Q. You are reported as saying:  
 11 "... you stated that on the previous day KS had  
 12 sent out a memo to the staff which you were not aware of  
 13 and [you] had not signed."  
 14 Correct? Because it was your day off. You are  
 15 saying you didn't say that to Ms McIntyre?  
 16 A. What is that date? It may have been, but the staff  
 17 member was instructed to come to me with the memo on the  
 18 Saturday. So I don't know what day is the 3rd. Was it  
 19 a Saturday or a Friday? I don't know.  
 20 Q. I'm asking what you said to Ms McIntyre. But you may  
 21 have said that?  
 22 A. No, these dates aren't right. It's probably best,  
 23 rather than guessing, because, if you can imagine,  
 24 I have got a lot of information in my head, to actually  
 25 go to the meeting notes that I made and you will see

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1 what I said.  
 2 Q. Okay, perhaps we might come back to that.  
 3 Just moving on, she goes on to say that you said  
 4 that you did not feel that his decision regarding frame  
 5 replacement was correct?  
 6 A. Where are we, please?  
 7 Q. Just the next paragraph down on 3990 {E/1041/3990}, the  
 8 third paragraph up from the bottom.  
 9 A. Yes.  
 10 Q. And Ms McIntyre expresses the view that in the way you  
 11 responded to this situation did undermine KS. It says:  
 12 "In your memo you clearly reversed his decision and  
 13 highlighted to everyone that it had not been discussed  
 14 by you and KS."  
 15 A. Like I said, if you look at the big picture, I sent her  
 16 a document in November where he has made unilateral  
 17 changes to the business and I have had to accept it,  
 18 accept it, accept it, where he has done it with the  
 19 staff, done this, done that. He has even employed  
 20 a member of staff and given her a salary without  
 21 discussing it with me, increased her hours, et cetera.  
 22 I have let it go. How many times can an A director let  
 23 things go? This is clearly going to impact on customer  
 24 service. One new customer comes through the door --  
 25 it's very bad customer service. So --

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1 Q. Absolutely.  
 2 A. -- that's what I did.  
 3 Q. If you look at 3991 {E/1041/3991}, Ms McIntyre, in the  
 4 paragraph that says:  
 5 "I accept ... "  
 6 Ms McIntyre accepted that there appeared to be  
 7 a protocol in place which was not followed by Mr Singh  
 8 in issuing the first memo, which was reinforced by  
 9 Lucy's comment in her interview about not seeing your  
 10 signature. Do you see that?  
 11 A. That's right.  
 12 Q. She accepts your point on that, doesn't she?  
 13 A. She does, yes.  
 14 Q. But what she takes issue with, you see firstly at the  
 15 top of the page. She says:  
 16 "I do not agree with your assertion that you were  
 17 'left with no choice' but to issue your second memo.  
 18 You sent this second memo without even discussing or  
 19 agreeing it with [Mr Singh]."  
 20 That's correct, isn't it?  
 21 A. It is, but you are kind of turning the tables because he  
 22 initially sent this. If you look at the letter I sent,  
 23 how many changes does he make before I have to say,  
 24 "Look, this has to stop." And this was clearly not in  
 25 the best interests of the business, and even Mr Godden

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1 agrees that in his grievance outcome. It clearly  
 2 wasn't.  
 3 Q. Yes, Ms McIntyre accepted that what he had done was not  
 4 in accordance with the protocol.  
 5 A. Yes.  
 6 Q. What she goes on to say:  
 7 "I questioned why the level of information included  
 8 in your memo was necessary for the staff as by including  
 9 that level of detail you actually highlighted to staff  
 10 that you and [Mr Singh] were in disagreement about the  
 11 issue."  
 12 Would you accept that that's the effect of your  
 13 memo?  
 14 A. The staff knew we weren't in agreement because the  
 15 original memo didn't have my signature on it but still  
 16 they signed it.  
 17 Q. Would you accept that, by taking the approach you did  
 18 and asking the staff to sign your memo, you were putting  
 19 the staff in a very difficult situation?  
 20 A. No, actually Mr Singh had put the staff in a very  
 21 difficult situation in the beginning, when he issued the  
 22 first memo but, like I say, my position was undermined,  
 23 and this was not the first thing he had done to me; he  
 24 had done it repeatedly, and I have listed it for  
 25 Ms McIntyre. I think it's very unfair for her to say

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1 that to me if she would look at the evidence fairly and  
 2 impartially, what I provided for her.  
 3 Q. She expressed the opinion that you had put the staff in  
 4 a very difficult situation and that that was supported  
 5 by the staff's comments in their interviews to Mr Clark.  
 6 A. Well, I have stated what I have said, and it was  
 7 actually him undermining me repeatedly, and this was  
 8 very bad for the business, and I did issue this.  
 9 Q. And you say that Ms McIntyre couldn't honestly form the  
 10 opinion that she did, that you were putting the staff in  
 11 a difficult situation by the way you responded?  
 12 A. Do you think -- if I was an impartial person and I saw  
 13 this, I would have said, "Look, you shouldn't have  
 14 issued that in the first place. You know, you know what  
 15 your procedures are. Why did you issue it in the  
 16 first place?"  
 17 Q. I don't think you have answered -- quite answered my  
 18 question.  
 19 A. Okay.  
 20 Q. Are you saying that Ms McIntyre couldn't honestly form  
 21 the opinion that she did, that you were putting the  
 22 staff in a difficult situation?  
 23 A. With all the evidence I had provided for her, yes, she  
 24 shouldn't have -- she -- it wasn't the right -- she  
 25 didn't make the decision honestly.

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1 Q. And you are saying it was open to anybody to form that  
 2 opinion?  
 3 A. No, she didn't make the decision honestly. If she had  
 4 looked at all the information I had provide her, how  
 5 many times Mr Singh had unilaterally changed these  
 6 things, she would have seen it from a different point of  
 7 view and, "Yes, Ms Birdi is being undermined here, it's  
 8 not good for the business."  
 9 Q. Is your position that nobody could have formed that  
 10 opinion?  
 11 A. If they look at the evidence clearly, I don't believe  
 12 that anybody could have formed that.  
 13 Q. She goes on to say -- she says:  
 14 "The issue is how you chose to respond to this  
 15 situation and how your behaviour was perceived by the  
 16 staff. The way in which you responded was clearly seen  
 17 by the staff as undermining KS, your fellow partner."  
 18 Then she refers to -- this is in the  
 19 third paragraph: she refers to some interviews.  
 20 A. All I can say to you is the initial memo was a total  
 21 undermine of me. The staff knew I was being undermined  
 22 on a daily basis, and I did raise this with  
 23 Alison Girollet, that Mr Singh's behaviour towards me is  
 24 undermining me in front of my staff and they are going  
 25 to lose respect for me. Why am I put in this position?

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1 Q. If you turn --  
 2 A. Why aren't procedures being followed?  
 3 Q. Can we turn on to 3994 {E/1041/3994}. B is:  
 4 "Encouraging staff to raise formal grievance  
 5 complaints against [Mr Singh]."  
 6 Do you see that at the first holepunch?  
 7 A. I do, yes.  
 8 Q. That's something we have explored already in relation to  
 9 Mr Clark's report.  
 10 A. It is.  
 11 Q. And she refers to the letter, the June letter --  
 12 A. Yes.  
 13 Q. -- which we have looked at, and then she says:  
 14 "When I asked ... you about [this] ... you ...  
 15 denied [the allegations] and [said] that the letter was  
 16 'factually untrue' and that you had not encouraged staff  
 17 to raise grievances or complaints ..."  
 18 A. That's true.  
 19 Q. And you went on in relation to Ms O'Brien's evidence,  
 20 which I think we looked at -- you called her into your  
 21 room -- sorry, no, I'm not sure we have.  
 22 It refers to Patrice O'Brien:  
 23 "... that you called her into your room and said  
 24 'Others has complained about KS ... I shouldn't feel bad  
 25 about raising them and that I should go to her if I had

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1 any' ... "  
 2 A. Like I have said, if I ever was going to say that, which  
 3 I never would, especially -- the staff -- I was  
 4 undermined with the staff, and Patrice O'Brien -- I knew  
 5 that I had been undermined with her by Mr McAlindon.  
 6 I certainly, certainly wouldn't have been saying that to  
 7 Patrice O'Brien.  
 8 Q. And in terms of just reporting what you said, you said  
 9 that -- you suggested that Patrice was lying to  
 10 Ms McIntyre; correct?  
 11 A. Yes.  
 12 Q. And in relation -- Ms McIntyre asked about the  
 13 motivation and you said that she might be saying things  
 14 out of resentment due to having had a "close  
 15 relationship with Nimesh". That's Mr Patel; is that  
 16 right?  
 17 A. I may have said that, yes.  
 18 Q. Yes.  
 19 A. To see exactly what I said, I would have to see my  
 20 notes.  
 21 Q. Okay.  
 22 A. But, yes, she did have a close relationship, and also  
 23 because my position with her had been undermined from  
 24 2007.  
 25 Q. But Ms McIntyre didn't just accept Ms O'Brien's

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1 evidence, did she?  
 2 A. No.  
 3 Q. She also considered the evidence of Ms Hornby --  
 4 A. She did.  
 5 Q. -- about you producing a written note concerning  
 6 a conversation that you had had, a telephone  
 7 conversation?  
 8 A. Yes.  
 9 Q. Do you see that?  
 10 A. I do, yes.  
 11 Q. I don't think we have looked at:  
 12 ""There was an issue where a locum had not turned  
 13 up. SB told me to ring KS to sort it out. SB was  
 14 arguing with KS on the phone and turned to me and said  
 15 'you heard that didn't you'. I said I hadn't heard  
 16 anything of the conversation, she said you must have  
 17 heard it and presented me with a written note asking me  
 18 to sign it saying that I had heard it, the note was  
 19 stated to be written on Specsavers' headed paper' ... "  
 20 Do you see that?  
 21 A. Yes, what I remember from that conversation is Mr Singh  
 22 was off -- I think he was off sick. I can't confirm  
 23 that but I think it was. I was phoning him and he  
 24 wasn't returning any of my phone calls. So I got Lucy  
 25 to ring him and he answered her phone call and I spoke

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1 to him about a Sunday locum he had organised and, as it  
 2 was an ophthalmic responsibility, I had to check his  
 3 General Optical Council, his PCT listing. Mr Singh was  
 4 refusing to give me the locum's name, details. He was  
 5 putting me in a very difficult position again. Why am  
 6 I in this position? Because I can't check the person's  
 7 registration to see if he is fit to practise at the  
 8 store.  
 9 Q. Let's just talk about difficult positions, Ms Birdi.  
 10 The point that is made by Ms McIntyre here says:  
 11 "Whilst the precise details of the content of [the]  
 12 conversation ... may not be in question, the key point  
 13 is that following your telephone conversation you  
 14 produced a written note for Lucy to sign to confirm the  
 15 disagreement [that] you had had with KS."  
 16 That would have made her feel pretty uncomfortable,  
 17 wouldn't it?  
 18 A. Yes, I suppose it would have, yes.  
 19 Q. Do you think that was really an appropriate thing to do?  
 20 A. I did get -- I did ask if she would sign to say that  
 21 Mr Singh wouldn't give me the locum details.  
 22 Q. I have asked you do you think that was an appropriate  
 23 thing to do --  
 24 A. It's not --  
 25 Q. -- to your member of staff?

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1 A. Yes, it's not something I would normally do but I was in  
2 a difficult position here, where I was worried about  
3 losing my business, I was worried about losing -- if  
4 I didn't check these details, I would lose my position.  
5 I was under the threat of Specsavers. And I shouldn't  
6 have been in this position. Me and Mr Singh should have  
7 been working together. He should have said, "Yes, got  
8 a locum, Swarandeeep. This is the locum's name. Here  
9 you are." I even sent him an email to this effect, that  
10 it was not acceptable to hide -- to not give me this  
11 information.  
12 Q. I don't think you have quite answered my question. The  
13 question I was asking: do you think that that was an  
14 appropriate thing to do as regards your member of staff?  
15 A. Probably not but I was in a very difficult position.  
16 Q. Then over the page {E/1041/3995} -- we have looked --  
17 there is reference there to the evidence of  
18 Darshan Jhita. We have looked at that, haven't we?  
19 A. We have, yes.  
20 Q. And Ms McIntyre expressed the view that she did not  
21 accept that giving somebody a copy of a document -- you  
22 suggested:  
23 "You stated in our meeting that if you were 'forcing  
24 her to sign it why would you give her a copy -- it is  
25 illogical'."

1 Did you say something along those lines?  
2 A. I don't know what I said. You would have to refer me to  
3 my meeting notes.  
4 Q. Okay. Assuming you did --  
5 A. Well, there is a lot of stuff in here that  
6 Ms McIntyre -- like on the pension thing with Mr Singh,  
7 that's incorrect. So I think if you are going to get  
8 a balanced picture, you would need to look at my notes  
9 of the meeting that I sent in.  
10 Q. Would you accept that giving somebody a copy of  
11 a document is not proof that they could not have felt  
12 under pressure to sign the document?  
13 A. No. I gave her a copy because I didn't force her to  
14 sign the document. I gave her a copy, so she knew  
15 exactly what she was signing for.  
16 Q. Do you accept that giving an employee of yours a copy of  
17 a document and asking them to sign it might result in  
18 that employee feeling under pressure to sign the  
19 document you have you are providing them with?  
20 A. Sorry, I haven't -- just say it to me again.  
21 Q. It's a long question.  
22 A. Yes, it is.  
23 Q. Do you accept that giving an employee of yours a copy of  
24 a document and asking them to sign it might result in  
25 that employee feeling under pressure to sign that

1 document?  
2 A. So you are saying she may have still felt under pressure  
3 even though I gave her a copy?  
4 Q. No, the fact -- do you accept that giving somebody  
5 a copy of a document and asking them to sign it might  
6 put the member of staff under pressure?  
7 A. Yes, I do accept that.  
8 Q. And indeed Darshan's -- Ms Jhita's evidence was that she  
9 did feel pressured by you?  
10 A. I didn't pressure her. I showed her the letter. It was  
11 a small little memo. When she actually came back to me  
12 and said, "I did feel pressured," I said, "I'm really  
13 that, that wasn't my intention." And then she just  
14 signed the last bit.  
15 Q. So you are accepting that she did say that she felt  
16 pressured to you?  
17 A. She didn't say that. She said she wasn't happy to sign  
18 that because she was in fear that it may affect her  
19 supervision.  
20 Q. Are you saying that she didn't say to you that she felt  
21 pressured by what you had asked her to do?  
22 A. I don't know whether she used the word "pressured", but  
23 she did come to me and she did say to me she wasn't  
24 happy to sign all of that, that Mr Singh -- she had  
25 repeatedly asked Mr Singh to be her supervisor.

1 Q. Do you accept that when she expressed the opinion in  
2 interview that she had felt pressured, that that was  
3 something that was true?  
4 A. It may be so but when she told me that she wasn't happy  
5 to sign that, I withdrew it.  
6 Q. And then Ms McIntyre again refers to some evidence of  
7 Alexandra Dolan, about again you producing a memo for  
8 her to sign.  
9 A. I think you need to read Alex Dolan's interview. She  
10 doesn't say anything about it being any grievance or  
11 anything like that. It was -- I can't remember even  
12 what it was, to be honest with you. I think it was  
13 something to do with -- oh, I don't even know, something  
14 to do with invoices?  
15 Q. Then, going down the page, you said:  
16 "In the hearing, in general you accepted that you  
17 produce letters/memos for staff to sign, and that some  
18 of [them] have been about KS."  
19 Is that true?  
20 A. Where is that?  
21 Q. In the hearing.  
22 A. Oh, yes.  
23 Q. Is that right? Would you accept that? You did accept  
24 that?  
25 A. I think you will have to look at the notes. I can't

1 remember the notes. I don't think I can actually answer  
 2 that truthfully until you have seen the notes.  
 3 Q. Well, we have looked at numerous examples of you doing  
 4 that.  
 5 A. You are asking me did I say that and I'm saying I don't  
 6 know.  
 7 Q. Okay, firstly -- let's break it down. Are you saying  
 8 that it didn't happen?  
 9 A. Honestly, I cannot remember exactly what I said.  
 10 Q. I'm sorry, it's my fault. The question wasn't fair.  
 11 Are you saying that you did not produce letters and  
 12 memos for staff to sign and that some of them were about  
 13 KS?  
 14 A. No, I'm not saying that because a contact lens issue  
 15 with Darshan obviously was to do with Mr Singh.  
 16 Q. We have looked in fact at a number of documents, haven't  
 17 we?  
 18 A. Okay.  
 19 Q. You denied seeking to encourage staff to raise  
 20 grievances and complaints; yes?  
 21 A. I do, yes.  
 22 Q. And you did to Ms McIntyre?  
 23 A. Yes, I did.  
 24 Q. And you stated that you produced letters and memos  
 25 simply in order to substantiate or record conversations.

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1 A. I don't know if that's what I said.  
 2 Q. Okay. Ms McIntyre says she didn't accept that assertion  
 3 and she said that she expressed the view that you did  
 4 not -- she did not consider that, in producing those  
 5 letters and memos, you were simply looking to record  
 6 conversations.  
 7 Are you saying it wasn't open to her to form that  
 8 view?  
 9 A. If she looked at the evidence I gave her fairly and  
 10 impartially, why is she not even looking at Mr Singh  
 11 getting staff to sign documents? Why is she only  
 12 concentrating on myself? She is not fair, she is not  
 13 impartial.  
 14 Q. What she says is -- she says she refers to the fact that  
 15 your assertion was not, in her opinion, supported by the  
 16 balance of evidence.  
 17 A. Like I said, if you have got a -- if you have got  
 18 a fair, impartial investigator -- read my notes, please,  
 19 read my notes of my two meetings, read the evidence  
 20 I have given to Dawn McIntyre and please come back to me  
 21 and let me know what your thoughts are.  
 22 Q. And she expressed the view that in fact:  
 23 "To the contrary, during a time when neither you nor  
 24 Mr Singh were even ... in the store six ... staff felt  
 25 strongly enough to write [the June letter]."

202

1 A. Yes.  
 2 Q. Are you saying it wasn't open to her to form that  
 3 conclusion that she did?  
 4 A. It wasn't an honest decision. Like I said, on 3 June,  
 5 when the staff were really upset with me, Specsavers  
 6 took their action then, and you can see that from  
 7 Mark Raines's diary and -- I have said it repeatedly,  
 8 what that says in there.  
 9 Q. And indeed it's not just the letter, is it? She  
 10 referred also -- she said that in terms of the  
 11 interviews with Mr Clark:  
 12 " ... the evidence given by numerous members of  
 13 staff in ... separate interviews also suggests that you  
 14 have encouraged staff to raise grievances and complaints  
 15 against [Mr Singh]."  
 16 And that there was:  
 17 " ... a consistent picture arising from the  
 18 interviews."  
 19 A. I wouldn't do it. If I did that -- if all my staff  
 20 members -- if I encouraged them to raise grievances, we  
 21 would have no staff left because if anyone raised  
 22 a grievance against Mr Singh, they left, including  
 23 myself.  
 24 Q. Can I suggest to you that there was indeed a consistent  
 25 picture which emerged from the staff interviews and the

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1 letter?  
 2 A. They knew where the power lay. I had lost my standing  
 3 and, like I say, you have to look at my history. In  
 4 eight and a half years I have never had a grievance  
 5 raised against me. Mr Singh comes along, I lost my key  
 6 staff who I was very bonded with. I actually said, to  
 7 get a fairer picture, the people who have left, ask them  
 8 what the true picture was.  
 9 Q. Ms McIntyre also considered, if you look just below the  
 10 second holepunch, that the six staff had all been lying.  
 11 Do you see that?  
 12 A. I do, yes, but I don't know if that's the exact words  
 13 I used. You will have to refer to my --  
 14 Q. She said:  
 15 "I find no evidence in support of this assertion, ie  
 16 that the six staff [have] lied when signing the letter  
 17 ... [ie] to 'protect their own interests'.  
 18 Are you saying it wasn't open to her to even form  
 19 that conclusion?  
 20 A. From the very beginning, she wasn't there, she wasn't  
 21 impartial and, like I say, if you look at all the  
 22 evidence I gave her, if you look at my version of the  
 23 meeting and not her version -- my meeting notes -- I am  
 24 sure that someone who is fair and impartial would get  
 25 a different view.

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1 Q. Can we turn over the page, please, 3996 {E/1041/3996},  
2 the issue of preferential treatment for Ms Gulamali and  
3 Ms Khunkhuna. We have already explored this, haven't  
4 we?  
5 A. We have.  
6 Q. You said to Ms McIntyre here that your relationship with  
7 them was fairly distant. Is that right?  
8 A. I don't think I said "distance". I think it -- I -- the  
9 meeting, like you say, was ten hours' long. I can't  
10 remember everything I said. If you want to ask me if  
11 I said that, please refer to the meeting notes because  
12 you are asking me an impossible task.  
13 Q. You are saying you didn't say that you were testing most  
14 of the time and unaware of relationship issues on the  
15 shop floor?  
16 A. I had no idea on 2 June that Fatima had real problems --  
17 the staff had real problems with Fatima. I had no clue.  
18 Q. And Ms McIntyre formed the -- she said that her opinion  
19 was that this description of your relationship was not  
20 supported by the balance of the evidence.  
21 A. I can tell you that my staff were all important to me.  
22 Each one was as important to me as the other one.  
23 Q. If you look over the page {E/1041/3997}, she sets out  
24 a number of examples of the evidence, which suggested  
25 a different view.

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1 A. If I had such a close personal relationship with Fatima  
2 and Jas, I certainly would not have encouraged them to  
3 raise grievances because then they would leave the  
4 store. So it doesn't even make any sense.  
5 Q. And at 3997 {E/1041/3997}, at the second holepunch,  
6 Ms McIntyre says that she did accept that in your role  
7 you would not be routinely notified of staff reporting  
8 in late or have limited visibility on the shore floor  
9 operation on --  
10 A. Sorry, I'm really --  
11 Q. I'm sorry.  
12 A. -- sorry, I don't know where we are.  
13 Q. Yes. The paragraph starts:  
14 "It is my view ..."  
15 At the second holepunch?  
16 A. Sorry, yes.  
17 Q. And then there is a reference to the June letter because  
18 the issue of preferential treatment was referred to in  
19 that letter. Do you remember?  
20 A. Sorry, I switched -- I'm getting really --  
21 Q. The June letter --  
22 A. -- tired now, I'm sorry.  
23 Q. No, no, don't worry. The June letter referred to  
24 a suggestion that you gave preferential treatment to  
25 Ms Khan and --

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1 A. That's right, yes.  
2 Q. Yes, okay, and then that's referred to in this paragraph  
3 here, the "to whom it may concern" letter. Do you see  
4 that?  
5 A. I do, yes.  
6 Q. And then Ms McIntyre says:  
7 "I do accept that in your role you will not be  
8 routinely notified of staff reporting in late and will  
9 have limited visibility of the shop floor operation on  
10 the days you are testing."  
11 So that's an even-handed approach from Ms McIntyre.  
12 She is accepting something that you have said?  
13 A. Okay.  
14 Q. Would you agree?  
15 A. Yes.  
16 Q. She goes on to say:  
17 "However, on the other two days and in your role as  
18 a director I find it difficult to accept that you were  
19 unaware, as you sought to portray in the hearing, of  
20 such strengths of negative feeling about two members of  
21 staff."  
22 Would you accept that that's a genuine opinion from  
23 her?  
24 A. No, I don't. I don't even know if -- on the day I was  
25 leading on the shop floor -- we would have to look at

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1 the rotas, but I don't know if Fatima and Jas were  
2 actually in when I was working on the shop on the  
3 Tuesdays but I categorically state that I had no clue  
4 that there was a problem with Jas and Fatima -- or  
5 Fatima, not Jas -- Fatima, until 2 June 2010.  
6 Q. And I would also suggest that it was open to somebody  
7 reviewing the material to form the conclusion that your  
8 relationship with the two of them was not merely  
9 a distant one, as you had sought to portray?  
10 A. They were as important to me as the rest of my staff  
11 were, but that's all I can say to you.  
12 Q. She considered the allegation that you made that the  
13 staff may have been coerced by Mr Singh. Do you see  
14 that:  
15 "I note ..."  
16 A. Mr Singh had most certainly caused friction between me  
17 and the store staff because on 2 June Specsavers said,  
18 "Extend her probation or keep her on." He went straight  
19 to the store staff, and it was an intentional thing, to  
20 cause a rift between me and the staff.  
21 Q. It's not just a question of causing a rift; you are  
22 saying that the staff alleged that they had been coerced  
23 by him.  
24 A. Yes, he had encouraged them -- he had encouraged  
25 a breakdown in the relationship between me and them,

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1 yes.  
 2 Q. So when you say "coerced", you are saying that he  
 3 encouraged a breakdown in the relationship.  
 4 A. He encouraged a breakdown in the relationship, without  
 5 a doubt.  
 6 Q. You are saying that's the same as coercing them into  
 7 giving false evidence against you; is that right?  
 8 A. He gave them false information and they supported him.  
 9 Q. And she concluded that she had found no evidence to  
 10 support the allegation.  
 11 A. Yes.  
 12 Q. Are you saying that it wasn't open to her to even form  
 13 that view?  
 14 A. From the very beginning she wasn't fair, she wasn't  
 15 impartial.  
 16 Q. Ms McIntyre didn't uphold every allegation, did she?  
 17 A. I can't remember.  
 18 Q. For example, if you turn over to 4000 {E/1041/4000}, the  
 19 issue of pension forms, signing Mr Singh's pension form.  
 20 Do you remember? We have looked at that.  
 21 A. Yes.  
 22 Q. She found that allegation -- you see:  
 23 "I find this allegation not proven."  
 24 A. Where is that?  
 25 Q. At 4001. {E/1041/4001}

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1 A. Yes.  
 2 Q. She noted effectively that it was a conflict of evidence  
 3 between the two of you.  
 4 A. Yes.  
 5 Q. And she found that it wasn't proven.  
 6 A. Yes.  
 7 Q. So that was a point in your favour?  
 8 A. Yes.  
 9 Q. Doesn't that suggest to you an even-handed approach by  
 10 her?  
 11 A. It wasn't even-handed, no.  
 12 Q. Doesn't it suggest a genuine attempt to investigate the  
 13 disciplinary matters?  
 14 A. Please refer back to Mark Raines's diary, 3 June 2010.  
 15 Q. I'm asking about her, I'm asking about Ms McIntyre.  
 16 A. No, she is part of Pauline's team to do a disciplinary.  
 17 It was to get rid of me from the business.  
 18 Q. And at 4003 --  
 19 A. There was no -- Specsavers shouldn't even be doing this  
 20 investigation because they knew how I felt about the --  
 21 they had a severe conflict. They shouldn't even have  
 22 been doing this investigation.  
 23 Q. In 4003 {E/1041/4003}, starting at the bottom of 4002  
 24 {E/1041/4002}, there was an allegation -- an issue in  
 25 relation to PCT funding.

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1 A. Yes.  
 2 Q. Do you see that? And again you see in the middle --  
 3 sorry, second hole punch, 4003 {E/1041/4003} -- again  
 4 that allegation was found not proven. Do you see that?  
 5 A. Yes.  
 6 Q. So that's another finding in your favour, or  
 7 an allegation not proven; correct?  
 8 A. These two -- these two little issues are not issues that  
 9 you are going to sack someone over. So, like I said,  
 10 that they were aware I had legal representation.  
 11 David Clark said it and the HR team said it in April.  
 12 So they were following procedure. So if it did go  
 13 legal, they were protected.  
 14 Q. So are you saying that she was adopting a cynical  
 15 approach of making a couple of token findings in your  
 16 favour. Is that right?  
 17 A. Yes.  
 18 Q. That's seriously dishonest conduct by her, isn't it?  
 19 A. It is dishonest conduct, yes.  
 20 Q. Can I turn on to 4009 {E/1041/4009}, "State of Working  
 21 Relationship".  
 22 A. Yes.  
 23 Q. Take your time, Ms Birdi. I don't want to rush you. Is  
 24 that okay?  
 25 A. Yes.

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1 Q. 4009 {E/1041/4009} at the second holepunch. She says:  
 2 "It is clear ..."  
 3 Do you see that?  
 4 A. Yes, I do, yes.  
 5 Q. She noted:  
 6 "It was clear that you did not want [Mr Singh] to be  
 7 appointed to the ... business ... in 2008 and did not  
 8 view him as a suitable candidate for the role ... "  
 9 That's true, isn't it?  
 10 A. Originally that is true, yes.  
 11 Q. And indeed you voted against his appointment?  
 12 A. Yes, I did. I was doing what I thought was in the best  
 13 interests of the business at that time.  
 14 Q. And she went on to note that communication between the  
 15 two of you had effectively broken down.  
 16 A. Yes, but the breakdown was because Specsavers had  
 17 damaged the relationship from the very beginning.  
 18 Q. And so over the page at 4010 {E/1041/4010} she noted  
 19 that you no longer even speak face to face?  
 20 A. That's true.  
 21 Q. That was true as well, wasn't it?  
 22 A. It was, and -- yes, Mr Singh was so sporadic with his  
 23 attendance, like I informed Specsavers, that nothing was  
 24 looked into with that. Yes, that is true.  
 25 Q. Okay, and then she said:

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1 "The continuation of such a working relationship is  
 2 not a sustainable basis on which the Dartford business  
 3 can continue to operate, nor is it in the best interests  
 4 of the business."  
 5 A. Absolutely.  
 6 Q. You would agree with that as well, would you?  
 7 A. Yes, this was Specsavers' intention from the beginning,  
 8 when they brought Mr Singh on board.  
 9 Q. These matters were impacting on the store environment  
 10 and the employees?  
 11 A. Yes, this is -- this is why they brought Mr Singh on  
 12 board. And you can't just look at this one letter, you  
 13 have to look at everything in context from 2007 onwards.  
 14 Q. And she goes on to say, in the middle of that  
 15 paragraph -- in the middle of the page, just above the  
 16 second holepunch:  
 17 "As referred to above, in contrast to the comments  
 18 made about KS by staff in their interviews with  
 19 [Mr Clark], in such interviews staff consistently  
 20 described that you had involved them in your  
 21 relationship issues with KS and openly commented on your  
 22 relationship with KS on the shop floor to the extent  
 23 where they perceive you to be encouraging team members  
 24 to raise grievances/complaints against KS."  
 25 Do you see that finding?

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1 A. I do. I don't think anybody could dispute that me and  
 2 Mr Singh were not getting on.  
 3 Q. It's not that you --  
 4 A. We didn't need to say anything; it was clear. And the  
 5 thing is, I'm speaking to Mr Singh on the shop floor and  
 6 he walks away from me -- I complained about this to  
 7 Alison Girollet in an email -- yet I'm the one who is  
 8 the problem.  
 9 Q. The weight of the evidence was that whilst Mr Singh had  
 10 not been doing this, you had been seeking to involve the  
 11 staff in your relationship issues on the shop floor.  
 12 A. No, no, I have explained to you, please look at the  
 13 evidence, see what's there, see the emails I have sent  
 14 about his behaviour, see about his sporadic attendance,  
 15 make a decision. This was a very biased approach. It  
 16 was purely to get me out the business and it was why  
 17 Mr Singh was brought on board.  
 18 Q. Do you accept that the evidence of the issues, some of  
 19 which we have looked at, showed that the staff were  
 20 saying that whilst Mr Singh had not been seeking to  
 21 involve them, you had.  
 22 A. It's not true. Why would I involve the staff? The  
 23 staff could clearly see --  
 24 Q. I'm --  
 25 A. -- that we were not getting on.

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1 Q. Do you accept that the interviews that we have looked  
 2 at expressed that the staff were expressing that that  
 3 was what had happened?  
 4 A. Yes, they were, yes.  
 5 Q. But your position is that --  
 6 A. These six staff were.  
 7 Q. -- you just don't -- I'm sorry.  
 8 So you accept that the staff were saying that in  
 9 their interviews?  
 10 A. They were saying that, yes.  
 11 Q. You are saying that they were lying?  
 12 A. Yes, I am, but they knew our relationship was totally  
 13 strained. It was obvious.  
 14 Q. But that's not the point that --  
 15 A. But that was Specsavers who did that.  
 16 Q. The point that Ms McIntyre is commenting on is the fact  
 17 that you were involving them in -- the staff in your  
 18 relationship issues.  
 19 A. That's not true.  
 20 Q. And she expressed the view that it is not acceptable  
 21 behaviour for someone operating at director level and it  
 22 completely undermines the nature of the relationship  
 23 with your fellow director. Would you accept that?  
 24 A. If that was the case, it's not good, yes, but the thing  
 25 is that Specsavers is very biased and they were

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1 condoning Mr Singh's behaviour and not supporting me in  
 2 any way, and this is -- you can see this from many  
 3 emails I sent to Specsavers.  
 4 Q. Would you --  
 5 A. I got no support.  
 6 Q. I'm sorry, I --  
 7 A. Sorry, I'm getting very tired now, sorry.  
 8 Q. No, no.  
 9 Would you accept the proposition that it's not  
 10 acceptable for someone operating at director level to  
 11 involve the staff in relationship issues with a fellow  
 12 director and openly comment on that relationship on the  
 13 staff floor?  
 14 A. It shouldn't be done.  
 15 Q. You would accept that that is unacceptable behaviour  
 16 from a director?  
 17 A. It shouldn't be done, as shouldn't a grievance that has  
 18 been reportedly told to the staff, like Mr Singh told  
 19 Stephen Hummell about the sexual grievance raised  
 20 against him before he had his interview.  
 21 Q. Then she refers to the allegation of conspiracy which  
 22 you have made, and that Mr Singh is a stooge, at the  
 23 bottom of the page, 4010? {E/1041/4010}  
 24 A. Yes.  
 25 Q. She says that she finds no evidence in support of your

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1 assertions of a conspiracy.  
 2 A. Like I say, if you look at the evidence I provided and  
 3 look at the -- my meeting notes.  
 4 Q. Would you accept that since 2007/2008 Specsavers in fact  
 5 had invested a huge amount of time supporting you in  
 6 your relationship and at store?  
 7 A. 2007/2008?  
 8 Q. Yes, from 2007/2008?  
 9 A. Yes, he joined in 2008.  
 10 Q. Okay. Would you accept that since that time Specsavers  
 11 had invested a huge amount of time in supporting you and  
 12 your relationship with Mr Singh and the store?  
 13 A. Of course they did. They supported Mr Singh very wholly  
 14 and they kept a close watch on our relationship,  
 15 absolutely. I agree with you there.  
 16 Q. You have seen that there has been a number of grievances  
 17 investigated, taking a huge amount of management time  
 18 for Specsavers. Would you accept that?  
 19 A. I do, yes, because that's what their intention was.  
 20 Q. And in the middle of the page -- of that page she says  
 21 she expressed the view that:  
 22 " ... as a consequence of your actions/behaviours  
 23 ... your working relationships with KS and SOG has  
 24 completely broken down ... "  
 25 You would accept that, wouldn't you, that the

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1 relationship had broken down?  
 2 A. Specsavers had caused that to happen, yes.  
 3 Q. You accept that the relationship with Mr Singh had  
 4 broken down?  
 5 A. Yes, Specsavers had caused that to happen, yes.  
 6 Q. Fine, but you accept that the relationship had broken  
 7 down?  
 8 A. Yes --  
 9 Q. Yes.  
 10 A. -- I do.  
 11 Q. Yes, and the relationship with Specsavers as well had  
 12 broken down?  
 13 A. Yes, they had caused the breakdown. It was their plan  
 14 since 2007, when I challenged them regarding Mr Patel,  
 15 and at the end of 2007 I asked them for all the money  
 16 back into the store, yes.  
 17 Q. And she also said that:  
 18 " ... the trust and confidence necessary for the  
 19 continuation of an employment relationship between you  
 20 and Dartford Visionplus ... has also irretrievably  
 21 broken down."  
 22 Would you accept that?  
 23 A. No, because I didn't need to trust Specsavers in order  
 24 to do my duties to DVL.  
 25 Q. Well, DVL was represented by its board of directors,

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1 wasn't it?  
 2 A. But I did not have to have trust with Specsavers to do  
 3 my duty to DVL.  
 4 Q. You are saying you didn't have to have trust with all  
 5 the other directors on the board?  
 6 A. No, there had to be a level of trust between me -- you  
 7 are asking me about my duties to the business, but most  
 8 certainly there had to be a level of trust between me  
 9 and my co-directors, yes.  
 10 Q. And your co-directors formed the majority of the board  
 11 of directors, didn't they?  
 12 A. They did, yes.  
 13 Q. Ms McIntyre said that she believed that she would be  
 14 failing in her responsibilities to the business and  
 15 Specsavers as B director if she was to recommend that  
 16 the working relationship should continue where it had  
 17 irretrievably broken down?  
 18 A. Specsavers had failed in their duties as a B director  
 19 when they behaved in the manner they behaved and when  
 20 they put Mr Singh in to change my working pattern, to  
 21 bully out of the store and get rid of me.  
 22 Q. She expressed the conclusion that summary dismissal for  
 23 gross misconduct was warranted. Do you see that?  
 24 A. That was a foregone conclusion, I thought.  
 25 Q. But she expressed that view?

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1 A. She did, yes.  
 2 Q. And she also said that:  
 3 " ... dismissal ... for 'some other substantial  
 4 reason' [was] in any event warranted, for the reasons  
 5 set out above."  
 6 Do you see that?  
 7 A. Yes, she said that, yes.  
 8 Q. She said there had been a complete breakdown of the  
 9 working relationship between you and your fellow JVPs  
 10 and you accept that?  
 11 A. Yes, Specsavers had caused that.  
 12 Q. And the mutual trust and confidence for the employment  
 13 relationship have irretrievably broken down. I think  
 14 you accept that as well?  
 15 A. Between me and the other directors?  
 16 Q. Well, the board as a whole.  
 17 A. Yes, Specsavers had caused that.  
 18 Q. But she recommended that, in recognition of the  
 19 longevity of your employment, that, instead of summary  
 20 dismissal, in which case you would receive no notice  
 21 pay, you be dismissed for some other substantial reason,  
 22 in which case you would receive ten weeks' notice or pay  
 23 in lieu?  
 24 A. That's correct.  
 25 Q. Are you really saying that it wasn't open to her to

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1 conclude that there had been a complete breakdown in the  
2 relationship?  
3 A. There had been a complete breakdown in the relationship  
4 but the relationship breakdown was purely due to  
5 Specsavers. If they had acted in the way they should  
6 have, in the best interests of the business, me and  
7 Mr Singh, I do believe, would have got on with running  
8 the business. But that was not their intention.  
9 Q. Are you saying that she didn't honestly believe the  
10 conclusion that she expressed?  
11 A. Yes.  
12 Q. And are you saying it wasn't open to her to conclude  
13 that the mutual trust and confidence for an employment  
14 relationship had broken down?  
15 A. It had broken down, like I said, because of Specsavers.  
16 Q. You are saying she didn't honestly believe that?  
17 A. She knew it had broken down because that was their plan.  
18 Q. So she did believe that when she said it?  
19 A. She knew it would happen. That was their plan, to do  
20 that.  
21 Q. Going back to your witness statement, paragraph 540  
22 {B/1/540}, in relation to the conspiracy allegation, you  
23 expressed the view that her views on your allegation of  
24 conspiracy were pure sophistry. Is that right?  
25 A. Yes.

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1 Q. What do you mean by the word "sophistry"?  
2 A. I'm sorry, I don't know what that means.  
3 Q. It's in your witness statement, Ms Birdi.  
4 A. I know. That's one word I didn't look at.  
5 Q. So it's not your language?  
6 A. That word isn't, no.  
7 Q. Whose language is it?  
8 A. That's my solicitors'.  
9 Q. So you are prepared to sign something which you don't  
10 understand. Is that right?  
11 A. Well, I have on that one word. I don't know what it  
12 means. But basically it is a complete opposite of the  
13 truth. It's just made up and it's a complete opposite  
14 of the truth.  
15 Q. Okay.  
16 Just to complete the picture, the report was sent to  
17 you on 14 December. There was a board meeting that  
18 followed?  
19 A. That's correct.  
20 Q. It was convened on the 14/21; is that correct,  
21 21 December?  
22 A. That's correct, yes.  
23 Q. And E14/4013 {E/1042/4013} is the notice and agenda --  
24 is an email sending those to you.  
25 A. Yes.

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1 Q. And the directors' decision -- sorry, the directors at  
2 the board meeting had determined to accept her  
3 recommendations and to dismiss you?  
4 A. Yes.  
5 Q. And I suggest to you that it was open to the directors  
6 honestly to reach that view?  
7 A. No, if you look at the whole situation, you have to look  
8 at it from 2007 to 2010, look at the evidence, and you  
9 can see what was happening. It wasn't an honest, bona  
10 fide decision. There was an ulterior motive.  
11 Q. I suggest to you the directors honestly believed that  
12 such a dismissal was in the interests of the company?  
13 A. They had caused great damage to the relationship between  
14 me and Mr Singh in order to eject me from the business.  
15 They didn't follow procedures, they didn't follow  
16 agreements, they just did what they wanted to achieve  
17 their target.  
18 Q. And you appealed against the dismissal?  
19 A. I did.  
20 Q. If you turn into E15, please, 4132. {E/1056/4132}  
21 A. Yes.  
22 Q. That's your grounds of appeal?  
23 A. Yes.  
24 Q. 4132. It runs through to 4138?  
25 A. Yes.

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1 Q. That appeal was dealt with by Mr Dyson?  
2 A. Yes, it was.  
3 Q. And you see at 4146 {E/1061/4146} you indicated that you  
4 didn't want a hearing -- there is a reference to  
5 a hearing?  
6 A. Yes.  
7 Q. And in fact you indicated you didn't want a hearing?  
8 A. I didn't want to face Mr Dyson, no.  
9 Q. No. And in 4192 {E/1068/4192}, that's Mr Dyson's  
10 decision?  
11 A. Okay.  
12 Q. It runs through to 4199?  
13 A. Okay.  
14 Q. You can see the conclusion?  
15 A. I can.  
16 Q. That:  
17 "I do not uphold your appeal."  
18 A. Yes.  
19 Q. Your position -- I need to put this to you: your  
20 position is that Mr Dyson didn't honestly believe what  
21 he wrote in that letter. Is that right?  
22 A. He didn't believe it, no, that was their intention and  
23 they got their wish.  
24 Q. He wrote this letter dishonestly?  
25 A. Yes.

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1 Q. He was a party to the conspiracy?  
2 A. Yes, he was since 2007 when I challenged them and they  
3 were in fear that I would be a whistle-blower, yes.  
4 Q. This time, in dismissing your appeal, he was motivated  
5 by a desire to harm you. That was malice?  
6 A. That's right, to remove me from my business.  
7 Q. You say that he was motivated by malice towards you from  
8 2007 through to 2011. Is that right?  
9 A. That's correct.  
10 Q. Can I suggest to you, Ms Birdi that whilst you may  
11 disagree with his decision, Mr Dyson dealt with your  
12 appeal honestly and not maliciously?  
13 A. That's not true.  
14 MR POTTS: My Lord, it has been a long day --  
15 MR JUSTICE NUGEE: It has been a long day. You haven't  
16 quite finished, I imagine.  
17 MR POTTS: I haven't quite finished. I have got one more  
18 issue I need to explore tomorrow.  
19 MR JUSTICE NUGEE: This is dividends, is it?  
20 MR POTTS: Yes.  
21 MR JUSTICE NUGEE: Yes. Well, I think you ought to have an  
22 opportunity to ask Ms Birdi about those and she ought to  
23 have an opportunity to answer. But we will resume at  
24 10.30 tomorrow.  
25 Can we just look at the timetable because there is

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1 a bit of slippage? How much longer do you think  
2 cross-examination is going to be?  
3 MR POTTS: Not very long, my Lord, about half an hour, no  
4 more than an hour. It depends a little bit on the  
5 length of answers.  
6 MR JUSTICE NUGEE: Of course.  
7 MR POTTS: Yes.  
8 MR JUSTICE NUGEE: Mr Stuart, re-examination?  
9 MR STUART: My Lord, no more than an hour total.  
10 MR JUSTICE NUGEE: Yes. Then we are due to have Mr Rehman  
11 next, but the employee witnesses, the ones you have  
12 rather unkindly referred to as small witnesses -- but  
13 I know what you mean. The employee witnesses have all  
14 been warned for tomorrow, I take it?  
15 MR POTTS: Mr Rehman is -- I'm going to consider Mr Rehman's  
16 position but on any basis he has quite a small  
17 statement.  
18 MR JUSTICE NUGEE: It's a much smaller thing. I don't want  
19 the employee witnesses to have to be called tomorrow and  
20 then not reached.  
21 MR POTTS: No.  
22 MR JUSTICE NUGEE: So I don't -- I mean, on here you have  
23 got --  
24 MR STUART: My Lord, yes, I think your Lordship sees it.  
25 I have got Lorraine Frondigoun and Patrice O'Brien as

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1 an hour each.  
2 MR JUSTICE NUGEE: Yes.  
3 MR STUART: Because they're --  
4 MR JUSTICE NUGEE: Well, there are quite a few questions to  
5 ask them. You have to challenge their veracity.  
6 MR STUART: I have to challenge them because what they say  
7 in those interviews are put forward. So I do have to  
8 challenge. So I do think they will be an hour each.  
9 MR JUSTICE NUGEE: Well, I don't think I'm going to make any  
10 directions at this stage but could I encourage both of  
11 you and your solicitors, who are responsible for  
12 arranging for the employee witnesses to be here, to  
13 consider whether it's sensible to tell any of them not  
14 to come tomorrow but to come to Thursday, if it's  
15 possible, and I would be quite willing to have people  
16 interposed because, as I say, I don't want to  
17 inconvenience them more than necessary.  
18 I'll just leave it to the two of you and your  
19 solicitors to try and sort something out as sensibly as  
20 possible.  
21 MR POTTS: Indeed. My Lord, perhaps the only thing I might  
22 suggest is certainly on the current timetable, it  
23 certainly perhaps would not appear sensible for them all  
24 to turn up tomorrow. There's two -- Frondigoun and  
25 O'Brien, that suggests --

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1 MR JUSTICE NUGEE: They are the more substantial ones,  
2 I imagine.  
3 MR POTTS: It may be that those two may be sufficient.  
4 MR STUART: It's slightly in my hands, I think, but what I'm  
5 going to do is this: if we are running to plan -- I'm  
6 going to get Frondigoun and O'Brien here tomorrow.  
7 MR JUSTICE NUGEE: Yes.  
8 MR STUART: If we are running to plan and Mr Rehman can  
9 safely be put in and got out and there be plenty of time  
10 for Frondigoun and O'Brien to finish tomorrow afternoon,  
11 I'll do that. If we are running behind and I think that  
12 there is a risk that we won't get to the two of them,  
13 I will seek agreement to put Mr Rehman back -- he sits  
14 in court all day, every day.  
15 MR JUSTICE NUGEE: Yes, I'm sure he does.  
16 MR STUART: So he is not inconvenienced by --  
17 MR JUSTICE NUGEE: That's what I was thinking, that --  
18 MR STUART: So I'm going to make sure they're coming and I'm  
19 going to make sure the others aren't coming tomorrow,  
20 because we are not going to get to them realistically.  
21 MR JUSTICE NUGEE: It doesn't sound like it.  
22 MR POTTS: I think realistically, the two seem reasonable.  
23 I think the others seem somewhat optimistic.  
24 MR JUSTICE NUGEE: Yes. Very well.  
25 If there is nothing else, 10.30 tomorrow.

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1 (4.17 pm)  
2 (The court adjourned until 10.30 am the following day)

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