

OPUS 2

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

Day 6

October 30, 2014

Opus 2 International - Official Court Reporters

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1 Thursday, 30 October 2014
2 (10.30 am)
3 MR JUSTICE NUGEE: Yes, Mr Stuart.
4 MR STUART: My Lord, just a housekeeping/witness matter.
5 I'll just pass up to your Lordship a clip of
6 correspondence. It's not yet ready to go in the
7 correspondence file because there is some more
8 correspondence that has to go in before this one and so
9 the pagination is going to get done, but this is just so
10 your Lordship understands what's happening today.
11 I think your Lordship already knows about
12 Ruth Wotton, who was at the outset of the trial planned
13 to be one of the five staff members who signed the
14 letter --
15 MR JUSTICE NUGEE: She was served but was reluctant to come.
16 MR STUART: That's right.
17 MR JUSTICE NUGEE: And you weren't going to force her to
18 come.
19 MR STUART: That's right.
20 MR JUSTICE NUGEE: Yes.
21 MR STUART: And the respondents have asked us to show them
22 the correspondence with her, which led to that, which we
23 are happy to do. So you will see immediately behind the
24 letter of 29 October, the first two documents are
25 a letter from Akin Palmer, my instructing solicitors, to

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1 Ms Ruth Wotton of 15 October.
2 MR JUSTICE NUGEE: Yes.
3 MR STUART: Does your Lordship see that? That was, as it
4 were, just before the trial, telling her she was going
5 to attend.
6 Then you will see an email, 17 October.
7 MR JUSTICE NUGEE: Yes.
8 MR STUART: From R Wotton to -- just to be clear, Kushinder
9 Birdi is a solicitor in Akin Palmer.
10 MR JUSTICE NUGEE: Yes.
11 MR STUART: And your Lordship sees that --
12 MR JUSTICE NUGEE: She has got professional commitments.
13 MR STUART: She had professional commitments. She explained
14 that she had postponed twice, lost the company money,
15 totally unacceptable, et cetera, et cetera. Can we be
16 accommodating.
17 MR JUSTICE NUGEE: Thank you.
18 MR STUART: So we decided to be accommodating. So that is
19 her --
20 MR JUSTICE NUGEE: Then there is Ms Hilton.
21 MR STUART: Ms Hilton was, until yesterday, due to be the
22 fourth on the list this morning. We received requests
23 from Ms Hilton on Monday. Can I take your Lordship
24 to -- after the letter of 15 October to Ms Hilton, you
25 will see a letter from Akin Palmer.

2

1 MR JUSTICE NUGEE: Yes.
2 MR STUART: 27 October. She had had a telephone call. She
3 hadn't at that stage emailed us. She had spoken on the
4 telephone a number of times and she had mentioned
5 childcare arrangements but then we got -- does your
6 Lordship have it? An email from Clare Hilton,
7 29 October? So that was yesterday afternoon:
8 "... putting into writing my request to be released
9 from court. The reason I submit this request is due to
10 my daughter giving birth this week after a complicated
11 pregnancy and delivery. She needs my support to care
12 for herself, the baby and her other three children."
13 MR JUSTICE NUGEE: Yes.
14 MR STUART: In those circumstances, my Lord, we have decided
15 not to hold Ms Hilton to her summons and we are not
16 cross-examining her either.
17 MR JUSTICE NUGEE: Yes.
18 MR STUART: I think she formally needs to be released, as
19 you already released Ms Wotton, when I asked you to,
20 from the summons. We ask her to be formally released.
21 MR JUSTICE NUGEE: I will formally release Ms Hilton.
22 MR STUART: That reduces the number of small witnesses, as
23 we have called them, to three and they are here:
24 Ms Tidmass, Ms Hornby and Mr Hummell.
25 MR JUSTICE NUGEE: Yes. Do you want to deal with them next?

3

1 MR STUART: If we could, my Lord, I don't want to mess them
2 around any longer than need be.
3 MR JUSTICE NUGEE: No, no, agreed.
4 MR STUART: I'm keen to get them in and out of by lunchtime.
5 MR JUSTICE NUGEE: Yes.
6 MR STUART: Could we have Ms Tidmass.
7 MS HELEN TIDMASS (affirmed)
8 Cross-examination by MR STUART
9 MR JUSTICE NUGEE: Do, please, sit down. Is it Ms Tidmass,
10 Mrs?
11 A. Mrs.
12 MR JUSTICE NUGEE: Thank you.
13 MR STUART: Mrs Tidmass, I think all you are going to need
14 to be handed are bundles E11 and E12. Those are the
15 only two I'm going to refer you to. You have them?
16 Excellent.
17 Let's start with E11. Do you have that?
18 A. Yes.
19 Q. Let's start with the letter. It's at page 3009, the
20 pagination is in the top right-hand corner.
21 {E/935.1/3009} Do you have it?
22 A. Yes.
23 Q. Excellent. Just to be clear, on this version of the
24 letter, I don't think you had signed this version. Is
25 that right? Have I got that right?

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1 A. That's correct.
 2 Q. There are four signatories on that letter, that version
 3 of the letter?
 4 A. Hm-mm.
 5 Q. You came to sign it later, I think?
 6 A. Yes.
 7 Q. And there is another version of the letter with your
 8 signature on it. We will come to that in a moment.
 9 Who wrote this letter?
 10 A. Lucy Hornby and Tracey Hilton.
 11 Q. And how do you know that?
 12 A. Because it was my day off when the letter was written.
 13 Lucy phoned me. We had discussed this before, about
 14 a grievance, because the team was very unhappy at work,
 15 and Lucy phoned me and said -- read the letter to me
 16 over the phone and said how I felt about it, and
 17 I agreed with everything that she wrote down.
 18 Q. So she actually read out to you the letter that had
 19 already been drafted?
 20 A. Yes.
 21 Q. And asked you, "Do you agree to sign that when you next
 22 come in?"
 23 A. Yes.
 24 Q. Right. So my question was: who wrote it? You said
 25 Lucy Hornby and Tracey Hilton?

1 A. Yes.
 2 Q. And then I said how do you know that?
 3 A. Because we was all aware -- all the staff knew that
 4 Tracey and Lucy wrote the letter.
 5 Q. How do you know that? How were you aware?
 6 A. Because I believe Lucy, I have worked with Lucy for
 7 many, many years and she wouldn't lie about something
 8 like that.
 9 Q. When you say she lied -- who did she tell?
 10 A. She told me on the phone.
 11 Q. What, that, "I, Lucy, have written this letter"?
 12 A. Myself -- she said to me, "Myself and Tracey have
 13 written a letter".
 14 Q. Okay. Did she mention Kam Singh?
 15 A. No.
 16 Q. Did you know that Kam Singh knew about the letter?
 17 A. We discussed about writing a letter before this was
 18 actually written.
 19 Q. Okay.
 20 A. But we didn't know how to go ahead about a grievance or
 21 anything.
 22 Q. Right. So you asked who?
 23 A. We asked Kam --
 24 Q. Right.
 25 A. -- if we could put in a grievance, how do we go about

1 it. His words were:
 2 "You can put in a grievance but I have to have
 3 nothing at all to do with it. You have to go through
 4 head office."
 5 Which is what we did.
 6 Q. Then between that conversation with Kam and this
 7 document being drafted by somebody, did you personally
 8 have any involvement in the drafting or was it left to
 9 Tracey and Lucy?
 10 A. The letter that was read to me, I could have had input
 11 into it. I just agreed with everything that was written
 12 down on that letter.
 13 Q. Just to be clear, my question was: in the period between
 14 the conversation with Kam Singh, which you say you were
 15 a party to -- is that right? Have I got that right?
 16 You were a party to a conversation with Kam Singh?
 17 A. There was a big -- all of us after work, all the team
 18 after work had -- we went to the pub, which we often
 19 did.
 20 Q. Yes.
 21 A. Darshan was very upset.
 22 Q. Yes.
 23 A. And that's why we all decided that we should actually
 24 doing something about it, because we felt that our store
 25 wasn't going in the right direction.

1 Q. So this meeting after work in the pub was with, what,
 2 the six people mentioned here?
 3 A. Yes.
 4 Q. Lucy, Tracey, Stephen, Darshan, yourself and Ruth?
 5 A. Yes.
 6 Q. And Kam Singh?
 7 A. He wasn't there for long. He didn't stay for long.
 8 Q. But he was there?
 9 A. He was there with us.
 10 Q. And that's the discussion, you say, where you raised the
 11 issue about, "How do we make a grievance?" and he said
 12 he had to have nothing to do with it?
 13 A. He said he had to have nothing at all to do with it.
 14 Q. So that pub conversation, roughly when did that take
 15 place? Looking at this letter, it's dated 16 June?
 16 A. I would say maybe -- I mean, it's hard to say for
 17 definite because it's a long time ago but I would say
 18 maybe within a week, maybe not that long, maybe days,
 19 maybe a week.
 20 Q. Okay.
 21 MR JUSTICE NUGEE: Do you know which day of the week it was?
 22 A. I would say -- it was my day off.
 23 MR JUSTICE NUGEE: Which was your day off in 2010?
 24 A. I believe back -- you see, I can't remember the dates
 25 because I went on maternity leave. I went back to

1 Specsavers and I cut my days down to one day a week,
 2 which was a Monday. Once my son went to school, I upped
 3 my hours again to four days a week. So it couldn't have
 4 been a Monday, but I don't know what day it would have
 5 been. I can't say that.
 6 MR JUSTICE NUGEE: Thank you.
 7 MR STUART: But anyway, it was within the week prior to
 8 16 June?
 9 A. Yes, I would have said that, yes.
 10 Q. So that's some time from 9 June to 16 June, but you
 11 can't be more precise?
 12 A. No, I can't, I'm sorry.
 13 Q. There was obviously some context to the six of you
 14 writing this letter; yes?
 15 A. Sorry?
 16 Q. It didn't come out of the blue that you wrote this
 17 letter?
 18 A. No, it was discussed. Like I said, we was all unhappy
 19 at work, so we discussed that something should change.
 20 Q. You say you were all unhappy. You didn't speak to
 21 Swarandeeep about this at that stage, did you?
 22 A. No.
 23 Q. No. It was you six and Kam who were discussing it?
 24 A. Erm --
 25 Q. Which might be fair because Kam was your boss?

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1 A. Well, yes.
 2 Q. Right. All right. I wanted to just say there was some
 3 context because -- can we just look at the content of
 4 the letter just to see what it was about. Do you see
 5 that?
 6 A. Yes.
 7 Q. "We are all employees of Specsavers Dartford and have
 8 been very distressed by recent events in-store.
 9 As a team we have been affected by Kam not being
 10 in-store..." {E/935.1/3009}
 11 So obviously, what had happened was that he had been
 12 suspended?
 13 A. I thought he'd -- I thought that was on his own account,
 14 that he --
 15 Q. Okay, you didn't know he had been suspended?
 16 A. I didn't know he had been suspended, no. I thought he
 17 did that himself, to take himself out of the equation
 18 for the time being.
 19 Q. But you knew from 8 June, actually, it was, he was no
 20 longer in the store?
 21 A. I couldn't have told you that date. I wouldn't have
 22 known the date.
 23 Q. I'll take you to the date in a minute.
 24 A. Okay.
 25 Q. But what you are referring to is the fact that he had,

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1 you thought voluntarily --
 2 A. Yes, I did.
 3 Q. I'll show that you it wasn't voluntary in a moment, but
 4 you, the staff, were aware that from a certain date he
 5 was no longer in the store?
 6 A. Hm-mm.
 7 Q. And you say:
 8 "As a team we have been affected by Kam not being in
 9 store to support us..."
 10 Do you see that?
 11 A. Yes.
 12 Q. "We don't want to lose Kam as our director..."
 13 So you obviously thought that Kam's position was at
 14 risk?
 15 A. We didn't really know what was going on at the time but
 16 when Kam went, we wanted him as our director.
 17 Q. That's not what you say. You say:
 18 "We don't want to lose Kam as our director..."
 19 A. Because we wasn't aware if he was going to come back.
 20 We wasn't really told what the situation was.
 21 Q. I'm going to suggest to you that you were aware from
 22 your pub meeting with Kam that week that he faced some
 23 serious allegations --
 24 A. Kam never discussed that with us.
 25 Q. -- from a couple of female members of staff?

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1 A. But Kam never discussed that.
 2 Q. And that you six were concerned that you were going to
 3 lose Kam as your director, as you put it there:
 4 "We don't want to lose Kam as our director..."
 5 I'm suggesting to you that you said that because you
 6 did actually think there was a risk that you would do?
 7 A. No, I don't agree.
 8 Q. Okay. The next paragraph is:
 9 "We have felt ostracised by Swarandeeep..."
 10 I know you didn't write this letter, you personally.
 11 Ostracised?
 12 A. Well, following on from that, regarding the Jas and
 13 Fatima, then yes.
 14 Q. No, we haven't even got on to Jas and Fatima yet, have
 15 we:
 16 "We have felt ostracised by Swarandeeep..."
 17 A. Then, yes.
 18 Q. What does "ostracised" mean?
 19 A. That we felt that we wasn't -- our group, our team felt
 20 divided.
 21 Q. Divided, okay. So the team was you six as part of the
 22 team and the other two, Jas and Fatima, as the other
 23 part?
 24 A. No, because there was other members of staff there that
 25 didn't sign this letter. So our team consisted of more

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1 than just our six.
 2 Q. Okay, but by "ostracised", you meant that the team was
 3 split?
 4 A. Yes.
 5 Q. Between you six, who are -- I'll put it plainly that you
 6 were against Jas and Fatima?
 7 A. Yes.
 8 Q. Then there was Jas and Fatima who were obviously
 9 together?
 10 A. Hm-mm.
 11 Q. And then there were some other members of staff who were
 12 neither in one set nor the other?
 13 A. No, I still believe that they was -- more in with us.
 14 Q. Okay.
 15 A. Lorraine, Gladstone, but they just didn't sign this
 16 letter. They didn't want to get involved.
 17 Q. Anyway:
 18 "We have felt ostracised by Swarandeeep since Jas and
 19 Fatima began working with us."
 20 You personally, how many days had you worked in the
 21 store with Jas, Fatima and Swarandeeep since you
 22 returned? How many actual days, you personally?
 23 A. I don't know because this is a long time ago.
 24 Q. I'm going to suggest to you that it was no more than two
 25 or three occasions?

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1 A. I believe I worked with them more than two or three
 2 occasions.
 3 Q. Okay. "Ostracised" means "divided"; is that right, in
 4 your understanding?
 5 A. That's how I feel in this situation.
 6 Q. Okay. It goes on:
 7 "We have felt she has given them preferential
 8 treatment."
 9 That is, Jas and Fatima.
 10 A. Okay.
 11 Q. That's what you are signing up to?
 12 A. Yes.
 13 Q. That you feel Swarandeeep was giving them preferential
 14 treatment?
 15 A. Fatima was late for work quite a lot. If we was ever
 16 late for work, we would have to make the time up. We
 17 would have it taken off our breaks, our lunches.
 18 I never witnessed that with Fatima.
 19 Q. "... whispering conversations and huddles between the
 20 three of them."
 21 Did you personally see those?
 22 A. Yes, I did once. I went up on my break -- I went on to
 23 the roof, just like the fire exit. Swarandeeep was on
 24 her phone, Jas and Fatima were on the roof as well but
 25 they was right at the back of the roof. I stood by the

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1 door because I'm a smoker. I don't know what was --
 2 with that conversation. I wouldn't have listened but
 3 they was right at the back of the roof.
 4 Q. "We have been distressed by the grievances they have
 5 brought in their short time in the store..."
 6 One of them was on a probationary period, wasn't
 7 she?
 8 A. Yes.
 9 Q. So these grievances that you refer to, you were
 10 obviously aware of the grievances that they brought?
 11 A. I don't know about Fatima, a grievance. I know about
 12 the Jas one, after -- because I knew she was going for
 13 a meeting with head office but she came into work that
 14 morning and asked to see Lorraine, who used to work in
 15 our call centre at the time. And I said, "Well, she is
 16 up in the call centre." So she went up to see Lorraine
 17 and I buzzed up to Lorraine and I said, "What did Jas
 18 want?" and she said to me, "She asked me if I would put
 19 in a grievance against Kam".
 20 Lorraine said, "No, I won't, I don't have to, I have
 21 no reason to".
 22 MR JUSTICE NUGEE: Lorraine who?
 23 MR STUART: Lorraine, isn't it?
 24 A. It's Lorraine, yes, sorry --
 25 MR STUART: Not Lorraine Frondigoun?

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1 A. Not Lorraine Frondigoun, no.
 2 Q. It's Lorraine.
 3 A. Yes.
 4 Q. But that's not what this letter is referring to that you
 5 signed up to, Mrs Tidmass, is it:
 6 "We have been distressed by the grievances they have
 7 brought..."
 8 The sentence goes on, so we can see what grievances
 9 you are talking about. It's not some request to get
 10 somebody else to put a grievance in. It's:
 11 "... the grievances they have brought ... and we
 12 feel Swarandeeep has taken a big part in them being
 13 brought to head office's attention unnecessarily."
 14 So what grievances are you signing this letter to
 15 refer to, Mrs Tidmass? What formal head office
 16 grievances?
 17 A. Well, I believe this is the grievance regarding Kam.
 18 Q. Which grievance regarding Kam? I thought you didn't
 19 know about the details of the grievance regarding Kam?
 20 A. We did know afterwards.
 21 Q. When?
 22 A. Because when -- like I said, we felt our team was
 23 divided and it was divided.
 24 Q. I'm not asking you about the first sentence. Try and
 25 answer my question, Mrs Tidmass. I'm asking you about

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1 this sentence. We will get a long a lot quicker if you
 2 answer the question.
 3 What grievances, and when did you learn the details
 4 of the grievance against Kam?
 5 A. I don't know -- I don't know how to answer your
 6 question. I just -- by reading this:
 7 "... distressed by the grievances that have brought
 8 in the short time in the store ..."
 9 That our team was just falling apart.
 10 MR JUSTICE NUGEE: Perhaps Mrs Tidmass, at the time you
 11 signed the letter, what did you know about the
 12 grievances which are here referred to that Jas and
 13 Fatima had brought?
 14 A. I don't know about the Fatima, I know about the Jas,
 15 which was to do with --
 16 MR JUSTICE NUGEE: What did you know, at the time that you
 17 signed letter, about the grievance that Jas had brought?
 18 A. Some kind of -- I don't know what the word is --
 19 MR STUART: Harassment?
 20 A. Maybe.
 21 Q. Sexual harassment?
 22 A. Right, okay, sexual harassment then, which I was
 23 actually very shocked about.
 24 Q. Who told you about the details of the sexual harassment
 25 grievance against Kam before 6 June?

17

1 A. I don't know.
 2 Q. I'm going to suggest to you that it was Mr Kam Singh
 3 himself in the pub?
 4 A. No, never. Never.
 5 Q. All right, then it was Kam Singh before the pub?
 6 A. No. Kam has never mentioned to me about this. The shop
 7 floor knew about this.
 8 Q. Was it Lucy Hornby and Tracey Hilton, the people who
 9 Kam Singh got to write this letter?
 10 A. No, no.
 11 Q. It wasn't them?
 12 A. No, it wasn't them.
 13 Q. Okay.
 14 A. I can't tell you -- I cannot pick out a person but
 15 everyone was talking about it on the shop floor.
 16 I can't pick out a person who -- I don't think anybody
 17 actually come up to me and said, "Do you know what's
 18 happened?"
 19 Q. Let's go back a little bit in the bundle and see what
 20 you knew. We will do it in reverse order, I think it's
 21 probably the easiest. 2951 -- actually, no, let's do it
 22 the other way round, sorry. 2945. {E/912/2945}
 23 That was on 1 June. Ms Birdi was writing to Kam
 24 complaining about his conduct, nothing to do with the
 25 Jas and Fatima matter but to do with Kevin the lab tech

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1 who had made a complaint, brought a grievance, against
 2 him. Did you know about that?
 3 A. I don't know what the grievance was.
 4 Q. Did you know Kevin had complained about Kam?
 5 A. Yes.
 6 Q. And we see Kevin's grievance at 2943, so go back two
 7 pages. {E/911/2943} Friday 28 May. Kevin the lab
 8 technician signed it at the bottom on 2944 {E/911/2944}
 9 and the sum total of it -- if you go to 2944 just above
 10 the second holepunch, do you see there are a couple of
 11 paragraphs starting:
 12 "Kevin reports that he has been very upset..."
 13 Do you see that?
 14 A. Yes.
 15 Q. And then:
 16 "Kevin said he prefers to stay in one place of work
 17 but he feels that he is being pushed out by Kam and he
 18 is therefore looking for a new position..."
 19 Do you see that?
 20 A. Yes.
 21 Q. Were you aware that the general tenor of Kevin's
 22 complaint was that Kam was trying to push him out? The
 23 general nature of his complaint?
 24 A. Sorry?
 25 Q. From your discussions on the shop floor, where you all

19

1 talk about these things, were you aware that in general,
 2 Kevin's complaint against Kam was that Kam was trying to
 3 push him out?
 4 A. I didn't really have a lot to do with Kevin. I didn't
 5 work with Kevin for that long. Kevin never came down on
 6 the shop floor. He was always in the lab, obviously.
 7 Q. Okay, so is the answer to my question, you weren't aware
 8 of Kevin's complaint or you weren't aware of the detail
 9 of Kevin's complaint?
 10 A. I wasn't aware of the details of his complaint at all.
 11 Q. Okay, but you were aware that he was complaining about
 12 Kam?
 13 A. Yes.
 14 Q. Fine. That's one grievance. The other grievance is the
 15 Jas/Fatima one. Can we start at 2864. {E/892.1/2864}
 16 Do you have that?
 17 A. Yes.
 18 Q. 29 April 2010. Do you see that?
 19 A. Yes.
 20 Q. It starts:
 21 "An urgent meeting was requested with Swarandeeep
 22 Birdi by a member the team at short notice...
 23 Jas Khunkhuna."
 24 Yes?
 25 A. Yes.

20

1 Q. "... was very upset and made a complaint against
2 Kam Singh. She was accompanied by a working colleague,
3 Fatima Khan for support."
4 Do you see that?
5 A. Yes.
6 Q. Is this the grievance that you think you were referring
7 to in your letter, what you describe as "the Jas
8 grievance"?
9 A. Well, I didn't know anything about this letter, so
10 I don't know.
11 Q. I know you didn't know about this meeting -- this is
12 a meeting note. I'm saying, is this the grievance, is
13 this the Jas grievance that you were referring to?
14 A. Yes.
15 Q. Yes. We see:
16 "She raised a serious issue in regards to KS's
17 [that's Kam Singh's] unwanted attention and behaviour
18 towards her which is causing her to be very distressed
19 and unhappy.
20 "The complaint was that KS is very touchy feely with
21 her in a manner he has never displayed with any other
22 staff member. She reports that he is always leering and
23 staring at her and it is making her feel harassed and
24 very uncomfortable. She has raised an issue with him on
25 a number of occasions but there has been no change in

21

1 his behaviour. On one occasion she informed
2 [Swarandeeep Birdi] that she had clearly told him his
3 behaviour was inappropriate and his comment to [Jas] was
4 'some people have an attraction their colleagues'.
5 "She reported also that he will deliberately stand
6 in front of the till when she needs to use it and will
7 not move despite her repeated requests."
8 It goes on:
9 "She then has to physically touch him to eventually
10 get him to move out of the way so she can continue to do
11 her job.
12 "He has summoned her into his office on a number of
13 occasions with no business reason to do so. On one day
14 he called her into his office at least three times in
15 a short period of time which delayed her from completing
16 her tasks."
17 Do you see all of that?
18 A. Yes.
19 Q. It goes on and on and at the bottom she refers to the
20 fact -- do you see the bottom of the page:
21 "The recent topic [Kam Singh] brought up in
22 conversation at lunch was regarding her relationship
23 with her partner and it being that he was trying to
24 convince her that she should not get married to her
25 partner of four years."

22

1 Do you see that?
2 A. Yes.
3 Q. And then over the page:
4 "He has behaved in a 'strop'py' manner ...
5 "She feels that she has her 'own personal stalker'
6 by the childish and inappropriate way he is behaving."
7 Do you see that?
8 A. Hm-mm.
9 Q. "... a locum has even asked if she is okay after KS has
10 been hovering over her.
11 "She feels very uncomfortable also as he has access
12 to all her personal details as he is the boss."
13 Do you see that?
14 A. Yes.
15 Q. And then the penultimate sentence:
16 "Both JK ..."
17 That's Jas:
18 "... and [Fatima] are fearful that they may lose
19 their jobs or that [Kam Singh] may make their lives
20 difficult once this gets out but had no choice but to
21 report this to [Swarandeeep Birdi]."
22 Do you see that?
23 A. Hm-mm.
24 Q. You have confirmed those are the allegations against
25 Mr Singh that Jas and, at the end there, Fatima were

23

1 making. Yes?
2 A. Yes.
3 Q. The reaction: can you go to 2926. {E/904.1/2926}
4 I should have asked you: were you aware at the end
5 of April 2010 that they were making a formal grievance,
6 that Jas was, supported by Fatima. Were you aware?
7 A. No, I don't think I was.
8 Q. Okay. 2926. Do you have it?
9 A. Yes.
10 Q. This is 23 May, so the formal grievance has been sent on
11 to head office.
12 A. Hm-mm.
13 Q. Obviously. And Alison Girollet is at the head office.
14 Do you know of Alison Girollet?
15 A. No.
16 Q. No, all right. Anyway, this is a letter from Mr Singh,
17 23 May:
18 "As you are aware two members of staff,
19 Jas Khunkhuna and Fatima Khan have confirmed their
20 intention to make formal complaints against me."
21 Do you see that?
22 A. Yes.
23 Q. He says it's fabricated allegations on a professional
24 and personal level. He reports -- do you see, just
25 above the second holepunch:

24

1 "Yesterday you informed me ..."
 2 That's Alison Girollet of SOG head office that
 3 informed him, Mr Singh:
 4 "... that [Fatima] intends to make a formal
 5 complaint."
 6 Do you see that?
 7 A. Yes.
 8 Q. "As a result of this, I am very anxious about working in
 9 these conditions. I feel like a 'sitting duck'."
 10 Then he recommended that they are, in his words,
 11 "given time off". Were you aware that Kam wanted to
 12 give the two of them time off?
 13 A. No.
 14 Q. No. Were you aware by 23 May of their grievances?
 15 A. I don't believe so.
 16 Q. No. Okay. I can't ask you about them, then.
 17 The Fatima grievance is the next page, 2927.
 18 {E/905/2927} And it's more than a grievance; she
 19 resigns, doesn't she? Do you remember, 27 May, Fatima
 20 writes to Swarandeeep Birdi, the director the store:
 21 "I hereby am giving notice of resignation. This is
 22 due to me feeling very uncomfortable working with
 23 Kam Singh and Ruth Wotton."
 24 Do you see that?
 25 A. Yes.

1 Q. Were you aware at the end of May that Fatima was
 2 resigning because of feeling uncomfortable from
 3 Kam Singh and Ruth? Were you aware of that?
 4 A. No.
 5 Q. No? Okay. If you skip on to 2939. It's probably best,
 6 just to get the context -- yes, 2939. {E/910.1/2939}
 7 This is a written grievance by Fatima. She is called
 8 Gulamali but she is also called Khan?
 9 A. I only know Khan.
 10 Q. Some people know her as Fatima Khan?
 11 A. Yes, it was only Khan I knew her as.
 12 Q. Okay, but her actual name is Fatima Gulamali?
 13 A. Okay.
 14 Q. This is from Fatima. Do you see that?
 15 A. Yes.
 16 Q. To Riyaz Rajan. Do you know Riyaz Rajan?
 17 A. I think I have met him once when he come into the store.
 18 Q. He is from SOG, isn't he?
 19 A. Yes.
 20 Q. She sets out here a grievance. Do you see that?
 21 A. Yes.
 22 Q. We won't go through all of it because we don't need to,
 23 but about half way down between the two hole punches.
 24 "He [Kam Singh] also started to give me and Jas
 25 Dirty Looks."

1 Do you see that?
 2 A. Yes.
 3 Q. And then various allegations are made by
 4 Ms Gulamali/Khan. So she has raised a formal grievance
 5 now against Mr Singh as well; do you see that?
 6 A. Hm-mm.
 7 Q. Were you aware of her formal grievance --
 8 A. No.
 9 Q. -- against Mr Singh?
 10 A. No.
 11 Q. No? Go back to page 2936, which is wrongly dated 2009
 12 and should read 2010. {E/910.1/2936}
 13 So two days later, Specsavers wrote to Mr Singh to
 14 say that the grievances of Ms Jas Khunkhuna and
 15 Ms Fatima Gulamali were being investigated. Do you see
 16 that?
 17 A. Hm-mm.
 18 Q. Were you aware that Specsavers -- not Ms Birdi,
 19 Specsavers -- were investigating the grievances against
 20 Kam Singh?
 21 A. No.
 22 Q. No. I have already taken you to the Kevin grievance and
 23 to page 2945. {E/912/2945}
 24 By 1 June, Ms Birdi was raising with Kam Singh the
 25 issue about Kevin and his threat to leave. Were you

1 aware that Ms Birdi was concerned at the loss of staff
 2 at this stage that seemed to be being caused by
 3 Kam Singh? Were you aware of that?
 4 A. No.
 5 Q. No? And then the reaction from Mr Singh is at
 6 page 2951, {E/915.1/2951} 2 June 2010. Do you see that?
 7 A. Yes.
 8 Q. "Dear Partners..."
 9 This is to the board of directors of Specsavers:
 10 "I was shocked to learn that Ms Birdi would like to
 11 re-employ Fatima Khan, an employee who resigned and left
 12 work yesterday...
 13 "I have serious reservations about this and I do not
 14 believe it's in the best interests of the business to
 15 re-employ Fatima. My team have openly discussed their
 16 relief that Fatima Khan has resigned. When the team
 17 were informed that Ms Birdi would like to re-employ
 18 Fatima, they displayed a unified show of defiance. Five
 19 employees (out of eight) from my retail team have
 20 advised me that they will hand in their resignations and
 21 look for alternative employment, should they be forced
 22 to work with Fatima Khan again. Two of these employees
 23 are my 'top team' staff.
 24 "All of these employees have issues relating to
 25 Fatima Khan's attitude and communication style..."

1 Do you see that?
 2 A. Yes.
 3 Q. That's written on 2 June. She had only handed in her
 4 resignation a couple of days earlier. Do you remember;
 5 I just took you to it?
 6 A. Yes.
 7 Q. So perhaps I ought to have checked with you: are you one
 8 of the five employees out of eight from Mr Singh's
 9 retail team with whom he was having these discussions?
 10 A. Yes, we did discuss -- we didn't think it would be good
 11 for Fatima to come back.
 12 Q. So when did you have the discussion, you five members of
 13 the team -- who were the five: you ...?
 14 A. I would say Lucy, Steve, Tracey, Ruth.
 15 Q. So you five, the same five of the six who signed the
 16 letter, and Mr Singh, were having this discussion when?
 17 A. I don't remember having this discussion with Kam.
 18 I remember discussing it amongst staff.
 19 Q. Is he lying here?
 20 A. No, I wouldn't say he is lying because it's how we felt
 21 as a team.
 22 Q. It says:
 23 "Five employees ... from my retail team have advised
 24 me that they will hand in their ..."
 25 He is saying you threatened to him -- you said to

1 him that you will hand in your resignation unless he
 2 gets rids of Fatima Khan. Do you say that to him?
 3 A. I don't remember. I don't remember. This is four --
 4 four years ago -- plus years. I don't remember
 5 everything. I don't remember --
 6 Q. You don't seem to remember very much at the moment. Do
 7 you remember the conversation?
 8 A. I remember a conversation that we had with staff.
 9 I don't remember having a conversation with Kam but I do
 10 remember having a conversation with staff.
 11 Q. All right. And this conversation happened where, the
 12 one you can remember?
 13 A. I would say probably on the shop floor.
 14 Q. What, whilst you were all serving customers?
 15 A. No, it wouldn't have been whilst we were serving
 16 customers.
 17 Q. The five of you were all chatting away about, "I'm going
 18 to resign unless they get rid of Fatima Khan"?
 19 A. No, it wouldn't have been in front of customers at all.
 20 Q. No, so where was this conversation?
 21 A. I don't remember. I don't remember.
 22 Q. I'm sorry. Do you remember or don't you remember?
 23 A. I don't remember where the discussion took place.
 24 Q. Okay. Who was involved in the discussion?
 25 A. Well, like I have just said, it would have been --

1 I don't even -- I mean, I don't know -- when was this
 2 day?
 3 Q. I don't know. You are the person who is supposed to
 4 have had this conversation.
 5 A. Was it definitely me or was it -- was it definitely me?
 6 Q. I don't know.
 7 A. There was other staff there.
 8 Q. I don't know. I'm asking you?
 9 A. I don't remember. I don't remember.
 10 Q. You don't remember. So you don't remember the
 11 conversation, you don't remember making that threat?
 12 A. I don't ever remember threatening to hand my notice in,
 13 no.
 14 Q. Okay. But you did have a conversation about
 15 Fatima Khan, not with Mr Singh but with other members of
 16 the team?
 17 A. Yes.
 18 Q. Was this a group conversation, ie where five of you were
 19 present together in a room somewhere -- you don't
 20 remember where it was?
 21 A. No, I don't ever remember standing with five other
 22 members of staff having a discussion like this.
 23 Q. No. So what you are really referring to is sort of --
 24 I hesitate to call it "gossip" but you know what I mean.
 25 What you are really referring to is informal chats

1 between you and the other four or five of your group, as
 2 you described it earlier, where you were sort of
 3 agreeing with each other about --
 4 A. Yes, I'm not saying that Kam didn't speak and have any
 5 conversation, but I do remember just talking to staff in
 6 general about it.
 7 Q. Hm-mm, and about the fact -- this conversation must have
 8 taken place between her resigning by an email of 27 May,
 9 and him writing this email on 2 June. So it's quite
 10 a short period of time.
 11 A. Hm-mm.
 12 Q. Do you see?
 13 A. Yes.
 14 Q. So who told you that she had resigned and that Ms Birdi
 15 would like to re-employ Fatima? Who told you that?
 16 A. I don't know if I was told that. I don't recall being
 17 told that she was going to be re-employed. I don't
 18 remember that conversation of being re-employed.
 19 Q. Okay. He seems to say that when you were informed that
 20 Ms Birdi would like to re-employ Fatima -- I should make
 21 it clear, Mrs Tidmass, it's a lie. Ms Birdi didn't want
 22 to re-employ Fatima at all and there is no evidence to
 23 that effect, but I'm asking you about this letter.
 24 When you were told that, you displayed a "unified
 25 show of defiance"; is that right? Were you part of the

1 unified show of defiance?
 2 A. I don't think it would have been good for her to come
 3 back to us, no.
 4 Q. So you were told that she had resigned and that
 5 Swarandee Birdi wants her back? You were told that?
 6 A. No, I wasn't told that.
 7 Q. No, you weren't? Okay. So you couldn't have reacted by
 8 an unified show of defiance, because you weren't even
 9 told that, were you?
 10 A. No.
 11 Q. And you didn't make the threat of resignation. Who are
 12 the -- are you a member of the "top team"?
 13 A. I don't know, I wouldn't like to say that.
 14 Q. Okay, fine.
 15 MR JUSTICE NUGEE: What was your job, Mrs Tidmass?
 16 A. Receptionist.
 17 MR JUSTICE NUGEE: Receptionist.
 18 MR STUART: You were by this stage aware that Kam Singh had
 19 had grievances taken out against him by Jas and Fatima?
 20 A. Yes.
 21 Q. You were discussing with him, in chats, rather than in
 22 a formal meeting of any sort, the fact that Fatima had
 23 resigned?
 24 A. I've never spoken to Kam about Fatima resigning. The
 25 conversation has never taken place with Kam.

1 Q. All right, then I can't ask you about it.
 2 Then we move on. That's 2 June. Ms Birdi then
 3 makes a grievance against Kam Singh, page 2959.
 4 {E/918/2959} Can you see that?
 5 A. Yes.
 6 Q. "I am writing to add another grievance against ...
 7 Mr Kamaljit Singh...
 8 "Mr Singh has had meetings with staff yesterday..."
 9 So that would be 2 June. Do you see it? 2 June was
 10 the date he wrote his email to Alison Girolet?
 11 A. Okay.
 12 Q. "Mr Singh has had meetings with staff yesterday
 13 following your contact with him in with regards to
 14 Fatima. He did not discuss anything with me prior to
 15 these meetings. Instead he went to talk about the issue
 16 with members of staff and then came to me in the
 17 afternoon and told me Fatima will not be coming back as
 18 he does not want her back and neither do four staff
 19 members. I asked which staff they were. He informed me
 20 and instructed me that I was not to have any meeting
 21 with them without his being present, which I found
 22 unacceptable. He has had many one-to-one meetings with
 23 staff, some of these meetings being reported to me as
 24 very inappropriate and demeaning. Also the meetings he
 25 had with staff were not in my presence."

1 Do you see that?
 2 A. Yes.
 3 Q. Were you one of the people that he spoke to, one of the
 4 staff members?
 5 A. No.
 6 Q. Are you sure?
 7 A. Yes.
 8 MR JUSTICE NUGEE: Can I ask you, Mrs Tidmass, were you
 9 still only working one day a week then, do you think?
 10 A. This is what I'm trying to -- the dates, I'm trying to
 11 work out when I started back there, doing, I think it
 12 was three and then I upped it to four.
 13 MR JUSTICE NUGEE: And that was when your son went to
 14 school, was it?
 15 A. My son went -- yes, so I think he started school -- it
 16 would have been 2007 -- no, no, what am I thinking of.
 17 MR STUART: When was your son born?
 18 A. 2003.
 19 Q. So by 2009 at least, he was six and going to school?
 20 A. Yes.
 21 Q. So by 2010 you were working four days a week?
 22 A. I think first of all it was three and then I think
 23 I upped it to four.
 24 Q. Three or four days a week?
 25 A. Yes.

1 Q. You weren't doing your one day a week any longer?
 2 A. No.
 3 Q. So this was a time when you were doing your three to
 4 four days a week?
 5 A. Hm-mm.
 6 Q. So you don't think you were one of the people that he
 7 spoke to on 2 June?
 8 A. No.
 9 Q. No? All right. Go down the page, just below the second
 10 hole punch:
 11 "... very serious concerns in regards to the
 12 grievances being investigated at present especially in
 13 light of Mr Singh's behaviour today."
 14 So she has just dealt with yesterday, that was
 15 2 June, and now she is on to the 3rd:
 16 "I have been informed by Jas ... that Mr Singh has
 17 been having meetings with all the remaining shop floor
 18 staff today. Following the meetings staff have been
 19 very cold towards her. She also informed me that she
 20 had left the store at her lunch time to get some food.
 21 On her return two staff members had their back to
 22 reception and were discussing the fact that Jas had
 23 raised a grievance against Mr Singh; they were unaware
 24 that Jas had re-entered the store."
 25 Do you see that?

1 A. Yes.
 2 Q. Was that you?
 3 A. No.
 4 Q. Do you know who it was?
 5 A. No.
 6 Q. Did Mr Singh speak to you on 3 June about the
 7 grievances?
 8 A. No, Kam has never discussed grievances with me.
 9 Q. All right. So then, on page 2961, on 3 June. Do you
 10 see that? {E/919/2961}
 11 A. Yes.
 12 Q. Mr Rajan was investigating the grievances, wasn't he?
 13 Do you remember?
 14 A. Yes.
 15 Q. Were you aware of the investigation of the grievances
 16 going on?
 17 A. From here?
 18 Q. Were you aware in the first week of June 2010 that
 19 grievances against Kam Singh were being investigated by
 20 Specsavers?
 21 A. I believe -- I'm not sure if this is when I actually met
 22 Riyaz, when he came into store. I'm just trying to get
 23 the dates in my head.
 24 Q. I don't think this particular meeting refers to you.
 25 This is with Steve Hummell and Laura Whelton. Laura is

1 just a note-taker. This is an interview with
 2 Steve Hummell; we're going to come on to him in
 3 a minute.
 4 Were you interviewed by Mr Rajan?
 5 A. Yes, I believe I was.
 6 Q. And then we see page 2970, {E/921/2970} Mr Singh is
 7 formally suspended with immediate effect until further
 8 notice. Do you see that?
 9 A. Yes.
 10 Q. You told me early on in this cross-examination that you
 11 thought he had voluntarily taken himself out of the
 12 equation?
 13 A. Yes.
 14 Q. Your words. I said I would show you that, no, that
 15 wasn't right. Do you see that, page 2970?
 16 A. Yes.
 17 Q. Were you aware from Mr Singh that he had been suspended
 18 after 8 June? Did he tell you he had been suspended?
 19 A. I don't remember him saying to me personally --
 20 Q. Did some other member of staff perhaps, Lucy or ...?
 21 A. I think we were all under the impression that we just
 22 thought he voluntarily did -- was suspended.
 23 Q. Okay. Did you know Swarandeeep had been suspended,
 24 page 2972. {E/922/2972} They suspended her as well?
 25 A. Yes.

1 Q. Ah, so you knew she had been suspended but you didn't
 2 know he had been suspended?
 3 A. No, I didn't say that. I said that we thought he had
 4 voluntarily gone.
 5 Q. That's right. But I asked you, did you know Swarandeeep
 6 had been suspended. Your answer was yes?
 7 A. Well, it was common knowledge that Swarandeeep was
 8 suspended.
 9 Q. Okay.
 10 A. I can't -- it's dates and -- it's difficult sitting here
 11 when you are trying to answer things and knowing --
 12 well, was I there that day? How did I find that out? --
 13 because it was many years ago. It's difficult.
 14 Q. Okay. It's in this period after 8 June that you say you
 15 had your meeting -- your drink, your pub meeting -- with
 16 Mr Singh and the other members of staff?
 17 A. I did say I couldn't tell you a definite date. I would
 18 have said around about -- I cannot remember the dates --
 19 and I can't.
 20 Q. I have asked you right up until this point whether you
 21 have had any conversation with Mr Singh about these
 22 matters, the grievances, et cetera, and you have so far
 23 replied on every occasion: no, not at this point, no,
 24 not at this point, no, not at this point. So when did
 25 you have this meeting in the pub --

1 A. It wasn't a meeting -- it wasn't an arranged meeting at
 2 a pub. We went over to the pub.
 3 Q. Yes?
 4 A. And we discussed between us regarding a grievance.
 5 Q. And he came in?
 6 A. He came in, when he finished work he came in, and he
 7 said, like I said earlier, "You have to go through head
 8 office. You can put in a grievance but I cannot have
 9 anything at all to do with this."
 10 Q. And the six of you decided -- four, perhaps -- decided,
 11 "We are now going to raise a grievance"?
 12 A. There could have been more people there. I think we all
 13 went. It wasn't just you keep saying the six, the five.
 14 It would have been all from work. We used to drink --
 15 Q. So how many were there?
 16 A. I don't know.
 17 Q. Was Swarandeeep there?
 18 A. No.
 19 Q. No. Was Jas there?
 20 A. No.
 21 Q. Was Kevin there?
 22 A. No.
 23 Q. No? Not everybody then perhaps?
 24 A. No.
 25 Q. No. Anyway, as a result of your conversation, which

1 included Mr Singh being there, those of you who decided
 2 to do it decided to raise a grievance. Is that right?
 3 A. Yes, because -- it was Darshan who was very angry. It
 4 was regarding her supervision and she missed her exams
 5 because of -- to do with the supervision. I don't
 6 really understand the whole of it, but I think that was
 7 to do with Swarandeeep meant to be supervising her,
 8 signing her off. That was missed. So she did miss
 9 dates of her exams.
 10 Q. Okay. So Darshan had a complaint about supervision from
 11 Swarandeeep Birdi?
 12 A. No.
 13 Q. By Swarandeeep Birdi, sorry?
 14 A. It was to do with the supervision that I believe that
 15 Swarandeeep was meant to be signing off, but she missed
 16 dates for -- because Swarandeeep couldn't do it, for
 17 whatever reason I do not know, and Darshan missed dates
 18 for her exams which put her back on her course. Darshan
 19 kept asking about the supervision. It wasn't happening.
 20 Q. No.
 21 A. Darshan's an extremely level-headed, calm person, but
 22 she was very cross.
 23 Q. She was?
 24 A. She was, yes.
 25 Q. I'm not asking you about Darshan. I'm asking you about

1 the grievance that you raised after the five or six of
 2 you, or however many more you say were there, discussed
 3 the matter with Mr Singh and decided that you lot -- not
 4 Darshan, you lot -- wanted to raise a grievance with
 5 head office?
 6 A. It wasn't all discussed -- the whole conversation didn't
 7 take place with Kam being there. He wasn't there for
 8 long. He left.
 9 Q. He said, "I can't be speaking to you about this.
 10 I can't get involved"?
 11 A. He did say that. He couldn't get involved in it at all,
 12 which he didn't.
 13 Q. He shouldn't have been speaking to you, should he?
 14 A. But we didn't go over there for a meeting to discuss
 15 a grievance. We went over there like we do a lot after
 16 work. Maybe -- it could have been a Friday.
 17 Q. But he wasn't at work, was he?
 18 A. Sorry?
 19 Q. He wasn't there? He came in afterwards; you have
 20 already told us that?
 21 A. After work?
 22 Q. He joined the pub event after you had gone over there?
 23 A. He was at work that day, but if he's in the office,
 24 sometimes we leave there early, he has got a key, he
 25 will leave on his own accord. He may have come over

1 10/15 minutes after we were there.
 2 Q. Anyway, you say it's at this meeting that the people who
 3 made this letter and signed this letter, made the
 4 decision to make the letter?
 5 A. Yes, I would say that this was what we was going to do.
 6 Q. Who were the ringleaders for this decision to write this
 7 letter?
 8 A. I wouldn't call them ringleaders. Like I said earlier,
 9 it was Lucy and Tracey that wrote the letter --
 10 Q. I didn't ask you that. I said who were the ringleaders
 11 for the decision to write the letter?
 12 A. Lucy and Tracey. I wouldn't call them ringleaders.
 13 Q. All right. If not ringleaders, who suggested that the
 14 six of you should write a letter?
 15 A. Lucy and Tracey.
 16 Q. Okay. Had they spoken with Kam prior to --
 17 A. I don't know but I guess I would say no because it was
 18 all done on our accord.
 19 Q. But you hadn't spoken to Kam. If they hadn't spoken to
 20 Kam, what were you going to be writing a letter about?
 21 It sounds a funny conversation you are having?
 22 A. I don't understand what you are saying to me.
 23 Q. Your evidence is that Lucy and Tracey suggested that all
 24 of you should write a letter to head office?
 25 A. Hm-mm.

1 Q. What are you going to be writing about, if you haven't
 2 spoken to Kam Singh about the grievances that are raised
 3 against him, and Lucy and Tracey haven't spoken to him?
 4 A. Because I don't think our grievance -- our grievance
 5 wasn't all to do with Jas and Fatima.
 6 Q. Sorry, your grievance was...?
 7 A. That letter wasn't all about Jas and Fatima. It was how
 8 we felt in store in general.
 9 Q. Okay. Page 3009 is the letter. {E/935.1/3009} Just
 10 above the first holepunch:
 11 "We felt ostracised by Swarandeeep since Jas and
 12 Fatima began working with us."
 13 Do you see that?
 14 A. Yes.
 15 Q. Preferential treatment to them. That's Jas and Fatima,
 16 isn't it?
 17 A. Is this exactly the same one I signed, but on a later
 18 date?
 19 Q. I don't know. We will come to that in a moment. Do you
 20 see that:
 21 "We have been distressed by the grievances they have
 22 brought."
 23 So that is a reference, isn't it, to Jas and
 24 Fatima's grievances? So whoever wrote this letter knew
 25 about Jas and Fatima's grievances, didn't they? Do you

1 see the words I'm taking you to?
 2 A. Yes, yes.
 3 Q. Do you agree with me that whoever wrote the letter --
 4 and I know you say it wasn't you -- but whoever wrote
 5 the letter knew about Jas and Fatima's grievances?
 6 A. Yes.
 7 Q. It then says:
 8 "We feel Swarandeeep has taken a big part in them
 9 being brought to head office's attention unnecessarily."
 10 MR JUSTICE NUGEE: The "unnecessarily" is crossed out.
 11 MR STUART: It is on a version, you are right, my Lord, but
 12 on the typed-up version the word "unnecessarily"
 13 appeared, didn't it?
 14 A. Like you just say, it's crossed out, so --
 15 Q. Do you know who crossed it out?
 16 A. No.
 17 Q. Do you know when it was crossed out?
 18 A. No.
 19 Q. On the version that was read out to you on the telephone
 20 by Lucy -- or was it Tracey?
 21 A. No, it was Lucy.
 22 Q. Did she say "unnecessarily" when she read it out?
 23 A. I don't remember.
 24 Q. You don't remember; okay.
 25 A. I can't remember --

1 Q. Anyway:
 2 "We feel Swarandeeep has taken a big part in them
 3 being brought to head office's attention ..."
 4 Either unnecessarily or not, let's leave that out of
 5 it.
 6 What did you know, you personally, because you are
 7 one of the six "we". What did you know about the
 8 Swarandeeep's part in these grievances going to head
 9 office? What did you know about that?
 10 A. I didn't. We knew that clearly something was going on
 11 because --
 12 Q. But that's not what it says. It doesn't say "we feel
 13 that something is going on"; it says:
 14 "We feel Swarandeeep has taken a big part in them
 15 being brought to head office's attention."
 16 So what did you know?
 17 A. Because she was -- there was talking -- they'd be in
 18 test room 1, the three of them, like I said about the
 19 incident on the roof. So clearly something was going
 20 on.
 21 Q. Mrs Tidmass, the Jas grievance is that her male boss is
 22 sexually harassing her. I have taken you to it.
 23 A. Yes, you have, yes.
 24 Q. She says that she has brought it up with Kam Singh and
 25 that he hasn't changed his behaviour and so now she

1 wants to raise a grievance and she goes to the female
 2 boss, Swarandeeep. There is nothing wrong with that, is
 3 there? You are not saying that's a wrong thing?
 4 A. No, not at all, no.
 5 Q. Fine. So these conversations where Jas has gone to
 6 Swarandeeep and said, "I want to complain about
 7 Kam Singh", there is nothing improper in what Swarandeeep
 8 is doing at that stage is there?
 9 A. No.
 10 Q. No. And then I have taken you to how Jas raises formal
 11 grievances at a meeting and then in writing and then
 12 Fatima raises a formal grievance in writing, direct to
 13 head office, not to Swarandeeep, and then Fatima resigns.
 14 I have taken you to all of that. So on what basis do
 15 you say:
 16 "We feel Swarandeeep has taken a big part in them
 17 being brought to head office's attention."
 18 A. Maybe because at the time we didn't know what the
 19 grievances were about. Jas never spoke to -- Jas never
 20 spoke to us about it or Fatima -- maybe they spoke to
 21 each other.
 22 Q. Perhaps you personally didn't feel that Swarandeeep was
 23 doing anything wrong in relation to these formal sexual
 24 harassment grievances that were being made against Kam?
 25 Is that fair?

1 A. No -- yes, I can't say that that's wrong, why they went
 2 to her about it.
 3 Q. And that Swarandeeep, as far as you are concerned, didn't
 4 do anything wrong in respect of those grievances?
 5 A. No.
 6 Q. Thank you.
 7 MR JUSTICE NUGEE: Mr Stuart, I think you need to be
 8 careful. You said "these formal sexual harassment
 9 grievances", but I don't think that Fatima Khan --
 10 MR STUART: You are quite right, my Lord, you are right,
 11 I must be very careful.
 12 The sexual harassment grievance brought by Jas and
 13 the grievance brought by Fatima, where she complained
 14 that she had been subjected to detrimental conduct by
 15 Mr Singh because of her support of Jas. You understand
 16 that's the nature of her grievance?
 17 A. Okay, I do now. I didn't know what Fatima's grievance
 18 was.
 19 Q. Yes. It goes on:
 20 "We are aware she ..."
 21 That must be Swarandeeep, I think:
 22 "We are aware she has approached other members of
 23 our team, asking if they have any issues (grievances)
 24 with Kam."
 25 And you are one of the "we" who signed this?

1 A. Hm-mm.
2 Q. Please explain to the court: what were you aware of
3 about Swarandeeep approaching other members of the team
4 at that time?
5 A. I can only speak for myself. She never approached me --
6 Q. No.
7 A. -- to do a grievance against Kam.
8 Q. Right. And you are not aware of any specific occasion
9 when she approached another member of the team, are you,
10 you personally?
11 A. No.
12 Q. No:
13 "This has been instigated by herself and not by
14 those members of staff."
15 That's obviously not your evidence; that's somebody
16 else has said that?
17 A. Sorry, where are we?
18 Q. The next sentence:
19 "This has been instigated by herself ..."
20 You can't be making that allegation because you have
21 just confirmed that you didn't know -- you had no
22 personal knowledge that she had approached other members
23 of staff. That's right, isn't it?
24 A. Yes.
25 Q. Yes:

1 "We realise Swarandeeep and Kam have a difficult
2 relationship."
3 That probably is the one thing in this letter that
4 you can speak to. Is that fair?
5 A. Yes, they didn't get on.
6 Q. "Swarandeeep is always commenting on this fact and has
7 made it an issue in regards to store issues in the past,
8 even on the shop floor. Kam does not involve us in
9 their 'problems'..."
10 That's not quite right, is it? In the pub, Kam is
11 telling you about the problems, isn't he?
12 A. No, he isn't. No, not in the pub.
13 Q. Kam is the one who told the staff -- falsely told the
14 staff -- that Swarandeeep wanted Fatima back. That's
15 right, isn't it?
16 A. No, that never happened at the pub.
17 Q. I didn't say in the pub. Did it happen or not? Is it
18 Kam who was the source of the assertion that Swarandeeep
19 wanted Fatima back?
20 A. Like -- I never had that conversation with Kam.
21 Q. Did you hear from others that that was being alleged by
22 Kam?
23 A. Not by Kam. I don't remember -- I don't actually
24 remember her wanting to come back anyway.
25 Q. Right, okay:

1 "Kam does not involve us in their 'problems' and
2 tries to make our working environment as happy and
3 smooth-running as possible."
4 Is it fair to say, Mrs Tidmass, that you had a very
5 good working relationship with Kam Singh?
6 A. Yes, I do.
7 Q. You had a poor working relationship with
8 Swarandeeep Birdi?
9 A. No, not always, no.
10 Q. Not always?
11 A. No.
12 Q. But by the time Kam Singh has turned you against her,
13 you had a poor working relationship?
14 A. He never turned me against Swarandeeep.
15 Q. When did you come to have a poor working relationship
16 with Swarandeeep Birdi?
17 A. I can't say personally it was poor. I have always said
18 personally Swarandeeep has never done any harm to me.
19 I just think it was just an awful working environment
20 because they weren't compatible.
21 Q. Leave that to one side. I understand that you, the
22 staff, recognised -- picked up on the fact that Kam and
23 Swarandeeep didn't get on; your words. That's a given.
24 I accept that. I'm asking you about your working
25 relationship with Swarandeeep Birdi. Are you saying that

1 actually, at this time, you having come back from one
2 day a week to four days a week, you had a reasonable
3 working relationship with Swarandeeep Birdi?
4 A. Yes, I had never had any -- I never had no problems with
5 Swarandeeep.
6 Q. So you had never had problems with Swarandeeep Birdi, but
7 the next sentence in your letter says:
8 "In the past many of us have had issues with
9 Swarandeeep but have been scared of repercussions had we
10 decided to make a complaint."
11 That's obviously not you that you are referring to?
12 A. That's not me personally.
13 Q. That's not you. Do you know who are the ones who are
14 scared of repercussions, who have issues and were
15 scared, because Ms Birdi says she doesn't know anyone
16 who had a grievance against her in the eight years prior
17 to Mr Singh coming on?
18 A. She had said some things to Lucy before. I can only go
19 on certain things in the past that have happened when
20 I wasn't at work that day, but Lucy was actually having
21 a miscarriage at work. Sheila, who worked there at the
22 time, wanted to take Lucy to the hospital. Swarandeeep
23 said we couldn't lose a member of staff -- another
24 member of staff off the shop floor, so Lucy had to get
25 a taxi to the hospital while she was having

1 a miscarriage.
 2 Q. That's not true and it's a very deeply hurtful
 3 allegation, but I want to know where you are making that
 4 allegation from. Were you present?
 5 A. No, I wasn't present, no.
 6 Q. So who told you this pack of lies?
 7 A. Sheila, who unfortunately is no longer with us.
 8 Q. Right.
 9 MR JUSTICE NUGEE: Mr Stuart, at some stage we should take
 10 a break.
 11 MR STUART: I'm on my last bit of the letter.
 12 MR JUSTICE NUGEE: Yes.
 13 MR STUART: And then it's a convenient moment, my Lord.
 14 The next bit says:
 15 "Swarandeeep can make you feel very intimidated and
 16 pressured and we have been frightened that should we
 17 have made any complaints, she would have made it
 18 impossible to work with her."
 19 That's not you saying that, is it?
 20 A. No, I would say she can be intimidating at times.
 21 Q. You hadn't raised any grievance previously?
 22 A. No.
 23 Q. You had a good working relationship with her, you have
 24 just said?
 25 A. Yes.

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1 Q. What was the purpose of this letter?
 2 A. It's how we felt, that something had to change. We felt
 3 that Kam -- and I still do -- is a good director. He
 4 wanted to change things for the good. We didn't want to
 5 lose him as a director. So we felt that things just had
 6 to change.
 7 Q. So is it fair to say -- is a summary of it that you felt
 8 the purpose of the letter was to support Kam with head
 9 office? You were writing to head office to support Kam?
 10 A. Yes.
 11 Q. And if, as part of that, you criticised Swarandeeep --
 12 because that's what it seems to do, doesn't it -- you
 13 were prepared to do that as well?
 14 A. Yes.
 15 MR STUART: My Lord, would that be convenient? I have got
 16 to deal with Mrs Tidmass's later interview?
 17 MR JUSTICE NUGEE: Mrs Tidmass.
 18 MR STUART: But we have dealt with by far the majority and
 19 it won't be very much longer with Mrs Tidmass.
 20 MR JUSTICE NUGEE: We will take a break for five minutes.
 21 Mrs Tidmass, we are going on take a break for five
 22 minutes. Since you are in the middle of giving your
 23 evidence, you mustn't speak to anybody during the break
 24 about the case or your evidence at all.
 25 Five minutes.

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1 (11.46 am)
 2 (Short break)
 3 (11.50 am)
 4 MR JUSTICE NUGEE: Yes, Mr Stuart.
 5 MR STUART: Mrs Tidmass, we are moving on to 22 June, so
 6 that would be six days after the letter is dated, but
 7 I think you must have signed it some time between the
 8 two dates, 16 and 22 June.
 9 A. I can't remember when I signed it.
 10 Q. You can't remember signing it?
 11 A. I can't remember when I signed it, what date.
 12 Q. Can you remember the circumstances of signing it?
 13 A. Yes, when we was -- I believe it was when we was at the
 14 Hilton Hotel, I believe.
 15 Q. So you went to the Hilton Hotel, what, a number of you?
 16 A. Yes, we was all taken individually.
 17 Q. And at that point you put your name on the letter?
 18 A. I think it was that day, I think.
 19 Q. Yes. Would that be 22 June?
 20 A. I said I can't remember what date it is.
 21 Q. Okay. I'll just try and remind you. Go to page 3088.
 22 {E/944/3088} Do you have that?
 23 A. Yes.
 24 Q. It's a note of an investigation interview held with you.
 25 Do you see that?

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1 A. Yes.
 2 Q. And we have similar notes dated the same day, for
 3 example at page 3085. {E/943/3085} Ruth Wotton was
 4 interviewed at 11.10 in the morning. Do you see that?
 5 A. Yes.
 6 Q. And at 3082, Patrice O'Brien was interviewed at 11.36.
 7 Do you see that? {E/942/3082}
 8 A. Yes.
 9 Q. And then at page 3091, on the same day, Lucy Hornby was
 10 interviewed at 9.05. {E/945/3091} And then at page 3095
 11 Mr Hummell was interviewed. {E/946/3095} The time isn't
 12 shown, but it must have been before 9.57 pm because on
 13 page 3097, his meeting was closed at 9.57 am.
 14 {E/946/3097}.
 15 Was that the morning of the Hilton Hotel; do you
 16 remember?
 17 A. I can't remember. I think this was when we was at the
 18 Hilton Hotel.
 19 Q. Okay. How many investigation interviews did you have
 20 with David Clark?
 21 A. No, is this -- I can't remember if this is the one that
 22 was in store, but I thought that was Riyaz that I saw in
 23 store.
 24 Q. You thought it was Riyaz?
 25 A. Yes, he interviewed me once at the store. I can't

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1 remember if this was the one at the Hilton.
 2 Q. Mr Clark is not Riyaz Rajan.
 3 A. No, I know that. I know that.
 4 Q. Do you know the two of them?
 5 A. Yes, I have met Mr Clark once when he has interviewed me
 6 here but I can't remember if this was the interview at
 7 the Hilton or if this was in store.
 8 Q. How many times did you meet Mr Clark?
 9 A. Well, I believe it to be once and this must have been
 10 the meeting in store.
 11 Q. How many times did you meet Mr Clark?
 12 MR JUSTICE NUGEE: She answered that, she said once.
 13 A. I did.
 14 MR STUART: I think she did, but I don't believe her
 15 evidence can be correct so I'm going to give her the
 16 opportunity to correct it.
 17 MR JUSTICE NUGEE: Put to her what you say your instructions
 18 are.
 19 MR STUART: It's not my instructions; it's the respondent's
 20 evidence.
 21 MR JUSTICE NUGEE: Or the respondent's evidence. Whatever
 22 it is.
 23 MR STUART: Yes. Did you meet Mr Clark once at the Hilton
 24 Hotel and once in the store?
 25 A. I don't know. I remember meeting -- I couldn't even

1 tell you what Mr Clark looked like.
 2 Q. You can't?
 3 A. No. I don't know -- all I know is that we was
 4 interviewed by a gentleman at the Hilton but also
 5 clearly in store.
 6 Q. What, the same person?
 7 A. No, it was -- I think in store was Riyaz and this is
 8 why -- but I don't know if this was the interview that
 9 took place at the Hilton. I don't know.
 10 Q. Let's help you out. 3088 you have got open. That's
 11 said to be Tuesday 22 June? {E/944/3088}
 12 A. Yes.
 13 Q. That's the manuscript interview?
 14 A. Hm-mm.
 15 Q. And that purports to be with Mr Clark. Do you see that?
 16 A. Hm-mm.
 17 Q. Whilst keeping that open, could you have bundle E12,
 18 page 3187 {E/971/3187}. About three weeks later there
 19 is said to have been an interview with you at the
 20 Dartford store. This now is a typed-up note?
 21 A. Yes, so that's obviously what that is, yes.
 22 Q. You say that's obviously -- I asked you how many times
 23 have you met Mr Clark, you said once. I asked you
 24 against, you said once. I asked you again.
 25 A. I said once, I think.

1 Q. I was quite properly told by the judge to explain why.
 2 Can you remember meeting Mr Clark twice or can't
 3 you?
 4 A. No, I have clearly met him the once.
 5 Q. No, you have clearly met him the twice?
 6 A. Sorry?
 7 Q. You clearly met him the twice.
 8 A. I'm just talking about this letter here, which was the
 9 one in store.
 10 Q. Which one are you looking at?
 11 A. The one on 3187 is the typed-up version of --
 12 Q. 3187, the typed-up version is in store?
 13 A. Yes, yes.
 14 Q. It says, "In Dartford store"? {E/971/3187}
 15 A. Yes, which is what I have just said. This one is typed
 16 up then from 3088. {E/944/3088} This was the notes that
 17 were done in store, which I know now, but I can't
 18 remember if it was in store.
 19 Q. No, no, Mrs Tidmass. That may well be what happened,
 20 I don't know, all of these notes are highly suspicious.
 21 But it is being put forward by the respondents that you
 22 had two interviews --
 23 MR POTTS: My Lord, is there a question there?
 24 MR STUART: Yes. It is being put forward by the respondents
 25 that you had two interviews. Page 3187 is not the

1 typed-up note of the interview at 3088. Do you
 2 understand, Mrs Tidmass?
 3 MR JUSTICE NUGEE: Mr Stuart, you should make allowances for
 4 the fact that I very much doubt Mrs Tidmass has studied
 5 these documents in the way that you have doubtless have.
 6 MR STUART: I think she should have done, my Lord. She was
 7 sent just these three documents.
 8 MR JUSTICE NUGEE: Right.
 9 MR STUART: The letter and the two interview notes. The
 10 hearsay notice refers to the letter and the two sets of
 11 interview notes. There is no reason for her not to have
 12 studied just these three documents and, given that all
 13 of her evidence that is put forward by the respondents
 14 in respect of her relates simply to that letter and
 15 these two interview notes, I humbly suggest that she
 16 could well have understood that it is being suggested
 17 that she had two interviews.
 18 MR JUSTICE NUGEE: Mrs Tidmass, what counsel is suggesting
 19 to you is that when you look at the two documents, the
 20 handwritten one at 3088 and the typed one at 3087, they
 21 are records of different meetings.
 22 A. Okay.
 23 MR JUSTICE NUGEE: Which both appear to be with DC,
 24 Mr Clark. I think he is going to ask you whether you
 25 now remember having two meetings with Mr Clark, one on

1 Tuesday 22 June, which is the handwritten one at 3088,
2 and one on 13 July at the Dartford store, which is 3187,
3 because that's what documents appear to suggest.
4 Is that what you were going to ask, Mr Stuart?
5 MR STUART: Yes.
6 MR JUSTICE NUGEE: Yes. So do you remember now, looking at
7 those two documents, having two meetings with Mr Clark?
8 A. Yes, yes.
9 MR JUSTICE NUGEE: Right. That's different from what you
10 said before, where you only remembered one meeting.
11 A. Yes.
12 MR JUSTICE NUGEE: Right.
13 MR STUART: The first interview, the June interview,
14 page 3088: is that the one that you recall as being at
15 the Hilton Hotel?
16 A. Yes, I believe it was.
17 Q. And do you recall that you and a number of other members
18 of staff were there, including the ones I have just
19 taken you to: Patrice O'Brien, Ruth Wotton,
20 Stephen Hummell, et cetera?
21 A. Yes, we were taken from store to the Hilton separately.
22 Q. Okay. And I think it's now your evidence that it was on
23 that occasion that you signed the letter?
24 A. Yes.
25 Q. So prior to this point, you hadn't even signed the

1 letter?
2 A. No, because I believe, when you showed me the first one,
3 my signature isn't on that one because I wasn't in work
4 the day that the letter was typed up.
5 Q. Okay. Page 3088. According to this, the first question
6 that Mr Clark asked you is whether you are familiar with
7 the letter. I believe that's what it says.
8 A. Yes.
9 Q. The handwriting is not great.
10 A. No.
11 Q. Do you remember?
12 A. Yes.
13 Q. And then you say:
14 "I'll sign it now."
15 A. Yes.
16 Q. Did you explain to Mr Clark the circumstances of the
17 creation of the letter that you have just explained to
18 this court?
19 A. No, I don't believe so.
20 Q. The meeting with Mr Singh in the pub?
21 A. It wasn't a meeting with Mr Singh in the pub; it wasn't
22 a meeting with him.
23 Q. I call it a meeting, the occasion at the pub where
24 Mr Singh was there and as a result of that occasion it
25 was decided by the six of you to write the letter.

1 That's your evidence this to court this morning.
2 Did you explain all of this to Mr Clark, that this
3 is how the letter came to be written?
4 A. No.
5 Q. Did you mention to Mr Clark that all of the stuff in the
6 letter wasn't really what you personally thought or
7 knew; it was what Lucy had written?
8 A. I was only answering questions that he was asking me.
9 Q. He asks you -- this is just by the first holepunch:
10 {E/944/3088}
11 "In the letter it says about we are aware of
12 Swarandeeep asking other members to sign grievances
13 against Kam."
14 I asked you about that, just about 25 minutes ago.
15 And your response as written down is:
16 "Jas came in one day ..."
17 Do you see that?
18 A. Yes:
19 Q. "... the day she was meeting head office."
20 A. Yes.
21 Q. "... and wanted to speak to Lorraine and approached her
22 to put a grievance in against Kam. This is very
23 unprofessional and out of order."
24 Do you see that:
25 "I have been at the store for nine years and over

1 the last two years with Kam being there have been the
2 best. We have never had support by Swarandeeep in my
3 nine years. Kam is very supportive of the staff..."
4 Do you see that?
5 A. Yes.
6 Q. "... rewards us for our hard work."
7 Yes?
8 A. Hm-mm.
9 Q. Did you explain to Mr Clark that you personally were not
10 aware of Ms Birdi encouraging staff to make grievances,
11 despite what is in the letter?
12 A. Sorry, say that again, please?
13 Q. When I asked you about it this morning, you confirmed to
14 his Lordship that you personally were not aware of
15 Swarandeeep encouraging staff to make grievances?
16 A. She never asked me to make a grievance, so, no. Whether
17 she asked other members of staff, I don't know, but she
18 never asked me.
19 Q. "Whether she asked another member of staff, I don't
20 know". That means you personally are not aware of any
21 occasion when she, Swarandeeep, encouraged other members
22 of staff to make grievances?
23 A. No.
24 Q. That's right. The letter said:
25 "We are aware that Swarandeeep ..."

1 Et cetera. Do you see? And that's what he was
 2 asking you about. So I'm asking you, did you tell
 3 Mr Clark that you personally were not aware of
 4 Swarandeeep doing that? Because he doesn't seem to have
 5 written that down in his note.
 6 A. No, but, like I say, I would have only answered the
 7 questions that he has asked me. If he's not written
 8 down anything like that, then, no.
 9 Q. But that is the question. His question is:
 10 "In the letter it says about we are aware of
 11 Swarandeeep asking other members to sign grievances
 12 against Kam."
 13 So your honest answer to Mr Clark must have been,
 14 "David, I'm personally not aware that Swarandeeep did
 15 that". Do you recall telling Mr Clark that?
 16 A. Sorry, where is that? Where is that you are reading
 17 that from --
 18 Q. Okay. 3088 by the first holepunch?
 19 A. Yes.
 20 Q. It says:
 21 "DC: we are trying to sort through the current
 22 issues with the directors' relationships. The letter
 23 obviously raises some concerns from the staff at the
 24 store. In the letter it says about we are aware of
 25 Swarandeeep asking other members to sign grievances

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1 against Kam."
 2 Do you see?
 3 A. Hm-mm.
 4 Q. So he is asking about that allegation in the letter,
 5 that Swarandeeep was getting other members of staff to
 6 sign grievances against Kam?
 7 A. But then this is what I said to you earlier. I have
 8 just replied back by when Jas came in that day and she
 9 went upstairs to Lorraine who was in the call centre and
 10 asked her about putting a grievance in against Kam and
 11 she said no, because I haven't got any reason to.
 12 Q. That has nothing to do with Swarandeeep, does it?
 13 A. No.
 14 Q. So my question is: did you tell Mr Clark -- he has just
 15 written down one answer, all about something completely
 16 different, Jas and Lorraine. Did you answer Mr Clark's
 17 question honestly, as you have answered my question this
 18 morning, to say, "David, I personally don't know that
 19 Swarandeeep did that"? Did you tell him that?
 20 A. No, because this is what I have said, so, no.
 21 Q. You say this is what you said. Do you recall what you
 22 said at this meeting?
 23 A. Yes, I do. This does -- I know what I said. I know
 24 that all this that I have written down here, but you're
 25 trying to say to me regarding Swarandeeep putting in --

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1 I have just answered a question that he has written out.
 2 I have not mentioned Swarandeeep. I don't know --
 3 Q. Can you actually recall what you said to Mr Clark at the
 4 meeting? Without reference to this document, as you sit
 5 here now, can you remember what you told Mr Clark?
 6 A. This is -- yes -- because obviously I have read it,
 7 I have had it hand-delivered at work, yes, I do remember
 8 saying this. But I can't say to you word for word what
 9 I said to him.
 10 Q. No.
 11 A. This is written down, what I have said to him, but you
 12 are trying to say if anything else that he has not
 13 written stuff down --
 14 Q. Yes, you might have said something more than this?
 15 A. No, no.
 16 Q. It's not possible that you said anything more than this?
 17 A. No, I wouldn't say -- I would say he has written down
 18 exactly what I have said to him.
 19 Q. So are you saying that you have a recollection today of
 20 exactly what you said to him?
 21 A. Not word for -- how could I say word for word when this
 22 is, what --
 23 MR JUSTICE NUGEE: Four years.
 24 A. Four years ago. How can I say word for word?
 25 MR STUART: Let me make it clear, I'm not asking you word

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1 for word, but whether the substance of what you said to
 2 him is all written down?
 3 A. Yes, I would say it is all written down, what I said
 4 that day.
 5 Q. In order for you to say that on oath, you must be saying
 6 that you can remember the substance of all that you said
 7 to him?
 8 A. I don't take lightly swearing on oath.
 9 Q. Then his next question was:
 10 "Can you think of any incidents where either
 11 director has undermined the other?"
 12 Do you see that?
 13 A. Yes.
 14 Q. And you refer to the repair jobs incident?
 15 A. Yes. I think that was one of the -- one of the members
 16 of staff had broken a frame by doing an adjustment on
 17 it, which wasn't a Specsavers frame, so Kam said maybe
 18 that we should not repair other spectacles that aren't
 19 Specsavers.
 20 Q. And you referred to -- over the page at 3089
 21 {E/944/3089} -- a drinks vouchers incident, "which she
 22 told me to lock in the safe"?
 23 A. Yes, that was to do with the Christmas -- one of our
 24 Christmas dos. It had drinks vouchers in it.
 25 I signed for a lot of things on reception, I don't

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1 know what I'm signing for a lot -- clearly I'm there,
 2 so -- but my name was against it, obviously. Swarandeeep
 3 kept asking where, I had signed for it, I must know
 4 where it is. No.
 5 We never went through post then. It was only ever
 6 Swarandeeep that went through the post. We never opened
 7 any post. We just used to keep it under reception, but
 8 it was just quite bizarre that I was bombarded with,
 9 "You must know where it is, you have signed for it".
 10 No, I didn't know where it was.
 11 Q. In response to his question:
 12 "... any incidents where one director has undermined
 13 the other?"
 14 You mentioned the one repair job incident, you
 15 mention the drinks voucher incident --
 16 A. That wasn't really to do with Kam, though.
 17 Q. No.
 18 A. I didn't mention Kam in that.
 19 Q. Then you say:
 20 "If you ask her anything on the shop floor she will
 21 say, 'Speak to Kam'. If you did this with Kam, he would
 22 say, 'I'll speak to Swarandeeep'."
 23 A. Hm-mm.
 24 Q. That's the sum total of your answer to undermining each
 25 other?

1 A. Yes, it never --
 2 Q. Fine. And then he asked:
 3 "Any other examples where you have seen any attempts
 4 to undermine each other?"
 5 "Answer: No, I have heard raised voices --"
 6 A. Yes, because it would be off the shop floor.
 7 Q. Yes:
 8 "Anything else you think we should be aware of?"
 9 Do you see that? And you give your example about
 10 Sheila?
 11 A. Hm-mm.
 12 Q. Which seems to be more of an allegation -- it's denied
 13 but I don't need to go into it very much -- that
 14 Swarandeeep didn't show sufficient sympathy towards the
 15 staff when Sheila --
 16 A. No, there wasn't. I went into work. Sheila's daughter
 17 phoned me at 7 o'clock in the morning and I phoned into
 18 work and spoke to Denise, who was working in the lab at
 19 the time. I went into work. We were all very
 20 distraught and I went in the staff room with Denise and
 21 Tracey. We was all crying and Swarandeeep kept opening
 22 the door of the staff room every five minutes or so with
 23 a clipboard in her hand and looking at her watch, as if
 24 to say, "Hurry up".
 25 Q. Anyway, it's right, isn't it, that Swarandeeep closed the

1 store for the day for the funeral of Sheila?
 2 A. On our request -- the staff requested that we should
 3 shut the store out of respect --
 4 Q. Okay.
 5 A. -- for Sheila.
 6 Q. But that's not really anything about the relationship
 7 between Swarandeeep and Kam, is it?
 8 A. What, the Sheila --
 9 Q. The Sheila incident?
 10 A. No.
 11 Q. No. Finally, the last question he asks is:
 12 "What was her relationship with the previous
 13 director?"
 14 "Answer: She bullied him so much. He was a nice
 15 guy."
 16 This was Nim Patel?
 17 A. Yes.
 18 Q. The man who admitted stealing from her?
 19 A. But he -- yes, but at the time, obviously, but I didn't
 20 know that Nim was stealing from the business. He
 21 wasn't --
 22 Q. Of course you didn't; nobody had told you, had they?
 23 A. No, he was a nice guy.
 24 Q. Swarandeeep hadn't said that he was stealing, had she?
 25 A. She never told me that he was stealing, no.

1 Q. She hadn't told the staff?
 2 A. I don't know, I can't speak for them but I'm talking
 3 about me, that she never told me.
 4 Q. You were not aware that he had been stealing?
 5 A. No.
 6 Q. So no member of staff, in their gossip with you, their
 7 chats with you, had said that he had been stealing?
 8 A. No.
 9 Q. All right, you can put away E11.
 10 I just finally have to ask you about the interview
 11 on 13 July, E12, page 3187. {E/971/3187} Do you have
 12 that?
 13 A. Yes.
 14 Q. Do you remember this -- do you now remember this --
 15 A. Yes.
 16 Q. -- interview?
 17 You said you had an interview with Riyaz Rajan. Do
 18 you remember? You said that this morning.
 19 A. Yes.
 20 Q. When was that?
 21 A. I don't know. I can't tell you dates. I don't know.
 22 I don't even know -- I don't know.
 23 Q. Okay, what was it to do with? What was he is
 24 investigating? That might help us to pin it down.
 25 A. I actually can't remember. I can't remember.

1 Q. Was he investigating Jas and/or Fatima's grievances
2 against Kam?
3 A. I don't know; I don't know. You can keep asking me but
4 I cannot remember, unless there is something put in
5 front of me and then I might think, "Okay, yes, that has
6 come back".
7 I don't remember.
8 Q. Right, okay. Anyway this is Mr Clark again and this
9 time it's at the store. Do you see that?
10 A. Yes.
11 Q. By the first hole punch on 3187: {E/971/3187}
12 "Question: Can you confirm that you signed the
13 letter..."
14 Is it your evidence that you signed the letter in
15 front of him on the first occasion, at the June meeting?
16 Who gave you the letter to sign on 22 June?
17 A. It would have been Mr Clark.
18 Q. Mr Clark. So did you think that was a slightly odd
19 question:
20 "Can you confirm that you signed the letter..."
21 Since he himself had handed you the letter and said,
22 "Can you sign that, please"? Do you think it an odd
23 question?
24 A. Well, no, I don't find it an odd question.
25 Q. Okay:

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1 "... and that you did so willingly and without any
2 peer pressure.
3 "Answer: Yes, I was happy to sign, I helped with
4 the letter."
5 That has not been your evidence to his Lordship this
6 morning, that you helped with the drafting of the
7 letter?
8 A. No, but like I said, that was when I believe that Lucy
9 phoned me and discussed the letter. Maybe that was when
10 she said, "What do you think?" and -- well, I've agreed
11 with it. No, I wasn't in store, I didn't write the
12 letter.
13 Q. No, your evidence to his Lordship was she phoned you and
14 read out the letter that had already been drafted and
15 said, "Would you sign that?" and you said, "Yes,
16 I will". That was your evidence this morning?
17 A. Yes.
18 Q. Your evidence according to Mr Clark is, "I helped with
19 the letter"?
20 A. No, I didn't help with the letter but I spoke to Lucy
21 over the phone about the letter.
22 Q. Do you think Mr Clark has perhaps written it down wrong?
23 A. I don't know.
24 Q. Did you explain to him what you explained to
25 his Lordship, that what actually happened was Lucy

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1 drafted the letter -- according to Lucy -- and phoned
2 you up and said, "Will you sign it?" Did you explain
3 that to him?
4 A. No, again, I have only answered questions that he has
5 asked me.
6 Q. Okay. He then quotes to you some parts the letter:
7 "Fatima and Jas were given preferential treatment...
8 She [SB] has really split the team in the store ... We
9 saw a real divide in the team though when Fatima and Jas
10 started working there, this really split the team. SB
11 took sides with them and there was a real them against
12 us attitude..."
13 Do you see that?
14 A. Hm-mm.
15 MR JUSTICE NUGEE: They are not all quotes from the letter,
16 Mr Stuart.
17 MR STUART: I know. I know, my Lord.
18 Do you see that?
19 A. Hm-mm.
20 Q. Do you know what letter he was referring to? Did you
21 sign another letter?
22 A. No.
23 Q. No?
24 A. I don't believe I signed another letter.
25 Q. So when he read this quote to you from a letter which

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1 you had confirmed you signed and was happy and helped
2 with, and he read you out a whole load of quotes from
3 a letter that you hadn't signed and/or that you didn't
4 know anything about, you must have said, "That's a funny
5 thing for you to say, David. I don't know what you are
6 talking about."
7 Did you say that to him, Mrs Tidmass?
8 A. Sorry, I was reading -- is this not ... (Pause)
9 But that quote there, is that not taken from what
10 somebody else has said?
11 Q. It's not taken from the letter, is it? His question
12 says:
13 "Can you expand upon a couple of paragraphs from the
14 letter and tell me what you actually witnessed.
15 "Quote: 'Fatima and Jas were given preferential
16 treatment by SB... She [SB] has really split the team in
17 the store though and her unprofessional conduct has
18 ruined the team' and 'We saw a real divide in the team
19 though when Fatima and Jas started working there, this
20 really split the team. SB took sides with them and
21 there was a real them against us attitude ... The level
22 of support she [SB] gave to Fatima and Jas was much more
23 than she ever gave to any of the longer serving staff."
24 Your answer is said to be:
25 "Yes I've witnessed that."

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1 A. I witnessed that quote.
 2 Q. You witnessed that quote? What's he quoting from,
 3 Mrs Tidmass?
 4 A. I don't know, this is what I'm saying. It's obviously
 5 not in the letter that I have signed, is it, because we
 6 have gone back over that.
 7 Q. I know. What was he quoting from?
 8 A. I don't know.
 9 Q. You don't even know what he was quoting from?
 10 A. He is asking a question which I have answered to:
 11 "yes, I've witnessed that."
 12 Q. Just below the next holepunch he says:
 13 "DC Quote ..."
 14 Another quote and he puts quotation marks around it:
 15 "'If you sort of take KS's side of any argument she
 16 [SB] will cut you off dead. I feel very intimidated by
 17 SB and if I make a mistake she will tell you off in
 18 front of customers and make you feel stupid. She [SB]
 19 lets everyone know in the team when people makes
 20 mistakes' and 'SB will publicly embarrass you on the
 21 shop floor and discuss errors you have made."
 22 What was he quoting from?
 23 A. I don't know.
 24 Q. Do you recall this interview at all?
 25 A. Yes, I do.

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1 Q. Okay. What did you understand was the nature of the
 2 interview?
 3 A. Regarding how we felt unhappy at the store.
 4 Q. Okay. So it wasn't about the letter you signed?
 5 A. Well, these quotes aren't from the letter that I signed.
 6 Q. No, I'm asking whether the interview was about the
 7 letter that you signed. Perhaps he led you to believe
 8 that the letter did contain these paragraphs,
 9 Mrs Tidmass?
 10 A. No, because I signed the letter and I know what's
 11 written on the letter.
 12 Q. Do you?
 13 A. Yes, I do, because I had the conversation with Lucy over
 14 the phone and she read me the letter and I agreed with
 15 what she said.
 16 Q. But you have told the court that most of what's in the
 17 letter -- I took you through every relevant sentence --
 18 isn't actually your experience at all?
 19 A. No, and I have said before, I personally didn't have any
 20 issues with Swarandeeep, apart from what I have put.
 21 Q. So all of this that he is quoting from, which is not the
 22 letter, it's nothing to do with you, is it?
 23 A. No, there is nothing in there that mentions me, no.
 24 Q. Okay. Over on 3188 {E/971/3188} he is quoting,
 25 obviously, something else:

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1 "Quote: 'When I was pregnant, SB was quite rude to
 2 me and said the baby was a parasite and was living off
 3 me. This upset me as I had previously had
 4 a miscarriage."
 5 A. Hm-mm.
 6 Q. Your answer:
 7 "I wasn't in the store that day."
 8 Do you see that?
 9 A. Yes.
 10 Q. And then he quotes about:
 11 "Quote: 'With Lorraine in the past SB wrote a memo
 12 and put on there "she was being fraudulent in her
 13 completion of the NHS". Lorraine wasn't doing a fraud,
 14 it was just a mistake, you shouldn't treat or speak to
 15 staff like that'. "
 16 And your answer was:
 17 "Lorraine wrote to head office and then left shortly
 18 afterwards. She was very angry though I didn't see the
 19 memo or hear the conversation."
 20 A. No.
 21 Q. So you were basically denying to Mr Clark that you had
 22 any knowledge of this?
 23 A. Yes, because I clearly wasn't in store that day.
 24 Q. Then he quotes something else about problem with
 25 clinics, et cetera. I won't read the whole quote out,

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1 it goes on and on. Your answer was:
 2 "It was on my day off, I heard about it the next
 3 day..."
 4 A. Yes.
 5 Q. And then he quotes again:
 6 "'SB did an eye test on me and told me my left eye
 7 was "crap" and then said "sorry did I say that out
 8 loud". I was a patient at this point..."
 9 Your response was:
 10 "I know about it but I didn't actually hear it.
 11 "Question: Anything else?
 12 "Answer: Nothing else."
 13 So that was the sum total of that interview. Is
 14 that right?
 15 A. Hm-mm.
 16 Q. Did Mr Clark ask you about the letter, the circumstances
 17 of creating the letter, the circumstances of signing the
 18 letter?
 19 A. No.
 20 Q. No. Did he ask you about Kam Singh and the fact that
 21 Kam Singh had spoken to the staff after being suspended?
 22 A. No.
 23 MR STUART: My Lord, I have got no more questions for
 24 Mrs Tidmass.
 25 MR JUSTICE NUGEE: I have one question, Mrs Tidmass. On

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1 page 3188, you refer to Lorraine?
 2 A. Yes.
 3 MR JUSTICE NUGEE: I am still a being confused --
 4 A. That's Lorraine, sorry.
 5 MR JUSTICE NUGEE: That's Lorraine? It's not
 6 Lorraine Frondigoun?
 7 A. No, sorry, that one is, yes, to do with the NHS. Yes,
 8 it is.
 9 MR JUSTICE NUGEE: That's Lorraine Frondigoun?
 10 A. Yes, it is, Lorraine Frondigoun, yes.
 11 MR JUSTICE NUGEE: Thank you very much.
 12 Mr Potts?
 13 MR POTTS: No, my Lord.
 14 MR JUSTICE NUGEE: Thank you very much for coming.
 15 MR STUART: Could it be made clear, Mrs Tidmass is now
 16 released.
 17 MR JUSTICE NUGEE: You are now released, you don't have to
 18 stay. You are perfectly welcome to stay if you want to,
 19 because it's a public court, but if you have got other
 20 things to do, we will all understand.
 21 Thank you very much.
 22 MR STUART: Could we have Lucy Hornby.
 23 MS LUCY HORNBY (affirmed)
 24 Cross-examination by MR STUART
 25 MR JUSTICE NUGEE: Do, please, sit down. Is it Ms Hornby or

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1 Mrs Hornby?
 2 A. Mrs.
 3 MR JUSTICE NUGEE: Mrs Hornby?
 4 A. Yes.
 5 MR JUSTICE NUGEE: Thank you.
 6 MR STUART: Mrs Hornby, if you could have bundle E11 out.
 7 A. Yes.
 8 Q. Can I just get one thing out of the way very quickly?
 9 Did Ms Birdi drive you to the hospital on the occasion
 10 of your --
 11 A. Sir, that's two separate occasions. I had a miscarriage
 12 in 2004. I was -- it was a Saturday and the store was
 13 very busy. I phoned Sheila. I went to the toilet --
 14 you don't need to know all this but I went to the
 15 toilet. Something had happened. I phoned Sheila to
 16 come up to me. Sheila stayed with me and then --
 17 Swarandeeep was probably testing. She came upstairs and
 18 Sheila said, "I will drive you to the hospital".
 19 Swarandeeep said that we couldn't have two members of the
 20 team out of the business, suggested I get a cab, which
 21 I did, on my own, to the hospital.
 22 There was a separate occasion in 2009 when I was
 23 pregnant with my daughter that I actually had. I again
 24 had complications, at work again, and Swarandeeep did
 25 drive me to the hospital on that occasion, sir.

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1 Q. Okay. Fine.
 2 A. Two separate incidents.
 3 Q. Let's go to this letter, so in E11/3009. {E/935.1/3009}
 4 Do you have it?
 5 A. Yes, sir.
 6 Q. Do you recall typing this letter?
 7 A. Yes, sir.
 8 Q. Where were you when you typed it up?
 9 A. I was at work.
 10 Q. Which computer did you do it on?
 11 A. The front desk, sir.
 12 Q. Do you recall what day it was; what date?
 13 A. Erm --
 14 Q. It's dated 16 June but would that be --
 15 A. I don't know what day.
 16 Q. -- shortly before or after or the date you actually --
 17 A. I would have dated it that date, I wouldn't have dated
 18 it a different date, but I don't know what day of the
 19 week that was.
 20 Q. Not the day, I meant the date.
 21 A. Sorry, yes.
 22 Q. So you typed this on 16 June?
 23 A. Yes. I don't remember the day but it was obviously
 24 a day that I was in store.
 25 Q. Yes. When you typed it, you wrote in the third

83

1 paragraph, the last word you had, "unnecessary".
 2 A. Hm-mm.
 3 Q. Someone has put two lines through that word?
 4 A. That was me.
 5 Q. That was you. When did you do that?
 6 A. On the day I submitted it, I believe.
 7 Q. So what day did you submit it?
 8 A. The same day, sir.
 9 Q. Who did you submit it to?
 10 A. Swarandeeep and Kam were both out of the business; they
 11 had already been suspended.
 12 Q. They had.
 13 A. We had a caretaker, if you will. His name was Dan;
 14 I don't remember his surname. He was from Specsavers
 15 and I had actually spoken to him in the morning and said
 16 to him -- it had been a very difficult time in the store
 17 and I had said to him that we'd been discussing it and
 18 we wanted to construct a letter and he said to me that
 19 I'm freely able to do that and if I did write it,
 20 I could give it to him, which I did. That was it.
 21 Q. That's Daniel Laing, I think. We see his name on the
 22 previous page, 3008? {E/935/3008}
 23 A. Yes, I'm sorry, I don't know his surname.
 24 Q. That's all right. Does that jog your recollection?
 25 A. Yes, that's him.

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1 Q. Daniel Laing?
 2 A. Yes.
 3 Q. He was in temporary charge at the store?
 4 A. Yes, he covered until, I believe, Kam came back.
 5 Q. Right. When did you speak to Mr Laing about wanting to
 6 write a letter?
 7 A. On that day.
 8 Q. So on 16 June, on the day you drafted it?
 9 A. Yes, because I wasn't sure of procedure, to be perfectly
 10 honest.
 11 Q. So you go in to see him that morning and you ask him
 12 what? Did you say something like, "We want to write
 13 a letter, what's the procedure?"
 14 A. What I said to him I don't remember fully, I apologise,
 15 but --
 16 Q. That's all right.
 17 A. It was just that I said to him that a number of staff
 18 have spoken to me about feeling upset about the
 19 situation -- it was a very difficult situation in store.
 20 Obviously, it previously happened with Nim and then it
 21 happened again that we were in a very difficult time.
 22 And I said to him, "What do we do?" and he said, "You
 23 are fully able to voice your concerns if you want to",
 24 and I said, "If I write a letter, is that allowed?"
 25 Because obviously I didn't understand. I understand

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1 procedure far better now. So I wrote a letter.
 2 Q. What did he say?
 3 A. What did he say?
 4 Q. Yes.
 5 A. He said to me that -- well, I said to him, "If you have
 6 got an issue that you wish to raise, what do you do?"
 7 and he said you can write a letter, you can make
 8 a telephone call, you know, there's a number of ways.
 9 He said people have sent faxes before to head office;
 10 you know.
 11 Q. Right. That was in the morning of the 16th, was it?
 12 A. Yes, I believe we were cashing up, actually. I was
 13 cashing up in front of him. It was a discussion.
 14 Q. Cashing up, what, in the morning?
 15 A. Yes, you cash up the previous day's takings. You have
 16 to do it the following day.
 17 Q. So this is before the shop opens?
 18 A. No, no, we do it during the shop -- we normally do it
 19 early morning, like nine-ish. We wait for the store to
 20 open. We cash up the previous day.
 21 Q. Okay. So then did you have a discussion with your
 22 fellow staff members that day?
 23 A. I had already spoken to the team.
 24 Q. Who is the team, just so we know?
 25 A. Well, everybody, everybody, sir. It would have been

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1 Gladstone, Lorraine, there was Alex in the lab still,
 2 I believe, Helen, Steve, Ruth, I think, obviously,
 3 Darshan. I think Patrice could have been there --
 4 I don't remember when she left. But we all discussed
 5 it, not just -- I didn't just wake up and think, "I'm
 6 going to write a letter today."
 7 Q. No.
 8 A. It was a series of events that had happened over a long
 9 period of time. I felt that we had to have a voice.
 10 Because we hadn't had a voice; it seemed that all these
 11 changes were happening in the store, our directors had
 12 gone, and we had no -- no one was explaining to us what
 13 was going on.
 14 Q. You said a long period of time.
 15 A. Hm-mm.
 16 Q. You had only lost your directors on 8 June?
 17 A. No, but incidents had been happening in store from the
 18 very beginning of Kam starting in store.
 19 Q. Yes. But what were the incidents that caused you to
 20 write this letter, these incidents over a long period of
 21 time that caused you to write this letter?
 22 A. For Tracey and Steve -- I mean I can't speak for them,
 23 so I'm just giving you my opinion -- was that it was the
 24 issue of Fatima coming back into the store.
 25 Q. Right. So when did you know about that?

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1 A. From what I remember, she gave in her notice but she
 2 didn't actually work her notice. I believe she left
 3 almost instantaneously. She came up to me and said that
 4 she had handed in her resignation and, you know --
 5 I don't know, "My last day is today," or, "My last day
 6 is it tomorrow," I can't remember exactly, because
 7 I believe she had a new job. So she told me that.
 8 Q. Yes.
 9 A. Hm-mm.
 10 Q. But you were talking about her coming back?
 11 A. Yes.
 12 Q. So when did you know about her coming back?
 13 A. I was told by Steve or Tracey. One of them told me.
 14 Q. When?
 15 A. I do not remember, to be perfectly honest. It would
 16 have been around this time. I don't remember when --
 17 I don't remember dates.
 18 Q. It must have been around this time because if you go
 19 back to page 2939 {E/910.1/2939}, at 10.23 at night --
 20 A. 2939?
 21 Q. 2939. At 10.23 at night on 27 May she is raising
 22 a grievance, isn't she?
 23 A. This is Fatima's grievance?
 24 Q. This is Fatima's grievance.
 25 A. Okay.

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1 Q. Do you see it?
 2 A. Hm-mm.
 3 Q. Were you aware that she had raised a grievance?
 4 A. Yes.
 5 Q. Were you aware that she was resigning?
 6 A. Yes, she told me.
 7 Q. Okay. And once she had resigned --
 8 A. Hm-mm.
 9 Q. -- you say you were told by Steve or Tracey?
 10 A. Yes, I can't remember which.
 11 Q. You can't remember who -- that she was coming back?
 12 A. That she wanted to come back, yes, and that -- well, as
 13 far as I was aware, she was coming back. I don't know
 14 what had happened with her job.
 15 Q. And what did Steve or Tracey say to you about the
 16 circumstances of her coming back?
 17 A. That they didn't want her back in the store, they hadn't
 18 had a good relationship with her and that they were very
 19 strong in their feelings that they didn't want to. Many
 20 of us felt it was difficult to work with Fatima. She
 21 was a very strong character, and obviously a lot of us
 22 had a lot of optical experience and she did undermine
 23 that an lot, and I think she was difficult to work with.
 24 So Steve and Tracey advised me that they knew she was
 25 going to be coming back.

1 Q. And where did they say that they had got that
 2 information from?
 3 A. I don't remember that they told me that.
 4 Q. Was it suggested that they had got that information from
 5 Swarandeeep?
 6 A. I know they spoke to Swarandeeep about their objections
 7 to it but I cannot say that it was from Swarandeeep.
 8 I don't know. I don't remember.
 9 Q. Okay. And did they say that they had spoken to Kam
 10 about it?
 11 A. No, just Swarandeeep. I believe Tracey wanted to have
 12 the conversation with Swarandeeep but Steve accompanied
 13 or vice versa, and they did have a conversation with her
 14 about it, I believe.
 15 Q. Okay. You personally weren't party to any conversation
 16 then about Fatima coming back?
 17 A. No.
 18 Q. How were you able to write the letter and insert all
 19 these allegations on the 16th --
 20 A. Hm-mm.
 21 Q. -- without you personally being involved in some of the
 22 allegations?
 23 A. Because Tracey assisted me in writing the letter.
 24 Tracey was standing next to me while I was writing the
 25 letter. We both had input. Yes I typed it. I typed

1 it, I printed it, I fully take responsibility for that
 2 and for the fact that I wrote the letter, but it was
 3 a combination of information from myself, Tracey,
 4 Steve's feelings, Darshan's feelings. I phoned Helen,
 5 as she has rightly said. I said to her, "This is the
 6 letter I'm writing. Do you want to add anything to it?"
 7 No, everyone had an opportunity.
 8 Q. She said what when you said, "Do you want to add
 9 anything?"
 10 A. I think she said, "I'm happy with the letter." I don't
 11 remember exactly the conversation.
 12 Q. All right. Because the way you have written the letter
 13 is that, "We," the employees that you have typed below,
 14 "are making these allegations."
 15 A. We were a team. We were supporting each other.
 16 Q. And you were supporting Kam, weren't you?
 17 A. No.
 18 Q. Okay. Look at the letter then. {E/935.1/3009} Let's
 19 see whether you are supporting Kam.
 20 A. I see what you are saying because it says, "We don't
 21 want to lose Kam as a director," but in no way did we
 22 say we wanted to lose Swarandeeep as our director.
 23 Q. No:
 24 "As a team we have been affected by Kam not being in
 25 store to support us on and off the shop floor."

1 No mention of being affected by Swarandeeep not being
 2 in the store.
 3 A. She was in the test room, to be perfectly honest, so
 4 Swarandeeep, when we did see -- she had a few admin days
 5 but she was mainly in the test room. So our -- on the
 6 -- I don't know what you call it.
 7 Q. The shop floor?
 8 A. The shop floor manager, sorry, was Kam, and so he was
 9 a person who was there every day as our support.
 10 Q. You were Kam's team really, weren't you?
 11 A. No, I have worked with Swarandeeep since 2001, I have
 12 worked with her. And Nim as well.
 13 Q. I didn't say you didn't work with her; I said you were
 14 Kam's team.
 15 A. No, we worked for Swarandeeep and Kam. It wasn't
 16 anybody's team. You may disagree.
 17 Q. Okay. But you don't mention in the second paragraph
 18 being affected by Swarandeeep not being in the store.
 19 A. Again Kam was in charge. We had no manager. We didn't
 20 have a supervisor at that point. Ruth was in
 21 a supervisory position but I don't believe she was
 22 actually supervised. So we had no lead. We had nobody
 23 until Dan came in but even then he wasn't ...
 24 Q. Next sentence:
 25 "We don't want to lose Kam ... "

1 You obviously thought that there was a risk of
 2 losing Kam?
 3 A. I thought, because of the fact -- my opinion -- I can't
 4 speak for anybody else, but my opinion was that, because
 5 I knew that he had had grievances raised by John Ko,
 6 Kevin, Jas and Fatima, that why would you continue to
 7 work there. I assumed that he just wouldn't come back.
 8 That's my opinion. I don't know that as fact.
 9 Q. You knew about the seriousness of the allegations
 10 against him from Jas?
 11 A. Jas herself told me that.
 12 Q. Yes. So you presumably knew that if they were found to
 13 be proven, that he was sexually harassing junior staff
 14 in the way she alleged, he was likely to be leaving,
 15 wasn't he?
 16 A. I don't know, I don't know. Again, my knowledge of
 17 disciplinary at that time -- I can't speak for whether
 18 it would or wouldn't have done. I appreciate it's
 19 a serious allegation but it was found to be false.
 20 Q. "We don't want to lose Kam."
 21 You don't say, "We don't want to lose Kam and
 22 Swarandeeep."
 23 A. No.
 24 Q. You don't seem to be supporting Swarandeeep here --
 25 A. No?

1 Q. -- in this part of the letter?
 2 A. No, I appreciate that.
 3 Q. And then you go on:
 4 "We have felt ostracised by Swarandeeep ..."
 5 It's a criticism of Swarandeeep, isn't it?
 6 A. Yes.
 7 Q. Let's not keep saying that this is a letter aimed at
 8 supporting the two of them. This was to support Kam.
 9 A. No, no, I didn't say that this letter was aimed at
 10 supporting the two of them. What I meant was that it
 11 wasn't one way or the other. I appreciate you are going
 12 to differ from what I'm saying.
 13 Q. I wasn't one way or the other? Are you seriously
 14 telling his Lordship, "We don't want to lose Kam," --
 15 A. Yes.
 16 Q. -- "We are very affected by Kam", "he has supported us
 17 so much", "We have felt ostracised by Swarandeeep", the
 18 very next sentence?
 19 A. Yes.
 20 Q. You are saying that is not you, the staff in his team --
 21 that is not you differentiating between the two of them?
 22 A. No, I appreciate what you are saying. But the fact is
 23 if Swarandeeep had walked back in as our director,
 24 I would have had respect for her because she was my
 25 superior, my leader.

1 Q. I didn't ask you that.
 2 A. I know you didn't ask me that.
 3 Q. I was asking you about the tone of your letter and the
 4 content of your letter and why you have chosen to write
 5 this letter:
 6 "We have felt ostracised by Swarandeeep ... "
 7 What do you mean by "ostracised"?
 8 A. We felt that there was a separation in the team and that
 9 Swarandeeep's relationship with Jas and Fatima was close
 10 and that it was a divide in the team because we felt
 11 that preference was given to Jas and Fatima and
 12 Swarandeeep's time, when she was on the shop floor, would
 13 have been with Jas and Fatima. They would have been
 14 talking to her and not to the rest of the team. There
 15 was a divide.
 16 Q. But she was in the testing room; she wasn't on the shop
 17 floor.
 18 A. Not every day she wasn't in the testing room. I believe
 19 she tested three or four days a week.
 20 Q. She tended to be in the testing room rather than on the
 21 shop floor?
 22 A. Yes, I appreciate that.
 23 Q. "Ostracised by Swarandeeep". What, because she was
 24 talking to Jas and Fatima and you lot were not?
 25 A. No, because her tendency was to speak to them, to have

1 conversations with them and not with the rest of us.
 2 Q. Perhaps they were raising grievances about Kam Singh
 3 with her as the director of the store and she had to
 4 speak to them about them?
 5 A. I don't doubt that, sir, but that was my opinion at the
 6 time when I wrote this letter and it's my opinion today
 7 in reference to that time.
 8 Q. "... she has given them preferential treatment."
 9 That's a criticism of Swarandeeep, isn't it? It's
 10 intended as a criticism of her?
 11 A. It was a statement of fact, of the fact that Jas and
 12 Fatima could come and go as they pleased and were
 13 allowed to do so with Swarandeeep's permission and the
 14 rest of us had not in the past been allowed to come in
 15 early -- come in late, sorry, or leave early.
 16 I remember on a number of, well, at least two
 17 occasions -- I appreciate I worked with Jas for a small
 18 amount of time, but she was allowed to leave early on
 19 a Saturday.
 20 Q. None of this is in the letter, is it?
 21 A. No, but it was -- you know, I could have -- we could've
 22 written a ten-page letter. It was a brief letter.
 23 Q. What you did put in your letter, which perhaps gives an
 24 indication of what was the purpose of the letter, is:
 25 "We have been distressed by the grievances they have

1 brought in their short time in the store..."

2 You must be referring only to Jas and Fatima there?

3 A. Yes.

4 Q. Because they are the people who have been a short time

5 in the store?

6 A. But they caused a storm in the time that they were

7 there.

8 Q. Yes. So you were distressed by their grievances.

9 That's what it says?

10 A. Yes, by -- yes.

11 Q. Now, we heard from Mrs Tidmass that she wasn't

12 distressed by their grievances?

13 A. Yes.

14 Q. She didn't even know about their grievances.

15 A. No.

16 Q. Are you saying you personally were distressed by their

17 grievances?

18 A. The effect it had on the team. So maybe my phrasing of

19 the words in this letter isn't perfect, but we were

20 distressed by the problems it caused in store. It

21 caused a massive divide. They were very vocal about

22 their grievances, very vocal.

23 Q. The grievances we are talking about, let me just get it

24 quite clear. Page 2864, {E/892.1/2864} 29 April 2010.

25 Jas makes a grievance, with Fatima just a supporting

1 person at the meeting, okay? So this is just Jas's

2 grievance. I think you were in court this morning when

3 I read all this out --

4 A. Yes, sir.

5 Q. -- to Mrs Tidmass so I won't read it all out again, but

6 in summary, it's some serious allegations of sexual

7 harassment against Kam Singh?

8 A. Yes, I understand.

9 Q. By a junior female member of staff?

10 A. Hm-mm.

11 Q. Who feels that she is being stalked, she is being

12 touched improperly and that he is making inappropriate

13 comments to her. That's a summary of it?

14 A. Yes, I understand it from hearing it this morning.

15 Q. So that's the first grievance from Jas. Were you aware

16 of the nature of Jas's grievance?

17 A. Yes, because Jas herself told it to me. It was on

18 a Sunday, I do recall that, because there was three

19 members of staff on a Sunday, and she told me. I hadn't

20 asked to hear about it.

21 Q. Did she speak to you about it after she had raised the

22 grievance with Swarandeeep, or before? We can see this

23 is dated 29 April.

24 A. I cannot be 100 per cent but I believe that it would

25 have been just before she had the meeting because the

1 meeting took place, I assume, some time after. It would

2 have been in the time between, I assume, this, which

3 I obviously haven't seen until now.

4 Q. Right.

5 A. And actually, the actual grievance hearing.

6 Q. So the meeting you are talking about is the meeting

7 where her grievance was investigated?

8 A. Yes, it would have been in between there somewhere.

9 Q. Where Specsavers investigated her grievance?

10 A. Yes, it was Specsavers, yes.

11 Q. Okay, fine. Did she say to you that she was going to be

12 making a grievance, or that she had made a grievance?

13 A. No, that she had already made a grievance.

14 Q. Okay. Did she give you the details of what she was

15 alleging against Kam?

16 A. What she actually said to me differs from this letter.

17 I can tell you what she said, which was that she said

18 that she and Kam had cashed up alone and that when they

19 had gone to -- two of you had to bring the money up to

20 the safe, and that when they had gone to bring the money

21 upstairs, he had touched her inappropriately, is what

22 she told me. So obviously, I appreciate this is far

23 more detailed.

24 Q. Okay. When you heard that about Kam from her, did you

25 report that to Swarandeeep? Did you say, "Look,

1 Swarandeeep --"

2 A. No, because Swarandeeep was already aware because the

3 grievance -- I knew that Swarandeeep was already aware of

4 that.

5 Q. Fatima told you that Swarandeeep --

6 A. Jas told me.

7 Q. Sorry, Jas told you that Jas had made this grievance to

8 Swarandeeep about Kam?

9 A. Yes, I already knew that, yes.

10 Q. Fine. If you go on in the bundle to 2926,

11 {E/904.1/2926} by the 23 May, Jas's complaint either has

12 been, or is about to be, followed by one from Fatima.

13 Do you see, this is a letter from Kam?

14 A. Okay.

15 Q. To Alison Girollet at SOG in Guernsey?

16 A. Yes.

17 Q. "As you are aware two members of staff [Jas and Fatima]

18 have confirmed their intention to make formal complaints

19 against me."

20 Do you see that?

21 A. Hm-mm.

22 Q. By 23 May, were you aware from somebody that Fatima was

23 making a complaint?

24 A. Fatima told me that she was making a complaint but

25 I cannot tell you when she said that to me, but

1 obviously it would have been -- I know that she said to
 2 me that was to do with her probation being extended and
 3 she felt that wasn't necessary. Whatever -- it would be
 4 unfair. But she told me that she, again -- they were
 5 vocal about their -- everything.
 6 Q. Right. Fatima's complaint, as you understood it to
 7 be --
 8 A. From her, yes.
 9 Q. From her. What was the nature of the complaint?
 10 A. About her probation being extended.
 11 Q. Yes?
 12 A. Because -- obviously, they began when I was on maternity
 13 leave. I returned, I believe in May 2010. I believe it
 14 was then. Again, I don't remember exactly. I know it
 15 was around about the end of April/beginning of May
 16 I returned. So I can't remember when they started but
 17 I know that Fatima's three months was coming up and
 18 there was a decision to extend probation, which she was
 19 unhappy about and therefore made a complaint.
 20 Q. So you hadn't actually been working in the store,
 21 because you had been on maternity leave?
 22 A. I worked with her from -- I do believe I came back at
 23 the beginning of May -- end of April/beginning of May.
 24 Q. That's right. So you actually only worked with her on
 25 a few occasions; with her and Swarandeeep together, you

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1 personally were only in the store on three occasions.
 2 Would that be fair?
 3 A. I think more than that. I did used to come in ad hoc.
 4 So like when, if they were short and they phoned me to
 5 cover, I would come in and cover. I know I definitely
 6 worked Saturday and Sunday when I returned from
 7 maternity leave, but I can't tell you with certainty
 8 other days I worked, but it was definitely Saturday and
 9 Sunday, because, like I say, Jas and I had
 10 a conversation on the Sunday. It was me and Jas and
 11 I can't remember the other member of staff.
 12 Q. Okay. Page 2927. {E/905/2927} Fatima resigns, 27 May.
 13 Were you aware on that date or -- I think your evidence
 14 is that it was the day she handed in her resignation
 15 that she told you she was resigning. Is that right?
 16 A. Yes, because I definitely worked with her on that day.
 17 Q. Yes. This letter actually said:
 18 "My last working day will be 2 June."
 19 A. Oh, okay.
 20 Q. Do you see that?
 21 A. Yes, no -- yes.
 22 Q. Is it possible she told you that she had resigned and
 23 that this was her last working on day, on 2 June?
 24 Perhaps you had the conversation on 2 June, her last
 25 working day?

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1 A. Possibly, I'm not sure of the date.
 2 Q. Did she tell that she had resigned because she was
 3 uncomfortable working with Kam Singh and Ruth Wotton?
 4 A. No, she told me she had resigned because she had another
 5 job. Because she travelled far. She travelled from
 6 somewhere in London. It's a very long journey into
 7 Dartford and she said that the journey was one of the
 8 reasons. I believe she has recently married as well and
 9 her husband wasn't happy with the journey to Dartford.
 10 Q. But you were aware by this date, by the date she
 11 resigned -- obviously you didn't speak to her after the
 12 date she resigned?
 13 A. No, no.
 14 Q. So you were aware by this time of her grievance against
 15 Kam Singh?
 16 A. Yes, because that must have been -- that was before
 17 that, wasn't it; yes.
 18 Q. It was in May.
 19 A. Hm-mm.
 20 Q. So by that stage you know -- by 27 May at the latest,
 21 probably, you knew of the two grievances, Jas's sexual
 22 harassment, Fatima's feeling ostracised, or however she
 23 put it, against Kam.
 24 A. Hm-mm.
 25 Q. Let's go on to page 2939. {E/910.1/2939} Fatima sets

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1 out a written grievance; do you see that?
 2 A. Hm-mm.
 3 Q. And sends it off on Riyaz Rajan. Were you aware of
 4 that, that she had made a formal written grievance up to
 5 Riyaz Rajan of Specsavers?
 6 A. No, well, the only grievance I'm aware she made was in
 7 regards to her probation being extended, but again,
 8 that's from her.
 9 Q. Okay, but this grievance is not just about the extension
 10 of her probation --
 11 A. No, I see that.
 12 Q. -- by any means, is it?
 13 A. No, no, I see that.
 14 Q. Between the two holepunches, this is under the heading,
 15 "13 May":
 16 "He also started to give me and Jas Dirty Looks."
 17 Do you see all of that?
 18 A. Hm-mm.
 19 Q. In summary, what she is saying -- and you will see it at
 20 the end -- is that she is being made to feel very
 21 uncomfortable by Mr Singh; yes?
 22 A. Hm-mm.
 23 Q. And very upset and very -- all right.
 24 You were aware of Kevin's grievance, I think you
 25 have just told us, page 2943?

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1 A. Yes, I was aware of Kevin's grievance.
 2 Q. Okay. And you have no complaint about that? In your
 3 letter, you don't mention the fact that Kevin also
 4 raised a grievance against Kam?
 5 A. No, no, I didn't.
 6 Q. So it was just the Jas and Fatima grievances that you
 7 wanted to express your distress about?
 8 A. Well, probably if I'd have thought about it, I would
 9 have included Kevin. I don't -- I mean, the thing is
 10 with Kevin, he was an interesting character. You know,
 11 he was -- well...
 12 Q. Okay. Just going back to your letter of 3009:
 13 {E/935.1/3009}
 14 "We have been distressed by the grievances they have
 15 brought in their short time in the store..."
 16 What was your personal distress about the fact that
 17 they had raised grievances, one, that she had been
 18 sexually touched by Kam, which is what you thought the
 19 grievance was, and the other, that she had had
 20 detrimental treatment made against her by Kam because of
 21 her support for Jas. That was the Fatima grievance.
 22 Why were you upset that they had raised those
 23 grievances?
 24 A. I was upset by the divide it had caused in store. So,
 25 like I -- you know, I'm not a fantastic letter writer,

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1 obviously, but the fact of the matter is that the
 2 grievances caused massive issues. In my understanding,
 3 if you raise a grievance, it shouldn't be discussed with
 4 other people. My awareness is that if you raise
 5 a grievance it should be private and confidential.
 6 These grievances were very freely discussed by them
 7 both. It caused unease in the team. We had never had
 8 this, as has been mentioned previously, before, where
 9 anything like this had happened. And also, the fact
 10 they were talking about it, it was uncomfortable. It
 11 was -- it did make us feel, whatever the word you are
 12 saying -- I can't find my letter.
 13 Q. Distressed?
 14 A. Distressed, because it's not nice to hear, whether an
 15 allegation is true or false, to hear that an accusation
 16 is being to that -- a serious accusation of --
 17 I appreciate she went into far more detail in her actual
 18 grievance, but it was a serious accusation.
 19 It's not something that you want to have discussed,
 20 feel about. It was very uncomfortable, very
 21 uncomfortable, and distressed me.
 22 Q. Do you think it's not right for people to raise
 23 grievances when they are being touched --
 24 A. No, of course it is.
 25 Q. -- up by their boss?

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1 A. No, no, no. Of course it is absolutely proper for
 2 somebody to raise a grievance. I'm not saying it's not.
 3 But I'm allowed a feeling about how I feel about the
 4 discussion of it in the store.
 5 Q. So who was discussing it in the store?
 6 A. Jas and Fatima were discussing their grievances; they
 7 both discussed their grievances. Jas was very open
 8 about her grievance.
 9 Q. Discussing it with you, the people on the shop floor?
 10 A. Yes, with us.
 11 Q. And were you discussing it with Kam as well?
 12 A. No, no, I wasn't discussing it with anybody. Jas was
 13 discussing it, and I certainly didn't discuss it with
 14 anybody. Jas was freely talking to various members of
 15 the team about the grievance being made. She was trying
 16 to get people to also -- I don't know, to get on to her
 17 side, I suppose, to support her. Whatever way you want
 18 to phrase it.
 19 Q. Okay. But what you actually then go on to allege in
 20 this letter is:
 21 "... and we feel ..."
 22 We know now that this does not include
 23 Mrs Tidmass --
 24 A. Yes, I appreciate that.
 25 Q. -- she completely rejects any notion of this, but

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1 anyway:
 2 "... and we feel Swarandeeep has taken a big part in
 3 them being brought to head office's attention
 4 unnecessarily."
 5 As you initially drafted it, at least?
 6 A. Yes, but I thought "unnecessarily" was improper so
 7 I removed that. Obviously before I handed it in,
 8 I scratched it out.
 9 Q. It was improper, wasn't it, because there is nothing
 10 unnecessary about Swarandeeep, as the optical director of
 11 Dartford store, reporting the fact that these two junior
 12 female members of staff were making serious allegations
 13 against Kam Singh. There is nothing improper about
 14 that, is there?
 15 A. No, no, I appreciate that.
 16 Q. No. So why leave in the:
 17 "... we feel Swarandeeep has taken a big part in
 18 them being brought to head office's attention."
 19 Why would you leave that in?
 20 A. Because when I wrote the letter, if I'd have realised
 21 that I would be here in court giving evidence, I maybe
 22 would have written a better letter for you to read.
 23 But, the fact of the matter is that I wrote a letter on
 24 the day, I wrote it with Tracey.
 25 Q. I'm going to suggest to you that you wrote it like this

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1 because the purpose of your letter was to try to get
 2 Swarandeeep into trouble with head office and was to try
 3 to support Kam Singh against Swarandeeep. It's clear,
 4 isn't it?
 5 A. No.
 6 Q. Okay. Next paragraph:
 7 "We are aware she has approached other members of
 8 our team..."
 9 "She", I have always read that and understood it to
 10 mean Swarandeeep, but perhaps I'm reading it wrong and
 11 this is another of the examples of your bad drafting.
 12 Did you mean "she", Swarandeeep, or did you mean "she",
 13 Jas?
 14 A. I meant Swarandeeep because I know that she had asked
 15 Lorraine if she wanted to make a grievance. If she had
 16 any issues.
 17 Q. So that's one. That's Lorraine, you are saying?
 18 A. Lorraine, yes.
 19 Q. Lorraine. We will come back to that in a second.
 20 So who are the other members of our team that she,
 21 Swarandeeep, has been --
 22 A. Alex in the lab, as well.
 23 Q. She approached Alex? She approached Alex?
 24 A. Alex was asked if she had any concerns that she wanted
 25 to raise. Alex and Kevin worked together in the lab.

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1 Q. Right:
 2 "Swarandeeep is always commenting on this fact ..."
 3 That is the fact that there is a difficult
 4 relationship between them?
 5 A. Yes.
 6 Q. Is this to your knowledge or is this just what you have
 7 heard from other people?
 8 A. No, no, we knew very clearly that the relationship --
 9 well, there wasn't a relationship. They did not get on.
 10 We knew that and it was vocal between both of them.
 11 Q. Kam Singh told you that?
 12 A. Swarandeeep told me that.
 13 Q. And Kam Singh?
 14 A. Swarandeeep and Kam both told us that -- well, they
 15 didn't tell us, no, I'm sorry. We knew that there was
 16 difficulties because of the fact that there was this
 17 issue with the memos going back and forth: sign this
 18 memo; sign this memo; you can't sign this memo unless
 19 both of us have signed it; you have to discount that
 20 memo. You know, the disagreements...
 21 Q. The two of them, Kam and Swarandeeep --
 22 A. Nobody said to me, "I don't get on with her"; "I don't
 23 get on with him".
 24 Q. Neither of them said that?
 25 A. No.

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1 Q. But by the way the two of them acted and the issue about
 2 the memo, for example, it was clear to you, from the two
 3 of them -- from the two of them it was clear to you that
 4 their relationship was a difficult one?
 5 A. It was made more difficult because with regards to the
 6 memo with the frame repairs, for instance, there was
 7 a frame that was broken that was a non-Specsavers frame
 8 and there was a memo issued that you can't do repairs.
 9 That was issued by Kam. There was a counter memo by
 10 Swarandeeep saying, "Ignore that memo".
 11 Q. That's just one example. You are not relying solely on
 12 that one example?
 13 A. Okay, I can give you another example, sir, which was
 14 that there was a memo that was issued -- Swarandeeep
 15 asked me to sign and I would not sign, which was that we
 16 weren't to acknowledge, or -- acknowledge? -- memos
 17 from -- that were issued unless they were signed by both
 18 directors. And the reason I refused to sign that memo
 19 is because I believe it was only signed by Swarandeeep
 20 herself.
 21 Q. My question is simply: you were aware from both of them
 22 that their relationship was a difficult one?
 23 A. Because of the atmosphere in store.
 24 Q. Yes.
 25 A. But not because of someone saying to me, "I don't like

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1 her"; "I don't like him".
 2 Q. You have made it clear in your evidence today neither of
 3 them actually said that to you or anybody, but from
 4 their behaviour and the way they spoke to each other and
 5 the way that they were, you were aware that this
 6 relationship was a broken relationship?
 7 A. I was aware it was a broken relationship.
 8 Q. And yet, all you put in the letter is that:
 9 "Swarandeeep is always commenting on this fact..."
 10 You have just confirmed to his Lordship that
 11 actually, she didn't say any such thing, so that's
 12 a lie.
 13 A. It's not a lie. It's -- the fact is she didn't say to
 14 me, "I don't like Kam", okay? It was the actions in
 15 store. You take -- you listen to this, you don't listen
 16 to this -- because the memo that was originally issued
 17 about repairs, for instance, that was issued by Kam, it
 18 was countered by a memo by Swarandeeep saying, "Don't
 19 acknowledge that. You will do repairs to suit the
 20 customer's needs."
 21 And then there was a memo issued from Swarandeeep
 22 saying, "You can't acknowledge a memo if it isn't signed
 23 by both directors".
 24 So where I have written in this letter here --
 25 I can't even find it in here.

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1 Q. It's between the two holepunches.
 2 A. Yes.
 3 Q. I'm putting to you that you are giving us examples of
 4 the two of them and her issuing memos and things which
 5 evidenced the fact there is a broken relationship --
 6 A. But I didn't write this letter alone.
 7 Q. -- but that's not what you put here. In here, you said:
 8 "Swarandeeep is always commenting on this fact..."
 9 The fact being that they had a broken relationship.
 10 And you have confirmed twice in evidence to his Lordship
 11 when I asked you about it that she did not say --
 12 A. But I did not write this letter alone. You must
 13 understand, it was written by myself and Tracey.
 14 I typed it, I'm responsible for the typing of the
 15 letter, but we wrote it, we constructed the letter
 16 together.
 17 Q. "Kam does not involve us in their 'problems'..."
 18 That's not true. Kam involved you in the problem,
 19 just as Swarandeeep involved you in the problems?
 20 A. Kam didn't involve us in the problems. I feel that
 21 being asked to sign a memo -- Swarandeeep took me into
 22 her testing room and asked me to sign a memo that said,
 23 "You mustn't acknowledge a memo unless it's signed by
 24 both directors".
 25 I felt pressured that I should have to sign that

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1 memo and I actually said no, because, you know, it was
 2 not what I wanted to do.
 3 MR STUART: My Lord, I see the time. I haven't yet quite
 4 finished. I certainly have to deal with Ms Hornby's
 5 interview. Would that be a convenient moment?
 6 MR JUSTICE NUGEE: That would be a convenient moment. We
 7 will take a break until 2 o'clock.
 8 Mrs Hornby, you have probably heard me say this but
 9 because you are in the middle of your evidence, I'm
 10 afraid you have to spend your lunch not speaking to
 11 anybody --
 12 A. That's fine.
 13 MR JUSTICE NUGEE: -- about the case and we will see you
 14 back at 2 o'clock.
 15 A. Thank you.
 16 (1.00 pm)
 17 (The short adjournment)
 18 (2.00 pm)
 19 MR JUSTICE NUGEE: Yes, Mr Stuart?
 20 MR STUART: Mrs Hornby, if you would have E11/3091.
 21 {E/945/3091}
 22 Is it right that you only had one meeting with
 23 Mr Clark?
 24 A. That's correct.
 25 Q. Not like Mrs Tidmass earlier?

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1 A. No, I had one.
 2 Q. You just had the one; was this in the hotel?
 3 A. It was in the Hilton, that's correct.
 4 Q. Yes. If you go to the bottom of 3091, he refers you to
 5 the letter. Do you see that?
 6 A. Hm-mm. Yes.
 7 Q. And above that, just next to the second holepunch, he
 8 has asked you question:
 9 "Can you confirm that Kam hasn't influenced this?"
 10 Do you see that?
 11 A. Yes.
 12 Q. And he is there referring to your answer in the middle
 13 block, where you say you spoke to colleagues?
 14 A. Hm-mm.
 15 Q. Do you see that:
 16 "... I wrote it, I showed them and they were happy
 17 to sign it after reading it. There was no pressure
 18 involved...
 19 "Question: Can you confirm Kam hasn't influenced
 20 this?
 21 "Answer: No, no way!"
 22 So your evidence is that really, according to
 23 this -- according to Mr Clark, you were really the
 24 person who was influencing the creation and signing of
 25 this letter?

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1 A. I typed the letter, yes.
 2 Q. Not just typed it; you are the one who then spoke to
 3 staff and showed it to them?
 4 A. Yes. No, I don't disagree with that.
 5 Q. Got them to read it and sign it?
 6 A. Tracey and I wrote the letter together. So I appreciate
 7 I haven't been clear on that in this particular
 8 interview, but we wrote it together, stood side by side
 9 and wrote the letter.
 10 Q. Okay. You say there you had shown it to them. You
 11 obviously hadn't shown it to Mrs Tidmass because she
 12 wasn't there?
 13 A. No, again, I've missed out I read it to her, but I did
 14 read it to her. Steve and Darshan saw it before
 15 I printed it. They had the opportunity to edit if they
 16 had wanted to.
 17 Q. When he said:
 18 "... Kam hasn't influenced this.
 19 "Answer: No, no way."
 20 That's not quite fair, is it; you had had the
 21 conversation in the pub with Kam?
 22 A. I don't actually recall that conversation. I'm not
 23 saying I wasn't party to it. The fact of the matter is,
 24 it's referred to as a meeting. I appreciate it's a --
 25 but it wasn't a meeting, it was -- we went frequently

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1 after work. You know, we would have a drink, just sit
 2 and chat. It wasn't a formal meeting.
 3 Q. Yes, we won't call it a meeting. We will call it an
 4 incident in a pub, where the staff members in the team
 5 were discussing this?
 6 A. Yes.
 7 Q. Kam came in?
 8 A. He would have come from work.
 9 Q. He came in?
 10 A. Hm-mm.
 11 Q. And he said something along the lines of, "I can't be
 12 seen to be any part of this", or ...?
 13 A. I don't believe -- as I say, I don't remember this
 14 particular occasion. I remember we had a discussion
 15 when we weren't in work about our feelings. Obviously,
 16 Darshan was very upset about her postponement of being
 17 able to do her qualification because of the supervisor
 18 argument. So obviously we discussed that --
 19 Q. That's not in the letter, is it?
 20 A. No, I appreciate that but I can't say that conversation
 21 didn't happen, though.
 22 Q. I didn't suggest it hadn't happened. I'm saying in your
 23 letter you don't mention anything to do with Darshan and
 24 her supervisor item. It's all -- we have been through
 25 the letter; I'm not going to go through it again.

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1 A. No, sir.
 2 Q. I think you are agreeing there was an informal gathering
 3 in a pub, at which Kam Singh came in and you discussed
 4 this matter generally?
 5 A. We would have been discussing the matter generally, but
 6 not with Kam. I never discussed this with him. I'm not
 7 saying he wasn't there if we were having -- if we had
 8 gone to the pub after work, but the discussion was
 9 between team members.
 10 Q. All right. So bottom of page 3091: {E/945/3091}.
 11 "I refer you to the letter which says other members
 12 of staff asking if there are issues with Kam."
 13 Then you put:
 14 "In my opinion Swarandeeep has influenced and put up
 15 other people to put in grievances against Kam..."
 16 That's the allegation you made to Mr Clark and he
 17 goes on to use that later. So you make a direct
 18 allegation that she put up other people to put in
 19 grievances against Kam. Which of the grievances you are
 20 referring to there?
 21 A. In that instance, I was referring to John Ko, the lab
 22 technician.
 23 Q. Yes.
 24 A. Because he was already in a very difficult time
 25 personally and was distressed by the changes that were

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1 happening in the lab, and I know that he had a meeting
 2 with Swarandeeep and then a grievance was then put
 3 forward because I did accompany John to his -- I was his
 4 accompaniment for his grievance.
 5 Q. That's right. So you know that his grievance was
 6 against Kam?
 7 A. Yes, I do know that, yes.
 8 Q. And you know that John genuinely felt that grievance,
 9 didn't he?
 10 A. John was under a lot of duress at that time. His
 11 brother had just had a serious accident and then did
 12 pass away. Mentally, he wasn't in a good place.
 13 Obviously, John and I are still in contact to this day.
 14 He was in a difficult time and I think that his personal
 15 circumstance affected his feelings at work. My opinion.
 16 Q. The question was: John genuinely felt that grievance
 17 against Kam, didn't he?
 18 A. I can't say he didn't; it's his grievance to make.
 19 Q. Correct. So he wasn't put up to that grievance by
 20 anybody but himself, was he?
 21 A. He was obviously advised that he could make a grievance.
 22 Q. Are you suggesting that he didn't raise all the
 23 complaints that he wanted to?
 24 A. Well, I'm simply saying that I don't think he would have
 25 made a grievance if he hadn't have been advised it was

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1 an option for him. That's my opinion, it's not --
 2 Q. That's not quite the same thing as being "put up" to it,
 3 is it?
 4 A. I appreciate what you are saying.
 5 Q. And the way you have put it, as noted by Mr Clark
 6 anyway, is that Swarandeeep put these other people up to
 7 grievances against Kam. You are saying John Ko was one
 8 of those?
 9 A. I was referring to John Ko's grievance.
 10 Q. Who are the other grievances that -- people put in
 11 grievances. Who are the others that she put up to do
 12 a grievance?
 13 A. I know that -- obviously, John had made a grievance;
 14 Kevin had made a grievance.
 15 Q. You are not suggesting she put up Kevin?
 16 A. No, you are asking me what grievances I know about.
 17 Q. No, I'm asking you about what you are referring to. You
 18 said:
 19 "Swarandeeep has influenced and put up other people
 20 to put in grievances."
 21 I'm asking you: which grievances did she put people
 22 up to?
 23 A. Well, I don't know how to answer that. She --
 24 Q. No.
 25 MR JUSTICE NUGEE: Did you want to say something else?

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1 A. I don't have an answer, I'm sorry.
 2 MR STUART: Over on page 3092, just above the second
 3 holepunch: {E/945/3092}
 4 "Can you give me your perception/overview of
 5 Swarandeeep personally towards members of staff."
 6 Do you see that question? Your answer:
 7 "Over the last year she comes over very sweet but
 8 doesn't talk to us. If she latches on to you having any
 9 niggles she will talk to you about these and discuss
 10 them, particularly if they are about Kam. She will
 11 publicly embarrass you on the shop floor and discuss
 12 errors you have made. She is not good at holding back
 13 her feelings on staff. With Lorraine in the past
 14 Swarandeeep wrote a memo and put on there 'she was being
 15 fraudulent in her completing the NHS'."
 16 Where did you get that from?
 17 A. There was an incident with the NHS that Lorraine had
 18 a made a mistake and there was a memo issued. I don't
 19 remember the contents the memo; if you have it, I will
 20 read it but --
 21 Q. I'm asking you where you get the quotes -- it's quotes,
 22 you see. Quotes:
 23 "She was being fraudulent in her completion of the
 24 NHS."
 25 A. I believe that was in the memo we were asked to sign.

1 2 1

1 I may be incorrect.
 2 Q. Okay.
 3 A. But I do know that there was -- Swarandeeep had vocalised
 4 that Lorraine had made an error which would be
 5 considered as NHS fraud, which is, of course, very
 6 serious because it's a big part of our business.
 7 Q. We are almost there. 3093. {E/945/3093} He asked you
 8 a question:
 9 "Can you recall any time when the directors have
 10 undermined each other at all?"
 11 Do you see that?
 12 A. Yes.
 13 Q. And you bring up the frame adjustment issue?
 14 A. It's very hard to read, yes.
 15 Q. And you say:
 16 "Kam decided to issue a memo ..."
 17 Just on that memo business, which memos did you
 18 sign?
 19 A. I signed the original memo which was that we weren't to
 20 do repairs on non-Specsavers frames.
 21 Q. Yes. What about the memo that said, "There will be no
 22 amendments to standing operating procedures without the
 23 two directors'..."?
 24 A. I must have signed that one, I don't remember refusing
 25 to sign that memo.

1 2 2

1 Q. Okay.
 2 A. I don't know, though.
 3 Q. So you give that example of the memo. Then just below
 4 the second holepunch:
 5 "Another time we had a problem with the clinics
 6 where Swarandeeep had booked out clinics. We had
 7 a patient who needed an urgent [something]. Kam booked
 8 this in with Swarandeeep and she took it."
 9 Is that right?
 10 A. Yes, the patient had presented with problems, so if
 11 a patient comes in and they have problems, we do have to
 12 see them. It's a duty of care. So it was booked into
 13 the clinic but it was at a time when -- if I remember
 14 correctly, it was either appointments had been booked
 15 out or it was near her lunchtime.
 16 Q. As you explained it there, that led to a sort of
 17 altercation where obviously Swarandeeep was upset
 18 about --
 19 A. Yes, she was.
 20 Q. -- what Kam had done? You felt that perhaps it was
 21 being taken out slightly on you?
 22 A. I was on the reception -- I was running the desk that
 23 day. So therefore, responsibility fell to me to
 24 actually book in -- be responsible for the clinic
 25 running. So yes, I do feel that Swarandeeep felt that it

1 2 3

1 was my fault for putting in the patient, but it was
 2 clinically necessary.
 3 Q. But as you put at the end:
 4 "Swarandeeep at the end of the day apologised to me."
 5 A. She did, but after Kam spoke to her. She apologised to
 6 me, yes, as I have stated.
 7 Q. Yes. Then there is one over the page, last page.
 8 {E/945/3094}
 9 A. Hm-mm.
 10 Q. An issue where a locum had not turned up?
 11 A. Yes.
 12 Q. "Swarandeeep told me to ring Kam to sort it out. She was
 13 arguing with Kam on the phone ... and said 'You heard
 14 that, didn't you?'..."
 15 A. Yes. Swarandeeep wanted me to sign a compliments slip,
 16 a headed paper stating what Kam had said to her, but
 17 obviously because it was on the telephone, I only heard
 18 Swarandeeep; I didn't hear Kam.
 19 Q. Yes. So those are three examples obviously of
 20 Swarandeeep and Kam disagreeing about something that
 21 happened in the shop on those three days?
 22 A. Well, the incident with the clinic was not
 23 a disagreement between Swarandeeep and Kam. It was
 24 between -- Swarandeeep came into the staff room and had
 25 a go at me. I appreciate she was frustrated, whatever,

1 2 4

1 but she did and, yes, she did apologise.
 2 Q. Yes. Those are the three incidents. But then you say
 3 for some reason -- your next sentence is the one I have
 4 to ask you about because that's the one that has been
 5 taken up by Specsavers:
 6 "I 100 per cent believe she is putting people up to
 7 putting grievances in."
 8 Is your explanation for that the same as the
 9 explanation you gave about eight minutes ago?
 10 A. It was my feelings. It was my opinion. I appreciate
 11 it's not fact. It was my opinion.
 12 Q. And it's based on the example of the John grievance?
 13 A. Yes.
 14 Q. And none others?
 15 A. Well, like I say, with Fatima and Jas, I only know what
 16 they told me themselves. So I can't reference their
 17 grievances.
 18 Q. You are not suggesting that she put Jas --
 19 A. No, no, what I'm saying is -- no, no. No, what I'm
 20 saying is that the only reference I have to that is
 21 John, because Fatima and Jas told me of their grievances
 22 themselves.
 23 Q. Fine. I have just to ask you one very, very quick final
 24 question, an answer you gave this morning. Would you go
 25 to page 2902. {E/895.1/2902}.

1 25

1 This is the May 2010 -- do you recognise that?
 2 May 2010?
 3 A. Yes, yes, yes.
 4 Q. We can see -- I think we can see you --
 5 MR JUSTICE NUGEE: It's the May 2010 what? What is it,
 6 Mrs Hornby?
 7 A. It was a staff rota.
 8 MR JUSTICE NUGEE: Rota, thank you.
 9 MR STUART: And we can see you, I think, seven lines from
 10 the bottom: "Lucy".
 11 A. Yes.
 12 Q. This must have been after you returned from your
 13 maternity leave?
 14 A. Yes.
 15 Q. I think you were on maternity leave on the 29th --
 16 A. Yes, I had thought I had returned on the 1st and this
 17 proves -- correct.
 18 Q. So that's 1 May, you returned from maternity leave?
 19 A. Yes.
 20 Q. And we can see you basically worked weekends, didn't
 21 you, Saturday and Sunday?
 22 A. Yes, I came in on a part-time basis.
 23 Q. Okay. Ms Birdi, she is at the top under "Optom, SB".
 24 Do you see that?
 25 A. Yes.

1 26

1 Q. She tended not to work Sundays, didn't she?
 2 A. I think on a few occasions we worked together, but that
 3 was if there wasn't anybody else.
 4 Q. That's fine. So I'm trying to find the occasions, you
 5 see, when you were working and she was working and Jas
 6 was working. Do you see that? And Fatima. Because you
 7 say that you personally experienced them huddling
 8 together, et cetera. Do you remember?
 9 A. Personally experienced them huddling together? In the
 10 test room, on occasion, yes, I did.
 11 Q. On occasion?
 12 A. Yes.
 13 Q. I can see that on Saturday, 22 May -- do you see Jas?
 14 She was there on that date. Fatima was there on that
 15 date and so was Swarandeeep and so were you?
 16 A. Hm-mm.
 17 Q. Do you see that?
 18 A. Yes.
 19 Q. But Swarandeeep was on holiday the previous Saturday,
 20 indeed the week before that. "H", do you see that?
 21 A. It's not very clear.
 22 Q. It's not very clear but take it from me she was on
 23 holiday?
 24 A. Yes, I do.
 25 Q. And the week prior to that?

1 27

1 A. Right.
 2 Q. So it can't have been the weekend of the 15th or the
 3 8th. Do you see? And she was off sick on the 1st. So
 4 she wasn't actually there on any Saturday in May, which
 5 is after you came back from your maternity leave, on
 6 occasions when you could have possibly seen these
 7 occasions of her huddling with Jas and Fatima. So I'm
 8 going to suggest to you that you are exaggerating your
 9 evidence there.
 10 Now that I have shown you this, do you confirm it
 11 was only one Saturday that you were actually there and
 12 she was there and Jas and Fatima were there?
 13 A. Well, from looking at this, it's the only way I can say
 14 that, but obviously, it must be so.
 15 MR STUART: Okay. I have got no more questions, my Lord?
 16 MR JUSTICE NUGEE: Mr Potts?
 17 Re-examination by MR POTTS
 18 MR POTTS: Just one question, my Lord.
 19 Just go back to your interview at 3092. {E/945/3092}
 20 In fact actually, 3091. {E/945/3091} At the bottom of
 21 the page it was put to you that the only example of
 22 a grievance where Ms Birdi had influenced the staff was
 23 the example of John.
 24 A. Yes.
 25 Q. If you go over the page, 3092, {E/945/3092} Do you see

1 28

1 that? Then there was Kevin.
 2 Could I also invite you to look at what then follows
 3 in relation to matters about Darshan, and particularly
 4 at the end of that paragraph:
 5 "A few weeks ..."
 6 Do you see that:
 7 "A few weeks later ..."
 8 A. Sorry, I can't. I do apologise.
 9 Q. It was put to you by Mr Stuart that the only example
 10 that you gave was that of a grievance by John?
 11 A. Yes.
 12 Q. If you go a little bit further down the page, just above
 13 the first holepunch?
 14 A. Yes.
 15 Q. There is a reference to Kevin and then you say:
 16 "That doesn't surprise me. We had an issue with
 17 Darshan being supervised in the past and Swarandeep
 18 wouldn't sign off her supervision."
 19 Which I think you have discussed.
 20 A. Yes.
 21 Q. Then it says:
 22 "A few weeks later Swarandeep presented Darshan with
 23 a typed letter raising a grievance with Kam over him
 24 signing the supervision [letter]."
 25 A. Yes, sorry. Yes, I see that, sorry.

1 29

1 Q. You weren't shown that. Does that refresh your memory
 2 in relation to the examples you gave in relation to
 3 grievances?
 4 A. Yes, it does, sir.
 5 MR POTTS: Thank you.
 6 MR JUSTICE NUGEE: Can I just ask you, Mrs Hornby: what was
 7 your understanding of John Ko's grievance?
 8 A. What I understand was that when Kam came into the
 9 business, the lab had run a certain way for a while and
 10 it wasn't in the best interests of the business in
 11 regards to productivity. So Kam instigated changes that
 12 were to improve the performance of the lab, availability
 13 of things we could -- glasses we could make in different
 14 prescriptions, and also the way the processes were done.
 15 And John didn't agree to the changes.
 16 MR JUSTICE NUGEE: Thank you. One other thing: what was
 17 your job?
 18 A. At the time I was an optical assistant, a dispenser.
 19 MR JUSTICE NUGEE: Thank you very much.
 20 If there are no questions arising out of that, then
 21 thank you very much, Mrs Hornby. You are released,
 22 which means you can go if you want to; you are perfectly
 23 welcome to stay if you would rather stay.
 24 A. Thank you.
 25 MR STUART: My Lord, can I call Mr Hummell.

1 30

1 MR JUSTICE NUGEE: Yes.
 2 MR STEPHEN HUMMELL (affirmed)
 3 Cross-examination by MR STUART
 4 MR JUSTICE NUGEE: Do, please, sit down, Mr Hummell.
 5 MR STUART: Mr Hummell, I think you sat through this
 6 morning's evidence, so you have heard what we have been
 7 discussing?
 8 A. I did.
 9 Q. All right, yes. If you go to page E11, 3009,
 10 {E/935.1/3009} there is the letter?
 11 A. Yes.
 12 Q. You obviously did sign it?
 13 A. Yes.
 14 Q. The first round of signatures?
 15 A. Yes.
 16 Q. Do you recall the circumstances in which the letter was
 17 actually physically typed and signed? It's four years
 18 ago.
 19 A. Yes, not actually physically typed. I signed it in
 20 store.
 21 Q. You did?
 22 A. Yes.
 23 Q. Who presented it to you to sign?
 24 A. Lucy.
 25 Q. Lucy. Do you recall the conversation in the pub?

1 31

1 A. Yes, I remember going to the pub.
 2 Q. And are you able to help us as to roughly when that was
 3 by comparison with the date of the letter? So how long
 4 before the letter?
 5 A. Again, I can't be absolutely 100 per cent certain. It
 6 might have been a week before. It might have been a bit
 7 before that. I'm not absolutely sure.
 8 Q. Okay. Just looking at the allegations in this letter,
 9 you see the second paragraph:
 10 "We don't want to lose Kam ..."
 11 I know you didn't draft the letter, you only read it
 12 and signed it after it had been drafted, but do you know
 13 why you were putting your name to a letter saying:
 14 "We don't want to lose Kam..."
 15 A. Yes, because he was very much important to the shop
 16 floor. He was the retail director and he led us on the
 17 shop floor.
 18 Q. And why did you think you might lose Kam?
 19 A. I just felt -- me personally I just felt that it was
 20 important that we made our feelings clear.
 21 Q. I'm not sure that's quite an answer to the question.
 22 Why did you think you might lose Kam? Why express
 23 a concern, saying:
 24 "We don't want to lose Kam ..."
 25 What gave you the impression that you might be about

1 32

1 to lose Kam?
 2 A. I wasn't given the impression that we were about to lose
 3 Kam.
 4 Q. You were aware that he was the subject of a serious
 5 grievance by Jas?
 6 A. Yes.
 7 Q. And I think you had discussed that with him, hadn't you,
 8 with Kam Singh?
 9 A. Yes.
 10 Q. He had told you about it?
 11 A. Yes.
 12 Q. He had talked to you about it?
 13 A. Yes.
 14 Q. You personally?
 15 A. Yes.
 16 Q. Was he in the habit of talking to you about matters like
 17 that? Were you and he friends?
 18 A. No.
 19 Q. No, so why was he --
 20 A. He was my director.
 21 Q. I know he was. But why was he talking to you, an
 22 employee, about an allegation of sexual harassment
 23 against him by one of your fellow employees?
 24 A. I don't know.
 25 Q. You do not know; okay. Do you remember roughly when it
 133

1 was that he mentioned that to you, when he spoke to you
 2 about that, roughly?
 3 A. Not as a date, no.
 4 Q. No, okay. Anyway, you were aware that he was --
 5 certainly by the time of this letter you were aware that
 6 he was the subject of grievances both by Jas and by
 7 Fatima?
 8 A. I didn't know about Fatima.
 9 Q. Okay. I think you did.
 10 A. I don't recall knowing.
 11 Q. I will remind you. Let's take you back. Do you
 12 remember -- 2961 -- I think you did know about it,
 13 Mr Hummell, because you were interviewed about it by
 14 Mr Rajan on 3 June 2010. So that's about two weeks
 15 before the letter.
 16 2961? {E/919/2961}
 17 A. Yes.
 18 Q. You were being asked about the grievances: the first
 19 one, Fatima's grievance; the second one, Jas's
 20 grievance. Do you remember? Does this help to refresh
 21 your memory now?
 22 A. I can see it there, yes.
 23 Q. So you did know about Fatima's grievance, didn't you?
 24 A. I must have done, yes.
 25 Q. Who told you about Fatima's grievance?
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1 A. I don't know.
 2 Q. I'll suggest to you that it was Kam?
 3 A. I don't know, and that's an honest answer.
 4 Q. Okay. It could have been Kam or it might have been
 5 somebody else?
 6 A. I don't know who it was.
 7 Q. After dealing with Fatima's grievance for most of the
 8 page, at the bottom, five lines from the bottom,
 9 Mr Rajan said:
 10 "What's your understanding around Jas's grievance?"
 11 So we have moved on to Jas's grievances. Do you see
 12 it?
 13 A. Yes.
 14 Q. You said: {E/919/2961}
 15 "Some kind of harassment in a sexual way.
 16 "Question: Where did you hear that from?
 17 "Answer: Kam told me."
 18 A. Hm-mm.
 19 Q. What had Kam told you about this grievance, this "sexual
 20 way"?
 21 A. Exactly as I have stated there. I think there was an
 22 allegation of them being alone. That's the only one
 23 that I know about that I can recall, unless you are
 24 going to say that there is something else in here, but
 25 the only one that I can recall was an end of a day, with
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1 cashing up. That's the only one that I can recall. And
 2 I have nothing else.
 3 Q. Okay. So when Kam was talking to you about Fatima's
 4 grievance, the one of sexual harassment in a sexual
 5 way --
 6 A. Hm-mm.
 7 Q. -- what did he say to you about that?
 8 A. I took it or felt that he was someone that was being
 9 falsely accused of something and you would be very
 10 worried if you was being falsely accused of something.
 11 Why he chose to speak to me, I don't know.
 12 Q. Okay. Were you aware of the conversations that
 13 Mrs Tidmass described to us earlier: on the shop floor,
 14 everybody knew what Jas was alleging?
 15 A. I'm aware that she was telling people, yes.
 16 Q. So at the time --
 17 A. She didn't tell me.
 18 Q. No, but were you aware from others as to what her
 19 allegations were?
 20 A. I'm not aware of anything else other than what I have
 21 just stated to you.
 22 Q. Yes, but all you have stated to me is that Kam told you
 23 about something?
 24 A. Yes.
 25 Q. I'm not asking you what Kam told you. I'm saying: you
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1 agree with Mrs Tidmass's evidence that on the shop
2 floor, people knew what Jas's allegations were?
3 A. Yes.
4 Q. You said that Jas hadn't spoken to you about them
5 herself?
6 A. No.
7 Q. But I asked you: did you hear about what her allegations
8 were from the other members on the staff on the shop
9 floor?
10 A. In depth, no.
11 Q. Okay. So, having become aware of the Jas allegations
12 from Kam, not from others -- is that right?
13 A. Hm-mm.
14 Q. How did you become aware of Fatima's allegations?
15 A. I don't know; I can't recall.
16 Q. Okay. Did you have any conversation with Fatima?
17 A. Not that I recall, no.
18 Q. No. With Lucy perhaps?
19 A. No, I don't think so. Not that I can remember.
20 Q. All right.
21 Going back to 3009, in the third paragraph it's
22 written: {E/935.1/3009}
23 "We have felt ostracised by Swarandeeep ..."
24 Again, I know it's not your words, you didn't write
25 it, but did you understand what that meant when you

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1 signed up to this?
2 A. As far as I was concerned, it was the team being split,
3 split inasmuch as you had Jas and Fatima had come in,
4 but also, you had the two people at the top that were
5 obviously not getting on very well and that isn't very
6 good on a retail environment.
7 Q. Right. But the two people at the top not getting on
8 very well, that's not you, the team, being ostracised by
9 Swarandeeep, is it?
10 A. It felt as if, for me, that all the service that I had
11 given didn't matter and two new people would come in and
12 they seemed to be preferred. That was my personal
13 feeling.
14 MR JUSTICE NUGEE: How long had you been there, Mr Hummell?
15 A. At that time, three years.
16 MR JUSTICE NUGEE: Thank you.
17 MR STUART: All right. The paragraph then goes on. After
18 it deals with the preferential treatment, which is what
19 I think you have just mentioned, it talks about
20 whispering conversations and huddles between the three
21 of them. Had you actually experienced those yourself or
22 was that what you were hearing from your colleagues?
23 A. No, they used to go into the test room.
24 Q. And how often was that, according to you, that the three
25 of them went into the test room?

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1 A. I can't recall exact figures but it did happen.
2 Q. Okay. And then the serious allegation is made that you
3 were distressed by the grievances they have brought, and
4 "they" here is referring to Jas and Fatima. That's
5 clear from the next words, which say:
6 "... they have brought in their short time in the
7 store..."
8 Because they were the two short time employees who
9 had made grievances. Do you see? So:
10 "... we have been distressed by the grievances they
11 have brought ..."?
12 A. Yes.
13 Q. To your mind that's the grievance from Jas about sexual
14 harassment that you knew about?
15 A. Hm-mm.
16 Q. And the grievance from Fatima that you didn't really
17 know what it was about?
18 A. Yes. I mean, obviously at the time I must have known it
19 was about extending probation. I didn't remember that
20 until I read it there.
21 Q. Was it just about extended probation or was Fatima's
22 grievance a bit wider than that, in that she felt that
23 she had been badly treated and that Kam Singh made her
24 feel uncomfortable, et cetera?
25 A. I am not aware of that.

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1 Q. Okay. So as far as you were aware, that sentence
2 related to the sexual harassment allegation and the
3 extended probation allegation by Fatima?
4 A. Yes.
5 Q. And why were you distressed by those two things?
6 A. It's just not nice to come into work and have those
7 things going on.
8 Q. Perhaps one should blame the perpetrator, rather than
9 the victim. But that's what you are saying, is it? The
10 distress that you are talking about is just simply with
11 the fact that grievances were raised?
12 A. But it was the whole issue, as well, the whole working
13 environment, the way that the team has been affected by
14 them as well.
15 Q. By the two of them, by Jas and Fatima?
16 A. Yes.
17 Q. Anyway, it says:
18 "We have been distressed by the grievances they have
19 brought in their short time in the store and we feel
20 Swarandeeep has taken a big part in them being brought to
21 head office's attention..."
22 In the original version it said:
23 "... unnecessarily."
24 When you signed it, had that been crossed out yet or
25 not?

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1 A. I honestly do not know, I cannot remember.
2 Q. Okay, fair enough.
3 The effect of the allegation, however, is that you
4 feel -- you, the six members of staff who signed this
5 documents feel that Swarandeeep is in some way
6 instrumental in these two grievances. Is that right?
7 Because that seems an awfully unfair criticism of
8 Swarandeeep?
9 A. It was more that we just wanted this whole situation to
10 be resolved and for our workplace environment to be
11 settled.
12 Q. That's not the impression given by that sentence, is it:
13 "We have been distressed by the grievances they have
14 brought in their short time in the store and we feel
15 Swarandeeep has taken a big part in them being brought to
16 head office's attention..."
17 And it may or may not have said "unnecessarily".
18 It's a criticism of Swarandeeep, isn't it?
19 A. If you are looking at it like that, you can take it that
20 way.
21 Q. How else do you take it?
22 A. I don't know.
23 Q. Fair enough:
24 "We are aware she has approached ..."
25 That must be "she", Swarandeeep. Is that right?

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1 A. Okay, yes.
2 Q. I don't want to put words into your mouth. Maybe you
3 meant Jas?
4 A. No, it would have been Swarandeeep.
5 Q. Okay:
6 "We are aware that she has approached other members
7 of our team asking if they have any issues (grievances)
8 with Kam. This has been instigated by herself and not
9 by those members of staff."
10 Was that something you personally knew or was that
11 something you heard from Lucy and/or Tracey?
12 A. I honestly can't remember.
13 Q. Fair enough:
14 "We realise Swarandeeep and Kam have a difficult
15 relationship. Swarandeeep is always commenting on this
16 fact..."
17 Certainly at one stage in her evidence, Mrs Hornby
18 said, no, Swarandeeep didn't actually say anything like
19 that; what she meant by that was that, from things that
20 happened in the store between the two of them, it became
21 clear that they had a problem in their relationship?
22 A. Hm-mm.
23 Q. But perhaps you are going to say that Swarandeeep
24 commented or always commented to you that she and Kam
25 had a bad relationship?

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1 A. No.
2 Q. No. So it's not you who is making that allegation, the
3 commenting allegation?
4 A. I signed the letter.
5 Q. I know you did, but it's fair enough. You don't have to
6 agree with everything that's in the letter?
7 A. No, I stand by everything.
8 Q. I know, but you personally don't know that Swarandeeep is
9 always commenting on this fact. That's not your own
10 personal experience?
11 A. No.
12 Q. Okay:
13 "Kam does not involve us in their 'problems'..."
14 That's not quite fair, is it? He does to an extent
15 involve you in their problems, when there was the issue
16 of the memo being signed backwards and forwards?
17 A. No, that wasn't Kam.
18 Q. Okay. Right. Next paragraph:
19 "In the past many of us have had issues with
20 Swarandeeep..."
21 Ms Birdi is surprised to hear that from you. She
22 had not understood that you had issues with her in the
23 past and you had worked for her for quite a while?
24 A. Three years.
25 Q. Three years.

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1 A. Well, when she first came back from her first
2 suspension, yes.
3 Q. Yes. So in that period of time, 2008/2009, Swarandeeep
4 is not aware of the problems/issues that she has had
5 with you. Perhaps -- again, is this an example where
6 it's not actually you that we are talking about?
7 A. There are two examples in my statement that I was very
8 upset about, if that's what you want to refer to.
9 Q. I don't want to refer to anything; I'm asking you. Are
10 you saying that you were one of the many people who had
11 issues with Swarandeeep?
12 A. No.
13 Q. No. Good, okay, that's fine. It follows from that you
14 are not one of the people who was scared of
15 repercussions?
16 A. When I first went -- was employed in the store, I heard
17 many things from before, so it's always at the back of
18 your mind.
19 Q. So you heard other people --
20 A. Hm-mm.
21 Q. -- saying that, what, they were scared or they had heard
22 other people were scared? That's really what you are
23 trying to refer to there? Is that what you are saying?
24 A. Do you know, I just don't know.
25 Q. Okay:

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1 "Swarandeeep can make you feel very intimidated and
2 pressured and we have been frightened..."
3 Would it be fair to say that's not you, personally?
4 A. Yes.
5 Q. Thank you.
6 The purpose of this letter. Can we just come back
7 to that, now that you have had a chance to go through
8 each part of it. Was the purpose to support Kam? Was
9 that one of the purposes?
10 A. No.
11 Q. Not to support Kam?
12 A. No.
13 Q. "We don't want to lose Kam ..."
14 "Kam does not involve us in the 'problems' and tries
15 to make our working environment as happy and
16 smooth-running as possible."
17 You are not trying to support Kam in this letter?
18 A. No, we are trying to support the business.
19 Q. Was one of the purposes of the letter to criticise
20 Swarandeeep?
21 A. No.
22 Q. No? Was one of the purposes of the letter to explain
23 why you didn't want Jas and Fatima returning to work --
24 sorry, Fatima, not Jas -- Fatima returning after her
25 resignation?

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1 A. Both Jas and Fatima were very divisive figures within
2 the workplace.
3 Q. Yes?
4 A. So, yes.
5 Q. Right, so one of the purposes was that you were doing
6 this in order to make sure that Fatima didn't come back?
7 A. I don't think that's the reason all of this was written,
8 no.
9 Q. Okay?
10 A. The reasons I have given you just now are the real
11 reasons.
12 Q. All right. Was it suggested to you by somebody that
13 there was a chance of Fatima coming back?
14 A. Yes.
15 Q. Who told you that?
16 A. I think it was Tracey.
17 Q. And where did she get it from?
18 A. I don't know.
19 Q. Okay. All right. So the purpose of the letter then, as
20 far as you are concerned, was --
21 A. To alleviate the feeling in the workplace for us as
22 a team, we're a very united team, and to ensure that the
23 business was going okay.
24 Q. Right. You were interviewed about this six days later,
25 page 3095. {E/946/3095}

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1 This was your only interview with Mr Clark, was it?
2 A. Yes.
3 Q. You didn't have a second one in the store in July?
4 A. No.
5 Q. So this was the hotel morning?
6 A. Yes.
7 Q. 3095, first holepunch.
8 A. Yes.
9 Q. "Did Kam influence this letter at all?"
10 A. Hm-mm.
11 Q. You say:
12 "No, no, he didn't."
13 That's not quite right, is it? He had spoken to you
14 in the pub? You said you couldn't remember whether it
15 was a week before or a bit before that?
16 A. I remember us going to the pub. I honestly don't
17 remember Kam being there.
18 Q. You don't remember him being there?
19 A. No.
20 Q. Oh. Okay. Mrs Tidmass remembers him being there?
21 A. I know.
22 Q. Mrs Hornby -- I think her recollection was not so clear
23 about the meeting at all.
24 So at the meeting in the pub --
25 A. It wasn't a meeting.

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1 Q. Not a meeting, sorry. At the event in the pub --
2 A. An after-work gathering.
3 Q. An after-work gathering. At the gathering in the pub,
4 you, between you, were discussing about writing
5 a letter?
6 A. We was discussing the situation and everything, yes.
7 Q. And it came on to the question of writing a letter?
8 A. I can't remember if the letter was discussed there, but
9 it could have been.
10 Q. All right. Going back to 3095, you talk Mr Clark
11 through this. Do you see? The next question:
12 "You have had time to think about this, can you
13 please talk me through your thoughts?"
14 Do you see that?
15 A. Hm-mm.
16 Q. And your answer was:
17 "We know the directors have a difficult
18 relationship. Swarandeeep is the only one who mentions
19 this."
20 So that's sort of picking up on the allegation in
21 the letter that she --
22 A. Hm-mm.
23 Q. You quite fairly didn't pursue that allegation when
24 I asked you about it, about four minutes ago?
25 A. Hm-mm.

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1 Q. So that wasn't quite right, was it. Swarandeeep wasn't
 2 the one who mentions this, the difficult relationship?
 3 A. I have said it wasn't mentioned to me so I guess -- yes.
 4 Q. Did you have the letter in front of you when you were
 5 with Mr Clark?
 6 A. I don't remember.
 7 Q. Okay. So then you go on here:
 8 "He tries to support the team and drive the store
 9 forward. There are things in recent months that
 10 particularly concern me, particularly with the arrival
 11 of Fatima and Jas. They are often in the test room
 12 together. This is preferential treatment towards them."
 13 Do you see that?
 14 A. Yes:
 15 Q. "She ignores me sometimes and gives [something] to
 16 them."
 17 A. "Handovers", that is.
 18 Q. "... handovers to them."
 19 Is this where --
 20 A. When the sight test is finished and the dispensing
 21 assistant takes the patient.
 22 Q. Yes.
 23 A. Yes, I did feel that.
 24 Q. Okay. That's not mentioned in the letter, is it?
 25 A. No, but this is my personal ...
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1 Q. Yes:
 2 "I have been upset in the store. Swarandeeep did an
 3 eye test on me and told me my left eye was 'crap'.
 4 A. Yes.
 5 Q. So you said that to Mr Clark?
 6 A. Yes.
 7 Q. At your meeting on 22 June?
 8 A. Yes.
 9 Q. And you hadn't said that to anybody else prior to that?
 10 A. I had mentioned it at work.
 11 Q. Okay, but you certainly hadn't put it in any form of
 12 statement or letter --
 13 A. No.
 14 Q. -- prior to that?
 15 A. No.
 16 Q. And you didn't mention it to anybody after that either?
 17 A. When you say didn't mention it to anybody, who do you
 18 mean?
 19 Q. Here, you have given Mr -- in a noted interview --
 20 A. Hm-mm.
 21 Q. -- which you were signing for, presumably, at the end.
 22 Is that right?
 23 A. Yes.
 24 Q. Actually, no, you didn't sign this, sorry, I exaggerate.
 25 But in a noted interview he was making notes, was he,
 150

1 Mr Clark?
 2 A. There was another person making the notes, I believe.
 3 Q. Do you recall who that was?
 4 A. No.
 5 Q. All right. So the note-taker was taking notes and you
 6 made this assertion about Swarandeeep's comments that
 7 your eye was "crap"?
 8 A. That was a fact.
 9 Q. Yes, I'm not saying that it's not. I'm asking you about
 10 when you made this allegation. You hadn't made it
 11 previously in writing or in a witness statement?
 12 A. No.
 13 Q. And you didn't make it afterwards in writing or in
 14 a witness statement?
 15 A. No.
 16 Q. And:
 17 "And then said 'sorry...'
 18 Is that right? She then said sorry?
 19 A. She said:
 20 "...did I say that out loud?"
 21 How that actually came about, there is
 22 a supplementary test called a field test to a sight
 23 test, where you click a button and you are reacting to
 24 lights or little shapes and with my left eye I missed
 25 quite a lot and I kept trying to do it and that's when
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1 the comment was made. Another colleague was doing that
 2 field test with me, Carl, I believe it was, so that's
 3 when she said it.
 4 Q. Okay. Ms Birdi doesn't do field testing, does she?
 5 A. No, but you have to present that to the optometrist,
 6 so...
 7 Q. And then the other incident you mention over the page,
 8 3096, {E/946/3096} another incident on a Tuesday, Kam's
 9 day off, you go to the test room and there is some issue
 10 about a varifocal dispense. Do you recall that?
 11 A. Yes.
 12 Q. So you mentioned that to him?
 13 A. He was in the lab. It was his day off but it was a very
 14 high prescription. The gentleman had an extremely
 15 specific lens, which at that time I had never heard of.
 16 A minus-21 prescription is very, very rare and you
 17 use -- you dispense -- he had what we call a lantalic
 18 lens, which is an aspheric lens, which is quite
 19 specialised and it isn't within a core range, and I had
 20 no idea how to dispense it.
 21 Q. All right. So that's an incident you mention there.
 22 Then he asked you:
 23 "Have you seen either of the directors actually
 24 undermine the other one?"
 25 That's his question. Do you see it?
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1 A. Yes.
 2 Q. And you say:
 3 "Yes."
 4 And you mention the incident of the two
 5 contradicting memos?
 6 A. Yes.
 7 Q. And then you say this:
 8 "An incident also recently where Fatima had left the
 9 business and Swarandeeep was trying to get her back in
 10 the business."
 11 A. Yes.
 12 Q. Do you see that?
 13 A. Yes.
 14 Q. You are giving this as an example of Swarandeeep
 15 undermining Kam, or you appear to be. That's the
 16 question:
 17 "Have you ever seen either of the directors actually
 18 undermine the other one?"
 19 And your example is:
 20 "... Fatima left the business and Swarandeeep was
 21 trying to get her back in the business."
 22 Do you see that?
 23 A. Yes, I can, yes.
 24 Q. Apart from the fact that's untrue --
 25 A. I'm just taking the time to read it, if that's okay?

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1 Q. Of course; you read that bit there. (Pause)
 2 A. Okay.
 3 Q. So this is the interview that you had with Swarandeeep
 4 and Tracey that Ms Birdi gave evidence about, 2 June.
 5 Is that right?
 6 A. An interview?
 7 Q. Interview, a meeting, what shall we call it?
 8 A discussion in a room.
 9 A. Tracey and I were very upset and Swarandeeep wasn't
 10 actually with a patient at that time so we went to her
 11 and went in the test room.
 12 Q. Yes. The position actually was that Swarandeeep had been
 13 given instructions by SOG. Did you know that?
 14 A. No.
 15 Q. No. You have said here that Swarandeeep was trying to
 16 get her -- that's Fatima -- back in the business?
 17 A. Hm-mm.
 18 Q. How do you know that?
 19 A. As I say, I think Tracey told me just prior to us going
 20 to the test room.
 21 Q. Okay. And where did Tracey get it from?
 22 A. I don't know.
 23 Q. Swarandeeep spoke to the two of you about it, didn't she?
 24 A. In the test room, yes.
 25 Q. And you made your feelings very clear --

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1 A. Yes.
 2 Q. -- that you had serious complaints about Fatima
 3 generally?
 4 A. Yes.
 5 Q. Nothing to do with her grievance or anything like
 6 that --
 7 A. No, no.
 8 Q. -- but about her conduct and abilities on the shop floor
 9 and that sort of thing?
 10 A. Yes, and I just felt that her -- if you are just talking
 11 about Fatima as one person, it was divisive for the team
 12 to come back in, and that concerned me.
 13 Q. You yourself hadn't mentioned that to Swarandeeep, your
 14 concerns about Fatima, prior to that meeting, had you?
 15 A. No.
 16 Q. No. You go on there:
 17 "Swarandeeep still tried to get Fatima in ..."
 18 I think it says:
 19 "The next day Swarandeeep still tried to get Fatima
 20 in."
 21 A. Hm-mm.
 22 Q. Where did you get that from?
 23 A. I can't remember, I honestly can't remember.
 24 Q. Is that what Kam told you?
 25 A. No, I don't think so, no.

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1 Q. Tracey?
 2 A. Possibly, but I honestly can't remember. It's what
 3 I truly believed but I can't remember.
 4 Q. Okay. My query about all of that is since none of that
 5 refers to Kam -- the incident with Fatima, about Fatima?
 6 A. Hm-mm.
 7 Q. -- why are you putting that up as an example of one
 8 director actually undermining the other one? Did Kam
 9 tell you --
 10 A. No.
 11 Q. Did Swarandeeep tell you?
 12 A. No.
 13 Q. No. So why is that an example of Swarandeeep undermining
 14 Kam?
 15 A. I don't know. That's the answer I gave. I stand by
 16 what I said, but that's the answer I gave. Maybe it was
 17 not in relation to the question that was put, but
 18 I stand by what I said.
 19 Q. Right. Okay. Was everything you said written down?
 20 A. As far as I am aware.
 21 Q. Were you shown these notes at the end of the meeting
 22 with Mr Clark?
 23 A. I can't remember, I honestly don't remember.
 24 Q. Okay. Over the page, last page of your interview.
 25 {E/946/3097} Do you see just above the first holepunch

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1 on the right-hand side, the sentence starts:
 2 "He never lets his own issues get in the way of
 3 supporting the staff. I couldn't go to Swarandeeep and
 4 she wouldn't ..."
 5 Is that "listen"?:
 6 "We need Kam to motivate us, drive the business
 7 forward on the shop floor."
 8 A. Hm-mm.
 9 Q. Do you see that?
 10 A. Yes.
 11 Q. Were you there to support Kam?
 12 A. No.
 13 Q. No. Mr Clark asked you:
 14 "Has she ever asked you personally to sign anything
 15 against Kam?
 16 "Answer: No, she has not..."
 17 A. Hm-mm.
 18 Q. "... but then she knows I am impartial."
 19 Is that right? Is that what you said?
 20 A. That's what I have said, yes.
 21 Q. Very last question: did Ms Birdi lend you some money on
 22 occasions?
 23 A. Yes.
 24 MR STUART: No more questions.
 25 MR JUSTICE NUGEE: Mr Potts?

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1 MR POTTS: No.
 2 MR JUSTICE NUGEE: Thank you very much for coming,
 3 Mr Hummell. You are free to go if you want to.
 4 MR STUART: My Lord, could I ask that the five minute break
 5 be now?
 6 MR JUSTICE NUGEE: Certainly.
 7 MR STUART: There is a reason for it, which is I want to
 8 just --
 9 MR JUSTICE NUGEE: You don't need to explain.
 10 MR STUART: Thank you.
 11 MR JUSTICE NUGEE: We will take five minutes. Five minutes.
 12 (3.00 pm)
 13 (Short break)
 14 (3.05 pm)
 15 MR JUSTICE NUGEE: Yes, Mr Stuart.
 16 MR STUART: So, my Lord, the only person left in my side of
 17 the evidence is Mr Rehman.
 18 MR JUSTICE NUGEE: Yes.
 19 MR STUART: As you know, Mr Potts has explained he doesn't
 20 want to cross-examine him about anything in his witness
 21 statement.
 22 MR JUSTICE NUGEE: Yes.
 23 MR STUART: But I explained that there were two supplemental
 24 matters that I would want to get Mr Rehman to give
 25 evidence about. I don't think I got on to explaining

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1 the second of those two.
 2 MR JUSTICE NUGEE: The second one is about the timing of
 3 a fax and I don't remember the details, but we can deal
 4 with that.
 5 Is this objected to, Mr Potts?
 6 MR POTTS: There are two points. The answer is yes.
 7 MR JUSTICE NUGEE: The answer is yes. I'll let Mr Stuart
 8 continue then.
 9 Yes, Mr Stuart.
 10 MR STUART: The two issues are the schedule at page E15.
 11 MR JUSTICE NUGEE: Yes, I remember it.
 12 MR STUART: 4334-2.
 13 MR JUSTICE NUGEE: It's the bonuses.
 14 MR STUART: The bonuses, and then the second item was the
 15 sending of the fax, 13 August 2009.
 16 MR JUSTICE NUGEE: Where do I find it?
 17 MR STUART: You find it in E8, around about 2061.
 18 MR JUSTICE NUGEE: Round about?
 19 MR STUART: There is a little series of -- Mr Potts asked
 20 Ms Birdi about a little series of documents. If you go
 21 to 2062. {E/668/2062}
 22 MR JUSTICE NUGEE: Yes.
 23 MR STUART: Your Lordship may recall that Ms Birdi made
 24 a grievance, which is 2063. {E/668.1/2063}
 25 MR JUSTICE NUGEE: Yes.

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1 MR STUART: And on the disclosed document at the top, there
 2 was a fax header sheet, showing a date of 13 August 2009
 3 at 19.50 in the evening.
 4 MR JUSTICE NUGEE: And my note says that the 01274 number is
 5 her fax machine. That's actually the old number she had
 6 in Yorkshire but she accepted that it came from her
 7 machine.
 8 MR STUART: That's right. And Ms Birdi gave evidence in
 9 cross-examination about this and said that, looking at
 10 it, she recognised the date and gave evidence about the
 11 fax number, and said she couldn't recall whether it was
 12 her or her husband who sent this.
 13 MR JUSTICE NUGEE: Yes.
 14 MR STUART: And Mr Rehman being her husband, he is the man
 15 who is able to say -- I don't want to pre-judge matters,
 16 but he is able to say that he did indeed send it --
 17 MR JUSTICE NUGEE: Okay.
 18 MR STUART: -- rather than her. The reason for this, my
 19 Lord, is that then, Mr Potts took Ms Birdi to page 2067.
 20 {E/670/2067}
 21 MR JUSTICE NUGEE: Yes.
 22 MR STUART: And cross-examined her at some length about
 23 point 1. Does your Lordship see it? Under point 1:
 24 "I received your letter on the evening of Friday,
 25 14th August when I returned home..."

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1 Does your Lordship see that?
 2 MR JUSTICE NUGEE: I remember. The point being that if she
 3 had sent the fax on the 13th, that would suggest that
 4 that was incorrect.
 5 MR STUART: Exactly.
 6 MR JUSTICE NUGEE: Yes.
 7 MR STUART: And that she must have seen it on the 13th at
 8 the latest. It could only have been the 13th because
 9 your Lordship will remember that the document that they
 10 are referring to is 2048, which was the letter from
 11 Specsavers enclosing notice of a board meeting; does
 12 your Lordship remember that? {E/662/2048}
 13 And the notice at 2049 {E/662.1/2049} was actually
 14 dated by Specsavers on 12 August. So, although the
 15 letter is dated 4 August, page 2048, it appears to have
 16 been sent on the 12th, received on the 13th by
 17 Mr Rehman, faxed on the 13th in the evening by Mr Rehman
 18 and then the grievance was faxed by Mr Rehman shortly
 19 about 45 minutes later on the 13th, and thus the
 20 explanation given on the 17th, on page 2067 under
 21 point 1:
 22 "I received your letter on the evening of Friday,
 23 the 14th, when I returned home ..."
 24 Et cetera.
 25 MR JUSTICE NUGEE: Yes.

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1 MR STUART: As I say, Mr Potts did cross-examine her at
 2 length about that and she did say in her evidence that
 3 she wasn't sure whether it was him or her husband.
 4 MR POTTS: I have to say I don't believe that is what --
 5 MR JUSTICE NUGEE: You can address me in a moment, Mr Potts.
 6 So that's the evidence that you want --
 7 MR STUART: Those are the only --
 8 MR JUSTICE NUGEE: -- to call Mr Rehman to deal with.
 9 MR STUART: -- to do. My Lord, there is one point, which is
 10 that just ten minutes ago, so just as we were having our
 11 break, I was handed and my solicitors had got hold of an
 12 email of 13 August --
 13 MR JUSTICE NUGEE: Yes.
 14 MR STUART: -- from Ms Birdi to Mr Rehman at 18.08.
 15 MR JUSTICE NUGEE: Yes.
 16 MR STUART: It is a very short email, two lines.
 17 MR JUSTICE NUGEE: It has been put in my bundle at 2061-1.
 18 MR STUART: It has been put in your bundle, 2061-1. So it's
 19 fair to say that Mr Potts has not had an opportunity to
 20 consider that document until right now.
 21 MR JUSTICE NUGEE: Yes.
 22 MR STUART: And I understand from Mr Potts that his
 23 objection to just getting on and dealing with this now
 24 is that he wishes to have the opportunity to consider
 25 that document.

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1 MR JUSTICE NUGEE: Yes.
 2 MR STUART: Which I take on board. My concern/problem is
 3 this: Mr Rehman himself has had to take a lot of time
 4 off work to be available. He has done -- you have seen
 5 him, I suspect, sitting behind me every day of the
 6 trial.
 7 MR JUSTICE NUGEE: Yes.
 8 MR STUART: He does not have time off work next week; he has
 9 taken holiday from his work.
 10 MR JUSTICE NUGEE: What about tomorrow?
 11 MR STUART: Tomorrow he is here.
 12 MR JUSTICE NUGEE: He is coming tomorrow?
 13 MR STUART: Absolutely, and so if your Lordship takes the
 14 view that it would be sensible not to deal with this now
 15 but to deal with it in the morning at 10.30, let's say,
 16 then I would certainly not oppose that, but I would
 17 oppose --
 18 MR JUSTICE NUGEE: You would oppose it going off to next
 19 week.
 20 MR STUART: -- it going off to next week after Mr Dyson is
 21 finished, Mr Dyson being the first of the
 22 respondent's --
 23 MR JUSTICE NUGEE: I understand.
 24 Mr Potts, what do you want to say?
 25 MR POTTS: Just the practical point, perhaps, is more

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1 useful. I made the suggestion to my learned friend that
 2 firstly, I do want to take instructions on a document
 3 that I haven't seen.
 4 MR JUSTICE NUGEE: Understood.
 5 MR POTTS: The second point is I understand about
 6 Mr Rehman's position. Mr Dyson is also in difficulties
 7 and what I suggested to him is let's get on with
 8 Mr Dyson now and we will worry about Mr Rehman later.
 9 The question, of course, is what is later.
 10 Mr Dyson's position, my Lord, so you are aware --
 11 I think I have mentioned it -- is he has come over from
 12 Australia.
 13 MR JUSTICE NUGEE: I don't think I did know that, but he is
 14 now Global Retail Director?
 15 MR POTTS: He is, my Lord. He has been here for a very long
 16 time because of the trial --
 17 MR JUSTICE NUGEE: I don't know the details of the trial
 18 being put off. I'm quite happy to accept that it's
 19 inconvenient for someone in Mr Dyson's position to be
 20 kept hanging around more than necessary. How long are
 21 we expecting -- it's really a question for Mr Stuart.
 22 Mr Stuart, how long are you expecting to
 23 cross-examine Mr Dyson for?
 24 MR STUART: He is in our schedule --
 25 MR JUSTICE NUGEE: He is in your schedule for

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1 cross-examination/re-examination for one afternoon.
 2 MR STUART: For three quarters of a day, sort of thing, is
 3 what he is in there for. I think a realistic estimate
 4 that I will stick to is a day. So if we start now, we
 5 will finish him well in time.
 6 MR JUSTICE NUGEE: What I'm inclined to suggest is that we
 7 do start him now.
 8 MR STUART: Of course. I'm ready to start him now.
 9 MR JUSTICE NUGEE: And we finish him tomorrow and we will
 10 put Mr Rehman in after him. If somebody has to overrun,
 11 it will be Mr Rehman, rather than Mr Dyson, if you see
 12 what I mean.
 13 MR STUART: Understood, my Lord.
 14 MR POTTS: My Lord, I should say, just to complete the
 15 picture --
 16 MR JUSTICE NUGEE: That's the practical side. Do you have
 17 an objection in principle?
 18 MR POTTS: Can I just deal with the practical side, my Lord?
 19 The reason for that is my friend -- we have had some
 20 discussions. Of course, it's not a promise but he had
 21 given me indications that Mr Dyson would be out by
 22 Friday. He has a flight booked for Saturday morning.
 23 So, in relation to Mr Dyson, I wonder, my Lord, just to
 24 help, whether we might sit perhaps a little bit later
 25 this evening, maybe even start a little bit earlier

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1 tomorrow morning.
 2 MR JUSTICE NUGEE: This evening is difficult for me.
 3 MR POTTS: I meant to say, of course, subject to your
 4 Lordship.
 5 MR JUSTICE NUGEE: But I'm quite happy to sit at 10 o'clock
 6 tomorrow, if that would assist.
 7 MR POTTS: That might assist. In relation to the issue in
 8 terms of objections, perhaps -- I think it is a little
 9 premature. Perhaps could I have a look at the document
 10 first and then we will see?
 11 MR JUSTICE NUGEE: Yes.
 12 MR POTTS: Would that be a sensible thing, so we can get on
 13 with Mr Dyson now?
 14 MR JUSTICE NUGEE: Yes. I should say, of course I'll listen
 15 to anything you want to say but in principle, if
 16 somebody wants to deal with a matter that has come up in
 17 cross-examination, I would need some persuading to shut
 18 them out from doing so.
 19 MR POTTS: I understand your Lordship's point. Your
 20 Lordship hasn't in fact been shown the relevant
 21 provisions of the CPR which govern this or any of that.
 22 MR JUSTICE NUGEE: No, none of that. I know, but there we
 23 are.

24 Very well. Let's continue with Mr Dyson. I'll sit
 25 until 4.30 but no later today and I'll sit again at

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1 10 o'clock tomorrow.
 2 MR DEREK DYSON (affirmed)
 3 Examination-in-chief by MR POTTS
 4 MR JUSTICE NUGEE: Do, please, sit down, Mr Dyson.
 5 MR POTTS: Mr Dyson, could you have volume C, please. Could
 6 you, please, turn up tab 9, please. Page 86 {C/9/86}
 7 and then running through to page 118. Is this your
 8 first statement in this matter?
 9 A. Yes, it is.
 10 Q. Could I ask you to turn, please, to page 93 {C/9/93} and
 11 at paragraph 30.2 I understand that you have
 12 a clarification in relation to the final sentence of
 13 that paragraph. Is that correct?
 14 A. I do, yes.
 15 Q. Are you able to tell his Lordship what that is?
 16 A. Yes, this statement here applies from May 2011. The
 17 number 40 is correct in May 2000, but prior to that the
 18 number was £70,000 for all stores and that was a change
 19 in May 2011.
 20 MR STUART: I'm sorry, I think there may be an issue on the
 21 transcript, possibly --
 22 MR JUSTICE NUGEE: What I have written down is that's
 23 a requirement from May 2011.
 24 A. Yes.
 25 MR JUSTICE NUGEE: And before that --

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1 A. It was £70,000 for all stores.
 2 MR POTTS: I think the transcript has "old" stores; I think
 3 it is "all".
 4 Subject to that clarification -- firstly, I should
 5 say at page 118, is that your signature?
 6 A. It is, yes.
 7 Q. Subject to that clarification, are the contents of that
 8 statement true?
 9 A. We've got one more on --
 10 Q. Sorry, there is one more. I'm sorry, paragraph 116.
 11 You have a correction in relation to -- {C/9/115}
 12 A. Yes, in the line -- at the end of that paragraph it says
 13 "September 2011".
 14 MR JUSTICE NUGEE: Yes.
 15 A. That should say "July 2011".
 16 MR POTTS: Subject to those two matters --
 17 A. -- it is correct.
 18 Q. Thank you. Could you turn on, please, to the next tab.
 19 Pages 119 through to 126. {C/10/119}
 20 Is that your second statement in this matter?
 21 A. It is.
 22 Q. Is that your signature on 126? {C/10/126}
 23 A. It is.
 24 Q. Can you confirm that the contents of that statement are
 25 true?

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1 A. There is an amendment on 33. {C/10/124}

2 Q. I'm sorry, yes. Is the amendment in relation to some of

3 the bonuses?

4 A. Yes.

5 Q. The complete list. Is that correct?

6 A. It is, yes.

7 MR POTTS: This will be difficult to do I'm afraid without

8 some leading; I hope my friend will not object?

9 MR STUART: I don't mind, my Lord, that's fine.

10 MR POTTS: Could I pass up a copy of our skeleton argument,

11 which has a list of all the bonuses. (Handed) It's

12 paragraph 209. Do you have that?

13 A number of these are listed in paragraph 33. Can

14 I just tell you there are some which are not listed,

15 which are in the skeleton, which are not in your witness

16 statement. Is it the third one on the list?

17 A. It is, yes.

18 Q. The seventh, the eighth, the ninth and the tenth. Is

19 that correct?

20 A. That's correct.

21 Q. Subject to that addition, can you confirm that the

22 contents of this statement are true?

23 A. They are.

24 Q. And then if you turn on in the bundle to tab 18,

25 page 183 through to 191. Is that your third witness

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1 statement? {C/18/183}

2 A. It is, yes.

3 Q. Is that your signature at the end?

4 A. It is.

5 Q. And are the contents of that statement true?

6 A. They are true.

7 MR POTTS: Thank you.

8 Cross-examination by MR STUART

9 MR STUART: Mr Dyson, hello again. Were you here yesterday?

10 A. Not for most of the day, no.

11 Q. So you didn't hear Mrs Frondigoun's evidence?

12 A. No.

13 Q. Have you read it?

14 A. No.

15 Q. All right. Could you be passed the transcript bundle?

16 In your witness statement at paragraph 13 --

17 A. The first witness statement?

18 Q. Yes, I'm going to deal with your witness statements in

19 order. Your first witness, can I take you to that.

20 Page 89 of the bundle, tab 9, paragraph 13. {C/9/89}

21 A. Page 89, yes.

22 Q. At paragraph 13 you give an overview of your remit and

23 the sub-departments. Do you have that?

24 A. This is at -- sorry, what number?

25 Q. So under paragraph 13, you have got subparagraphs 13.1,

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1 13 --

2 A. I'm there, yes.

3 Q. You have got it. What you explain in 13 is:

4 "Because of the importance of [Specsavers']

5 reputation ..."

6 "Reputation", do you see that?

7 A. Yes.

8 Q. You have got these departments who are assisting SOG and

9 to:

10 "... protect the 'Specsavers' brand'."

11 As you put it there. Do you see that?

12 A. I do.

13 Q. And one of those that you are in charge of is the Loss

14 Prevention and Audit Department, 13.3?

15 A. Correct.

16 Q. And that's obviously Mr McAlindon?

17 A. Yes.

18 Q. And he reports directly to you?

19 A. He does, yes.

20 Q. And you put that the purpose of the Loss Prevention and

21 Audit department is tasked with:

22 "... managing risk and ensuring compliance with the

23 respective store company's shareholders' agreement and

24 requirements set down by various regulatory bodies..."

25 Et cetera.

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1 A. Yes.

2 Q. And if we just go back to paragraphs 4 and 5, your

3 summary section, which summarises your entire case here,

4 {C/9/87} you summarise at 4 that Ms Birdi is alleging

5 that since early 2007, SOG was acting out of malice

6 and/or an improper desire to remove her. Do you see

7 that?

8 A. I do.

9 Q. And at 5 you say:

10 "That allegation is entirely untrue."

11 A. I do.

12 Q. And you say:

13 "The true position is that SOG has at all times

14 sought to act towards Ms Birdi in a fair and unbiased

15 manner..."

16 A. Correct.

17 Q. Did you hear Mrs Frondigoun -- you didn't hear

18 Mrs Frondigoun's evidence, but has it been reported to

19 you what Mrs Frondigoun said yesterday?

20 A. Not in detail, no.

21 Q. All right. Go to tab 5 in the transcript bundle. We

22 pick it up at page -- do you remember these from the

23 last trial? We get four pages on a page?

24 A. Yes, I do.

25 Q. Do you remember? And so for the pagination number you

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1 have to look within the page. If you can go to the
2 number that is page 162? {Day5/162:1}
3 A. Sorry, I am lost.
4 Q. On the page, there are four pages of transcript.
5 A. Yes.
6 Q. Under each page, so four times --
7 A. Sorry, I have got those numbers in the middle of the
8 page?
9 Q. That's right.
10 A. Right, I'm looking for number...
11 Q. You are looking for pages 161, 162, 163, 164. They are
12 all on the same page of transcript.
13 A. 161 I have got, yes.
14 Q. Great. So to be clear, this was Mrs Frondigoun, who was
15 a witness -- Lorraine Frondigoun, whose evidence was put
16 forward by way of hearsay notices. Do you remember?
17 A. I don't understand hearsay notices.
18 Q. Okay. So rather than call her as a witness by way of
19 a witness statement, like you have done there?
20 A. Yes.
21 Q. Specsavers, the respondents in this case, decided to
22 serve what's called a hearsay notice in respect of her
23 evidence, saying that what was contained in her
24 interview with Mr McAlindon was the evidence of hers
25 that Specsavers wished to rely upon in this trial. Do

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1 you understand?
2 A. Right.
3 Q. So she was interviewed by Mr McAlindon back in 2007.
4 A. Okay.
5 Q. No doubt you recall that because it forms part of your
6 evidence in your witness statement?
7 A. Can you take me to that in my witness statement?
8 Q. I will; when we get there, I will take you to it.
9 A. Okay.
10 Q. Is it the position that as you sit here now, you don't
11 even recall that Mrs Frondigoun's evidence formed part
12 of --
13 A. I do remember that.
14 Q. Good. You know the context that we are talking about.
15 Mr McAlindon was interviewing Mrs Frondigoun in relation
16 to the investigation against Ms Birdi. Do you recall?
17 A. Yes.
18 Q. Not in relation to the investigation against Mr Patel,
19 but in relation to the investigation of, shall we say,
20 PAYE issues and the like, against Ms Birdi in 2007?
21 A. Correct.
22 Q. All right. If you go to page 162, right at the bottom,
23 left-hand side column, right at the bottom. Do you see
24 that?
25 A. Yes.

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1 Q. I asked the questions and she gives the answers. So "Q"
2 is me, "A" is her. Do you understand?
3 A. I do.
4 Q. So I asked -- this is line 25 of page 162. {Day5/162:25}
5 "Question: Now, the interview then. We see it
6 there. It lasted, according to the record, two hours 20
7 minutes?"
8 Do you see that?
9 A. Yes.
10 "Answer: It just lasted so much longer than that."
11 At line 7 she said: {Day5/163:7}
12 "Answer: The machine was turned on, it was turned
13 off, it was turned on, it was turned off. It was about
14 four hours."
15 Line 9: {Day5/163:9}
16 "Question: When you say the machine, what was the
17 machine? How was he recording this?
18 "Answer: This thing he just had, I didn't take
19 a lot of notice of it. He told me it was being recorded
20 and that was fine and then he --
21 "Question: But recorded, what, like a tape
22 recorder-type thing.
23 "Answer: Yes, kind of an oldy-fashionedy kind of
24 thing. It was -- I honestly didn't take a lot of notice
25 of it but I know he kept stopping it and then he kept

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1 saying --
2 "Question: Saying things to you?
3 "Answer: -- various things, yes, pushing --
4 "Question: Which were sort of off the machine?
5 "Answer: Pushing and pushing and pushing.
6 "Question: And then he would put it back on to
7 record and then for a short while, what you were saying
8 would be on the record, as it were, on record?
9 "Answer: Yes.
10 "Question: And then he would turn it off again for
11 a while?
12 "Answer: Yes.
13 "Question: And he would discuss things with you not
14 on the record?
15 "Answer: That's right. So by the time I got to the
16 end, I truly didn't know if it was on or off."
17 Do you see that?
18 A. I do, yes.
19 Q. Did you know this? Did you know this was how
20 Mr McAlindon worked?
21 A. Are you suggesting that I understand that this is true?
22 I don't know whether this is true or not.
23 Q. This is unchallenged evidence from Mrs Frondigoun.
24 MR POTTS: My Lord, I'm not sure that's fair.
25 MR STUART: Yes, it is.

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1 A. I can't comment on this because I want there.
 2 MR JUSTICE NUGEE: It may not be fair. I don't think it's
 3 accepted in the light of other things.
 4 MR STUART: I haven't taken him to the rest of the evidence
 5 yet.
 6 I'm not asking you to accept anything. I'm taking
 7 you to the evidence in this case from Mrs Frondigoun; do
 8 you understand?
 9 A. Yes.
 10 MR POTTS: I'm sorry, when I say "fair", the point is, it is
 11 challenged. That is evidence that --
 12 MR JUSTICE NUGEE: You don't accept that the evidence is
 13 accurate.
 14 MR POTTS: I don't accept that, no.
 15 MR JUSTICE NUGEE: Yes, that's rather what I suspected.
 16 MR STUART: Your Lordship suspects it. No application was
 17 made by Mr Potts to treat the witness as hostile and
 18 cross-examine her about it or challenge any of that
 19 evidence. His re-examination lasted -- we have got it
 20 in here -- about five minutes and I don't accept that
 21 this is --
 22 MR JUSTICE NUGEE: I don't think I am going to have a debate
 23 about it now.
 24 MR STUART: No, understood, my Lord, I don't want a debate.
 25 If you flick down to line 17, we are dealing with
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1 the actual document. {Day5/164:17}
 2 "Question: Did he produce this to you at the end of
 3 the --
 4 "Answer: No.
 5 "Question: When did he produce it to you?
 6 "Answer: About two days later, I think.
 7 "Question: Two days later. So what he must have
 8 been doing then was he was recording some of your
 9 answers and then he was going to take that recording
 10 away, turn it into a transcript of the interview and get
 11 you to sign that as a transcript of the interview.
 12 Because he wasn't taking manuscript notes and he didn't
 13 have someone sitting next to him tapping away, making
 14 any sort of transcript of what you were saying?
 15 "Answer: No.
 16 "Question: So that's the only way he could have
 17 generated this document?
 18 "Answer: Yes."
 19 Go down to page 166, line 16. {Day5/166:16}
 20 "Question: Okay. So, you think the interview
 21 lasted an awful lot longer than two hours?
 22 "Answer: I know it did, yes.
 23 "Question: You know it did, absolutely?
 24 MR JUSTICE NUGEE: "How long do you think it took?
 25 "Answer: About four hours."
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1 Do you see that?
 2 A. I do.
 3 Q. And then over to page 167 at line 16: {Day5/167:16}
 4 "Question: So that means that on your version,
 5 there's about three and three quarter hours' worth of
 6 speaking which is not in here?
 7 "Answer: Hm-mm.
 8 "Question: When you were asked to sign this two
 9 days later, did you not feel a bit uncomfortable about
 10 that?
 11 "Answer: Yes, definitely.
 12 "Question: Did you tell him that?
 13 "Answer: I kind of really thought I have been
 14 caught -- not caught, it's the wrong word. I have
 15 fallen into a trap here, but what do I do? It's on
 16 a tape."
 17 Page 168, line 8. {Day5/168:8} Do you see that,
 18 line 8?
 19 "Answer: He continually pushed. Started out, 'Tell
 20 me anything you can think of'. Turn it off. He said,
 21 'She is a real bitch, isn't she?'"
 22 Do you see that, Mr Dyson?
 23 A. Yes, I'm just reading it in context.
 24 Q. Okay. Just to give you the context, this is
 25 Mrs Frondigoun, an employee at the Dartford store,
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1 saying that Mr McAlindon, in his interview, where he was
 2 interviewing her as a witness regarding Ms Birdi's
 3 issues that she was being disciplined for, said:
 4 "She ..."
 5 That is Ms Birdi:
 6 "... is a real bitch, isn't she?"
 7 "Question: He said that to you?
 8 "Answer: Yes.
 9 "Question: Was that his opening comment?
 10 "Answer: No, the first couple of pages it kind of
 11 went okay and then he said that, 'She is a real bitch',
 12 and, 'That Nim seemed like quite a nice guy to me'.
 13 So the context, Mr Dyson, is that your head of
 14 investigation department is saying to an employee of the
 15 store, in a private interview, where only the two of
 16 them are present and he is not tape recording parts of
 17 it -- he is saying to that employee that Ms Birdi is
 18 a bitch, a real bitch, and that Mr Nimesh Patel, who
 19 about six weeks earlier had admitted to theft from the
 20 store, he says of him, "He seemed like quite a nice guy
 21 to me".
 22 Were you aware that Mr McAlindon held these views?
 23 A. Well, I'm not aware that any of this actually went on.
 24 So this is -- it's somebody who was giving evidence
 25 yesterday to the court and --
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1 Q. I'm asking you to give your evidence.
 2 A. -- and -- and --
 3 Q. Were you aware that Mr McAlindon held these views?
 4 A. And what does she mean by the first couple of pages?
 5 Q. The first couple of pages of the interview, alleged
 6 interview record, produced by Mr McAlindon.
 7 A. And this is -- sorry, I need to get the context of where
 8 the questioning is and why -- we have been talking about
 9 recordings and now we are talking about pages. I don't
 10 understand.
 11 Q. I'm not really asking you about that but if that's what
 12 you want to do, we can go there.
 13 What happened was, according to Mrs Frondigoun,
 14 an eight-page record of the interview was typed by
 15 Mr McAlindon in the two days following the interview.
 16 That is the document that was relied upon under the
 17 hearsay notice.
 18 What she is saying is that the interview actually
 19 lasted four hours and that he kept on turning -- she
 20 used her finger -- he kept on turning on and off the
 21 recording device and only recorded some parts of her
 22 answers and didn't record all of the conversation that
 23 they had, for three and three quarter of the hours of
 24 the four-hour interview, and she was saying that during
 25 the period that he was not recording, he was saying

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1 things to her which included, about Swarandee Birdi:
 2 "She is a real bitch, isn't she?"
 3 Then he said:
 4 "She is a real bitch."
 5 A. I can't comment on that. I wasn't there. So I'm not
 6 sure why you are asking me this. I mean, I don't
 7 recognise that we used recording equipment anyway. And
 8 I don't recognise the -- you know, he continually pushed
 9 something on and off. I don't recognise that that is
 10 the way that we would take statements. They are taken
 11 contemporaneously and they are taken by the use of
 12 a laptop.
 13 Q. In the Uckfield matter, there was a recording done. Do
 14 you remember that?
 15 A. Yes, for the Uckfield, yes.
 16 Q. Yes, it was around the same time, wasn't it?
 17 A. I don't know.
 18 Q. Mr McAlindon used a recording device?
 19 A. I don't know if it's around the same time or not.
 20 Q. Okay. So he did have a recording device available,
 21 didn't he, Mr McAlindon, to your knowledge, from the
 22 Uckfield trial?
 23 A. Yes.
 24 Q. So your evidence just then, "We didn't have a recording
 25 device", that's not quite right, is it?

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1 A. I'm not sure I said we didn't have it; I said I was
 2 unaware.
 3 Q. Okay.
 4 A. So, sorry, what was your question, Mr Stuart? I have
 5 lost the question.
 6 Q. My question is: were you aware that Mr McAlindon held
 7 the view that Ms Birdi was a bitch, a real bitch?
 8 A. No, because that's not what Mr McAlindon's saying, this.
 9 This is somebody else saying it.
 10 Q. We haven't heard from Mr McAlindon yet.
 11 A. No, well, I haven't, either.
 12 Q. No.
 13 A. So I'm answering the question that you asked me.
 14 I can't comment on what this lady is saying. I wasn't
 15 there and you asked me, did I think or did I know he
 16 held that opinion. No, I didn't. But that doesn't mean
 17 to say that I agree that he does hold that opinion.
 18 Q. I didn't say that you agreed, did I? I asked whether
 19 you knew that he held that opinion?
 20 A. No.
 21 Q. If he did hold that opinion -- I know it's
 22 a hypothetical because you weren't there, but if he did
 23 hold the opinion that she was a bitch, a real bitch,
 24 would that be acceptable?
 25 A. No.

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1 Q. Are we in the same circumstances we were in the last
 2 trial:
 3 "Can we discuss our action plan to wipe this woman
 4 off the face of the earth."
 5 Do you remember that?
 6 A. Where am I reading that?
 7 Q. You are not reading it. I will take you to it if I need
 8 to but, I would have thought you could recall it.
 9 MR POTTS: My Lord, if my friend is going to seek to lead
 10 evidence from the last trial, he will need to make an
 11 application in relation to that in terms of widening out
 12 the evidence.
 13 MR JUSTICE NUGEE: I think he is entitled to cross-examine.
 14 MR STUART: I'll tell you what. I'm reading from Mr Dyson's
 15 evidence in the last trial. So, I asked Mr Dyson
 16 a fairly bland question. I would have thought that
 17 Mr Dyson would have the ability to recall it. Can
 18 I pass you those.
 19 MR JUSTICE NUGEE: Mr Stuart, I have said that you are
 20 entitled to cross-examine but I don't want this trial to
 21 turn into an investigation of what happened in another
 22 trial.
 23 MR STUART: Absolutely not, my Lord. I'm not going there at
 24 all. This is the only reference to the last trial and
 25 I'm only referring to Mr Dyson's evidence in the last

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1 trial and I'm only referring to the very same kind of
 2 thing that is happening here.
 3 MR JUSTICE NUGEE: So you say; yes.
 4 MR STUART: So I say. (Handed)
 5 There is a copy for you and a copy for you, my Lord.
 6 This is the transcript from the last trial, Mr Dyson,
 7 12 December 2013. I'm asking the questions; you are
 8 giving the answers.
 9 A. Okay.
 10 Q. Page 68 at the bottom right-hand corner?
 11 A. Yes.
 12 Q. You may recall from the last trial that there was an
 13 issue about Mr Rowe and Mrs Susannah Hart exchanging
 14 email comments, which included -- I quoted it to you:
 15 "Do you see at the top this is her attitude?"
 16 A. I understand that. I thought you were saying that
 17 Mr McAlindon had made these comments. I hadn't
 18 understood that you were now talking about
 19 Ms Susannah Hart.
 20 Q. I'm talking about the Rowe to Hart exchange?
 21 A. But I didn't know that when you were asking the
 22 question.
 23 Q. Fine. Do you now recall --
 24 A. I do recall.
 25 Q. -- that it came out during the last trial that members

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1 of your staff in your reporting lines, including
 2 Mr Rowe, exchanged email correspondence which
 3 included -- this is just an example; I'm only going to
 4 take the one example for now -- where they referred to
 5 a JV partner, in this case it was Dr Helly Poulson(?).
 6 They referred to her in a document and said:
 7 "Can we discuss our action plan to wipe this woman
 8 off the face of the earth?"
 9 Do you see that?
 10 A. I do, but this is not Mr Rowe's comments; this is
 11 Susannah Hart's comments.
 12 Q. That's right, to Mr Rowe?
 13 A. You did say Mr Rowe, that's why I'm confused. So, yes,
 14 I accept that that was part of an email and I also said
 15 it was inappropriate and I wasn't aware of it.
 16 Q. Okay. People within your team hold views about the
 17 JV partners, the Specsavers JV partners, which is not
 18 consistent with your evidence at various paragraphs of
 19 your statement; I'll take to you them in a moment.
 20 That you should be supporting those JV partners?
 21 That's right, isn't it? Some people in your team --
 22 A. Absolutely, I'm passionate about that, yes.
 23 Q. You are. I say some people in your team hold different
 24 views about some JV partners?
 25 A. Clearly, they have expressed their views in emails.

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1 Q. Yes. If his Lordship finds that Mr McAlindon expressed
 2 the view to a Specsavers employee, Mrs Frondigoun, in
 3 reference to Ms Birdi, "She is a real bitch", do you
 4 agree that that would be wholly inappropriate and
 5 Mr McAlindon should be subject to serious disciplinary
 6 action?
 7 A. If he held that view and that was true, then I would
 8 agree with that, yes.
 9 Q. What about if he didn't hold the view but he said it to
 10 Mrs Frondigoun to get her to hold that view?
 11 A. I'm not quite sure I follow where -- where are you
 12 going, Mr Stuart?
 13 Q. You said if he held the view that Swarandeeep Birdi was
 14 a bitch, that would be wholly inappropriate and he would
 15 have to be disciplined?
 16 A. No, and said it.
 17 Q. That was what I just asked you?
 18 A. And if he said that. Holding the view and saying it are
 19 two different things.
 20 Q. Exactly. That's what I just asked you, Mr Dyson. So if
 21 he said that to Mrs Frondigoun --
 22 A. Yes.
 23 Q. -- even if he didn't personally believe it, but he said
 24 it to her, during this interview, if he did say it to
 25 her, would that be wholly inappropriate and cause to

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1 discipline him seriously?
 2 A. It's a hypothetical question. I am struggling with
 3 where you are going with it, but I get the gist that --
 4 Q. Don't worry about where I'm going with it. It's
 5 a simple question. There was evidence given in that
 6 very witness box --
 7 A. I have read that.
 8 Q. -- under oath yesterday by a member of what used to be
 9 Specsavers staff, and indeed her evidence is evidence
 10 relied upon by Mr McAlindon and then by you. So she
 11 said yesterday on oath that that is what Mr McAlindon
 12 said to her. All right?
 13 A. Okay.
 14 Q. It's not a hypothetical, as you say, but I have asked
 15 you a hypothetical question in the sense of: if he did
 16 say that --
 17 A. Yes.
 18 Q. -- would that be wholly inappropriate conduct by
 19 Mr McAlindon?
 20 A. It would be.
 21 Q. Good. Would it be a fair and unbiased manner on the
 22 part of Mr McAlindon --
 23 A. Unbiased as to --
 24 Q. -- in relation to this investigation?
 25 A. If it were true, yes.

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1 Q. Do you mean that? If it were true, it would be fair and
 2 unbiased for him to have done that?
 3 A. No, it would be unbiased.
 4 MR JUSTICE NUGEE: I think you may be at cross purposes.
 5 A. Yes.
 6 MR JUSTICE NUGEE: Yes. Let's assume -- you can't say it
 7 because you weren't there but let's assume that
 8 Mr McAlindon did say what Mrs Frondigoun said that he
 9 said.
 10 A. Yes.
 11 MR JUSTICE NUGEE: What counsel I think is asking you is
 12 whether in that case it would be a fair and unbiased
 13 way/manner to conduct an investigation.
 14 A. No.
 15 MR JUSTICE NUGEE: Thank you.
 16 MR STUART: All right. Let's leave aside the "bitch"
 17 comment. What about the description of Nimesh Patel and
 18 trying to express to the witness that actually,
 19 Nimesh Patel was quite a nice guy?
 20 If that happened -- and you weren't there, so
 21 therefore you can't say, but if that did happen and he
 22 was saying to the witness, Mrs Frondigoun, as part of
 23 the investigation interview that he felt that
 24 Nimesh Patel was quite a nice guy in contrast to the
 25 real bitch, Swarandee Birdi --
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1 MR JUSTICE NUGEE: Mr Stuart, I think you ought to be more
 2 precise and use the language the witness used, which is
 3 that:
 4 "Nim seemed like quite a nice guy to me."
 5 Potentially, more than one meaning could be attached
 6 to it.
 7 MR STUART: Yes. If he used that language that he has
 8 written there -- I won't fall foul of it; do you see
 9 that at lines 14 to 16? {Day5/167:14}
 10 A. Yes.
 11 Q. That's what Mrs Frondigoun says that Mr McAlindon said
 12 about Swarandee Birdi and Mr Patel.
 13 Would that comment about Mr Patel be improper?
 14 A. Improper from the way that he is trying in some way to
 15 manipulate something?
 16 Q. Yes.
 17 A. If that was the intention and it was true, then, yes.
 18 Q. That would be improper?
 19 A. If it was as it is described here, yes.
 20 Q. Thank you. If we go on and leave aside the epithets and
 21 we turn to the way Mr McAlindon conducted this
 22 interview, do you see line 21 on page 168?
 23 {Day5/168/21}
 24 Basically, what's in here is what Mr McAlindon wants
 25 to be in here?
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1 A. Sorry, where am I now, Mr Stuart?
 2 MR STUART: Sorry, page 168.
 3 A. 168, yes.
 4 Q. Just a couple of lines down from where I was just
 5 a moment ago. I should have made that clear.
 6 A. Okay.
 7 Q. Line 21: {Day5/168:21}
 8 "Question: I do understand. So basically, what's
 9 in here ..."
 10 To be clear, the context -- we are referring to this
 11 interview note:
 12 "Question: ... what's in here is what Mr McAlindon
 13 wants to be in here?
 14 "Answer: Yes.
 15 "Question: That is the sum total of your evidence,
 16 is it?"
 17 Then over the page, page 169, line 6. Do you see
 18 line 6? {Day5/169:6}
 19 A. Yes.
 20 Q. This is what Mrs Frondigoun said:
 21 "Answer: Yes, because I really didn't feel I had
 22 any choice. I knew what happened and so I signed it
 23 because it was on recording and I couldn't say I didn't
 24 say it. It has been recorded.
 25 "Question: That's right.
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1 "Answer: But the whole afternoon of what happened
 2 has not been recorded.
 3 "Question: No. He has, in your words -- I think
 4 you used the words -- he 'slightly tricked' you into
 5 this, hasn't he?
 6 "Answer: Yes."
 7 Do you see that?
 8 A. I do.
 9 Q. If Mr McAlindon tricked the witness into signing what
 10 purported to be the record of an interview but was
 11 actually only the record of some small part of the
 12 interview, if he did do that -- and I know it's
 13 a hypothetical?
 14 A. Hypothetically.
 15 Q. If he did do that, would that be conducting the
 16 interview in a fair and unbiased manner?
 17 A. Not if you are tricking somebody, in a hypothetical way.
 18 Q. Page 171. Do you see page 171?
 19 A. Yes, I have got it.
 20 Q. Line 10: {Day5/171:10}
 21 "Question: Just taken out of context, your answer,
 22 'Oh, no, never', has been said to be you giving sworn
 23 evidence that he never worked in the store?"
 24 Just so you have the context, the "he" is
 25 Mr Mushtaq Rehman, who is Mr Ms Birdi's husband. Okay?
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1 A. I haven't got that, but it's now easier, now
2 I understand you have said that. So just to take that
3 into the context ...
4 Q. We are talking now about --
5 A. Sorry, I need to read from above down so I can get the
6 context. (Pause)
7 Q. Yes. Okay, so Mr Rehman was being discussed?
8 A. Yes.
9 Q. There was an issue about whether Mr Rehman did or didn't
10 work as an employee of Dartford, and certain answers had
11 been recorded on Mr McAlindon's version of the
12 transcript of the interview.
13 So the question was:
14 "Just taken out of context, your answer ..."
15 So that is Mrs Frondigoun's answer: {Day5/171:10}
16 "... 'Oh, no, never', has been said to be you giving
17 sworn evidence that he never worked in the store?
18 "Answer: No --
19 "Question: That's not right, is it?
20 "Answer: No, because I had already said in the
21 previous answer, I think when I first started here he
22 came in occasionally. And he did my interview."
23 Do you see that?
24 A. I do.
25 Q. And then page 172, line 1: {Day5/172:1}
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1 "Question: At that time. This is another thing
2 I want to come on to. It may be that Mr McAlindon has
3 led you -- misled you --"
4 A. Sorry, I didn't get the line that you are on.
5 Q. Line 1.
6 A. Line 1, okay.
7 Q. 170.
8 A. Yes, got it:
9 Q. "Question: It may be that Mr McAlindon has led you --
10 misled you -- into misunderstanding what period of time
11 we are talking about.
12 "Answer: Yes, maybe."
13 Do you see that?
14 A. Yes.
15 Q. And then over the page at page 173, line 13:
16 {Day5/173:13}
17 "Question: We will come back to that in a moment.
18 The effect of your evidence is, to deal with that
19 period, as if Mr McAlindon led you to believe that he
20 was being paid a salary over that period of time. Is
21 that what Mr McAlindon held you to believe?
22 "Answer: Yes."
23 Do you see that?
24 A. Yes.
25 Q. That's in reference to a period of time referred to at
194

1 line 5, from 2003 to July 2006. Do you see that?
2 A. Yes.
3 Q. And then, page 174, line 5. {Day5/174:5}
4 "Question: He's a pharmacist et cetera, et cetera.
5 So it's only from that point onwards, July 2006 -- and
6 when you were interviewed -- well, you stopped working
7 in March 2007 when his wife got suspended. So it's just
8 for that little period that it's actually being
9 suggested that he was paid a salary. Do you now
10 understand that?
11 "Answer: Yes.
12 "Question: When you answered these questions to
13 Mr McAlindon on the tape, did you understand that?
14 "Answer: No, I don't think I did. He showed me
15 various things, people that -- all sorts of things, 'Did
16 you know this, did you know that?' As I said..."
17 Do you see that?
18 A. I do, but she does say:
19 "I don't think I did."
20 She doesn't say "I did".
21 Q. No, quite right. If Mr McAlindon in his interview
22 misled the witness into misunderstanding what the
23 allegations were and what her answers were attaching
24 to -- and I know it's a hypothetical -- but if he did
25 mislead her into that, would that be fair and unbiased
195

1 interviewing and investigation by Mr McAlindon?
2 A. If that was the case in the hypothetical situation,
3 then, yes.
4 Q. Do you mean, no, it wouldn't be fair and unbiased?
5 A. Correct.
6 Q. Just a couple more. If you just spin on over the pages
7 to page 183, line 9 {Day5/183:9}:
8 "Question: Perhaps I ought to ask you what you were
9 speaking to Mr McAlindon about in the four hours not on
10 the report. Were you saying things to him like, "Well,
11 you know, he could be working at home, I don't know,
12 Mel. Were you sort of putting those provisos in?
13 "Answer: Yes, yes, I was.
14 "Question: Yes?
15 "Answer: Much more than --"
16 A. Can I just read it? Again, Mr Stuart, you have gone too
17 quickly for me.
18 Q. I'm sorry. (Pause)
19 A. Okay.
20 Q. So you see that, and then at the bottom of page 184,
21 line 23 {Day5/184:23} Mrs Frondigoun said:
22 "Answer: Yes, he told me that he was doing all my
23 NHS work. That's what Mr McAlindon told me.
24 "Question: Is that what he said?
25 "Answer: Yes.
196

1 "Question: That's what Mr McAlindon said to you?
2 "Answer: Yes.
3 "Question: Mr Rehman was saying that he, Mr Rehman,
4 was doing all your --
5 "Answer: Doing my job.
6 "Question:-- NHS work?
7 "Answer: Yes, which made me really cross because
8 then I said, 'Absolutely not, no, of course not'.
9 Line 12:
10 "Question: Strangely in the 'on the record' bit
11 Mr McAlindon doesn't seem to have written down the fact
12 that he said to you that Mr Rehman was saying that he
13 did all your work for you. He didn't seem to slip that
14 one in. Is that just one of the three and three quarter
15 hours' worth that he hadn't put in?
16 "Answer: Yes, it was."
17 Do you see that?
18 A. Yes.
19 Q. And then page 188 at the bottom, line 22 {Day5/188:22}.
20 "Question: So you are actually making quite
21 a serious allegation ..."
22 Two lines above you will see there was a quote about
23 a blatant lie:
24 "... against Ms Birdi and Mr Rehman that they have
25 made a blatant lie. Of course, what's not noted here --

197

1 and so I'm going to ask you -- is: what did Mr McAlindon
2 say to you that they were saying that he was doing in
3 relation to the rotas and Mars?
4 "Answer: Hm-mm."
5 Said the witness.
6 "Question: Is it like your NHS work?
7 "Answer: Yes.
8 "Question: Mr McAlindon suggested to you --
9 "Answer: That he was doing it --
10 "Question -- that Mr Rehman was saying he was doing
11 it all?
12 "Answer: Yes. Yes.
13 "Question: And so when you respond, 'That's
14 a blatant lie', you mean, of course, he is not doing all
15 of it?
16 "Answer: Yes."
17 Do you see that?
18 A. Yes.
19 Q. Almost finished. Skip over to page 195, line 8
20 {Day5/195:8}. I quote an answer that she has given on
21 the recorded version:
22 "'It is a lie.'
23 "Again, that is a very serious allegation.
24 "Answer: It is, yes.
25 "Question: Especially in circumstances ..."?

198

1 A. Sorry, what's the context in "it's a lie"?
2 Q. You are right. I'm trying to go too fast.
3 A. Back to line 4:
4 "What was your view on the statement?"
5 Q. Yes, a statement has been put -- if you go down to
6 page 194, line 121.
7 "Answer: I don't think I needed to, to be honest
8 with you:
9 "'Can you think of any time you were sick and
10 couldn't do it and Mushtaq stepped in?'"
11 That was a question that Mr McAlindon was said to
12 have put to her.
13 "Answer: No, I never -- no, there was never a time
14 I could think that he did.
15 "Question: Okay, but your next answer is not quite
16 as explicable in that way.
17 "Answer: No, it isn't, no.
18 "Question: 'What was your view on that statement?'"
19 That is the statement by Mr Rehman that -- Mr Rehman
20 was saying that he stepped in occasionally when people
21 were off sick:
22 "Question: This was his statement that he had
23 assisted occasionally to cover people who were doing
24 admin duties when they were off sick. Your answer is:
25 "'It is a lie.'"

199

1 Inverted commas:
2 "Again that is a very serious allegation.
3 "Answer: It is, yes.
4 "Question: Especially in circumstances where your
5 allegation is untrue.
6 "Answer: Hm-mm.
7 "Question: Is there some context to the way
8 Mr McAlindon has written that? Do you now recall?
9 "Answer: No, I don't. I remember the interview
10 very well. I don't recall. Say, from as it went
11 through, my answers got more emphatic, more cross,
12 more -- because he was stopping, he was talking to me.
13 "Question: He was encouraging you?
14 "Answer: More than encouraging:
15 "'Tell me anything you can think of ... ' .
16 And making you angry saying someone is doing your
17 job, they are claiming to get paid because they are
18 doing your job. You think, 'That's ridiculous.' It
19 makes you angry."
20 Do you see, that's what Mrs Frondigoun gave as her
21 explanation --
22 A. Yes.
23 Q. -- for what happened at this interview.
24 "Question: Yes.
25 "Answer: So then the way that you answer, more

200

1 emphatic because you have been made to be really cross.
 2 "Question: Absolutely.
 3 "Answer: So probably using words that are stronger
 4 in a way than maybe they should have been.
 5 "Question: Fair enough.
 6 "Answer: Because you had been made to be angry."
 7 Do you see that?
 8 A. Yes.
 9 Q. So her evidence was yesterday on oath that Mr McAlindon,
 10 in the hours of the interview that are not on the typed
 11 record, was more than encouraging her; he was actually
 12 making her angry by the level of allegations of what it
 13 was said Mr Rehman was alleging to have done. Do you
 14 see?
 15 A. Yes.
 16 Q. If Mr McAlindon was doing that and/or misstating what
 17 Mr Rehman was saying he had done and was exaggerating it
 18 in the sense that's described, that would be improper,
 19 wouldn't it?
 20 A. Yes.
 21 Q. Yes. Last two bits. Page 199, line 8.
 22 "Question: Obviously, most of the time he was just
 23 filling you with this --
 24 "Answer: Talking to me, yes.
 25 "Question: -- huge amount of nonsense.

201

1 "Answer: Yes.
 2 "Question: But there came a point where he was
 3 asking some questions, some specific questions, weren't
 4 they? Did he actually say, 'I'm going on the record
 5 now,' click, and then ask you a question?
 6 "Answer: No, no, not really, no, because then
 7 I wouldn't have got confused by the end as to whether it
 8 was on or whether it was off anyway.
 9 "Question: So it was all just a --
 10 "Answer: Sometimes it was just like he was just
 11 chatting to me.
 12 "Question: Right, and then he would click it on.
 13 "Answer: Yes."
 14 Finally, page 204 -- sorry, I say finally. There
 15 was another quote I must take you to.
 16 204 {Day5/204:1}. This is Mrs Frondigoun's
 17 evidence, page 204, line 1.
 18 "Question: He was there as well?
 19 "Answer: Was he? Yes, he was there, he was there
 20 on the Monday and then he went and then on the Tuesday
 21 Swarandeeep came in and Mr McAlindon was outside and he
 22 was quite intimidating.
 23 "Question: He was quite intimidating? Intimidating
 24 towards her?
 25 "Answer: Just generally in his manner. He had all

202

1 bruised knuckles and cuts and stuff."
 2 10:
 3 "Answer: He was quite big."
 4 Then 15:
 5 "Question: He wasn't intimidating you, was he, or
 6 maybe he was.
 7 "Answer: No, he wasn't intimidating me but he was
 8 an intimidating person.
 9 "Question: Yes?
 10 "Answer: He looked intimidating. As I say, he had
 11 some cuts and stuff and he just looked a bit heavy.
 12 "Question: Your evidence is that on the morning of
 13 the Tuesday when Swarandeeep was there, Mr McAlindon was
 14 there and he was quite intimidating.
 15 "Answer: He was a bit scary, yes, and Swarandeeep
 16 was frightened."
 17 Do you see that, Mr Dyson?
 18 A. Yes.
 19 Q. Do you consider it part of Mr McAlindon's remit to be
 20 intimidating? Is that part of the investigation team's
 21 job?
 22 A. Of course not.
 23 Q. You say, "Of course not." I mean, Mr McAlindon is an
 24 ex-policeman, isn't he?
 25 A. Yes.

203

1 Q. Some policemen think that the best way of getting --
 2 A. I've answered the question --
 3 Q. -- admissions out of people --
 4 A. "Of course not", is my answer.
 5 Q. You stand by that? Good, okay.
 6 Finally, page 209 to 210 {Day5/209:3}. I think this
 7 probably summarises -- there was an issue -- 209 at line
 8 3:
 9 "Question: A final couple of things I need to ask
 10 you about then. Over the page, 424 ..."
 11 This is 424 of the bundle, Mr Dyson, which is near
 12 the end of the transcript of the interview, okay?:
 13 "... you make a very serious false allegation of
 14 insurance fraud?"
 15 A. Sorry, I thought you said 209. Where am I supposed to
 16 be?
 17 Q. Sorry, 209, line 3:
 18 "Question: A final couple of things I need to ask
 19 you about then."
 20 This is my question:
 21 "Over the page, 424. You make a very serious and
 22 false allegation of insurance fraud against Ms Birdi ...
 23 Now, I do understand that your evidence is that
 24 Mr McAlindon had really pumped you up by the end of this
 25 four hours and that you were basically saying all sorts

204

1 of things which you wouldn't necessarily wish to say in
2 a more proper environment."
3 Do you see that?
4 A. Yes.
5 Q. And I then quote the insurance fraud allegation.
6 "Answer: Okay.
7 "Question: Why did you say that, or did you say
8 that or is this just Mr McAlindon?
9 "Answer: I did say it, yes."
10 A. You are going too fast.
11 Q. Line 21?
12 A. So what's the reference to insurance, sorry?
13 Q. Right, sorry. Yes, I'm trying to go too fast for you.
14 MR JUSTICE NUGEE: Maybe just let Mr Dyson read from line 3
15 on page 209 to the end of the passage you want to ask
16 him a question about.
17 A. 25.
18 MR STUART: Line 3 on page 209 down to line 5 on page 210.
19 MR JUSTICE NUGEE: Just read that page to yourself.
20 A. To 210. That's on another page, is it?
21 MR STUART: Just read down.
22 A. Okay, I have got it. (Pause)
23 I'm down to line 25 at the bottom.
24 Q. Just line 5 of 210.
25 A. Okay.

205

1 Q. So, line 1:
2 "Question: Because he had just made you so cross
3 and wound you up and kept saying more and more and more
4 ...
5 "Question: Mr McAlindon had?
6 "Answer: Yes, and it was over quite a long period
7 of time, you know, so you just -- I don't know."
8 Do you see that?
9 A. Yes.
10 Q. If Mr McAlindon had wound Mrs Frondigoun up during this
11 four-hour interview, off the record, to such a state of
12 anger that she made false allegations of insurance
13 fraud -- if he did that -- I know it's a hypothetical,
14 but if he did, that would be improper conduct by him,
15 wouldn't it?
16 A. Yes.
17 Q. Fine. We may come back just to a bit of that transcript
18 later but we may not need to because you may agree with
19 me on the question of bonuses.
20 All right. Can we go back to your witness
21 statement?
22 A. Can I get rid of this?
23 Q. Page 89 in bundle C, tab 9. {C/9/89}
24 A. Page 89.
25 Q. Yes. I have taken you to paragraph 13 already. In

206

1 paragraph 12 you say:
2 "The protection of the brand is imperative to the
3 growth of the business and any threat of damage to the
4 brand is taken very seriously by SOG."
5 Do you see that?
6 A. Yes.
7 Q. Do you consider Ms Birdi a threat to the reputation of
8 the brand?
9 A. In what context?
10 Q. I don't know. I'm just asking: do you consider her
11 a threat to the reputation --
12 A. There has to be a context to it because there has got to
13 be a reason why Ms Birdi would be a threat.
14 Q. I am just asking an open question: Do you consider
15 Ms Birdi a threat to the reputation of the brand?
16 A. I can't answer that question unless it's in what
17 context. If she is going to bring the brand into
18 disrepute by her actions and then be specific about the
19 actions, I can answer the question.
20 Q. Is that your answer? Do you think that some of her
21 actions during the course of the matters covered in this
22 case -- do you consider that some of her actions risked
23 bringing the reputation of Specsavers into disrepute?
24 A. Yes.
25 Q. You do? Which of those, which of her actions, are you

207

1 concerned about?
2 A. I think having worked then in the store that could have
3 caused people injury because they were done by
4 unqualified people.
5 Q. Yes.
6 A. I think people on the payroll that are not actually
7 correctly documented.
8 Q. Mr Rehman and her father?
9 A. Yes.
10 Q. Yes.
11 A. I mean, I would have to see -- they spring to mind --
12 Q. Okay, fine, fine.
13 Paragraph 14 {C/9/89}. You explain your role. You
14 are obviously very senior in the business. You worked
15 at Tesco for 27 years, though I'm not sure that's a --
16 these days is something that one likes to say?
17 A. It was at the time.
18 Q. It was -- absolutely, at the time you left back in 1998,
19 you had obviously been there a long time at Tescos, and
20 you have now been at Specsavers for almost an equal
21 amount of time.
22 A. 16 years.
23 Q. Yes. At this time, the relevant time with Ms Birdi, so
24 2007 through to 2010, you were obviously running a very
25 big business and your remit was at a very high level?

208

1 A. Correct.
2 Q. Why were you so personally involved in the issue of
3 Ms Birdi and this little store in Dartford?
4 A. Can you just ask the question again.
5 Q. Yes. Let's take 2007 as an example.
6 A. Yes.
7 Q. Why are you getting personally involved in the issue of
8 Ms Birdi owning shares in Dartford, the replacement of
9 the joint venture partnership with a shared venture or
10 group venture?
11 A. Because I sat on a committee along with Mark Raines and
12 other people, Mike Ryan, and we had regular meetings
13 about share deals and the transfer of shares. So it was
14 part of my job.
15 Q. Okay. Can we take it from that that if it wasn't for
16 the issue of share deals, which I think sort of started
17 with Mr Patel on 1 September 2006 notifying you that he
18 wanted to sell his shares to -- well, he didn't say to
19 whom; he wanted to sell his shares. Do you remember
20 that?
21 A. I remember that that was to Mr Ryan, not to me, but ...
22 Q. That's right. This is my question, though: I can see
23 why Mr Ryan, his sort of level, might have some sort of
24 remit over --
25 A. Mr Ryan is a direct report of mine.

209

1 Q. Exactly, and that sort of level of scope of issue was
2 something that gets literally reported up to you. You
3 know, who people are selling their shares to --
4 A. Absolutely.
5 Q. -- is a matter that you --
6 A. It's part of my job, part of his job, and I had regular
7 meetings with all of my direct reports.
8 MR JUSTICE NUGEE: How many people did you have directly
9 reporting to you?
10 A. On optics, nine. I was in charge of hearing and there
11 would be two or three people there, and then I had
12 global responsibilities in terms of supporting some of
13 the other countries.
14 MR JUSTICE NUGEE: Thank you.
15 MR STUART: Paragraph 15. You explain that in that capacity
16 as the retail director of SOG you were responsible for
17 overseeing the departments listed in 13. So that
18 includes Mr McAlindon's department?
19 A. Correct.
20 Q. So ultimately the responsibility for Mr McAlindon's
21 actions ultimately rests with you?
22 A. Correct.
23 Q. Do you speak regularly with Mr McAlindon, or did you at
24 the time? I should make myself clear: Back in 2007 to
25 2010 did you speak regularly with Mr McAlindon?

210

1 A. I did speak regularly with Mr McAlindon, yes.
2 Q. Roughly, just to give the court some indication, would
3 you speak to him once a week? Once a month? Every day?
4 A. It would all depend on his workload and what case load
5 he had. So some weeks I might not talk to him at all
6 and other weeks I may talk to him two or three times.
7 Q. Okay. In paragraph 17 {C/9/90}, in the first line you
8 take issue with the concept of quasi partnership and you
9 refer to the shareholder agreement and the:
10 "... Specsavers manual, which sets out ..." "
11 I'm reading here. Do you see that?
12 A. Yes.
13 Q. "... which sets out specific guidelines on how certain
14 aspects of the business are supposed to operate."
15 Do you see that?
16 A. Correct.
17 Q. What about the disciplinary and investigation and
18 grievance policy? Where does that fit into your
19 overview of the relationship between you, Specsavers,
20 and the JVPs?
21 A. Sorry, can you just rephrase that?
22 Q. Yes. There is a disciplinary policy, isn't there?
23 A. Yes, produced by our legal department, yes.
24 Q. And a long, detailed policy about how interviews should
25 be conducted?

211

1 A. Correct.
2 Q. Et cetera, et cetera. I don't think you say that that's
3 part of the manual -- or would you? Perhaps you would.
4 Is that part of the manual?
5 A. No, the manual concerns itself with the shareholder
6 agreement and the day-to-day running of the business and
7 the brand and marketing and territories, et cetera, et
8 cetera.
9 Q. So, you see, what you are saying here is that the
10 relation between Specsavers and the JVPs -- this is not
11 just Ms Birdi, but every JVP.
12 A. Yes.
13 Q. The relationship is fully set out in the shareholders'
14 agreement. So you go to that to see what the
15 obligations are, and in the manual, which, as you have
16 just explained, has a lot about how you conducts the
17 business, the day-to-day management of the business in
18 the shop. So where does the disciplinary/grievance,
19 et cetera, policy --
20 A. That would be -- it would either be in paper form, in
21 sort of booklets and things, or it would be on the
22 intranet.
23 Q. Yes. Would you accept that that forms part of the
24 relationship between Specsavers and the JVPs, so that on
25 both sides you could be expected to comply with that?

212

1 A. Yes.
 2 Q. On their side the JVPs, they should comply with
 3 discipline and grievance matters in the way set out in
 4 your policies and your side you should do that also?
 5 A. It is based on the ACAS guidelines.
 6 Q. Yes. And it is that which applies between you and your
 7 JVPs?
 8 A. Yes, but there are things in the shareholders' agreement
 9 that are not covered by grievances and other things.
 10 There are obligations by directors which are not covered
 11 in there.
 12 Q. Yes. Okay, paragraph 18 {C/9/90}. You make the point
 13 that JVPs are described as partners or joint venture
 14 partners in your group literature. Do you see that?
 15 A. I do.
 16 Q. And you say:
 17 "That's a reflection of the Specsavers ethos."
 18 We had this in the last trial. You are committed to
 19 this ethos. You personally are?
 20 A. I am, yes.
 21 Q. And the ethos is that Specsavers is working alongside
 22 and collaboratively with the JVPs. This is not
 23 a distribution agreement between you and a third party
 24 company, this is you working collaboratively and
 25 supportive of your joint venture partners?

213

1 A. Correct.
 2 Q. And that's the nature of the relationship, as far as you
 3 are concerned, that you, Specsavers, have with the joint
 4 venture partnership -- the partners. It's
 5 a collaborative one; it is working alongside each other?
 6 A. That's correct.
 7 Q. Does that mean that each side can expect from the
 8 other -- you can expect from the JVPs and they can
 9 expect from you -- to act honestly towards each other?
 10 A. Yes, we have a partnership charter, which -- that is one
 11 of the things that's on it.
 12 Q. Okay. Can you give me some indication of some of the
 13 others things on the partnership charter? Honesty.
 14 What about trust and confidence?
 15 A. No, it's not that sort of -- the charter says we
 16 passionately believe in the joint venture partnership
 17 and that we will work together in this way.
 18 It talks about we believe passionately in training
 19 and development of people and we give them opportunity.
 20 Q. Yes.
 21 A. And it talks about the profitability of the business is
 22 important to both parties within the relationship.
 23 Q. Yes.
 24 A. It talks about --
 25 Q. You said honesty; you said something about honesty.

214

1 A. No, I didn't say that. You said that, I think.
 2 Q. You said:
 3 "Yes, that's in the charter."
 4 Anyway, I have obviously got that wrong. It doesn't
 5 talk about honesty as between you and the JVPs?
 6 A. It's not laid out in that way, no. It's talking about
 7 more high level things, talking about profitability,
 8 talking about training, development, working together,
 9 about taking the long-term view of the business,
 10 et cetera.
 11 Q. What about openness as between you and the JVP partners?
 12 A. We are very open with our partners. We go and see
 13 them -- as part of my duties and other members of the
 14 board, we go out and we see them every eight weeks, face
 15 to face, in their regions.
 16 Q. You weren't very open with Ms Birdi about the plans that
 17 you had for her store being either a shared venture or
 18 a group venture in late 2006/early 2007, when you heard
 19 that Mr Patel wanted to sell his shares. You weren't
 20 very open with her at that stage, were you?
 21 A. I'm not sure I understand what you mean by being open.
 22 We were in a situation where a director had been found
 23 guilty of --
 24 Q. No, no, no, it's before that. That's February 2007.
 25 A. What time period are you referring to then?

215

1 Q. I said late 2006, when Mr Patel said he is going to sell
 2 his shares.
 3 A. That's a private matter for Mr Patel and has nothing to
 4 do with Ms Birdi until it becomes a position where it's
 5 actually going to happen. There is a difference
 6 between, "I would like to sell" -- that is private and
 7 confidential between Mike Ryan and with any partner that
 8 wishes to express that concern. It has got nothing to
 9 do with Ms Birdi until it gets to a point where a share
 10 sale would happen.
 11 Q. Okay. Once she has been made aware that he wants to
 12 sell, as between the two of them it's no longer
 13 confidential?
 14 A. Then we would say to the partner, "You now need to talk
 15 to your partner about it."
 16 Q. Fine. But I was actually asking you about your
 17 position, Specsavers' intentions, because --
 18 A. We haven't got any intentions. We have been informed by
 19 a partner that they wish to sell their shares and they
 20 have to come to us because we have to facilitate that
 21 because we have to choose the incoming partner, as is
 22 part of our agreement with the shareholders' agreement.
 23 Q. There came a point --
 24 A. So we haven't got a position on it until we know that
 25 they are actually up for sale.

216

1 Q. You knew they were up for sale in September 2006.
 2 A. No, we knew that Mr Patel said that he wished to sell
 3 his shares. That doesn't mean to say that they are up
 4 for sale because, in order for them to be up for sale,
 5 you have got to have a buyer.
 6 Q. You knew he wanted to sell his shares in September 2006?
 7 A. I personally didn't but Mr Ryan did.
 8 Q. And Mr Ryan reported up to you, you said --
 9 A. Yes.
 10 Q. -- at these regular meetings. There came a point
 11 in November 2006 where you knew that he had a buyer,
 12 Ms Kaur?
 13 A. Yes.
 14 Q. £170,000. You knew about that?
 15 A. We knew that he had had conversations, not with us,
 16 outside of the sort of business transfer service, with
 17 an individual, yes.
 18 Q. Yes. And can you be passed bundle E2, pages 214 and
 19 215. {E/16/214}. So 214. 6 November. Ms Kaur is
 20 writing to Mr Ryan. Do you see that?
 21 A. Yes.
 22 Q. "I'm writing this letter to inform you that Nimesh has
 23 verbally accepted my offer for his shareholding.
 24 "Please find enclosed a letter I have sent to
 25 Nimesh Patel.

217

1 "I look forward to speak to you regarding the next
 2 steps."
 3 Do you see that?
 4 A. Yes.
 5 Q. And then the attached letter is over the page, 215
 6 {E/17/215}:
 7 "Dear Mr Patel,
 8 "I'm writing to set out my formal offer to you to
 9 purchase your 50 per cent shareholding in the company
 10 operating the Dartford Specsavers store.
 11 "I offer the sum of £170,000, payable upon
 12 completion, to obtain unencumbered title to that
 13 shareholding."
 14 Do you see that?
 15 A. Yes.
 16 Q. There is some manuscript on the right-hand side of that.
 17 Can you see it says:
 18 "= 4.5 x P/E."
 19 Do you recognise that at all?
 20 A. That's Mr Ryan's handwriting by the look of that.
 21 Q. Okay. And over the page, 216 {E/17/216}, the next day,
 22 Mr Patel writes back and he copies this to Mr Ryan. Do
 23 you see 216?
 24 A. Yes:
 25 Q. "Dear Ms Kaur,

218

1 "I'm happy to accept your offer for £170,000 for my
 2 50 per cent shares of Dartford."
 3 A. Yes.
 4 Q. Do you see?
 5 A. I do.
 6 Q. At the bottom of that there is some handwriting. Do you
 7 recognise that?
 8 A. No, I can't even read that -- I don't know -- never mind
 9 recognise it.
 10 Q. I think it says:
 11 "Write holding letter to both."
 12 Do you see that:
 13 "... holding letter to both."
 14 A. Yes.
 15 Q. And then beneath that it looks like it says:
 16 "Board considering."
 17 Do you see that?
 18 A. Okay.
 19 Q. Did you have a discussion with Mr Ryan at about this
 20 time about how to respond to the position, which was
 21 that Mr Patel was wanting to sell and Ms Kaur was
 22 wanting to buy the shares?
 23 A. I can't say that I actually remember it, no.
 24 Q. Okay.
 25 A. But this is outwith the process, so it doesn't really

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1 matter what's written in any of these letters because
 2 this is not the process by which we buy and sell shares.
 3 So, people having conversations outside, agreeing
 4 things, without first of all Michael Ryan giving them
 5 the business transfer service application form, then
 6 paying a fee to us to carry it out and then the
 7 individual who wishes to do that going through a stage 1
 8 process -- nothing is going to happen because that's not
 9 the process that we buy and sell shares, because we have
 10 to endorse the individual, and I do remember having
 11 a conversation later, not at this time, that Niki Kaur
 12 would not be acceptable because she didn't have the
 13 experience.
 14 Q. Yes.
 15 A. So just because people agree outside of our processes,
 16 that doesn't mean anything.
 17 Q. It means something, doesn't it, Mr Dyson? It means that
 18 those people wish to pursue the --
 19 A. But it doesn't mean anything in terms of whether that
 20 will go through and be an eventuality.
 21 Q. You say you have to authorise and you will only
 22 authorise after you have gone through your process?
 23 A. Correct.
 24 MR JUSTICE NUGEE: What is the stage 1 process you refer to?
 25 A. The stage 1 process is a few things. When I joined the

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1 company, there was no process to consider who was buying
2 and coming in. So first of all we put in the disk
3 profiling, so there is some profiling of the individual
4 in terms of what they are like, in terms of
5 psychometric.

6 We also give them some case studies that have got
7 nothing to do with the world of optometry and say, "If
8 you were in charge of this business, here is a scenario,
9 how would you manage it?" We are trying to find the
10 acumen -- have they got business acumen -- before we
11 start giving people the keys.

12 And we also look at experience as well, in terms of
13 what size of store would we give them. Would it be
14 someone that we would give into a new store, where the
15 business is going to grow slowly, or is this a really
16 big store and it's taking money and it needs more of an
17 experienced person going in.

18 So we profile them to make sure we have got the
19 right person to match the opportunity that is for sale.

20 MR JUSTICE NUGEE: Thank you.

21 MR STUART: And obviously Ms Kaur, she was also in
22 a Specsavers just along the coast, wasn't she?

23 A. She was. She was in Grays, I think. She was a manager.

24 Q. So page 224 {E/21/224}, Mr Ryan replied, perhaps the
25 holding reply. Do you see that one:

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1 "I must inform you that, under the terms of his
2 joint venture agreement, he is required to sell to a
3 dispensing optician unless Specsavers and the other
4 parties to the agreement agree to waive that
5 requirement.

6 "Specsavers is considering this matter and we will
7 inform you of our decision."

8 A. Yes.

9 Q. So were you involved at all in this sort of
10 decision-making in relation to this store at this time?

11 A. I wouldn't have been involved in this because this is
12 just a holding letter from Michael Ryan.

13 Q. Yes. But it was true, was it, what was in there? You
14 were actually considering it?

15 A. I personally might not have been at this time --

16 Q. Specsavers was --

17 A. -- but Mr Ryan may well have been.

18 Q. Was? Okay, fine.

19 And I think it is your evidence that at that point
20 in the proceedings, as regards Mr Patel selling his
21 shares to someone whom he had done a deal with, the
22 issue of --

23 A. Sorry, he hasn't done a deal with anybody because he
24 needs our consent in order to sell his shares to the
25 individual.

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1 Q. He has reached an agreement. It may not affect you, it
2 may not bind you, and you may even be able to veto it or
3 not authorise it. But that doesn't mean that he hasn't
4 written to Ms Kaur and Ms Kaur has written to him and --

5 A. No, it doesn't, I accept that.

6 Q. Right, fine. What I was putting to you -- and I don't
7 think it's contentious -- is that at this point, in
8 relation to them, matters get overtaken by the fact that
9 Mr Patel is being investigated for theft?

10 A. I think that's a fair assessment, yes.

11 Q. And we see that evidenced, I think, from the fact that

12 Mr McAlindon is putting in cameras. Do you remember?

13 A. Correct.

14 Q. Page 228-1 is an example {E/23.1/228-1}.

15 A. I'm in the same bundle?

16 Q. Yes. There are a number of invoices for cameras going
17 in --

18 A. Sorry, yes, I'm with you now.

19 Q. -- at around this time?

20 A. Yes.

21 Q. Cameras being in there. Did you personally authorise
22 Mr McAlindon to start this investigation into Mr Patel?

23 A. Yes.

24 Q. Did you do that with the knowledge and consent and input
25 of your fellow director and JV partner, Ms Birdi, at

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1 that time?

2 A. The timing would be that Mr McAlindon would have spoken
3 to me, told me that he had suspicions of activity in the
4 store. He would have continued to gather that
5 information and at a point where he was saying, "I now
6 need to take this to the next level" -- and the way to
7 take it to the next level is to get the photographic or
8 the video evidence of that -- he would then ask me could
9 he install cameras, and then Cristina del Grazia would
10 have raised documentation that would have gone to
11 Ms Birdi to sign. Mr McAlindon would then have them
12 installed.

13 Q. Thank you.

14 Would that be a convenient moment?

15 MR JUSTICE NUGEE: That would be convenient moment.

16 Mr Dyson, I know you have been given evidence before
17 but, as you are in the middle of giving your evidence,

18 do not speak to anybody overnight about the case or your
19 evidence.

20 A. I understand.

21 MR JUSTICE NUGEE: We will see you back at 10 o'clock
22 tomorrow.

23 (4.31 pm)

24 (The court adjourned until 10.00 am the following day)

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