



Neutral Citation Number: [2026] EWHC 2686 (KB)

Case No: QB-2019-004130

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21/10/2026

Before :

Mrs Justice Lambert DBE

Between :

Deborah Biggadike

- and -

Professor Sohier Elneil

Claimant

Second
Defendant

Ms Giselle McGowan (instructed by Penningtons) for the Claimant
The Second Defendant did not attend and was not represented

Hearing Date: 17 June 2026
Further submission 23 June 2026, 8 July 2026

APPROVED JUDGMENT

This judgment was handed down remotely at 10.30am on 21 October 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Mrs Justice Lambert DBE:

1. This is an application by the claimant for a suspended committal order following the second defendant's failure to attend court on 20 May 2025 for the purpose of questioning by a court officer concerning her means and the provision of other information relevant to her ability to discharge a judgment debt.
2. I set out the background to the application below.

Background

3. On 2 July 2024 HHJ Carmel Wall (sitting as a judge of the High Court) gave judgment in favour of the claimant against the second defendant. No findings were made against the first defendant and I need make no further reference to that party. The second defendant is a urogynaecologist who had performed surgery upon the claimant in January 2017. HHJ Wall found that the surgery had been unnecessary given the claimant's symptoms and that the second defendant had failed to obtain the claimant's informed consent for the procedure. She found that the unnecessary surgery had caused the claimant to suffer a chronic condition (irritable bladder syndrome) likely to deteriorate with age. By her order of 2 July 2024, she awarded the claimant damages in the sum of £200,118.88. As directed, the second defendant paid £50,000 on account of costs. No further payment has been made by the second defendant in respect of either damages or costs. On 15 January 2025 the claimant obtained a default costs certificate against the second defendant in the gross sum of £434,876.33.
4. On 19 September 2024 the claimant applied for a charging order over the second defendant's property in west London in order to secure the judgment debt. An interim charging order was made on 4 February 2025 and the final charging order was made on 16 May 2025 following a hearing which was not attended by the second defendant.
5. On 22 November 2024 the claimant applied for an order pursuant to CPR r71.2 that the second defendant attend court for questioning before a court officer to provide information concerning her means and other information relevant to her ability to pay the judgment debt and produce documentation. By its order of 20 December 2024 the court required the second defendant to attend court on 6 March 2025 for questioning. Attempts to serve this order personally as required by CPR r.71.3 were unsuccessful. The process server certified that service had been attempted but that the second defendant had frustrated service by her refusal to agree to give details of a suitable day and time for the process server to return to effect service and had failed to either respond to the process server's letter of appointment which indicated the date and time when he would return or attend that appointment. Further, the concierge of the second defendant's building was reported to have been given instructions by the second defendant to refuse acceptance of anything from the process server.
6. Accordingly, the claimant made an application for permission to serve the second defendant by alternative means (by 1st class post to the second defendant and by 1st class post and email to the second defendant's former solicitors, Weightmans LLP who were still on the record) and for the hearing to be adjourned to a later date. By order of 14 March 2025 (sealed on 1 April 2025), the court gave permission to serve the order by alternative means and adjourned the date for attendance for questioning. The order

requiring the second defendant to attend for questioning was amended to change the date for attendance to 20 May 2025.

7. On 4 April 2025, the claimant served the relevant documentation (the r.71.2 application and appendices, the alternative service order and the court's order requiring the second defendant to attend court for questioning on 20 May 2025 – together with other documents). The documents were served under a covering letter which included the following warning “**FAILURE TO OBEY THE ORDER IN THIS LETTER MAY RESULT IN YOU BEING SENT TO PRISON**” and stated “*The Order for questioning hearing has been listed for 20 May 2025 at 10.30am. We refer you to the Order. Should you fail to attend we shall seek a committal order at that hearing and produce this letter to the Court. Should you continue to ignore the Court's Order to attend you could be imprisoned for Contempt of Court.*” Deemed service was on 8 April 2025.
8. The second defendant provided her signed confirmation of receipt of the letter and enclosures on 5 April 2025.
9. On 15 May 2025, the claimant wrote to the second defendant reminding her of the date and time of the hearing and stating that if she failed to respond to the letter to confirm her attendance at that hearing, it (and prior correspondence) would be placed before the court in support of an application for a suspended committal order on the basis the second defendant attend an adjourned hearing.
10. In compliance with CPR r.71.5(2)(b), an affidavit sworn by Regina Nang'isha Meleji (providing details of service and confirming that the second defendant had not requested payment of her travel expenses) was provided to the court officer with conduct of the questioning. The affidavit referred to delivery of a copy of the court's order requiring attendance on 20 May 2025 rather than sending by 1st class signed for post. However, the Certificate of Service and the second witness statement of Stephen Rome dated 16 May 2025 (both of which were included in the hearing bundle) confirmed the accurate position.
11. The second defendant did not attend the hearing on 20 May 2025. The claimant requested that the matter be referred to a High Court Judge to consider whether to hold the second defendant in contempt pursuant to CPR r71.8.
12. The claimant applied for a second charging order over the second defendant's interest in her property in west London in order to secure the costs debt. On 4 June 2025, an interim charging order was granted and a hearing listed for consideration of the grant of a final charging order on 7 July 2025. The interim charging order and documents filed in support were served on the second defendant by first class post on 12 June 2025 and sent to Weightmans LLP by 1st class post and email on 16 June 2025.
13. The second defendant responded to this documentation. She emailed the court on 4 July 2025 requesting that the hearing on 7 July 2025 be postponed on the basis that she was immersed in two other major court/tribunal matters as a litigant in person, her health was very poor (severe anxiety) and that she had decided to instruct solicitors as she did not feel sufficiently well or able to conduct her defence. She later emailed a document dated 6 July 2025 entitled “*Self- Certification of Medical Incapacity (Interim Notice)*” in which she set out that she would be unable to attend the hearing on 7 July

due to acute mental health distress, including severe anxiety and complex PTSD symptoms. She stated that she had been following “*explicit medical guidance*” that she should “*limit her exposure to high stress stimuli including adversarial legal contact in order to prevent clinical deterioration and as such she had not been monitoring legal communications during this critical recovery.*” She stated that this condition was ongoing and that she had been under supervision for an extended period. She said that she had requested a fit note from her GP the previous day. The documents enclosed included a single page fit note from Dr Pixie McKenna, a private general practitioner, dated 10 December 2024 stating that the second defendant suffered from the “medical concern” of “stress” referencing the period 9 December 2024 to 9 February 2025. The purpose for which this document had been obtained was not apparent.

14. On 7 July 2025 the court vacated the hearing due to the evidence filed by the second defendant. Later that day, the second defendant sent a note to the court from Dr McKenna dated 7 July 2025 stating that the second defendant suffered from “severe anxiety requiring psychological review” and referencing a period of 3 months from 5 June 2025.
15. By order of 7 July 2025, the court directed that the second defendant:
 - i) provide an up to date fit note within 7 days;
 - ii) advise the court of the date fixed for her consultant appointment within 7 days; and no later than 7 days after that appointment obtain a letter from the treating medical professional confirming the date when the second defendant could attend the hearing; and
 - iii) that the hearing of the charging order application be re-listed once the above information was provided.

This order was sent to the parties by the court by email on 9 July 2025.

16. The second defendant did not comply with the order of 7 July 2025. On 3 September 2025, an email from the second defendant’s “*Legal Admin Team*” was sent to the claimant and the court stating that the second defendant remained under the care of her treating physician who had confirmed that the second defendant was not fit to attend any meetings, hearings or proceedings and that this situation was likely to continue for at least a further three months. On 3 September 2025 the court ordered that the hearing of the second charging application be re-listed, noting that the second defendant had failed to comply with the July Order. A notice of hearing listing this application for 24 October 2025 was emailed to the parties by the court on 8 September 2025. This order and notice of hearing were served on the second defendant by the claimant by 1st class post on 10 September 2025.
17. On 10 September 2025, the second defendant emailed the court stating that she was and would remain medically unfit to participate in legal proceedings until mid-January 2026. She attached a letter urging that this should be read “in full and with the seriousness that it deserved”. It was, she said, her formal statement to the court and to all the parties. The letter re-stated that she suffered from a complex psychiatric illness which substantially impaired her ability to concentrate, to process information and to engage with the demands of ongoing litigation. She complained that she was receiving

emails, threat letters and enforcement demands which were wholly inappropriate. She raised concerns in respect of her rights under the Equality Act 2010 and her rights under articles 6, 3 and 8 of the ECHR. The letter continued by stating that aspects of the underlying proceedings before Judge Wall were subject to ongoing regulatory and professional investigations concerning “conflicted medico-legal experts previously relied on” This, she said, reinforced the importance of ensuring no enforcement was pursued against her while both her health and other wider matters remained unresolved. She attached a letter from a medical practitioner, Dr Stephen Pereira, a consultant psychiatrist, dictated on 3 September 2025 and following a review of the patient on that date, stating that the second defendant was “*currently undergoing therapy and treatment for cognitive restructuring and eye movement desensitisation reprocessing in relation to her diagnosis and condition of post-traumatic stress disorder.*” Dr Pereira stated that the second defendant had considerable insomnia as well as “various psychological and physiological features of anxiety.” He commented that she is also “going to be on medication” and that various other interventions were being planned. He commented that the second defendant was unfit to be in the workplace and that this was likely to be the case until the middle of January 2026.

18. In response to this information, on 12 September 2025, the court ordered that the hearing date of the second charging order application be listed on the first open date after 14 January 2026. However, on 19 September 2025, the claimant emailed the court drawing the court’s attention to various matters relevant to the second defendant’s ability to attend court and/or deal with the second charging order application. The claimant stated that during the period that the second defendant claimed to be unfit she had given academic lectures; she had posted on social media that she had attended an academic conference on 20 May 2025; she attended the Medical Practitioners Tribunal Hearing (on two dates, 1 August 2025 and 16 September 2025) at which she gave oral evidence and had been a contributor to various academic papers.
19. On 9 October 2025, the court ordered that the hearing of the second charging order application should not be vacated and that it would proceed as originally scheduled on 24 October 2025 unless the second defendant filed and served a witness statement by 4pm on 20 October 2025 containing a statement of truth explaining the inconsistencies between the material produced by the parties concerning her ability to appear in court proceedings and that a referral for contempt of court to a High Court Judge under CPR Part 71 would also be considered at that hearing. This order was sent to both parties by the court on 13 October 2025 and served on the second defendant by post on 17 October 2025.
20. On 22 October 2025, emails said to be from the second defendant’s “*Legal Admin Team*” were sent to the claimant and the court setting out that the second defendant was unable to attend the hearing on 24 October 2025 due to medical incapacity. The documents sent to the court included a letter (unsigned) from the second defendant in which she asserted that she remained medically unfit to participate in any legal proceedings. She recorded that copies of the psychiatric report and medical certification had already been provided to the court which confirmed that she was on sick leave until mid-January 2026. She recorded that she continued to receive weekly psychiatric treatment and she remained on complex medication which affected both her concentration and decision making. She sought another adjournment and suspension of all enforcement proceedings until she was medically fit to participate.

21. The second defendant did not attend the hearing on 24 October 2025. The court refused the application for a stay and granted the final charging order.
22. By her order of 16 March 2026 (sealed on 17 March 2026), Obi J:
 - i) certified that the second defendant had not complied with the order requiring the second defendant to attend for questioning in that she had not attended court on 20 May 2025 as required and had not produced any of the documents reflecting her means or ability to satisfy the Judgment Debt;
 - ii) listed the matter for consideration of whether the second defendant was in contempt and if so, whether it would be appropriate to make a suspended committal order; and
 - iii) ordered that service of the order be effected by 1st class post on the second defendant at her home in west London or last known address and by email and 1st class post to Weightmans LLP (deemed served two business days after posting and emailing).

In accordance with (iii) above, the claimant served the committal hearing order on the second defendant by sending it by 1st class post to the second defendant's property in west London and by email and 1st class post to Weightmans LLP on 23 March 2026 (deemed served on 25 March 2026).

23. On 16 April 2026, the second defendant emailed the court and the claimant regarding the second charging order. She attached a letter in which she claimed not to have been aware of the application before the second charging order was made. She said that she had been engaged in GMC tribunal proceedings until 22 October 2024 and did not have a fair opportunity to consider, respond to, or object to the second charging application before it had been made. Further, that since September 2025, she had been unable to manage or review correspondence, whether electronic or postal due to serious ill health, having been diagnosed with stress in December 2023 and complex PTSD in June 2025 and having sick notes from December 2024 onwards (currently being signed off sick until the end of June 2026).
24. On 28 April 2026, the court emailed the claimant informing the claimant of the date of the hearing to consider whether to hold the defendant in contempt. Accordingly, on 15 May 2026, the claimant sent letters to the second defendant (by 1st class post) and Weightmans LLP (by 1st class post and email) giving the second defendant notice of the hearing date of this application and reminding her that she may be committed to prison if she did not comply with the Committal Hearing Order.
25. On 19 May 2026, Weightmans LLP emailed the claimant an order dated 8 May 2026, pursuant to which Weightmans LLP were removed from the record as solicitor for the second defendant upon their application for the same dated 10 March 2026.

Legal Framework

26. The procedure governing the making of orders to obtain information from judgment debtors is contained in CPR 71. The process for requiring a judgment debtor to attend court to provide information about means or any other matter about which information

is needed to enforce a judgment or order is set out in CPR r.71.2. The terms of that provision are not relevant to this application save to note that if such an order to attend court is made then the person served “must” (under rule 71.2(6)) comply with the order by attending court at the time and place specified and must produce such documents as are described in the order and must answer on oath such questions as the court may require.

27. CPR r.71.8 concerns failure to comply with an order made under 71.2. It provides that:

“(1) If a person against whom an order has been made under rule 71.2 –

- a) fails to attend court;*
- b) refuses at the hearing to take the oath or to answer any questions; or*
- c) otherwise fails to comply with the order,*

the court will refer the matter to a High Court judge or Circuit Judge.

(2) That judge may, provided the judgment creditor has complied with rules 71.4 and 71.5, hold the person in contempt of court and make an order punishing them by a fine, imprisonment, confiscation of assets or other punishment under the law.

(3) If such an order is made, the judge will direct that-

- a. the order shall be suspended, provided that the person-*
 - i. attends court at a time and place specified in the order; and*
 - ii. complies with all the terms of that order and the original order;*
and
- b. if the person fails to comply with any term on which the order is suspended, they shall be brought before a judge to consider whether the order should be discharged.”*

28. CPR r.71.4 entitles the judgment debtor to seek payment of his or her reasonable travelling expenses to and from court. CPR r.71.5 requires the judgment creditor to file an affidavit deposing to details such as how and when the order had been served; stating whether the debtor had not requested travelling expenses or whether the sum requested had been paid.

29. In *Broomleigh Housing Association v Okonkwo* [2011] HLR 5 at [21]-[22], Moore-Bick and Wilson LJ (with whom Carnwarth LJ agreed) emphasised that even suspended committal orders should not be made as a matter of routine and that the power under rule 71.8 requires the exercise of discretion and consideration of all of the circumstances of the contempt. The court observed that committing a person to prison for contempt of court is too serious a step to be undertaken as a matter of routine without enquiring into the nature of the contempt and the circumstances in which it has been committed. The court stated that following an application under r.71.8(1) the judge, in determining whether to exercise his discretion to make a suspended committal order under para.(2), has at least four options, all of which should be considered. Those four options were:

(a) if satisfied not only that the debtor was served with the order to attend but also that there is sufficient evidence before him to justify a finding to the criminal standard that the debtor's failure to attend..... was intentional and that in the circumstances it is appropriate to do so, he may proceed to make a suspended committal order. ...But, in having regard to the circumstances, the judge will of course weigh all the evidence which suggests that there was—or was not—some extra obstinate or obstructive dimension to the debtor's intentional breach of the order;

(b) if not satisfied of the matters necessary for the making of a suspended committal order, the judge can adjourn consideration of it and, if so, can proceed in one of two ways: either:

(i) he can give directions, supported by a penal notice, for a hearing in court, including directions for the debtor (and perhaps also for the creditor) to attend; or

(ii) he can give directions, again supported by a penal notice, for the debtor (and perhaps also for the creditor) to depose to specified matters and to file and serve the affidavit or affirmation by a specified date;

(c) alternatively, the judge can decide there and then not to make a committal order and to proceed in a different way, probably by making a further order under r.71.2 for the debtor's attendance at court to provide information.

The claimant's submissions

30. The claimant submits that the procedural requirements of CPR 71 are satisfied and that I can be sure to the criminal standard that the second defendant intentionally failed to comply with the order requiring her attendance on 20 May 2025
- i) The order requiring the second defendant to attend for questioning was served in accordance with the alternative service order by sending it to the second defendant at her property by 1st class signed post and to Weightmans LLP by 1st class post and email.
 - ii) The second defendant received the order requiring her to attend on 20 May 2025. This was confirmed by the Royal Mail tracking history which records that the second defendant signed for her receipt of the documents on 5 April 2025.
 - iii) The second defendant has never claimed in correspondence that she was not aware of her requirement to attend court on 20 May 2025. This contrasts with her later claim not to have been aware of the application for the second charging order on 16 April 2026, a claim which the claimant asserts to be palpably false given the second defendant's correspondence with the court concerning the date of that hearing.
 - iv) The claimant took the step of writing to the second defendant by letter dated 15 May 2025 reminding her of the hearing.
 - v) CPR r 71.5 was satisfied. An affidavit from Ms Meleji which confirmed that the second defendant had not requested travelling expenses and that the judgment debt was £205,754.10. Although the affidavit referred to Ms Meleji

having delivered the order herself, the statement of Stephan Rome filed in advance of the hearing confirmed that alternative service method.

31. The claimant draws my attention to the second defendant's various statements that she has been incapable of dealing with enforcement proceedings due to mental health difficulties. The claimant submits that the compelling inference to be drawn from the wider evidence of the second defendant's activities during 2025 is that this assertion is false. The claimant has given professional lectures on 24 and 26 February 2025; she attended and gave a lecture on 20 May 2025 at the Black Female Academic Network Conference; she engaged in preparations for her hearing before the Medical Professionals Tribunal Service and attended on at least two dates 1st August and 16 September 2025. She gave evidence before that Tribunal and was cross examined.

Should a suspended committal order be made in this case?

32. The second defendant did not attend the hearing before me. I therefore start by recording that the second defendant had notice of the hearing of this application for a suspended committal application in accordance with the order of Obi J on 17 March 2026. Obi J made an order for alternative service and service was effected by this means.
33. I grant the application for a suspended committal order. I am sure that the second defendant failed to attend the court appointment on 20 May 2025 intentionally and am satisfied in all of the circumstances that it is appropriate (and, indeed necessary in this case) to make the order sought. I take into account the following matters.
34. I am sure that the second defendant was served with the order requiring her to attend court on 20 May 2025 for questioning and that she received that order. Service was effected in accordance with the order providing for alternative service. The second defendant signed to acknowledge receipt. She was reminded of the date of the appointment by the claimant. She has never claimed that she has not been aware of the date. The second defendant failed to attend that appointment.
35. I am sure to the criminal standard that this failure was intentional. The second defendant was aware of the date. She has provided no explanation for her failure to attend. As to the medical evidence which the second defendant has sent to the court, the note from Dr Pixie McKenna dated 10 December 2024 states only that the second defendant was suffering from stress, nothing more. Nor did it cover the relevant period. The further note from Dr McKenna states only that the second defendant suffered from severe anxiety requiring psychological review. It made no comment concerning the second defendant's ability to attend court (for any reason) but in any event Dr McKenna as a general practitioner would not have had the necessary expertise to provide an opinion on that issue. Again this note did not cover the 20 May 2025
36. The second defendant later furnished the court with a short letter from Dr Pereira dated 3 September 2025 which stated that the second defendant was suffering from post-traumatic stress disorder and was unfit to be in the workplace, but that short document:
- (a) made no observations concerning the second defendant's ability to attend court for questioning by a court officer concerning her means. There is, in my judgement, a very significant difference between signing off a urogynaecologist from clinical and surgical

work and certifying that he or she is unable to attend court for questioning by a court officer.

(b) does not cover the 20 May 2025; and

(c) is vague in the extreme. It gives no detail concerning the nature of the therapy which the second defendant was apparently undergoing; or the medication which she was to commence; nor the various other interventions which were planned.

37. The medical reports and letters supplied by the second defendant are therefore wholly unsatisfactory but importantly fail to evidence her inability to attend court on 20 May 2025. There is however other evidence before me which demonstrates conclusively that, on the contrary, the second defendant was able to attend court.
38. The second defendant was subject to disciplinary proceedings in 2024 which led to a finding of impairment of fitness to practise on the grounds of her failure to obtain informed consent from a patient and her dishonesty. She was suspended for 9 months with the requirement that she attend a review hearing before the end of that term. The panel convened on 1 August 2025 to conduct that review. The second defendant attended that hearing. It is clear from the determination that before 1 August 2025 she had undertaken (with or without assistance it is not clear) considerable preparation. Various logs of reflective behaviour and academic study had been compiled. A witness statement dated 4 July 2025 had been drafted. She gave evidence before the review panel on 1 August and was cross examined on her level of insight and the steps which she had taken to rehabilitate over the 9 month suspension. The panel found that her fitness to practise remained impaired in August 2025 and owing to shortage of time reconvened on 16 September 2025 to consider sanction. A further period of suspension was ordered on the basis that the second defendant had failed to demonstrate insight into the serious nature of the earlier finding of dishonesty.
39. I take into account that court proceedings of any type can be stressful. I also take into account the particular stress associated with appearing before a professional disciplinary body and the toll which such an experience may have. However, this application concerns a failure to attend court on 20 May 2025, not for a hearing but for questioning as to the second defendant's means. At or around this time the second defendant must have been preparing for her disciplinary review hearing. In August she was sufficiently fit and well to attend that hearing and give evidence. In these circumstances, I see no good reason why the second defendant could not have attended this court and answered questions to assist the court and the claimant in making arrangements for the discharge of her judgment debt.
40. There are further aspects of the material supplied by the second defendant which cause me concern. She wrote to the court on 7 July 2025 and then again on 10 September 2025 stating that she was medically unfit. These statements are however contradicted by her attendance before the MPTS on 1 August 2025 and again on 16 September 2025 in which it appears she was able to participate fully, by giving evidence and giving instructions. The second defendant failed to comply with many orders of the court, including those of 7 July 2025 which required her to produce medical evidence substantiating her inability to participate in the enforcement process and 9 October 2025 which required an explanation of the material produced by the claimant concerning her academic and public speaking commitments.

41. Standing back therefore from the chronology of events following the judgment of HHJ Carmel Wall and taking into account all of the circumstances I am satisfied that the second defendant is and has been, I regret to say, seeking to frustrate the processes of the court and avoid satisfying the judgment debt which has now been outstanding for many months. I grant the application for the suspended committal order.
42. I pause to note the various courses which it appears that the second defendant has participated in as a speaker. One of those courses took place on 20 May 2025 and I have been shown a flyer which states that the second defendant was to speak at that event. Following the hearing of this application and recognising that schedules of speakers may change I invited the claimant's solicitor to obtain evidence that the second defendant did, in fact, speak at that event. I was informed by those instructed by the claimant in July 2026 that those organising the course did not respond to a request to clarify. Clearly if the second defendant did speak at that event organised by the Black Female Academics' Network on 20 May 2025 then this would have been a most flagrant breach of the court order. As it is, I cannot be sure that she did attend the event in Leeds and participate as advertised. The same is true for other events which are referred to in documents shown to me by the claimant. This does not however alter my conclusion that the suspended committal order should be made.
43. I therefore invite the claimant to review the draft order and provide a final version for my consideration.