

THE  TIMES  
2TG Moot

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Moot Final 2024

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# THE TIMES 2TG Moot

The Times 2TG Moot is a joint initiative between 2 Temple Gardens and The Times. The aim of the moot is simple: to provide the most open and accessible mooting competition in the country, to enable students from all backgrounds and tertiary education institutions to participate.

As a set of chambers, we have long placed an emphasis on oral advocacy, believing that there is no substitute for oral argument and debate in getting to the nub of an issue. We (as do many other chambers) reward pupillage applicants who have gained experience and shown excellence in mooting.

However, we are all too aware that mooting competitions may appear inaccessible and something of a 'closed-shop'. Mindful of this, we devised the Times 2TG Moot in 2015/2016, which is open to all students in tertiary education, regardless of their institution or prior experience.

This year, for the second time, we have worked in partnership with several academy schools in inner London to provide mooting workshops to their students. As well as advocacy-based activities, the workshops included a plenary session explaining the role of a barrister and the routes to a career at the Bar. We also had the pleasure of hosting students from the academy schools at the moot semi-final at the Royal Courts of Justice in November 2023. We hope to have inspired some future competitors, and future rising stars.

Whether the mooters go on to apply to 2TG or to pursue a career elsewhere, we are delighted to have encouraged and supported them in this key aspect of their legal education and hope that, with the continued invaluable support and coverage from The Times, we have made some contribution to broadening access to the profession.

THE  TIMES  
2G Moot

- 17.45 Welcome drinks
- 18.35 Introduction & Welcome - Meghann McTague,  
Head of Moot Committee 2023-2024
- 18.45 Moot commences
- 19.50 Short Adjournment. Judges retire.  
Champagne & Canapés
- 20.15 Judgment & Prize Presentation
- 20.35 Closing Remarks - Martin Porter KC,  
Joint Head of Chambers
- 20.45 Champagne & Bowl Food
- 22.30 Event concludes



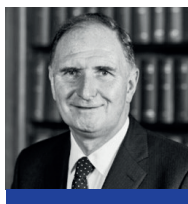
Lord Neuberger

## The Rt Hon Lord Neuberger of Abbotsbury

After reading chemistry at Oxford Lord Neuberger was called to the Bar in 1975 and practised largely in property law before taking silk in 1987.

He was appointed a High Court Judge, sitting in the Chancery Division, in 1996. He was made Supervisory Chancery Judge for Midland, Wales and Chester and Western Circuits from 2001. In 2004, he was appointed as Lord Justice of Appeal. In 2007 he was promoted to be one of the final Law Lords. He was appointed Master of the Rolls in 2009 but later returned to the highest court and in 2012 became the President of the United Kingdom Supreme Court, a position from which he retired in 2017. Since leaving the Supreme Court, he has worked in arbitration and mediation.

Lord Neuberger was Treasurer of Lincoln's Inn in 2017.



Lord  
Lloyd-Jones

## The Rt Hon Lord Lloyd-Jones

Lord Lloyd-Jones was born and brought up in Pontypridd, Glamorgan. He attended Pontypridd Boys' Grammar School and Downing College, Cambridge. He was a Fellow of Downing College, Cambridge, from 1975 to 1991. At the Bar his practice included international law, EU law and public law.

Lord Lloyd-Jones was appointed to the High Court in 2005. He is a Welsh speaker, and from 2008 to 2011 he served as a Presiding Judge on the Wales Circuit and Chair of the Lord Chancellor's Standing Committee on the Welsh Language. In 2012 he was appointed a Lord Justice of Appeal and from 2012 to 2015 he was Chairman of the Law Commission. He was appointed as the inaugural President of the Law Council of Wales in October 2021.

Lord Lloyd-Jones first served as a Justice of the Supreme Court between October 2017 and January 2022. He stepped down as a Justice on 13 January 2022 after reaching the then mandatory retirement age of 70. Following the increase of the mandatory retirement age for judicial office holders from 70 to 75 in March 2022, Lord Lloyd-Jones was re-appointed as a Justice and continues to sit as a Justice of the Supreme Court.

Lord Lloyd-Jones was Treasurer of Middle Temple in 2023.



Lord Leggatt

### The Rt Hon Lord Leggatt

Lord Leggatt read Philosophy at King's College, Cambridge, studied at Harvard University as a Harkness Fellow, was a Bigelow Teaching Fellow at the University of Chicago Law School, and worked as a foreign lawyer at the law firm of Sullivan & Cromwell in New York, before practising at the Bar in England and Wales.

He practised as a barrister until 2012, specialising mainly in commercial cases. He was appointed a QC in 1997. He also sat as a Recorder on the Western Circuit for 10 years.

From 2006-2008 he was Vice-Chair of the Bar Standards Board. He was appointed a High Court Judge in 2012, assigned to the Queen's Bench Division, and was promoted to the Court of Appeal in 2018 before moving to the Supreme Court in April 2020



Lady Justice Asplin

### The Rt Hon Lady Justice Asplin

Lady Justice Asplin read law at Fitzwilliam College, Cambridge, and St Edmund Hall, Oxford. She was called to the Bar in 1984. She was appointed Queen's Counsel in 2002 and is a Bencher of Gray's Inn. She was made a Deputy High Court Judge in 2007 and a Justice of the High Court (Chancery Division) in October 2012. She has written a Guide to the Chancery Applications Court for Litigants in Person.

She was sworn in as a Lady Justice of the Court of Appeal in October 2017.

In March 2021, she was appointed as Chair of the Judicial ADR Liaison Committee.

# Finalists



**Marc Alner**

Bar Course Student at The University of Law, Birmingham



**Samuel Larner**

Bar Course Student at The University of Law, Birmingham



**Henry Screamton**

At the time of Registration, a full-time Bar Course Student at City Law School, London



**Nicholas Stone**

Law student at Harris Manchester College, University of Oxford

# Moot Problem

**IN THE SUPREME COURT**

**CLAIM NO. 2024-2TG-GF**

BETWEEN:

**DONALD WANSON**

Appellant / Claimant

- and -

**JAY'S PLASTICS LTD**

Respondent

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## **PROBLEM FOR THE GRAND FINAL**

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1. The Respondent is a company that operates a plastic injection moulding factory in Dawnee, a large town in the North of England. It produces plastic components for household appliances and fixtures. The Respondent's factory comprises of two units that house the machines and three warehouses where the products are stored to dry before delivery.
2. VG Building Company was one of the Respondent's biggest customers, buying significant numbers of plastic housings for fire alarms and fuse boxes. VG Building Company's purchases made up around 45% of the Respondent's revenue and an equivalent amount of its warehouse space in 2019.
3. The Claimant joined the Respondent in 1980 when he was 16. He was and remains a follower of the religion Monuism. Monuists believe in an all-powerful deity called the Absolute. The Claimant worked in the warehouses for his entire period of employment. He was a competent and well-liked employee. By 2019, he was part of a team of three warehouse workers, each of whom was assigned to a single warehouse. The Claimant managed the team. This involved checking the inventory lists for, and tidiness of, the other two warehouses.
4. The Respondent's business was significantly affected by the COVID-19 pandemic. New sales effectively ceased overnight on the introduction of the lockdown. The Respondent's managing director, May Meagle, believed the Respondent faced an existential crisis.
5. Ms Meagle spent days calling the Respondent's various customers to try to secure new business. She had some success in taking orders from smaller clients, but struggled with the larger ones. When she thought that hope was lost, VG Building Company indicated that it would resume purchasing products from the Respondent at the same rate as it had been before the lockdown. However, it sought to introduce a new condition into the contract of sale. The condition was that either (a) all the Respondent's workers in the production process wore surgical masks or (b) the products would be thoroughly disinfected before delivery. Ms Meagle, keen to accept the business, agreed to the new terms on 1 July 2020 without pushing back. She was able to negotiate a small increase to the price of the Respondent's products to contribute to the costs of facemasks in the factory.

6. Ms Meagle announced the re-opening of the factory on 7 July 2020. She published a new policy at the same time that provided that all the Respondent's employees must wear a surgical facemask at all times whilst within the grounds of the factory.
7. The Claimant refused to wear a facemask on the basis of his religious belief. He stated that he objected in principle to face coverings because it broke his connection to the Absolute. He also claimed that he could not wear a mask because of severe asthma.
8. Ms Meagle warned the Claimant that she would consider dismissing him if he refused to wear a face mask. They entered a period of consultation, where the following matters were agreed:
  - 8.1. The Claimant's role did not require him to interact with others in close proximity. He could safely carry out his work without wearing a face mask.
  - 8.2. At the day of re-opening, the Respondent's level of sales required the use of two warehouses, but not three.
9. The Claimant suggested that the Respondent re-opened all three warehouses so he could work in one on orders for customers other than VG Building Company. Ms Meagle refused on the basis that (a) the cost of re-opening the third warehouse would reduce the Respondent's projected profit margin from 7% to 4% and (b) the Claimant would not be able to supervise the other warehouses. Further, she found that the cost of disinfecting the products would reduce the profit margin to 5%. With regret, she dismissed the Claimant because he could not carry out his role.
10. The Claimant brought claims in the Employment Tribunal, the only relevant actions for this appeal being:
  - 10.1. first, that the dismissal was directly discriminatory in that the Respondent treated the Claimant less favourably than it would have treated others because of his religious belief or a manifestation of that belief; and
  - 10.2. second, that the face mask policy was indirectly discriminatory in that it put the Claimant, as a disabled person, at a particular disadvantage in comparison to non-disabled persons.The Claimant also made a claim for indirect discrimination on the basis of religious belief. This failed because the Claimant could not prove a group disadvantage. No appeal lies against that decision.
11. The case went to trial before the Employment Tribunal, which made the following findings:
  - 11.1. Monists believe that the Absolute has a plan for every person and that it is imperative to maintain a connection to the Absolute to fulfil that plan.
  - 11.2. The Claimant genuinely believed that it was objectionable to wear a face covering because that would jeopardise his connection to the Absolute. It was a manifestation of his belief.
  - 11.3. The Claimant's severe asthma amounted to a disability that prevented him from wearing surgical face masks.
  - 11.4. The Respondent dismissed the Claimant because he would not wear a face mask.
  - 11.5. The claim for direct discrimination failed. The Respondent dismissed the Claimant because he manifested his belief in an objectionable manner. The decision to dismiss



was an objectively justifiable interference with the Claimant's manifestation of his religious belief within the meaning of Article 9(2) of the European Convention on Human Rights.

- 11.6. The Claimant established three of the four conditions of the indirect discrimination claim: the Respondent applied the face mask policy to all employees; and it put disabled employees, including the Claimant, at a particular disadvantage in comparison to those who were not disabled.
- 11.7. However, the claim for indirect discrimination failed because the dismissal was justified. First, the dismissal was for a legitimate aim, namely ensuring the commercial viability of the business. Second, the Tribunal expressly found that there were less discriminatory options available to the Respondent and so the policy was not necessary to achieve the legitimate end. However, having analysed those options and the costs of the same, it found that the face mask policy was reasonably necessary to achieve that end.
12. The Claimant's appeals to the Employment Appeal Tribunal and the Court of Appeal were dismissed. He now appeals to the Supreme Court on the following grounds:
  - 12.1. Ground one: the Tribunal was wrong to consider Article 9(2) of the ECHR when determining whether the dismissal was directly discriminatory. It should have held that the dismissal was directly discriminatory upon finding that the Respondent dismissed the Claimant because of a manifestation of his religious belief.
  - 12.2. Ground two: the Tribunal was wrong to find that the dismissal was justified in circumstances where there were less discriminatory means to meet the legitimate aim available to the Respondent. The Claimant reserves the right to argue that *Homer v. Chief Constable of West Yorkshire Police and West Yorkshire Police Authority* [2012] UKSC 15, [2012] IRLR 601 and related authorities were wrongly decided.
13. Neither party has permission to challenge the Tribunal's other findings, including that the dismissal was "*reasonably necessary*" but not "*necessary*" to achieve the legitimate aim.
14. You may only rely on the authorities within the Moot bundle, namely:
  - 14.1. *Practice Statement (Judicial Precedent)* [1966] 1 WLR 1234.
  - 14.2. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
  - 14.3. Sections 6, 10, 13, 19 and 39 of and Schedule 9 to the Equality Act 2010.
  - 14.4. Sections 1 to 7 of the European Union (Withdrawal) Act 2018.
  - 14.5. Article 9 of the European Convention on Human Rights.
  - 14.6. *Bilka-Kaufhaus GmbH v. Weber Von Hartz* Case 170/84, [1987] ICR 110.
  - 14.7. *Homer v. Chief Constable of West Yorkshire Police and West Yorkshire Police Authority* [2012] UKSC 15, [2012] ICR 704.
  - 14.8. *Wastenev v. East London NHS Foundation Trust* UKEAT/1057/15, [2016] ICR 643
  - 14.9. *Page v. NHS Trust Development Authority* [2021] EWCA Civ 225, [2021] ICR 941
  - 14.10. *Higgs v. Farmor's School* [2023] EAT 89, [2023] ICR 1072.
15. Competitors are referred to paragraph 54 of the Competition Rules for directions in respect of Skeleton Arguments.

# The Times 2TG Moot Committee



Deborah Francis



Ben White



Meghann McTague



Sam Stevens



Tom Fairclough



Paige Mason-Thom



Kate Legh



Eswar Kalidasan



Alex Ivory

“The barristers at  
2 Temple Gardens are  
like no other, a pool of  
overflowing talent.”

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Legal 500 2024

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