

# **SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No.12695-2024

## **BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

MANUEL LOPEZ-MARTINEZ

Respondent

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Before:

Ms A Kellett (in the chair)

Mr D Green

Ms L Fox

Date of Hearing: 7 – 9 July 2025

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## **Appearances**

Benjamin Tankel, counsel of 39 Essex Chambers, 81 Chancery Lane, London WC2A 1DD instructed by Delme Griffiths, solicitor of Blake Morgan LLP, One Central Square, Cardiff CF10 1FS for the Applicant.

The Respondent represented himself.

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## **JUDGMENT**

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## **Allegations**

1. The allegations against the Respondent, Dr Manuel Lopez-Martinez, made by the Solicitors Regulation Authority (“SRA”) were that he had been guilty of conduct of such a nature that, in the opinion of the SRA, it would be undesirable for him to be involved in a legal practice in that, while a Registered Foreign Lawyer (“RFL”), and a Member of Ashurst LLP (“the Firm”):
  - 1.1 Between approximately 14 December 2018 and 29 June 2021 in relation to Person A, he behaved inappropriately and/or engaged in conduct which he knew or ought to have known was unwanted, which included any or all of:
    - 1.1.1 On 14/15 December 2018, whilst at Person A’s home he:
      - a) Remained in Person A’s home after giving her a lift home, despite being asked to leave;
      - b) Entered Person A’s bedroom and / or got into Person A’s bed;
      - c) Touched Person A on one or more parts of her body and/or hugged or attempted to touch and/or hug Person A, without her consent;
      - d) Said words to the effect of, “I haven’t met anyone like you in a long time, you are very special” and/or “you’re wet” and/or that Person A was “wonderful” and/or “special”.
    - 1.1.2 Between approximately 17 December 2018 and 29 June 2021, after behaving inappropriately towards Person A as described at allegation 1.1.1 above, he:
      - a) On 17 December 2018, told Person A she was “special”;
      - b) On 17 December 2018, followed Person A out of the office and attempted to speak to her, which he knew or ought to have known was uninvited;
      - c) On 21 December 2018, approached Person A at her desk, sat next to her and instigated a conversation about personal matters and/or attempted to gift her a bottle of wine, which he knew or ought to have known was uninvited;
      - d) On 23 December 2018, sent Person A one or more messages via WhatsApp, which were unsolicited;
      - e) On multiple occasions, attended Person A’s desk when there was no requirement to do so and/or attempted to instigate conversations with her, which he knew or ought to have known was uninvited;
      - f) On an unknown date, approached Person A at her desk and asked her whether she was still angry with him, which he knew or ought to have known was uninvited;

- g) On 16 February 2021, made a comment to Person A to the effect that she resembled an actress, who he described as being attractive, or said words to that effect;
- h) On 9 March 2021, spoke to Person A about a play. He told her he was intending to see it, which he knew or ought to have known was uninvited;
- i) In June 2021 contacted Person A, which he knew or ought to have known was uninvited.

In doing so, Dr Lopez-Martinez committed an act or acts of such a nature that, in the opinion of the SRA, it would be undesirable for him to be involved in a legal practice in accordance with section 43(1) of the Solicitors Act 1974 (“the Act”).

- 1.2 Between approximately 19 January 2021 and 6 July 2021 in relation to Person B, he behaved inappropriately and/or engaged in conduct which he knew or ought to have known was unwanted, which included any or all of:

1.2.1 Making one or more of the following comments:

- a) On 19 January 2021, said to Person B, “is there life after divorce”, or words to that effect;
- b) On 19 January 2021, asked Person B whether he should set up a Tinder account, or said words to that effect;
- c) On 18 February 2021, said to Person B, “come on please” when attempting to kiss her, or words to that effect;
- d) On 18 February 2021, asked Person B if he could put his arms around her, or said words to that effect;
- e) On 25 March 2021, told Person B that he, “could not stop thinking about her”, or said words to that effect;
- f) On 25 March 2021, said to Person B he had, “dreams about walking down the pier in Malaga with her”, or said words to that effect;
- g) On 29 June 2021, whilst holding Person B said, “come on [Person B]”, or said words to that effect.

1.2.2 Instigated physical contact on one or more of the following occasions when it was unwanted and/or uninvited:

- a) On 19 January 2021, kissed and/or hugged Person B;
- b) On 2 February 2021, held Person B’s forearm.
- c) On 2 February 2021, stroked/rubbed Person B’s arm;

- d) On 18 February 2021, grabbed Person B by the lower arm(s) and pulled her towards him;
- e) On 18 February 2021, put his arm(s) around Person B;
- f) On 29 June 2021, having returned to the Firm's office with Person B:
  - i. Grabbed Person B's hands and/or wrists;
  - ii. Attempted to pull Person B towards him;
  - iii. Held Person B in a forceful manner;
  - iv. Attempted to turn Person B towards him, despite Person B attempting to resist;
  - v. Attempted to move his head towards Person B, despite Person B attempting to resist.
- 1.2.3 Attempted to kiss Person B on 18 February 2021 and/or on one or more occasion on 29 June 2021.
- 1.2.4 Sent/posted one or more of the messages/comments set out in Schedule 1.
- 1.2.5 Persistently invited Person B to spend time alone with him outside of the office, including any or all of:
  - a) On 19 January 2021, asked Person B out for lunch;
  - b) On 2 February 2021, asked Person B for a drink;
  - c) On 17 and/or 18 February 2021, invited Person B out for a drink and dinner;
  - d) On 8 March 2021, invited Person B out to lunch;
  - e) On or around 29 April 2021, offered to collect Person B and take her home;
  - f) On 26 May 2021, invited Person B to have a bottle of wine with him;
  - g) On 29 May 2021, offered to help Person B at her home with her garden or pool;
  - h) On 29 June 2021, invited Person B for drinks after work.

In doing so, Dr Lopez-Martinez committed an act or acts of such a nature that, in the opinion of the SRA, it would be undesirable for him to be involved in a legal practice in accordance with section 43(1) of the Act.

### Sexual motivation

- 1.3 Dr Lopez-Martinez's conduct in allegations 1.1 and/or 1.2 was sexually motivated. This is alleged as an aggravating feature of Dr Lopez-Martinez's conduct but it is not an essential feature in proving the allegations.

### Abuse of position

- 1.4 Dr Lopez-Martinez's conduct in allegations 1.1 and/or 1.2 was an abuse of his position. This is alleged as an aggravating feature of Dr Lopez-Martinez's conduct but it is not an essential feature in proving the allegations.

### **Executive Summary**

2. The Applicant alleged that Dr Lopez-Martinez had engaged in conduct that meant it was undesirable for him to be involved in a legal practice without the consent of the Applicant. In summary, he was alleged to have made sexual advances towards Person A in her home after a work Christmas party, and to have pursued an inappropriate course of conduct with Person B which included attempting to kiss her. The allegations were that this conduct took place in circumstances where Dr Lopez-Martinez knew that such conduct was not wanted or invited. It was also alleged that Dr Lopez-Martinez's conduct was sexually motivated and an abuse of his position as a Partner in the Firm. The Tribunal found that Dr Lopez-Martinez had engaged in such conduct. Given its factual findings, the Tribunal determined that Dr-Lopez-Martinez's conduct was such that it was undesirable for him to work in a legal practice without the consent of the Applicant. Accordingly, the Tribunal found that the imposition of a Section 43(2) Order was appropriate.

### **Preliminary Matters – See Appendix 1**

### **Factual Background**

3. Dr Lopez-Martinez was an RFL. He trained at the Firm and progressed to being a Partner and Head of Regulatory in the Firm's Madrid office. Dr Lopez-Martinez was opted into the Firm's bulk renewal process by the Firm such that his annual registration was renewed with effect from 1 November 2021.
4. In or around September 2021, concerns were formally reported to the Firm about Dr Lopez-Martinez by two employees, Person A and Person B.
5. Persons A and B both, separately, raised concerns relating to Dr Lopez-Martinez's behaviour towards them in the period from December 2018 to July 2021, specifically allegations of unwanted and inappropriate behaviour, comments and messages together with inappropriate and uninvited physical contact.
6. The concerns were escalated internally at the Firm between 4 October 2021 and 18 October 2021. On 18 October 2021, the Firm instructed Simmons & Simmons to undertake an independent investigation.

7. During the course of the investigation, Persons A and B were interviewed on 22 October and 21 October 2021, respectively.
8. On 2 November 2021, Dr Lopez-Martinez was also interviewed, during which he denied the allegations made against him.
9. At the conclusion of the external investigation, on 18 November 2021 Dr Lopez Martinez was served with a retirement notice by the Firm's Board. He ceased to be a Member of the Firm from 28 November 2021. The Applicant understood that Dr Lopez-Martinez was employed in Spain by a firm that was not regulated by the Applicant, it being neither an overseas practice of an authorised body nor an authorised body.
10. On or around 16 November 2021, the Firm reported Dr Lopez-Martinez to the SRA. Persons A and B were contacted by the Applicant. They each provided witness statements.

### **Findings of Fact and Law**

11. The Applicant was required to prove the allegations on the balance of probabilities. The Tribunal had due regard to its statutory duty, under section 6 of the Human Rights Act 1998, to act in a manner which was compatible with Dr Lopez-Martinez's rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

### **12. Allegation 1.1.1 - Person A**

#### The Applicant's Case

- 12.1 Person A worked for the Firm and would see Dr Lopez-Martinez during her working hours at events held on her floor. She initially regarded Dr Lopez-Martinez as friendly and approachable. Person A said she spoke ~~speaking~~ to Dr Lopez-Martinez in detail for the first time at a work away day on 16 November 2018, where she described his behaviour as appropriate.
- 12.2 On 14 December 2018, the Firm held a staff Christmas lunch at a local restaurant. Person A described drinking 3 – 4 glasses of wine, after which she described herself as being merry, but that she still knew what she was doing.
- 12.3 At some point after 6pm, approximately 80 members of staff from the office attended a local club. Person A describes herself as being "*about 8-9 [out of 10] on [her] drunkenness scale*". Person A went outside at approximately 9-10pm. She told colleagues that she was going to go home. Person A lived a 20-30 minute walk away from the club. Her colleagues said that they would call her a taxi. Dr Lopez Martinez joined the group outside and offered to take Person A home in his car.
- 12.4 Person A described that they walked back to the office to collect Dr Lopez-Martinez's car. He assisted her on the walk back to the car. She did not consider that assistance to be weird, nor did she "*feel any sexual vibe*". Dr Lopez-Martinez drove Person A home. She described having to ask him to stop the car to allow her to vomit on the journey.

- 12.5 Dr Lopez-Martinez parked in Person A's neighbourhood and then accompanied her to her building. He helped her up the stairs by holding her back. Person A stated that she did not consider this assistance to be inappropriate.
- 12.6 Dr Lopez-Martinez entered Person A's flat, accompanying her into the toilet when she vomited once more, at which point Person A recalled being fully clothed. Person A then recalled telling Dr Lopez-Martinez that she was going to lie down, expressly telling him he could leave before she went to bed and fell asleep.
- 12.7 Person A described waking at some point during the night to discover Dr Lopez Martinez in her bed. Accordingly, despite having asked him to leave her home, he had remained there, and having done so, had decided to enter Person A's bedroom and then her bed. Person A said that Dr Lopez-Martinez was there without her permission.
- 12.8 Person A described that she was awoken by Dr Lopez-Martinez who was whispering in her ear and caressing her. His body was touching her body. He told her: "*I haven't met anyone like you in a long time, you are very special*"; *You're wet*" and that she was "*wonderful*" and "*special*". Dr Lopez-Martinez was touching her body and trying to hug her. Person A described trying to push Dr Lopez-Martinez away, but that he would not stop. Person A got out of bed and told Dr Lopez-Martinez to leave, which he did. Person A described that Dr Lopez-Martinez was dressed whilst in her bed.
- 12.9 Mr Tankel submitted that Dr Lopez-Martinez had engaged in behaviour that was completely inappropriate in the context of their professional relationship. He had entered her bed without consent, touched her and made sexualised comments. Such conduct, it was submitted, fell below the standard expected of an individual involved in legal practice such that, in the opinion of the Applicant, it would be undesirable for him to be involved in a legal practice in accordance with section 43(1) of the Act.

### Sexual Motivation

- 12.10 In Basson v GMC [22018] EWHC 505 (Admin), sexual motivation was defined as conduct which is done either in pursuit of sexual gratification or in pursuit of a future sexual relationship Dr Lopez-Martinez's conduct, it was submitted, was overtly sexual and was in the pursuit of sexual gratification.

### Abuse of position

- 12.11 By acting in the way alleged, Dr Lopez-Martinez abused his position. Person A was a junior member of staff. Dr Lopez-Martinez knew or ought to have known that he held a position of authority in respect of Person A and as such that he was required to behave professionally and maintain appropriate professional boundaries at all times. Instead, he used his position to engage in behaviour and pursue a course of conduct that was highly inappropriate.

### The Respondent's Case

- 12.12 Dr Lopez-Martinez denied the allegation in its entirety; he had never attempted to have any physical contact with Person A, nor had he engaged in conduct that was inappropriate in the context of their professional relationship.
- 12.13 The account relating to events of December 2018 was false. He did not offer Person A a lift home. As was usual for him, he had left his car in the work carpark. Dr Lopez Martinez submitted that this could have been verified using
- (i) the entry and exit logs for the office carpark and
  - (ii) the information from the Madrid City Council cameras. As the office building was within the restricted traffic zone for city centre residents, the entry and exit times of all vehicles were recorded.
- 12.14 Dr Lopez-Martinez explained that on the day in question he had driven to work and parked his car in the office carpark. He had walked to the lunch venue and had walked from there to the club. At the end of the evening, he had taken a taxi home and had taken a taxi to work the following day.
- 12.15 Dr Lopez-Martinez submitted that Person A's account of events was inconsistent. Whilst describing herself as drunk on the night in question, Person A was able to recollect small details of events that had allegedly occurred 7 years earlier. It was incomprehensible that whilst not agreeing with the situation, Person A consented to his entering her home (although it was not accepted that Dr Lopez-Martinez had attended her premises as alleged or at all).
- 12.16 Dr Lopez-Martinez submitted that the motivation for Person A's false account was to support Person B, with whom she was close friends. Further, the false account was to protect her position at the Firm in circumstances where she had confided to Dr Lopez Martinez that she had been using the office premises on weekends in pursuit of her personal interests. Dr Lopez-Martinez submitted that he told Person A that she could not use the offices in that way without the consent of the partners. This occurred in the summer of 2021.
- 12.17 Dr Lopez-Martinez submitted that Person A was trying to protect her position at the Firm, and had made the accusation against him before he could report her conduct. She knew that by using the internal channels, she would be afforded protection. That was the reason that the alleged conduct was reported to the Firm and not to the Spanish Bar, whom, it was submitted, would require evidence of the alleged wrongdoing.
- 12.18 Dr Lopez-Martinez also thought that it was telling that Person A waited for 3 years before making any report. It was submitted that Person A and Person B had colluded in the making of false allegations in order to protect their positions.
- 12.19 Accordingly, Dr Lopez-Martinez denied that he had committed any acts that would make it undesirable for him to be involved in a legal practice in accordance with section 43(1) of the Act. Further, he there was no sexually motivated conduct, nor had he abused his position.



### The Tribunal's Findings

- 12.20 The Tribunal considered the accounts provided by Person A and Dr Lopez-Martinez with care. The Tribunal referred to the witness statement of Person A and the account provided by her to Simmons & Simmons. It also considered Dr Lopez-Martinez's written representations, his oral submissions and the account provided by him to Simmons & Simmons. The Tribunal also referred to the accounts provided by other employees who had been interviewed by Simmons & Simmons. For the avoidance of doubt, the Tribunal did not consider the findings of the Simmons & Simmons report when making its findings of fact.
- 12.21 The Tribunal noted that other people present at the club had heard Dr Lopez-Martinez offering Person A a lift home, and had seen them walk away from the club together. The Tribunal also noted that in his interview with Simmons & Simmons, Dr Lopez Martinez had stated that at the end of the evening, he had taken a taxi back to the office to collect his car. This was wholly different to the submissions made during the proceedings where he stated that he had taken a taxi home from the club.
- 12.22 Further, the Tribunal noted that during the Simmons & Simmons interview, when referring to the information relating to the times that his car was in the carpark, Dr Lopez-Martinez specifically referred to the times during the party, not for the times of his arrival at work and his leaving the following day. The Tribunal found that this was because Dr Lopez-Martinez knew that he had driven his car on the night in question as alleged, as opposed to leaving his car in the office carpark overnight.
- 12.23 The Tribunal found, on the balance of probabilities, that Dr Lopez-Martinez had offered to take Person A home, walking from the club to his parked car and thereafter taking her home.
- 12.24 When describing the events during the interview with Simmons & Simmons, Person A explained that when they entered her property, she went straight to the bathroom to vomit. At that point she recalled thinking: "Okay. Thanks for everything but I'm home now". The next thing she remembered was falling asleep.
- 12.25 The report recorded: *"She also does not remember exactly what she said to [Dr Lopez Martinez] before she fell asleep (in reference to when she told [Dr Lopez Martinez] to leave her house), she only remembers that she thanked him for his help and then fell asleep."* This was inconsistent with her witness statement in which she asserted that she had asked Dr Lopez-Martinez to leave a number of times before she fell asleep. The Tribunal preferred the evidence given by Person A during her Simmons & Simmons interview, that account having been provided closer in time to the events in question.
- 12.26 It was Person A's consistent evidence that having woken up and asked Dr Lopez Martinez to leave, he did so immediately.
- 12.27 The Tribunal thus did not find that Dr Lopez-Martinez had remained in Person A's home after giving her a lift home, despite being asked to leave. He had left when asked to. Accordingly, the Tribunal found allegation 1.1.1 (a) not proved.

- 12.28 The Tribunal was satisfied that the events detailed by Person A had occurred as described by her. Accordingly, the Tribunal found allegations 1.1.1(b) – 1.1.1(d) proved on the balance of probabilities. Such conduct, the Tribunal found, made it undesirable for Dr Lopez-Martinez to be involved in a legal practice in accordance with section 43(1) of the Act.
- 12.29 The Tribunal rejected Dr Lopez-Martinez’s submission that the account was the result of later fabrication. The Tribunal noted that Person A had told Person C (someone with whom she worked) about the incident on or around 18 December 2018. Person C confirmed that this was the case when interviewed as part of the Simmons & Simmons investigation.
- 12.30 The Tribunal also found that Dr Lopez-Martinez’s conduct was sexually motivated as it was in pursuit of sexual gratification. The Tribunal did not find that Dr Lopez Martinez had abused his position. Whilst he had crossed professional boundaries, he had not used his position of seniority in order to engage in improper conduct.

### 13. Allegation 1.1.2 – Person A

#### The Applicant’s Case

- 13.1 Mr Tankel submitted that on 17 December 2018, at approximately 20:00, Dr Lopez Martinez approached Person A at her desk and asked to have a private word with her, at which point they went into a meeting room. Person A described that in the meeting room, Dr Lopez-Martinez apologised to her, although he did not say what the apology was for. He told her that she was “*special*”. When he offered her the details of a friend who could potentially assist Person A with her hobby, Person A told Dr Lopez Martinez “*I don’t want anything from you*” and “*I don’t want to talk about it*”.
- 13.2 Person A described that whilst walking home, she was approached by Dr Lopez-Martinez who had been walking behind her and who asked to talk to her again, in response to which Person A told him to leave her alone at least once .
- 13.3 On or around 18 December 2018, Person A spoke to Person C about Dr Lopez Martinez’s conduct at her home on 14/15 December 2018. This was confirmed by Person C during his interview as part of the Firm’s investigation.
- 13.4 On 21 December 2018, Dr Lopez-Martinez once again approached Person A at her desk when she was alone, then sat beside Person A without good reason and without being invited to do so, before instigating a conversation about matters unrelated to work. Person A stated:

*“I felt numb and didn’t know what do. I mean he wasn’t actually doing anything wrong at that point talking to me. I thought he is a partner I did not feel I had the right to ask him to leave. I couldn’t just take my stuff and leave my desk; I would be in trouble.”*

13.5 During the same incident, Dr Lopez-Martinez also attempted to gift Person A a bottle of wine and insisted on her taking it, despite Person A attempting to refuse.

13.6 On 23 December 2018, unprompted and in circumstances where Person A was unsure how he obtained her number, Dr Lopez-Martinez sent Person A messages via WhatsApp, to which she did not reply. Person A stated in relation to the first message she received, in which Dr Lopez-Martinez said (amongst other things) *“thanks for the good time on Friday”*:

*“When I read this message I felt invaded. I felt shocked as I didn’t know/remember that he had my number. I felt I should not reply as I didn’t want to talk to him anymore, and I have told him to leave me alone before.”*

13.7 In the period from December 2018, Person A states that Dr Lopez-Martinez would repeatedly attend her desk when there was no professional/work-related reason to do so and when he was based on a different floor. Whilst there he would attempt to instigate conversations with her.

13.8 On an unknown date, he approached Person A at her desk and asked her whether she was still angry with him.

13.9 On 16 February 2021, Dr Lopez-Martinez approached her at her desk and made a comment to the effect that she resembled a film actress, who he described as attractive. Person A stated:

*“I thought it was very inappropriate, I felt disgusted. I felt I didn’t want to talk to him and that he shouldn’t talk to me, as I have asked him, not to talk to me. I felt quite powerless again, as I didn’t feel entitled to tell him to stop doing it ... and bearing in mind that he was a partner, I found it extremely difficult to express, again, the need for him to stop interacting with me if not for professional reasons.”*

13.10 Later that same day, he sent Person A a message via Skype business in which he named the actress in question.

13.11 On 9 March 2021, Dr Lopez-Martinez approached Person A about a matter where she would be making a public appearance. Person A had not told him about that matter. Person A stated that she told him: *“you are not coming; I’m begging you don’t come”*. Dr Lopez-Martinez told her that he respected her and that he wouldn’t come. Later that same day, he confirmed in a message to Person A that he would not attend.

13.12 In June 2021, Dr Lopez-Martinez contacted Person A once again. Person A states:

*“Yet again, I felt like a stabbing pain, I really could not understand why he kept trying to engage in conversations with me. I really thought he was mental. Either he was really naïve or had a type of social disability that prevented him understanding that I didn’t want to talk to him, even if I had told him and showed him so on previous occasions, or he was really made an enjoyed putting me under such a stress.”*

- 13.13 Mr Tankel submitted that there was a difference? between Dr Lopez-Martinez's position as a partner and Person A's position as a junior colleague. His conduct took place during or after work. He had used his position as a partner to initiate contact with Person A in circumstances where Person A was placed in a difficult position in terms of stopping him.
- 13.14 Dr Lopez-Martinez did not treat Person A with respect and his actions had the effect of violating Person A's dignity and/or created an intimidating, hostile, degrading, humiliating or offensive environment for her. To that end, it was submitted, his actions were tantamount to harassment.
- 13.15 Mr Tankel submitted that a Manager, Partner/Member or other individual acting appropriately would not behave in such a way with junior members of staff, such as to completely cross professional boundaries, especially when repeatedly asked by a colleague to stop or change their behaviour. A Manager, Partner/Member or other individual acting appropriately would treat colleagues with respect. Moreover, employees within regulated firms should be able to feel safe and respected when interacting with colleagues; they should not feel offended and/or intimidated by a colleague's behaviour towards them.
- 13.16 Accordingly, the Applicant considered that Dr Lopez-Martinez's conduct was such that it was undesirable for him to be involved in a legal practice without the SRA's prior approval.
- 13.17 Mr Tankel submitted that in the circumstances, it was reasonable and appropriate to infer that Dr Lopez-Martinez was seeking sexual gratification and/or a future, sexual relationship with Person A.
- 13.18 In particular, the Applicant relied upon:
- The length of time over which the inappropriate conduct towards Person A took place.
  - His focus on matters unrelated to work.
  - Comments made in relation to Person A's appearance.
  - Attempts to instigate conversations and encounters with Person A when she was alone.
  - Sending messages to Person A which she did not instigate.

13.19 Such conduct also amounted to an abuse of his position.

#### The Respondent's Case

- 13.20 Dr Lopez-Martinez denied allegation 1.1.2. He submitted that the Applicant's attempt to present the allegation as inappropriate behaviour from December 2018 to June 2021 was misleading. On its own account (which was not accepted) there was the matters complained about in 2018 and thereafter very little interaction until 2021.

Dr Lopez Martinez submitted that from December 2018, he had very little contact with Person A, beyond corridor comments about general hobbies. Accordingly, the suggestion of a three year period of improper conduct towards Person A was a misrepresentation.

- 13.21 Dr Lopez-Martinez denied that he had engaged in inappropriate or uncomfortable conversations with Person A. On the contrary, it was only when Person A spoke to Person B that Person A decided to make a complaint. Person A made no complaint about Dr Lopez-Martinez for 3 years, during which, it was submitted, they had a perfectly normal professional working relationship.
- 13.22 With regard to the suggestion that he was on Person A's floor when it was not necessary, Dr Lopez-Martinez submitted that he would often take calls and meetings in the meeting rooms that were located on her floor. He worked in an open-plan office and so would take lengthy calls in the meeting rooms so as not to disturb his colleagues.
- 13.23 Further, Person A often instigated conversations with him about her hobbies and outside work activities. He would demonstrate an interest in those matters as he was polite. The conversations they had were part of the normal discourse in an office environment.

#### The Tribunal's Findings

- 13.24 The Tribunal was satisfied that Dr Lopez-Martinez did speak to Person A in a meeting room on 17 December 2018 and that during the course of that discussion, he told her that she was "*special*". The Tribunal thus found allegation 1.1.2(a) proved.
- 13.25 The Tribunal did not find that Dr Lopez-Martinez had followed Person A out of the office. On her own evidence, Person A explained that she heard footsteps and that Dr Lopez-Martinez then called out her name. There was no evidence, the Tribunal determined, that Dr Lopez-Martinez had followed her. During the meeting, Person A did not describe telling Dr Lopez-Martinez not to talk to or contact her. Accordingly, the Tribunal was not satisfied that the Applicant had substantiated its allegation that Dr Lopez-Martinez knew or ought to have known that speaking to Person A was uninvited. The Tribunal thus found allegation 1.1.2(b) not proved.
- 13.26 The Tribunal found that the position on 21 December 2018 was different. When Dr Lopez-Martinez spoke to Person A after work whilst she was on her way home on 18 December 2018, Person A described that she told Dr Lopez-Martinez to leave her alone and that she did not want anything to do with him. Given that conversation, the Tribunal was satisfied that when Dr Lopez-Martinez approached Person A and engaged in a lengthy non-work-related conversation with her at her desk, he knew that this was uninvited. The Tribunal found that he had abused his position as a partner to engage Person A in conversation on this occasion. The Tribunal noted the comments of Person A: "*I thought he is a partner I did not feel I had the right to ask him to leave. I couldn't just take my stuff and leave my desk; I would be in trouble.*" The Tribunal found that Dr Lopez-Martinez knew that this was the position; it was by virtue of his seniority that he engaged in conversation with Person A in circumstances where she was unable to refuse to converse with him. Such conduct, the Tribunal determined, was an abuse of his position. The Tribunal thus found allegation 1.1.2(c) proved.

- 13.27 It was clear that the messages sent by Dr Lopez-Martinez to Person A on 23 December 2018 were unsolicited. The Tribunal was satisfied that these messages were indeed sent by Dr Lopez-Martinez. The Tribunal noted that whilst in these proceedings, Dr Lopez-Martinez had suggested that those messages were fabricated, he made no such suggestion during the course of the Simmons & Simmons investigation, instead stating that he was unable to check those messages due to technical problems with his device. He provided evidence that the technical problems had been reported. The Tribunal thus found allegation 1.1.2(d) proved.
- 13.28 The Tribunal was not satisfied that the Applicant had evidence that Dr Lopez-Martinez attended Person A's desk on multiple occasions when there was no requirement to do so. Accordingly, the Tribunal found allegation 1.1.2(e) not proved.
- 13.29 The Tribunal was satisfied that Dr Lopez-Martinez had approached Person A at her desk and asked her whether she was still angry. Person A's account of this incident was consistent in both her interview with the Simmons & Simmons and her witness statement. Accordingly, the Tribunal found allegation 1.1.2 (f) proved.
- 13.30 The Tribunal accepted that on 16 February 2021, Dr Lopez-Martinez had commented about the likeness of Person A to someone he described as attractive. The Tribunal noted that the Applicant had alleged that this had taken place on 16 February 2019. This was clearly a typo. The documents in the case plainly showed that this was alleged to have taken place in 2021 and not 2019. The Tribunal found that there was no prejudice to Dr Lopez-Martinez in amending the date in the allegation to the correct date. This had no effect on the facts alleged, and Dr Lopez-Martinez knew the allegation he faced. Accordingly, the Tribunal found allegation 1.1.2 (g) proved factually.
- 13.31 The Tribunal was satisfied that Dr Lopez-Martinez had spoken to Person A in March 2021, and in June 2021 (allegations 1.1.2 (h) and 1.1.2 (i) respectively).
- 13.32 The Tribunal was not satisfied that the interactions in March and June 2021 were interactions that Dr Lopez-Martinez knew or ought to have known were uninvited. It was clear from the accounts given by Person A, that whilst she wanted to tell him not to contact her or speak to her, she did not do so. Dr Lopez-Martinez in interacting with Person A as he did, was being respectful of her position in relation to any interaction outside of the office. Thus, the Tribunal found allegations 1.1.2 (h) and 1.1.2 (i) not proved.
- 13.33 The Tribunal, having made its factual findings, then considered whether those facts meant that Dr Lopez-Martinez's conduct made it undesirable for him to be involved in a legal practice. The Tribunal determined that the matters detailed in 2021, whilst factually proven, did not constitute conduct that meant it was undesirable for Dr Lopez Martinez to be involved in a legal practice.
- 13.34 The Tribunal found that the conduct at allegations 1.1.2(a), (c), (d) and (f) amounted to conduct which did mean that it would be undesirable for Dr Lopez-Martinez to be involved in a legal practice. It did not find that the conduct was sexually motivated; the Tribunal found no evidence that the interactions were for the purposes of sexual gratification or in pursuit of a future sexual relationship. As detailed above, the Tribunal

found that Dr Lopez-Martinez had abused his position as regards allegation 1.1.2 (c) only, for the reasons detailed above.

#### 14. Allegation 1.2 – Person B

##### The Applicant's Case

- 14.1 Person B had worked at the Firm for over 20 years. At the time she joined, Dr Lopez Martinez was already working at the Firm. Person B worked directly with Dr Lopez-Martinez throughout her employment until his departure from the Firm.
- 14.2 Given their working relationship, Person B had Dr Lopez-Martinez saved in her phone as 'Boss'. Dr Lopez-Martinez knew details about Person B's personal life and she had attended his home for team social events. They worked in close proximity on the same floor of the office. At the time of the alleged misconduct, Dr Lopez-Martinez knew that Person B had separated from her husband.

##### January 2021

- 14.3 On 19 January 2021, Person B attended the office. Upon seeing her, Dr Lopez-Martinez approached Person B at her desk and gave her two kisses and hugged her, which was not customary between them. He subsequently asked Person B out for lunch, during the course of which he spoke to Person B about her personal life, disclosed details of his own marital difficulties. During the course of their discussion Dr Lopez-Martinez said words to the effect of "*is there sex after divorce*" and asked Person B whether he should set up a 'Tinder' account.
- 14.4 On 25 and 26 January 2021, Person B received unprompted messages from Dr Lopez Martinez on Instagram in which Dr Lopez-Martinez made comments about the attractiveness of Person B's friend. During the course of the exchange, Person B told Dr Lopez-Martinez that he was not her or her friend's "type".

##### February 2021

- 14.5 On 2 February 2021, Person B contacted Dr Lopez-Martinez to check on his welfare. In response, Dr Lopez-Martinez invited her for a drink. They subsequently attended a bar after work. Whilst they were within the venue and without being invited to do so, Dr Lopez-Martinez grabbed Person B's forearm. He also stroked/rubbed her forearm. Person B stated: "*It was unnecessary, uncomfortable and a bit awkward. I pulled away as he wouldn't let go rubbing my forearm with his thumb.*"
- 14.6 On 17 February 2021, Dr Lopez-Martinez sent Person B WhatsApp messages inviting her for drinks the following day and made reference to her making arrangements for her dogs, which made Person B feel "wary" as it implied the encounter would not be brief.
- 14.7 The next day, Dr Lopez-Martinez stopped Person B in a corridor and told her to search for a restaurant as he was going to invite her for dinner. Person B stated she "*felt a little wary about this, I had a small feeling that he might be taking things the wrong way*" and she spoke to colleagues about it.

- 14.8 Dr Lopez-Martinez and Person B subsequently met at a restaurant she had booked. Person B explained that Dr Lopez-Martinez was filling her wine glass to a greater extent than his own. At the end of the meal, when she was about to leave the restaurant, she was *“not drunk, but happy and giggly”*.
- 14.9 Before they left the restaurant, at a time when the curfew imposed in response to the Covid-pandemic had been extended until 23:00, Dr Lopez-Martinez told her he wanted to have a cocktail somewhere. Person B told him, *“I will have a short one but ‘I have to run, I have to go’”*. When Person B got up to leave Dr Lopez-Martinez *“grabbed her jacket”* to put it on her, which made her *“nervous”* and think that Dr Lopez Martinez had *“got the wrong idea”*.
- 14.10 Person B explained that they then proceeded to a nearby restaurant which had a cocktail bar at around 21:20, where they each ordered a gin and tonic and talked about *“old times at work”*. Whilst Person B needed to leave at 22:15 to get home before the curfew and thereby avoid risking a fine, she lost track of time and realised it had reached 22:45, at which point she told Dr Lopez-Martinez she had to leave. As they were walking away from the restaurant, Dr Lopez-Martinez tried to convince Person B not to drive and offered to pay for a hotel room. Person B refused the offer. She extinguished the cigarette she was smoking in a bin and when she turned around found Dr Lopez Martinez in front of her. She stated that:
- “[Dr Lopez-Martinez] then grabbed my lower arms; he was about arm’s length away from me and pulled me. He went to kiss me, I pulled back, he moved his head to try to kiss my lips. He got quite close I felt his body against me ... His belly was quite tubby and his stomach was touching my stomach (sic).”*
- 14.11 Person B pulled away from Dr Lopez-Martinez and told him he was *“getting the wrong idea”*. In response, Dr Lopez-Martinez said words to the effect of, *“come on please”* and tried to convince Person B to kiss him. Person B described that Dr Lopez-Martinez was so close to her that had she not moved back, he would have kissed her when she had not invited him to do so.
- 14.12 As they continued walking back to the office, Dr Lopez-Martinez asked Person B if he could put his arm around her as they walked, and did so even though Person B declined, at which point Person B pulled Dr Lopez-Martinez’s arm off her shoulder and stepped away, which caused her to be feel *“uncomfortable”*.
- 14.13 Dr Lopez-Martinez repeated his offer to pay for a hotel and Person B declined and as she was nervous said, *“you’re not going to fire me for this”* to Dr Lopez-Martinez, who replied, *“no”*. They continued to walk back to the office, at which point they parted and Person B immediately called a friend to relay what had happened.
- 14.14 Dr Lopez-Martinez subsequently sent messages to Person B, including one that said:

*“I’m sorry I made you uncomfortable in the end. Both rules are clear to me. It won’t happen again. Sorry”*. The mention of ‘rules’ was a reference to a comment made by Person B when Dr Lopez-Martinez had tried to kiss her,



when she had told him she had two rules, namely *“I don’t sleep with anyone at work, nor my gym”*.

- 14.15 Person B explained that she was *“very nervous”* in the office the next day when she heard Dr Lopez-Martinez’s voice and disclosed what had happened to another colleague. Person B described herself as being *“in a state because this had never happened before, no boss has ever done this to [her]”*.
- 14.16 Person B also disclosed what happened to another colleague the following day and the next time she saw Dr Lopez-Martinez at a department lunch she made sure she sat a distance away from him.
- 14.17 On 22 February 2021, unprompted, Dr Lopez-Martinez sent Person B a *“jokey”* message [DG1, [103]]. She stated:

*“... I was surprised. I was still freaked out about what had happened and then he sent normal stuff like nothing had happened. I just responded, ‘he he’. He was my boss so I felt I had to continue the work relationship we had until then to not risk him getting upset.”*

#### March 2021

- 14.18 On 4 March 2021, Dr Lopez-Martinez sent Person B a message with a photo he had taken for the Firm’s website and made a comment to the effect that he could use it on ‘Tinder’.
- 14.19 On 8 March 2021, Dr Lopez-Martinez sent Person B a WhatsApp in which he called her by a name used only by her friends, asking her to have lunch the following day. Person B declined, stating that she would rather not have lunch with him until the situation between them was *“normalised”*.
- 14.20 On 25 March 2021, at approximately 18:00 when Person B was leaving the office, Dr Lopez-Martinez asked to speak to her privately and asked her to go with him to a meeting room. When there, Dr Lopez-Martinez told Person B: (i) that he could not stop thinking about her, (or words to that effect) and (ii) that he had dreams about walking down a pier in Malaga with her (or words to that effect).
- 14.21 Later that evening and in the early hours of 26 March 2021, Dr Lopez-Martinez and Person B exchanged messages during which Person B told him that she did not want to *“mix things”*. However, whilst Dr Lopez-Martinez initially replied and said *“yes, understood”*, he subsequently wrote a further message in which he asked Person B to let him know if she decided to change her mind and make an exception to her *“Rule no.1”*.

#### April 2021

- 14.22 On 4 April 2021, Person B posted a photograph of herself on Instagram, which showed her lying on a couch. In response, Dr Lopez-Martinez posted a comment stating: *“I’m going to bite my tongue and not comment on the photo in your story”*. Person B did not

respond and, shortly afterwards, blocked Dr Lopez-Martinez from her 'stories' on Instagram.

- 14.23 On 20 April 2021, Dr Lopez-Martinez contacted Person B, again unprompted, whilst she was working late and having a “*stressful day*”. On this occasion, the contact was via Skype, in which Dr Lopez-Martinez said: “*You need a glass of wine. And you know it. But I won't propose that wine*”. In response Person B stated “*a glass?!! I need a bottle*”. Dr Lopez-Martinez replied “*You are right. You need a bottle. I won't say anything, but let me know when you want that bottle*”.
- 14.24 A few days later, on 22 April 2021, Person B had a formal appraisal in which Dr Lopez Martinez participated along with two other colleagues, both of whom joined remotely. Accordingly, only Dr Lopez-Martinez and Person B were present in person. At the end of the meeting, when the others had disconnected, Person B explained:

*“[Dr Lopez-Martinez] said he had spoken to [the office manager] and asked for me to receive a considerable pay rise. My pay had been frozen for six years and then the next pay rise I received was minimal and he wanted to make sure I got a really good pay rise. We have a specific budget for our pay rises. The partners don't have anything to do with pay rises, and [Dr Lopez Martinez] does not normally have any part in that side of thing. I think maybe he was trying to win me over. I thanked him and didn't really know what to say.”*

- 14.25 On or around 29 April 2021, Person B notified Dr Lopez-Martinez that she needed to go to hospital due to a problem with her knee. In response, Dr Lopez-Martinez offered to pick her up from hospital and take her home, when he had not made such offers previously.

#### May 2021

- 14.26 On 15 May 2021, Dr Lopez-Martinez contacted Person B by sending her a message via Instagram when he was with friends, stating “*this lonely cup was for someone*”.
- 14.27 On 18 May 2021, Dr Lopez-Martinez sent Person B an article in relation to women in their forties, after which they exchanged messages in relation to difficulties Dr Lopez Martinez was experiencing in his personal life. Dr Lopez-Martinez commented:

*“But the reality is that with friends (male) it ends up being shit. To put it bluntly: no fucking (sex) at all”*.

*“I miss a lot of things being by myself. Specially the sex. I need to learn to be alone”*.

*“It's probably a sexist comment, but in general I have the impression that when a women wants to have sex, it's easy for her to find a man available. And the other way around I think it is more complicated (at least that seems to be my experience). Maybe I am trying too hard as you said! And I lack confidence at the same time. Thanks for understanding. At least I have someone to vent to”*.

- 14.28 Person B stated: “... *he made lots of comments relating to sex. I thought it was weird. He’s my boss, it was inappropriate and I just wanted things to go back to normal.*”
- 14.29 On 25 May 2021, Dr Lopez-Martinez sent Person B a message in which he stated that he missed her in the office that day, in response to which Person B stated that she had changed her days. Dr Lopez-Martinez replied: “*the days are better when you’re around*”. Person B state that she found these comments to be “*awkward, he was my boss*”.
- 14.30 The next day, Dr Lopez-Martinez asked Person B if she wanted a bottle of wine, which Person B declined but suggested lunch in the alternative, adding “*just to clarify, this lunch doesn’t mean anything, ok?*”.
- 14.31 During the lunch on 26 May 2021, Dr Lopez-Martinez told Person B that he was working on his marriage and had started counselling, which Person B states was “*a load off [her] mind*”. However, just a few days later, on 29 May 2021, Dr Lopez Martinez sent a message to Person B in which he offered to help with her garden or pool, which she declined.

#### June 2021

- 14.32 On 9 June 2021, Dr Lopez-Martinez held a birthday party, which Person B helped organise. Afterwards, Dr Lopez-Martinez and Person B exchanged messages during which Dr Lopez-Martinez thanked Person B for attending and said: “*It made me very happy. The highlight of the day*”.
- 14.33 On 29 June 2021, a leaving lunch was arranged for a member of staff at the Firm, which Dr Lopez-Martinez and Person B attended. Person B had some glasses of wine such that she “*got a little tipsy*”. By this time, Person B felt that things between her and Dr Lopez-Martinez were “*a bit more normal now*”.
- 14.34 Afterwards, Person B asked Dr Lopez-Martinez about a staffing matter when they had returned to the office. At the end of this discussion, Dr Lopez-Martinez asked Person B for a drink after work, which she accepted as she thought things between them “*were ok*”.
- 14.35 Dr Lopez-Martinez and Person B went to a local restaurant at around 19:00, prior to which Person B drank lots of water so that she was not “*feeling quite as tipsy as earlier*”. They walked together from the office when they talked about the staffing matter they had previously discussed. Upon arriving at the restaurant, they ordered wine and food and stayed for approximately two hours. During the course of their time at the restaurant, Dr Lopez-Martinez talked about personal relationship matters and one of Person B’s friends, in response to which Person B stated again that he was not her friend’s ‘type’ or Person B’s ‘type’. Dr Lopez-Martinez continued to discuss that issue when they walked back to the office.
- 14.36 When they returned to the office, Person B went to collect her laptop from Person D, who was holding it for her. However, before she was able to do so, Dr Lopez-Martinez took it from Person D, suggested to Person B that she had forgotten something and took

the laptop with him to a nearby staircase, causing Person B to go up the staircase after him and follow him back to her desk. Person B then asked for her laptop back and Dr Lopez-Martinez returned it.

14.37 Person B then moved to leave and attempted to exit via a secured door. Person B described that as she did so Dr Lopez-Martinez:

- Grabbed her hands and/or wrists.
- Attempted to pull her towards him.
- Held her in a forceful manner.
- Attempted to turn her towards him, despite her trying to resist and saying “no” and “no, not again, don’t do this, stop please” (or words to that effect).
- Attempted to move his head towards Person B whilst he was holding her and despite Person B attempting to free her hands.
- Attempted to kiss her. Person B stated that “*the whole struggle was about [Dr Lopez-Martinez] trying to kiss [her].*”

14.38 Person B states that she was “scared”, “completely freaked out” and “horrificed”. She was able to extricate herself from Dr Lopez-Martinez, using force, pushed him away and exited the area, before going back downstairs and seeking assistance from Person D, disclosing to him what had happened. Person D’s witness statement was consistent with Person B in relation to what occurred from the point at which went to him for assistance.

14.39 On 30 June 2021, Person B disclosed what happened the previous day to colleagues. On 6 July 2021, she made formal report to her line manager, who suggested she email Dr Lopez-Martinez, which she did. Person B’s email stated:

*“I just want to send you this email to make it clear and in writing, in case is has not been so far, that our relationship is purely professional and will remain so.”*

14.40 In response, Dr Lopez-Martinez attempted to call Person B and then sent her a message in which he stated: “*Let’s talk whenever you can. You don’t have to worry about anything*”.

14.41 Mr Tankel submitted that Dr Lopez-Martinez’s conduct fell below expected standards. As a partner, Dr Lopez-Martinez was Person B’s senior and was in a position of authority over her.

14.42 Dr Lopez-Martinez, it was submitted, had utilised his position as a Member/Partner to initiate contact with Person B and to message her about personal and inappropriate matters whilst also using the same contact details in relation to work matters. He had also used his position to place himself situations whereby he engaged in behaviour that was completely inappropriate in the context of their professional relationship, including

attempting to kiss Person B on one or more occasions and engaging in physical contact with Person B, which was uninvited and unwanted, including after she told him to stop.

- 14.43 He had sent messages and made comments to Person B that were sexual in nature.
- 14.44 Mr Tankel submitted that the conduct detailed above was sexually motivated and/or amounted to an abuse of position such that it was undesirable for him to be involved in a legal practice without the SRA's prior approval.

#### The Respondent's Case

- 14.45 Dr Lopez-Martinez denied allegation 1.2 in its entirety. They had started at the Firm in short proximity of each other and had been working together for years. The fact that Dr Lopez-Martinez became a partner at the Firm, and therefore senior to Person B, did not define their relationship. They were good friends.
- 14.46 Dr Lopez-Martinez submitted that he had never attempted to have a physical relationship with Person B, nor had he engaged in conduct that was inappropriate in the context of their professional relationship. They had a close and trusting professional relationship. Person B had confided in Dr Lopez-Martinez regarding her personal relationships, including seeking out his support when she was going through her divorce.
- 14.47 Dr Lopez-Martinez submitted that Person B had offered to organise his party celebration. He said this showed that Person B could not have felt uncomfortable with Dr Lopez-Martinez due to any inappropriate behaviour. Had he behaved in the way alleged over the preceding months, she would not have volunteered to organise the party.
- 14.48 Person B had volunteered information to Dr Lopez-Martinez about her personal life, and her views on relationships.
- 14.49 Dr Lopez-Martinez submitted that in the late spring of 2021, Person B had consumed alcohol such that she was unable to perform her duties and he had to find someone else to do her job.
- 14.50 At the time of the alleged misconduct, Dr Lopez-Martinez submitted that he was having marital difficulties. He confided in Person B about these difficulties. Dr Lopez Martinez accepted that he went too far in those conversations in that he should not have spoken to Person B about those personal difficulties. At the end of summer in 2021, Dr Lopez Martinez said that he explained to Person B that he would no longer engage in conversations of a personal nature as they were having a negative impact on him and his lifestyle.
- 14.51 Dr Lopez-Martinez submitted that Person B had falsified her evidence. He considered that this was due to her realisation that she had told Dr Lopez-Martinez many compromising circumstances about her situation, and that he might reveal this to others. She thus made up the false allegations in order to protect herself and her job.

### The Tribunal's Findings

14.52 The Tribunal did not accept Dr Lopez-Martinez's explanation for Person B's allegations as credible. The Tribunal was satisfied that each of the matters relied upon by the Applicant had occurred as alleged. Given those factual findings, the Tribunal did not consider that it was necessary for it to rehearse each of those matters in its Judgment.

14.53 The Tribunal exemplified two matters:

- Dr Lopez-Martinez, in his interview with Simmons & Simmons stated that "Rule No1" that was referred to in the message of 26 March 2021, related to him not blaming himself and thinking about himself. The Tribunal found that this was simply not credible. If Rule No 1 was as Dr Lopez-Martinez stated, then his message did not make sense. There was no reason for Person B to make a rule for Dr Lopez-Martinez to not blame himself and for Dr Lopez-Martinez to then ask Person B to let him know if she ever changed or would make an exception to that rule.
- The Tribunal noted that the Statement of Person D corroborated the aftermath of the events that took place on 29 June 2021. Person D described that Person B returned to the office with Dr Lopez-Martinez and them entering the lift together. Person D described that some minutes later, Person B was running down the stairs crying. Person D explained that Person B told him that Dr Lopez-Martinez had grabbed her, tried to kiss her and held her trapped.

14.54 Having examined the messages with care the Tribunal did not find that the WhatsApp messages relied upon by the Applicant were either fabricated or taken out of context.

14.55 The Tribunal, having made its factual findings, then considered whether those facts meant that Dr Lopez-Martinez's conduct made it undesirable for him to be involved in a legal practice. The Tribunal found that whilst some of the events taken in isolation would not, in and of themselves, amount to undesirable conduct, taken together, it was clear that Dr Lopez-Martinez had pursued a course of conduct which amounted to undesirable conduct.

14.56 The Tribunal found that that course of conduct was in pursuit of a future sexual relationship with Person B. The Tribunal did not find that Dr Lopez-Martinez had abused his position. Whilst Person B might have been his junior, it was clear on the evidence of Person B that she and Dr Lopez-Martinez had been friends as well as colleagues for a long period of time. The Tribunal did not find that Dr Lopez-Martinez had used his position to engage in a course of conduct that was unwanted and inappropriate; he had used his friendship with Person B to do so.

14.57 Accordingly, the Tribunal found allegation 1.2 proved in its entirety, including that Dr Lopez-Martinez's conduct had been sexually motivated. The Tribunal did not find that Dr Lopez-Martinez has abused his position.

### **Previous Disciplinary Matters**

15. None

## Mitigation

16. In mitigation Dr Lopez-Martinez cited the delay in the matter as a mitigating feature. The conduct complained of had taken place 7 years previously which meant that Dr Lopez-Martinez was unable to adduce any evidence in his defence.
17. His initial lack of engagement in the proceedings was due to his belief that neither the Applicant nor the Tribunal had jurisdiction to hear the matter. Whilst he remained of that view, he had participated in the proceedings following the Tribunal's determination on jurisdiction.
18. The Tribunal should also take account of the fact that the Applicant, it was submitted, had hidden correspondence from both Dr Lopez-Martinez and the Tribunal, that correspondence only being disclosed during the course of the proceedings.

## Sanction

19. The Tribunal had regard to the Guidance Note on Sanctions (11<sup>th</sup> Edition – February 2025). The Tribunal's overriding objective, when considering sanction, was the need to maintain public confidence in the integrity of the profession. In determining sanction, it was the Tribunal's role to assess the seriousness of the proven misconduct and to impose a sanction that was fair and proportionate in all the circumstances.
20. Given its finding that Dr Lopez-Martinez's conduct was undesirable, the Tribunal determined that it was appropriate to make an order in the terms of Section 43(2) of the Act (detailed below).

## Costs

21. Mr Tankel applied for costs in the sum of £61,561.48. It was submitted that the fixed fee agreed between the Applicant and Blake Morgan included his brief fee. Whilst any brief fee would usually be charged as a disbursement, this was not the position in this case. Counsel had been instructed due to the lateness of the Dr Lopez-Martinez's Answer and given the issues raised therein. In the circumstances, it was not considered that it would be fair to charge Dr Lopez-Martinez in relation to the brief fee. The Applicant did consider that it was appropriate for it to seek to recover the refresher fees charged by Counsel.
22. Mr Tankel referred the Tribunal to Rule 43(4) which it should take account of when considering any application for costs. It was not the Applicant's case that the matter had not been reasonably defended. Whilst there had been significant non-compliance by Dr Lopez-Martinez, it was not suggested that this had increased the cost of bringing the proceedings. The time spent, it was submitted, was reasonable and proportionate.
23. The notional hourly rate equated to £217 per hour, which, given the nature of the work and the issues to be determined, was also reasonable.
24. Dr Lopez-Martinez submitted that he should not have to pay the costs of bringing the proceedings as the proceedings were brought to protect firms and were not addressed at him but related to any legal practice that wanted to employ him.

25. As regards the claim for translation costs, these should be borne by the Applicant who had elected to bring proceedings in circumstances where the actions complained of had all taken place in Spain and all the witnesses were Spanish speakers. It was not the fault of Dr Lopez-Martinez that all of the documents were in Spanish and required translation. Accordingly, he should not be held liable for the costs of that translation.
26. As regards to the instruction of counsel due to the jurisdictional matters raised by Dr Lopez-Martinez in his Answer, this was not something for which should be held liable. The Applicant had brought the proceedings and it should have been able to deal with arguments on jurisdiction without having to instruct counsel.
27. As to the reasonableness of the hourly rate, this was not a matter on which Dr Lopez Martinez was qualified to comment, his having no knowledge of what a reasonable hourly rate would be for regulatory work in England.
28. The Tribunal did not consider that Dr Lopez Martinez should not be liable for the costs. The order had been necessitated by his conduct. With regard to the translation costs, the Tribunal determined that those submissions were wholly without merit.
29. It was a matter for the Applicant to determine whether to instruct counsel in any proceedings. The Tribunal did not consider that the instruction of Mr Tankel was unreasonable, nor did it consider that the refresher rate charged was unreasonable. The Tribunal was satisfied that the hours claimed and the hourly rate were reasonable and proportionate.
30. Dr Lopez-Martinez had not submitted any evidence of his means, nor did he suggest that he was unable to pay the costs claimed. Having determined that the costs claimed were reasonable and proportionate, the Tribunal ordered Dr Lopez-Martinez to pay costs in the amount claimed.

### **Statement of Full Order**

31. The Tribunal ORDERED that as from **09 July 2025** except in accordance with Law Society permission:-
  - (i) no solicitor shall employ or remunerate, in connection with his practice as a solicitor Manuel Lopez-Martinez.
  - (ii) no employee of a solicitor shall employ or remunerate, in connection with the solicitor's practice the said Manuel Lopez-Martinez;
  - (iii) no recognised body shall employ or remunerate the said Manuel Lopez Martinez;
  - (iv) no manager or employee of a recognised body shall employ or remunerate the said Manuel Lopez-Martinez in connection with the business of that body;
  - (v) no recognised body or manager or employee of such a body shall permit the said Manuel Lopez-Martinez to be a manager of the body;



- (vi) no recognised body or manager or employee of such a body shall permit the said Manuel Lopez-Martinez to have an interest in the body;

And the Tribunal further Ordered that the said MANUEL LOPEZ-MARTINEZ do pay the costs of and incidental to this application and enquiry fixed in the sum of £61,561.48.

Dated this 20<sup>th</sup> day of August 2025  
On behalf of The Tribunal

*A. Kellett*

A. Kellett  
Chair

**SOLICITORS DISCIPLINARY TRIBUNAL**

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No.12695-2024

**BETWEEN:**

SOLICITORS REGULATION AUTHORITY LTD

Applicant

and

MANUEL LOPEZ-MARTINEZ

Respondent

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Before:

Ms A Kellett (in the chair)

Mr D Green

Ms L Fox

Date of Hearing: 7 – 9 July 2025

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**APPENDIX 1**

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## 1. Jurisdiction

### Respondent's Submissions

- 1.1 Dr Lopez-Martinez submitted that the Tribunal did not have jurisdiction to deal with the matter. He was not a solicitor under English Law and had never practiced in the UK. The alleged misconduct had taken place entirely in Madrid.
- 1.2 Dr Lopez-Martinez was a member of the Ilustre Colegio de Abogados de Madrid (ICAM) as an “*abogado ejerciente*” (practising lawyer) and had only ever practised in Spain. As a result of Brexit, it was submitted that the Applicant ceased to have any jurisdiction over Spanish lawyers.

### Applicant's Submissions

- 1.3 Mr Tankel submitted that whilst the events in question all took place in Spain, the Tribunal/Applicant had jurisdiction as, at the time of the allegations, Dr Lopez-Martinez was employed by, and was a partner in, the Firm which was an English legal practice established in England. The Firm had a Madrid office, where Dr Lopez-Martinez was based. As explained in a legal notice published on its website: “*Ashurst practises law in Spain through Ashurst LLP. Ashurst LLP is a limited liability partnership registered in England and Wales under registered number OC330252. It is a law firm regulated by the Solicitors Regulation Authority of England and Wales.*”
- 1.4 The Applicant contended that it had jurisdiction by virtue of section 43 (1A) of the Solicitors Act 1974 (“the Act”) as Dr Lopez-Martinez was: a) employed or remunerated by the Firm, which was a recognised body; and b) a manager of the Firm, which was a recognised body. Dr Lopez-Martinez submitted that whilst he was a partner at the Firm, he had never been a “*manager*” of the Firm. Dr Lopez-Martinez referred the Tribunal to the Cambridge Dictionary of English Language as to the meaning of the word “*manager*”. Whilst he was a partner in the Madrid office, Dr Lopez-Martinez submitted that he was never responsible for running or managing the Firm, nor did he participate in decision making that affected the organisation.
- 1.5 Dr Lopez-Martinez submitted that given that he was not a manager the provisions of section 43 (1A) of the Act could not apply to him, and thus neither the Applicant nor the Tribunal had jurisdiction to supervise his work and conduct as a lawyer.
- 1.6 Section 43 of the Act governed those who were “*involved in a legal practice but is not a solicitor...*” Section 43(1A) denied those involved in legal practice as persons who:

“(c) *is employed or remunerated by a recognised body*” – as detailed above the Firm was a recognised body that employed Dr Lopez-Martinez;

“(e) *is a manager of a recognised body*” – Dr Lopez-Martinez submitted that he was not a manager referencing dictionary definitions. However, “*manager*” in this context has a specific statutory definition. Section 43(5A) stated that the definition of “*manager*” in relation to a recognised body had the same meaning as it had in relation to a body in the Legal Services Act 2007, section

207 of which provided that: “*manager, in relation to a body means a person who ... (c) if the body is a partnership, is a partner..*”

- 1.7 Mr Tankel submitted that Dr Lopez-Martinez was not a solicitor, was involved in legal practice and was both employed and remunerated by a recognised body as well as being a manager of a recognised body. Accordingly, he was subject to regulation by the Applicant, and the Tribunal thus had jurisdiction to hear the case.

#### The Tribunal’s Decision

- 1.8 It was plain that the Firm was an English firm and subject to regulation by the Applicant. It was registered in England as a registered body. Its website made it clear that it was regulated by the Applicant. Whilst it operated internationally, it was, nonetheless, an English firm. The Madrid office was clearly a branch office. The Tribunal found that Dr Lopez-Martinez’s submission that ICAM had sole jurisdiction over the Madrid office was without merit.
- 1.9 It was also clear that Dr Lopez-Martinez satisfied the criteria in Section 43 of the Act:
- He was not a solicitor;
  - He was involved in a legal practice;
  - He was both employed and remunerated by a recognised body; and
  - By virtue of his status as a partner, he was a manager of a recognised body.
- 1.10 Accordingly, the Tribunal found that the Applicant had jurisdiction over Dr Lopez-Martinez and it followed that the Tribunal had jurisdiction to hear the matter.

## 2. **Interference with ICAM’s Jurisdiction**

#### Respondent’s Submissions

- 2.1 Further, Dr Lopez-Martinez argued that there was a competent authority to supervise and, if necessary, sanction his conduct as a lawyer: the ICAM. Spanish lawyers working in Madrid were required to be members of, and supervised, by ICAM. The ICAM Department of Deontology was empowered by Spanish law to control, supervise and sanction lawyers in Madrid.
- 2.2 Dr Lopez-Martinez submitted that ICAM was the only body competent to initiate disciplinary proceedings in relation to the professional and ethical conduct of lawyers in Madrid. Therefore, this disciplinary procedure by the Applicant and the Tribunal in the UK not only lacked jurisdiction, but further constituted a serious encroachment on the legitimate jurisdiction that fell solely and exclusively to ICAM. In hearing these proceedings, the Applicant and the Tribunal were encroaching on ICAM’s sphere of competence.
- 2.3 Dr Lopez-Martinez referred the Tribunal to Article 29 of the Withdrawal Agreement which, it was submitted, provided that UK bodies were not competent to take disciplinary action against EU professionals, but rather should cooperate with legitimate EU authorities (and, vice versa, EU agencies were not competent to take disciplinary action against UK professionals).

- 2.4 ICAM was the body which, in accordance with European Union law, had exclusive jurisdiction to take disciplinary measures against lawyers in Madrid. The disciplinary proceedings initiated against Dr Lopez-Martinez by the Applicant and being heard before the Tribunal constituted a serious breach of Article 29 of the Withdrawal Agreement; the Applicant and the Tribunal were encroaching on the disciplinary powers of ICAM, the only legitimate body to take disciplinary action in this case.

#### Applicant's Submissions

- 2.5 Mr Tankel submitted that the Applicant was not seeking to interfere with or infringe upon the jurisdiction of ICAM as it was not seeking, in any way, to regulate or interfere with Dr Lopez-Martinez's rights to practise as a Spanish lawyer. That was a matter solely for the Spanish regulator. Rather, the Applicant was seeking to regulate Dr Lopez-Martinez's practise for English firms. This was a matter solely within the competence of the Applicant with the Tribunal being the body to hear those matters.
- 2.6 With regard to the submissions made on Article 29 of the Withdrawal Agreement, this had to be read in conjunction with Article 28. When read together, it was clear that Article 29 did not have the meaning contended for by Dr Lopez-Martinez; it did not exclude the jurisdiction of one regulator when another regulator had competence.

#### The Tribunal's Findings

- 2.7 There was no doubt that ICAM had regulatory jurisdiction over Dr Lopez-Martinez. However, such jurisdiction was not wholly exclusive to ICAM in circumstances where Dr Lopez-Martinez was employed and remunerated by the Firm which was subject to regulation by the Applicant. Whilst it was open to ICAM to bring proceedings against Dr Lopez-Martinez for the same conduct, this did not exclude the Applicant from doing so. Further, and in any event, ICAM had not brought any proceedings as the matters had not been reported to them. It was a matter for Persons A and B to decide whether to report matters to ICAM or to the SRA. The Firm had reported the matter to the SRA and Persons A and B, in the knowledge that they could report to ICAM, had chosen to provide statements to the Applicant. That was a matter for Persons A and B. The fact that they had a choice and had chosen to support the Applicant's prosecution of the matters did not affect ICAM's jurisdiction.
- 2.8 The Applicant, in bringing the proceedings, was not seeking to regulate the activities of Dr Lopez-Martinez as a Spanish lawyer – those were matters that were solely within the jurisdiction of ICAM. The Applicant sought to regulate Dr Lopez-Martinez's activities in working for an English firm, whether that work took place in England or in a branch office of an English firm. Those were matters that were solely within the power of the Applicant to regulate.
- 2.9 The Tribunal considered Article 29, which specifically referred back to Article 28.

#### ***“Article 28 Ongoing procedures on the recognition of professional qualifications***

*Article 4, Article 4d in respect of recognitions of professional qualifications for establishment purposes, Article 4f and Title III of Directive 2005/36/EC,*

*Article 10(1), (3) and (4) of Directive 98/5/EC, Article 14 of Directive 2006/43/EC and Directive 74/556)EEC shall apply in respect of the examination by a competent authority of the host State or State of work of any application for the recognition of professional qualifications introduced before the end of the transition period by Union citizens or United Kingdom nationals and in respect of the decision on any such application. Articles 4a, 4b and 4e of Directive 2005/36/EC shall also apply to the extent relevant for the completion of the procedures for the recognitions of professional qualifications for establishment purposes under Article 4d of that Directive.*

***Article 29 Administrative cooperation on recognition of professional qualifications***

*1. With regard to the pending applications referred to in Article 28, the United Kingdom and the Member States shall cooperate in order to facilitate the application of Article 28. Cooperation may include the exchange of information, including information on disciplinary action or criminal sanctions taken or any other serious and specific circumstances which are likely to have consequences for the pursuit of the activities falling under the Directives referred to in Article 28.*

*2. By way of derogation from Article 8, for a period not exceeding 9 months from the end of the transition period, the United Kingdom shall be entitled to use the internal market information system in respect of applications referred to in Article 28 insofar as they concern procedures for the recognition of professional qualifications for establishment purposes under Article 4d of Directive 2005/36/EC.”*

- 2.10 It was plain that Articles 28 and 29 did not, as Dr Lopez-Martinez had submitted, exclude the Applicant’s jurisdiction to bring the proceedings (and the Tribunal’s ability to hear the proceedings) due to the competence of ICAM. Article 28 referred to the recognition of professional qualifications for establishment purposes. Article 29 specifically referred to pending applications under Article 28 and the facilitation of those applications.
- 2.11 The Tribunal found that Article 29 did not preclude or interfere with the Applicant’s jurisdiction to bring the proceedings. It followed that there was also no interference with the Tribunal’s jurisdiction to hear the proceedings.
- 2.12 Accordingly, the Tribunal did not find that there was any interference with the competence of ICAM such that the Applicant did not have jurisdiction to bring the proceedings or that the Tribunal did not have jurisdiction to hear them.

**3. RFL Status**

**Respondent’s Submissions**

- 3.1 With regard to the Applicant’s contention that he was an RFL, Dr Lopez-Martinez submitted that this was a unilateral decision by the Applicant in an attempt to extend its supervisory reach to European lawyers who were outside of the jurisdiction. This was

done without consultation and without the knowledge of those lawyers, and thus without those lawyers accepting that they were subject to regulation by the Applicant.

- 3.2 Dr Lopez-Martinez submitted that he never expressly agreed to being an RFL. He thus did not accept that he was an RFL and further did not accept that he was subject to regulation by the Applicant of his activity as a lawyer in Spain.
- 3.3 As to the Applicant's contention that his status as an RFL was available on the SRA's online portal ('mySRA'), which he could have accessed, Dr Lopez-Martinez submitted that he was not aware of its existence and thus had never accessed it. Dr Lopez-Martinez submitted that in order to be valid, an RFL would need to accept expressly and unequivocally that the Applicant had supervision of that RFL. Dr Lopez-Martinez had never done so. Accordingly, he considered that the Applicant had no jurisdiction over him.

#### Applicant Submissions

- 3.4 With regard to his status as an RFL, Mr Tankel submitted that after the UK's withdrawal from the European Union, the Applicant unilaterally passported all former EELs to become RFLs. It was Dr Lopez-Martinez's contention that he ought not be subject to the jurisdiction of the Applicant/Tribunal because of a unilateral decision in which he had no part. Whilst it was the Applicant's position that it had jurisdiction over RFLs in Dr Lopez-Martinez's position, it separately had jurisdiction over Dr Lopez-Martinez because of his employment and/or remuneration by and/or partnership in an English law firm, which had nothing to do with his RFL status.
- 3.5 The Applicant had not proceeded against Dr Lopez-Martinez as an RFL (notwithstanding his RFL status) it was proceeding using its jurisdiction by virtue of Section 43 of the Act. Further, whilst the Applicant unilaterally transported EEL's to RFL status, it was the Firm's choice to register Dr Lopez-Martinez as an RFL. In any event, given that the Applicant was proceeding under its powers by virtue of Section 43 of the Act and not by virtue of its powers due to Dr Lopez-Martinez's status as an RFL, Dr Lopez-Martinez's contentions about that status added nothing and were not relevant to jurisdictional considerations.

#### The Tribunal's Decision

- 3.6 It was plain from the pleadings that the Applicant was not proceeding against Dr Lopez-Martinez by virtue of his status as an RFL. Whilst the Tribunal had some sympathy with Dr Lopez-Martinez in that, on his case, the Firm failed to inform him that it had registered him as an RFL, his status was not being relied upon by the Applicant as the basis of its jurisdiction to bring the proceedings. There were no allegations against Dr Lopez-Martinez as an RFL; the allegations were brought pursuant to the Applicant's powers under Section 43 of the Act.
- 3.7 Accordingly, the Tribunal found that Dr Lopez-Martinez's status as an RFL was not a relevant consideration to the issue of jurisdiction.

#### 4. **Double Jeopardy**

##### Respondent's Submissions

- 4.1 Dr Lopez-Martinez submitted that both the UK and Spain were signatories to the European Convention on Human Rights (the "ECHR"). Article 4 of Protocol 7 to the ECHR established as a fundamental human right the "*non bis in idem*" principle (known as double jeopardy in English common law), which meant the prohibition on being subjected to disciplinary proceedings twice for the same facts. In particular, the ECHR prohibited a body of one signatory state from initiating disciplinary proceedings on the same facts as a set of proceedings for which another signatory state was competent.
- 4.2 As detailed above, ICAM was the competent body for disciplinary proceedings relating to the conduct of lawyers in Madrid. The bringing of disciplinary proceedings by the Applicant was in breach of the ECHR because they were disciplinary proceedings about the same facts that were within the competence of ICAM.
- 4.3 Dr Lopez-Martinez submitted that the breach of the prohibition could result in the imposition of two sanctions for the same facts. This constituted a serious infringement of his human rights protected by the ECHR and other international conventions.
- 4.4 As to the correspondence upon which the Applicant relied, it was unsatisfactory that the correspondence had been "*hidden*" from him until the commencement of the Substantive Hearing when the correspondence was produced by the Applicant. In an email dated 9 January 2023, ICAM stated:

*"... given that the alleged conduct took place in Madrid, we would need the victim/affected people to file a formal complaint before the Madrid Bar in order for the Deontology Department to evaluate it in detail, without prejudice to any potential claim the affected people may wish to file before the ordinary courts in Spain."*

- 4.5 Dr Lopez-Martinez submitted that the email clearly demonstrated that ICAM had jurisdiction and was competent to investigate the matter. Having received an email from ICAM confirming its competence, the Applicant then changed its position and the following emails referred to limitation. Such an approach, hiding correspondence and ignoring the jurisdiction of a competent authority was unacceptable conduct on the part of the Applicant.

##### Applicant's Submissions

- 4.6 Mr Tankel submitted that it was Dr Lopez-Martinez's position that because the Spanish regulator "*could*" impose a sanction in relation to the instant alleged misconduct, bringing disciplinary proceedings in respect of the same misconduct in this country breached the "*double jeopardy*" rule.
- 4.7 This was an entirely hypothetical point, because (i) Dr Lopez-Martinez did ~~does~~ not suggest that the Spanish regulator was bringing or proposed to bring such proceedings; and (ii) it was clear from the correspondence that the matters were time barred. As part



of its investigation, the Applicant had been in contact with the Spanish regulator who had informed the Applicant that there were limitations on bringing proceedings. In an email dated 20 February 2023, when asked about limitation periods, the Spanish regulator explained that: *“Very serious infringements will prescribe after three years, serious ones after two years and minor ones after six months.”* Mr Tankel submitted that given the dates of the alleged conduct, there was no prospect of the Spanish regulator bringing proceedings in any event.

- 4.8 Moreover, as stated above, the Applicant’s allegations were that Dr Lopez-Martinez’s conduct was a breach of its rules, and was seeking relief that would have effect only in this country, so there was no risk of double punishment.
- 4.9 With regard to the correspondence, it was right that the different regulators were able to speak to each other in order to work effectively. Mr Tankel submitted that these communications were not disclosed to Dr Lopez-Martinez as at that stage no referral had been made. Once the referral to the Tribunal was made, the correspondence did not meet the disclosure test as detailed in the rules. It was accepted that following receipt of Dr Lopez-Martinez’s Answer, the documents should have been reviewed again at that stage as to whether they met the test for disclosure.

#### The Tribunal’s Findings

- 4.10 The correspondence from ICAM was clear. It had not investigated the matter, and matters were, in any event, time barred. Dr Lopez-Martinez had not been prosecuted either by ICAM or the Spanish courts in relation to these matters. Accordingly, there was no risk, at this stage, that he would be sanctioned for the same conduct twice. Should the Spanish courts, or ICAM, decide to take any action in relation to these matters, arguments of double jeopardy might be relevant. Given that this was the first prosecution of these matters, there was no merit in submissions that the proceedings breached the double jeopardy rule.
- 4.11 For the reasons stated above, the Tribunal rejected Dr Lopez-Martinez’s submissions as regards jurisdiction. Accordingly, the Tribunal found that the Applicant had jurisdiction to bring the proceedings and that the Tribunal had jurisdiction to hear them.

#### 5. **Anonymity of the Respondent**

- 5.1 In his email of 23 June 2025, Dr Lopez-Martinez requested that the matter be heard in private. In submissions, Dr Lopez-Martinez explained that anonymity should apply to everyone named in the case. It was unfair for him to be named but for Persons A and B to be anonymised. In Spanish proceedings, even if those were criminal proceedings, the defendant would be anonymised, and any criminal record would remain private and confidential.
- 5.2 The Applicant opposed the application. The test for anonymity pursuant to Rule 34 was *“exceptional hardship”* or *“exceptional prejudice”*. Dr Lopez-Martinez had not addressed either limb of that test.
- 5.3 The Tribunal found that Dr Lopez-Martinez had not provided any sufficient reasons for the matter to be heard in private. He had not explained why a hearing in public would

cause him exceptional hardship or exceptional prejudice as was required by the Tribunal's Rules. Reputational damage was not sufficient to satisfy the test, nor was the alleged practice in other jurisdictions to similar proceedings. Accordingly, the application for the matter to be heard in private was refused.

## 6. **Anonymity of Witnesses**

- 6.1 At the commencement of the proceedings, the Tribunal advised the parties that until such time as the application had been determined, Persons A and B should remain anonymised.
- 6.2 The Applicant applied for Persons A and B (who up to this point had been anonymised in the proceedings) to remain anonymous. The allegations made by Persons A and B were of a sexual nature, and it was the Applicant's case that they were the victims of sexual misconduct. As such, they fell into the category where anonymity was routinely provided.
- 6.3 Section 1(1) of the Sexual Offences (Amendment) Act 1992 prohibited the publishing of any material likely to lead to the identification of a complainant where "*an allegation has been made*" against a person that the person has committed an offence to which the 1992 Act applies against the complainant. Mr Tankel submitted that there were clear policy objectives underpinning that requirement, not least that it is directed to the encouragement of complainants not to hold back from making complaints.
- 6.4 Whilst these were not criminal proceedings such that the Act was not directly engaged, it was submitted that the same point of principle arose such that the same convention should be followed in these proceedings. As alleged victims of serious, sexual misconduct, it would be contrary to the public interest for Person A and Person B to be named. Further, it was to be noted that the conduct in relation to Person A could amount to a criminal offence (in England Wales).
- 6.5 In an email dated 2 July 2025, Dr Lopez-Martinez stated that given that the Applicant had not anonymised him in the proceedings, he would refer to Persons A and B by name. He also opposed the application for anonymity.
- 6.6 In his oral submissions, Dr Lopez-Martinez submitted that he agreed with anonymity to the extent that it applied to all those named. It was unfair for Persons A and B not to be named, but for him to be named; anonymity should apply to everyone or no-one. Furthermore, there were matters that were particular to Persons A and B that he would need to adduce in order to put forward his defence.
- 6.7 The Tribunal determined that, in line with public policy, it was appropriate to anonymise Persons A and B. There would be no prejudice to Dr Lopez-Martinez who knew the identity of those persons. Further, to the extent that Dr Lopez-Martinez needed to refer to matters that might identify either Person A or B, those parts of the hearing should be held in private. This would allow Dr Lopez-Martinez to fully defend the matter without the identity of Persons A or B being made public.
- 6.8 Accordingly, the application for anonymity for Persons A and B was granted.

## 7. **Third Party Disclosure**

- 7.1 During the course of the proceedings the Tribunal received applications for disclosure of the Rule 12 Statement and Dr Lopez-Martinez's Answer in the proceedings. Mr Tankel confirmed that the Applicant had no objection to the disclosure of those documents subject to anonymisation and redaction of matters that could lead to the jigsaw identification of Persons A and/or B.
- 7.2 Dr Lopez-Martinez opposed the application. He submitted that in criminal proceedings in Spain, such disclosure would be unlawful and against the constitution. There was a presumption of innocence and the documents should remain private.
- 7.3 The Tribunal was mindful of the principles of open justice. Dr Lopez-Martinez had not provided any substantive objection to the disclosure of the documents in this case. The Tribunal considered that in line with those principles, it was appropriate to disclose the requested documents (subject to redaction) to third parties and that this was consistent with the automatic disclosure regime which the Tribunal now adopted in more recently issued cases and meant that these documents would automatically be made public. Accordingly, the applications for disclosure were granted. The Tribunal directed the parties to agree a schedule of matters to be anonymised and redacted in order to protect the identity of Persons A and B.

## 8. **Extension of time to serve Answer**

- 8.1 The deadline for Dr Lopez-Martinez to file and serve his Answer was 19 December 2024. No Answer was served until 5 June 2025. Dr Lopez-Martinez applied for an extension of time to file and serve his Answer such that it could be relied upon in the proceedings. Mr Tankel confirmed that the Applicant did not object to the application.
- 8.2 The Tribunal considered that the late filing and service of the Answer did not cause any prejudice to the Applicant, who had already dealt with a number of the issues raised in the Answer. Accordingly, the Tribunal found that it was in the interests of justice for the extension to be granted.

## 9. **Permission to cross-examine witnesses**

- 9.1 By virtue of Dr Lopez-Martinez's non-compliance, at a CMH on 23 January 2025, the Tribunal directed that Dr Lopez-Martinez was "*deemed to have accepted the evidence and will not challenge or oppose the evidence served by the Applicant*".
- 9.2 Given the nature of the allegations, the Tribunal considered that it was appropriate to revisit this direction. It was clear that the evidence of Persons A and B was not accepted by Dr Lopez-Martinez. The Tribunal considered that it was in the interests of justice to allow Dr Lopez-Martinez to make submissions as regards the cross-examination of Persons A and B given the nature of the allegations he faced.
- 9.3 The Tribunal invited submissions from the parties as to cross-examination of Persons A and B. Dr Lopez-Martinez confirmed that he did not require Persons A and B for cross-examination.

## 10. **Admissibility of Evidence**

- 10.1 Dr Lopez-Martinez objected to the admissibility of electronic communications relied upon by the Applicant. Dr Lopez-Martinez asserted that the communications were either false or lacked context. Further, he had no possibility of checking the validity of those communications as he had had no access to the mobile device or telephone number used since 2021. The position was the same for the Skype messages relied upon by the Applicant.
- 10.2 Mr Tankel submitted that notwithstanding the Tribunal's direction deeming Dr Lopez Martinez to have accepted the evidence served by the Applicant, the Applicant served notices pursuant to Rule 28 of the SDPR and Section 29 of the Civil Evidence Act 1995. By virtue of his failure to respond to any of the notices, all of the evidence relied upon by the Applicant, including hearsay evidence, was deemed to be admitted. Accordingly, it was no longer open to Dr Lopez-Martinez to challenge the admissibility of the electronic communications.
- 10.3 Further, and in any event, at best Dr Lopez-Martinez's objections went to weight and not admissibility. Mr Tankel submitted that in considering the application, the Tribunal should take account of the fact that Dr Lopez-Martinez had chosen not to cross-examine Persons A and B who could have spoken to the veracity of the evidence.
- 10.4 The Tribunal noted that the communications were raised with Dr Lopez-Martinez during the course of the internal investigation into his conduct at the Firm. At that stage there was no question as to the authenticity of the communications, rather Dr Lopez Martinez was concerned about his inability to access the communications himself due to technical issues with his mobile device. Given Dr Lopez-Martinez's failure to respond to any of the notices, and in accordance with its previous directions, the Tribunal found that the evidence was admissible. As to the weight that should be placed on that evidence, that was a matter for the Tribunal to determine when making its findings of fact.
- 10.5 Accordingly, the application to exclude that evidence was refused.

## 11. **Adverse Inference**

- 11.1 Rule 33 of the SDPR provided that:

*"Where a respondent fails to ... (b) give evidence at a substantive hearing or submit themselves to cross-examination; and regardless of the service by the respondent of a witness statement in the proceedings, the Tribunal is entitled to take into account the position that the respondent has chosen to adopt and to draw such adverse inferences from the respondent's failure as the Tribunal considers appropriate".*

- 11.2 At the conclusion of the Applicant's case, Dr Lopez-Martinez confirmed that he did not intend to give evidence in the proceedings but would make submissions. The Tribunal advised Dr Lopez-Martinez of its powers pursuant to Rule 33(b) of the SDPR to draw an adverse inference from his failure to give evidence or submit himself to cross-examination.