



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/038  
Order No.: 072 (NY/2024)  
Date: 26 June 2024  
Original: English

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**Before:** Judge Margaret Tibulya

**Registry:** New York

**Registrar:** Isaac Endeley

ROTHEROE

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER**  
**ON CASE MANAGEMENT**

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**Counsel for Applicant:**

George G. Irving

**Counsel for Respondent:**

Miryoung An, DAS/ALD/OHR, UN Secretariat  
Halil Göksan, DAS/ALD/OHR, UN Secretariat

## **Introduction**

1. On 27 October 2023, the Applicant, a former Deputy Director of Investment Management with the Office of Investment Management (“OIM”), United Nations Joint Staff Pension Fund (“UNJSPF”), filed an application in which she challenges the decision to impose upon her the disciplinary measure of separation from service with compensation in lieu of notice and without termination indemnity.
2. On 24 November 2023, the Respondent filed a reply in which he contends that the application is without merit.
3. By Order No. 007 (NY/2024) dated 23 January 2024, the Tribunal instructed the parties to file (a) consolidated lists of agreed and disputed facts and (b) separate submissions on whether they request additional, written and/or oral, evidence to be produced.
4. On 22 March 2024, the parties duly complied with Order No. 007 (NY/2024).
5. On 1 April 2024, the case was assigned to the undersigned Judge.
6. On 29 April 2024, a case management discussion (“CMD”) was held virtually via MS Teams to discuss the further proceedings.

## **Considerations**

### *Hearing of the case*

7. Having considered the parties’ written submissions and their oral representations made at the CMD, the Tribunal notes that the Applicant wishes to have a hearing on the merits in this case and has identified some potential witnesses to give testimony while the Respondent submits that no hearing is necessary.
8. Given the circumstances of the case, the Tribunal has decided to conduct a hearing on the merits during the week of 8 – 12 July 2024. The parties will be given

the opportunity to confirm their availability to participate in the hearing during this period and to state which witness, if any, they intend to call.

9. The Tribunal notes that in his separate filing dated 22 March 2024, the Applicant requests the production of the following documents: (a) information on the outcome of investigations in the cases of two other staff members; (b) two Special Audit Review Reports of the Office of Internal Oversight Services (“OIOS”); (c) the Draft Governance Audit Report; and (d) any interviews by OIOS of potential victims V01 and V03 in which the Applicant is discussed.

10. The Tribunal also recalls that in his motion dated 1 April 2024, the Respondent expressed his opposition to the disclosures requested by the Applicant. However, in order for the Tribunal to assess the relevance of these documents, it will order the Respondent to produce them. In the event that the documents contain sensitive or confidential information, the Tribunal will authorize the Respondent to submit them either “for Counsel’s eyes only” and/or in redacted format. Failure to comply with this order may result in the drawing of an adverse inference against the Respondent.

11. In light of the above,

IT IS ORDERED THAT:

12. By **4:00 p.m. on Friday, 28 June 2024**, the parties are to confirm their availability to attend the hearing in the week of 8 – 12 July 2024 and to propose their respective lists of witnesses to be heard by the Tribunal, explaining the relevance of each proposed witness’s testimony with reference to the consolidated list of disputed facts.

13. By **4:00 p.m. on Monday, 1 July 2024**, the Respondent is to produce the documents requested by the Applicant in his 22 March 2024 submission, namely:

- a. information on the outcome of investigations in the cases of two other staff members;

b. two Special Audit Review Reports of the Office of Internal Oversight Services;

c. the Draft Governance Audit Report; and

d. any interviews by OIOS of potential victims V01 and V03 in which the Applicant is discussed.

14. Other practicalities regarding the hearing, as directed by the Tribunal, will, in due course, be handled by the Registry in communication with the parties.

*(Signed)*

Judge Margaret Tibulya

Dated this 26<sup>th</sup> day of June 2024

Entered in the Register on this 26<sup>th</sup> day of June 2024

*(Signed)*

Isaac Endeley, Registrar, New York