

This is the Approved Judgment of HHJ Pearce with my comments in parentheses and red italics.

1. This is a claim by Mr .. Thornton for damages for the alleged tort of malicious prosecution. It is common ground between the parties that Mr Thornton was prosecuted for an alleged offence of breaching regulation 6(5) of the Motorways Traffic (England and Wales) Regulations 1982, the allegation being that, on 17th July 2014, he performed a U-turn on the slip road leading from the A534 onto the M6 in a northbound direction at junction 17 on the M6.
2. It is common ground that those proceedings were concluded in Mr Thornton's favour as a result of a decision not to proceed to trial ***(WRONG! It proceeded to trial with the police deciding to offer no evidence because the police officers submitted false statements and because their statements were so badly falsified that they still proved that I did not commit the offence)***. It is further common ground that it was the police who initiated the prosecution. Yet further it is not disputed that Mr Thornton suffered at least some loss and damage as a result of the prosecution, though the precise extent of that remains in issue. The real dispute between the parties is to whether this prosecution was brought without reasonable and probable cause and whether it was brought maliciously. The determination of those issues involves consideration of what actually happened at junction 17 on 17th July 2014. I have heard evidence and submission over the last two days. The incident was brief but what is alleged raises serious and important issues for all involved. The public are clearly entitled to protection from any abuse of power by police officers. Police officers are equally entitled to protection from any false allegation of abuse of power.
3. The claimant – a litigant in person – was described in closing submissions on behalf of the defendant as not being typical of litigants in

person. In fact, it is my experience that there is no such thing as a typical litigant in person, just as there is no such thing as a typical person. He is clearly an intelligent and educated man. He has handled the aspects of this litigation with firmness but politeness. He has accepted rulings which have not always been in favour of what he has sought. He put his case firmly in cross-examination. However, none of that is to say that he is used to litigation on the kind of daily basis that advocates who do so professionally are and I bear in mind in the course of my assessment of this case the extent to which he may be at a disadvantage through not having professional representation.

4. At the submission of the defendant, and with the consent or concurrence of the claimant, I determine to deal with the issue of liability first. I turn, then, to describe what happened on 17th July 2014. Around about 1.30 pm on that day, the claimant was driving along the A534 in an easterly direction. His intention was to travel to Bury. This was a route that he had driven a number of times before. He told me, and I readily accept both from what he said and from my knowledge and experience of the road network in the north-west, that he had two obvious routes. The first was to join the M6 at junction 17 and to travel in a northerly direction. The second was to cross the M6 on the A534, then to take the A5022 towards Holmes Chapel and thereafter the A50 towards Knutsford and rejoin the motorway network at the M56 near Knutsford. The latter route is one that involves far more driving on minor and urban roads but, on the other hand, it avoids a busy section of the M6, I can well understand that, dependent upon congestion, it might be the preferable route. Mr Thornton told me that, as he approached the junction, his understanding from the travel news on the radio was that the M6 was free moving. He therefore turned onto the slip road but, almost immediately, he realised that there was standing traffic on the M6 and, within, as he put it, a fraction of a second, he decided to change his route and manoeuvred his vehicle to rejoin the A534.

5. At this point, for those who are not familiar with the layout of that particular junction, which in any event has changed since the time of this incident, I describe it in a little more detail. It is clearly illustrated in aerial photographs that are in the trial bundle before me. At the time of this incident, there was no roundabout of any kind at junction 17. Rather, the slip roads between the M6 and the A534 are roads at right angles to the A534. Thus, on each side of the motorway, there is effectively a crossroads type junction where, from the point of view of the user of the A534, traffic exiting the motorway approaches the crossroads on a slip road from the right hand side and traffic wishing to join the motorway takes a slip road to the left hand side. The slip roads have two lanes. Both of course are one-way in the same direction. At the crossroads, the slip road that joins the A534 is subject to a give-way sign with vehicles on the A534 having the right of way. Thus, a vehicle carrying out the manoeuvre described by the claimant could be said effectively to be doing a manoeuvre very similar to pulling into the mouth of a side road from a main road and then pulling out again onto the main road, remaining at all times travelling in essentially the same direction subject to the slight diversion taken into the mouth of the side road. Mr Thornton has produced a video recording of his carrying out such a manoeuvre – not, I was delighted to see, on a motorway slip road but rather on lesser roads where it was safe for him to do so. That video recording and a later part of the recording is relevant to issues of timing that I will deal with later ***(It should be noted that Pearce completely ignores the timing when it comes to assessing the veracity of my description of what I did. Likewise, he totally ignores the timing when it comes to estimating how long it would take me to drive 100 feet into the slip road per the new testimony of the police witnesses).***
6. Mr Thornton explained to me that, immediately before turning into the slip road, he was aware of a 4X4 vehicle immediately behind him. Having signalled to turn into the slip road, he said that he felt that he should continue with his manoeuvre so as not to confuse the following driver. He told me that, as he turned the corner, his speed was about ten to fifteen miles an hour. He turned his vehicle to the left to go onto the M6. He saw that traffic was stationary and decided not to go onto the M6 so he turned

his wheel to the right, thus bringing him back into the mouth of the slip road effectively and preparing to rejoin the A534. Later in evidence, he clarified that, although his car was wholly on the slip road, it was angled in as it joined the slip road, then at right angles to the slip road, then angled out as he rejoined the A534. He thought that his car at no point projected onto the slip road by much more than about the car's width. I can understand that description from the manoeuvre that Mr Thornton videoed himself carrying out. He said he let the 4X4 pass and became aware that there was a police car, which he said was either stationary or travelling slowly, at the entrance to the slip road travelling in the same direction along the A534 as he had been travelling and indeed as he intended to travel on rejoining that road. The police car let him out and he proceeded towards Holmes Chapel. To do that, he turned off the A534 onto the A5022 but, whilst driving along the A5022, he became aware of a police car, he said, approaching at speed behind him with its lights flashing. At that stage, he did not think that the police car was seeking to attract his attention since, although he accepted that his manoeuvre might be described as unorthodox, he thought that, if the police officers were going to stop him at any point, they would have done so earlier. He pulled to the side of the road, he says, to let the police car past. The police car came alongside him and the passenger side window was lowered.

7. The male officer in the car, PC Anderson, was, according to Mr Thornton, in the passenger seat. Mr Thornton says that PC Anderson asked him to pull into a lay-by a short way ahead and Mr Thornton duly did this, whereupon he was issued with a traffic offence report, a document which is a prelude to the possibility of being invited to exercise an option to go on a driving course, to accept a fixed penalty ticket or, as Mr Thornton pointed out was not gone into in great detail on the standard form ticket, to go to court. In any event, the traffic offence report appears at page 248 and 249 of the bundle. Its contents are relevant to a number of points in issue and I will read out the particularly relevant points now and refer back to it in due course. There are two relevant passages. The first was that completed by Mr Thornton. He was given verbal notice of intended prosecution and a caution in the legal or policing sense of the word, to which he replied:

“I had barely turned onto the slip road and did not think turning out again was a U-turn. Took a good look for traffic.”

The other part of the form, which is prepared and signed by PC Anderson and countersigned as corroborated by PC Rimmer (the other officer in the vehicle), says this:

“Weather dry and sunny, good visibility, 517 NB VMS signs flashing 40s.”

Overleaf:

“Vehicle goes to enter the NB [*presumably northbound*] on slip by approx 25 to 30 feet before using the hard shoulder to assist the driver in turning around. Vehicle cannot make the U-turn in one go so has to reverse backwards, causing it to be broadside across both on-slip lanes. Vehicle then returns to the junction having gone contra on the on-slip and turns left towards Holmes Chapel.”

(Nowhere does the judgment refer to the fact that this statement is impossible, i.e. untrue, because there is no hard shoulder anywhere near that location)

8. Mr Thornton’s evidence to me was that he believed at the time that that document was prepared that he was indeed guilty of a traffic offence in respect of having carried out the manoeuvre he had carried out on the slip road though, as I understand his case, he felt that his misdemeanour was a very minor one in the scale of traffic offending. He tells me that, later that day, he spoke to a business acquaintance, a Mr S...., about the incident. Mr S.... alerted him to the possibility that the point where he had carried out the manoeuvre was not in fact subject to motorway regulations ***(No. That is not in evidence, in fact in discussion, it was I who realised that the first part of a motorway slip road is not subject to motorway regulations because pedestrians must walk across the end of the slip road if they are to walk across the bridge over the motorway. Pearce might have thought I was “put up” to my subsequent actions as a result of his misunderstanding, whereas nothing could be further from the truth. Just one of many examples of Pearce misunderstanding or not paying attention)***. The claimant has relied upon a witness statement from Mr S.... which confirms the fact of conversations between them about the incident

as well as supporting Mr Thornton's contention that he was complaining from first seeing Mr S.... on the day of the incident that the police were misstating the manoeuvre that he had carried out and in particular where he had carried it out (***Rubbish! At that time I did not even know that the police were going to lie about where I turned – I only saw their statements after I pleaded not guilty***). Those acting for the defendant chose not to cross-examine Mr S...., a decision I can perfectly understand. I accept what he has to say about his dealings with Mr Thornton and indeed I accept what Mr Thornton has to say about his dealings with Mr S.... in so far as it was Mr S.... who alerted him to a query as to where in fact the motorway regulations began to have effect. (***No it wasn't – see above***)

9. Since the date of this incident, Mr Thornton has challenged the allegation brought against him and further has complained about the conduct of the police officers. A significant amount of his witness evidence and a significant quantity of the documents that have been disclosed relate to that complaint and how it was handled by the police. At an earlier case management hearing, I ruled that the claimant's claim in respect of malicious prosecution did not encompass allegations relating to the improper investigation of that complaint and that, therefore, this trial should be limited to matters directly relating to the malicious prosecution. I did, however, say – and I remain provisionally of the view subject, if appropriate, to hearing submissions on it – that the making of a complaint about the conduct of police officers would be a natural and foreseeable consequence of malicious prosecution and, therefore, the fact of a complaint being made is relevant to the issue of quantum of damages. In any event, that is not relevant at this stage whilst I am dealing with the issue of liability.
10. It seems to me that there is one part of Mr Thornton's communications with the police that is relevant and that is his email on page 292 – his email of 3rd October 2014 at the bottom of page 292 – in respect of which, having seen the witness statements, he describes them as both being demonstrably false and misleading. The potential relevance of that email is to the decision not to proceed with the prosecution against Mr Thornton because it is Mr Thornton's contention that the decision not to proceed with the prosecution

was effectively a consequence of the fact that he had identified and was maintaining that the police officers had lied **(No, wrong again! That is not my contention. My contention is that I did not commit the offence because, as I told them, I was not on a part of the road subject to motorway regulations. Even the false and misleading statements of the constables placed me on a part of the slip road not subject to motorway regulations)**. It is right to say that the first intimation of a decision not to proceed with the prosecution was on 21st October 2014, some 18 days after the email from Mr Thornton to which I have referred, where PC Anderson says this at page 302 in the bundle:

“I have discussed this case with Sergeant Hackett and Sergeant Harrison and a decision has been made to withdraw this case due to being unable to state if the vehicle was beyond the motorway regulations sign and, having measured the distance from the start of the junction to this sign, it is approx 35 metres, which is not close to our estimate. As such, we are unlikely to be successful in this prosecution.”

I will return to the question of the decision not to proceed to trial in due course.

11. In evidence, Mr Thornton was unable to proffer any reason for why the officers should maliciously prosecute him. He proffered theoretically possible explanations but none, it seems to me, were more than speculative. Indeed, there were other explanations that could be thought up but they, too, it seems to me, would be speculative. However, he drew my attention to the fact that, if the officers were inventing the account of him doing a U-turn in the manner that they described, then that was false and that their motive in thereafter prosecuting him for doing that must be something other than a desire to bring a criminal to justice, using the words of Lord Devlin in the case of *Glinski v McIver* [1962] 2 WLR 832. Such a motive is sufficient to satisfy malice for the purposes of malicious prosecution. **(Yes. So why does Pearce go on to say that my not having an explanation of why**

they would lie as a weakness of my case? Illogical and, as you will see, another attempt to weaken my case)

12. On behalf of the defendant, PC Anderson and PC Rimmer were called. They were, as I have indicated, the officers in the police vehicle which slowed down to allow Mr Thornton back onto the A534 and which stopped him further on. Both gave an account which was radically different from that of Mr Thornton as to the manoeuvre that had been carried out. They said that, as they were approaching the junction of the A534 with the M6 at junction 17 of the M6, they were travelling in the same direction as Mr Thornton but they noticed him in the slip road carrying out a U-turn. They allowed him to pull back onto the road and stopped him further on. In greater detail, PC Anderson said that he was the driver of the police vehicle. His first awareness of the claimant's vehicle was when it was broadside to the slip road just before reversing onto the hard shoulder. He illustrated the manoeuvre that he said the claimant had performed in a diagram at page 254 where he has drawn onto a Google Maps aerial image an indication of where the vehicles were (***Pearce readily accepted this as accurate, totally ignoring the fact that Anderson described it as being "to no particular scale"***). He put the police vehicle at being the point marked in red with a P next to it with a number 1 at the time that he first saw Mr Thornton's vehicle and, at the time that he first saw Mr Thornton's vehicle, he put that vehicle at the point marked with a 1 and an arrow going backwards on the slip road and a 2 and then with arrows coming forwards out of the slip road – in other words, carrying out a manoeuvre that must have involved turning round some way along the slip road. He accepted that, whereas in the traffic offence report, which I have read out already, he gave a distance of 25 to 30 feet down the slip road, in fact the distance must have been significantly more than that. I will return to the issue of the distance in due course but PC Anderson appeared to be accepting that the true distance was at least three times the distance that he had estimated in the traffic offence report and it seems to me that, for various reasons that I will come to in due course, a distance of about 90 to 100 feet is consistent with what PC Anderson said in the witness box.

13. As to his visibility of the scene, PC Anderson drew attention to photographs in the bundle which show fencing at the junction of the A534 and the M6 northbound slip road (for example, that photograph at page 536). His recollection was that, when he first saw the claimant's vehicle, he was looking through the fencing ***(Could not possibly be true – there was dense foliage behind the fence as shown in the photographs)***. He slowed down and waited at the top of the junction to allow the claimant to pull out. He says that, thereafter, he followed Mr Thornton along the A534 onto the A5022. He did not wish to pull him over where either it was unsafe for him to get out of the police vehicle or where the presence of vehicles, particularly a police vehicle with flashing lights, would cause a hazard or a distraction. He was asked about Mr Thornton's suggestion that he had pulled to the side of Mr Thornton's vehicle whilst it was stationary and spoken to him. He said that, whilst he did not recall what had happened, he would not have done that but rather what he would have done if a vehicle had pulled over whilst he was following it with flashing lights would be to pass that vehicle and then use the equipment on the rear of the police car to give a message to the driver such as, "Follow me," and he would then have pulled into the lay-by further ahead ***(Note Anderson's weasel words about what he "would" or "would not" have done, not what he actually did, though why he was worried about one more lie is hard to fathom)***.
14. As regards subsequent events and the termination of the prosecution, PC Anderson's evidence was that, when he became aware that the matter was proceeding towards trial and Mr Thornton was challenging the allegations of the prosecution, he had spoken to more senior officers as to the issue as to where motorway regulations began. He had, until he spoke to them, believed that the motorway regulations began at the point of the blue signs indicating the motorway – such signs are obviously visible, for example, on pages 336 and 339 in the bundle – whereas in fact he was told that the sign that indicated the beginning of motorway regulations was a motorway sign similar to that at page 337 in the bundle ***(No. Yet another misunderstanding by Pearce. Anderson's witness statement clearly states that he thought that motorway regulations started at the start of the slip road. So now we understand what actually happened –***

Anderson, in his ignorance, did actually think that I had committed the offence with which he charged me. But realising his mistake, he falsified his description of the incident to place me beyond where he and Rimmer thought the sign would be. For that reason, he returned to look at the scene and realised that his estimate of the car being 25 to 30 feet down the slip road was wrong ***(NO. There is absolutely no evidence that it was when he “realised that his estimate was wrong”. He did not even say so himself. There is absolutely no corroborating evidence and he never informed anybody, not even when he was being questioned about my complaint against him of making a false statement about this incident)***. His reason for being confident that it was wrong was, as I understand it, his firm belief that the vehicle of the claimant turned round at the point where there was a full hard shoulder ***(Pearce understands wrong. Anderson said that I used the hard shoulder to turn at 25 to 30 feet into the slip road. That was impossible, so he had three choices – to say that he was mistaken about the distance, or that he was mistaken about the hard shoulder, or that he had made it up. He chose to say that he was mistaken about the distance, not about the hard shoulder. His belief that I turned where there was a hard shoulder was no more firm than his belief that I turned at 25 to 30 feet. In truth, he didn’t believe either because he knew both to be untrue)***. That is only shortly before the motorway sign visible on page 337. That motorway sign, it seems to me from all the available evidence, must be 100 feet or probably slightly more from the mouth of the slip road ***(Why does it have to seem to Pearce where the motorway sign is? Anderson measured it at 35 metres (115 feet) from the start of the slip road and this was never disputed. Just another example of Pearce not paying attention to the evidence and making it up as he goes along)***. Thus, when he investigated matters prior to the trial of the prosecution, he then realised first of all that his estimate of 25 to 30 feet was wrong but secondly he could not say which side of that motorway sign that indicated the onset of motorway regulations the incident had occurred and, for those reasons, he said, he sent the email at page 302 ***(What absolute rubbish! There is nothing to suggest that “he then realised first of all that his estimate of 25 to 30 feet was wrong”. He did not even say so himself. His email***

describes the location of the motorway sign being “not close” to their so-called estimate of my position. That doesn’t mean that he is revising his estimate of my position. This is just another example of Pearce inventing stuff so as to reject my claim. Disgusting!

15. There was some discussion about whether the prosecution at that stage could have proffered alternative charges against Mr Thornton. That is a matter of law rather than a matter of fact but it seems to me that that is only really relevant to the extent that PC Anderson had any belief about it. PC Anderson said that his belief was that a further charge such as driving without due care and attention could have been commenced then and I accept the accuracy of his assertion that that was his belief. It is probably right in law but, even if it is not right in law, I accept that he believed that to be the case ***(Absolutely ridiculous! The written police statements describe something impossible – that I turned at a location 25 to 30 feet into the slip road, using the hard shoulder where there was no hard shoulder. That is immediate cause for Reasonable Doubt. It is totally senseless to believe that anybody could be prosecuted with any hope of success on the basis of impossible police statements, but he is obviously going to say yes in response to leading questions from Pearce)***. That may be relevant to the issue of malice but, again, it is a point to which I shall return. PC Anderson denied knowing Mr Thornton. Mr Thornton agrees that he does not know PC Anderson and PC Anderson said he had no malice towards Mr Thornton ***(And that is not evidence that his actions weren’t malicious. Just Pearce getting ready for the final blow)***.
16. PC Rimmer gave evidence. She said that she was at all times the passenger in the vehicle, just as PC Anderson had said he was at all times the driver of the vehicle. She referred to her entry in the pocket notebook at page 312 in the bundle, which, having on page 311 identified the location and the claimant’s vehicle, says this:

“Above vehicle was two vehicles in front of fully liveried police vehicle, turned left onto junction 11 NB *[I think it is northbound]* on

slip, then did U-turn due to standing traffic on M6. Vehicle pulled back onto A534 and turned left onto Holmes Chapel Road. Vehicle requested to stop using emergency equip [*presumably equipment*] and driver spoken to.”

In her evidence, she said a number of additional points. She indicated that, from looking at the notebook, she thought that she must have seen the claimant’s car before it turned onto the slip road, though she had no independent recollection of that fact. She explained that she meant by the words in the notebook that, in front of the police car, there were two vehicles and the claimant’s vehicle was the vehicle in front of that. One might not naturally read what she says that way; one might assume that what she meant by a vehicle being two vehicles in front of them was that there was one vehicle then the vehicle that she was speaking of. However, she says that she meant that there were two vehicles between the police vehicle and the claimant’s vehicle ***(And Pearce accepted that and made no reference to my testimony that I was two vehicles ahead of the police vehicle, as is understood by almost everyone except, according to Rimmer, herself. All the way through this judgment Pearce seems to be accepting that what the police say is true and therefore that what I say is untrue – if he even bothered to pay attention to my statements and testimony).***

17. As to seeing the claimant’s vehicle carrying out a U-turn, she said that, as a result of something PC Anderson said, she glanced to her left across the grass verge and saw the claimant’s vehicle on the slip road apparently turning round. She accepts that the estimate included in her witness statement – both the witness statement for the purpose of the criminal prosecution at page 260 in the bundle and the witness statement for the purpose of the civil proceedings at page 255 in the bundle – of the vehicle being ten metres down the slip road was wrong ***(And Pearce accepts everything the police witnesses say. Pearce does not even comment on the fact the two police officers wrote false statements about the distance and then for the first time in court stated a different distance that nobody was aware of at any time before. He gives credence to the***

incredible. He readily accepts their revised “estimate” but not my statement of fact as to where I actually was). She said in fact it was further down the slip road than that but she had never measured how far down it was. As regards the traffic in which she and PC Anderson were travelling, she described that as heavy. As regards what PC Anderson did in terms of managing the vehicle once he had pointed out the claimant’s vehicle, she said she recalled the vehicle rolling up to the mouth of the slip road but not actually stopping.

18. In assessing the evidence of the witnesses before me, it seems to me that either version of events given on the one hand by Mr Thornton and on the other hand by both police officers is possible. It seems to me also that each side can, as so often is the case, find certain holes in the account given by the other side. I shall consider the strength and weaknesses of each of the witnesses but, for reasons I shall come to, there were no overwhelming features of the evidence of any witness that persuade me that they are obviously accurate or obviously inaccurate. However, there are inherent probabilities and improbabilities which, in my judgment, are important to determining the issue in this case. There is no independent evidence one way or the other. I bear in mind that the burden of proof on all issues that are before the court lies on the claimant but the standard of proof is the usual civil standard of the balance of probabilities. It is of course the case that the more inherently improbable an event is, the more evidence the court is likely to require before being satisfied on the balance of probabilities that it occurred. However, here, it seems to me, subject to one point made by Mr Armstrong for the defendant, that the true situation is that, however much they now are persuaded they are right, at or around the time of this incident, one side or the other did not tell the truth about it. It is inherently improbable that people will not tell the truth but it happens and it happens regularly and, in all reality in this case, I probably have to decide whether people are not simply mistaken but whether they have not told the truth about what happened.
19. In assessing in particular the inherent probabilities and improbabilities of the case, considerable caution is required. Estimates can be wrong. Estimates

of speed can be wrong. Estimates of distance can be wrong, in particular where vehicles are moving and are at angles between them. Whilst attempting to calculate the finer details of timings and distances can be superficially very attractive as a way to give authority to a decision that one makes. It is easy to see how much difference even a small misestimation or misjudgment can make when one thinks that the difference between travelling at ten miles per hour and fifteen miles per hour is a difference of 50 percent **(Or, to put it another way 33 percent)** in the time taken to pass between two fixed points, even though a range of ten to fifteen miles per hour is one both used in this case and I have heard used in many other cases by witnesses as being perhaps the kind of range of speed that a driver might realistically be able to estimate. It is all the more difficult when we are dealing with matters two years ago.

20. I propose to consider each of the witnesses in turn and identify what seem to me to be the main strengths and weaknesses of their evidence before I come to some firm conclusions. I start, then, with the claimant, Mr Thornton. In my judgment, he gave his evidence in a straightforward fashion. Some of his answers and some of his approach to aspects in the case might be described as pedantic. In respect of some issues, such as whether his manoeuvre was either unusual or unorthodox, it might be said that he showed a reluctance to accept what was being put to him but was driven to do so. It seems to me, though, that I have to make due allowance for a number of points. One is that Mr Thornton is in dispute with the police about this incident and it would not be surprising, it seems to me, were he not to be very careful in answering questions before committing himself to a particular position. That is all the more so when one bears in mind that he is unrepresented and does not have a lawyer to interrupt if there might be argued to be any unfairness in questioning that has been put to him. I did not see in Mr Thornton the indications of a witness who was unduly rigid in respect of his evidence or who was unduly unwilling to make concessions. Indeed, in one respect, I have used the word pedantic already but I thought that Mr Thornton was being slightly hard on himself and that is in respect of the wording of what he says in the traffic offence report, which, in my judgment – a point to which I will return – he has consistently given an

account which is very largely in accordance with that which he now maintains and is clearly inconsistent with the account given by the police officers.

21. There was some point made on behalf of the defendant as to Mr Thornton's description of his use of mirrors. In effect, it seems to me that Mr Armstrong for the defendant was arguing that Mr Thornton was being a little opportunistic in terms of answering questions about whether he used his mirrors at the time of carrying out the manoeuvre that he performed on the slip road. The point is that, on the one hand, it might seem unattractive for a driver to say, "I carried out a manoeuvre without using my mirrors," but, on the other hand, if he said he had used his mirrors, that might tend to suggest that the manoeuvre would have taken a longer period of time to come to a conclusion, a matter which is highly relevant to the determination of this case. Equally, however, it seems to me that Mr Thornton had to think back to a particular detail of an unusual manoeuvre and it is not particularly surprising that he did not have a ready answer to that question. I felt that point the more strongly in respect of the question as to whether he had carried out a similar manoeuvre before. I think, if I had been asked whether I had carried out the same or similar manoeuvre, I would have hesitated a little while to think, "Well, what exactly am I comparing with this and have I done something like that, how like it is it?" Those points did not, it seems to me, undermine Mr Thornton's position. Moreover – and this is an important point in his favour that I have identified already – it seems to me that he has consistently given the same account of this incident. I have referred already to his discussions with Mr S..... but, even before those discussions in the traffic offence report, it seems to me he gave an account consistent with that which he now says. Mr Armstrong for the defendant advanced perhaps a little tentatively the suggestion that the claimant may have convinced himself that he is right. The problem is that, if he has convinced himself he is right rather than lying, he had done so by the time of completing the traffic offence report.
22. What as to the weaknesses of his evidence? The overwhelmingly strong weakness that the defendant points to is how it could be the case that he

managed to carry out this manoeuvre so quickly (***But having admitted to doing a similar manoeuvre before, I am clearly capable of doing it so quickly. This is pure conjecture on the part of Pearce as he fishes for a reason to reject the truth***). We are here moving into the territory of attempting to make calculations and make judgments on what is plausible and what is implausible. I remind myself of what I have already said of the dangers of doing this. At ten miles an hour, a vehicle is travelling 4.47 metres per second. That distance, 4.47 metres is, as it happens, just slightly wider than the claimant's car. The claimant says that his car did not get much more than a car's width into the junction. Indeed, he repeated that reference to a car's width in his closing submissions. Therefore, if he is right, he has, within a second of turning into the slip road, to have decided to change his route, to have formed any judgment about the safety of changing his route and to have carried out the manoeuvre to the extent that he has got his vehicle back in line with the A road at right angles to the general direction of traffic on the slip road (***This is total nonsense. Certainly I was travelling at about 4.47 metres per second, but not down the slip road, I was driving along a curved path as shown in the video evidence and as shown in my diagram, linked elsewhere, which shows me driving along a curved path for at least 2 seconds before needing to turn the other way. Pearce got it completely wrong. Pure invention by Pearce***). In his closing submissions, Mr Thornton drew my attention to the fact that PC Anderson had said that the matrix lights were flashing and were visible to PC Anderson before he reached the slip road and, if they were visible to PC Anderson, so it is said they would have been visible to the claimant. However, the claimant did not refer to the flashing matrix lights as the reason for his change of mind as to joining the motorway. Of course, he may have been affected by that but it seems to me that, in that respect, there might be a little bit of opportunism by Mr Thornton not in his evidence but rather in his submission to that effect, given that he did not mention the matrix lights in evidence (***I did mention the matrix lights in my evidence. Pearce got it wrong again***). On any version of events, it seems to me that, in carrying out the manoeuvre that the claimant described, he would have had to both think and act extremely speedily. He used the phrase "a fraction of a second" a number of times. He has to be

right in respect of that ***(No I don't have to be right in respect of that. Pearce got it wrong again. The video and diagram show that I have over 2 seconds from starting my turn until when I have to steer the other way and exit the mouth of the slip road without reversing. Judges should not make things up or venture outside their area of expertise)***. I bear in mind his evidence that, as he approaches the M6, to the best of his knowledge, the M6 is free moving and, although he is aware of the alternative route that he could take, it is not the route that he chooses to take ***(Also bear in mind that I have seen the matrix signs indicating otherwise, so I was well prepared to take the alternative route with which I was very familiar, as I testified)***.

23. The next identified weakness of Mr Thornton's evidence that seems to me to have some force is the simple question of why the police officers would make up this allegation against him ***(No. The fact that they lied is sufficient in a claim for malicious prosecution. I do not need to know why they are crooks, only that they are. Another case of Pearce looking for reasons to reject my true account)***. He said that, given PC Anderson's evidence that the motorway regulations started at the point of the sign on page 336, PC Anderson would have to place the claimant's vehicle beyond that sign in order to justify a prosecution. But that explanation only really begs the question, why would PC Anderson make up the allegation at all? ***(If Pearce had been paying attention, he would have realised that Anderson thought I had committed the offence. On realising that I hadn't, he and Rimmer made up a false description to try to make it appear that I had committed the offence. On the face of it, making up a false description would be less troublesome than cancelling a traffic ticket)*** In his submissions today, Mr Thornton has put the point in a slightly different fashion. He has relied upon the reference in the witness statement to PC Anderson's belief that the regulations start at the first sign on the slip road and, realising that in fact the vehicle has to be beyond the sign, again he suggests that PC Anderson has changed his account and given an untrue account. This suffers from the same problem of the criticism of Mr Thornton for his account of matters that in fact PC Anderson has been consistent on the issue as to whether this U-turn or this

manoeuvre happened beyond the mouth of the junction or otherwise and I shall return to that point in dealing with his evidence.

24. The next point upon which some reliance is placed, although I do not find it overly persuasive, is the following: if PC Anderson was motivated by malice in this prosecution, why would he say that, in his view, the prosecution was unlikely to succeed after he had revisited the site? ***(Well, that is pretty obvious to anybody. He measured the sign as being 35 metres down the slip road and he estimated my location on the slip road as 25 to 30 feet (approximately 8 to 9 metres), so no reasonable person is going to convict me on that basis, which is why Anderson said that the prosecution was unlikely to succeed. Overwhelmingly obvious to anyone but Pearce)*** Why not simply suggest that another offence, such as driving without due care and attention, be prosecuted ***(Well, again it is pretty obvious that if the police statements state the impossible, which Pearce seemed to fail to grasp, no prosecution for anything is going to succeed)*** or indeed, arguably, why not simply, on revisiting the site, lie about where it was that the U-turn took place? ***(Doh! He has already written a statement for my prosecution, with a statement of truth, that I turned at 25 to 30 feet into the slip road. So how is a prosecution going to succeed if he turns up in court and says that it was further? Lie of course is exactly what he did. He lied with his initial false statements and he compounded it with further lies in his verbal testimony in court. I think Pearce may be the only person in that courtroom who did not realise that)*** It seems to me that, although this does not necessarily undermine a conclusion as to what PC Anderson was doing there, the counter-argument from Mr Thornton that the reason for the prosecution not proceeding was that he had challenged it and alleged that the police officers were lying may equally have some weight ***(If Pearce had been paying attention, he would have realised that it was more than me alleging that the officers were lying, it was that their statements were not only statements of the IMPOSSIBLE, but did not place me on a section of road subject to motorway regulations)***. If one assumes for these purposes that Mr Thornton is telling the truth ***(That assumption is totally unnecessary, of course they wish to extricate***

themselves after stating the impossible) and that the officer has made his account up, one can see that, once it is clear that Mr Thornton is challenging the veracity of the officers' account and further the officer has identified that the distance that he has recorded of 25 to 30 feet is wrong, then the officers might well wish to extricate themselves from the prosecution. That seems to me not significantly to undermine Mr Thornton's case ***(This whole paragraph is senseless. Anderson made the impossible statement that I used a non-existent hard shoulder to make a turn at 25 to 30 feet into the slip road. How can anybody think that anybody can be successfully prosecuted for anything when the written police witness statement is so evidently wrong? I would have thought that the whole matter of impossible police statements and dropping the charge and not making any further charges strengthens my case rather than "not to significantly undermine" it).***

25. What of his description of who the driver of the police car was? The defendant says it is overwhelmingly likely that PC Anderson was the driver throughout and that, at the very best or very worst (depending on how one puts it), Mr Thornton was mistaken about who the driver was when the vehicle pulled alongside him. On the whole, in a case which does not really turn on accuracy of recollection, I think that probably does not take matters very much further. ***(I still don't know why Anderson and Rimmer were lying about who was driving the car when they stopped me, but my description is completely true and accurate)***
26. I turn, in considering the strengths and weaknesses, to the evidence of PC Anderson. I have touched already upon the fact that he is, in my judgment, consistent in his account of this incident with the one obvious and not insignificant issue of the distance of the vehicle along the slip road at the time of the U-turn. I will return to that point when I consider the weaknesses of his evidence. The corollary of a point I made a short moment ago, is that he did not press on with this prosecution or rather invited those who were charged with pressing on in the prosecution to reconsider the position when he explored the issue. That obviously is said not to be consistent with malice though, as I have identified already, if one starts from the working assumption that Mr Thornton were telling the truth, it might have another

explanation (***Nonsense. Regardless of whether I am telling the truth, no prosecution for anything would succeed when a police statement is impossible as I stated above***). Third, he was, in my judgment, straightforward in giving his evidence. I saw no evidence with him of somebody who was trying to tailor matters (***Coming up with a new, previously unheard “estimate” of my position on the slip road might be considered trying to tailor matters to overcome his statement that I used a hard shoulder where none existed, as I pointed out. If that is not tailoring, what is?***). Fourth, no identified motive has been found for the alleged malice (***Malice is malice, regardless of the motive. Telling lies is telling lies, regardless of the motive***).

27. What of the weaknesses of his evidence? By far the most obvious problem is this one as to the distance of the claimant's car into the slip road. This particular issue is somewhat clouded by the fact that not only was the distance of 25 to 30 feet contained in the traffic offence report at page 249 but it was repeated in the defence that was filed and in the witness statement that PC Anderson signed for the purpose of this claim. My assessment of the evidence of PC Anderson on this issue was that, at first, he was genuinely confused as to why he was being challenged about paragraph 6 of his witness statement because what he said more than once was that paragraph 6 was a repetition of what he had said in the traffic offence report. The trouble of course with that explanation is that paragraph 6 does not begin with the words, "I said in the traffic offence report that this was the case." (***Very helpful of Pearce to tell the witness how he should have written his statement to give him a better reason for believing it***) It simply appears as a statement that all of this was the case. He was clear in his evidence that the mistake about the distance was a mistaken belief that he had corrected back in 2014 (I have referred to the email relating to that already) (***That is entirely wrong – he was not in the least bit clear in his evidence that he “corrected” his estimate in 2014. He was completely unsure as to when he “corrected” it. The email that Pearce describes as “relating to that” has absolutely nothing to do with it: the email says that his measurement of the motorway sign at 35 metres into the junction was “not close to our estimate”. Pearce is obviously***

correct in thinking that if Anderson really did change his estimate of my position on the slip road ahead of time, it would have been when he visited the site to take measurements. The complete lack of evidence that he did so, in fact supports my case that it was only made up for the purpose of this trial. There is absolutely no suggestion or inference in the email that Anderson is revising his “estimate” of my position. It is very disturbing that Pearce either misunderstands the evidence or chooses to misinterpret it in a way that disadvantages me and advantages the police). Looking more generally at PC Anderson’s evidence, it seems to me entirely clear that, whatever the wording says, he did not mean to communicate in the witness statement dated 5th December 2016 that he believed the distance to be 25 to 30 feet. However unfortunate the wording, one, it seems to me, only has to look at paragraphs 12 and 13 – never mind other evidence in the case including his diagram – to see that the 25 to 30 feet distance was not one that he in fact intended to stand by in his evidence before this court. Thus, I do not think that he changed his evidence before the court ***(Incredible!!!! – The lengths to which Pearce goes to accept the unacceptable is unbelievable. We have a huge change of evidence here, but Pearce has to pretend it isn’t a change in order to come up with the answer he first thought of).*** True it is that he changed his estimate of distance but that was a change of estimate that happened as long ago as 2014 ***(This is just unbelievable! Pearce is going to great lengths to believe that Anderson is telling the truth. This is defence counsel’s question about Anderson’s written witness statement at the outset of Anderson’s witness testimony and Anderson’s answer to the question: “QUESTION. Are the contents of that statement true to the best of your knowledge and belief? ANSWER. Yes, they are”. So Anderson had the opportunity to “correct” his “mistake”, but didn’t. He only “corrected” it under cross examination when confronted with the impossibility of his statement. Pearce makes no reference to the unlikely fact that Anderson does not know the meaning of truth when certifying his statement as true – instead he helps him by saying what he meant and should have written. Pearce makes no reference to the unlikely fact that two police officers would make the same “mistakes”***

in estimating distance and in knowing what “true” meant. Pearce makes no reference to the fact that Anderson’s written statement states that the diagram is not to scale, in spite of which Pearce is taking it as being honest, which it isn’t, and to scale, which it isn’t. There is no evidence that Anderson changed his “estimate” as long ago as 2014 other than he thought it might have been then, and he didn’t relate it to that email)

28. Another potential weakness of PC Anderson’s evidence is whether he could have seen what he said he saw. I say that because, although the matter was canvassed, it was only relatively gently canvassed in questioning. PC Anderson says that his angle of seeing the claimant’s car when he first saw it involves him looking through the fencing visible, as I have indicated, for example, on page 336 in the bundle. As far as I can make out from all the diagrams, the point at which PC Anderson says that the U-turn was performed is not very much beyond the further part of the road that is visible on page 336 and, in so far as it might be suggested that PC Anderson cannot be right in saying that he saw what he said he saw if his vehicle was at the position he has indicated on page 255, I reject any such suggestion ***(No reason given, I suppose because it would otherwise support my case)***. There is a further point about timings that I am going to come to when I consider PC Rimmer’s evidence because she specifically, in the passage I have read already from the pocket notebook, has something to say about the claimant’s vehicle before it was on the slip road that is highly relevant.
29. As to PC Rimmer, then, the strengths of her evidence were that again she, it seems to me, has been consistent throughout ***(Pearce does not explain how changing an estimate of distance from 10 metres to 30 metres is consistent. He also does not question why Rimmer does not understand the meaning of truth when she certified her statement as true when she wrote 10 metres if she really meant 30 metres)***. Again, it seems to me, she was a straightforward witness in the witness box. Indeed, it seems to me that a particular point that can be made by way of the apparent persuasiveness of her evidence was that she did not tailor what she had had to say to what PC Anderson had said even though she was

present whilst he gave evidence (*Revising her “estimate” of my location on the slip road to be the same as Anderson’s new “estimate” is most definitely “tailoring” her evidence to match Anderson’s. Note that at the start of her testimony, defence counsel said that she wished to change her statement with respect to her “estimate” of my position on the slip road. He did not do that before Anderson’s testimony, thus demonstrating that even he was unaware that Anderson was going to change his testimony, but that he and Rimmer had spoken about it and she agreed to change her testimony to match*). For example, what she said about whether the police vehicle had stopped was not identical to what PC Anderson had had to say (*This is inconsequential; what about the consequential, where she followed Anderson every step of the way, even as far as misunderstanding the meaning of “true”?*). The impression I gain from the manner in which she gave her evidence was that she was simply speaking of things as best she remembered them now (*Ignoring of course the major change in testimony to agree with Anderson*).

30. As to the weaknesses of her evidence, again there is a change in the estimation of the distance. As I have said already, for the police prosecution, PC Rimmer (who prefers to use metric measurements) used the distance of ten metres, approximately consistent with PC Anderson’s evidence but clearly not consistent with what is illustrated, for example, on page 254 (*That “not to scale” diagram again. Here is another more likely explanation of that diagram: Anderson decided to include a diagram of his version of my manoeuvre with his witness statement – i.e. diagrammatically show me turning at 25 to 30 feet into the slip road. Lo and behold, he looks at the satellite view on Google and there is no hard shoulder at 25 to 30 feet. So he realises that he erred in his false statements and has to decide what to do. So he draws a diagram “not to any particular scale” showing me way up the slip road, turning where there is a hard shoulder. But he can’t tell anybody he lied, so he decides that he will just play dumb when he gives his testimony in court and say that he made a mistake in his estimation. And Pearce helped him and chose to misunderstand Anderson’s email about his*

measurement of the sign being nowhere near their estimate of my location. I do not believe that an astute judge would have been taken in like that). Exactly the same point arises in respect of the drafting of her witness statement as arises in respect of the drafting of PC Anderson's witness statement, namely that she seems to be saying, at the time of signing the statement on 21st July of 2016, that the vehicle was ten metres into the junction rather than saying, "That was what I thought at the time but I have now realised that that is inaccurate." That is unfortunate but, for the same reasons I have indicated in respect of PC Anderson's evidence, in the context of this case, it does not suggest to me that she was not telling the truth ***(It would seem to me, and most others, to suggest that they are not telling the truth. It is just so improbable as mentioned above that 2 police officers would independently make similar estimates of position, then independently revise them by a similar amount and that neither one would understand the meaning of "true" when writing and declaring the truth of their statements. I fail to understand why Pearce accepts all these lies and rejects the simple plain truth that I did what I did and what I always said I did from the moment I was presented with the Traffic Offence Report. Unbelievable. Did he fail to grasp that my version of events was the only one that fitted the facts, or did he grasp it but rule against me anyway?).***

31. The other issue about PC Rimmer's evidence which has caused me to think with very great care about what the police officers have had to say is what she saw of the claimant's vehicle before it turned into the slip road. I shall endeavour to explain what I see the significance of this to be. On behalf of the defendant, Mr Armstrong cautions me to be very cautious about calculations like this. Mr Thornton in fact addresses this issue in a slightly different way from the way I am going to address it but I shall seek to explain my thinking on this point. It seems to me that Mr Thornton's video evidence in its later section is of some assistance to the court in making an estimation of how long it would be between Mr Thornton turning onto the slip road and his vehicle being broadside in approximately the position described by the police officers if their account were true. On PC Anderson's evidence, once he has seen the claimant's vehicle, he slows

down and indeed possibly stops but, in any event, it is easy to explain the passage of a reasonably considerable period of time (by which I mean half a minute) by PC Anderson adjusting his speed with the deliberate purpose of not passing the mouth of the slip road once he is aware of what the claimant is doing. To that extent, timing after the vehicle is broadside is, it seems to me, of little relevance. However, timing before the vehicle is broadside has this at least potential relevance: PC Rimmer's evidence based on her notebook rather than a continuing independent recollection is of there being two vehicles between the police vehicle and the claimant's vehicle ***(Pearce appears to unquestioningly accept whatever the police witnesses say without cross-referencing to my testimony. Rimmer's notes say that my vehicle was two vehicles ahead of the police vehicle. That is normally taken to mean that there was one vehicle between us. If Pearce had cross-referenced my testimony that the police vehicle was two vehicles behind mine, then he might have accepted that this was true – we have agreement between both parties about the relative position of the vehicles. Then he might have questioned why, in her verbal testimony, Rimmer wants to interpret two vehicles ahead as two vehicles in between. Then he might have come up with the answer that she needed to find another vehicle because she said in her written statement for my prosecution that there are two vehicles ahead of the police vehicle when she is alerted to my car broadside across the slip road, then he might have cross-referenced my witness statement which said that it was impossible for there to be two vehicles ahead of the police vehicle when she was alerted to my vehicle on the slip road, then he might have realised the truth that Rimmer was lying)***. The traffic was heavy. One can make a variety of assumptions about how heavy it was and what the implications of the heaviness of the traffic was for the speed of the vehicles. For the purpose of giving the indication that I seek to indicate, I am going to assume that the Claimant was travelling at 15 miles per hour. If the position were that the claimant equally, once he joined the slip road or as he was joining the slip road and driving along the slip road, was driving at an average speed of 15 miles per hour, it looks to me as though it would have taken him about 5 seconds to get to the point where the police officers say that he turned his

vehicle round ***(The video evidence I presented showed me taking about 8 seconds from start of turn to being broadside across the road at 25 to 30 feet, so this 5 second calculation is just ridiculous – it should be about twice as much, say 10 seconds)***. PC Anderson would not slow his vehicle down until he saw the claimant's vehicle turning ***(Another instance of Pearce not paying attention to the evidence: Anderson claims that he saw my vehicle at the time he started to slow down to turn into the slip road)*** and that would be perhaps, on Mr Armstrong's estimation, which seems to me a reasonable estimation, to be something like 70 feet before the junction ***(This is based on Anderson's "not to scale" diagram and it really doesn't leave room for the 2 vehicles ahead that Rimmer testified to)***.

32. If PC Rimmer saw Mr Thornton's car before it turned round, then the police car must have been at least 5 seconds ***(In reality at least 10)*** back from the point where PC Anderson saw the claimant's car at the point that the claimant turned. In those 5 seconds, it seems to me reasonable to assume that, if the police car were travelling at something like 30 miles per hour (that is the speed referred to by PC Anderson), it would have covered about 110 feet ***(Major miscalculation – the correct answer is 220 feet; twice as much. Then change the 5 second estimate to a more realistic 10 second estimate and we have 440 feet, so Pearce's calculations are sheer nonsense)***. That means, with all the uncertainties of these calculations, that, at the time the claimant began to turn, the police car was about 180 feet ***(or more likely 510 feet)*** from the slip road – let us assume that this was a line of traffic travelling at 30 miles per hour and that, at the moment the claimant begins to turn, there are three cars ahead of the police car and that the gap between each of the vehicles is two seconds – on my calculation, that would put the distance from the rear of the claimant's car to the police car as being 162 feet (in other words, a figure close to that which would be expected from the five-second timing to which I have made reference) ***(But nowhere near close if the 5 seconds is replaced by a more probable estimate and if the calculation is done correctly)***.

33. If it took the claimant longer to get to the position where the vehicle was broadside to the slip road – Mr Thornton thought 8 to 9 seconds (**10 seconds is actually a better estimate – I was unable to refresh my memory of timings from the video evidence**); I am going to take 8 seconds as the estimate of that – then, making precisely the same calculation, the police vehicle would have been significantly further back on the A534 at the time that the claimant started to turn into the slip road. If it were significantly further back (**which it would have to have been if you accept the police lies as true and if you do a correct calculation**), then it seems that PC Rimmer must be wrong about the number of vehicles between the claimant's car and the police car (**Indicating yet another failure to cross reference my testimony with the police testimony**) or she must be wrong about there being heavy traffic (**Indicating yet another failure to cross reference my testimony with the police testimony, seeing as how I also testified to the heavy traffic and queue of traffic**) or the estimate of 30 miles per hour for the speed must be wrong (**But not by much because there was general agreement on speed too**). If, on the other hand, the estimate of the number of cars and the speed of the police car is right, then that 162 feet that I have referred to already applies and the consequence would be that, by the time the claimant was in a position for PC Anderson to see his manoeuvre, the police car would already have passed the mouth of the slip road (**Yet another mistake. The police stated that it was their intention to travel north on the M6 and yes, with the truth of what Rimmer wrote in her notebook concerning the relative position of our vehicles, if I were 100 feet along the slip road, they would have turned into the slip road before I turned round, so their whole evidence is a pack of lies**).
34. This is a complex calculation but I made it (**Totally incorrectly**) in order to ensure that I was doing fairness to the claimant's case (**Thanks, but no thanks. It was completely wrong and I see no attempt to do fairness to my case**) in a position where he is unrepresented and there might be an argument advanced on his behalf. It seems to me that, on any version of events, something is wrong as between the estimate of the number of vehicles between the police car and the claimant's vehicle (**We have**

agreement that my vehicle was two vehicles ahead of the police vehicle. There is no need to suggest it might be wrong), the speed of the vehicles (***Agreed within reasonable limits that do not substantially affect the massively incorrect calculations***) and the heaviness of traffic (***Which was also agreed***). These are all variables but they are all extremely uncertain. What if it were three vehicles or four vehicles between the police car and the claimant's vehicle at the time that the claimant started to turn? (?????) Would one be surprised at the police officer getting that mistakenly wrong? (?????) I am not so sure one would be (***I am sure that one would be totally surprised, in fact astonished, when we have agreement that my vehicle was two vehicles ahead of the police vehicle. I am also rather surprised that Pearce is ignoring my testimony and coming up with justifications as to why the police testimony might be "mistaken". There is zero justification for thinking that there might be even more vehicles between the police car and my car. There was ONE***). What if the gaps were larger? I make the assumption of two seconds because, as I indicated in the course of submissions, not only does it accord with the so-called two-second rule but also it accords with how, in my experience, at least careful drivers typically drive. However, it could have been much less. I think Mr Thornton suggested that distance was in respect of the 4X4 behind him (***I didn't suggest that at all, I stated that the 4X4 closed up behind me as I slowed for the slip road. I never commented on the distance prior. Yet another example of Pearce not paying attention***). On the other hand, it could have been much more and the reference to traffic being heavy, which after all is only an impressionistic word, might be right about the M6 and the slip road but less obviously right about the A534 as one approached the junctions (***We have agreement on the heavy traffic and queue of vehicles; there is no need to suggest otherwise***). The speeds may have been different for whatever reason (***But not by much – all estimates are close***). PC Anderson may actually be mistaken about where the claimant's vehicle was when he first saw it (***If you call a deliberate lie a "mistake", then he was mistaken***). Either or both police officers may be mistaken about precisely where the claimant's vehicle was on the slip road when they first saw it and that last variable could make a very big difference

indeed, it seems to me, to lines of vision and timings and the such like (***If you call a deliberate lie a “mistake”, then they were both mistaken about where my car was***). Those are all exactly the kinds of uncertainties which I think caused Mr Armstrong to caution me to be extremely careful as to drawing firm conclusions about what was inherently probable or improbable in respect of the amount of time that would have been taken for the vehicle to turn. It has to be said also that, although PC Rimmer interpreted her notebook as meaning that she saw the claimant’s vehicle at the time it started to turn, if in fact she meant that, at some point on the A534, his vehicle was two vehicles ahead of her but she was not necessarily talking about the time of the turn, that would raise yet another variable in respect of that calculation. (***This is all just obfuscation and an attempt to avoid the rather obvious truth – my vehicle was two vehicles ahead of the police vehicle in a queue of traffic; I started to turn into the slip road and then turned out again without reversing; while I was across the mouth of the slip road, the vehicle behind mine passed me and when I was in a position to merge back on to the A534, the police car that had been behind the vehicle behind me was there at the entrance to the slip road. There is complete harmony between the notes Rimmer wrote at the time, when she had no reason to lie, and with what I said I did right from the very start. All the rest is smoke and mirrors and lies. If I had driven 100 feet up the slip road, they would have been on the slip road behind me. The gyrations that Pearce goes through to avoid the truth are simply amazing!***)

35. In terms of the law to be applied to cases of this kind, there is no real dispute between the parties that the claimant needs to show not only that he was prosecuted by the defendant, that the prosecution was determined in his favour and that he has suffered damage – all matters that are accepted – but also that it was without reasonable and probable cause and that it was malicious. I have fully in mind the words of Lord Devlin in *Glinski*, to which I have made reference before. If a police officer lies and thereby causes a person to be prosecuted, it is by no means inevitable but would not be surprising if the court drew the inference that the motive in any prosecution arising from that witness statement was something other than a

desire to bring a criminal to justice. ***(So why is Pearce even considering the motive for their lies as relevant to the case?)***

36. This is not an entirely easy case because I found witnesses on both sides to be, on the face of it, credible. Both accounts are at least theoretically possible. However, it seems to me that there is a very considerable inherent improbability in the claimant's account of his manoeuvre. Try as I might to picture myself in the position of the claimant knowing that he can take a different route than the M6 but intending to take the route of the M6 and then turning onto the slip road, it seems to me highly improbable that he would have had sufficient time to register the presence of standing traffic, to decide on the change of route, to be confident that he could adjust his driving safely within sufficient time to perform the manoeuvre that he carried out ***(Regardless of the fact that I had done it before, making it more, rather than less, likely that I could and would do it again)***. I simply cannot see one second or less as being realistic even to decide on the manoeuvre, still less to carry it out, and it seems to me that two seconds or so is the least that would realistically be required even before one began to execute the manoeuvre ***(This is totally unfounded, it is a figure that Pearce has pulled out of the air. There was never any evidence asked for or given about my driving experience and reaction times. Complete nonsense)***. Assuming ten miles per hour as being the claimant's speed – and that is the bottom end of his range – in two seconds, the car would be well beyond the distance in which it could turn round in the mouth of the slip road ***(Wrong again. As mentioned previously, I was driving along a curved path that started outside the slip road. 2 seconds gave me plenty of time to turn out again without reversing)***. Those circumstances and my rejection on balance after careful consideration of the arguments as to alleged inconsistencies in the police officers' evidence ***(Alleged inconsistencies??? There are so many real inconsistencies that you wonder why Pearce is thinking about alleged inconsistencies. One would expect a reasonable judge to consider the real inconsistencies and either accept that the police lied or have good reasons why the inconsistencies should be ignored)*** lead me to the conclusion that I reject the claimant's account of what happened in this

incident and I have found on the balance of probabilities that he executed a U-turn on the slip road in the manner described by the police officers and, in all probability, round about the location they described it without me being capable of saying precisely where it was. ***(This paragraph really is a disgrace. Pearce rejects my true account on the basis of a notional 2 seconds of thinking time that he invented with absolutely nothing to substantiate it, then he uses a totally incorrect calculation to decide that after 2 seconds I am not in a position to do what I said, whereas in fact I did not start turning out of the slip road until after I had been turning into it for 2 seconds, shown in my video evidence and the subsequent diagram and calculation linked to elsewhere. He couldn't be more wrong in this demonstration of ignorance of human performance, maths and physics. It seems to me that he was looking for a reason to reject my account and when he couldn't find one in the evidence, he invented it. Worse, he invented it in his Judgment when there is no opportunity to refute it. Then to cap it all his "rejection on balance after careful consideration of the arguments as to alleged inconsistencies in the police officers' evidence" – no mention of the very real inconsistencies, anomalies and lies. It is clear from his previous so-called analysis of the evidence that he has given precedence to the police evidence and not considered it in relation to mine with respect to traffic, speeds, relative positions of vehicles etc. So we have two crooked cops patrolling the streets and I am substantially out of pocket. Disgraceful.)***

37. In those circumstances, it seems to me that the height of what could be said on the claim of malicious prosecution is that PC Anderson was unreasonably wrong in the objective aspect of the reasonable and probable cause test in terms of prosecuting. I do not consider that he was unreasonable, in those circumstances, to allege that an offence had been committed but, in any event, it seems to me that there is no basis on that factual finding as to what happened to find that he prosecuted with any malice whatsoever. It seems to me, on the balance of probabilities, that he believed that the claimant had committed an offence, he was quite possibly (but by no means certainly) wrong in fact but, in those circumstances, I am

driven to dismiss this claim for malicious prosecution. *(I don't personally think I had a chance with his favourable treatment of the inconsistent police testimony, with his failure to cross reference their testimony with mine, with his miscalculations, with his invention of more cars between the police car and my car to explain why the police car was still so far from the junction when I was allegedly 100 feet up the slip road, and with his final inventions and miscalculations that enabled him to reject my account of what I did. If Pearce has an explanation, I shall publish it)*

This is a draft that I shall be pleased to update on receipt of valid comment and input from any of the parties involved