Neutral Citation Number:[2026] CIGC (FSD) 58

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 237 OF 2023 (NSJ)

BETWEEN:

(1) ABRAAJ SPV 108 LIMITED

(2) ABRAAJ SPV 127 LIMITED

PLAINTIFFS

AND

KE HOLDINGS LIMITED

DEFENDANT

Before: **The Hon. Justice Segal**

Appearances: **Clare Stanley KC instructed by Barnaby Gowrie, Blake Egelton, and Geoffrey Sykes of Walkers (Cayman) LLP for the Plaintiffs**

Graham Chapman KC instructed by Conal Keane, Niall Dodd and Alan Quigley of Dillon Eustace for the Defendant

JUDGMENT ON PLAINTIFFS' FURTHER DISCOVERY SUMMONS

The Further Discovery Summons

1. This is my judgment dealing with the applications made by the Plaintiffs in their summons dated 25 May 2026 (the ***Further Discovery Summons***). The Plaintiffs filed in support of the Further Discovery Summons the Fourth Affidavit of Mr Keiran Hutchison (***Hutchison 4***). Mr Hutchison is a consultant at Ernst & Young and one of the joint receivers appointed over the shares in the Plaintiffs.

2. The parties agreed that the Further Discovery Summons should be dealt with on the papers without a hearing. They filed their skeleton arguments on 24 June 2026. The joint trial in the two sets of underlying proceedings which are being heard together is due to start very shortly – next week – so that it has been necessary to deal with the Plaintiffs' applications on an expedited basis (I have had various other hearings to conduct which has delayed the preparation and delivery of this judgment).

3. I set out below a brief review of the background and the relief sought by the Plaintiffs with a note of the decisions I have made and brief reasons for each of them.

4. As I explain below, the fact that the Further Discovery Summons has been made so close to the start of the trial and the imminence of the trial mean that the Court is reluctant to order the Defendant to give extensive further discovery which will take some time to complete. Doing so will risk delaying the trial or even putting the listing of the trial at risk. This means that there is a strong presumption that the Plaintiffs should be required to raise any issues that they still have regarding the adequacy of the Defendant's discovery with the relevant witnesses at the trial and make submissions at the trial regarding the inferences to be drawn from the Defendant's alleged failures to discover particular documents. Having said that, I have of course, carefully considered and sought in the time available and without the assistance of oral submissions at a hearing to do justice to the Plaintiffs' application and submissions. I have concluded that the Defendant should be required to file a further affidavit but only in relation to a narrow range of issues which I consider that the Defendant can reasonably be expected to do rapidly and without a material disruption to its trial preparation.

The background

5. By an order dated 18 December 2025 (the ***18 December Order***), the following orders were made requiring the Defendant to take further steps in relation to discovery:

> *1. By 22 January 2026, the Defendant shall make discovery of all documents including emails and other communications in its possession, custody or power, subject to paragraph 3 below, relating to each of the following matters in question in the action:*
>
> *(a) Did Sage have and exercise control (directly or indirectly) of SPV 21 so as to require or cause SPV 21 (or its director) to remove KP Corporate Director Ltd ("KP Corporate Director") as a director of KESP and did Mr Casey McDonald, as the sole director of SPV 21, act (when making decisions for SPV 21 in relation to the removal of KP Corporate Director) on the instructions of Sage or any person acting for or on behalf of Sage, or for the purpose of benefitting and in order to benefit Sage or in the interests of Sage, (the "New Sage Issue"); and*
>
> *(b) Whether Mr Skelton encouraged Mr McDonald to act so as, or gave directions to him (a) to ensure that Mr Hutchison caused KP Corporate Director to vote against the 'Proposed Resolution' or (b) to pressure or cause KP Corporate Director to vote against the 'Proposed Resolution' or (c) use KP Corporate Director as a pawn in the disputes between Sage and the Original Shareholders.*
>
> *2. Paragraph 1(b) above shall be incorporated into Category 10 of Schedule 1 of the April Order by way of a variation to Category 10 so that it provides (as varied) as follows:*
>
> *"For the avoidance of doubt this category of documents shall include all documents (including correspondence by email and text and call notes) which relate to any encouragement or directions given by Mr Skelton to Mr McDonald in relation to voting at the 12 June or 19 June meetings including any encouragement or instructions to put pressure on Mr Hutchison or KP Corporate Director, or to procure KP Corporate Director, to vote against the Proposed Resolution." ("Category 10 (as clarified)").*
>
> *3. SPV 21 shall not be required to make further discovery of documents previously listed and produced. If, following a review by counsel for SPV 21, further documents are to be produced, SPV 21 shall file and serve a second List of Documents on the Plaintiffs, with inspection to occur concurrently.*
>
> *4. The period for which discovery is to be made in the terms of the New Sage Issue is from 10 October 2022 to 31 July 2023.*

6. On 23 January 2026, in accordance with the 18 December Order, Dillon Eustace provided a supplemental list of documents and produced the documents made available for inspection pursuant to that supplemental list of documents. Dillon Eustace also provided a schedule of documents responsive to paragraph 1 of the 18 December Order which had either previously been produced for inspection or withheld in FSD 262 of 2023.

7. On 12 May 2026, Walkers wrote to Dillon Eustace raising a number of issues with the discovery made by the Defendant pursuant to the 18 December Order and the privilege asserted over certain categories of documents, both in respect of documents withheld from production on 15 April 2025 and 23 January 2026.

8. On 25 May 2026, the Plaintiffs issued the Further Discovery Summons and, on the same date, wrote to the Court seeking to have the Further Discovery Summons heard and determined at the pre-trial review listed for the following Monday, 1 June 2026 (the ***PTR***).

9. On 28 May 2026, Dillon Eustace responded by way of letter (the ***28 May DE Letter***) to the Further Discovery Application, and to Walkers' letters of 12 and 26 May 2026. The 28 May DE Letter provided a summary of the discovery process undertaken by the Defendant, both in respect of the discovery in April 2025 and the subsequent discovery made on 23 January 2026. The letter also provided responses to the substantive issues raised in Walkers' letter of 12 May 2026, being the issues subsequently raised pursuant to the Further Discovery Application. Dillon Eustace asserted that there had been substantial and unjustified delay in raising the issues with the Defendant's discovery and that the Plaintiffs were seeking to have the Further Discovery Application heard on an extremely compressed timetable.

10. At the PTR on 1 June 2026, it was agreed that the Further Discovery Summons would be dealt with on the papers and the parties agreed a timetable for the filing of further evidence and skeleton arguments.

11. In his Third Affidavit (***Keane 3***), sworn on 8 June 2026, Mr Keane, the partner with carriage of these proceedings at Dillon Eustace, the Cayman attorneys on record for the Defendant (also referred to as ***SPV 21***), detailed the discovery process undertaken by

SPV 21 in response to (and he said in compliance with) [1] and [2] of the 18 December Order.

12 On 16 June 2026, Mr Geoffrey Sykes (an associate in the Insolvency and Dispute Resolution group at Walkers, the Plaintiffs' Cayman attorneys) swore his First Affidavit in which, following a review of Keane 3, he raised questions as to whether the Defendant had taken any steps to identify any relevant WhatsApp or mobile telephone text messages (the ***Messages***) which were relevant to the issues in dispute, for the purposes of satisfying the Defendant's discovery obligations.

13. On 18 June 2026 (the ***18 June DE Letter***), Dillon Eustace wrote to Walkers in response to the Further Discovery Summons.

14. On 3 July 2026, the Plaintiffs informed the Court that they no longer sought relief under [2(c)] of the Further Discovery Summons.

The applicable law

15. The Defendant's Skeleton helpfully summarised the applicable law. The Plaintiffs' Written Submissions did not deal with the applicable law in any detail but I do not understand there to be a material dispute between the parties on legal issues.

16. It seems to me that the Defendant's summary is accurate and that there is no need for me to repeat what it said in its Skeleton. But I would highlight the following relevant points.

17. As set out at 24/3/8 of the 1999 White Book (quoted by the Defendant), affidavits verifying discovery are ordinarily conclusive subject to two qualifications, namely (a) an application for specific discovery may still be made where the conditions for an order for specific discovery are satisfied and (b) an application for a further and better list of documents may be made where it appears (i) from the list itself, or (ii) from the documents referred to in it, or (iii) from admissions made either in the pleadings of the party making discovery or otherwise, that the party making discovery has or has had other relevant documents in his possession, custody or power. Further, as is stated at 24/3/8, it is not the purpose of discovery to give a party the opportunity to check whether

discovery by the opposing party has been properly carried out. If a party does not believe an opponent, e.g. where allegedly irrelevant parts of a document are blanked out, he/she should call the deponent to appear and be cross-examined *(Berkeley Administration Inc. v. McClelland* [1990] 2 W.L.R. 1021).

18. The English Court of Appeal in *Lonrho v Fayed (No 3)* [1993] T.L.R. 348, The Times 24 June 1993, held that a further affidavit verifying specific discovery is conclusive at the interlocutory stage of the litigation as to the documents in the power, possession or control of the deponent, and that there is no power to order that the deponent be cross-examined on such an affidavit. In *Documentary Evidence* written by Mr Charles Hollander KC (15th ed.) at [12-17] the following discussion of the *Lonrho* decision appears (my underlining):

> *In Lonrho the claimants alleged that the disclosure of the defendants was defective. The judge ordered cross-examination of the Fayed brothers on their affirmations verifying their disclosure. The Court of Appeal set aside the order, holding an affidavit of discovery to be conclusive, subject only to a further affidavit being ordered. The court said:*
>
> > *"<u>In the great majority of cases where it is alleged that one party or the other has suppressed documents, this issue will be crucially relevant to the issues in the trial and can only properly be determined after the judge at trial has heard all the evidence</u>. To try the issue at an interlocutory stage could involve injustice to both sides. Assume it is the defendant who is alleged to have suppressed documents: the judge might believe the defendant despite the cross-examination; that would be an injustice to the plaintiff, who had not deployed all his evidence. If the judge disbelieved the defendant simply on the cross examination, that could be an injustice to the defendant, because there might be other evidence which he could call which might persuade the judge he was telling the truth, or at least leave the matter in doubt, so that the plaintiff would not have discharged the burden of proof. Such a procedure would subvert the normal method of trial; the defendants would be subjected to an inquisitorial enquiry, without having the advantage of hearing first the plaintiff's case and their own evidence adduced in chief."*
>
> *<u>In the light of that decision, in Cepheus Shipping the defendants made the application to strike out at trial. But there the affidavit deponent was not called as a witness and the truthfulness of statements in affidavits were not in issue at trial. The defendants criticised the disclosure affidavits and asked the judge to reject them, although there had been no cross-examination because the deponent was not called. Mance J found that a fair trial was on the facts possible, despite defects in the discovery, and more fundamentally, was not prepared to reject the evidence of the deponent in circumstances where he had not been called and where the</u>*

> *truthfulness of the statements in the affidavits was not an issue at the trial. The judge concluded that:*
>
> > *"The right view of Lonrho v Fayed may be that, unless the existence or suppression of documents is itself an issue for determination at trial of the action, affidavits of discovery remain conclusive and are subject to challenge by either party only in the limited circumstances identified in that case."*

19. As the Defendant noted, the general rule that an affidavit verifying discovery is conclusive at the interlocutory stage was recognised in this jurisdiction by the Cayman Islands Court of Appeal in *In the Matter of Qihoo 360 Technology Co. Ltd* [2017] (2) CILR 585. While the Court of Appeal in that case was dealing with an application pursuant to section 238 of the Companies Act (in respect of which the Court found that the rationale for the conclusivity presumption did not apply due to the special circumstances of such proceedings), the Court noted that "*in ordinary litigation, an absence of discovery can be dealt with by the drawing of adverse inferences: if the court is satisfied that a document that must exist has not been disclosed, the court may if appropriate conclude that its contents are harmful to the interests of the party failing to disclose it.*"

The relief sought in the Further Discovery Summons

20. The Further Discovery Summons seeks the following relief:

> *1. … the Defendant (by its director) shall swear and file an Affidavit which gives the following information:*
>
> *(a) describes all of the steps taken by and on behalf of the Defendant for the purpose of fulfilling the Defendant's obligation to give discovery of documents relating to the following matters:*
>
> *(i) did Sage have and exercise control (directly or indirectly) of SPV 21 so as to require or cause SPV 21 (or its director) to remove KP Corporate Director Ltd ("KP Corporate Director") as a director of KESP and did Mr Casey McDonald, as the sole director of SPV 21, act (when making decisions for SPV 21 in relation to the removal of KP Corporate Director) on the instructions of Sage or any person acting for or on behalf of Sage, or for the purpose of benefitting and in order to benefit Sage or in the interests of Sage, (the "New Sage Issue") (as described and defined in paragraph 1(a) of the Order dated 18 December 2025 (the "Second Discovery Order"); and*

(ii) whether Mr Skelton encouraged Mr McDonald to act so as, or gave directions to him (a) to ensure that Mr Hutchison caused KP Corporate Director to vote against the 'Proposed Resolution' or (b) to pressure or cause KP Corporate Director to vote against the 'Proposed Resolution' or (c) use KP Corporate Director as a pawn in the disputes between Sage and the Original Shareholders, as incorporated into Category 10 of Schedule 1 of the Order of Segal J dated 7 April 2025 (the "First Discovery Order") by way of a variation to Category 10 so that it provides (as varied) as follows:

"For the avoidance of doubt this category of documents shall include all documents (including correspondence by email and text and call notes) which relate to any encouragement or directions given by Mr Skelton to Mr McDonald in relation to voting at the 12 June or 19 June meetings including any encouragement or instructions to put pressure on Mr Hutchison or KP Corporate Director, or to procure KP Corporate Director, to vote against the Proposed Resolution."

("Category 10 (as clarified)") (as described and defined in paragraphs 1(b) and 2 of the Second Discovery Order)

(b) names each and every custodian whose devices have been searched and/or accessed for the purpose of making discovery of the New Sage Issue and Category 10 (as clarified), the devices in respect of each person that have been made available to and/or accessed by or on behalf of the Defendant, provides a description of the manner in which those devices were searched for relevant material, including by whom they were searched and what parameters were applied, and confirms whether text messages, WhatsApp messages, voicemail messages and other similar forms of electronic communication were searched;

(c) states how many non-privileged documents were reviewed for relevance for the periods of (i) 10 October 2022 to 4 June 2023, and (ii) 5 June 2023 to 31 July 2023 in respect of:

(i) the New Sage Issue; and
(ii) Category 10 (as clarified);

(d) in relation to each of the documents identified below in respect of which legal advice and/or litigation privilege has been claimed:

(i) the type of privilege which is claimed;
(ii) to whom that privilege belongs; and
(iii) to the extent that the privilege does not belong to the Defendant, on what basis that privilege has been maintained as a basis for withholding inspection.

The documents in question are:

> i. *the 'GP Emails' as defined in Hutchison 4 at paragraphs 34(a) and 39(a).*
>
> ii. *the 'AsiaPak' emails as defined in Hutchison 4 at paragraphs 34(b) and 39(b).*
>
> iii. *the 'SPV 21 Golden Share Emails' as defined in Hutchison 4 at paragraph 39(c).*
>
> iv. *the 'Charles Russell Spechlys Emails' as defined in Hutchison 4 at paragraph 39(d).*
>
> v. *the 'Meeting Invites' as defined in Hutchison 4 at paragraph 39(e)…*
>
> 2. *… the Defendant shall make discovery of the following documents and/or categories of documents:*
>
> *(a) a copy of the sale agreement in respect of the sale of Sage's interest in the KESP Receivable to K-Power Holdings Limited and documents relating to such agreement that are relevant to the matters in question in the action;*
>
> *(b) the IGCF Document as described at paragraph 11(c) of Hutchison 4, namely, a full copy of the document which contains at the bottom of its pages "IGCF Page [and the relevant page number]".*

Should Mr McDonald be required to give the Defendant's evidence on its discovery process and swear the affidavit in response to the Further Discovery Summons?

The Plaintiffs' Application

21. The Further Discovery Summons stipulates at [1] that the further affidavit which it requires the Defendant to swear and file should be sworn and given by Mr McDonald, and the Plaintiffs argued in their Written Submissions that he was the only proper person to give the Defendant's evidence in connection with the discovery process and in response to the Plaintiffs' complaints as to the adequacy of that process. He was the director of the Defendant with the requisite personal knowledge. The relevant human agent able to speak to the Defendant's discovery was Mr McDonald, not Mr Keane. Mr Keane was able to speak to acts which he himself had performed and advice which he had given. But he could not properly speak to the universe of documents which he had not seen or to the repositories of documents (including devices) which had not been

interrogated by his firm. The requirement of GCR O.41, r.5 was that: "*An affidavit sworn by an attorney shall not be admissible in any cause or matter unless the attorney has direct personal knowledge of the facts and matters to which the attorney deposes…*"

The Defendant's position

22. The Defendant noted that in my Ruling dated 28 November 2025 (the ***CMC Ruling***) at [7(a)] I had ruled that it was appropriate and sufficient for the partner at the relevant law firm for the party required to give discovery to give evidence and swear the affidavit required to particularise and justify the discovery process. I had said as follows:

> *While…there is no requirement for evidence in relation to the discovery process to be given by the responsible partner in the Cayman Islands law firm on record in the proceedings, I would usually expect that partner to swear the relevant affidavit as the senior attorney with responsibility for overseeing the discovery process. The responsible attorney at the relevant firm, which I take to be the partner or lead partner dealing with the matter, has a duty to the court to ensure that as far as possible full and proper disclosure of all relevant documents is made. Where issues are reasonably raised about the conduct of discovery that partner should step-up and provide to the court a full and clear account of what has been done and explain not only that they are satisfied but why they are satisfied that the discovery exercise has been properly conducted. I take Mr Keane's Fourth Affidavit to be a good example of a reasonably detailed account of the discovery process.*

23. The Defendant said that its approach in arranging for Mr Keane to swear the affidavit dealing with the discovery process was consistent and in accordance with the approach that I had previously adopted and was unobjectionable. The Defendant noted that where the Court had found that there was a deficiency in respect of the explanations and confirmations in respect of the discovery process conducted by Plaintiffs in FSD 262 of 2023, the Court had decided in the CMC Ruling that the responsible partner of the law firm conducting the discovery process in those proceedings should be the deponent verifying that process, in particular describing the main steps taken on behalf of the Plaintiffs for the purposes of fulfilling the Plaintiffs' discovery obligations and confirming the attorneys' satisfaction that the process conducted was, and is, appropriate and sufficient having regard to the rules governing discovery.

My decision

24. The critical issue is what matters are being addressed in the relevant affidavit or affirmation. Keane 3 (see [8]) deals primarily with the conduct of the Defendant's discovery process which Mr Keane was closely involved with and for which, as an officer of the Court and the partner with day to day carriage of the litigation for the Defendant, he was responsible. Keane 3 also deals with the basis for the Defendant's privilege claim in respect of certain documents, a matter with which he was closely involved as the Defendant's legal adviser (see, for example, [29]) and with the Defendant's reasons for not discovering the documents identified in [2(a)] and [2(b)] of the Further Discovery Summons.

25. Mr Keane had confirmed his role in Keane 3. At [10] and [11] of Keane 3, Mr Keane said as follows:

> *10. By way of preliminary matter, as the Partner with day-to-day carriage of the SPV 21 Proceedings and in accordance with my duty to this Court as an officer of the Court, I was (and remain) responsible for ensuring that there is full and proper discovery by SPV 21 of all relevant documents, including in accordance with the discovery required pursuant to paragraphs 1 and 2 of the 18 December Order. I have overseen the discovery process conducted on behalf of SPV 21 to date for the SPV 21 Proceedings and I am satisfied that the discovery process conducted was reasonable and adequate. For completeness, I confirm that, while I had oversight of the discovery process as the responsible Partner, the day-to-day conduct of the discovery process was handled by Mr Niall Dodd, Counsel on my team, who continually consulted with me and kept me updated on the process, including copying me on all pertinent correspondence relating to the discovery exercise.*
>
> *11. Following the issuing of the Further Discovery Application on 25 May 2026, Dillon Eustace sent a letter to Walkers dated 28 May 2026 (the "28 May Letter") providing a detailed summary of the discovery process undertaken on behalf of SPV 21 (see letter exhibited at CK3/5-13). While Walkers stated in their subsequent letter dated 29 May 2026 that they would respond substantively to the 28 May Letter, they have not done so as at the time of swearing of this affidavit (see letter from Walkers at CK3/14-17). Accordingly, while I confirm the summary of the discovery process as confirmed in the 28 May Letter is accurate and I consider it to amount to sufficient confirmation of the process undertaken by SPV 21 in discharge of its discovery obligations, I set out again in this affidavit a summary of the discovery process undertaken, seeking to provide further detail to that contained in the 28 May Letter having now had proper opportunity to consider the Further Discovery Application.*

26. The Plaintiffs were therefore wrong in my view to criticise the Defendant for adducing and relying on the evidence of Mr Keane and to suggest that he did not have the requisite personal knowledge to justify him giving evidence. He had had responsibility for managing and overseeing the discovery exercise and this meant that he had sufficient personal knowledge to give the evidence required. Mr Keane clearly confirmed that the matters covered by Keane 3 were within his own personal knowledge at [2] of Keane 3.

27. Of course, this does not mean that Mr Keane is the proper deponent to deal with all issues raised by the Plaintiffs. To the extent that facts and matters beyond his personal knowledge need to be dealt with then Mr McDonald or another person with the relevant personal knowledge would need to give evidence.

The relief sought in [1(a)] of the Further Discovery Summons

The Plaintiffs' Application

28. The Plaintiffs seek an order that the Defendant swear and file a further affidavit describing "*all of the steps taken by and on behalf of the Defendant for the purpose of fulfilling the Defendant's obligation to give discovery of documents relating to the [New Sage Issue and the Category 10 Issue as clarified]*."

29. Mr Hutchison in Hutchison 4 expressed surprise and concerns about the relatively few documents that the Defendant had discovered and sought explanations from the Defendant to justify their discovery. The Plaintiffs argued that while Keane 3 purported to provide a complete answer to the Further Discovery Summons, it had failed to do so. Further details and explanations were required.

30. In their Written Submissions, the Plaintiffs identified the relevant deficiencies in Keane 3 as follows:

    (a). the date range filter applied was 10 October 2022 to 31 July 2023, whereas the relevant period for Category 10 was 10 October 2022 <u>to date</u> (see Keane 3 at [20] and the Discovery Protocol at category 10).

(b). there were inconsistencies between the 28 May DE Letter and Keane 3. For example the 28 May DE Letter stated that "*Prior to a first-level review, four 100-document sample batches were prepared in Relativity and distributed to Dillon Eustace and the Alvarez and Marsal case team for review*", which appears to have reduced the population of documents from 31,142 to 3,137. However, Keane 3 made no reference to that seemingly significant step.

(c). Keane 3 made no mention of any attempt by or on behalf of the Defendant to identify any data sources of Messages for the purposes of satisfying its discovery obligations, despite the fact that the Plaintiffs had first raised the issue of the Defendant having discovered no Messages on 16 October 2025. The Defendant had made no attempt to address the subject until the 18 June DE Letter, which had failed to provide a satisfactory explanation for what had taken place. The Defendant's first list dated 8 April 2025 had stated that it had previously had, but at the time did not have, in its possession custody or power the documents set out at Schedule 2. Schedule 2 included documents which were "*destroyed, lost or discarded or otherwise disposed of by SPV 21 and/or its agents prior to the commencement of the proceedings…*" The Plaintiffs said that this had made no reference to documents which had been destroyed after the commencement of the proceedings and that it was noteworthy that, on the basis of the 18 June DE Letter, at the times that Mr McDonald and Mr Skelton purportedly lost the relevant data (September 2024 and October 2023 respectively), proceedings were already on foot, hence any Messages lost on those dates did not fall within Schedule 2.

31. While the Further Discovery Summons did not limit the explanation sought or particularise the matters to be addressed by the Defendant in its further evidence, in their Written Submissions the Plaintiffs did identify and narrow their requirements. They said that they sought an order that the Defendant's further affidavit addressed the following matters:

(a). the Defendant should put into evidence the matters contained in the 18 June DE Letter. The letter was not sworn evidence, and significantly the assertions made in the letter regarding WhatsApp messages were not matters to which Mr Keane was

FSD2023-0237 2026-07-17

able to depose (they were matters in respect of which Mr McDonald was the appropriate deponent, having first-hand knowledge of them).

(b). the Defendant should explain the steps taken by it and on its behalf to preserve and search for Messages, and the dates on which those steps were taken. The summons seeks an affidavit which "*describes all of the steps taken by and on behalf of the Defendant for the purpose of fulfilling the Defendant's obligation to give discovery of documents relating to the following matters…*" Dillon Eustace's letter dated 18 June 2026 did not describe any such steps. It merely asserted that the Defendant did not have any relevant WhatsApp messages and the reasons why, which was not the same.

(c). the Defendant should provide a full and candid explanation as to why the Messages were not preserved, how it came to pass that Mr McDonald allowed relevant data to be destroyed, when the fact of such failure to preserve first came to the attention of Mr McDonald and Mr Skelton, and why this matter was not disclosed to the Plaintiffs or to the Court.

(d). the Defendant should also provide an explanation as to why no reference to these documents or what had happened to them was made in the Defendant's discovery lists.

(e). the Defendant should provide an explanation of the steps that were taken to discover the Side Letters, and if a decision was made not to discover the Side Letters, an explanation of the basis for that decision. Despite the Plaintiffs' numerous requests for an explanation as to why the Side Letters were not discovered, given their plain relevance to the issues in dispute, no such explanation had ever been given.

(f). in Keane 3 at [20], Mr Keane had said that a "*custodian filter*" was applied so as to include documents which Mr McDonald had sent or received, however it was unclear whether this custodian filter *excluded* documents which were not sent to or received by Mr McDonald. There was no support in any of the discovery orders, or on the pleadings, for a contention (if one is made) that only documents sent or received by Mr McDonald were relevant to the issues in dispute. Clarification was required from Mr McDonald of what was meant by this statement.

(g). the Defendant should clarify what was meant by the statement at [12] of the 28 May DE Letter that "*to the extent that Category 10 (as clarified) has led to further documents being discovered, those documents are in addition to those documents discovered in relation to Category 10 as originally formulated*" in circumstances where Category 10 (as clarified) had led to no further documents being discovered by the Defendants.

The Defendant's position

32. The Defendant argued that Keane 3 provides a reasonably detailed account of the discovery process undertaken to identify documents relevant to [1] and [2] of the 18 December Order and that there was no clear evidence that this process was deficient so that it would be disproportionate and unnecessary for further time and expense to be incurred in preparing and filing yet further sworn evidence by Mr McDonald further detailing and verifying the discovery process, particularly where the trial is now imminent and preparations are well underway for the hearing. The Defendant argued that insofar as the Plaintiffs contend that there are documents that they expected to receive which were not contained within the discovery made by the Defendant on 23 January 2026 in accordance with paragraphs [1] and [2] of the 18 December 2025 Order they would be able to cross-examine Mr McDonald on this issue at trial.

My decision

The date range filter for [1(b)].

33. The Plaintiffs are correct that the wrong date range filter was applied in relation to [1(b)]. [1(b)] was incorporated into Category 10 of Schedule 1 of the April Order by way of a variation to Category 10. The date range for Category 10 as set out in the Discovery Protocol is 10 October 2022 to date.

The relationship between the 28 May DE Letter and Keane 3

34. Mr Keane explained in [11] of Keane 3 the relationship between the 28 May DE Letter and Keane 3. Keane 3, while confirming what was said in the 28 May DE Letter, sought to update the account given in the letter and provide "*further details*" of the discovery process after having *"had a proper opportunity to consider the Further Discovery Application*." It seems to me that insofar as there are inconsistencies, what is said in Keane 3 should be treated as prevailing.

The adequacy of the Defendant's explanation of the reduction in the population of documents from 31,142 to 3,137

35. The Plaintiffs have highlighted and expressed a concern regarding the reason and justification for the reduction in the population of documents from 31,142 to 3,137 described by Mr Keane. This is a substantial reduction which requires a clear explanation. Mr Keane dealt with this at [20] and [21] of Keane 3 as follows (my underlining):

> *20. Following the processing and filtering of the documents collected, the universe of documents was reduced to 33,041 documents (or pre-email threading, 41,423). <u>Post email-threading including families, the population of documents was 31,142. Given the size of this universe of documents and the likelihood that a significant portion of those documents would not be relevant to the discrete matters in issue in the SPV 21 Proceedings, I considered it reasonable and adequate for the following further filtering to be applied in order to comply with paragraphs 1 and 2 of the 18 December Order</u>:*
>
> - *<u>A date range filter (sort date, parent date or primary date time) between 10 October 2022 and 31 July 2023 was applied</u>.*
> - *<u>a custodian filter was applied to include documents where Casey McDonald (cmcdonald@calderwood.ky) appeared as email to, email from, email cc, email bcc or alias recipient across all known email variants</u>.*
> - *All documents classified as board meeting minutes within the universe included.*
> - *All documents previously discovered pursuant to the discovery provided in April 2025 in the SPV 21 Proceedings excluded.*
>
> *21. <u>This further filtering reduced the universe of documents to 3,137 documents</u> …..*

36. Mr Keane is dealing with both [1] ((a) and (b)) and [2] of the 18 December Order:

(a). as I have already noted, the filtering out of documents after July 2023 insofar as they relate to Category 10 was unjustified.

(b). it is unclear to me how it was justifiable to limit the documents to those addressed to Mr McDonald and to remove all other documents for the purpose of identifying documents to be discovered in response to [1] and [2]. I can see that this was justifiable in relation to [1(b)] (which relates to any encouragement or instructions given by Mr Skelton to Mr McDonald) but not in respect of [1(a)] (which relates generally to whether Sage had and exercised control of SPV 21 and so could encompass communications and documents to which Mr McDonald was not a party).

The Messages

37. As regards the Plaintiffs' complaint regarding the alleged failure of Mr Keane to mention action taken to identify any data sources of Messages, and the circumstances surrounding the deletion of Messages, it seems to me that the position is adequately covered in the 18 June DE Letter. However, I agree that the Defendant should put the matters covered by this letter into evidence (and Mr Skelton should confirm his account of why Messages were deleted). Further, I agree that the Defendant should confirm that no documents (including Messages) were destroyed or deleted after the commencement of these proceedings.

The Side Letters

38. The reference to the Side Letters relates to what Mr Hutchison had described at [6] of Hutchison 4 as "*two side letters, both dated 14 October 2022, to the Sale and Purchase Agreement made between Abraaj Investment Management Limited (in Official Liquidation) ("**AIML**"), Mr Stuart Sybersma and Mr Paul Leggett in their capacity as the joint official liquidators of AIML ("**AIML JOLs**"), Sage Venture Group Limited ("**Sage**"), and AsiaPak Investments Limited ("**AsiaPak**"), dated 3 August 2022 (the*

*"**SPA**") (the "**Side Letters**")*." The Side Letters came into the possession of the Plaintiffs but had not been discovered by the Defendant.

39. The correspondence exhibited to Hutchison 4 makes it clear that the basis on which the Plaintiffs obtained, their entitlement to receive and the reliance to be placed on, the Side Letters are highly contentious issues.

40. In their letter to Dillon Eustace dated 16 October 2025, Walkers had said as follows (my underlining):

> *9. We have recently been provided with two side letters to the SPA, both made between the same parties and dated 14 October 2022, entitled respectively the "First Side Letter" and the "Second Side Letter" (together, the "Side Letters").*
>
> *10. The Side Letters both amend the SPA (see paragraphs 7 and 8 respectively), and are also both clearly relevant to the pleadings and Category 11 on that basis alone.*
>
> *11. In addition, the Second Side Letter details one aspect of Sage's control of SPV 21, as follows:*
>
> > *"the Seller [AIML] agrees to hold the sole voting share [in SPV 21] for the Buyer [Sage] as its nominee and to exercise any rights attaching to that share, and to generally deal with the sole voting share, in accordance with [Sage's] written instructions" (paragraph 4(iii)).*
>
> *13. It is incontrovertible that Sage's control of SPV 21 is at issue in the Proceedings, and that the Side Letters are relevant to that control. The Side Letters ought to have been discovered. Please explain why they were not.*
>
> *13. For clarity, the Side Letters have been read in open court, in both the Cayman Islands and in England. Accordingly, they are now considered to be in the public domain and our clients intend to rely on them in these proceedings.*

41. In their letter dated 21 October 2025, Dillon Eustace responded as follows:

> *We note your position, as set out in paragraph 12 of Your Letter. We are very troubled by the assertion that you have "recently been provided with two side letters to the SPA", as those are documents in respect of which all parties who are in possession of them – so far as we are aware – retain duties of confidentiality. You will (or ought to) be well aware that merely reading documents out in court does not have the effect of overriding the duties of confidentiality owed by holders of the relevant documents. We ask you therefore to state with precision who has*

given these documents to you, so that we may take appropriate action. We are aware that it must be one (or more) of Bedell Cristin, Steptoe International LLP or the Original Shareholders (in one of their corporate manifestations), but need to know precisely who has breached their confidentiality obligations so that appropriate action can be taken against them. All of our client's rights in relation to the discoverability of those documents are reserved.

42. In their further response on 26 October 2025, Walkers said this:

Disappointingly, Your Letter does not acknowledge that your client, itself, had a duty to disclose these documents to us as part of its discovery obligations. These documents plainly fall within the issues in dispute on the pleadings and are entirely relevant. Accordingly, please provide an explanation as to why your client did not discover these documents forthwith. Further, as you know, confidentiality is no basis on which to resist discovery, and we are unsure of what "rights in relation to the discoverability of those documents" your client purports to reserve. Please clarify. Finally, your client does not set out the alleged legal basis it claims to be owed "duties of confidentiality" in respect of these documents, or by whom. Again, please clarify.

43. In their letter dated 12 May 2026, Walkers returned to this issue and stated as follows:

7. We have considered the further discovery made by your client with reference to Appendix 1 of the Supplemental List of Documents. Your client's further discovery is manifestly deficient. Appendix 1 lists a mere 22 documents, which itself consists of a high level of duplication. In practical terms, your client has discovered a calendar invite and an email chain with two attachments.

8. While the small number of documents discovered by your client is indicative in and of itself that your client has not properly complied with its discovery obligations, having regard to the other issues referred to in this letter and in our previous correspondence, it is clear that the review and collation of documents by your client has been inadequate and proper discovery has not been made.

9. In particular, as we have already raised with you on numerous occasions, we are aware of the existence of documents which ought to have been discovered by you in April 2025, which were not discovered and no reason was provided for your failure to make discovery of them either as part of your client's initial or supplemental discovery.

10. In this regard, in our letter to you dated 16 October 2025 (the "October Letter") we stated that our client had recently received the Side Letters which were and are clearly relevant to the issues in dispute on the pleadings and ought to have been discovered by your client long ago. It should have been clear from our October Letter, as well as our client's subsequent letter dated 26 October 2025, skeleton argument in respect of the CMC hearing, oral

> *submissions at the CMC hearing, and January Letter, that these documents were relevant and must be discovered. More specifically, our January Letter explicitly called on your client to make discovery of certain documents relating to the Second Side Letter.*
>
> 11. *In addition, we note from the pleadings filed and judgment handed down in the English Proceedings that on 28 May 2024, Sage sold its interest in the KESP Receivable to K Power Holdings Limited ("KPHL"). It is not clear to us whether this sale included any sale, assignment or transfer of the sole voting interest in your client. Please confirm the position by return, and inform us whether your client has a copy of the sale agreement (and related documents) in its possession, custody or power. If it does, please explain (i) whether your firm has considered whether it should be discovered; and (ii) why it has not been discovered. To the extent this documentation is within your client's possession, custody or power (as we would expect), our clients require discovery of the documents.*
>
> 12. *The very fact that we have not received these documents, or any documents that really go to the heart of the New Sage Issue, in addition to not receiving any documents whatsoever relevant to Category 10 (as clarified), is clear evidence that your client is in breach of its obligations under the Further Discovery Order.*

The Defendant's position

44. As far as I can tell, this is not an issue that was directly addressed by Mr Keane in Keane 3 or in the Defendant's skeleton argument for the Further Discovery Application.

My decision

45. No doubt one of the main reasons why this issue was not addressed by the Defendant in its response to the Further Discovery Summons was that the summons did not seek relief in those terms.

46. This is one reason for declining to make an order in the terms sought by the Plaintiffs. But it seems to me that the issues raised by the Plaintiffs concerning the Side Letters are best dealt with in cross-examination at the trial.

Relief sought in [1(b)] of the Further Discovery Summons

47. The Plaintiffs also sought an order that the Defendant's further affidavit identifies the custodians searched, devices searched, gives a description of the search process and confirms whether WhatsApp, text messages and electronic messages were searched.

48. The Plaintiffs argued that Keane 3 had made no attempt to address the searching of devices issue raised in [1(b)]. Mr Keane had referred to email addresses and inboxes, and vaguely to "*databases*" (at [16]-[18]) but had not referred to a single device, or specify any of the details sought by [1(b)]. The Defendant should be required to provide proper particulars.

49. The Defendant argued that this further evidencing and probing of the technical and logistical parameters used by the Defendant for making discovery was unnecessary and unjustified. The Defendant said that it was relevant to note that the Plaintiffs' attorneys had previously declined the opportunity to agree a protocol governing the technical aspects of the parties' discovery and had provided no details of the technical and logistical parameters they had used for their own discovery. In circumstances where Keane 3 had provided details as to the processing and filtering of documents collected for discovery purposes and Mr Keane had confirmed his satisfaction with the reasonableness and adequacy of the processing and filtering applied, there was no proper basis for the Plaintiffs to be permitted to go behind Keane 3 to probe and scrutinise further the technical and logistical parameters implemented for the Defendant's discovery process.

50. In Keane 3, Mr Keane said as follows:

> *14. Thereafter, an extensive data collection exercise was undertaken in conjunction with the Tech Team to collect documents from custodians. In this regard, along with acting for SPV 21 in both the SPV 21 Proceedings and the Ashary Proceedings, Dillon Eustace also act for the fourth to eighth named Defendants in the Ashary Proceedings, each being directors of KES Power Limited ("KESP") nominated to the board by SPV 21. In the Ashary Proceedings, the fourth to eighth named Defendants are named custodians pursuant to the Discovery Protocol ordered in the Ashary Proceedings, along with Nicholas Schwarzmiller of Alvarez & Marsal ("A&M") who is the company secretary of KESP.*

> 15. *The fourth to eighth named Defendants are nominees of SPV 21 to the board of KESP and Mr Schwarzmiller is the company secretary of KESP, and it is accepted that documents received and / or generated in that capacity were in the power of SPV 21. Their email inboxes were reviewed by Dillon Eustace for relevance in the SPV 21 Proceedings.*
>
> ……..
>
> 18. *I confirm that, for the purposes of the discovery exercise required pursuant to paragraphs 1 and 2 of the 18 December Order, the initial universe of documents (before any filtering or processing) comprised a total of 24,921 documents collected from Mr McDonald's inbox and an additional 99 documents collected from other data bases identified and provided by Mr McDonald as potentially containing relevant material. Further, as regards the documents collected from other custodians in the Ashary Proceedings to be discovered as per paragraph 14 above, a total of 820,676 documents collected from the custodians' inboxes, with 65 documents collected from other databases. Therefore, the total universe before any filtering comprised 845,761.*

51. I accept the Defendant's submissions on this issue. While Mr Keane's explanation could in some respects have been more detailed, in particular, his reference to "*an additional 99 documents collected from other databases identified and provided by Mr McDonald*" fails to identify what those databases were and who held them. However, Mr Keane's account is reasonably detailed and it seems clear that Mr Keane confirmed that a substantial majority of the documents were collected from Mr McDonald, the Fourth to Eighth Defendants and Mr Schwarzmiller. It seems to me that it is not necessary and would be disproportionate to require at this stage in the proceedings that the Defendant give the further details required in [1(b)] of the Further Discovery Summons.

Relief sought in [1(c)] of the Further Discovery Summons

52. [1(c)] of the Further Discovery Summons seeks an order that the Defendant provides further information relating to the number of non-privileged documents searched.

53. The Plaintiffs complain that Keane 3 fails to provide sufficient particulars relating to the number of non-privileged documents searched in respect of the New Sage Issue and the Category 10 Issues (as clarified).

54. Once again, the Defendant argues that Keane 3 provides an adequate explanation of the searches conducted by the Defendant. I agree.

Relief sought in [1(d)] of the Further Discovery Summons

55. [1(d)] of the Further Discovery Summons seeks an order that the Defendant provides further details of the Defendant's claims for privilege in respect of five categories of documents which had been identified and referred to in Hutchison 4.

56. The Defendant submitted that Keane 3 had set out in detail the process and approach adopted in respect of the Privileged Documents, in particular explaining and confirming the basis and form of privilege asserted over the Privileged Documents and to whom the privilege belongs. The Defendant argued that Mr Keane's evidence plainly established that there is "*an objectively ascertainable credible basis for the privilege which is claimed*" and are sufficiently particularised to enable an inquiry as to the merits of the privilege claims and therefore there was no justification for the Court to order that a further affidavit be sworn, particularly by Mr McDonald, providing further particulars in relation to the Defendant's claim of privilege over the Privileged Documents.

57. I agree and accept the Defendant's submissions on this issue.

The relief sought in [2(a) and (b)] of the Further Discovery Summons

The documents sought

58. In [2(a)] and [2(b)] of the Further Discovery Summons, the Plaintiffs sought an order that Mr McDonald make discovery of the following documents and/or categories of documents:

> *(a) a copy of the sale agreement in respect of the sale of Sage's interest in the KESP Receivable to K-Power Holdings Limited and documents relating to such agreement that are relevant to the matters in question in the action;*

(b) *the IGCF Document as described at paragraph 11(c) of Hutchison 4, namely, a full copy of the document which contains at the bottom of its pages "IGCF Page [and the relevant page number]."*

The sale agreement and related documents

59. The Plaintiffs argued that the Defendant was wrong to assert that the documents sought by [2(a)] were not relevant. First, they were covered by (a) category 8 of the Discovery Protocol which required the Defendant to discover: "*All documents ... exchanged between the Defendant and/or its director and/or Casey McDonald and/or Mark Skelton and/or Sage and/or AsiaPak and/or KESP Directors regarding the KESP Receivable…*" and (b) category 10 of the Discovery Protocol, which required the Defendant to discover: "*All documents ... relating to any arrangements and/or agreements between Casey McDonald and/or Mark Skelton and/or Sage and/or AsiaPak and/or between any of the directors appointed to the Board by SPV 21 in relation to ... the English Claim and/or the KESP Receivable.*" The relevant period for Category 8 was 11 September 2019 to date, and for Category 10 was 10 October 2022 to date, so that, the Plaintiffs argued, it was immaterial that the sale occurred in May 2024 (Mr Keane in Keane 3 at [36] had suggested that the fact that the sale agreement was entered into a long time after the events which were the subject of the dispute in the underlying proceedings meant that it was not relevant to the issues in dispute). The Plaintiffs argued that it was not credible, and that the Defendant had not clearly stated that none of Mr McDonald or any of SPV 21's nominee directors to the KESP board had ever received from each other or any representative of Sage or AsiaPak a copy of the sale agreement or any documents relating to it, and the Defendant must disclose any such documents.

60. The Defendant argued that that Plaintiffs had failed to establish that the documents sought in [2(a)] were in the Defendant's possession, custody or power, why and how they related and were relevant to one or more matters in dispute in the proceedings or why their discovery was required for the fair determination of the issues raised by the pleadings. The Defendant submitted that it was clear that the 2024 Sage/KPH Transaction Documents were not relevant to the matters in dispute in the proceedings and were certainly not required for the fair determination of the matters in dispute. The dispute in the present proceedings was whether KP Corporate Director had been validly removed as a director of KESP on 18 June 2023. As had been noted in judgment of Lord Justice

Foxton delivered on 16 January 2026 in the proceedings in England ([2026] EWHC 65 (Comm)), the 2024 Sage/KPH Transaction had occurred on 28 May 2024, just under a year after KP Corporate Director was removed as a director of KESP. The Defendant argued that the sale agreement and documents related to it could therefore have no conceivable relevance to an action taken a year previously.

61. I agree with the Defendant that the Plaintiffs have not established that an agreement documenting the terms on which Sage sold its interest in the KESP Receivable nearly one year after the date on which KP Corporate Director was removed as a director of KESP is likely to be relevant to a dispute as to whether such removal was undertaken for a proper purpose and validly made. It is possible that it could contain recitals or terms which related to or shone a light on the reasons for the decision to remove KP Corporate Director but a mere possibility is insufficient.

62. Nor do I consider that the sale agreement (and related documents) fall within category 8 or category 10 of the Discovery Protocol.

63. Category 8 relates to:

> *All documents, including communications, exchanged between the Defendant and/or its director and/or Casey McDonald and/or Mark Skelton and/or Sage and/or AsiaPak and/or KESP Directors regarding the KESP Receivable including:*
>
> *(i) KESP's alleged acknowledgment of the KESP Receivable;*
>
> *(ii) documents evidencing that it was in the best interests of KESP to pay the KESP Receivable;*
>
> *(iii) documents evidencing there allegedly being no good defence to the English Claim, including any memorandum, note of advice of other communication which contains, refers to and/or relates to legal advice as to the merits of the English Claim.*

64. This covers documents and communications exchanged between the Defendant and its director on the one hand and third parties on the other regarding the KESP Receivable itself and KESP's liability thereunder and not documents and communications relating to the sale of an interest in the KESP Receivable.

65. Category 10 covers:

> *All documents, including correspondence by email and text, and call notes, relating to any arrangements and/or agreements between Casey McDonald and/or Mark Skelton and/or Sage and/or AsiaPak and/or between any of the directors appointed to the Board by SPV 21 in relation to the agenda of the 12 June and/or 19 June meetings, the voting arrangements at such meetings, the removal of KP Corporate Director, the English Claim and/or the KESP Receivable.*

66. This category relates to documents and communications relating to agreements or arrangements with the Defendant (by way of Mr McDonald or Mr Skelton and Mr McDonald) relating to the liability under and payment of the KESP Receivable. These issues are relevant because they go to the question of whether there was a proper basis for taking action to resist and defend the proceedings against KESP for judgment in respect of the sums alleged to be due and owing under the KESP Receivable. I do not consider that the Plaintiffs have shown that an agreement for the sale of an interest in the KESP Receivable is covered by this wording.

The IGCF Document

67. As regards the IGCF Document sought by [2(b)] of the Further Discovery Summons, the Plaintiffs noted that in Keane 3 at [37] Mr Keane had confirmed that the document did not exist. Mr Keane had said as follows:

> *In relation to the document Mr Hutchison describes as the 'IGCF Document' at paragraph 11(c) of Hutchison 4, I confirm that no such composite document has been identified from a search of the Relativity Workspace and Mr McDonald has confirmed that no such document exists. Rather, Mr McDonald has confirmed that he uses Microsoft OneNote for the purposes of calls relating to his roles as directors of the GP and SPY 21, with a separate tab for all related matters. In this regard, Mr. McDonald exported the entire IGCF workbook and, as part of that export process, Microsoft OneNote automatically put an 'IGCF' footer stamp and page number on to the entire exported workbook. This includes blank pages which Mr McDonald may open at the start of a call, to which he subsequently does not add any text or call notes that have not been discovered for privilege (for example). Mr McDonald has confirmed that all of the Microsoft OneNote documents / call records were provided to the Tech Team for the purposes of the document collection exercise for the SPV 21 Proceedings*

68. The Plaintiffs argued that regardless of whether Mr Keane's explanation was accepted, he was not the appropriate deponent for that evidence. Mr McDonald was and the Plaintiffs sought an order that Mr McDonald address this matter in an affidavit.

69. It is clear from [37] of Keane 3 that Mr Keane is doing two things. First, he is confirming that the result of his and his firm's discovery process has been that no such document exists. He is clearly the proper person to give that evidence. Secondly, he is reporting what he has been told by Mr McDonald. I accept that it would be preferable for McDonald's account to have been given by him in his own affidavit but he can be cross-examined at trial on this issue and there is no need to require Mr McDonald to swear and file a further affidavit in advance of the trial which is due to start very shortly.

The relief to be granted

70. I have decided that:

(a). the Defendant should put in evidence the matters dealt with in the 18 June DE Letter. This should be done by 4pm on 20 July.

(b). Mr Skelton should confirm his account of why Messages were deleted. This should also be done by 4pm on 20 July.

(c). the Defendant should confirm that no documents (including Messages) were destroyed or deleted after the commencement of these proceedings. This should also be done by 4pm on 20 July.

(d). the Defendant's filtering out of documents after July 2023 insofar as they relate to the Category 10 Issue (as clarified) was unjustified – it seems to me that the Defendant should complete the review of the missing and additional documents and discover any further relevant documents located as a result of this further review. It should do so by 4pm Cayman time on 20 July.

(e). the Defendant's filtering of documents for the purpose of its search in respect of the New Sage Issue (relating generally to whether Sage had and exercised control

FSD2023-0237 2026-07-17

of SPV 21 so as to require or cause SPV 21 or its director to remove KP Corporate Director Ltd as a director of KESP) so as to limit documents searched for to communications and documents to which Mr McDonald was a party was unjustified and the search should be re-run without such a limit or filter and the Defendant should discover any further relevant documents by 4pm on 20 July (I am content for the Defendant to agree with the Plaintiffs an alternative filter if appropriate so as to expedite and limit the time involved in conducting this further search so that it can be completed by 4pm on 20 July).

71. I have indicated that these steps should be completed by 4pm on 20 July but appreciate that the Defendant has not had an opportunity to make submissions as to whether it is realistically able to comply with this deadline in relation to all or each of the required steps. I am therefore prepared to hear submissions from the Defendant on timing and practicalities and would encourage the Plaintiffs and Defendant to discuss the position and to seek to agree appropriate arrangements and a suitable and reasonable timetable.

The Hon. Justice Segal
Judge of the Grand Court, Cayman Islands
17 July 2026