

**THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA**

IN THE HIGH COURT OF JUSTICE

**CLAIM NO.: ANUHCV2022/0036
BETWEEN:**

MEHUL CHOKSI

Claimant/Applicant

And

**ATTORNEY GENERAL OF ANTIGUA AND BARBUDA
COMMISSIONER OF POLICE**

Defendant/Respondents

Appearances:

Mr. Edward Fitzgerald KC with Ms. Cheryl Lee Bolton for the Claimant
Mrs. Carla Brookes-Harris for the Defendants

2026: 16th April;
21st May.

**RULING
(Admissibility of Further Affidavit Evidence)**

- [1] **WILLIAMS, J.:** The Claimant, Mehul Choksi, is a businessman from India. He obtained citizenship by investment from Antigua and Barbuda and also resided in the jurisdiction for some time. The Claimant is wanted by the Indian authorities in connection with several offences. According to his counsel, the Claimant is now in custody in Belgium where extradition proceedings are ongoing. The Defendants are the Attorney General of Antigua and Barbuda and the Commissioner of Police respectively.
- [2] The Claimant asserts that around 23rd May 2020, he was abducted from Jolly Harbour in Antigua and transported by boat to the Commonwealth of Dominica.

By Amended Fixed Date Claim, he seeks constitutional redress from the government of Antigua and Barbuda. He argues that pursuant to **sections 3 and 7** of the **Constitution of Antigua and Barbuda**, the Defendants have an implied positive obligation to effectively investigate his abduction.

[3] This ruling concerns the Claimant's intention to rely on the affidavits of Oliver Laurence, Cedric Williams, Rohan Gittens and Jomokie Phillips. The relevant filings indicate that Oliver Laurence's affidavit was filed on 24th June 2024, with the notice of intention to rely on it filed on 15th August 2024. Cedric Williams' affidavit and a notice to rely on it were filed on 5th November 2024 whilst Mr. Gittens' affidavit and notice were filed on 6th November 2024. Finally, Mr. Phillips' affidavit and notice were filed on 8th January 2025. The Defendants did not raise any objections to these affidavits until a hearing of this matter, which took place on 19th November 2025.

[4] The Claimant seeks to rely on these affidavits as evidence going primarily to the issue of whether there has been an effective investigation into his alleged kidnapping and removal from Antigua and Barbuda. His case is that these affidavits are relevant not merely to the underlying events, but also as to whether the investigation was impeded or discontinued. The affidavits will now be briefly examined.

Affidavit of Rohan Gittens

[5] Rohan Gittens describes himself in his affidavit as a former sergeant of the Antigua and Barbuda Police Force with some twenty-five (25) years' service. He gives evidence as a member of the police team charged with investigating the Claimant's disappearance. His affidavit recounts the inquiries he says were undertaken, the suspicions formed by the investigators, the further lines of inquiry thought necessary, including overseas inquiries and his account that the investigative effort was later curtailed.

Affidavit of Cedric Williams

- [6] In his affidavit, Mr. Williams describes himself as a corporal in the Antigua and Barbuda Police Force with over twenty-nine (29) years' service, stationed at Johnson's Point Police Station. He also gives evidence as an officer involved in the investigation of the Claimant's apparent abduction. His affidavit recounts information said to have been gathered by the investigators, including material linking identified persons to the events under inquiry and the investigators' view that the Claimant had been kidnapped. He also alleges that further investigative steps, including overseas inquiries, were not authorised and that the investigation was brought to a halt.

Affidavit of Oliver Laurence

- [7] Oliver Laurence in his affidavit states that he is a London-based investigator with prior service in the South Australia Police and the Australian Department of Immigration and Border Protection. According to him, he was retained by the Claimant in August 2021 to investigate the circumstances of the alleged kidnapping. His affidavit explains the steps he took in that investigation and exhibits statements obtained from persons connected to the events and to the official inquiry, including Rohan Gittens, Cedric Williams, John Carbon and Orel Grigg. His evidence is directed to the provenance and collection of that witness material.

Affidavit of Jomokie Phillips

- [8] Attorney-at-Law Jomokie Phillips gives evidence as the maker of a note of a meeting with Inspector Henry held on 16th March 2023. His affidavit records what he says was stated at that meeting, including that Inspector Henry had regarded the matter as frustrating and indicated that decisions as to how far the investigation would proceed were being taken at a higher level.
- [9] The Defendants' objection to the admissibility of these affidavits may be summarized on the following grounds namely:

1. Delay;

2. Non-Compliance with **CPR 56.3(3)** and **CPR 56.9(2)(e)(i)**;
3. The affidavits contain inadmissible hearsay and opinion evidence.

[10] The issues of delay and non-compliance with **CPR 56.3(3)** can be shortly dealt with together. **CPR 56.3(1)** provides as follows:

“(1) An application for an administrative order must be made by a fixed date claim in Form 2 identifying whether the application is for -
(a) a declaration;
(b) judicial review;
(c) relief under the relevant Constitution; or
(d) some other administrative order (naming it),
and must state the grounds and nature of any relief sought.”

[11] Rule 56.3(3) states as follows:

“(3) The claimant must file with the claim form evidence on affidavit.”

[12] The Defendants point out that the Claimant had complied with CPR 56.3(3) when the claim was initially filed in that the Fixed Date Claim Form was accompanied by an affidavit in support. However, in order to rely on further affidavit evidence, the Claimant was required to obtain the leave of the court. Therefore, the notices of intention to rely on the said affidavits are insufficient. They further submit that there is no excuse for not making the necessary application as the Claimant was in possession of the affidavits since at least 2023 when they were exhibited to the expert report of Sir Ken Jones which was filed on 6th December 2023.

[13] **CPR 56.9(1)** provides:

“(1) At the first hearing the judge must give any directions that may be required to ensure the expeditious and just trial of the claim and the provisions of Parts 25 to 27 of these Rules apply.”

[14] Further **CPR 56.9(2)(e)(i)** expressly gives the court at the first hearing the power to make orders for witness statements or affidavits to be served. Thus, the Defendants are correct in stating that the Claimant should have obtained the leave of court to file the further affidavits which he now seeks to rely upon. There is no provision in Part 56 which permits the Claimant to simply file a notice of

intention to rely on the affidavits as has occurred. Thus, the Claimant has not complied with **CPR 56.9(2) (e) (i)** in this regard.

- [15] However, it should be noted that there is no specified consequence for failure to comply with **CPR 56.9(2)(e)(i)**. Thus, the court has a discretion pursuant to **CPR 26.9(3)** to put matters right. **CPR 26.9(4)** further provides that such an order may be made even without an application by any party. The issue is therefore whether the Court should make such an order in this case?

Procedural History

- [16] It is necessary to have regard to the procedural history of this matter. This claim was filed in February 2022. In April 2022 the Defendants filed an application to strike out the claim. The parties agree that no case management directions were issued at the first hearing of this claim on 13th April 2022 due to the pending application to strike out. Justice Robertson dismissed that application on 3rd March 2023 and ordered the Defendants to file an affidavit in response to the claim. This affidavit in response sworn to by Inspector Adonis Henry was filed on 9th November 2023.
- [17] Thereafter, the Court dealt with various applications including an application to appoint Sir Ken Jones as an expert witness, an application to rely on the fourth affidavit of the Claimant and an application for specific disclosure. After a delay, these applications were dealt with on 19th November 2025.
- [18] At the conclusion of the hearing of 19th November 2025 counsel for the Defendants objected to the affidavits which are the subject of this decision. Counsel for the Claimants submitted that the notices to rely on said affidavits was sufficient and that in any event the court could regularize the filings. The parties were therefore ordered to file submissions on this issue and the matter was adjourned for further hearing.

Discussion

- [19] The relevant principles to be applied are set out in the cases of **Carleen Pemberton v. Mark Brantley**¹ and **John Cecil Rose v. Anne Marie Uralis Rose**.² Therefore the court will consider the present matter by reference to the familiar factors of the length of the delay, the explanation advanced for it, the prejudice to the parties, and the relevance of the proposed evidence.
- [20] Firstly, as to the length of the delay, an application to deem the affidavits properly filed should have been filed by at least February 2025 shortly after the affidavit of Jomokie Phillips was filed in January 2025. Therefore, the oral application made on 19th November 2025 to deem the affidavits properly filed was several months late.
- [21] The explanation for the delay is not entirely satisfactory, because the obligation to seek appropriate directions rested on the Claimant and did not depend on whether the Defendants objected. However, the context is material. The affidavits and notices were filed for a considerable period before the objection was taken. The Defendants did not object when the affidavits were filed, nor did they apply promptly to strike them out. In the circumstances, while the Claimant ought to have regularised the position earlier, the delay is not of a character which should, without more, preclude the Court from putting the matter right.
- [22] In terms of prejudice, I am not satisfied that the late filing of these affidavits would unduly disrupt the case management timetable in this matter. Although this matter has been plagued by delay, no trial date has been set. In fact, further directions are necessary to progress the claim to trial. Finally, any prejudice to the Defendants can be mitigated by permitting them to file additional evidence or to cross-examine the affiants if they so desire.

¹ SKBHCVP2011/0009 (delivered 14th October 2011, unreported)

² SLUHCAP2011/0013 (delivered 22nd September 2003, unreported)

[23] I do not consider it appropriate at this stage to assess the likelihood of the Claimant's ultimate success. The relevant question is narrower. The proposed affidavits are directed to the pleaded issue of whether the State discharged any obligation to conduct an effective investigation into the alleged abduction. To the extent that the affidavits address what investigative steps were taken, what further steps were considered necessary and whether those steps were curtailed or not authorised, the evidence is plainly relevant. Its weight will be a matter for trial.

[24] Therefore, the appropriate order would be to deem the affidavits of Cedric Williams, Rohan Gittens, Oliver Laurence and Jomokie Phillips properly filed. However, this is subject to the Defendants' objections that portions of these affidavits contain inadmissible hearsay and opinion evidence. These objections will now be considered.

Hearsay and Opinion Evidence

[25] The starting point is **CPR 30.3(1)** which provides as follows:

“(1) The general rule is that an affidavit may contain only such facts as the deponent is able to prove from his or her own knowledge.”

[26] **Rule 30.3(2)** provides that affidavits may contain information based on knowledge and belief if the Rules so allow and in applications for summary judgment or other interlocutory applications. In this case, it is clear, that the Claimant wishes to use these affidavits to support his substantive claim, thus **Rule 30.3(2)** does not apply.

[27] This leads to the Defendants' contention that the affidavit evidence upon which the Claimant seeks to rely is replete with hearsay. In **Vinghoedt v. Stanford International Bank** Periera CJ outlined as follows:

“It is common ground between the parties that the common law rule against the admissibility of hearsay evidence subject to known exceptions represents the state of the law in Antigua and Barbuda.

This is unlike the UK where the common law rule has been statutorily modified by the Civil Evidence Act 1995 of the UK which permits the admission of hearsay evidence in civil proceedings once certain procedures are followed.”³

[28] In a ruling made earlier in these proceedings Justice Robertson described hearsay as follows:

“Hearsay evidence in its legal sense is evidence given by a testifying witness of a statement made on some other occasion, when it is intended as evidence of the truth of which was asserted.”⁴

[29] It is also necessary to mention the principle outlined in the well-known case of Subramanian v. **The Public Prosecutor**⁵ where Lord Radcliffe stated as follows:

“In ruling out peremptorily the evidence of conversation between the terrorists and the appellant the trial judge was in error. Evidence of a statement made to a witness by a person who is not himself called as a witness may or may not be hearsay. It is hearsay and inadmissible when the object of the evidence is to establish the truth of what is contained in the statement. It is not hearsay and is admissible when it is proposed to establish by the evidence, not the truth of the statement, but the fact that it was made. The fact that the statement was made, quite apart from its truth, is frequently relevant in considering the mental state and conduct thereafter of the witness or of some other person in whose presence the statement was made.”⁶ (my emphasis)

[30] Thus, in the present case where the Court admits statements made to an investigating officer, such evidence is not being admitted as proof of the truth of the matters asserted by the third party. Thus, the Court will not treat this evidence as proof of the underlying facts unless those facts are otherwise established by admissible evidence.

³ ANUHCVP2014/0030 Judgment Dated January, 26th 2015 para.5 (unreported)

⁴ ANUHCVP2022/0036 Judgment Dated March 3rd, 2023 para. 29 (unreported)

⁵ [1956] 1 WLR 965

⁶ [1956] 1 WLR 965, 970

[31] In **Delcine Thomas v. Victor Wilkins**, the court's power to strike out affidavits on grounds of hearsay was considered. Blenman J giving the judgment stated as follows:

"The Court is therefore empowered to strike out any matter in an affidavit which may be scandalous, irrelevant or otherwise oppressive. The primary test of whether a matter is scandalous is whether it is relevant to an issue raised. The test of relevance in this context is admissibility in evidence. The sole question is whether the matter alleged to be scandalous would be admissible in evidence to show the truth of any allegation."⁷

[32] In that case the court struck out paragraphs of an affidavit which were found to contain inadmissible hearsay. This court will therefore adopt the same approach by striking out the relevant paragraphs of the affidavits where the Defendants' objections are warranted.

Opinion Evidence

[33] It is also necessary to mention the Defendant's complaint that some of the affidavits also contain inadmissible opinion evidence. In **Phillip Abbot v. Aziz Hadeed** Carrington JA giving the judgment of the Court of Appeal stated as follows:

"The common law drew a distinction between evidence of fact and evidence of opinion. I agree with the statement made by the authors of Phipson on Evidence at paragraph 37-01 that at common law, subject to certain exceptions opinion evidence is inadmissible as proof of material facts. The well-known exception is that the courts will accept the evidence of expert opinion, i.e. opinions that are the result of competence acquired by specialized study or experience."⁸

[34] Thus, any opinion evidence contained in the affidavits would generally be inadmissible as the Claimant has not sought permission to call these persons as expert witnesses pursuant to **CPR 32.6(1)**. The proposed evidence would also

⁷ ANUHCv2007/0530 Judgment Dated December 18th, 2008 at paragraph 34 (unreported)

⁸ ANUHCv2010/0041 (decided January 28, 2013 unreported) at paragraph 28 (unreported)

run afoul of **CPR 32.6(4)** in that it is not contained in a report. However, by virtue of CPR 32.1(2) such persons with expertise who are giving evidence as witnesses of fact fall outside the realm of Part 32.

[35] **Blackstone's Civil Practice** provides guidance on this issue as follows:

“As a matter of practice, witnesses who are qualified to be experts are frequently called as witnesses of fact where they were personally involved in the matters relating to litigation. As factual witnesses, they are not subject to CPR, Part 35, and there is no requirement that permission be sought. It is both inevitable and appropriate that a witness who happens to be a professional will give advice of his actions based on his professional experience and expertise, because no professional person can explain or justify his actions and decisions save by reference to his training and experience. (*ES v. Chesterfield and Derbyshire Royal Hospital NHS Trust* [2003] EWCA Civ 1284, [2004] Lloyd's Rep. Med 90 at [31]). It would be intolerable if an architect suing for his fees had to adduce independent expert evidence as to what those fees should be. A professional person is permitted to give evidence on his own conduct by reference to the professional literature reasonably available to him as a busy practitioner or by reference to his own professional experience. He may also rebut allegations made against him by the other side's expert as one professional person against another. (*DN v. Greenwich London Borough Council* [2004] EWCA Civ 1659, [2005] LGR 597 at [25]). The limit is that expressions of opinion from such a witness must be reasonably related to facts within his own knowledge. *Multiplex Constructions (UK) Ltd. v Cleveland Bridge UK Ltd.* [2008] EWHC 2220 (TCC) The lack of independence goes to weight rather than admissibility.⁹

⁹ Blackstones Civil Practice 2020 ed.- Paragraph 54.8

[36] In this case some of the witnesses as experienced police officers involved in the investigation would be entitled to express an opinion on facts within their own knowledge. However, where the witnesses attempt to give opinion evidence generally the relevant paragraphs of their affidavit evidence will be struck out as inadmissible opinion evidence. The distinction is important. A police officer may give evidence of the investigative steps he took based on the information he received. This is factual evidence informed by professional experience.

[37] In this case the Defendants have objected to paragraphs 11, 12, 13, 78, 79, 110 to 114 and 127 to 128 of the affidavit of Cedric Williams, and to paragraph 31 and paragraphs 35 to 38 of the affidavit of Rohan Gittens. The court will therefore examine the impugned paragraphs to ascertain whether these objections are warranted. For ease of reference, the objections both as to hearsay and opinion evidence will be considered together.

Specific Objections
Cedric Williams

[38] Paragraphs 11 to 13 of the affidavit of Cedric Williams read as follows:

“11. Furthermore, it is my view that this kidnap was carried out as a direct result of the Indian government wanting to avoid lengthy extradition proceedings against Mr. Choksi for allegations against him in India.

12. This theory is supported from conversations I have had with Antiguan government officials who were approached directly by the Indian government and informed of this plan to carry out this action against Mr. Choksi, an Antiguan citizen since 2017/18 when he obtained it via the citizenship by investment program (CIP).

13. This investigation will not in my view result in the arrest or questioning of any suspects, because of the close links and knowledge of significant figures within Antigua, India and Dominica. Our Commissioner of Police, Mr. Atlee Rodney, continues to tell the media and others that investigation is still underway, however, it has been stopped with no further funding being provided for the investigations team to visit several other locations to gather further evidence into this matter.”

- [39] The Claimant submits that the above paragraphs are admissible on the basis that Cedric Williams was a police officer for over thirty-one (31) years and was part of the team investigating Mr Choksi's kidnap. On that basis the Claimant argues that the witness has the relevant professional experience to provide an informed and admissible opinion as to the investigation that took place. It is also submitted that the Court is not being invited to rely on Williams' evidence to conclude that he was in fact kidnapped, that the government of India was behind the kidnap, or that the government of Antigua was aware of or acquiesced in it. Rather, the evidence is relevant to whether there was sufficient evidence to engage the duty to investigate, and to whether there has been an effective investigation.
- [40] I reject this submission in its entirety. Mr. Williams' theory as to the Indian government's involvement in the Claimant's abduction is based on alleged conversations with unnamed Antiguan government officials. The details of these alleged conversations are not disclosed. Thus, his theory does not appear to be supported by his direct knowledge as he does not disclose exactly what information led him to that conclusion.
- [41] Similarly, at paragraph 13 of his affidavit, Mr. Williams states that the investigations will not result in the arrest or questioning of any suspects due to the close links and knowledge of persons in Antigua, India and Dominica. The witness does not outline what direct observations led him to believe that these "close links" exist. Thus, paragraphs 11 to 13 of the affidavit must be struck out as containing inadmissible statements of opinion.
- [42] Paragraphs 78 and 79 of Mr. Williams' affidavit relate to an alleged conversation Williams had with a person called Kem Linn Charles who worked at the Coco Bay Hotel. The paragraphs read as follows:

“78. Kem showed me a picture of this male person which she had obtained from the I.D he had provided her, it was a picture of this male's St Kitts diplomatic passport. I now knew this male person to be Gurdip Bath, a St Kitts diplomat as indicated on the passport, a photo image was on this document of this male person.

79. Kem didn't want to provide a statement in relation to this intelligence she was providing as she had concerns with the hotel confidentiality process. She sent me the image she took via WhatsApp and the following day I briefed Inspector Henry on what I had been told, I also told him that I felt that this was a significant development and that I felt that Bath should be investigated further.”

[43] The first sentences of paragraphs 78 and 79 contain statements made by Kem Charles to Mr Williams. They are not admissible as proof that the person in question was in fact Gurdip Bath, or that the passport or identification document was genuine. They are admissible only for the limited non-hearsay purpose of explaining the information received by Mr Williams, the investigative steps which followed and why he briefed Inspector Henry. The weight and use of that evidence must be confined accordingly.

[44] Paragraphs 110 to 114 of Mr. Williams' affidavit recounts a conversation between Inspector Henry and a Customs official. To the extent that the evidence is relied on to prove the truth of any assertion made by the Customs official, it would be hearsay unless otherwise proved by admissible evidence. However, the paragraphs are admissible for the limited purpose of showing what information came to the attention of the investigating officers and what investigative steps, if any, followed. I therefore do not strike out paragraphs 110 to 114, but their use at trial must be confined to that limited purpose unless the underlying facts are otherwise proved by otherwise admissible evidence.¹⁰

[45] Paragraph 127 of Mr. Williams' affidavit states as follows:

“127. Rohan continued to help Inspector Henry and I write the reports to the Commissioner of police based on all the information we were obtaining. To my knowledge the last report written by Gittens and I

¹⁰ See *Subramanian v. DPP* [1956] 1 WLR 965, 970

outlined a number of recommendations, from investigations needed in St Lucia, Dominica, the UK and other places, however, to this date approvals have been denied.

[46] It is difficult to see how the above can be considered either hearsay or opinion evidence. Mr. Williams is giving direct evidence as to Constable Rohan Gittens' involvement in the investigation as well as testimony that approval to obtain evidence from abroad to further the investigation was denied. This is clearly direct evidence which can be tested at trial.

[47] Paragraph 128 of Corporal Williams' affidavit reads as follows:

"Some days after this conversation I was without notice removed from the Choksi investigation, I thought it was because of a legitimate transfer to another station, however, I came to find out through a friend at headquarters it was because it was thought by the Commissioner of Police and his deputies that I was too close to Mrs. Choksi and her family in this matter and possibly telling her too much information on our thoughts as to what had occurred."

[48] The part of paragraph 128 which reads "Some days after this conversation I was without notice removed from the Choksi investigation..." is direct evidence. The remainder of the paragraph, however, is inadmissible hearsay. This is as the statement purports to prove the reason for removal namely that the witness was thought to be too close to the Claimant's family. Therefore, the remainder of paragraph 128 after the word "investigation" is struck out.

Rohan Gittens

[49] The Defendants take issue with paragraphs 31 and 35 to 38 of Rohan Gittens' affidavit. Paragraph 31 of his affidavit reads as follows:

"The conclusion of the latest report that I compiled clearly stated our shared opinion along with several requests for assistance from the hierarchy of the regarding persons of interest mentioned in the report. The report also outlined the need to investigate further outside of Antigua so as to bring the matter to a satisfactory conclusion as it was strongly thought this matter had been planned by this group in the UK, as all had some connection with this part of the world, and then ultimately executed this plan on Antigua soil."

[50] The paragraph is merely repeating the conclusions of an investigative report which has already been disclosed in these proceedings. That report itself was based on the observations of Constable Gittens along with the other persons who contributed to it. Thus, paragraph 31 of the affidavit cannot be said to be inadmissible opinion evidence.

[51] Paragraphs 35 to 38 of the said affidavit provide as follows:

“35. A few days later I enquired if the report was forwarded to the Commissioner of Police, and I was told by Cpl Williams that Insp. Henry confirmed to him that he did deliver the report personally to the Commissioner who requested that no one else was present at the time of delivering this report.

36. He read same then told Inspector Henry that he'll await the Prime Minister's directive on the matter.

37. Two weeks or so later I became aware that the investigative team was essentially disbanded. To date I am not aware of any request that have been made to the United Kingdom in relation to this matter for assistance.

38. It is my experience from 28 years of policing in Antigua that such significant investigation involving UK citizens would involve to some level international assistance, most likely officers from Scotland Yard, The Metropolitan Police who during my career have been called upon to assist with these very complex investigation matters.”

[52] The above-quoted paragraphs can be addressed briefly. Paragraphs 35 and 36 recount what Mr Gittens says he was told by Corporal Williams about what Inspector Henry had said. If tendered to prove the truth of the matters attributed to Inspector Henry, the Commissioner of Police, or the Prime Minister, the evidence would raise hearsay concerns. However, I am satisfied that the evidence is admissible for the limited purpose of explaining Mr Gittens' state of knowledge and the context in which he says the investigative team understood the matter to be proceeding. It will not be treated as proof of any directive by the

Prime Minister unless that fact is otherwise established by admissible evidence.¹¹

[53] The first sentence of paragraph 37 does not say how Rohan Gittens became aware that the investigative team was disbanded. Accordingly, this sentence of paragraph 37 is inadmissible hearsay and will be struck out. The remainder of the paragraph speaks to his knowledge (or lack thereof) of certain facts and is therefore admissible.

[54] I accept the Claimant's submissions in respect of paragraph 38, but only to a limited extent. Mr Gittens may give evidence, based on his policing experience, of the kinds of investigative assistance he has previously seen used in complex investigations involving foreign nationals or overseas lines of inquiry. The paragraph is not admitted as expert evidence establishing the standard of an effective investigation. Its weight will be assessed at trial in light of his experience and the factual circumstances of this case.

Oliver Laurence

[55] At the hearing, counsel for the Claimant conceded that the unsigned statement of Orel Grigg which was exhibited to the affidavit of Oliver Laurence should be struck out. The Court will therefore order accordingly.

Costs

[56] In this case there has been non-compliance with **CPR 56.9(2)(e)(i)** by the Claimant. However, the Court has made an order to put matters right. The usual practice in such a case would be for the Claimant to pay the Defendants' costs. However, taking into account the Defendants' conduct in failing to raise this matter sooner, in accordance with **CPR 64.6(3)**, the appropriate order is that the parties should bear their own costs.

¹¹ See *Subramanian v. DPP* [1956] 1 WLR 965, 970

Order

[57] It is hereby ordered that:

1. The affidavits of Oliver Laurence, Cedric Williams, Rohan Gittens and Jomokie Phillips, together with the related notices of intention to rely on them are deemed properly filed.
2. Paragraphs 11 to 13 and the remainder of paragraph 128 after the word “investigation” in the affidavit of Cedric Williams are struck out.
3. The first sentence of paragraph 37 of the affidavit of Rohan Gittens is struck out.
4. Paragraph 10.d of the affidavit of Oliver Laurence and the exhibited unsigned statement of Orel Grigg are struck out.
5. The affidavits are to be read in accordance with the ruling of this Court.
6. The matter is adjourned to 15th May 2026 for further case management.
7. No order as to costs.

Rene Williams
High Court Judge

By The Court

Registrar