

**EASTERN CARIBBEAN SUPREME COURT
SAINT CHRISTOPHER AND NEVIS
NEVIS CIRCUIT**

**IN THE HIGH COURT OF JUSTICE
(CIVIL)**

CLAIM NO. NEVHCV2021/0023

BETWEEN:

Nevis Electricity Company Limited

CLAIMANT

AND

(1) AF Power Limited

(2) Karen Hill-Hector

DEFENDANTS

BEFORE:

His Lordship, the Honourable Justice Ermin Moise

APPEARANCES:

Mr. James Bristol Q.C. with Ms. Michelle Slack of Counsel for the Claimant

Mr. Sylvester Anthony with Ms. Rénal Edwards of counsel for the 1st defendant

2021: April, 23rd
May, 10th (submissions)
June, 16th

JUDGMENT

[1] **Moise, J:** This is a claim for an injunction against arbitration proceedings and other orders and declarations. The claimant and 1st defendant are parties to a Power Purchase Agreement (PPA) dated 21st June, 2019. Various disputes have arisen regarding fulfillment of the terms of the PPA. As a result, the 1st defendant commenced arbitration proceedings by way of notice dated 10th January, 2020. The claimant mainly contends that the 1st defendant has not complied with the pre-conditions to arbitration as set out in the agreement, therefore providing no basis upon which arbitration proceedings can commence. It is argued further, that as a result of the failure to comply with the pre-conditions as set out in the PPA, the 2nd defendant, who was unilaterally appointed by the 1st defendant, has no jurisdiction to conduct the arbitration proceedings. Counsel for both

parties have put forward very cogent and thoughtful arguments to the court, for which I am grateful. However, after careful consideration I have determined that the claim should be denied with costs to the 1st defendant and the matter remitted to the arbitrator for consideration of the issues raised in this claim. These are the reasons for my decision.

- [2] Before addressing the facts of this case in any detail, I make one brief observation at this stage. The evidence will no doubt show that there are genuine disputes between the parties as it relates to the fulfillment of their obligations under the PPA. The PPA has also clearly provided the option for disputes to be resolved by arbitration, should the parties be unable to resolve them amicably. Therefore, insofar as the facts are outlined in this judgment, this court would not wish for its interpretation of them to be viewed in any way to mean that it has ruled on matters which are entirely for an arbitrator to deal with if that option takes place. I would wish merely to highlight the chronology of the facts in order to determine the substance of the issues which are before me. Counsel for the parties have helpfully identified these issues as follows:

- (a) Whether the provisions of Clause 15.1 of the PPA are preconditions to arbitration;
- (b) If yes to (a), whether the preconditions to arbitration as specified in clause 15.1 of the PPA have been complied with; and
- (c) If no to (b), whether the 2nd Defendant has jurisdiction over the parties, and or the purported arbitration proceedings

- [3] For reasons which will become apparent later on in this judgment, I am of the view that the issue of jurisdiction must be addressed before the first two of the issues identified are considered, as it may determine the matter in full. However, before addressing my mind to these issues, I wish to briefly outline the relevant facts upon which this claim is based.

The Facts

- [4] The claimant (NEVLEC) is the sole provider of electricity services on the island of Nevis. On 21st June, 2019, NEVLEC entered into a Power Purchase Agreement (PPA) with the 1st Defendant (AF

Power). In short AF Power was contracted to design and install a power generating facility in Nevis to complement the infrastructure already in use on the island. In turn, NEVLEC agreed to provide AF Power with an irrevocable bank guarantee in the sum of \$1,200,000.00US. This guarantee was to be provided within one month from the date of the signing of the PPA. The parties also agreed that, in the event that NEVLEC delayed in providing the guarantee, AF Power's time for the installation of the generating facility shall be extended by an equivalent length of time.

- [5] As set out in clause 15 of the PPA, the parties also agreed to a dispute resolution procedure, should the need arise. In particular, clauses 15.1 of the PPA states as follows:

"15. DISPUTE RESOLUTION

15.1 If any dispute arises between the Parties in connection with or relating to the Agreement (a "Dispute") the Parties shall try to amicably resolve the issues through discussion and negotiations. If a Dispute is not resolved within twenty Business Days by discussion either Party may by notice to the other require the Dispute to be referred to Arbitration."

- [6] Clause 15.2 of the PPA stipulated that upon receipt of the notice of intention to arbitrate, each party would have 20 business days within which to appoint an arbitrator of their own. Once the two arbitrators are appointed, it would be for them to select a 3rd arbitrator to act as chairman of the tribunal.

- [7] It is not disputed that NEVLEC experienced some difficulties in providing the bank guarantee as required by the PPA. Instead, they provided a guarantee from the Nevis Island Administration (NIA). The NIA, through the office of the Premier by letter dated 17th July, 2019, agreed to guarantee the sum of \$1,200,000.00US on behalf of NEVLEC. This came only after the 1st defendant's representative agreed to such a guarantee on 8th July, 2019. However, I note that even in its correspondence of 8th July, 2019, AF Power continued to insist on a bank guarantee or standing order to its own bankers in the sum of \$300,000.00US, as a complement to the NIA's own guarantee. The parties apparently continued to discuss this issue and by letter dated 9th September, 2019, AF Power conceded and agreed to proceed with its obligations by accepting the guarantee from the NIA. I do note however, that the letter of 9th September, 2019 also sought an extension of time from NEVLEC, within which to complete the installation of the infrastructure. This

request was denied. NEVLEC's assertion is that in reliance on this assurance of 9th September, 2019, it was of the view that its obligations under the agreement had been satisfied.

[8] Despite this, according to NEVLEC, on 12th December, 2019, it was served with a Notice of Default by AF Power alleging that NEVLEC had failed to comply with the terms of the agreement, in that a bank guarantee had not been provided within the time frame stipulated in the agreement. However, the default notice also goes on to complain that AF Power's time for the installation of the infrastructure was not extended as it ought to have been under the terms of the PPA, given NEVLEC's own delay in providing the bank guarantee. The Notice issued on 12th December, 2019 also requested that the breach which it had identified and attributed to NEVLEC be cured within 14 business days. I pause here to note that in the evidence led by AF Power, there was exhibited a notice of event of default issued by NEVLEC in December, 2019. That notice was unsigned and it is unclear as to whether NEVLEC intended to enforce this notice in any way.

[9] In addition to that, AF Power issued a notice of intention to commence arbitration on 10th January, 2020. That notice asserted firstly, that NEVLEC had been in breach of its own duty to provide the bank guarantee. Secondly, it acknowledged that AF Power had agreed, in good faith, to satisfy its own end of the bargain and had sought an extension of time within which to do so, in its letter of 9th September, 2019. The notice of intention to commence arbitration also indicated that this request was denied. This appears to be the substance of the dispute raised by AF Power in order to justify commencing arbitration proceedings. In keeping with clause 15.2 of the agreement, NEVLEC was invited to appoint an arbitrator within 20 business days of the notice. NEVLEC did not oblige and on 7th February, 2020 AF Power gave notice that it had appointed the 2nd defendant, Mrs. Karen Hill-Hector as its arbitrator. In keeping with the provisions of section 7(b) of the UK Arbitration Act of 1950 (the legislation currently in force in Saint Christopher and Nevis), on 12th March, 2020, AF Power served a section 7(b) notice on the claimant appointing Mrs. Hill-Hector as the sole arbitrator given that there was no selection made by NEVLEC.

[10] By way of letter dated 7th July, 2020, Mrs. Hill-Hector wrote to both parties, stating that she had accepted the appointment on the premise that both parties had expressly or impliedly consented. Mrs. Hill-Hector also attached her terms of reference and appointment. However, by letter dated 17th July, 2020, NEVLEC, through its solicitors, claimed not to know the context within which Mrs.

Hill-Hector had sent her letter of 7th July, 2020. The letter of 17th July, 2020 claimed that her appointment as arbitrator was unilateral and sought further clarification from her on the issues which had been raised therein. Mrs. Hill-Hector, on 20th July, 2020, provided NEVLEC's attorneys with the information regarding her communication with AF Power's solicitors and her acceptance of the appointment as arbitrator.

[11] NEVLEC objected to this and, in correspondence with attorneys for AF Power, pointed to clause 15.1 of the PPA. The clause also stipulates that a period of 20 business days from the commencement of negotiations must expire before arbitration can commence. It is also apparent that NEVLEC's attorneys did not respond to Mrs. Hill-Hector after the initial communication in July, 2020. However, on 26th October, 2020, Mrs. Hill-Hector wrote to NEVLEC's attorneys indicating that she had received the deposit of \$1,500.00US from AF Power but had not received a response from NEVLEC. She indicated that she was available to meet on various dates in November, 2020 and attached a draft agenda to her letter.

[12] By letter dated 3rd November, 2020, NEVLEC's attorneys responded to Mrs. Hill-Hector and stated that her appointment as arbitrator was invalid. It was argued then that the steps to be taken under the dispute resolution clause of the PPA, prior to commencing arbitration, had not been followed. This, it was asserted, put into question whether the arbitration was properly commenced and whether she had jurisdiction to proceed with the arbitration. The letter from NEVLEC's attorneys also raised a number of concerns regarding the terms of appointment issued by Mrs. Hill-Hector. In response dated 5th November, 2020, Mrs. Hill-Hector noted that the pleadings in the arbitration had not yet been filed and that the matter was at a preliminary stage. It was her assertion that the issues raised regarding jurisdiction and the irregularities of the process can in fact be put forward in the arbitration proceedings.

[13] On 11th November, 2020, NEVLEC's attorneys continued to raise the same concerns and asserted that it would be an unnecessary expenditure for NEVLEC to undergo an arbitration process which, to its mind, had not been validly commenced in the first place. Despite these contentions, the parties met with the arbitrator on 9th December, 2020 at which point a procedural order was made. NEVLEC had nonetheless indicated that the meeting was attended under protest and a number of questions had been raised regarding the procedural order which was made. It is not now important

to address these in any detail. Mrs. Hill-Hector continued to exercise the powers of arbitrator despite NEVLEC's insistence that she withdraws from the proceedings. On 4th February, 2021, NEVLEC also requested that AF Power withdraw the arbitration proceedings altogether and engage in discussions in keeping with clause 15.1 of the PPA. AF Power responded on 8th February, 2021 indicating that it had no difficulty in engaging in discussions but declined the invitation to withdraw from the arbitration proceedings. NEVLEC has since moved the dispute into this court, seeking an injunction against the proceedings on account of AF Power's failure to comply with the dispute resolution procedures outlined in the PPA and sought to move the court to declare the appointment of the arbitrator invalid.

[14]With this broad outline of the facts, I now address the issues which the parties have identified for the court's consideration, beginning with the last of the three.

Does the 2nd Defendant have jurisdiction over the parties, and or the purported arbitration proceedings?

[15]Given the nature of the proceedings before me, I believe it is important to address the issue of jurisdiction first and in some detail as that determination may very well address the entirety of the proceedings in substance. It may well be the case that the matters which have been moved into court had best been dealt with by the arbitrator. If it is indeed within her jurisdiction to deal with, it would be improper for the court to address issues (a) and (b) and I would decline to do so in order to ensure that the arbitral process is not prejudiced in any way.

[16]NEVLEC's main contention has consistently been that Mrs. Hill-Hector has no jurisdiction to entertain the arbitration proceedings. This was based primarily on the fact that the pre-conditions to arbitration as outlined in the PPA had not been met. Counsel argues that clause 15.1 of the PPA contains the necessary element of being sufficiently certain in setting out the procedure to be followed before arbitration may be commenced. In failing to first engage in discussions and negotiations for a period of 20 business days prior to the commencement of arbitration, AF Power was in breach of the agreement. That breach was a failure to observe a condition precedent to arbitration and therefore renders the arbitral process a nullity. In such an instance Mrs. Hill-Hector would have no jurisdiction to entertain the arbitration.

[17] Counsel contended that, unlike the provisions of the current UK legislation, the 1950 Arbitration Act in force in Saint Christopher and Nevis grants no power to the arbitrator to decide on whether she has jurisdiction over the process. In support of the arguments put forward, counsel for NEVLEC relies primarily on the case of *Emirates Trading Agency LLC v. Prime Mineral Exports Pte Ltd*¹. In that case, the clause under consideration was somewhat akin to that of the PPA in the present case. There the court stated that “[t]he use of the word “shall” indicates that the obligation is mandatory.” It would have been the clear intention of the parties that no arbitration can commence until the period of discussions and negotiations took place. The court then went on to conclude that “... the first part of clause 11.1 provides that before a party can refer a claim to arbitration there must be friendly discussions to resolve the claim. Such friendly discussions are a condition precedent to the right to refer a claim to arbitration.” As it relates to the enforceability of the clause, the judge there decided that:

“[t]he clause in the present case obliged the parties to seek to resolve a dispute by friendly discussions and provided for four weeks to expire before arbitration could be commenced. Such an agreement is complete in the sense that no essential term is lacking.”

[18] However, the judge in that case recognized that the courts had in some way established a principle that good faith was too broad and uncertain a concept to hold the parties to an agreement to negotiate in good faith. He was however of the view that recent developments in the law had drawn him to the following conclusion:

“There is, it seems to me, much to be said for the view that a time limited obligation to seek to resolve a dispute in good faith should be enforceable. Such an agreement is not incomplete. Whilst it may be difficult to establish that a party has not sought to resolve a dispute in good faith there will be cases where that can be shown, for example, where a party asserts his claim, refuses to negotiate and seeks to commence arbitration. In such a case it would be unfortunate were the court to say that the obligation to seek to resolve the dispute was uncertain and therefore unenforceable. For that would mean

¹ 2014 EWHC 2104

that a party could ignore his apparent obligation. In the field of dispute resolution clauses in commercial contracts the court ought not to be, as Colman J said in the Cable & Wireless case [2002] 2 All ER (Comm) 1041, 1050 "astute to accentuate uncertainty"."

[19] The judge also went on to conclude that *"where commercial parties have agreed a dispute resolution clause which purports to prevent them from launching into an expensive arbitration without first seeking to resolve their dispute by friendly discussions the courts should seek to give effect to the parties' bargain."* It was also held in that case that it was in the public interest for the courts to give effect to dispute resolution clauses which places a requirement on the parties to seek to resolve their disputes amicably prior to commencing arbitration. This is because *"commercial men expect the court to enforce obligations which they have freely undertaken and ... because the object of the agreement is to avoid what might otherwise be an expensive and time-consuming arbitration."*

[20] Although finding the pre-conditions to be valid and enforceable, the judge in **Emirates** went on to find that the arbitrators did in fact have jurisdiction over the process because the pre-conditions to arbitration were complied with. In an assessment of that judgment it would seem that the claimant's contention that the arbitrator has no jurisdiction over the process unless the pre-trial conditions are met has some force to it. That much can certainly be gleaned from the substance of the judgment. Support for that proposition may also be derived from an interpretation of an earlier case of **Tang Chung Wah et al v. Grant Thornton International Ltd**². Although it was held in that case that the arbitrators did have jurisdiction, the judgment appears to have also implied that had the pre-conditions been enforceable the jurisdiction point would have been decided otherwise.

[21] However, the decision in **Emirates** has been met with much academic and more recent judicial criticism³. An observation can also be made that certain issues relating to the law on jurisdiction may not have been canvassed before the court in that case and that of **Tang**, where it was assumed that the question was solely one of jurisdiction. The jurisprudence appears to have been developing more recently and casts doubt on the outcome in those cases. A more recent authority

² [2012] EWHC 3198

³ see the decision in **Sierra Leone v. SL Mining**, where academic writings on the matter were discussed in some detail.

from the commercial court in England has not only cast doubt on the decision in *Emirates*, but also sought to explain in more detail the development of the law in this area. In the case of *Sierra Leone v. SL Mining*⁴, decided only a few months ago, it was determined that a distinction must be drawn between the issues of jurisdiction and admissibility. After assessing a series of contemporary academic writings on the matter, as well as authorities from the US Supreme Court and other jurisdictions, the court there noted the following:

***“I consider that, to accord with the views of Paulsson, as approved in the Singapore Court of Appeal (at [77] of BBA v BAZ), if the issue relates to whether a claim could not be brought to arbitration, the issue is ordinarily one of jurisdiction and subject to further recourse under s 67 of the 1996 Act, whereas if it relates to whether a claim should not be heard by the arbitrators at all, or at least not yet, the issue is ordinarily one of admissibility, the tribunal decision is final and s30 (1) (c) does not apply. The short passage in the Singapore Court of Appeal set out in paragraph 15 (ii) above is useful : “Jurisdiction [and so susceptibility to a s 67 challenge] is commonly defined to refer to “the power of the tribunal to hear a case”, whereas admissibility refers to “whether it is appropriate for the tribunal to hear it”. The issue for (c) is, in my judgment, whether an issue is arbitrable. The issue here is not whether the claim is arbitrable, or whether there is another forum rather than arbitration in which it should be decided, but whether it has been presented too early. That is best decided by the Arbitrators.*”**

[22] In essence, the trend in international jurisprudence on the matter leans towards the conclusion that where what is contended is that the arbitration is premature, in that a pre-condition to arbitration has not been satisfied, the issue is one of admissibility rather than jurisdiction. There is no question here that the dispute between the parties is arbitrable. The question is not whether the arbitrator can hear the dispute but rather whether it has been presented too early. In the broad powers of an arbitrator to control that process certain steps can be taken to ensure compliance with the requisite procedure agreed to by the parties. Although the court does reserve residual powers of review of that process, it is often unnecessary and undesirable for the court to intervene at that stage. If that is the applicable test, then it seems to me that Mrs. Hill-Hector was quite right in her response to the

⁴ [2021] EWHC 286 (Comm)

claimant that the issues raised were matters to be dealt with in the process itself. The case law suggests that this is a matter best suited for the arbitrator to deal with and not the court.

[23] I do note that the court in ***Sierra Leone v. SL Mining*** recognised that the matter ultimately hinged on English law and did give regard to the peculiarities of English legislation. It is argued by the claimant in this case that the matter must be decided on the law which is applicable in Nevis. I will go on to examine the legislation in force in Nevis, but I make the point that ultimately the issue of admissibility has become a universally acceptable standard which is not entirely based on the peculiarities of local legislation. In fact, it appears to be a developing common law principle, acceptable across a broad range of jurisdictions, that issues of admissibility are issues for an arbitrator to decide. Leading academics in the field have also canvassed this position on the law. It is my view therefore, that there are clear public policy reasons for this court to ensure that these universally acceptable standards are observed so as to bring certainty and clarity to an area of the law which quite often spans multi-jurisdictional agreements which are enforceable here in Nevis. That would be entirely compatible with the more recent clarity brought to the law on this issue and would not infringe the legislative provisions in force in this jurisdiction in any way.

[24] Insofar as the appointment of the arbitrator is concerned section 7(b) of the Arbitration Act states as follows:

Where an arbitration agreement provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a contrary intention is expressed therein-

...

(b) if, on such a reference, one party fails to appoint an arbitrator, either originally, or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the High Court or a judge thereof may set aside any appointment made in pursuance of this section.

[25] The legislation goes on to explain what is to occur when these two arbitrators are to appoint a third of their member. Without repeating the sections in full, I can see nothing in the facts of this case which undermines the actual appointment of the arbitrator, sufficient for the court to intervene in setting the appointment aside. Although the section allows for the intervention of the court to set aside the appointment of the arbitrator, the case law on how these powers are to be exercised has been very clear and the claimant does not seek to have the arbitrator removed on the premise of that section. The crux of the argument is that the arbitration was premature, in that AF Power failed to comply with the provisions of clause 15.1 of the PPA, thus rendering the appointment null and void. What the claimant argues is that *“throughout the purported arbitration the claimant has objected to the proceedings on the basis that the 2nd defendant is without jurisdiction to determine the matter ... and without authority to determine the question of jurisdiction.”* I am quite satisfied that on the second of the two arguments contained in that submission, NEVLEC’s position was wrong in law.

[26] On balance, when one examines the correspondence which has been exchanged, it would seem that Mrs. Hill-Hector had initially pointed out that the issue can be considered in the process. I am satisfied that this was the correct position to take. She however has given preliminary case management orders without this issue being placed on the agenda. However, I do appreciate that the claimant’s own insistence that Mrs. Hill-Hector had no jurisdiction to consider this issue may have affected that process. In light of this I wish to make a few observations of my own, without prejudice to the parties canvassing the issues before the arbitrator if it does get to that point.

[27] Firstly, as was stated in the case of ***Belize Natural Energy Ltd. v. Maranco Ltd***⁵ ***“the courts do retain residual responsibility for guaranteeing the integrity of the arbitral process in ensuring, for example, the application of the principles of natural justice...”*** However, The CCJ went on to make it clear that the court’s posture has always leaned against too much of an interference in the arbitral process. In more recent times, this court has had the occasion to

⁵ CCJ Appeal BZCV2014/004

underscore its inherent jurisdiction to grant injunctive relief in arbitration proceedings. The court made that position very clear in the case of ***Sunpower Business Group Pte Ltd et al v America 2030 Capital Limited et al***⁶. However in that case, both at the high court level and that of the court of appeal, it was also underscored that that jurisdiction should be exercised sparingly. Those cases involved applications to strike out and the court declined to exercise this draconian power prior to hearing the substance of the cases in full. Having heard the substance of this case now before me, I can see no basis for the court's intervention in what is a matter most appropriately addressed by the arbitrator.

[28] Secondly, given that the court's injunctive powers are grounded in equity, I observe that the evidence suggests that when NEVLEC was served with AF Power's notice of default it did not respond. It was later served with the Notice of Intention to proceed to arbitration, it again did not respond. To my mind this was certainly the time when NEVLEC ought to have pointed out that the basis of its objection to arbitration was the lack of satisfaction of the pre-condition contained in clause 15.1 of the PPA. That would have certainly saved a lot of time and litigation. NEVLEC could have demanded compliance at that point, but it did not seek to invoke clause 15.1 until the arbitration process had already commenced. It seems to me that equity would weigh against such an intervention by the court at this stage, when the claimant had ample time to make its position known to AF Power even before the provisions of section 7(b) of the Act were invoked. This is especially the case as the case law now suggests that the non-compliance with pre-arbitral procedures as contained in the agreement is a matter within the jurisdiction of the arbitrator to adjudicate upon. There is nothing here to satisfy me that an injunction is necessary to protect the integrity of the arbitral process when NEVLEC had itself not approached this issue in as equitable a manner as it could have from the onset.

[29] In any event, these broad principles, grounded in equity, provide the court with a scope of authority which can ensure that it protects the integrity of the process whilst not undermining the process in general. The court may very well be empowered to make orders designed to ensure that the rules of natural justice and the principles of fairness in general are observed without placing a moratorium on the exercise of the arbitrator's jurisdiction in its entirety. It all depends on the circumstances of

⁶ NEVHCV2019/0023 & 0141

the case. However, where parties agree to resolve their disputes by way of arbitration, whether by mandate or by providing the option to do so, the court should be slow to undermine that process and I see no basis to do so in the circumstance of this case.

[30] It is my considered view, after considering all of the facts, that the arbitrator was validly appointed and that it is for her to consider the issues raised by NEVLEC. The issue is not that of jurisdiction, but rather that of admissibility. The question of whether clause 15.1 is a pre-condition to arbitration and whether that condition has been met is a matter most appropriately addressed by the arbitrator. I will therefore refrain from making any further comment on the force of those arguments so as not to prejudice that process. I only note, that the arbitrator ought to have addressed that issue from the onset as this would save much time and expense if she were to decide that the precondition is valid and had not been met. I do appreciate however, that the jurisprudence on this issue is evolving and it is worthwhile for the court to provide some measure of clarity. I hold therefore that the arbitrator has jurisdiction but must consider the issue of admissibility as raised by the claimant.

[31] I make just one final observation in closing. It seems to me that the time has come for an update to the laws in relation to arbitration proceedings in this Federation. In Nevis there is an increased amount of litigation on this issue as the offshore and trust industry continues to expand. Relying on legislation from the UK which is now over 71 years old is placing too great an uncertainty in the law; especially since many common law jurisdictions have long moved on and the case law surrounding the provisions of the 1950 Act is no longer being developed elsewhere.

[32] In light of my findings I make the following orders:

- (a) the declarations and orders for injunctive relief requested by the claimant are denied;
- (b) the matter is remitted to the arbitrator for consideration of the issues raised by the claimant in the pre-trial memorandum in light of the findings of the court in this case;
- (c) although the arbitrator is in charge of her own process it is recommended that the issue of admissibility be addressed at the soonest;

(d) the claimant will pay costs to the 1st defendant to be prescribed in accordance with part 65.5(2)(b) of the CPR.

Ermin Moise
High Court Judge

By the Court

Registrar