

## Cains' Judgment Journal: *Comment from Cains on Isle of Man Judgments*

### Variation of Specific Disclosure Order

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#### Cains' Comment

Specific Disclosure Order: This case highlights the critical balance between a party complying with its disclosure obligations and preventing excessive or unnecessary document requests, balancing all issues alongside the matters in dispute.

### VTV Consulting Limited v Precision Health Corp PCC Limited – Civil - Ordinary Procedure, 13 March 2025<sup>1</sup>

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This case involved a Specific Disclosure Order (SDO), which is a court order requiring a party to disclose specific categories of documents. An SDO was issued on 28 November 2024, without giving the Defendant, Precision Health, a chance to argue against it (the application for the SDO having been made only 24 hours earlier on 27 November 2024). Under the SDO, the Defendant was provided the right to apply to challenge or modify the SDO within seven days, and they did so with the court's permission. With extra time granted by the court, the Defendant applied to change (or remove parts of) the SDO.

### Key issues discussed in Court

- **Re-examining the Order.** Instead of just reviewing whether the original decision was correct, the court reheard the entire issue to decide if those parts of the order were necessary, following the case of *Hashtroodi v Hancock* [2004] 1 W.L.R. 3206.
- **Disclosure Limits.** The court had to determine how much information the Defendant needed to share for the ongoing case. The burden was on the Claimant (VTV Consulting Limited) to prove the order was reasonable and specific. Deemster<sup>2</sup> Needham re-emphasised the legal tests already established in this regard.
- **Preventing Unfair Requests.** The Court considered the need for SDOs to be precise and not turn into "fishing expeditions" where one side is just hunting for evidence to build a case rather than presenting a clear claim. A party seeking an SDO must demonstrate the relevance of the requests thereunder to the matters in dispute.

### Decision

1. Deemster Needham agreed with the Defendant's argument that some parts of the order were unclear, especially regarding third-party subsidiaries and agents and agreed to add the word 'relevant' to clarify the scope of disclosure. The court also acknowledged that the SDO should not seek further disclosure, where the underlying point of that provision had been disclosed (in this case banking information). However, the Deemster confirmed that certain other provisions of the SDO would remain as drafted, where those provisions would potentially result in relevant disclosure to issues that may be of interest in a final trial.
2. The Deemster recognised the restrictive scope of any SDO and amended wording within the SDO to prevent any ambiguity. The court also clarified the distinction between agents of the subject of an SDO, who would be obliged to make disclosure on similar terms to the party themselves, and third-parties, against whom the SDO could not directly apply.
3. Since both sides had some success, the Deemster considered that each party should cover their own legal costs.

This decision reinforces the importance of fair and balanced disclosure orders, ensuring parties comply with their disclosure obligations whilst restricting the disclosure of excessive information.

The judgment can be found at: <https://www.judgments.im/content/J3310.htm>

# Letter of Request

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## Cains' Comment

This case highlights the importance of understanding legal processes, especially when making requests to courts in other jurisdictions.

## Cottam v Hurford, Civil - Ordinary Procedure, 17 March 2025

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In this case, the Claimant attempted to use a Letter of Request (a request made by a court to another court in a different jurisdiction) for third-party disclosure. However, while such requests can be granted, the court receiving them has full discretion to approve or reject them.

The Claimant initially tried to obtain a third-party disclosure order but was directed to consider legal decisions in similar cases in England and Wales, including *Gorbachev v Guriev & Ors (2022)* and *Nix v Emerdata Limited & Anor (2022)*, which dealt with service outside the jurisdiction and disclosure issues. Following this, the Claimant submitted a Letter of Request Application.

One notable factor was that the Claimant, although a former solicitor in England and Wales, was representing himself in this case, rather than having a Manx advocate. The court emphasised that people representing themselves must still understand and follow legal procedures, as highlighted in *Lloyds Bank International Ltd and Another v Alder (No. 2) 2019 MLR 123*, applying *Barton v Wright Hassal LLP (2018)*.

Deemster Arrowsmith ruled:

- The Claimant's application had multiple procedural errors, making it legally unsound.
- The court cannot act as an applicant's lawyer - it is not its role to fix or rewrite a defective request.
- Interestingly, the Defendant agreed to the request, but this did not change the fact that the application was flawed.

- Since both sides were in agreement, the court was minded not to issue any cost orders.

This ruling serves as a reminder that anyone bringing a legal claim, even without a lawyer, must fully understand the process and submit properly drafted applications. It also reinforces that it is not the responsibility of the courts to fix faulty applications. Litigants must ensure their paperwork is correct from the outset.

The judgment can be found at: <https://www.judgments.im/content/J3325.htm>

## Relief from Sanctions – ATE Insurance – Merits of the Case

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### Cains' Comment

The court ruled that any attempt to 'leapfrog' the standard appeal process without legal merit would not be entertained.

Roger Harper v VR Global Partners, L.P. and Gordon Wilson (as liquidator of Broadsheet LLC (in Liquidation), Staff of Government (Appeal Division), 21 March 2025.

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The court ruling in this case made it clear that certain types of appeals are simply not allowed. The Claimant, Roger Harper, attempted to 'leapfrog' his case directly to the Privy Council without going through the usual appeal process, but the court refused, saying there was no legal basis for such a move.

Harper was challenging a previous judgment from November 2024, but instead of following the standard appeal route through the Staff of Government Division, his legal team argued that the court should use its discretion to allow an exception. However, Judge of Appeal Cross determined that there was no valid reason for bypassing the usual steps and declared the request completely without merit.

One of the main arguments in Harper's case revolved around a potential legal claim known as a lien. However, the Judge of Appeal pointed out that this issue was never

properly raised in the previous trial, making it an irrelevant factor in deciding the appeal.

The court also took the unusual step of responding to Harper's legal team before the ruling, asking for clarification on what law they believed supported their request. This was done as a courtesy, with the hope that they would reconsider their approach. Despite this opportunity, the appeal went ahead and was promptly rejected.

The court made it clear that any applications of this nature which lacked proper legal foundation will be dismissed outright. The Judge of Appeal said that while the court doesn't expect perfection, lawyers should at least follow the correct procedures and that in future the court would dismiss such cases where the procedure and law "are so woefully wrong".

This decision reinforces the importance of thorough groundwork and the requirement to ventilate all matters of importance properly at first instance. The judgment also serves as a reminder that courts will not entertain appeals that lack a legitimate foundation.

The full judgment can be found at: <https://www.judgments.im/content/J3326.htm>

***Please note that this note does not constitute legal advice but is provided as non-reliance guidance only. For more information on Isle of Man Litigation Law, please contact:*** Robert Colquitt or Tara Cubbon-Wood.

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## References

1. Charles Williams from Cains acted for the Defendant.
2. The term used to refer to judges in the Isle of Man judiciary.



Charles Williams, Senior Associate

Cains is the trading name of Cains Advocates Limited, an incorporated legal practice in the Isle of Man. Registered company number 009770V. A list of all the directors' names is open to inspection at Cains' registered office: Fort Anne, Douglas, Isle of Man, IM1 5PD.