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

Temporary Advocate's Licence – Novel Legal Questions – Corporate Insolvency

Cains' Comment

This decision demonstrates the Isle of Man Courts' restrictive approach to TAL applications, confirming that applicants must demonstrate a genuine absence of relevant expertise on the Island rather than relying on the value, complexity or perceived novelty of the proceedings.

Temporary Advocate's Licence (Daniel Bayfield KC) – Civil Division, Chancery Procedure, 1 July 2026

The Court refused an application for a Temporary Admission Licence (TAL) in proceedings concerning Allana International Limited, which owed approximately USD $958 million to six banks and was accepted to be cash-flow insolvent.

The claimant banks applied for a TAL pursuant to section 17(2)(b) of the Advocates Act 1995 to instruct English counsel, arguing that the proceedings required specialist knowledge and experience not readily available on the Island. The proceedings (for which the TAL was sought, primarily concerned orders sought by the claimant banks under section 162(5) of the Companies Act 1931 to appoint provisional liquidators and facilitate a restructuring amid disagreement between the company's three shareholders.

The company and two of the shareholders opposed the overall claim, contending that the relief sought was unprecedented in the Isle of Man and raised novel jurisdictional issues.

In respect of the TAL application, there was no active opposition by the Defendant nor the interested parties.

In determining the application, the Court reiterated principles established in *Sutton v Creechurch Capital* (18 October 2018), where it was held that the fact a case involves substantial sums of money is not, by itself, sufficient justification for the grant of a TAL.

The Court also relied on observations made by Tattersall JA in *Heather Capital Limited* (13 January 2014), which recognised that Manx advocates routinely conduct complex, high-value financial litigation and have developed significant expertise in that field.

Refusing the application, Deemster Corlett[1] held that the novelty of a claim or legal argument could not justify the admission of off-island counsel, noting that new claims and arguments will inevitably arise before the Manx Courts from time to time. The Court further observed that it had itself made an order of the type sought by the claimants in an earlier case in 2013, undermining suggestions that the issues in this instance were particularly novel or difficult.

Finding that the necessary corporate insolvency expertise was readily available within the Isle of Man, the Court concluded that the statutory test under section 17(2)(b) of the Advocates Act 1995 had not been met and dismissed the application.

The full judgment can be found at:
https://www.judgments.im/content/Decision%20300626.pdf

Conflicts of Laws – Registration of Overseas Judgment - Jurisdiction

Cains' Comment

This decision confirms the continuing authority of *Obertor v Gaetano* in the Isle of Man, allowing unrecognised foreign judgments to underpin winding-up petitions.

Grover v Wilton Group Limited, Civil Division, Chancery Procedure, 7 July 2026

The Court considered the extent to which an unrecognised foreign judgment can support a winding-up petition, while reiterating that a winding-up order will not be made where there is a genuine and substantial dispute as to the underlying debt.

The petition arose from a judgment debt of approximately USD $64.7 million obtained by a Mr Grover in Illinois against Wilton Group Limited, an Isle of Man company. Mr Grover alleged he had been deprived of a contractual share entitlement following a series of transactions involving NSAV and Wilton Group subsidiaries. After the company failed to engage with the US proceedings and did not appoint replacement lawyers following the withdrawal of its attorneys, default judgment was entered against it in Illinois.

Following service of statutory demands, the Claimant sought a winding-up order under sections 162(5), 163(1)(a) and 164(1) of the Companies Act 1931 on the basis that the company was unable to pay its debts.

The company resisted the petition on two principal grounds. First, it argued that an overseas judgment that had not been recognised through Isle of Man common law proceedings could not constitute a debt for winding-up purposes, relying on the English Court of Appeal decision in *Servis-Terminal LLC v Drelle* [2025] EWCA Civ 62.[1] Secondly, it contended that the Illinois court lacked jurisdiction, meaning there was a genuine and substantial dispute as to the existence of the debt.

Deemster Cope rejected the company's contention that an unrecognised foreign judgment could not support a winding-up petition. Relying on the Staff of Government Division's decision in *Obertor Limited v Gaetano Limited* (25 November 2010), he held that section 6 of the Judgments (Reciprocal Enforcement) (Isle of Man) Act 1968 does not preclude a foreign judgment from being relied upon in insolvency proceedings. Accordingly, the authorities in *Drelle* and the Cayman decision in *In the Matter of Sin Capital (Cayman) Ltd* [2025] CIGC (FSD) 18 carried little weight in light of the binding Manx authority established in *Obertor*.

The Court then considered whether there was a genuine and substantial dispute regarding the debt, applying the principles in *Sian Participation Corp v Halimeda International Ltd* [2024] UKPC 16, *Exclusiva v Vintage and Others* (CHP 2014/24, 23 June 2014) and *Vendort Traders Inc v Evrostroy Grupp LLC* [2016] UKPC 15, which establish that a winding-up order should not be made where the debtor can demonstrate a triable issue.

The key issue was whether the Illinois Court had jurisdiction over the company. While the claimant argued that the company had submitted to the Illinois proceedings, the Court noted the protection afforded by section 3(2) of the Civil Jurisdiction Act 2001, under which a party does not submit to a foreign court's jurisdiction merely by appearing to contest jurisdiction. Referring to *Shovlin v Careless [2024]* EWHC 325 and the principles derived from *Adam v Cape Industries plc* [1990] 1 Ch 433, Deemster Cope held that the claimant bore the burden of proving the foreign court's competence.

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[1] Note well: the Court of Appeal's decision was later overturned by the Supreme Court in its judgment in *Drelle v Servis-Terminal LLC* [2026] UKSC 29 (27 July 2026).

The Court found there was a genuine and substantial dispute as to whether the company had made an unequivocal submission to the jurisdiction of the Illinois Court. That dispute was neither fanciful nor unrealistic and could not be resolved summarily.

Rather than dismissing the petition, the Court ordered that the winding-up proceedings be stayed pending determination of the jurisdiction issue. Deemster Cope made clear that the outcome depended entirely on that question: if the Illinois Court had jurisdiction, a winding-up order should follow; if it did not, the petition would fail. The parties were directed to prepare concise pleadings, disclosure, witness evidence and expert evidence on Illinois law to resolve the issue.

The full judgment can be found here: https://www.judgments.im/content/CHP26_007-07.07.2026.pdf

No Available Advocate – Qualification – Disorganised Applications Likely to be Rejected

Cains' Comment

This judgment reinforces the Isle of Man Courts' strict approach to TAL applications. Applicants must demonstrate that local representation is genuinely unavailable. Late, poorly evidenced applications are unlikely to succeed.

Temporary Advocate's Licence (Corin J S Mews), Civil Division – Chancery Division, 15 July

In this case, an application for a Temporary Advocate's Licence (TAL) made on behalf of Wilton Group Limited for English barrister Corin Mews, was refused, again highlighting the strict requirements that must be satisfied before off-island counsel will be permitted to appear in Isle of Man proceedings.

The application was submitted by the company's CEO, Michael Flanagan, on the evening before a scheduled Court hearing. An accompanying request to adjourn the hearing was refused by the Acting Deemster due to the lateness of the application.

In refusing the TAL, the Court found that the evidence regarding the availability of local legal representation was "woefully disorganised and unsatisfactory". Deemster Corlett rejected the applicant's submission that reasonable efforts to find Isle of Man representation were sufficient, emphasising that the statutory test under section

17(2)(b)(i) of the Advocates Act 1995 requires an applicant to demonstrate that no Isle of Man advocate is available. To satisfy that test, the Court stated that all local firms must be contacted and the responses properly evidenced.

The judgment also contained a clear warning about the standard expected of TAL applications. Describing the supporting material as a "confusing and poorly presented collection of papers", the Court said applicants should not expect the judiciary to "trawl through a morass of papers" to identify key information, noting that similarly disorganised applications may in future be rejected without substantive consideration.

The Court further identified deficiencies in the evidence relating to Mr Mews' professional status. While the application referred to a "Certificate of Good Standing from the Bar Council of England and Wales", the documentation produced indicated that Mr Mews was an unregistered barrister. The Court held that any renewed application must address the requirements of section 17(1)(a) of the Advocates Act 1995, including evidence that he possessed rights of audience in all classes of proceedings before the courts of England and Wales.

The application was therefore refused, although the Court indicated that a fresh application could be made, supported by updated evidence of local advocate availability and the applicant's professional qualifications.

The full judgment can be found here:
https://www.judgments.im/content/Decision%20150726.pdf

Property Service Charges Act 1989 – Landlord's Dispensation – 'Acted Reasonably'

Cains' Comment

The decision demonstrates the Commissioners' willingness to grant dispensation where landlords can show they have acted reasonably, consulted affected leaseholders and face genuine practical barriers to complying with the statutory consultation process.

Abbey Properties Limited, Rent and Rating Appeal Commissioners, 21 July

The Isle of Man's Residential Property Tribunal Commissioners granted a landlord dispensation from the consultation requirements under the Property Service Charges

Act 1989 to enable urgent balcony replacement works at Kings Court and Queens Court to proceed.

The application arose after several timber balconies at the seafront properties had become severely weathered, creating health and safety concerns. At least ten balconies required repair or replacement, but despite extensive efforts over a two-year period, the landlord was unable to obtain the two estimates normally required under section 3(3)(a) of the Act. The difficulty stemmed from the scarcity of suitable timber and the limited availability of contractors able to undertake the specialised works within a reasonable timeframe.

The landlord therefore applied for a dispensation under section 3(6) of the Property Service Charges Act 1989, which allows the Commissioners to waive the statutory consultation requirements where appropriate.

In considering the application, the Commissioners noted the absence of directly relevant Manx authority and instead adopted the two-stage approach set out by *Walker LJ in Martin v Maryland Estates Ltd* (2000) 32 H.L.R. 116: (1) whether the landlord had acted reasonably; and (2) whether the Court should exercise its discretion to grant a dispensation.

The Commissioners were satisfied that the landlord had acted reasonably, having made extensive and unsuccessful efforts to obtain alternative quotations. They also ensured leaseholders were given an opportunity to comment on the proposal. Following two rounds of consultation with all 138 leaseholders, no objections were received, with a number of residents actively supporting both the application and the proposed works.

The Commissioners concluded that dispensation was plainly justified. The works were urgent, the statutory cost threshold had been exceeded, the safety of residents was a significant concern, and further procedural requirements would only delay essential repairs. Accordingly, the Commissioners dispensed not only with the requirement to obtain two estimates under section 3(3)(a) but also with the wider consultation requirements under section 3(3) to allow the works to proceed without further delay.

Directions – Variation of Case Management Order – Disclosure

Cains' Comment
The decision highlights the Court's preference for using the Redfern Schedule process to manage disclosure disputes efficiently and its willingness to adjust case management timetables where complex foreign law issues make existing deadlines impractical.

Morrison, Parry, Pankovas and Others v Utmost International Isle of Man Limited and Others, 15 July

The High Court has issued further case management directions in ongoing litigation following a series of applications made after the fourth case management conference (CMC4) and ahead of the fifth conference (CMC5).

The proceedings had reached the disclosure stage, with standard disclosure already completed. At CMC4, the Court anticipated that disclosure disputes might arise and directed that any such issues should be dealt with using a Redfern Schedule process. The first and second defendants subsequently applied for what they described as "correct standard disclosure". The Court held that the application was more properly characterised as one for specific disclosure and should proceed through the agreed Redfern Schedule process, allowing the parties to identify the documents sought, respond to the requests and set out their respective positions before any ruling was made.

By the time of the directions hearing, a Redfern Schedule had been completed and contained three principal categories of disclosure requests. The Court directed that these issues would be considered and determined at CMC5. A separate disclosure application had also been made by the third defendant, but the claimants advised that they would be unable to complete the related Redfern Schedule before the July hearing.

In considering the wider timetable, the Court accepted that the case involved complex issues of foreign law and that it would be unrealistic to resolve those matters at CMC5. As a result, the timetable was amended, with the deadline for reply evidence extended to 20 July, and consideration of the foreign law issues deferred until CMC6 in September.

The full judgment can be found here:
https://www.judgments.im/content/ORD21_011.23_009.24_045-15.07.26.pdf

Case Management – Disclosure

Cains' Comment

The decision highlights the Court's pragmatic approach to disclosure in complex group litigation, requiring proportionate searches while ensuring potentially relevant evidence is identified and disclosed. It also underlines the value of clear disclosure frameworks to minimise disputes.

Morrison, Pankovas, Parry and Others v Utmost International Isle of Man Limited, Utmost PanEurope Designated Activity Company and Friends Provident International Limited, High Court, Civil Division, Ordinary Procedure, 21 July

The High Court has issued a detailed ruling on competing disclosure applications brought by all three defendants in ongoing investor litigation, addressing concerns that the claimants' standard disclosure exercise was incomplete.

The defendants argued that there had been "serious failures" in the claimants' disclosure and sought wider searches across additional files and records. The Court noted that the original standard disclosure order made at the first case management conference lacked the detailed framework often needed in complex, multi-party litigation, observing that group claims spanning many years can give rise to significant disclosure disputes where issues, date ranges, search terms and locations are not clearly defined.

A central issue concerned whether the claimants should be required to search hundreds of additional files held on their document management system (DMS). While the defendants sought searches across more than 700 files in total, the Court considered this disproportionate and impractical within the existing timetable. Instead, it ordered a more limited search of 50 additional files, with the defendants selecting the files to be reviewed.

The Court rejected the defendants' request for broader searches outside the DMS, including emails and other records, accepting the claimants' position that further searches would not be reasonable or proportionate given the comprehensive nature of the DMS records.

However, the Court did order further disclosure relating to documents that might demonstrate knowledge of commission payments involving the financial advisers connected to the investments. Although the claimants argued such material was either irrelevant or too burdensome to obtain, the Court considered that documents capable of showing whether trustees knew of, agreed to or received information about commissions could be relevant and should be disclosed on a representative basis.

The Court also considered requests relating to records held by independent financial advisers (IFAs). While sceptical that extensive searches would yield significant evidence, it directed the claimants to contact relevant advisers and former trustees to seek access to potentially relevant files, including risk-profile documentation where applicable.

As part of the outcome, the Court ordered the claimants to produce a much fuller disclosure statement explaining the searches undertaken, why they were reasonable and proportionate, and any limitations on the exercise. Draft correspondence to former trustees and IFAs is also to be agreed between the parties.

Importantly, the Court rejected criticisms made by both sides. It dismissed the claimants' allegation that the defendants were seeking to make disclosure unnecessarily burdensome, while also rejecting the defendants' contention that disclosure should extend far beyond the agreed test claims. The Court emphasised that the proceedings remain a test case, and disclosure should be managed accordingly.

The full judgment can be found here:
https://www.judgments.im/content/ORD21_011.23_009.24_045-CMC5-21.07.26(UPD).pdf

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.

Reference

[1] The term used to refer to judges in the Isle of Man judiciary.

Benjamin McGee, Trainee Advocate