

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

Whether Retrial Should be Ordered – Interests of Justice – Article 6 ECHR

Cains' Comment

This judgment confirms that a retrial will not be ordered simply because a first-instance judge failed to consider relevant evidence; the Court will only grant one where it is truly in the interests of justice and the only just course.

Humbles and Others v Wickers and Others, Retrial Decision, Staff of Government Decision, 10 August 2026

In this long-running litigation, the Court has refused to order a retrial in relation to the failed Cornwall Terrace property development, concluding that a further hearing would not be in the interests of justice despite its earlier decision to overturn the first-instance judgment.

The Court was asked to determine whether claims relating to an alleged unlawful distribution should be retried following its substantive appeal judgment of 1 June 2026, which overturned findings previously made in favour of the investors. [[cains.com](https://www.cains.com)]

The respondents argued that a retrial was necessary because the appeal had succeeded due to the trial judge's failure to consider relevant evidence, rather than because the unlawful distribution claim was fundamentally flawed. They also contended that refusing a retrial would infringe their Article 6 ECHR right to a fair trial.

Applying the principles in *Magner v Royal Bank of Scotland International Ltd* [2020] UKPC 5 and *Optis Cellular Technology v Apple* [2025] EWCA Civ 552, the Court emphasised that a retrial is a remedy of last resort and should only be ordered where it is in the interests of justice.

The Court rejected the argument that Article 6 automatically requires a retrial whenever a judgment is set aside. Relying on *Harb v Prince Fahd Bin Abdul Aziz* [2018] 1 WLR 2709, it held that the key question is whether refusing a retrial would amount to a disproportionate interference with the right to a fair hearing.

In refusing a retrial, the Court noted that the events in question occurred nearly 20 years ago, the parties had already been through a six-week trial, and a further trial would be lengthy and costly. It also considered it unfair that the respondents would have the opportunity to recast their case in light of the appeal Court's findings.

Balancing all factors, the Court concluded that the interests of justice did not favour a retrial. The respondents were not entitled to "two bites of the same cherry", and refusing a retrial did not breach their Article 6 rights. The unlawful distribution claim was therefore brought to an end.

The full judgment can be found at:

<https://www.judgments.im/content/Humbles%20permisson%20to%20appeal%20to%20JCP%20Judgment%20delivered%2010.08.26.pdf>

Review of Temporary Advocates Licence (TAL) Refusal Decision – Difficult or Novel – Adequate Experience

Cains' Comment

This decision confirms that temporary admission will only be granted where the required knowledge and experience cannot ordinarily be found within the Isle of Man legal profession.

Temporary Advocates Licence – Daniel Bayfield KC, Review Decision, Civil Division – Chancery Procedure, 11 August 2026

The Court has dismissed an application to review the First Deemster's refusal to grant a Temporary Admission Licence (TAL) to Mr Bayfield KC under sections 17(2)(b)(ii) and 17(3) of the *Advocates Act 1995*.

The applicants relied on the statutory ground that the proceedings required knowledge and experience “not ordinarily available in the Island”. They argued that the case involved a novel and difficult issue, namely a contested creditor-led provisional liquidation application, and that specialist experience from English counsel was required.

The reviewing Deemster¹, His Honour Judge of Appeal Cross KC, rejected those arguments. On the alleged novelty and complexity of the proceedings, the Court held that the First Deemster had correctly identified the likely issues and was entitled to conclude, based on his experience, that they were not unusually difficult. The Court also confirmed that the correct test was whether the proceedings required knowledge and experience unavailable within the Manx Bar, not whether external counsel might be especially qualified.

The applicants further argued that the First Deemster had misapplied the statutory test when assessing the availability of suitable local advocates. The Court disagreed, holding that the legislation requires evidence of a genuine deficit across the Manx Bar as a whole. The fact that a proposed off-Island advocate may bring additional distinction or expertise was insufficient to satisfy the statutory threshold.

In dismissing the application, the Court emphasised that TAL applications are highly fact specific and that each case must be determined on its own circumstances.

The full judgment can be found here:

<https://www.judgments.im/content/Review%20Decision%20-%202011.08.26.pdf>

Permission to Appeal to Privy Council – Arguable Points of Law of General Public Importance

Cains' Comment

This case highlights that permission to appeal to the Privy Council will only be granted where a case raises an arguable point of law of general public importance, rather than a challenge to factual findings or the application of settled law.

Humbles and Others v Wickers and Others, Permission to Appeal to JCPC, Staff of Government, 10 August 2026

The Court refused permission for the investors to appeal to the Judicial Committee of the Privy Council (JCPC), rejecting all 69 proposed grounds of appeal arising from its earlier

decision which overturned the first-instance judgment in *Humbles and Others v Wickers and Others*.

The Court considered each proposed ground to determine whether it raised an arguable point of law of general public importance. It concluded that none did.

In relation to the personal misrepresentation claims, the Court held that its earlier finding that the investment brochure contained no actionable representation had been reached by applying established legal principles, including those summarised by Zacaroli J in *Farol Holdings Ltd v Clydesdale Bank plc* [2024] EWHC 593 (Ch). While there might arguably have been issues of law, they did not raise matters of general public importance. Permission to appeal was therefore refused.

The Court also rejected arguments that it had improperly construed the brochure contrary to the directors' pleaded case or admissions. It held that the brochure's meaning had been fully argued before the Appeal Division and reiterated that, even if an actionable representation had existed, the underlying information was true and the personal claims would still have failed. The Court further noted that key findings of dishonesty and investor reliance made at first instance could not be supported.

The principal assigned claim, alleging an unlawful distribution, also failed. The Appeal Division reiterated its earlier conclusion that the trial judge's finding could not be sustained and held that the application raised no novel point of law warranting consideration by the Privy Council.

Similarly, allegations of procedural unfairness, breach of fiduciary duty, and the two remaining assigned claims concerning commission payments and dressing costs were found to involve the application of established principles to the facts, rather than issues of wider legal significance.

The Court concluded that none of the proposed grounds raised an arguable point of law of general public importance and refused permission to appeal to the Judicial Committee of the Privy Council on all grounds.

The full judgment can be found here: [Humbles permission to appeal to JCPC Judgment delivered 10.08.26.pdf](#)

Costs – Test for Standard or Indemnity Basis – Grounds for Temporary Stay

Cains' Comment

A successful party will usually recover its costs on the standard basis, and a stay of a costs order will only be granted where there are compelling reasons and a real risk of prejudice.

Humbles and Others v Wickers and Others (Costs), Staff of Government Division, 14 August 2026

The Court considered the consequences of its earlier decision allowing the Directors' appeal and overturning the first-instance judgment.

The Directors sought their costs of both the appeal and the trial, arguing that costs should follow the event. The Investors contended that the Directors should not recover costs relating to the personal claims because the issue of whether the investment brochure contained an actionable representation had not been properly pleaded. The Court rejected that argument, finding that the issue had been the subject of submissions at both first instance and on appeal and was fundamental to the personal claims.

The Directors also sought costs on the indemnity basis, relying in part on the Investors' failure to better a Part 7 offer. The Court refused, holding that neither the failed offer nor the circumstances of the case were sufficiently exceptional to justify departure from the usual rule. Costs were therefore awarded on the standard basis.

In relation to interest, the Court awarded interest on costs at 3% up to November 2021 and 4% thereafter, rejecting the Directors' claim for 5% after that date.

The Directors successfully obtained a payment on account of costs. Although they claimed approximately £5.4 million in costs, the Court considered £2 million to be an appropriate interim payment pending detailed assessment.

The Investors also sought a temporary stay of the costs order while pursuing an application for permission to appeal directly to the Judicial Committee of the Privy Council. Referring to the established principle that a stay will only be granted where there are "good reasons", "special circumstances" or "solid grounds", the Court held that the Investors had not demonstrated any real risk of irremediable prejudice. The application for a stay was therefore refused.

The Court ordered the Investors to pay the Directors' costs on the standard basis, awarded a £2 million payment on account, fixed interest at 3% before November 2021 and 4% thereafter, and refused the Investors' application for a temporary stay of the costs order.

The full judgment can be found here: [Humbles costs Judgment delivered 14.08.26.pdf](#)

Anti-Suit Injunction – International Service – Jurisdiction Clause

Cains' Comment

This judgment confirms that exclusive jurisdiction clauses will generally be enforced, even where parties seek to pursue related claims in a foreign Court.

Hansard International Limited v Ripamonti and Others, Civil Division, Chancery Procedure, 18 August 2026

In this case, the Court granted a final anti-suit injunction restraining Italian proceedings brought by policyholders under three life assurance policies issued by Hansard International.

The policies contained a clear and exclusive jurisdiction clause (Clause 22), providing that they would be governed by Isle of Man law and subject to the exclusive jurisdiction of the Isle of Man courts. After the policies were assigned several times, the defendants commenced proceedings in Italy, alleging that the products were in reality speculative financial instruments and seeking relief under Italian law.

Relying on section 42 of the *High Court Act 1991*, the Court applied the principles established in *Excalibur Almaz Ltd v Horie* (2017 MLR N-22) and *Old Mutual International Isle of Man Ltd v Lynch* (30 January 2018). It also considered the English authorities *The Yusuf Cepnioglu* [2016] EWCA Civ 386 and *Ebury Partners Belgium SA/NV v Technical Touch BV* [2022] EWHC 2927 (Comm).

The Court held that the jurisdiction clause was clear, valid and remained binding following each assignment of the policies. It rejected the argument that the defendants could avoid the clause by alleging that the policies were invalid or by relying on Italian regulatory law. The Court found that foreign statutory claims did not displace the parties' contractual agreement as to where disputes should be resolved.

As the defendants had not participated in the Manx proceedings, Hansard's evidence stood unchallenged. Acting Deemster Gough concluded that damages would not be an adequate remedy because Hansard would otherwise face the cost, inconvenience and risk of inconsistent decisions arising from litigation in Italy.

The Court granted a final anti-suit injunction preventing the defendants from continuing the Italian proceedings or commencing related foreign proceedings concerning the

policies. Hansard was awarded its costs of £44,000 (inclusive of VAT), with the defendants jointly and severally liable for those costs.

The full judgment can be found here: https://www.judgments.im/content/CHP25_105-18.08.26.pdf

Freezing Injunction – Whether to Continue or Discharge- Ancillary Disclosure

Cains' Comment

This case shows that a freezing order may be maintained where there is credible evidence of potential asset concealment and dissipation risk, even if ownership of the assets has not yet been fully established.

Carmen Patrocinio del Hierro Alonso v Eva Navarro Aguilera del Hierro and Brinda World Gestion S.L., Civil Division, Ordinary Procedure, 18 August 2026

In this case, the Court considered whether a freezing injunction granted without notice against the second defendant, Brinda World Gestion S.L., should continue pending trial.

The claimant, appointed universal heir to her father's estate under a 1986 will, alleged that estate assets had been wrongfully diverted following reliance on a later will that had been declared void by the Spanish courts. She claimed substantial assets had been transferred through Dubai to the Isle of Man to conceal them and sought proprietary and restitutionary relief against the defendants.

Applying the principles in *Skatteforvaltningen (Danish Customs and Tax Administration) v Worldwide Asset Management Ltd* [2024] MLR 328 and *Brink's-Mat Ltd v Elcombe* [1988] 1 WLR 1350, the Court examined whether there was a good arguable case, evidence of assets within the jurisdiction, a real risk of dissipation, and whether it remained just and convenient to continue the injunction.

Although Brinda argued there was no evidence it held assets in the Isle of Man and challenged the Court's jurisdiction, the Court found that Spanish judicial materials and police reports provided a plausible evidential basis for allegations that Brinda may have been used to assist in the concealment of estate assets. This was sufficient to establish a good arguable case.

The Court acknowledged that disclosure from Manx financial institutions had not identified assets held directly in Brinda's name. However, it found the defendants' disclosure efforts inadequate, noting that reliance on memory alone was insufficient where enquiries could have been made through professional intermediaries. The incomplete disclosure, together with evidence of asset movements and an existing criminal restraint order, provided grounds for believing Brinda may control assets within the jurisdiction.

The Court also found a real risk of dissipation. While a criminal restraint order under the *Proceeds of Crime Act 2008* remained in place, that order served a different purpose and did not eliminate the claimant's need for civil protective relief.

The Court refused Brinda's application to discharge the freezing injunction and allowed the order to continue. Brinda was directed to provide further detailed disclosure regarding any Isle of Man assets or interests and was granted liberty to renew its application once that evidence had been produced. Costs were reserved pending further disclosure and investigation.

The full judgment can be found here:

<https://www.judgments.im/content/Judgment%20delivered%2018.06.26.pdf>

Disclosure – Redaction – Vigilance of Court in Cases of Heavy Redaction

Cains' Comment

This case demonstrates that Courts will closely scrutinise extensive disclosure redactions and may require access to unredacted documents where there is a credible challenge to their justification.

Martin James Bellamy v Patrick Joseph Hughes and Mulberry Limited, Civil Division, Ordinary Procedure, 18 August 2026

In this case, the Court considered a challenge to extensive redactions made to disclosed documents relating to the Carbon3AI business.

The claimant argued that information had been improperly redacted on grounds of irrelevance. In considering the application, Deemster Corlett applied the English decision in *JSC Commercial Bank Privatbank v Kolomoisky* [2022] EWHC 868 (Ch), treating the principles in CPR Practice Direction 51U as representing best practice, notwithstanding that they have not been formally adopted in the Isle of Man.

The Court emphasised that parties are entitled to redact material that is irrelevant, confidential or privileged, but such redactions must be properly explained and capable of challenge. Referring to *Privatbank*, the Court endorsed a practical solution proposed by the defendant whereby the claimant's legal representatives would be permitted to inspect unredacted versions of the disputed documents on an "attorneys' eyes only" basis after appropriate undertakings had been given.

The Court noted that this process would allow the claimant's lawyers to assess whether the redactions had been properly made before deciding whether to pursue the challenge further. It also observed that, while the defendant could apply for a confidentiality ring if necessary, it was unusual for relevant documents in civil proceedings to be restricted permanently to lawyers alone.

The Court declined to order immediate production of the unredacted documents and instead directed the parties to engage with the inspection process contemplated in *Privatbank*. The claimant retained the right to revive the application following inspection of the documents by its legal team, while the Court stressed the need for careful judicial scrutiny where heavy redactions are applied in disclosure exercises.

The full judgment can be found here:

<https://www.judgments.im/content/Ruling%20on%20Redactions%20delivered%2018.08.26.pdf>

Petition of Doleance – Extension of Time – Strike Out

Cains' Comment

Doleance applicants who know of an alleged defect must act promptly, and delay without good reason is likely to be fatal to the claim.

Abbey Igochi Idoniboye-Ogu v The Treasury, Civil Division, Chancery Procedure, 19 August 2026

In this case, the Court considered an application to extend time for bringing a Doleance claim challenging an immigration refusal decision issued on 22 August 2025.

The claimant argued that the refusal notice was inherently defective and therefore did not trigger the time limit for bringing a Doleance challenge. The Court firmly rejected that argument, describing it as "circular and defective". However, it accepted that a challenge to the validity of the refusal decision itself fell within the supervisory Doleance jurisdiction and could not be determined through the statutory immigration appeals process.

Applying the principles in *Clarkson v Department of Infrastructure (No 2)* 2011 MLR 490, *The Slegaby Estate Ltd v Lloyds Bank International Ltd* 2015 MLR 436 and noting *R (Chowdhury) v First-tier Tribunal (IAC)* [2023] EWCA Civ 1380, the Court examined whether time should be extended. It concluded that the grounds for challenge arose when the refusal decision was issued and that the claimant had failed to act promptly or within the three-month period normally expected for Doleance proceedings.

The Court rejected the explanations put forward for the delay, including medical issues, loss of employment and concerns relating to the claimant's child. It noted that the claimant had actively pursued statutory immigration remedies during the same period, demonstrating an ability to seek advice and conduct litigation. While the Court found that the claimant had not failed to exhaust available statutory remedies, this did not justify the delay in bringing the Doleance claim.

The application for an extension of time was refused and the Doleance claim was struck out. The Court held that the claimant had longstanding knowledge of the issues complained of but had neither acted promptly nor provided sufficient justification for the delay.

The full judgment can be found here: https://www.judgments.im/content/CHP26_006-JUDGMENT-DELIVERED-19.08.26.pdf

Disclosure – List of Issues – Relevance – Scope – Search Terms

Cains' Comment

Disclosure must be targeted and proportionate, with Courts willing to order wider searches where relevant evidence may exist but refusing requests that amount to fishing expeditions.

Martin James Bellamy v Patrick James Hughes and Mulberry Limited, Civil Division, Ordinary Procedure, 28 August 2026

In this case Deemster Corlett considered a series of disclosure disputes arising from competing Lists of Issues in Dispute (LOIDs). The Court reviewed the scope of disclosure under Rules 7.35, 7.36 and 7.41, referring to *MIR v Bader (No 2)* 2025 MLR 188, and emphasised that the key considerations were proportionality, evidential usefulness and whether documents were within a party's control.

The judgment addressed nine separate disclosure issues:

- **Mr Bellamy's financial position in October 2024:** Disclosure refused. The Court held that evidence of financial difficulties was not relevant to determining the parties' 2025 agreements or allegations of oppressive conduct.
- **Funding arrangements for AIP:** Disclosure refused. The dispute about whether funding would come jointly from the parties or solely from Mr Hughes was irrelevant because the funding condition was never triggered.
- **Appointment of AIP directors:** Disclosure ordered. Documents showing how directors were approached and how Mr Hughes' role was presented were relevant to the issues in dispute.
- **Alleged attempts by Mr Hughes to disrupt AIP and the Seed Round:** Additional disclosure ordered, including documents concerning offers of funding and board appointments.
- **Mr Bellamy's ability to fund a £40 million buyout offer:** Disclosure refused as disproportionate and amounting to a fishing expedition into sensitive financial information.

- **Salamanca email inboxes:** Disclosure of four additional employee inboxes ordered between 1 January and 31 July 2025, as they were likely to contain relevant communications before AIP's own systems were established.
- **KBL email inboxes:** Further disclosure potentially required. The Court ordered additional evidence before reaching a final decision but indicated that some KBL email accounts may be disclosable.
- **Post-1 December 2025 documents:** Decision adjourned pending completion of disclosure and a clearer explanation of documents withheld on grounds of privilege or irrelevance.
- **Search terms:** The Court was unable to determine disputes concerning 71 proposed search terms and directed that the issue be addressed at a further hearing if agreement could not be reached.

The Court adopted a pragmatic approach, allowing disclosure where it was likely to assist in resolving the core contractual and corporate governance disputes while refusing requests it considered speculative, disproportionate or lacking evidential value. Several disclosure requests were granted, others rejected, and the remaining disputes concerning KBL inboxes, privileged documents and search terms were deferred for further consideration.

The full judgment can be found here:

<https://www.judgments.im/content/Ruling%20on%20Redactions%20delivered%2018.08.26.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.

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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