



Neutral Citation Number: [2021] EWHC 626 (Ch)

Case No: E30NE059

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS IN MANCHESTER**  
**BUSINESS LIST (ChD)**

Manchester Civil Justice Centre  
1 Bridge Street West,  
Manchester M60 9DJ  
Date: 19 March 2021

**Before :**

**HIS HONOUR JUDGE CAWSON QC**  
**SITTING AS A JUDGE OF THE HIGH COURT**

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**Between :**

**(1) DRSP HOLDINGS LIMITED**  
**(2) DRSP LIMITED**  
**- and -**  
**(1) THOMAS O'CONNOR**  
**(2) ABIGAIL O'CONNOR**  
**(3) OCTAX LIMITED**

**Claimants**

**Defendants**

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**MR TOM MOODY-STUART QC** (instructed by **Kuit Steinart Levy LLP**) for the  
**Claimants**  
**MR MARTIN BUDWORTH** (instructed by **JMW Solicitors LLP**) for the **Defendants**

Hearing dates: 26-27 (reading), 28-30 January 2021, 2-4, 5 (reading), 8-9 February 2021

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**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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**Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, and by release to BAILII.**

**The date and time for hand-down is deemed to be 10.30 a.m. on Friday 19 March 2021**

**His Honour Judge Cawson QC:**

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**Bundles of Documents**

4. Before addressing the issues that arise for determination in this case, it is necessary for me to say something about the unsatisfactory manner in which the bundles of documents were prepared for the trial.
5. Paragraph 24.1 of the directions given by District Judge Obodai by her order dated 18 November 2019 expressly provided for a bundle index to be prepared by reference to the Chancery Guide, and thus in accordance with Chapter 21 thereof. Paragraph 21-41 of the Chancery Guide provides that, in general, documents included in any trial bundle should be arranged in date order starting with the earliest document. The necessity to hold hearings remotely through the pandemic has resulted in bundles generally being prepared electronically rather than in paper form in traditional ring-binders, but this does not detract from the need to comply with the relevant provisions of the Chancery Guide and, in particular, the requirement to produce a chronological bundle.
6. In the present case, there has regrettably been no attempt to produce a chronological bundle. Rather, a number of bundles comprising separate PDF files were prepared comprising the exhibits to various witness statements (in their original form without the documents therein being chronologically sorted), copies of transcripts of various meetings, correspondence, and certain additional witness statements requested to be included by the Defendants. In addition, I was provided with a memory stick containing the parties disclosure, and including thereon Excel spreadsheets of the respective parties' disclosure, embedded within which such spreadsheets were hypertext links to certain but not all of the disclosed documents.
7. It was explained that this latter course of action, and in particular the use of the excel spreadsheets, had been taken given the vast number of documents disclosed in the present case. What was done may well have been done with the best will in the world, and this did at least provide a method of gaining access to the relevant documents. However, the necessity to access documents through the hypertext links in the Excel spreadsheets led to not inconsiderable difficulty during the course of the trial, in particular during the course of cross-examination, exacerbated by the fact that a download provided to the Defendants did not contain the hypertext links to the Claimants' documents. Further, the lack of a chronological bundle has made my task of understanding how the documentation fits in with the factual narrative and the evidence very much more difficult and time consuming, and must also have caused considerable difficulty to Counsel in preparing cross-examination, and marshalling their arguments.
8. At my direction, a chronological PDF bundle containing the documents referred to from the Excel spreadsheets during the course of cross-examination was prepared for the purposes of closing submissions. Further, prior to closing submissions I asked Counsel to identify by reference to a chronological list those other documents upon which they placed reliance, and during the course of closing submissions I directed the preparation of a composite chronological bundle in PDF format bringing together in chronological order the documents in the bundle prepared for closing submissions and these further lists. This composite bundle has been available to me in order to assist in writing this judgment, and has been of great assistance.

9. I mention these deficiencies in order to stress the importance, in cases such as the present, of there being a chronological bundle in a readily accessible format available for use by judge, advocates and witnesses in preparation for and at trial. The Chancery Guide, at paragraph 21.34 notes, that: *“The efficient preparation of bundles of documents is very important. Where bundles have been properly prepared, the case will be easier to understand and present, and time and costs are likely to be saved. Where documents are copied unnecessarily bundled incompetently the cost may be disallowed.”* The present case demonstrates how apt these words are. It may be necessary to revisit the suggested sanction in respect of costs in due course.
10. The importance of discipline in the preparation of a readily navigable chronological trial bundle is all the more acute where a trial is being conducted remotely using electronic documents. I suspect that in most cases, one or more PDF files, properly bookmarked and with pagination corresponding to the PDF pagination, is likely to suffice without the use of a more sophisticated documentation presentation platform.
11. In the event, despite the protestations as to the amount of documentation disclosed in the present case, the composite chronological bundle produced as above for use in writing this judgment was a readily manageable and navigable PDF file of 740 pages. It has been of immeasurable assistance to me in writing this judgment, and represents the sort of bundle that ought, by cooperation between the parties, to have been produced prior to the commencement of the trial for the assistance of all involved.
12. However, a consideration of this chronological bundle has revealed to me a number of documents that may well have been put to the witnesses had the documents been more readily accessible. This is unsatisfactory given that although I do not consider that the case turns on them, I have felt compelled to refer to a number of these documents in this judgment, and serves further to emphasise the importance of complying with the relevant part of Chancery Guide.