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CR 2021 000925

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)
IN THE MATTER OF PYSER OPTICS LIMITED
AND IN THE MATTER OF THE COMPANIES ACT 2006

Royal Courts of Justice
7 The Rolls Building
Fetter Lane
London
EC4A 1NL

Date: 15/06/2022

Before :

ICC JUDGE BARBER

Between :

IAN CHARLES HANNAM

- and -

(1) RPA SYSTEMS LIMITED
(2) PYSER OPTICS LIMITED

Petitioner

Respondents

Mr. Alec McCluskey (instructed by Solomon Taylor & Shaw LLP) for the **Petitioner**
Mr. Oliver Hyams (instructed by EMW Law LLP) for the **First Respondent**

Hearing date: 17 May 2022

Approved Judgment

This judgment was handed down remotely by circulation to the parties' representatives by email. It will also be sent to The National Archives for publication. The date and time for hand-down is deemed to be 9.30 a.m on 15 June 2022

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ICC Judge Barber

1. At a CCMC held on 17 May 2022, I dismissed the First Respondent's application to transfer this s.994 petition ('the Petition') to Central London County Court, with written reasons to follow. This judgment sets out my reasons for that decision.

Background

2. The Petition arises out of dealings between the Petitioner Mr Hannam and his former friend Mr Michael Markham (now deceased). Mr Markham was a practising solicitor and businessman. He was formerly a director of the Second Respondent ('POL') and the sole shareholder of the First Respondent ('RPA'). POL is a manufacturer of specialist optical equipment for use in the health, defence and law-enforcement sectors.
3. In or around April 2019, Mr Markham approached Mr Hannam with a proposal to acquire the business and assets of two companies in administration. The business and real property assets of those companies were divided between POL and a company known as Chislehurst Invicta Limited ('Chislehurst'). Chislehurst acquired the real property from which the companies in administration had previously traded. POL acquired the business and other assets.
4. RPA and Mr Hannam were registered as 50/50 shareholders in POL. Mr Hannam's case is that he advanced the funds used to acquire the assets of POL and Chislehurst on 'private equity' terms; these being that (i) if (but only if) such monies were repaid in full with an 8% return, then Mr Markham (or RPA on his behalf) would receive a 50% interest in POL by way of 'earn out' and that (ii) unless and until that occurred, the 50% shareholding nominally owned by RPA would be held on trust for Mr Hannam or subject to a condition precedent that it be transferred to Mr Hannam for nil consideration in the event of the earn out conditions not being satisfied. Mr Markham/RPA's case is that despite Mr Markham/RPA not having provided any funding for the transaction, RPA is absolutely entitled to a 50% interest in POL.
5. As a consequence of a falling out between Mr Hannam and Mr Markham, POL became deadlocked. These proceedings were issued on 25 May 2021. Mr Markham died unexpectedly on 22 October 2021. His shares were re-registered in the name of his widow, Ms Dominique Stallaerts, on 28 October 2021 and Ms Stallaerts was on the same day registered as sole director of RPA.
6. Prior to Mr Markham's death, there were two directors of POL: Mr Markham and Mr Jonathan Steinberg. Mr Steinberg is a chartered accountant who had been nominated as a director by Mr Hannam. The Petitioner maintains that in practice, Mr Markham ran POL unilaterally, without regard to Mr Steinberg's wishes and views and in a way that was unfairly prejudicial to Mr Hannam's interests as a shareholder. This is denied by the First Respondent.
7. Following the death of Mr Markham, Mr Steinberg exercised the power given to a sole director under POL's Articles of Association to appoint a second director, Mr Russell Coulson. Mr Coulson is an experienced professional in the defence sector.

The board of POL is therefore no longer deadlocked, although relations between Ms Stallaerts and Mr Hannam are strained and, at shareholder level, POL remains deadlocked.

8. In very broad terms, the Petition raises two issues:

(1) Whether RPA holds its 50% shareholding on trust for Mr Hannam or otherwise subject to an unfulfilled condition subsequent; and

(2) Whether (if RPA is not liable to transfer its shares to Mr Hannam for nil consideration) RPA should be ordered to sell those shares to Mr Hannam at fair value, such value to reflect the heads of misconduct alleged in the Petition to the extent that they are made out.

Other Disputes

9. Prior to Mr Markham's death, he and Mr Hannam, via a number of corporate vehicles, were involved in several other disputes. These include the following:

(1) Part 7 proceedings brought by Mr Hannam against Mr Markham and his company Rangemaster Precision Arms Ltd in relation to an interest free loan of £175,000 made by Mr Hannam that he maintains was induced by misrepresentations on the part of Mr Markham ('the Rangemaster proceedings'). The Rangemaster proceedings are currently pending in the Central London County Court. The first CMC in these proceedings has recently taken place but was adjourned.

(2) Part 7 proceedings brought by Chislehurst, a company owned by Mr Hannam and of which Mr Markham was formerly a director, against Mr Markham alleging various breaches of directors' duties and self-dealing arising out of the transfer by Mr Markham of £143,562 in cash from Chislehurst to RPA, ostensibly to fund remediation works in respect of radioactive waste at Chislehurst's premises. Mr Markham alleges that these monies have been stolen by the party to whom RPA subsequently transferred them ('the Chislehurst proceedings'). The Chislehurst proceedings are currently pending in Central London County Court. Again, the first CMC in these proceedings has recently taken place but was adjourned.

(3) Part 7 proceedings brought by Pyser Health Limited, a company owned by Mr Hannam and of which Mr Markham was formerly a director, against RPA. In these proceedings, which were issued on 23 February 2022, Pyser Health Limited claims a declaration as to its interest in property registered in the name of RPA or alternatively, an order for restitution in respect of £513,808.43 allegedly spent by Pyser Health on the construction of a 'cleanroom' at the property intended for use in making N95 facemasks for use in the Covid-19 pandemic ('the Pyser Health proceedings'). RPA filed a defence in these proceedings on 5 May 2022. The Pyser Health proceedings are currently pending in CLCC. No CMC has yet taken place.

10. The Rangemaster and Chislehurst proceedings are being case managed together by HHJ Johns QC. On 6 May 2022, HHJ Johns QC adjourned the CCMC in these claims to the first available date after 8 August 2022. The CCMC in the Pyser Health proceedings has not yet been listed.

Directions in the s.994 proceedings

11. At the first CMC on 30 November 2021, a split trial of liability and quantum was ordered, the disclosure review document was settled, and directions were given for this CCMC to follow disclosure.
12. By the time of the CCMC before me, disclosure had taken place and (subject to the transfer application) the next and only substantive step required before the five day liability trial (listed for commencement on 13 February 2023) was exchange of witness statements. Both Counsel confirmed that the time estimate of five days for the liability trial remained accurate.
13. It is against that backdrop that RPA's transfer application falls to be considered.

The Transfer Application

14. Notwithstanding the imminence of the date fixed for the liability trial on the Petition (when compared with the stages reached in the Rangemaster, Chislehurst and Pyser Health proceedings), on 10 May 2022, a few days prior to the CCMC listed before me, the First Respondent issued an application seeking orders that the liability trial be vacated and that the Petition be transferred to CLCC, to be case managed with the Rangemaster and Chislehurst proceedings. The Petitioner opposed the application.

Principles

15. The power of the High Court to transfer proceedings to the county court were not in issue: see generally s.40(2) of the County Courts Act 1984.
16. CPR r.30.3(1) provides that:
 - (1) Paragraph (2) sets out the matters to which the court must have regard when considering whether to make an order under (a) section 40(2) ... of the County Courts Act 1984...
17. CPR r.30.3(2) continues:
 - (2) The matters to which the court must have regard include
 - (a) the financial value of the claim and the amount in dispute, if different;
 - (b) whether it would be more convenient or fair for hearings (including the trial) to be held in some other court;
 - (c) the availability of a judge specialising in the type of claim in question and in particular the availability of a specialist judge sitting in an appropriate regional specialist court;
 - (d) whether the facts, legal issues, remedies or procedures involved are simple or complex;
 - (e) the importance of the outcome of the claim to the public in general;

(f) the facilities available to the court at which the claim is being dealt with, particularly in relation to

- (i) any disabilities of a party or potential witness;
- (ii) any special measures needed for potential witnesses; or
- (iii) security;

(g) whether the making of a declaration of incompatibility under section 4 of the Human Rights Act 1998 has arisen or may arise;

(h) in the case of civil proceedings by or against the Crown, the location of the relevant government department or officers of the Crown.

18. PD57AA gives the following further guidance on transfer:

‘3.2 In addition to the provisions set out in CPR 30.3, the Business and Property Courts must have regard, when considering whether to make an order for transfer from the Business and Property Courts to a County Court hearing Centre:

(a) to the nature of the claim, in accordance with the guidance provided at paragraphs 4.1 to 4.4; and

(b) to the availability of a judge specialising in the corresponding type of claim to sit in an appropriate court in the circuit;

3.3 When considering the availability of a judge under paragraph 3.1(3)(e), the listing office of the court to which the claim is being transferred will be consulted before the order is made by the court.’

19. RPA Systems proposed that this case be case managed and ultimately tried by HHJ Johns QC, together with the Rangemaster and Chislehurst proceedings (and, as intimated in submissions, the Pyser Health proceedings as well).

20. HHJ Johns QC undoubtedly has experience of trying unfair prejudice petitions, (see by way of example *Grewal v Chakraborty* [2021] EWHC 3260 (Ch)). By the time of the hearing before me, however,

(1) his availability to hear the Petition had not been confirmed by the listing office of Central London County Court. When asked, Mr Hyams stated on instructions that initial enquiries had been made of CLCC only very shortly before the hearing before me, and that (unsurprisingly in the circumstances) nothing had yet been heard from CLCC in response; and

(2) the practical mechanics of HHJ Johns QC hearing the Petition, the Rangemaster proceedings, the Chislehurst proceedings and the Pyser Health proceedings together had not really been thought out, still less explored with (or approved by) HHJ Johns QC, or indeed any other judge at CLCC. The only pertinent direction in place was a direction that the Rangemaster and Chislehurst proceedings should be *case-managed* together by HHJ Johns QC; no decision had yet been taken on arrangements for the

ultimate trial (or trials) of the claims in the Rangemaster and Chislehurst proceedings and, whilst RPA Systems stated that it ‘intends to invite’ CLCC to list the first CMC in the Pyser Health proceedings to come on at the same time as the adjourned CMCs in the Rangemaster and Chislehurst proceedings, no CMC has yet been listed in the Pyser Health proceedings.

21. On behalf of RPA Systems, Mr Hyams of Counsel submitted that (1) Mr Hannam has pursued ‘identical factual allegations across the claims ‘ (2) the claims ‘touch upon the actions of the same individuals at the same time’ (3) that even where the factual allegations are not identical, they overlap (4) all the claims concern, to a greater or lesser extent, the credibility of those individuals and their relationships; and (5) many of the contractual and other documents relevant to the claims are shared: skeleton argument, para 4.
22. Mr Hyams argued that these factors created a risk of ‘inconsistent findings, the duplication of cost, effort and time spent, ... difficulties associated with fighting on multiple fronts; and the possibility that the Court will be asked to view the parties’ business relationship too narrowly in the Petition, in circumstances where the overall context is important’: skeleton, para 5.
23. On the issue of ‘overlap’, Mr Hyams relied on an appendix to his skeleton argument said to list allegations made in the Petition which were ‘identical’ to those made in the particulars of claim in the Rangemaster and Chislehurst proceedings. At first glance, the appendix appeared to be of an impressive length. On closer examination during the course of the hearing, however, it became apparent that the bulk of the ‘identical’ allegations listed in the appendix were uncontested (and therefore raised no risk of inconsistent findings) or background.
24. Mr Hyams also relied upon factual allegations in each of the claims which, whilst not identical, were said to ‘overlap’. One example given at paragraph 15.2 of his skeleton argument related to paragraphs 13-15 of the petition, which was said to describe Mr Markham’s ‘shareholding in and directorship of RPA Systems, RPA International Limited, and Thoughtac Limited.’ It was pointed out that paragraph 7 of the Particulars of Claim in the Rangemaster claim identified ‘the same companies’ and described Mr Markham’s role in them. In my judgment, little turns on this in context. Paragraphs 13-15 of the Petition are admitted at paragraph 26 of the points of defence to the same.
25. Reliance was also placed on Paragraphs 27 to 36 of the Petition, which were said to ‘concern, in general terms, the transactions between Chislehurst and the Company [ie POL]’: para 15.3 skeleton. In my judgment this overstates any ‘overlap’. These paragraphs relate to the arrangements allegedly agreed around the purchases of the property and assets of the two companies in administration referred to at paragraphs 3 and 4 of this judgment.
26. Particular reliance was placed upon paragraph 77 of the petition, which provides:

‘In all of the premises, the relationship between the Petitioner and Mr Markham and RPA Systems has broken down and the Petitioner has lost all confidence in Mr Markham’s ability to act in the affairs of the Company in accordance with his duties

as a director, including as a result of Mr Markham's conduct in the affairs of Chislehurst and his conduct in the affairs of other companies with which he is involved'

27. Mr Hyams maintained that this was an example of the petitioner 'directly seeking to tie the alleged unfair prejudice' he had suffered as a member to 'Mr Markham's management of Chislehurst and, presumably, Rangemaster'. In my judgment this is to confuse the reasons alleged for the breakdown in the relationship between the parties with the unfair prejudice relied upon for the purposes of the Petition: see generally s.994(1) CA 2006 and references therein to management of 'the company's affairs' and actual or proposed acts or omissions of 'the company': in context, POL.
28. Mr Hyams maintained that a review of the responsive pleadings also indicated an interrelation between the claims, giving, by way of example, Mr Markham's response at paragraph 15a of his defence in the Chislehurst claim.
29. Mr Hyams also contended that the key witnesses across the claims would also overlap.
30. Mr Hyams argued that the areas of 'overlap' contended for raised the following issues:
 - (1) If the proceedings are not heard together, a risk that
 - (a) the parties will argue about what findings bind them in the other proceedings (Phipson on Evidence at [43-25] to [43-27]) and may lead to collateral attacks on earlier findings;
 - (b) as not all parties are privies across all proceedings, that the findings in one claim may bind one party to another claim, but not the other party or parties;
 - (c) cross examination in one claim may involve a forensic trawl through the transcript in another claim;
 - (d) the parties will scrutinise the pleadings, witness statements and transcripts from the other proceedings, to seek to identify inconsistencies in the evidence;
 - (e) two different judges might come to entirely different views having had the same evidence. That might be because a document comes to light after the trial of one claim, for example, or simply because they form a different assessment of the witnesses' credibility, or even because the scope of disclosure is slightly different across the claims;
 - (f) these factors create an unnecessary risk of (i) bringing the administration of justice into disrepute and (ii) appeals against findings of fact, or arguments about serious procedural irregularities, such as in *Varma v Atkinson & Anr* [202] EWCA Civ 1602, where two first instance judges made allegedly inconsistent factual findings, leading to an appeal (albeit the Court of Appeal eventually concluded that the findings of fact were consistent at [46]).
 - (2) having regard to the overriding objective,

(a) equal footing: it is unreasonable to expect Mr Markham's 'side' to respond to parallel claims in different courts at the same time;

(b) saving expense: there is duplication of time and cost associated with responding to the same or linked allegations in different claims in different courts, at almost every stage: pleading, case management, disclosure, witness statements and trial. This is undesirable and contrary to the overriding objective;

(c) the financial position of each party: the key protagonists are individuals (albeit litigating through or about companies in some instances) who, while reasonably well resourced, cannot fight litigation in the way that multinational corporations might. In two cases, Mr Hannam is litigating against Mr Markham's estate. Across the four claims, Mr Hannam's cost budgets will 'probably' exceed £1m;

(d) complexity: these proceedings (and the related claims) are not especially complex or high-value. They do not justify the heavy-handed approach taken so far;

(e) the court's resources: these are scarce; its time would be saved by having all the claims tried by a single judge, who will only need to read into the case once;

(3) in an unfair prejudice petition, 'fairness is contextual': Joffe, *Minority Shareholders*, at [6.77].

31. Mr Hyams further submitted that the court would be better placed to form a view of the parties' overall business relationships, the reasonableness of their conduct, and the cause of the breakdown in the relationship between them, if it has oversight of all the claims and issues between them. He further argued that there would be a risk that the court may take too narrow a view if it is asked only to look at part of that relationship.

The petitioner's opposition to transfer

32. The Petitioner opposed the transfer application, submitting by Mr McCluskey of Counsel that:

(1) If RPA wished to make such an application, the time at which to make it was in advance of the first CCMC (by which point the Rangemaster and Chislehurst proceedings were already pending). The relevant decision maker in each of the actions is Ms Stallaerts. The existence of the various sets of proceedings was known to Ms Stallaerts at the time of the first CCMC and was expressly raised and addressed in Mr Hannam's skeleton argument for the first CCMC.

(2) Instead, RPA engaged fully with the process at the first CCMC without any suggestion that a transfer was appropriate, seeking and obtaining an order for a split trial of liability and quantum, discussing the appropriate directions and the formulation of the Disclosure Review Document. RPA then gave disclosure by reference to the DRD and exchanged updated precedents H for the second CCMC on the basis that the liability trial would proceed as directed, before bringing its very recent application without warning or previous correspondence.

(3) Permitting a transfer at this late stage would trigger a great deal of wasted costs. There would need to be an additional CCMC; the DRD has been prepared and

disclosure given by reference to it on the basis that the Disclosure Pilot applies (which would not be the case if the matter was transferred to the CLCC – potentially requiring a further round of disclosure or at least further directions concerning disclosure). In addition, the most recent round of costs budgets would need revision to take account of the further CMC and revised directions would necessarily be required if the liability trial was vacated.

(4) The trial of the Petition would be derailed and delayed. A transfer at an early stage might have enabled timely case management and directions in the County Court. Instead, a further CMC would be required in the CLCC and only after that would it be possible to fix a trial date. The overall effect would be to delay the trial by upwards of a year given the backlog of cases in CLCC; in contrast the liability trial already listed in this court is a matter of months away.

33. Mr McCluskey further contended that there was no sound reason to transfer the Petition to the county court, as there was no meaningful cross-over between the Petition and the other cases pending in the CLCC other than that they arise out of the relationship between Mr Hannam and Mr Markham.

34. Mr McCluskey observed that:

(1) The Rangemaster proceedings concern a claim in debt and in misrepresentation. Neither concerned RPA. Whilst Mr Hannam may be a witness in both actions, the issues on which he gives evidence will be separate.

(2) The Chislehurst proceedings concern a claim for breach of director's duties and self-dealing concerning the transfer of £143,562 in cash from Chislehurst purportedly to fund work concerning radioactive waste. There would be no reason even to call Mr Hannam as a witness in that case, as the focus will be on the actions of Mr Markham and not Mr Hannam.

35. Mr McCluskey argued that the court should permit the Petition to proceed to the liability trial listed for February 2023, in order that the question of ownership of POL could be resolved expeditiously and the necessary investment required to develop POL's business can be made.

RPA's response on the lateness of its application

36. Mr Hyams explained that RPA had changed counsel since the first CCMC. He also reminded the court that Mr Markham had died on 22 October 2021, shortly before the first CCMC on 30 November 2021. This only took Mr Hyams so far, however. On learning of Mr Markham's unfortunate death, the petitioner's solicitors had very properly contacted RPA's solicitors ahead of the first CCMC to enquire whether they still wished it to go ahead. RPA's solicitors had confirmed that they did want it to go ahead. Moreover, as rightly observed by Mr McCluskey, Mr Markham's widow, Ms Stallaerts, was appointed director of RPA by 28 October 2021, a matter of days after Mr Markham's death. Ms Stallaerts also had the benefit of advice from Mr Markham's solicitors (who had been involved in the ongoing disputes for many years) and from the two counsel who had settled points of defence to the Petition.

37. Mr Hyams also observed that at the time of the first CMC, pleadings had not closed in the Rangemaster and Chislehurst proceedings, suggesting that the case for transfer had become ‘stronger’ on close of pleadings. Again, this only took Mr Hyams so far; as rightly observed by Mr McCluskey, by the time of the first CCMC, defences had been served in both the Rangemaster and Chislehurst proceedings, so the battle lines were already largely drawn; and the existence of these two sets of proceedings was expressly drawn to the attention of the ICC Judge hearing the CCMC.

Discussion and Conclusions

38. In my judgment RPA has failed to make out a persuasive case for transfer of the Petition to CLCC.
39. The transfer application of 10 May 2022 was issued ‘out of the blue’, very shortly before the CCMC before me. There was no attempt to explore practicalities in any meaningful way with the petitioner’s solicitors or CLCC ahead of the CCMC. There was no confirmation from CLCC as to what HHJ Johns QC would be willing or able to accommodate and within what timeframe.
40. Save for reference to a change of counsel, Mr Hyams had no real explanation for the lateness of the application to transfer. Whilst delay in making a transfer application is not necessarily fatal to it, it is a factor to take into account, particularly when considered in the current context, given the advanced stage reached in these proceedings when compared with the Rangemaster, Chislehurst and Pyser Health claims.
41. The ‘identical allegations’ relied upon in support of an application for transfer were materially overstated. Those that I was taken to during the course of submissions were for the most part admitted allegations, which would not give rise to a risk of inconsistent findings. The ‘building blocks of fact’ referred to in submissions were for the most part little more than shared factual background, much of which was uncontentious. Whilst fairness in an unfair prejudice petition may be contextual (Joffe) and one or two pockets of shared factual dispute were apparent from the pleadings, no cross-over between the Petition and the other cases pending in the CLCC of such materiality or significance as to warrant a transfer of the Petition to CLCC at this late stage was made out.
42. Little thought had been given to the practical realities of what was actually being proposed. Whilst Mr Hyams was able to confirm, in answer to my question, that he was not proposing formal consolidation of the various claims following the requested transfer of the Petition to CLCC, no detailed consideration had been given to the question how, absent consolidation, disclosure, witness evidence or findings in one case would be treated in another, even if all of such cases were listed before HHJ Johns QC for determination. The claims in question involved different parties and numerous different issues. Simply listing all the cases before one judge would not resolve the problem; a complex, time-consuming, bespoke set of directions, involving multiple parties, would need to be formulated, providing for disclosure, evidence and findings on a given issue in one case to stand as disclosure, evidence or findings in one or more of the others, whether or not all such matters were listed before one judge.

43. Permitting a transfer at this late stage would trigger a great deal of wasted costs. The DRD has been prepared and disclosure given by reference to it on the basis that the Disclosure Pilot applies, which would not be the case if the matter was transferred to the CLCC. In this regard I reject Mr Hyams' submission that in the event of a transfer, there would be 'no need' for the disclosure order made to be re-visited. For reasons previously explored, in the event of a transfer, further work would inevitably be required on the inter-play between the Petition and the other three claims. This in turn would impact on the costs budgets prepared and would require a further CCMC. Overall, given the different stages reached in the various sets of proceedings, the different parties and the different issues involved in each case, what is proposed by RPA would significantly exacerbate costs rather than save them.
44. A further highly pertinent factor, in my judgment, is that the liability trial of the Petition currently fixed for five days in February 2023 would be derailed and significantly delayed. A further CMC would be required in the CLCC and only after that would it be possible to fix a trial date. In reality, given the backlog of cases and waiting times in CLCC, the overall effect would be to delay the trial by upwards of a year. The impact of such delay on POL, as a trading business, must be taken into account. Continuing uncertainty as to its ultimate ownership and the ongoing deadlock (or at best, risk of deadlock) at shareholder level can only be of detriment to POL as a trading concern.
45. I reject Mr Hyams' attempts to play down the impact of such delay. Mr Hyams stressed that the trial fixed for February 2023 would only address liability, not quantum. He argued that, in all likelihood, judgment would be reserved and then, if unfair prejudice was established, there would be further directions and a later trial in relation to quantum, with the result that in reality no remedy was likely to be granted, if at all, before late 2024 or early 2025. I am unpersuaded by this line of argument. One of the issues to be determined in the liability trial is whether the Petitioner is entitled to 100% of the shareholding in POL; timeous resolution of that issue (either way) will undoubtedly assist in commercial decisions which fall to be made with regard to POL as a trading concern. As confirmed by Mr McCluskey on instruction during the course of submissions, for example, what the Petitioner will be prepared to invest in POL going forward will depend on whether he is a 50% or 100% owner.
46. Even putting the question of future investment to one side, a ruling on liability will allow scope for the parties to agree quantum without the delay and expense of a further trial on quantum. I would also observe that the fact that the final resolution of the Petition might only be achieved on the completion of several stages is not of itself a good reason for delaying completion of the first stage by upwards of a year.
47. Mr Hyams further contended that with 'tight case management in the County Court, the time lost now can be made up later'. This was an utterly fanciful suggestion, given the realities of waiting times in CLCC. I was taken to no evidence to support this contention and in the absence of any such evidence, I reject it.
48. I would add that the concerns raised by Mr Hyams of the same parties having to fight on a number of different fronts at the same time are over-stated. Leaving aside the fact that the four cases do not all involve the same parties, the Petition is at a

materially different stage to the other three cases, which have not even passed initial case management as yet.

49. For all these reasons, I do not consider that it would be ‘convenient or fair’ for the Petition now to be transferred to CLCC. A case for transfer has not been made out. RPA’s proposals would impede the overriding objective rather than furthering the same. In my judgment the court should permit the Petition to proceed to the liability trial listed for February 2023.
50. I shall therefore dismiss the transfer application.
51. For the sake of completeness, I confirm that I also decline Mr Hyams informal request for an order that some or all of the Rangemaster, Chislehurst and Pyser Health proceedings be transferred to the High Court. There was no application before me for such relief and, for reasons already explored, I do not consider that it would be convenient or fair, or that it would otherwise further the overriding objective, to hold up determination of the liability trial on the Petition for the purpose of trying all such cases together.

ICC Judge Barber