



Neutral Citation Number: [2021] EWHC 1149 (QB)

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 5 May 2021

Before :

**THE HONOURABLE MR JUSTICE MURRAY**

Case No. QB-2020-000322

Between :

**KARAM SALAH AL DIN AWNI AL SADEQ**

**Claimant**

- and -

**(1) DECHERT LLP**

**(2) NEIL GERRARD**

**(3) DAVID HUGHES**

**(4) CAROLINE BLACK**

**Defendants**

- and -

Case No. QB-2020-003142

Between :

**JIHAD ABDUL QADER SALEH QUZMAR**

**Claimant**

- and -

**(1) DECHERT LLP**

**(2) NEIL GERRARD**

**Defendants**

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**Mr John Brisby QC, Mr Alastair Tomson and Mr Simon Paul** (instructed by **Stokoe Partnership Solicitors**) for the **Claimant** in each case  
**Mr Craig Morrison and Mr Tom Foxton** (instructed by **Enyo Law LLP**) for the **Defendants** in each case

Hearing date: 21 April 2021

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**Approved Judgment**

I direct that copies of this version as handed down may be treated as authentic.

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THE HONOURABLE MR JUSTICE MURRAY

**Covid-19 Protocol:** This judgment was handed down remotely by circulation to the parties' representatives by email and release to BAILII. The date and time for hand-down are deemed to be 10:30 am on 5 May 2020.

**Mr Justice Murray :**

1. This is a joint case management conference (“the Joint CMC”) for the claim of Mr Karam Al Sadeq against Dechert LLP (“Dechert-UK”) and three of its current or former partners, Mr Neil Gerrard, Mr David Hughes, and Ms Caroline Black (QB-2020-000322) (“the Al Sadeq Claim”) and for the claim of Mr Jihad Quzmar against Dechert-UK and Mr Gerrard (QB-2020-003142) (“the Quzmar Claim”). The claims have a common background and raise a number of overlapping issues. The same legal teams represent the claimant and the defendants, respectively, in each of the Al Sadeq Claim and the Quzmar Claim.
2. Each claimant is an individual currently detained in the Emirate of Ras Al Khaimah (“RAK”), one of the seven emirates forming part of the United Arab Emirates (“UAE”), serving sentences following conviction for criminal offences in RAK. I deal with the relationship between those convictions and these claims below.
3. The parties having constructively engaged and resolved most of the issues that would otherwise have been for decision at this hearing, I am required principally to determine whether there should be a joint trial of these two claims or whether they should be heard sequentially (“the Joint Trial Issue”).
4. By application notice dated 14 April 2021 (“the Letter of Request Application”), Mr Al Sadeq seeks the court’s permission to issue a Letter of Request addressed to the UAE authorities to provide judicial assistance in the form of allowing me, as the assigned trial judge, to sit in the UAE as a Special Examiner on the days of Mr Al Sadeq’s cross-examination, so that, as far as possible, he can give his evidence in cross-examination orally (having provided his evidence in chief by written witness statement in the usual way). In support of the Letter of Request Application, Mr Al Sadeq has submitted the Second Witness Statement dated 14 April 2021 of Mr Haralambos Tsiattalou, a solicitor and partner of Stokoe Partnership Solicitors (“Stokoe”), who are the solicitors for each claimant, together with a draft Letter of Request. I was asked to consider the Letter of Request Application at the Joint CMC.
5. The defendants do not oppose the Letter of Request Application, but in their skeleton argument for the Joint CMC raised some issues for consideration regarding the jurisdictional basis and scope of the request sought. These issues were largely resolved by *inter partes* discussion and agreement prior to the hearing, and a revised draft Letter of Request was provided. The application remained, of course, subject to the willingness of the court to grant it. At the hearing, having considered the submissions of the parties as to the jurisdictional basis and the terms of the Letter of Request sought, I agreed in principle that the Letter of Request should be issued.
6. In relation to other issues for the Joint CMC, these will be affected by my decision on the Joint Trial Issue. Subject to that:
  - i) it appears to be common ground that the two claims should, as far as possible, be case managed jointly, regardless of my decision on the Joint Trial Issue;
  - ii) in relation to the Al Sadeq Claim, the parties appear to have agreed timing of disclosure and, in principle, arrangements for the obtaining of appropriate expert evidence on Mr Al Sadeq’s physical and mental health in prison;

- iii) in relation to the Quzmar Claim, the parties have, I understand, largely agreed directions in relation to the scope of disclosure and scope of expert evidence, subject to conditions that it is not necessary for me to deal with expressly in this judgment;
- iv) other directions to trial of the Quzmar Claim or the Joint Trial, as applicable, in relation to the timing of disclosure, witness statements and expert evidence will need to be given but are likely to be agreed.

7. The remainder of this judgment is concerned with the Joint Trial Issue.

### *Background*

- 8. Mr Al Sadeq is a Jordanian citizen and a Jordanian-qualified lawyer. In November 2008 Mr Al Sadeq joined RAKIA as a legal adviser. He was promoted to Group Legal Director in 2010 and to Deputy Chief Executive Officer in June 2011. He resigned from RAKIA in late 2012, moving to Dubai in or around December 2012, where he established an investment business. He alleges that he was kidnapped in Dubai on 5 September 2014 by men acting on behalf of the Ruler and taken, without proper legal process, to RAK, where he has been detained ever since. He was subsequently tried, convicted of fraud, and sentenced to imprisonment in a number of cases in the RAK courts. He contends that he is innocent of any wrongdoing and was wrongfully convicted and imprisoned in a political trial.
- 9. Mr Quzmar is a Jordanian citizen of Palestinian origin and a Jordanian-qualified lawyer. Prior to his arrest in RAK in September 2014, he worked as a legal advisor to the Ruler and served as a judge and member of the Supreme Judicial Council of RAK. He contends that he is innocent of any wrongdoing and that he was wrongfully convicted in a judicial process that was procedurally unfair and which formed part of a wrongful campaign to harm him.
- 10. Although each claimant contends that he is innocent of the offences of which he has been convicted in RAK, each also maintains that his claim against the defendants does not require him to establish that this is so.
- 11. Dechert-UK is a limited liability partnership registered in England & Wales, with registration number OC306029, based in London, being a firm of solicitors of the Senior Courts of England and Wales, authorised and supervised by the Solicitors Regulation Authority.
- 12. Dechert-UK is part of the international network of a large and well-known law firm, operating under the business name “Dechert”, originally founded in Philadelphia, and operating there and in a number of other locations through a Pennsylvania limited liability partnership, the full legal name of which is also Dechert LLP (“Dechert-US”). References in this judgment to “Dechert” are to the international law firm as a whole. Dechert-UK is the English office of Dechert.
- 13. In June 2013 the Dubai office of Dechert, which is formally a branch of Dechert-US, was engaged by the Investment and Development Office of the Government of RAK, and later by RAK Development LLC, to assist with what the defendants say was a wide-ranging investigation concerning alleged fraud and misappropriation of public

assets in relation to transactions carried out by subsidiary companies of RAKIA, allegedly committed by Dr Khater Massaad, the former Chairman and Chief Executive Officer (“CEO”) of RAKIA, who has been convicted *in absentia* of fraud by the RAK courts (“the Investigation”).

14. The three individual defendants to the Al Sadeq Claim and the individual defendant to the Quzmar Claim are current or former partners (members) of Dechert-UK and solicitors of the Senior Courts of England and Wales. For present purposes, nothing turns on the fact that the engagement was accepted by the Dubai office of Dechert-US but was principally carried out by partners of Dechert-UK. It is common ground that, in respect of the allegations of each claimant, the acts of each defendant who is a private individual are attributable to Dechert-UK.
15. Mr Gerrard, who is a defendant in both claims, was a partner of Dechert-UK at the relevant time, having joined the firm some time in 2011 from the law firm DLA Piper. He retired as a partner of Dechert-UK on 31 December 2020. He was formerly the global co-head of Dechert’s white collar and securities litigation practice. He was the lead partner for the Investigation.
16. Mr Hughes, who is a defendant in the Al Sadeq Claim only, is a former partner of Dechert-UK, joined Dechert-UK in mid-September 2014, and was a partner at the relevant time. According to the defendants, he first became involved in the Investigation in or around September 2015. Since about June 2017 he has been a partner at another firm of solicitors, Stewarts Law LLP.
17. Ms Black, who is a defendant in the Al Sadeq Claim only and may be called to give evidence as a witness in the Quzmar Claim, is a current partner of Dechert-UK. She joined Dechert-UK some time in 2011 from the law firm, DLA Piper, and was a senior associate at Dechert-UK in late 2014, becoming a partner on 1 January 2015. According to the defendants, her involvement in the Investigation decreased over time, and she had minimal involvement from the start of 2016.
18. Each of Mr Al Sadeq and Mr Quzmar contend that the defendants to their respective proceedings committed serious wrongs against them in the course of their work on the Investigation. These wrongs included being responsible for (i) their initial arrest and illegal abduction from their homes in the UAE; (ii) orchestrating their extended detention in unlawful and degrading conditions; (iii) their being tortured; and (iv) their being denied proper legal representation. Each claimant alleges that the defendants sought to draw false confessions from them, allegedly successfully in relation to Mr Al Sadeq and unsuccessfully in relation to Mr Quzmar. Their claims, all brought under UAE law, allege breaches of the UAE constitution and criminal legislation, as well as various breaches of their human rights. Mr Al Sadeq also accuses the defendants of attempting to interfere with the preparation of his claim.
19. The claimants in their skeleton argument for the CMC describe the allegations, without exaggeration, as:

“... striking and serious – likely among the most serious allegations ever levelled against English solicitors in civil proceedings – and include allegations of complicity in illegal rendition, abduction, torture and inhumane and degrading

treatment, and the knowing procurement of false confessions, all as part of a campaign to harm and discredit perceived political enemies of the Ruler of RAK. ”

20. The defendants in respect of each claim deny “in the strongest possible terms” that any of them committed any unlawful acts as alleged, or at all. They also maintain that each claim is flawed as a matter of UAE law, is an abuse of process, being a collateral attack on matters resolved by the courts of RAK, and is time-barred under UAE law. The defendants also deny any knowledge of, or involvement in, any alleged interference with the preparation of the Al Sadeq claim.

*Procedural history*

21. It is not necessary for present purposes to set out the procedural history in full. The highlights are as follows. On 28 January 2020 the claim form in the Al Sadeq Claim was issued. On 31 March 2020 an amended claim form was issued, and Particulars of Claim were served. On 31 July 2020, after obtaining two extensions of the time (the second under an “unless” order by Master Dagnall) the defendants filed their Defence. On 16 October 2020 Mr Al Sadeq filed his reply.
22. On 8 September 2020 the claim form for the Quzmar Claim was issued, with an amended claim form and the Particulars of Claim served on 1 October 2020.
23. A CMC for the Al Sadeq Claim took place before Master Dagnall on 7 December 2020. Following the CMC, Master Dagnall made an order dated 15 December 2020 (sealed on 21 December 2020) providing, among other things, for:
- i) Mr Al Sadeq to file draft Amended Particulars of Claim by 29 January 2021 and, if consented to by the defendants, for the defendants to file an Amended Defence by 19 February 2021 and Mr Al Sadeq to file an Amended Reply by 12 March 2021;
  - ii) there to be a Joint CMC, the second in the Al Sadeq Claim and the first in the Quzmar Claim, listed for 30 March 2021; and
  - iii) directions in respect of the Al Sadeq Claim, including directions in relation to disclosure, the claimant’s particulars of loss, witness statements of fact, expert evidence and listing of the trial.
24. On 29 January 2021, an extension of time having been agreed, the defendants in the Quzmar Claim filed their Defence.
25. On 18 March 2021 Master Dagnall ordered that the Joint CMC listed on 30 March 2021 be vacated and re-listed before me, as the assigned trial judge, on 21 April 2021, together with further directions in relation to the pleadings in the Quzmar Claim and various other steps to be taken before, and to prepare for, the Joint CMC.
26. On 31 March 2021 Mr Quzmar filed his Reply to the Defence.
27. A hearing before me is provisionally listed for two days on 8-9 July 2021 to address specific disclosure applications and any challenges to claims of privilege.

28. The trial in the Al Sadeq proceedings is currently listed for 35 days to commence on 9 May 2022. As I have already noted, the principal issue for the Joint CMC is the Joint Trial Issue. The claimants strongly oppose vacating the current listing and relisting the Al Sadeq Claim with the Quzmar Claim for a joint trial. The defendants strongly support there being a joint trial of the two claims.
29. The defendants' solicitors have proposed a trial window of 11 January 2023 to 14 March 2023 for a joint trial, although they have suggested in recent correspondence with the claimants' solicitors that a joint trial could possibly come on in Michaelmas 2022, assuming that it could be accommodated by the court.
30. If a joint trial is not ordered, then it appears to be common ground between Mr Quzmar and the defendants in the Quzmar Claim that the parties would be ready for trial of that claim from April 2023.
31. For the purposes of the Joint CMC, I have a bundle that includes an Agreed Case Summary and List of Issues for each claim, along with various case management documents, the pleadings in each claim, orders made to date in each claim, correspondence between the solicitors and with the court, and a transcript of the CMC before Master Dagnall on 7 December 2020.
32. In relation to the Joint Trial Issue, I also have the following witness statements of Mr Haralambos Tsiattalou, who is a solicitor and partner of Stokoe Partnership Solicitors, the claimants' solicitors:
  - i) Third Witness Statement dated 19 April 2021 in respect of the Al Sadeq Claim, setting out his instructions as to why Mr Al Sadeq opposes a joint trial; and
  - ii) First Witness Statement dated 19 April 2021 in respect of the Quzmar Claim, setting out his instructions as to why Mr Quzmar opposes a joint trial.
33. I bear in mind that this witness evidence on the Joint Trial Issue was produced quite late and that the defendants had limited time prior to the Joint CMC to review and respond to it. I note that, although there was some complaint about late delivery of this evidence by the defendants' solicitors in correspondence with the claimants' solicitors on the eve of the Joint CMC, the defendants made no formal objection to my considering it at the Joint CMC.
34. Finally, each skeleton argument attaches a comparative list of issues in each of the Al Sadeq Claim and the Quzmar Claim. The claimants' list, not surprisingly, emphasises the differences between the claims. The defendants' list emphasises the overlaps.

### *Legal principles*

35. Under CPR r 3.1(2)(h) the court has the power to "try two or more claims on the same occasion". The following statements apply to the exercise of the court's discretion in this regard:

- i) the court must further the overriding objective by actively managing cases, including under CPR r 1.4(1) by “giving directions to ensure that the trial of a case proceeds quickly and efficiently”;
  - ii) the court should bear in mind that “a litigant is entitled not to be delayed in the determination of his dispute without good cause”: *J Bollinger SA v Goldwell Ltd* [1971] FSR 405 (Megarry J) at 408;
  - iii) the exercise is fact-sensitive; and
  - iv) the court is required to identify various factors weighing for and against the exercise of its discretion, having regard to fairness to each of the parties and the efficient management of the court’s business.
36. These statements are not controversial. They do not, however, provide much, if any, practical guidance. I have been referred by the parties to a number of decisions where the court has been faced with a decision whether to order a joint trial of two or more claims. I refer to some of those cases below. Given the fact-sensitive nature of the exercise, however, the cases provide only limited assistance.

#### *Submissions*

37. Mr John Brisby QC, for the claimants, made submissions focusing on the prejudice caused to Mr Al Sadeq by delay of his trial, the motivation of the defendants for seeking a joint trial, the lack of sufficient overlap between the claims, the risk of confusion if the claims are heard together and ways in which the additional time and cost of separate trials could be mitigated through case management.
38. In relation to delay to the Al Sadeq Claim, Mr Brisby noted that the Al Sadeq Claim would be ready for trial on 9 May 2022. He submitted that, if a joint trial were ordered, then justice for Mr Al Sadeq would be delayed by around one year.
39. Although the interval between 9 May 2022 and January 2023 is one of eight months, Mr Brisby noted that the last case management step in the Al Sadeq Claim is currently due to take place in February 2022, and therefore there would be nearly a year where “nothing happens” before the Al Sadeq Claim is heard. Mr Brisby submitted that the purported overlap of issues between the claims and purported costs savings of a joint trial, even if taken at face value, do not justify such a significant delay.
40. Mr Brisby also submitted that the court should bear in mind the conditions in which Mr Al Sadeq is waiting for his trial, incarcerated in a jurisdiction where there is a well-documented record of serious human rights violations, including specifically in relation to the treatment of prisoners. Mr Tsiattalou’s third witness statement gives evidence that Mr Al Sadeq has been subjected to additional mistreatment by the local prison authorities in response to his decision to bring the Al Sadeq Claim. There is every reason to suppose that such mistreatment (or worse) will continue for as long as the claim remains unresolved. Mr Brisby submitted that it was absurd to say that the putative costs savings relied on by the defendants outweighed prejudice of that nature.
41. Mr Brisby noted that the current trial date of 9 May 2022 was already several months later than Mr Al Sadeq’s own proposal, to accommodate the defendants’ need for



additional time for disclosure. The day before the Joint CMC, the defendants' solicitors had raised in correspondence the possibility of a joint trial coming on during Michaelmas Term 2022, but they did not put forward dates for procedural steps. Mr Brisby expressed surprise at this "last minute suggestion", given that the parties had previously agreed that early 2023 was the earliest that the Quzmar Claim could be heard.

42. Finally, in relation to delay, Mr Brisby submitted that the court should also bear in mind the impact on Mr Al Sadeq's family, who are currently deprived of Mr Al Sadeq as a source of income and would be disadvantaged by any delay in obtaining compensation, should the claim be successful. Having regard to all of that, Mr Brisby submitted that only an "extraordinarily powerful" countervailing factor could outweigh the substantial delay to the trial of the Al Sadeq Claim that would be caused by ordering a joint trial.
43. In relation to the defendants' motivation for seeking a joint trial, Mr Brisby submitted that the defendants' position was "entirely opportunistic". This was illustrated by a description of relevant correspondence between the solicitors between October 2020 and March 2021, summarised in paragraph 31 of the claimants' skeleton argument. When the prospect of joint case management was first raised by Mr Al Sadeq in October 2020, the defendants' resisted on the grounds that joint case management was inappropriate due to the differences between the two claims. The defendants' having failed to provide a good reason for their significant change of position, it is a reasonable inference that their current position is a tactical manoeuvre, motivated by a desire to delay the Al Sadeq Claim.
44. In relation to the overlap between the two claims, Mr Brisby submitted that the overlap is more apparent than real. He accepted that there is overlap concerning the background and some issues of UAE law, but he submitted that there are no issues determinative of the liability of the defendants that are common to both. Only an overlap of that sort of issue could justify the ordering of a joint trial given the prejudice that would be caused to Mr Al Sadeq by an eight-month delay.
45. The claimants' skeleton argument referred to a number of cases where a joint trial was not ordered notwithstanding a finding of substantial overlap between claims: *Plantation Holdings (FZ) LLC v Dubai Islamic Bank PJSC* [2013] EWCA Civ 1229 (Gloster LJ) at [46], [49]; *BTI 2014 LLC v PricewaterhouseCoopers LLP* [2019] EWHC 3034 (Fancourt J) at [49]; *Ixis Corporate and Investment Bank v WestLB AG* [2007] EWHC 1748 (Comm) (Aikens J) at [40]; and *The Law Debenture Trust Corporation (Channel Islands) Ltd v Lexington Insurance Co* (Com Ct, 2 November 2001) (Langley J) at [16].
46. Mr Brisby submitted that these cases demonstrate that the court treats the possibility that ordering a joint trial or consolidation of proceedings would lead to a significant delay in the determination of a party's dispute as a factor of "overriding importance" even where there is a clear and significant overlap between issues in the two claims. In my view, however, each of these cases was fact-specific, and it cannot be said as a matter of principle that "delay" must necessarily be more heavily weighted than "overlap" in determining whether to order a joint trial. The nature, length and impact of the likely delay needs to be assessed and weighed against the degree of overlap between the claims and the implications of that overlap for issues such as costs and

time savings, efficiency of management of court resources, and fairness to parties and witnesses.

47. As to the degree of overlap between the claims, Mr Brisby referred me to the Appendix to the claimants' skeleton argument. In summary, he submitted, there were very few common factual issues, approximately four out of 48 identified issues or groups of issues. There are a greater number of common legal issues, but, in relation to issues of UAE law, relatively limited disagreement between the parties on the present state of the pleadings. Moreover, the application of those principles to the facts of each claimant's case is a distinct exercise in relation to each claim not involving common issues, save in very limited respects. As for quantum, there are no common issues between the claims bar the applicable principles of UAE law as to causation and recoverable loss.
48. In short, Mr Brisby submitted, the real overlap in issues that are properly determinative of liability in each claim is minimal. At best, the two claims could be said to function as sources of similar-fact evidence or corroboration for each other. It would, however, be contrary to principle for Mr Al Sadeq to be deprived of his trial date and delayed "for one year" simply for his claim to be tried with another claim that has some overlapping background and provides similar-fact evidence in support of his allegations.
49. Mr Brisby submitted that a joint trial risks prejudicing each claimant given the potential for confusion raised by a joint trial of two claims involving similar but distinct issues. He referred me to *Ronaldo v Mirror Group Newspapers Limited* [2009] EWHC 2862 (QB) (Sharp J) at [25] as an example of a case, in a defamation context, where an application for a joint trial (of claims brought by the footballer, Cristiano Ronaldo, against the Daily Mirror and the Daily Telegraph, respectively) was refused on the basis that, although the claims were similar, there were significant differences and therefore a risk of confusion leading to risk of prejudice if the two claims were tried together. Although that case concerned the risk of confusion of a jury rather than a trial judge, there was a comparable risk for a trial judge that his or her view could be affected by a tacit merger of the claims so that matters strictly relevant only to one claim might, nonetheless, affect the judge's view of the other claim.
50. Mr Brisby said that neither claimant wants a joint trial. Each wants his case considered on its own merits. Trying the cases together would dilute the court's focus. That is a factor that the court must weigh in the balance.
51. In relation to costs savings, Mr Brisby urged caution in accepting the defendants' estimate that a joint trial would involve cost savings of approximately £1.65 million. There were reasons to consider that the figures put forward by the defendants would not be borne out in practice. It was even possible that a joint trial might result in higher costs, especially given Mr Quzmar's indication that, if a joint trial is ordered, he is minded to instruct either a separate counsel team or separate solicitors to ensure "100% attention" from his legal team at trial. He might even consider the instruction of separate experts.
52. Mr Brisby submitted that even if the defendants' suggestion of £1.65 million in costs savings is taken at face value, it cannot outweigh the prejudice to Mr Al Sadeq of his

trial being delayed “by one year”. Although these are substantial pieces of litigation, the significance of that level of costs savings is lessened by considering that the defendants’ total costs are in any event estimated to be around £10 million. Additional relevant factors are that Dechert is a substantial international law firm reportedly earning gross revenues in excess of US\$ 1 billion in 2019, with profits per equity partner of US\$ 3 million, and that the claimants have each voluntarily agreed to pay security for costs.

53. Mr Brisby submitted that the two claims could be jointly case-managed to limit duplication of work, minimise additional costs and save court time, without the prejudice to Mr Al Sadeq of substantially delaying the trial of his claim.
54. Finally, Mr Brisby relied on the existence of related proceedings, which he submitted involved serious allegations against Mr Gerrard and Dechert in respect of Mr Gerrard’s conduct during investigations, which in some respects overlap with allegations made by the claimants and show a consistent pattern of conduct by Mr Gerrard and Dechert.
55. The claimants say that the following proceedings are related to the Al Sadeq Claim and the Quzmar Claim and relevant to the Joint Trial Issue. I have adapted this summary from the Agreed Case Summary for the Quzmar Claim, as updated by the claimants’ skeleton for the Joint CMC and, in relation to the first set of proceedings mentioned below, the judgments of the High Court and Court of Appeal:

The Azima Proceedings

- i) RAKIA brought proceedings in the Chancery Division with Claim No HC-2016-002798 (“the Azima Proceedings”) alleging fraud against a businessman, Mr Farhad Azima, who was an associate of Dr Massaad, the former CEO of RAKIA. It was common ground in those proceedings that RAKIA’s claim was based on emails hacked from Mr Azima’s e-mail account, however RAKIA maintained that it had obtained the hacked material innocently on publicly accessible websites, the material having been placed there by anonymous hackers.
- ii) Mr Azima challenged the claim on the basis that it should be struck out or dismissed for reliance on unlawfully hacked confidential e-mails. He brought a counterclaim for damages resulting from that hacking, which was stayed pending trial of RAKIA’s claim against him. Mr Azima alleged that Mr Gerrard and Mr Nicholas Del Rosso, a private investigator, were responsible for the unlawful hacking of his e-mails, in the context of Mr Gerrard’s instructions in relation to the Investigation. Mr Del Rosso, in his evidence, said that he had received his instructions from Mr Gerrard, albeit on the basis that the hacked material was innocently discovered rather than illegally hacked.
- iii) Mr Gerrard denies Mr Azima’s allegations and was not a party to the Azima proceedings but did give evidence. At the trial of the claim before Mr Andrew Lenon QC, sitting as a Deputy High Court Judge, which took place in January-February 2020, Mr Gerrard was cross-examined in relation to his treatment of Mr Al Sadeq.

- iv) On 22 May 2020 the deputy judge handed down his judgment, allowing RAKIA's claim: *Ras Al Khaimah Investment Authority v Azima* [2020] EWHC 1327 (Ch). He concluded that, on the balance of probabilities, RAKIA was not responsible for the hacking of Mr Azima's e-mails and dismissed the counterclaim.
- v) After hand-down of the judgment but before he had made his final order to give effect to the judgment, the deputy judge received a letter from Enyo Law LLP ("Enyo Law"), acting on behalf of Mr Gerrard, as they do in relation to these claims, stating that Mr Gerrard wished to file a third witness statement to correct evidence he had given during the trial. Mr Gerrard had provided two witness statements for the trial, was called as a witness by RAKIA and was cross-examined by counsel for Mr Azima for just over one day.
- vi) Mr Gerrard's explanation for wishing to provide a corrective witness statement was, broadly, that he had not expected to be cross-examined on his interviews with Mr Al Sadeq and his wife and therefore had not refreshed his memory beforehand. It only became clear to him after the trial, when he had to focus on the Al Sadeq Claim, that he had been mistaken in some of his recollections concerning his dealings with Mr Al Sadeq and his wife. He wished to file a corrective witness statement in order to comply with his professional obligations as an officer of the court.
- vii) Having received Mr Gerrard's third witness statement, the deputy judge invited and considered submissions from the parties. On 30 June 2020 he issued an Addendum to his original judgment (the neutral citation for the Addendum is [2020] EWHC 1686 (Ch)) in which he set out his reasons for not acceding to Mr Azima's request to re-open his original judgment and to recall Mr Gerrard for further cross-examination. The deputy judge made a number of critical comments about Mr Gerrard's third witness statement and his evidence generally but concluded that it would not have altered his overall conclusion if Mr Gerrard were shown to have been a dishonest witness.
- viii) According to the claimants' skeleton argument, in granting Mr Azima permission to appeal, Arnold LJ drew particular attention to Mr Gerrard's corrective witness statement and described it as "concerning".
- ix) On 12 March 2021 the Court of Appeal handed down judgment partially allowing Mr Azima's appeal: *Ras Al Khaimah Investment Authority v Azima* [2021] EWCA Civ 349. The Court of Appeal allowed Mr Azima's application to adduce new evidence on his hacking claim and allowed his appeal on the ground that his counterclaim was wrongly dismissed. The counterclaim was remitted to the Chancery Division for retrial. Otherwise, in substance, Mr Lenon QC's judgment in favour of RAKIA was upheld. The Court of Appeal did not comment on Mr Gerrard's corrective witness statement or the Addendum to Mr Lenon QC's judgment.

#### The First Stokoe Proceedings and the Second Stokoe Proceedings

- x) Stokoe have brought two sets of proceedings in the Queen's Bench Division with Claim No QB-2020-002218 ("the First Stokoe Proceedings") and Claim

No QB-2020-002492 (“the Second Stokoe Proceedings”) in June 2020 and July 2020, respectively. In those proceedings, Stokoe brings claims for, amongst other things, injunctive relief against private investigators alleged to have been involved in the unlawful theft of confidential information from Stokoe concerning Stokoe’s representation of Mr Al Sadeq. Mr Al Sadeq in his claim and Mr Quzmar in his claim contend that those steps were taken by or on behalf of one or more of the defendants. The defendants deny any involvement in those matters and are not parties to those proceedings.

### US Proceedings

- xii) On 3 August 2020, the United States District Court for the Southern District of New York granted an application made by Mr Al Sadeq under 28 USC §1782 to issue a subpoena to Dechert-US for discovery in aid of the Al Sadeq Claim. The subpoena sought testimony and documents in Dechert-US’s possession relating to the Investigation. Dechert-US has applied to quash the motion.
  - xii) On 5 February 2021, Mr Al Sadeq and Stokoe made an application under 28 USC §1782 to the United States District Court for the Middle District of North Carolina to issue a subpoena for Mr Del Rosso and his company, Vital Management Services Inc, to provide documents and testimony in support of the Al Sadeq Claim and the Second Stokoe Proceedings. Mr Patrick Grayson, who is also a private investigator and one of the defendants to the Second Stokoe Proceedings, has pleaded in those proceedings that Mr Del Rosso instructed Mr Grayson on 28 January 2020 to obtain information in relation to the Al Sadeq Claim.
56. Mr Brisby submitted that these related proceedings indicate the unique context in which these claims are pursued and the challenges faced by the claimants, in particular, by Mr Al Sadeq, in pursuing his claims against defendants who, if his allegations are correct, have been prepared to deploy unlawful means against the professionals seeking to represent him. This is a factor that needs to be weighed in the balance against a significant delay in the trial of the Al Sadeq Claim that would result from ordering a joint trial.
57. Mr Craig Morrison, for the defendants, focused on the degree of overlap between the issues in each claim, the risk of inconsistent factual findings if there are separate trials, the extra costs that would be occasioned by separate trials, the effect on the parties of a delay to the first trial if joint trial is ordered, what oral evidence is likely to be admitted at trial and whether there will be witnesses in common, what documentary evidence is likely to be adduced, and whether there will be a significant overlap between the documents at both trials.
58. Paragraphs 7.1 and 7.2 of the defendants’ skeleton argument reads as follows (with references to the defendants’ authorities bundle removed):
- “7. The principles which apply when the Court is considering whether to order a joint trial are as follows:

- 7.1 A determination that two actions should be heard together requires that there be demonstrated “demonstrated a sufficient overlap of issues or areas of dispute so as to make it right, bearing in mind the overriding objective, to have concurrent trials”: *Reid v Edwards* [2008] EWHC 2722 (Ch) at [50] per Mann J ... .
- 7.2 There is no closed list of factors to consider. The Court must decide “the correct course in the interests of fairness to the greater number of parties, and taking into account, all of the court’s own considerations as to efficient management of its business”: *Langstone Leisure Ltd v Wacks Caller (a firm)* [2012] EWHC 170 (Ch) at [18] per Morgan J ... . Ultimately, the question is what “the interests of justice require and the administration of justice requires”: *Maes Finance Ltd v Leftleys (a firm)* [1998] PNLR 193, 196A per Jacob J ... .”
59. While the principles articulated in this way are uncontroversial, I note that it is clear from reading the cases that the excerpts quoted are case-specific self-directions of the court, not set out as statements of principle of general application.
60. In paragraph 7.3.7 of the defendants’ skeleton argument, it is noted that, in conducting this exercise under CPR r 3.1(2)(h), it is appropriate to take into account the nature of the allegations made and the nature of the defendants. I will call this “the context point”. Reference is made to the observation of Morgan J in *Langstone Leisure* at [12] that it was “highly undesirable” for the solicitor in that case, who was facing allegations of professional negligence in separate claims, to have to give evidence twice, “quite apart from the mere duplication of evidence and effort and court time” due to the nature of the allegations involved.
61. While allegations of professional negligence against a solicitor are, of course, by their nature serious, I note that the allegations against the defendants to each of these claims are quite different and considerably more serious. It seems to me that the context point potentially cuts both ways.
62. In relation to the degree of overlap between the claims, Mr Morrison referred me to the list of common issues set out in Annex 1 to the defendants’ skeleton argument. He submitted that the core allegation is that Mr Gerrard, in particular, improperly conducted the Investigation so as to be responsible for the mistreatment of each claimant in identical or nearly identical ways. As a result, the Al Sadeq Claim and the Quzmar Claim are in most respects identical. He cited as identical issues of fact (i) the circumstances and/or purpose of the defendants’ instructions in relation to the Investigation and (ii) the degree to which Dechert-UK and Mr Gerrard were in a position to and did direct and control the treatment of which each claimant complains, so as to be responsible for it.

63. Mr Morrison submitted that, in essence, each claim is based on an allegation that Mr Gerrard was the dominant member of a “Committee of Three” comprised of the Ruler, Mr Gerrard and the Attorney General of RAK, and that this Committee of Three directed and pursued a single course of conduct or “campaign” against the claimants as part of the Ruler’s vendetta against Dr Massaad and the Ruler’s brother and rival, Sheikh Faisal. This submission is supported by the fact that each claimant places extensive reliance on the other’s allegations to advance his own case. This goes beyond mere reliance on similar-fact evidence.
64. Mr Morrison further submitted that each claim has a number of factual issues that, although not identical to factual issues in the other claim, will involve the court undertaking similar inquiries. These inquiries will include, among other things, (i) whether each claimant was unlawfully abducted and/or detained and the defendants’ knowledge of this, (ii) the conditions of each claimant’s detention and the defendants’ knowledge of this, (iii) whether the defendants used or threatened against each claimant the power to improve their conditions of detention in order to extract false confessions, and (iv) whether the defendants were involved in searches of each claimant’s home. In determining materially similar questions in relation to each claim, the court will need to have an understanding of the same factual background, such as details of the Investigation and the workings of the RAK judicial system.
65. Mr Morrison acknowledged that there are a number of issues specific to each claim that will need to be determined individually, but he submitted that they each needed to be determined in light of the common background, which will be relevant to their inherent probability.
66. Mr Morrison submitted that the proceedings also raise a number of issues of English law, the answers to which will necessarily be the same in each claim. He further submitted that there are numerous provisions of UAE law, pleaded in identical terms by each claimant, which will need to be applied to facts that are pleaded in “near-identical” terms by each claimant. For all of the foregoing reasons, he submitted, there is plainly an extensive overlap between the issues in each set of proceedings, making it necessary (or at least highly desirable) that the claims be tried together.
67. Mr Morrison submitted that, given the degree of overlap between the two actions, there is a clear risk of inconsistent judgments if the two actions are not tried together. For example, Mr Al Sadeq might fail to establish his allegation that he was mistreated by the defendants pursuant to a campaign directed by the “Committee of Three” of which Mr Gerrard was the dominant force. Mr Quzmar would not be bound by that outcome and could seek to argue that a different conclusion on that central issue could be reached in his case.
68. Mr Morrison also submitted that there was a risk of inconsistent judgments on legal issues, if Mr Quzmar is able to argue that relevant matters were not addressed in the first trial, permitting the court to reach a different conclusion on matters of English or UAE law in the second trial. This is particularly so where Mr Quzmar proposes that he should file a separate set of expert reports, which could take materially different or further points.
69. Mr Morrison submitted that each claim shares a number of witnesses of fact, including each claimant, as well as Mr Gerrard, Ms Black and possibly other Dechert

lawyers. It is also relevant that Mr Gerrard will have to face very serious allegations twice and be required to be cross-examined on substantially similar matters on two separate occasions. It would be duplicative. It would also lead to obvious unfairness, in that the claimants' joint legal team would have a "dry-run" in cross-examination of the defendants and their witnesses on common issues during the first trial before a second round of cross-examination in the second trial. There would also be likely duplication in the oral evidence of the UAE law experts addressing materially similar issues in each trial. All this, Mr Morrison submitted, points to the need for a joint trial.

70. As to documentary evidence, Mr Morrison submitted, the two claims share a large volume of documents. It would clearly be desirable for the documents common to both claims to be considered once at a joint trial by a single judge.
71. In relation to costs savings, the defendants in their skeleton argument set out their calculations, which they submit show that the costs saved by a joint trial would be in the region of £1.6 million.
72. In that regard, Mr Morrison submitted that a joint trial would lead to a number of savings, including in relation to the respective legal teams, the preparation of witness statements by the defendants and key common witnesses, the preparation of a single set of expert reports and attendance by the experts at only one trial, and the possibility of the claimants instructing a single joint expert in five of the proposed disciplines where their allegations overlap or are the same.
73. Mr Morrison submitted that there would be further costs savings from the fact that a joint trial would be materially shorter than two single trials, namely, by some 12 days. A joint trial would require 48 days (including 8 days' pre-reading) as opposed to the two trials, which would require 60 days (including 5 days' pre-reading for each trial, 35 days' hearing for the Al Sadeq Claim and 25 days' hearing for the Quzmar claim). Mr Morrison noted that the claimants estimated that each individual trial would take 35 days (including pre-reading time), which means that a joint trial would result in an even greater saving of 22 days.
74. Mr Morrison submitted that it is clear that a single joint trial would result in a more efficient use of the court's resources than two separate trials of a combined longer duration.
75. Mr Morrison submitted that the eight-month delay between the current trial date for the Al Sadeq Claim on 9 May 2022 and a joint trial date in January 2023 was comparatively short in the context of this case, where the principal acts complained of allegedly occurred in 2014/2015 and the claims were not brought until 2020. The possibility of there being a joint trial was mooted at the CMC before Master Dagnall in December 2020, and the current listing of the Al Sadeq Claim was made provisionally on that basis. This position is quite different from the cases referred to by the claimants in their skeleton argument where the loss of a trial date was a factor that weighed against a relatively late application for a joint trial or consolidation of proceedings.
76. Mr Morrison submitted that a delay of eight months would not cause material prejudice to Mr Al Sadeq given his apparent financial position, which has permitted him to agree to provide security against a potential total costs exposure in excess of



£10 million. There would also be no material non-financial prejudice as there is no basis to believe that the RAK courts will release Mr Al Sadeq on the basis of any criticism of their decisions that might be made by an English court in a civil case.

77. Finally, Mr Morrison noted that a joint trial would come on sooner than Mr Quzmar's trial would come on, if separate trials are ordered, with the current estimate for a listing of a separate trial of the Quzmar Claim being April 2023. Accordingly, a joint trial would result in a sooner resolution of matters for Mr Quzmar as well as for Dechert-UK and Mr Gerrard.
78. As to the other matters raised by Mr Brisby concerning the course of correspondence between the parties' solicitors prior to the Joint CMC and the related proceedings, Mr Morrison submitted that they had little or no relevance to the question of whether the court should exercise its discretion to order a joint trial under CPR r 3.1(2)(h).

*Discussion and analysis*

79. The principal factors that I need to consider are:
- i) the prejudice that would be caused to Mr Al Sadeq by a delay of his trial until January 2023, having regard also to the impact (positive or negative) of the delay on other parties and potential witnesses;
  - ii) the degree of overlap between the two claims in relation to factual issues, legal issues, oral and written witness evidence and documents;
  - iii) the risk of "confusion" of the two claims or, in other words, the risk that there will be an unconscious and unfair impact of one claim on the other claim if they are tried together;
  - iv) the risk of inconsistent judgments on factual or legal issues arising in the two claims if they are not tried together;
  - v) the likely extent of savings in costs and court resources if a joint trial is ordered; and
  - vi) the extent to which concerns about inconsistent judgments and costs can be mitigated through case management if a joint trial is not ordered.
80. I will also consider the relevance to this exercise of the defendants' change of position between October 2020 and March 2021 on the issue of whether there should be joint case management and/or a joint trial; and the relevance of the related proceedings referred to by the claimants in their skeleton argument.
81. In relation to the issue of prejudice to Mr Al Sadeq that would be caused by a delay in the start of his trial from 9 May 2022 to a joint trial starting in January 2023, I accept that this is an important factor that must be given serious weight. It is not a factor of "overriding" importance, but it is important. I also accept that the conditions in which Mr Al Sadeq is currently detained are relevant to my assessment of the prejudice caused by a delay of the trial of his claim.

82. In the claimants' skeleton argument there are several references to there being a delay of one year to the trial of the Al Sadeq Claim if a joint trial is ordered. The claimants say that this is because there would be nearly a year where "nothing happens" between the last case management step in the Al Sadeq Claim on 11 February 2022 and a joint trial date in January 2023. I note that this period is closer to 11 months than a year, assuming a trial starting at or near the beginning of Hilary Term in January 2023. On the current timetable, there is a delay between that last case management step and the trial date of some three months, a delay that would occur either way. So, the net delay is closer to eight months on the assumption I have just made. I accept that a delay of eight months is a significant delay. I also bear in mind that the trial could be listed up to a month or two later in the current window.
83. In relation to the possibility raised by the defendants' solicitors on the day before the Joint CMC that a joint trial could possibly be listed in Michaelmas Term 2022, I am happy to assume for purposes of determining the Joint Trial Issue that that is unrealistic and that January 2023 is the earliest that a joint trial could be listed.
84. It is relevant that the listing of the Al Sadeq Claim was made pursuant to Master Dagnall's order of 15 December 2020 following the first CMC, while it was clearly in the contemplation of the parties that the issue of whether there should be a joint trial was at least potentially for consideration at the Joint CMC. The listing was provisional, pending determination of the Joint Trial Issue. I accept Mr Morrison's submission that this background distinguishes this case from cases where a late application for a joint trial or consolidation was refused partly in reliance on the fact that it would mean the loss of an already fixed trial date.
85. I also agree with Mr Morrison that the evolution of the defendants' position on the joint case management and joint trial issues between October 2020 and March 2021 is of little or no relevance. Views on such issues can reasonably change over time as matters are considered by professional advisors with their clients, and also as time passes and circumstances change. The defendants were not bound to adhere to their initial position in the absence of a "good explanation", and the absence of an explanation acceptable to the claimants does not, in my view, necessarily mean that the change of position was tactical or, if it was, that that fact carries much, if any, weight in the overall balancing exercise.
86. In my view, it is unlikely that a judgment of the English court in relation to the Al Sadeq Claim will have much, if any, effect on the conditions in which Mr Al Sadeq is currently held, even if his claim is successful. Any positive impact of a favourable judgment is speculative.
87. I accept, on the basis of Mr Tsiattalou's evidence, that it is possible that Mr Al Sadeq has suffered a deterioration in treatment due to his bringing his claim. This is, however, necessarily speculative. There may be other reasons for the deterioration, assuming it has occurred. While I have no reason to doubt the honesty of Mr Tsiattalou's evidence, I note that Mr Tsiattalou has had difficulty communicating directly with his client due to restrictions imposed by the authorities in RAK. His evidence is not direct and not independent of the claimant, whose perceptions of the reasons for his treatment cannot (through no fault of his own) currently be tested. This means that it is difficult to get a clear picture of Mr Al Sadeq's current conditions in prison, and the reasons for them. It is also difficult, if not impossible, to assess how

the position would differ if Mr Al Sadeq had not brought his claim against the defendants or if the claim were to be discontinued. I cannot, therefore, place much weight on this evidence.

88. In relation to the argument that Mr Al Sadeq's family are currently deprived of Mr Al Sadeq as a source of income and would be disadvantaged by a delay in obtaining compensation via his claim, should it be successful, it does appear as though Mr Al Sadeq has substantial financial resources, which have enabled him to bring this claim and offer security for the significant costs anticipated by the defendants. While I have great sympathy for Mr Al Sadeq's family, I do not think that a delay of eight or so months is likely to make a significant practical difference to them given that Mr Al Sadeq has been in detention since September 2014. I accept that the family is anxious for the matter be resolved sooner rather than later.
89. I consider that it is relevant that a joint trial would come on sooner than the trial of the Quzmar Claim alone, meaning that the matter would be likely to be resolved for Mr Quzmar and the defendants to that claim sooner than if separate trials were ordered.
90. I bear in mind that we are concerned with a delay of eight or so months in the context of matters that allegedly occurred principally in 2014-2015 (leaving aside allegations about attempted interference with Mr Al Sadeq's professional advisers, which I will deal with separately) and that the claims were brought in 2020. Against that timescale, a delay of eight or so months is not as significant as it would be in other circumstances. It does not appear to be argued that the delay would, in and of itself, affect the fairness of the trial, for example, due to the effect of the passage of time on the reliability of witness evidence or the availability of other evidence.
91. In relation to the degree of overlap between the claims, I find that there is a common factual background, each claim arising out of the work of the defendants on the Investigation, over a similar time period, involving many of the same individuals, with each claim based on the allegation that Mr Gerrard was the dominant member of a "Committee of Three" and each claimant placing extensive reliance on the other claimant's allegations to advance his own case. I accept that the specific facts of each claim will need to be separately established and that, while there are common legal issues, the relevant legal principles, once determined, will need to be applied to similar, but distinct sets of facts.
92. I also bear in mind that each claim raises issues not present in the other claim, such as the question in the Al Sadeq Claim of the allegedly false confession statements made by Mr Al Sadeq and the questions in the Quzmar Claim of Mr Quzmar's judicial immunity and the retrospective application of a criminal statute under which he was convicted. There will clearly be extensive overlaps in the factual witness, expert witness and documentary evidence relevant to determination of the issues in each claim.
93. Notwithstanding this, I accept Mr Brisby's submission that the two claims do not stand or fall together. One claim could succeed, while the other claim fails. Similarity of issues does not necessarily mean similarity of outcome. It all depends on the evidence relevant to each claim. Each claim needs to be separately considered and adjudicated upon. I accept, in particular, that, if liability is established in each claim, determination of quantum will be different, although common principles will apply.

94. I consider that the risk of confusion of the two claims is overstated. The case of *Ronaldo v Mirror Group Newspapers Limited* was concerned with jury trials. A trial judge during a joint trial is, of course, not necessarily immune from confusion, but will be alert to, and guard against, the possibility that conclusions on one claim could unfairly influence his or her thinking on the other claim. Of course, some conclusions reached on one claim will properly influence the judge's thinking on the other claim and can fairly be taken into account. That is part and parcel of the business of judging and one of the advantages of a joint trial of claims, such as these, which are closely related by virtue of arising from a common background against the same or overlapping defendants.
95. If there are separate trials, there is a distinct risk of inconsistent judgments on common factual or legal issues in the event of separate trials, simply by virtue of the fact that the evidence presented in the second trial differs from the first. That is the case whether or not the same trial judge hears both claims.
96. It was suggested by Mr Brisby that the risk of inconsistent judgments could be mitigated by having the same trial judge hear both claims. While that is true to some extent, it may be, as I have already noted, that the trial judge in the Quzmar Claim will be driven to different conclusions by virtue of differences in the evidence presented. I also bear in mind the cautionary words of Gloster LJ in *Plantation Holdings (FZ) LLC v Dubai Islamic Bank PJSC* at [54]-[55] as to whether, and at what stage, it would be appropriate for a trial judge to reserve a second trial of related claims to himself or herself or to give case management directions as to the determination of issues in the second trial.
97. It seems to me that there must be a significant degree of savings in costs and in the allocation of court resources, including judicial resources and court sitting days, in having a joint trial rather than separate trials, given the close relationship between the claims, the common background, the two defendants common to each claim (being the most important defendants, it appears), the significant overlap in legal issues and the numerous similar issues of fact arising out of the common background, and various similar allegations. There will also clearly be a significant overlap in witnesses of fact, expert witnesses and in documentary evidence. Whether the amount of costs savings is more or less than £1.6 million is not determinative. In my view, it is highly likely to be a significant sum. There will also be a clear saving in the allocation of judicial and other court resources in having a joint trial.
98. I bear in mind that Mr Tsiattalou, on instructions, has given evidence that each claimant wishes to have a separate trial to ensure that the court is focused only on the issues of relevant to him during the course of his trial. I take that into account, but that desire of each claimant, while understandable, in the context of this case is of limited weight. In any event, it is the duty of the court to ensure that there is a proper focus on each claim. In my view, given the close relationship of the claims and the significant overlap in the relevant evidence, having a joint trial will be fairer for each claimant and for each defendant.
99. Having assessed and balanced the various factors discussed above, it seems to me that the overriding objective requires that there be a joint trial of the Al Sadeq Claim and the Quzmar Claim. Although that will mean a delay of eight or so months in the Al Sadeq Claim being heard, it will allow these two closely related claims to be

resolved together more quickly and efficiently at a lower cost and with a more proportionate allocation of court's resources than if the two trials were to be heard sequentially.

100. If, as a result of this order, Mr Quzmar wishes to instruct a separate counsel team and/or separate solicitors, that is a matter for him. That may have an impact on costs and reduce the savings gained by having a joint trial with a single legal team on the claimants' side. It will also, of course, most likely increase Mr Quzmar's share of the costs, but, again, that is a matter for him. It is his right to have advisors of his own choosing. Even bearing that possibility in mind, the balance clearly falls in favour of ordering a joint trial.
101. I do not consider that the defendants' change of position between October 2020 and March 2021 on the issue of joint case management and/or a joint trial is of material relevance to the Joint Trial Issue.
102. In respect of the related proceedings on which the claimants rely, I agree with Mr Morrison that these are of marginal relevance given that they amount to no more than allegations and inferences from allegations. There is, as of yet, no cogent evidence of wrongdoing by Mr Gerrard in relation to any of those proceedings. While it is regrettable that Mr Gerrard was compelled, by virtue of inaccuracies in his evidence during the Azima Proceedings, to file a corrective witness statement, he has given an explanation for having had to do that. He was properly subject to robust criticism by the judge. That matter is, however, of marginal relevance to the balancing exercise necessary to resolve the Joint Trial Issue.

### *Conclusion*

103. I will order a joint trial of the Al Sadeq Claim and the Quzmar Claim.
104. This will have an impact on the scope of the Letter of Request, as it will make sense for the Letter of Request to address the taking of evidence from each of the claimants rather than simply Mr Al Sadeq. There will be other consequential effects on the directions necessary to prepare for the joint trial, which hopefully can largely, if not completely, be agreed between the parties. Any remaining differences can be resolved by written submissions or a short hearing can be arranged to deal with them.
105. I have decided the Joint Trial Issue on the basis that January 2023 is the earliest that a joint trial could occur. I encourage the parties, however, to engage constructively in considering whether, as was apparently suggested by the defendants on the day before the Joint CMC, a joint trial could be ready to be heard in Michaelmas Term 2022. The parties should now seek to agree an order to give effect to this judgment and the resolution of the other issues that were set down for the Joint CMC on the basis of a joint trial in Hilary Term 2023. If a realistic timetable towards the listing of the joint trial in Michaelmas Term 2022 can be agreed, the parties can return at a later stage for amended directions.