

Neutral Citation Number: [2024] EWHC 1951 (Comm)

Case Nos: CL-2018-000297, CL-2018-000404, CL-2018-000590
CL-2019-000487, CL-2020-000360

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
KING'S BENCH DIVISION
COMMERCIAL COURT

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

Date: 25 July 2024

Before :

Mr Justice Andrew Baker

Between :

**SKATTEFORVALTNINGEN (THE DANISH
CUSTOMS AND TAX ADMINISTRATION)
("SKAT")**

Claimant

- and -

**SOLO CAPITAL PARTNERS LLP (IN SPECIAL
ADMINISTRATION) & OTHERS**

Defendants

**Laurence Rabinowitz KC and KV Krishnaprasad (instructed by Pinsent Masons LLP) for
the Claimant**

**Nigel Jones KC, Lisa Freeman, Sarah McCann, Miguel Henderson and Thomas Mitty
(instructed by Meaby & Co) for Usha Shah**

(No other defendant made submissions on this application.)

Hearing date: **25 July 2024**

RULING
(Approved Transcript)

Mr Justice Andrew Baker
(11:06am)

Thursday, 25 July 2024

Ruling by **MR JUSTICE ANDREW BAKER**

***Explanatory Note:** An application was made to adjourn the trial and re-schedule Usha Shah's factual evidence to the autumn in response to a letter sent by the Claimant's solicitors notifying a narrowing of the case now pursued against her.*

1. I am grateful to Mr Jones KC for raising his concern as to whether it will be fair to proceed to take Mrs Shah's evidence today, as scheduled. I take the view that as trial judge I am in a sufficient position to bear in mind when assessing her evidence the potential last-minute disruption to the steadiness of Mrs Shah's mind about coming to give that evidence, as a possible factor bearing upon her ability to give of her best today, that it is likely, in principle, to be fair to proceed.
2. I do think that the letter sent last night, with hindsight, might have been even more clearly expressed in simple factual terms, for Mrs Shah, to the effect that she was no longer to be accused of wrongful conduct in anything she did prior to 30 June 2014. I am satisfied by the explanations that Mr Rabinowitz KC has given that that was the intention and that that is the position. He has confirmed that to the court, and I am in a position to confirm that to Mrs Shah so as to reassure her that that is its practical impact for her today.
3. The elevation of this to an application to adjourn her evidence back to the autumn has, I consider, overstated to a very significant extent the impact of the way in which that letter might perhaps have been less clear than it could have been. The submissions made overlooked the clarity with which, whatever the pleaded position may have been, SKAT had made it clear in opening that they understood there was an alternative sufficiently in play as to when her wrongful conduct, as alleged, started, such that the letter last night should not have caused any surprise or alarm.
4. On a fair analysis of the pleadings, it seems plain that the only factual activity of hers that has ever been said to be in the frame, and potentially to be explored with her as to why it occurred, prior to 30 June 2014, was her becoming an employee of Elysium Dubai and receiving payments as such. Those are now no longer going to be said to have been wrongful conduct and that is, as it seems to

me, the entire scope, in reality, of the clarification in her favour of the way in which the case is going to be put.

5. When one adds into the mix that it was always clear, with the possible exception of any claims against her in relation to her receipt of monies as employee, that the substantial damages calculations against her all related to losses suffered by SKAT after 30 June 2014, as alleged, and therefore in that respect the overall shape and size of the case against her is unaffected by this change, I am not persuaded that it is inappropriate or unfair for her to be expected to give her evidence today.
6. To the contrary, in fact, I take the view that, though it is the case that as things now stand it would probably be possible to fit in a rescheduled appearance from her in the autumn, the downside of that from her perspective, as well from the perspective of all the other parties engaged in the case, outweighs the degree to which she may now come to give her evidence today in less optimal circumstances than it would have been hoped she would have done because of any degree of unsettling of her calmness about the process that the receipt of that letter may have caused.
7. I therefore propose that we should continue and so I expect her now to be called. I will give her that reassurance, I hope in accurate and clear terms.