

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

CHANCERY DIVISION

BUSINESS LIST

BETWEEN:

MR LEE CASTLETON

Claimant

-and-

**(1) POST OFFICE LIMITED
(2) FUJITSU SERVICES LIMITED**

Defendants

**SKELETON ARGUMENT OF THE SECOND DEFENDANT
FOR THE HEARING LISTED ON 23 JANUARY 2026**

Suggested reading list and references:

Particulars of Claim: POC/paragraph

First witness statement of Benjamin David Summerfield: Summerfield1/paragraph

Second witness statement of Benjamin David Summerfield: Summerfield2/paragraph

First witness statement of Alan John Sheeley: Sheeley1/paragraph

Second witness statement of Alan John Sheeley: Sheeley2/paragraph

First witness statement of David Edward Phillips: Phillips/paragraph

Second witness statement of David Edward Phillips: Phillips2/paragraph¹

References to the directions hearing bundle are in the form: Tab/page

I. INTRODUCTION

- 1 This is the Skeleton Argument of the Second Defendant (“FSL”) for the directions hearing listed on 23 January 2026. In summary, FSL submits as follows:

¹ The Claimant has also filed two additional witness statements, of Mr Jason Coyne and Mr Ron Warmington. These relate to matters concerning the underlying claim and FSL does not consider that they are relevant to the issues before the Court at this hearing.

- (1) The only route forward consistent with the overriding objective is for a preliminary issues trial of the question of whether the parties have settled the dispute.
- (2) Accordingly, the Court is respectfully invited to order defences to Part A of the POC to be filed in short order, with defences to Parts B and C of the POC (going to the substantive claim) to be held over until the determination of the preliminary issue.

II. BACKGROUND

- 2 The factual and procedural background is as set out in the two witness statements of Mr Summerfield, and is only briefly summarised in this section.
- 3 The Claimant (“**Mr Castleton**”) was the postmaster of the Marine Drive post office branch from 18 July 2003 to 17 May 2004. Marine Drive’s accounts began to show apparent shortfalls towards the end of 2003, which Mr Castleton reported to the First Defendant (“**POL**”) and FSL. Mr Castleton claimed that the shortfalls were caused by faults in the Horizon system, the IT system used by POL in branches, which was designed and maintained by FSL. Between 2005 and 2007, POL pursued the Claimant for the apparent shortfalls in the High Court and obtained judgment against him on 22 January 2007 (the “**Original Proceedings**”). Mr Castleton now claims that the judgment in the Original Proceedings was obtained by fraud, and that POL and FSL unlawfully conspired to withhold evidence from the Court.
- 4 Mr Castleton was one of 555 claimants in the group litigation, *Alan Bates & Ors v POL*, which concerned claims by a group of postmasters against POL (including claims in deceit) (the “**GLO**”). That litigation was settled by a deed of settlement between the claimants and POL dated 10 December 2019 (“**Settlement Deed**”). Clause 16.2 of the Settlement Deed contains an arbitration agreement.
- 5 Mr Castleton issued the claim form in these proceedings on 14 March 2025. FSL was given notice by Mr Castleton of a claim having been issued on 20 May 2025. The POC were served on FSL on 10 July 2025. The POC is structured as follows:
 - (1) Part A of the POC addresses Mr Castleton’s position that the Settlement Deed does not or ought not to bar his claim, on the basis that (i) the claims in these proceedings are outside the scope of the Settlement Deed; or (ii) it would be unconscionable to

allow POL to rely on the Settlement Deed; or (iii) the Settlement Deed was entered into as the result of fraudulent representations made by POL such that it ought to be rescinded (POC/9 [6/30-31]).

(2) Parts B and C of the POC concern the substantive claims in unlawful means conspiracy. The claim in Part B is raised against POL only, but contains factual allegations pertaining to FSL, so FSL will (if the case proceeds) need to plead to it. The claim in Part C is against both POL and FSL.

6 FSL's position in respect of these claims is as set out in Summerfield1/27 [17/188-189]. In summary:

(1) As to Part A, FSL's position is that all claims in these proceedings have been settled by the Settlement Deed. FSL is not a party to the Settlement Deed, but it is well established that the effect of an unconditional release by one person against one or more joint tortfeasors (which FSL is alleged to be, with POL) is to prohibit proceedings by that person against any other joint tortfeasor (*Gladman Commercial Properties v. Fisher Hargreaves Proctor* [2013] EWCA Civ 1466).

(2) For the avoidance of doubt, the unlawful conspiracy claim in Part C is denied by FSL.

7 FSL and POL have both filed acknowledgments of service. POL's position was initially that Part A is governed by the arbitration clause of the Settlement Deed and therefore that it intended to apply for a stay of proceedings pending arbitration.² However, POL has since indicated that it will not seek to arbitrate and instead considers that Part A ought to be determined by the Court.³

8 The time for service of POL and FSL's defences has been extended by consent on a number of occasions. On 31 October 2025 (the latest due date by consent), POL and FSL applied for an extension of time for the service of their respective defences to 31 March 2026.

9 On 17 November 2025 (with a sealed order issued on 25 November 2025), Trower J and Master Kaye gave directions for a hearing of the extension applications and the broader

² Letter from Pinsent Masons dated 25 July 2025 [22/504-506].

³ Sheeley1/24 [16/169]; letter from Pinsent Masons dated 3 October 2025 [21/394-396].

issues raised by those applications, in particular (per the third recital): “(i) whether notification of the proceedings should be given to other parties to a deed of settlement dated 10 December 2019 (“the Settlement Deed”) and (ii) whether there should be a split trial or trial of any preliminary issues”.

III. LEGAL PRINCIPLES

- 10 The Court has the power to “*direct a separate trial of any issue*” per CPR rule 3.1(2)(j). There is no distinction for these purposes between a preliminary issues trial or a split trial, and whether the trial of Part A the Defendants seek is referred to as a preliminary issues or split trial does not matter.
- 11 Per the Chancery Guide at [6.10], “*Costs and time can sometimes be saved by identifying decisive issues, or potentially decisive issues, and ordering that they are tried first. ... An example would be a relatively short question of law which can be tried without significant delay (or much in the way of disclosure or witness evidence) but which would be determinative of one or more of the key issues in dispute.*”
- 12 Per *McLoughlin v Jones* [2002] QB 1312 (CA) at [66], “*the right approach to preliminary issues should be as follows. (a) Only issues which are decisive or potentially decisive should be identified. (b) The questions should usually be questions of law. (c) They should be decided on the basis of a schedule of agreed or assumed facts. (d) They should be triable without significant delay, making full allowance for the implications of a possible appeal. (e) Any order should be made by the court following a case management conference.*”
- 13 In *Steele v Steele* [2001] CP Rep 106, Neuberger J (as he then was) formulated 10 questions for the Court when deciding whether to order a preliminary issues trial (the “**Neuberger Questions**”). As summarised in *Various Claimants v News Group Newspapers Ltd* [2024] EWHC 902 (Ch) at [13] per Fancourt J, those questions are:

“*First, whether the determination of the preliminary issue would dispose of the case, or at least one aspect of the case. Second, whether the determination of the preliminary issue could significantly cut down the cost and time involved in pre-trial preparation, and in connection with the trial itself. Third, if the preliminary issue is an issue of law, how much effort will be involved in identifying the relevant facts for the purposes of the preliminary issue. Fourth, if the preliminary issue is one of law, to*

what extent is it to be determined on agreed facts. Fifth, where the facts are not agreed, the court should ask itself to what extent that impinges on the value of a preliminary issue. Sixth, whether the determination of a preliminary issue may unreasonably fetter either or both parties, or indeed the court, in achieving a just result. Seventh, is there a risk of the determination of the preliminary issue increasing costs and/or delaying the trial. Eighth, to what extent may the determination of the preliminary issue prove irrelevant. Ninth, to what extent is there a risk that the determination of a preliminary issue could lead to an application for the pleadings being amended so as to avoid the consequences of the determination. And tenth, and finally, taking into account all the previous points, is it just to order the preliminary issue?”

14 While not exhaustive of the considerations the Court may take into account, the 10 questions are a “*useful check as to the good sense of ordering a preliminary issue*”: *Various Claimants* at [16].

IV. SUBMISSIONS

A. Formulation of the preliminary issues

15 Mr Castleton has confirmed that he does not, in principle, object to a preliminary issues trial: Phillips/10 [18/195]. Rather, as at the time of filing his evidence in response to the Defendants’ extension applications, his position was that no appropriate preliminary issue had been formulated and agreed between FSL and POL.

16 As an initial point, FSL notes that what the Defendants propose is a trial of the issues in Part A of Mr Castleton’s POC: i.e. the issues Mr Castleton has himself isolated and put first in his pleading. Any debate about the specific formulation of the issues does not affect the essential point that the only sensible course is to try Part A of the POC separately and first.

17 FSL and POL have since agreed on the following formulation of the “**Preliminary Issues**” (per Summerfield2/7 [20/259-260], [25/1086-1087]):

“2.1 Whether, on its true construction, the Settlement Deed released the claims against the First Defendant pleaded in Part B and Part C of the Particulars of Claim.

2.2 Whether, if on its true construction the Settlement Deed did release the claims against the First Defendant pleaded in Part B and Part C of the Particulars of Claim it is also effective to release the Claimant's pleaded claims against the Second Defendant.

2.3 Whether, if the Settlement Deed did release those claims against the First Defendant, the First Defendant is nonetheless precluded from relying on the effect of that settlement by reason of "unconscionability" (as alleged in paragraph 9 of the Particulars of Claim).

2.4 Whether

2.4.1 the First Defendant fraudulently misrepresented the reasons for not calling Gareth Jenkins as a witness in the Horizon Issues Trial; and

2.4.2 if so, whether any such fraudulent misrepresentation induced the GLO Claimants to enter into the Settlement Deed; and

2.5 If so, to what relief, if any, is the Claimant entitled."

- 18 Issues 2.1 and 2.2 are referred to as the "**Construction Issue**"; Issue 2.3 is referred to as the "**Unconscionability Issue**"; Issue 2.4 is referred to as the "**Fraud Issue**"; and Issue 2.5 is referred to as the "**Rescission Issue**".⁴ FSL's position as to each of these issues is set out in Summerfield2/15 [20/262-263] and not repeated here.
- 19 This formulation was communicated to Mr Castleton by letter from Pinsent Masons dated 2 December 2025 [25/1086-1087]; but no response has been received as to whether Mr Castleton considers it appropriate or if not, what modifications he proposes. It is therefore not known to what extent Mr Castleton continues to oppose a preliminary issues trial.

⁴ The abbreviations used are for convenience and are not intended to be exhaustive of the legal arguments that may be raised in respect of each issue.

B. A preliminary issues trial of Part A is appropriate

20 FSL's position from the outset of these proceedings has been that a preliminary issues trial on whether the claims have been settled is the only course which is in accordance with the overriding objective (Summerfield2/11 [20/261]).

21 As to the first Neuberger Question, the Preliminary Issues are dispositive: if the Defendants are correct that the Settlement Deed has settled Mr Castleton's claim (against POL and FSL) and that there are no grounds to rescind it, the entire claim falls away. This would be a complete answer to Mr Castleton's case, and that answer is a self-contained one.

22 As to the second Neuberger Question, if the entire claim falls away, it is obvious that there will be significant cost and time savings.

(1) Parts B and C require extensive investigation of the events of 2005-2007 during which proceedings against Mr Castleton were brought by POL.⁵ The 41-page POC, of which 31 pages are devoted to Parts B and C, speaks for itself. FSL has been progressing its defence, and per Summerfield2/25 [20/265]: "*It is anticipated that the Defence will necessarily be a lengthy document totalling around 70 pages, around 10 of which will respond to Part A.*"⁶

(2) FSL expects that a Part A trial would take 5 days, whereas a full trial (including Part A) would take up to four weeks, in light of the complexity and seriousness of the claims. On this basis, FSL has exhibited its costs estimates for a Part A trial as opposed to a full trial [25/1098]. The Court will note that the full trial costs are over 5x the amount of the Part A trial costs.

⁵ In addition to evidence from 1999-2004 relating to the Horizon system, contractual and other arrangements between POL and FSL, and events at Mr Castleton's branch, per the matters pleaded in the POC.

⁶ In light of the very detailed factual inquiry that the Defence requires, over the period 1999 to 2019, FSL's costs incurred in preparing the Defence thus far have been around £700,000. Contrary to Phillips2/9, this is not "remarkable" – these are reasonable costs incurred to enable FSL to respond properly to the serious allegations made against it. The allegation of unlawful means conspiracy has not previously been made against FSL.

(3) POL's estimates are 8-12 weeks for a full trial (Sheeley2/11.9 [19/235]); and 2 weeks for a Part A trial (Sheeley2/13.4 [19/237]). As such, while POL's estimates are longer, the Defendants estimate a similar ratio of time and cost savings.

(4) Mr Castleton's position is that the factual allegations made in Parts B and C do not require "*long or elaborate or extensive investigation*" because they have been canvassed in extensive detail in the public Inquiry and so have already been the subject of "*extensive disclosure*": Phillips/8(d) [18/195]. However, the multitude of additional material (which has not been tailored for relevance to Mr Castleton's branch in particular) is unlikely to make for a shorter trial of issues which involve much factual and technical complexity.⁷

(5) FSL estimates that realistically, a full trial could not take place until early 2028 (Summerfield2/29 [20/267]). A preliminary issues trial has the potential to result in a final determination much quicker.

23 The third, fourth and fifth Neuberger Questions relate to factual matters, and are best considered issue by issue.

(1) The Construction Issue is a legal issue. To the extent that evidence of the factual matrix may assist the Court, FSL expects that a statement of facts could be agreed between the parties.⁸

(2) The Unconscionability Issue is also a legal issue.

(a) The pleaded facts relied upon in POC/9 [6/30-31] in respect of the Unconscionability Issue are that POL "*knew that the Claimant had a claim in fraud and knew that the Claimant was unaware of that claim*". POC/11-12 [6/32]

⁷ And as POL notes in Sheeley2/37 [19/251-252], there may also be issues relating to collateral use restrictions of material disclosed in the Original Proceedings, the GLO claim and the Inquiry.

⁸ In any event, in the context of a contract drafted by lawyers, the factual matrix plays a secondary role (provided that the drafting is coherent). Per *Wood v Capita Insurance Services Limited* [2017] AC 1173 at [13]: "*Some agreements may be successfully interpreted principally by textual analysis, for example because of their sophistication and complexity and because they have been negotiated and prepared with the assistance of skilled professionals. The correct interpretation of other contracts may be achieved by a greater emphasis on the factual matrix, for example because of their informality, brevity or the absence of skilled professional assistance.*"

pleads matters relating to the Original Proceedings that Mr Castleton claims to have been unaware of, which are said to have been within POL's knowledge.

- (b) However, FSL does not consider that this necessitates investigation of the factual matters going to the Part B and C claims:
 - (i) First, even if Mr Castleton's factual allegations are taken at face value, if the Defendants succeed on the Construction Issue, FSL's position will be that unconscionability has no further role to play in circumstances where the claim was within the contemplation of the parties when settling.⁹ This is a pure issue of law.
 - (ii) Secondly, even if Mr Castleton were to succeed on this issue, sharp practice is alleged against POL only and does not have any impact on the releases as against FSL. If Mr Castleton disputes this proposition (which is currently not known), this is also a pure issue of law.
- (3) The Fraud Issue is a factual issue which will require disclosure and witness evidence (albeit only from Mr Castleton and POL and not from FSL). However:
 - (a) The factual issues are relatively limited: Mr Castleton relies on two specific representations said to have been made by POL, which are recorded on written documents and so can be considered on their face (POC/17, 24(d) [6/33-34, 36]). There has already been witness testimony from POL's legal team in the Inquiry as to these representations.
 - (b) This limited factual inquiry does not impinge on the value of the preliminary issue, because there is no overlap between the factual inquiry required for Part A and that required for Parts B and C – there is in fact a 12 year gap, and the cast

⁹ *Maranello Rosso Ltd v LOHOMIJ BV* [2022] EWCA Civ 1667 at [67] per Phillips LJ: “*where a release is construed as covering unknown claims in fraud, dishonesty and conspiracy relating to a defined subject matter (as in this case), such construction entails a finding that the parties mutually intended to settle such claims. That would seem to leave little scope for a finding that one of the parties was guilty of sharp practice in relation to the existence of such a claim.*”

of characters involved is different. As such, there would be no duplication of effort if the case proceeded to a full trial.

- (4) The Rescission Issue is an issue of law. It will involve an inquiry into whether the Settlement Deed ought not to be rescinded due to third party rights.
- 24 As to the sixth Neuberger Question, since the Preliminary Issues are totally separate from the remaining issues and will have a binary result (either the parties have effectively settled or they have not) there will be no unreasonable fetter on the Court in achieving a just result.
- 25 Seventh, there is no risk of increasing costs, as the Part A issues will have to be decided in any event and will take the same amount of investigation and court time whether or not they are decided separately. As to the question of delay, if the case proceeds to a full trial following the preliminary issues trial, there would only be a short delay overall (as the Part A trial will be a short one and can be brought on relatively quickly), and that risk of a limited delay is vastly outweighed by the potential significant cost and time benefits if the Defendants succeed on the Preliminary Issues. Any potential delay can also be mitigated by the directions proposed by FSL below, which seek to ensure a Part A trial can be brought on quickly.
- 26 Eighth, there is no risk that the Preliminary Issues will become irrelevant: they will always have to be determined at trial.
- 27 Ninth, there is no way in which Mr Castleton can improve his pleading so as to avoid the result of a trial of the Preliminary Issues. There is no indication that any other legal argument could be launched to avoid the effect of the Settlement Deed.
- 28 Tenth, accordingly, FSL respectfully submits that it is just overall to order a preliminary trial. Against this, Mr Castleton relies on the further following matters, which are not persuasive.
 - (1) Per Phillips/10(a), 13 and 21 **[18/195-196, 199 and 202]**, Mr Castleton repeatedly relies on his view of the merits of the Construction Issue, and claims that POL and FSL will not succeed on that point, without any explanation. As to this:

- (a) The authorities set out above do not refer to merits; but insofar as merits are a relevant consideration, it is for the Court to weigh, and is not to be based on the assertion of one party.
- (b) As to the arguments made in this regard by Mr Castleton in correspondence (which Mr Phillips neither refers to nor exhibits):
 - (i) In a letter dated 18 September 2025 [21/381-388], Mr Castleton makes detailed arguments relating to the construction of the Settlement Deed.
 - (ii) Further, in the letter dated 15 October 2025, Mr Castleton claimed “*We have been unable to identify authority for the proposition that a general release, under the terms of a settlement, operates to discharge a party whose liability is joint and several, rather than merely joint*”: [22/516].
 - (iii) FSL responded on 20 October 2025, stating that it considered the detailed arguments on the construction of the Settlement Deed to be a matter for submission, and clarifying that its position is that “*it is a well-established principle of English law that settlement with one alleged tortfeasor operates to release all those alleged to be jointly and severally liable with that alleged tortfeasor*”: [22/520].¹⁰
- (c) FSL’s submission is that the merits of the question of whether Mr Castleton’s claims are within scope of the Settlement Deed are not to be determined absent full argument (which is not appropriate at this stage); and the merits of the question of whether a joint tortfeasor is released are weighed heavily in its favour.

¹⁰ *In re EWA (A Debtor)* [1901] 2 KB 642 at 648 per Collins LJ: “*It is too late now to question the law—that where the obligation is joint and several, the release of one of two joint debtors has the effect of releasing the other.*”

(d) If the Court needs persuasion that the Construction Issue is not weighed in Mr Castleton's favour as he claims, without delving into full argument FSL simply points to the very wide wording of the Settlement Deed:

- (i) Clause 4.1 of the Settlement Deed states that “*save as expressly set out in clause 4.2*” the agreement in the Settlement Deed “*is in full and final settlement of the Action, the Claimants' Claims ... and any further claims which arise out of or are in any way connected to, whether directly or indirectly, the claims ... made or the facts and matters alleged by any party in the Action*”. Such claims are defined as the “*Settled Claims*”.
- (ii) The “*Claimants' Claims*” include all claims “*in respect of the losses and causes of action set out at Schedule 2.*”
- (iii) Schedule 2 refers to, among other matters, “*All claims howsoever arising, whether direct or indirect, relating to actual or alleged*” shortfalls, loss of investment, loss of earnings, damage to reputation or stigma, aggravated and exemplary damages (amongst others).
- (iv) The “*Action*” is the claims brought by the claimants, which were consolidated in the GLO against the POL. It included claims in deceit for shortfalls.
- (v) The “*Claimants' Claims*” are “*all and any of the claims or potential claims alleged by any of the Claimants in the Action*” or in any correspondence between the parties.
- (vi) Importantly, the “*Claimants' Claims*” also include “*any Like Claims*”. Subject to clause 4.2, “*Like Claims*” include “*any and all ... claims ... whether arising out of negligent, wilful or intentional conduct or otherwise*”, “*whether or not [the claims are] presently known to the Parties or any Related Party*”.

- (e) In any event, it is notable that Mr Castleton's assertion that the merits are in his favour relates only to the Construction Issue, and no mention is made of the merits of the Fraud Issue or the Rescission Issue.
- (2) Secondly, Mr Castleton claims that the Defendants should apply for strike out or summary judgment instead of a preliminary issues trial (Phillips/23-24 [18/203]). This undermines Mr Castleton's own submissions as to the need for full defences to be filed, as strike out and summary judgment applications are routinely determined without sight of a defence. Irrespective of whether Mr Castleton's claim is susceptible to strike out or summary judgment, this submission also misses the point: the question in a summary judgment or strike-out application relates to the merits of a claimant's case, assessed to a high standard; whereas the primary question before the Court in this hearing is whether there is a reasonable prospect that a preliminary issues trial may save significant costs and time.

C. Directions

29 FSL's proposed directions are as follows:

- (1) For defences to Part A to be served in short order.
 - (a) FSL is ready to serve its Part A defence within 7 days of the directions hearing (i.e. by 30 January 2026: Summerfield2/7(2) [20/260]).
 - (b) Per Summerfield2/33 [20/268], FSL suggests service of any Replies by 28 days thereafter; and a short directions hearing as soon as practicable thereafter.
- (2) Defences to Parts B and C should be held over pending the outcome of the Part A trial. As explained above, there is no overlap in the factual inquiry between Part A and Parts B and C, so Mr Castleton's position that full defences are required at this stage (and even to determine the question of whether there should be a trial of the Preliminary Issues) is rejected.

(3) As FSL is not a party to the Settlement Deed, it does not take any position as to whether the other parties to it need to be notified. FSL however notes the need to bring on the preliminary issues trial without undue delay.

30 Alternatively, in the event that the Court does not order a split trial and directs that full defences be filed, FSL's position is that it should be subject to the same deadline as POL, as requiring FSL to serve before POL is obviously prejudicial in circumstances where the Defendants are alleged to be joint tortfeasors. There is no prejudice in aligning the deadlines because the proceedings will not be able to move forward until the pleadings phase has closed in respect of both Defendants. As POL seeks an extension until 31 March 2026, FSL has accordingly sought an order for the same deadline. FSL notes the Court's preliminary indication that it is very unlikely to give deadlines resulting in asymmetric timetables, and the Court's request for Mr Castleton to give reasons for opposing the extension applications [25/1088]; in his response, Mr Castleton has not engaged with that underlying concern [25/1091-1094].

31 As to Mr Castleton's arguments opposing the application for an extension of time to serve the Defences:

- (1) Per Phillips/15 [18/200], Mr Castleton expresses a concern that the Defendants will seek yet further extensions of time. This is without foundation: the extensions to date have been in the context of discussions between the parties as to whether there should be an arbitration or a preliminary issues trial of Part A. It is also not a reason to reject an application for an extension of time which is otherwise well-founded.
- (2) Phillips/16 [18/200] claims that an extension to March 2026 would be unjust to Mr Castleton, but gives no explanation other than the injustice inherent to a claimant in delay in and of itself.
- (3) Phillips/17 and 19(a) [18/200 and 201] relies on the underlying events having occurred in 2006-2007 as a reason to oppose further delay, and asks the Court to take into account continuing harm to Mr Castleton and his family since that time (e.g. Phillips/30-31 [18/206-209]). But as set out at paragraph 25 above, FSL's proposal will enable determination of the threshold issues in Part A within the shortest possible

timeframe, and appropriate directions can be given to ensure that the proceedings move forward as expeditiously as possible.

(4) Mr Phillips also refers, in much detail, to proceedings in which some of the issues in this litigation were previously touched upon (including the GLO claims and the Inquiry: Phillips/25, 70-76 [18/203-205, 222-226]). But FSL has not faced the claims that are now being alleged previously nor had to respond to them. Further, the suggestion that the timetable can be curtailed because matters now raised were part of the matters that were looked at by the Inquiry is wrong; matters considered by the Inquiry are not a shortcut to these particular claims being investigated by FSL and determined fairly. FSL faces serious claims in this litigation that have not been advanced against it previously, and it will need a fair opportunity to respond to them.

V. CONCLUSION

32 For all the reasons set out above, the Court is respectfully requested to order a trial of the Preliminary Issues and to give directions accordingly.

LAURA NEWTON
JAGODA KLIMOWICZ

Brick Court Chambers

19 January 2026