



Neutral Citation Number: [2022] EWHC 1657 (QB)

Case No: QB- 2021-002232

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 27 June 2022

Before:

HHJ SARAH RICHARDSON
(Sitting as a Judge of the High Court)

Between :

(1) ALBERT COURT (WESTMINSTER)
MANAGEMENT COMPANY LTD
(in a representative capacity for and on behalf of its
officers, employees and contractors)

(2) GRAEME PHILLIP AARONS
(on behalf of himself and in a representative
capacity for and on behalf of the officers, employees
and contractors of Albert Court (Westminster)
Management Company Ltd)

(3) KERRY MICHAEL RUBIE

(4) TIMOTHY DOUGLAS MURRAY

(5) SOUSSI ZARIFEH KERMAN

(6) TIMOTHY IAN GREENWOOD

Claimants

- and -

(1) MARCEL NASSER FETAIMIA
(2) VICTORIA FETAIMIA

Defendants

Mr Thomas Daniel (instructed by **Russell-Cook LLP**) for the **Claimants**
The Defendants appeared in person

Hearing dates: 9-13 May 2022 and 16-17 May 2022

APPROVED JUDGMENT

This judgment was handed down by the Judge remotely by circulation to the parties' representatives by email and release to The National Archives. The date for hand-down is deemed to be 27 June 2022.

HHJ Sarah Richardson:

Introduction

1. Albert Court is an imposing and prestigious mansion block built during the reign of Queen Victoria and located on Prince Consort Road, London. It is adjacent to the Royal Albert Hall. There are 107 apartments located within Albert Court. Two of the apartments are occupied respectively by the resident maintenance manager (the Fourth Claimant, Mr Timothy Murray) and the head porter (Mr Fabrice Jacquemard). They are both employees of the First Claimant (which is the management company that manages Albert Court on behalf of the freehold owner and the lessees of the apartments and which I shall refer to as “ACM” in this judgment). Apartment 5A is occupied by the Defendants, Mr and Mrs Fetaimia and their children.
2. The Claimants seek injunctive relief against the Defendants pursuant to the Protection from Harassment Act 1997 (“PFHA 1997”). The claim arises from various alleged acts of harassment which it is said the Defendants have undertaken against ACM, its directors, employees, contractors, other leaseholders and legal representatives over a period of time between November 2019 and 10 February 2022. Further details of the Claimants’ allegations and the Defendants’ position are set out in paragraphs 12 to 16 below.
3. ACM acts in a representative capacity on behalf of its officers, employees and contractors. The Second, Third and Fifth Claimants (Mr Aarons, Mr Rubie and Ms Kerman) are three of the directors of ACM. The other directors of ACM are Lady Noelle Kristin Dowd Leitch, Mr Leander McCormick-Goodhart, Mr Patrick George Burke, Mr Colin Alfred Thomas Reen and Mr Paul Henry Van Hasbroeck. Mr Peter Kenneth Merriman is the company secretary of ACM. Mr Merriman is a property manager by profession and he is also retained, through his limited company, as the Property Director for ACM. With the exception of Mr Merriman all of the directors own at least one property located in Albert Court.
4. Mr Aarons also acts in a representative capacity on behalf of the officers, employees and contractors of ACM. The Sixth Claimant, Mr Greenwood, is a chartered surveyor appointed by ACM as its Maintenance Director. He is not registered at Companies House as a director of ACM and as such whilst his role includes the title “director” he is not a director for the purposes of the Companies Acts.
5. Proceedings were issued on 9 June 2021 and an interim injunction applied for against both Defendants. At a hearing before Bourne J on 18 June 2021 the Defendants offered undertakings to the court pending a return date or further order. They sought a return date as at that juncture they opposed the First and Second Claimants acting in any representative capacity. That return date eventually took place on 13 January 2022 before Mr Richard Smith, sitting as a Deputy Judge of the High Court. Shortly before the return date the Defendants indicated that they no longer sought to argue that the First and Second Claimants could not act in a representative capacity. At the hearing on 13 January 2022 the Defendants renewed their undertakings to the court until trial or further order. What was (or was not said) by Mrs Fetaimia at the hearing before the Deputy High Court judge is one of many issues in dispute before this court.

6. The lease to Apartment 5A is held by Dondore Inc., a BVI registered company. As a result of litigation heard in the Chancery Division by Ms Amanda Tipples QC (as she then was) under neutral citation [2018] EWHC 1832 (Ch) Mrs Fetaimia has the benefit of a declaration that the 100% shareholding in Dondore Inc was held by Mr Richard Hitt on trust for her. Mr Hitt was the opposing party in the Chancery Division litigation. Mrs Fetaimia also has the benefit of a share transfer document signed on behalf of Mr Hitt by Master Teverson on 30 April 2019, pursuant to which the 100% shareholding was transferred to her. That document was executed within this jurisdiction in relation to a company registered under the laws of the British Virgin Islands.
7. Dondore Inc. was placed into liquidation in the British Virgin Islands (“BVI”) on 18 November 2019 as a result of a petition presented against it by ACM. This petition was founded on a judgment debt obtained by ACM against Dondore Inc in the County Court sitting at Wandsworth on 31 May 2019 for the sum of £11,470.32. This sum was paid in full by Dondore Inc on 18 October 2019 (prior to the date that the company was placed in liquidation). The petition was also based on interest on this judgment debt, further service and maintenance charges that had fallen due after the judgment was entered and the legal costs of ACM in pursuing proceedings in the County Court sitting in Wandsworth for forfeiture of the lease and possession of Flat 5A. Those proceedings (which were in fact issued in the name of the freeholder, Albert Court (Westminster) Freehold Limited) were dismissed by an order dated 21 October 2019 which also made no order as to costs.
8. The petition in the BVI was supported by Mr Richard Hitt, who in an affidavit deposed that he was the sole director and sole shareholder of Dondore Inc. and claimed to be owed a sum in excess of £1.2 million from the company.
9. The Second Defendant, Mrs Fetaimia, was seemingly unaware of the ongoing insolvency proceedings relating to Dondore Inc at the date of the winding up order. On 30 July 2020 Mrs Fetaimia applied in the BVI to be recognised as the shareholder of Dondore Inc. On the same date Jack J made an order that the register of Dondore Inc. be rectified to show Mrs Fetaimia as the sole shareholder. On 9 September 2020 Mrs Fetaimia applied to the Court of Appeal in the BVI for an extension of time within which to appeal the order of Jack J dated 18 November 2019 (which placed Dondore Inc. into compulsory liquidation). That application was acceded to by the Court of Appeal in the BVI on 23 November 2020, on condition that Mrs Fetaimia pay ACM’s costs of the application for an extension of time to appeal. Those costs were later agreed in the sum of \$75,000 (USD) plus \$10,000 (USD) for the costs of the costs assessment, making a total agreed sum of \$85,000 (USD).
10. The appeal to the Court of Appeal in the BVI is yet to be heard. In his judgment Jack J ordered that save for the \$85,000 USD quantified and agreed in relation to the application for an extension of time to appeal, the costs of the petitioner (ACM) be costs in the liquidation.
11. The liquidation of Dondore Inc in the BVI is therefore the subject of ongoing litigation in that jurisdiction. At the outset of the hearing before me I was provided with a judgment from Mr Justice Jack. It would be inappropriate for this Court to make any comments in relation to the merits of the ongoing appeal in the BVI. Having read, seen and heard the voluminous evidence in the present case it would however be unrealistic

to suggest that there is no nexus between some of the events that have occurred in the BVI and the events that occurred in the present case.

The Claimants' allegations and the Defendants' position

12. The Claimants' case is based on a number of actions on the part of the Defendants which they allege amount to conduct which the Defendants knew, or ought to have known amounted to harassment. These actions consist of:
 - (a) specific incidents which the Claimants are able to put dates on. These were initially set out in the continuation sheet to the Claim Form, which was issued on 9 June 2021. The Claimants later incorporated the incidents set out in the continuation sheet and incidents that it is said have occurred after the claim was issued into a document headed "Claimants' schedule of incidents with specific dates". A copy of this document is attached to this judgment as Annex 1. I have numbered the allegations for ease of reference. Where I refer in this judgment to a numbered allegation, it is a reference to the numbering on this schedule. The earliest incident on the schedule is November 2019 and the last is 10 February 2022. In the events that happened the Fifth Claimant (Ms Kerman) was unable to attend court to give evidence and the Claimants did not pursue allegation 8 that in September 2020 Mrs Fetaimia made offensive and intimidating remarks to the Fifth Claimant. All other allegations were pursued at trial;
 - (b) allegations that the Defendants have acted in a threatening and intimidating way towards the officers, staff and contractors of the First Claimant, including making threats towards the Claimants and acting in an offensive, aggressive and threatening way towards the cleaning and portage staff and making false allegations of bribery, fraud, theft and corruption against the directors of the First Claimant to the directors, other residents of Albert Court and the staff of the First Claimant on unspecified dates.
13. The Defendants failed to file and serve a "Points of Defence" document as ordered by the court. They stated in a joint witness statement made on 7 January 2022 that "*we do not propose to respond to each allegation except to say that they are denied*" and "*accordingly, we require the makers of those statements and the protected people to attend court to give oral evidence and be available for cross examination.*"
14. They went on to state that in their view the Claimants had made the present application to "*deflect from the serious frauds that the main directors have committed*" and "*it is the claimant's way to suppress us from speaking out publicly about those frauds*" and "*the injunction is to silence us from unravelling crimes and violations committed in our building by the current de facto wheelers-dealers' self-indulgent Claimants that took over our building management without the knowledge or consent of the majority of the Leaseholder's the only reasoning one can draw from such claim is obviously to protect the 2nd Claimants criminal enterprise he created in the heart of Knightsbridge. The 2nd Claimant has orchestrated and prepared all the witness statements for the individuals that he succeeded to corrupt and criminalise to shield him from the law*" and "*our prestigious building and our precious assets are managed by a tight-knit circle of a sophisticated spiderweb of scammers, spearheaded secretly by the 2nd Claimant a professed lawyer unknown to SRA here and in Australia ...*" and "*since the Claimants terminated the previous professional management company they embarked on a campaign of thievery and exploitation of our building assets*" and that the Fourth

Claimant, Mr Murray, is the Claimants' front man (this is my phrase) without which they would "*not be able to run their criminal enterprise.*"

15. In a further witness statement dated 11 March 2022 (and made at a time when the Defendants were legally represented) Mr Fetaimia re-iterated his position that the Defendants required all the persons who had made witness statements and those who had not but formed the remainder of the "Protected Persons" to give evidence and be available for cross examination. Mr Fetaimia responded to each of the witness statements that at that stage had been made by or on behalf of the Claimants.
16. The Defendants have consistently maintained that the current proceedings have been issued in an attempt to prevent them from making legitimate complaints about how Albert Court is managed by the First Claimant. By a process of considering their witness statements, their evidence to the court and their closing submissions I have been able to adduce that the Defendants' position in relation to each of the numbered allegations on the schedule of incidents with specific dates is as follows:

Allegation number	Date	Defendants' case
1	Nov. 2019	Denied. Both Mr and Mrs Murray have lied to the court about this alleged incident
2	27/11/19	Denied. Whilst tempers were raised it was nothing to the extent that Mr Aarons alleges and none of the matters alleged in (a) to (c) were said by the Defendants.
3	27/11/19- 12/01/20	Denied. The allegation made by Mrs Fetaimia to the police against Mr Merriman was true.
4	29/01/20	Denied. The allegation that a contractor pushed Mrs Fetaimia was true but Ds case is now that the contractor was not Mr Lucas.
5	30/01/20	Mrs Fetaimia accepts sending the letter to Mr Rubie but denies that it contains false allegations about Mr Aarons
6	31/01/20	Denied. Mrs Fetaimia did not complain to Ms Magit in an aggressive manner and Ms Magit does not even speak English.
7	06/02/20	Denied. Mrs Fetaimia would never use the word alleged.

9	28/03/21	It is accepted that the requests for private information were made but denied that this amounted to harassment; the Defendants had a legitimate reason for requesting this information because Mr Aarons and Mr Rubie are directors of the First Claimant and managing the Defendants' building and Mr Aarons name "is all over Wikilieaks" and "it came together with the HSBC statement."
10	05/05/21	Mr Fetaimia accepts that he approached Mr Aarons and started a conversation but denied any hostility, asserting that he acted in good faith and offered an olive branch. Mr Fetaimia denies saying that he would call the police or that he did so.
11	06/05/21	(a) Denied. Mr Fetaimia accepts talking to Mr Rubie but denies saying that Mr Aarons was a "crook" and "we will get him". (b) Denied. Mrs Fetaimia asserts that (b) is a figment of Mr Greenwood and Mr Murray's imaginations
12	12/05/21	Mrs Fetaimia only asked to see the heading of the porters' payslips to ascertain who was paying them and so she could take up their lack of pay increased with their employer
13	13/05/21	Mr Fetaimia accepted speaking to Mr Aarons on or about 13 May 2021 but denied acting in a threatening manner or using the words alleged. Mr Fetaimia asserts he wanted to make peace with Mr Aarons and "guide him".
14	19/05/21	Mr Fetaimia accepts sending the text but denies that it amounted to harassment
15	08/06/21	Mr Fetaimia accepts approaching Mr Aarons in order to offer an olive branch and "to make peace with him and to guide him" but denies saying any of the matters set out in (a) to (d)
16	10/06/21	Mr Fetaimia denies being aggressive towards Mr Sepuldeva or attempting to kick the documentation back towards the process server.
17	11/06/21	Mr Fetaimia accepts that he asked Mr Jacquemard to rethink and withdraw his witness statement, stating that he was giving "guidance" and did not think that this was inappropriate.

18	13/01/22	(a) Mrs Fetaimia accepts that she used the word “funeral” but denies that it was aimed at Mr Aarons (b) Mrs Fetaimia accepts that she said that the Claimants were “very corrupt” and her case is that this is true. She also accepts that she said “they” are “thieves” but her case is that this was not directed at any particular individual but at the corrupt system which exists in this country.
19	10/02/22	Mr Fetaimia accepts that he called Mr Bosworth but denies saying any of the matters in (a) – (c).

The application by the Defendants to adjourn the final hearing and procedural issues that arose in the course of the final hearing

17. On the first day of the final hearing Mr and Mrs Fetaimia made an application to adjourn the final hearing. They were represented by solicitors until Wednesday 4 May, when Spencer West LLP (who had been acting for the Defendants) served notice of change of solicitors and thereafter Mr and Mrs Fetaimia have acted in person. That application to adjourn was refused by me for the reasons given in a separate, oral judgment, which I do not intend to repeat here, save to comment that the reasons for seeking the adjournment included the facts that it was alleged that there was a conflict of interest between the Claimants and their lawyers as a result of the costs order made in the BVI litigation relating to Dondore Inc (I was very clear that there is no such conflict as matters currently stand), that the judgment from Jack J was only handed down on 5 May 2022 (although Mr and Mrs Fetaimia had been in possession of the draft judgment since 11 April 2022) and if the application was refused Mr and Mrs Fetaimia would have to represent themselves.
18. I made it clear that this tribunal was very experienced at dealing with cases involving litigants in person, and was aware of its duty under CPR 3.1A and generally when litigants in person come before it. I hope that I am not seen to be blowing my own trumpet when I observe that throughout the trial I went to considerable lengths to explain issues and relevant legal principles to Mr and Mrs Fetaimia and to assist them in both clarifying what their case was and in relation to the cross examination of witnesses. Clarification was required because in breach of paragraph 4 of the order of Mr Richard Smith dated 13 January 2022 Mr and Mrs Fetaimia failed to file and serve a ‘Points of Defence’ document, responding in summary form to each of the particular incidents contained within the claim form and continuation sheet by 4pm on 10 February 2022 (or at all). At the relevant time Mr and Mrs Fetaimia were represented. Mrs Fetaimia sought to suggest in her evidence that there was no requirement on her and Mr Fetaimia to comply with this order because Part 8 proceedings do not require a defendant to file a defence. This is notwithstanding the fact that she and her husband were present in court when the order was made. This was an order of the court. It was not a polite invitation. Nor was it an a la carte menu. Unfortunately, the Defendants appear to have treated it as such.

19. Another issue raised by Mr and Mrs Fetaimia in relation to their application for an adjournment was an assertion that the trial bundles did not contain relevant documentation and recordings which they wished to be before the Court. By paragraph 5 of his order Mr Richard Smith ordered the Defendants to file and serve “any evidence, including witness statements, emails, photographs or videos, they wish to rely on in response to the claim by 4pm on 10 February 2022”. In the events that occurred the Defendants eventually served witness statements on 14 March 2022 (some seven days after the expiry of an extension of time which they obtained for the filing of the same from Master Davison and on the basis of an application notice that asked for the application to be dealt with on paper notwithstanding the fact that the Claimants’ solicitors had previously made it clear that the Claimants would oppose any application to extend time).
20. By paragraph 10(d) of his order Mr Richard Smith required the parties to agree the contents of the trial bundle and trial timetable or to provide a summary of points of disagreement. The Defendants failed to respond to a witness list sent by the Claimants or requests from them made on 8 April 2022, 21 April 2022 and 26 April 2022 to set out witness requirements and cross-examination time estimates. Nor did the Defendants respond to a number of requests to agree the contents of the trial bundle, which resulted in the Claimants preparing it unaided.
21. It was against this background of non-compliance with court orders that the Defendants asserted that they were prejudiced by the omission of documentation and recordings which they asserted supported their case. In particular the Defendants referred to documentation that they had provided to the Claimants’ solicitors the previous Thursday (5 May 2022). On Monday 9 May (the first day of the final hearing) I ordered the Defendants to provide the Claimants’ solicitors overnight with any additional documents which the Defendants would be seeking relief from sanctions in relation to in order to rely on them. On the morning of Tuesday 10 May I was provided with a supplemental bundle of documents (“the First Supplemental Bundle”), which included the documentation that the Defendants had indicated on 5 May they wished to rely upon. The Claimants did not oppose these documents being adduced in evidence and I gave permission for the Defendants to rely on them.
22. It then became clear that the Defendants were asserting that there were additional documents and recordings that they wished to rely upon. These were provided overnight from Tuesday 10 May into Wednesday 11 May and on the morning of 11 May I was presented with a Second Supplemental bundle which included 240 pages of additional documents that the Defendants wished to rely upon. I was also provided with six voice recordings provided by the Defendants, including an 11 second recording from an AGM of the First Claimant that took place on 27 November 2019. In the course of previous exchanges with the Defendants and in response to questions from me the Defendants had indicated that they had a recording of the entire AGM, which was about 30 minutes long.
23. Again, the Claimants did not oppose any of these additional documents and recordings being adduced in evidence. I gave permission for the Defendants to rely on these documents and recordings, on condition that they provide the entire recording of the AGM. The following day the Defendants provided a recording from the AGM which is 4 minutes 11 seconds long. At various points since this recording was made available Mrs Fetaimia has sought to suggest that in fact it is the extent of the recording that she

made (and that her phone had limited memory available which prevented a longer recording being made) and Mr Fetaimia has asserted that a longer recording of the AGM was not provided because he did not want to inconvenience the court by requiring it to listen to a half hour audio. This is despite the fact that one of the other audio files provided by the Defendants is a conversation Mr Fetaimia recorded between himself and Mr David Szymocha (one of the porters employed by the First Claimant) which is in excess of 20 minutes long.

24. In the course of the hearing Mrs Fetaimia made various assertions about what was (or was not) said by her during the hearing before Mr Richard Smith on 13 January 2022. In response to questions from me she said, on 11 May 2022 that she did not call the Judge corrupt and that she said she had a Master's degree in Governance and Corruption and that what was going on in court "*looks like it's a corrupt situation*". She later said "*I said it's a corrupt case and we need to account for the figures*". Initially Mrs Fetaimia denied mentioning the word funeral but then stated that she was talking to herself. She later said that Mr Aarons was laughing at her in court and she said to her husband "*where is this money going to go is it for funeral?*"
25. Under cross examination Mrs Fetaimia stated that during the hearing in January 2022 Mr Rubie was "*next to me laughing. I found it gross. I said how funny is that, where's the money going to go is it for funeral?*". Mrs Fetaimia gave evidence that "*my transcript says funny*". Two transcripts have been provided in the course of these proceedings. The first, from Ubiquis, is the official court transcript. It is not a full transcript insofar as various exchanges and comments made in court, which one has to concentrate hard to hear when listening to the court recording (which I have done) are shown as follows: [inaudible]. It was for this reason that the Claimants' solicitor, Mr Bosworth, formally applied for and was provided with a copy of the recording of the hearing burnt onto a CD. He caused a further transcript to be prepared from this copy of the recording, which sets out various comments made by Mr and Mrs Fetaimia which were not picked up on the official transcript (on the basis that they were allegedly inaudible). The recording itself was also adduced in evidence by Mr Bosworth, and parts of it were played in court on a number of occasions.
26. In her evidence Mrs Fetaimia alleged that Mr Bosworth had edited or altered the audio court recording exhibited by him and played in court to exclude her reference to "*funny*". I suggested that I obtain the court recording, listen to it and inform the parties if there were any differences between what I listened to and the recording provided by Mr Bosworth. All parties agreed to this course of action (indeed Mrs Fetaimia was adamant that the only person who should undertake any such exercise was the Judge as the only people she trusted were the Courts and the Judge).
27. I undertook this exercise, having been provided with an audio recording of the hearing on 13 January 2022 which had been burnt onto a CD for me by HMCTS. I confirmed to the parties on 16 May 2022 that there was no difference between the recording provided to me by HMCTS and the recording adduced by Mr Bosworth. The transcript of this hearing prepared by the Claimants' solicitors accurately reflects what I heard on the recording provided to me by HMCTS. There is no mention by Mrs Fetaimia of the word "*funny*" or of matters being "*funny*" prior to her stating "*you need the money for your funeral*".

28. Mrs Fetaimia's reference under cross examination to "*my transcript*" did however lead to a line of questions from the court about whether a third transcript existed, and if so what recording had been used to prepare it. Mrs Fetaimia became somewhat evasive in the answers to the questions that I put, however she did assert that "*somebody*" sent her a recording of the hearing on 13 January 2022 and she received it via WhatsApp. She then asserted that "*nobody sent me nothing*".
29. In light of this unclear position as to whether the Defendants had made their own recording of the hearing before Mr Richard Smith, and in light of the Defendants frank admissions that they had covertly recorded numerous conversations with persons connected to this case since at least 2019, I asked both Mr and Mrs Fetaimia whether either of them had recorded any part of the hearing before me which commenced on 9 May 2022. Mr Fetaimia stated "*I have accidentally made a recording of part of the hearing.*" Mrs Fetaimia sought to contradict him from the witness box, stating "*I switched it off*".
30. At that juncture I exercised the court's power under its inherent jurisdiction and/or Part 25 of the Civil Procedure Rules and ordered the Defendants to hand over to the court their mobile phones, as they were potentially evidence in relation to a contempt of court and/or the execution of a criminal offence. I advised the Defendants that if any unauthorised recordings had been made they may find proceedings for contempt of court being initiated against them and that the matter was also potentially a criminal matter. Both Defendants were advised of their right to silence, their right against self-incrimination and their right to legal representation if the matter proceeded to committal proceedings. I made it abundantly clear that no further questions would be asked by the court or anybody else about whether unauthorised recordings had been made.
31. The Defendants' three mobile phones that they handed up to the court were given to the Tipstaff, who placed them in flight mode and put them in an envelope. The Claimants' solicitors contacted the Metropolitan Police, who attended court and took possession of the mobile phones. Both defendants were advised by the attending police officers that the police were investigating a potential crime, and that the mobile phones were being detained by the police pursuant to their powers.
32. The matter of whether recordings were or were not made by the Defendants of the hearings before Mr Richard Smith and this tribunal are now the subject matter of a police investigation and potentially committal proceedings. I make it clear that if at any future stage committal proceedings are commenced they are separate from the issues that this court is required to determine in this judgment. The possibility that the Defendants may have recorded part of the court hearing before me is not an issue that is relevant to my determination of the factual disputes in the present case. That determination is based on the voluminous evidence that this court has read, heard and observed and the court's assessment of such evidence and the credibility of witnesses of fact that it has heard evidence from.
33. As a result of the Defendants' approach prior to the trial, and the fact that they declined to indicate at trial that any witnesses were not required, the Claimants were compelled to call the following witnesses to give evidence at trial. I set out the list in the order that the witnesses were called.

(1) Mr Kerry Rubie, a director of ACM

- (2) Mr Tim Murray, the building manager employed by ACM
 - (3) Mr Aarons, a director of ACM
 - (4) Mr Merriman, the Company Secretary of ACM who is retained by ACM as Property Director to assist ACM (and the freehold company) in undertaking their responsibilities to manage the flats including accounts and administration
 - (5) Mrs Rosa Murray, the wife of Mr Tim Murray who is a teacher and is also employed by ACM on a part time basis to supervise the cleaning staff
 - (6) Mr Fabrice Jacquemard, the head porter employed by ACM
 - (7) Mr Colin Reen, a director of ACM
 - (8) Lord Leitch, a resident of Albert Court
 - (9) Mr David Lucas, a director of DBR (London) Ltd, which has been accused by Mr and Mrs Fetaimia of paying bribes to directors of ACM
 - (10) Mr Caesar Sepulveda, a process server who served papers on Mr Fetaimia
 - (11) Mr Patrick Burke, a director of ACM
 - (12) Mr David Szymocha, a porter employed by ACM
 - (13) Mr Tim Greenwood, a chartered surveyor appointed as the Maintenance Director of ACM
 - (14) Mr Patrick Bosworth, a solicitor of the Supreme Court and partner in the firm of Russell Cooke, which acts for the Claimants.
34. This long list of witnesses required by the Defendants to attend for cross examination, together with the Defendants' actions during the course of the trial, caused the trial to run to seven days when it was originally listed for five days (which should have been a very comfortable time estimate).
35. I make it clear that I have read all the documents in the various court bundles, listened and/or viewed all the audio and video recordings provided by the parties (and in addition the audio recording of the hearing on 13 January 2022 provided by HMCTS) and have had the opportunity to closely observe and listen to both the oral evidence from witnesses but also the demeanour of all persons present in court throughout the hearing before me. There was a veritable sea of evidence before me. I have taken it all into account. The fact that I do not refer to a particular document or part of a witnesses evidence in this judgment does not mean that it has not been taken into account.

The legal framework applicable to the application

PFHA 1997

36. The Claimants seek final injunctions under PFHA 1997. *Section 1* of PFHA 1997 Act provides:

1 Prohibition of harassment

- (1) A person must not pursue a course of conduct—
 - (a) which amounts to harassment of another, and
 - (b) which he knows or ought to know amounts to harassment of the other.
- (1A) A person must not pursue a course of conduct —
 - (a) which involves harassment of two or more persons, and
 - (b) which he knows or ought to know involves harassment of those persons, and
 - (c) by which he intends to persuade any person (whether or not one of those mentioned above)—
 - (i) not to do something that he is entitled or required to do, or
 - (ii) to do something that he is not under any obligation to do.
- (2) For the purposes of this section or section 2A(2)(c), the person whose course of conduct is in question ought to know that it amounts to or involves harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.
- (3) Subsection (1) or (1A) does not apply to a course of conduct if the person who pursued it shows—
 - (a) that it was pursued for the purpose of preventing or detecting crime,
 - (b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
 - (c) that in the particular circumstances the pursuit of the course of conduct was reasonable.

37. *Section 3* provides:

3 Civil remedy

- (1) An actual or apprehended breach of section 1(1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.
- (2) On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment.

38. *Section 3* also outlines the consequences available if the court grants an injunction and the Defendant breaches this, but *section 3* does not grant a standalone power to impose an injunction in respect of harassment under *section 1*. This power emanates from *section 37* of the *Senior Courts Act 1981* which confirms the court's inherent jurisdiction.

39. In respect of *section 1(1A)*, there is a specific standalone power as *section 3A* provides:

3A Injunctions to protect persons from harassment within section 1(1A)

- (1) This section applies where there is an actual or apprehended breach of section 1(1A) by any person (“the relevant person”).

- (2) In such a case—
- (a) any person who is or may be a victim of the course of conduct in question, or
 - (b) any person who is or may be a person falling within section 1(1A)(c),
- may apply to the High Court or the county court for an injunction restraining the relevant person from pursuing any conduct which amounts to harassment in relation to any person or persons mentioned or described in the injunction.

40. *Section 7* is the interpretation section for sections 1-5A. The relevant parts of this provide:

- (2) References to harassing a person include alarming the person or causing the person distress.
- (3) A “course of conduct” must involve—
- (a) in the case of conduct in relation to a single person (see section 1(1)), conduct on at least two occasions in relation to that person, or
 - (b) in the case of conduct in relation to two or more persons (see section 1(1A)), conduct on at least one occasion in relation to each of those persons.
- (3A) A person’s conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another—
- (a) to be conduct on that occasion of the other (as well as conduct of the person whose conduct it is); and
 - (b) to be conduct in relation to which the other’s knowledge and purpose, and what he ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring.
- (4) “Conduct” includes speech.

The Harassment Test

41. The test for harassment is whether the conduct crosses the threshold for criminal liability under the Act: *Majrowski.v Guy’s and St Thomas’ NHS Trust* [2006] UKHL 34 at [30].
42. It is the course of conduct, taken as a whole, that must cross the threshold. It is not a requirement that each incident is a substantive criminal offence in itself.
43. In *Hayes v Willoughby* [2013] UKSC 17 at [1], Lord Sumption JSC referred to the definition of harassment under the 1997 Act in the following terms:
- “...Harassment is a persistent and deliberate course of unreasonable and oppressive conduct, targeted at another person, which is calculated to and does cause that person alarm, fear or distress...”

Injunctive Relief

44. An actual breach of the 1997 Act only requires harassment on two occasions in respect of a single person [s.7(3)(a)] or in the case of two or more persons at least one occasion in relation to each of those persons [s.7(3)(b)].
45. An injunction may be granted in respect of an actual or apprehended breach. There is no requirement for multiple occasions in respect of an apprehended breach: *EDO MBM Technology Ltd v Campaign to Smash EDO* [2005] EWHC 837 (QB) at [62].
46. In *University of Oxford v Broughton* [2004] EWHC 2543 at [39], Grigson J. held that the terms of a civil injunction should not be confused with the criminal offence. An injunction is prospective, and its purpose is to prevent harassment. Furthermore, the courts have the power to grant injunctions in wide terms to prevent the harassment of a class of persons, for example, the employees of contractors or sub-contractors.
47. There is no need for consent to be obtained from all persons within the class of persons to be protected from harassment under the 1997 Act. This has been confirmed in many cases (one example being *Law Society v Kordowski* [2011] EWHC 3185 (QB) at [153]-[162]).

The court's approach to the fact finding exercise

48. In any fact-finding exercise the burden of proof of proving any allegation lies on the party seeking to prove the allegations. In this case this means that it is the Claimants that carries the burden of proof. Those against whom allegations are made do not themselves have to provide an explanation or context for any disputed allegation or to prove that any allegation is false. Particular care must be taken to not, inadvertently, reverse the burden of proof. The standard of proof is balance of probabilities.
49. In *Re BR (Proof of Facts)* [2015] EWFC 41 Peter Jackson J (as he then was) provided helpful guidance on the approach that should be adopted. This guidance is equally pertinent to civil cases as it is to family cases (*Re BR* was a family case). In particular at paragraphs 4-7 Peter Jackson J said this:

“4. The court acts on evidence, not speculation or assumption. It acts on facts, not worries or concerns.

5. Evidence comes in many forms. It can be live, written, direct, hearsay, electronic, photographic, circumstantial, factual, or by way of expert opinion. It can concern major topics and small details, things that are important and things that are trivial.

6. The burden of proving a fact rests on the person who asserts it.

7. The standard of proof is the balance of probabilities: Is it more likely than not that the event occurred? Neither the seriousness of the allegation, nor the seriousness of the consequences, nor the inherent probabilities alters this.

(1) Where an allegation is a serious one, there is no requirement that the evidence must be of a special quality. The court will consider grave allegations with proper care, but evidence is evidence and the approach to analysing it remains the same in every case. In my view, statements of principle (some relied on in this case) that suggest that an enhanced level of evidential cogency or clarity is required in order

to prove a very serious allegation do not assist and may lead a fact-finder into error. Despite all disclaimers, reference to qualitative concepts such as cogency and clarity may wrongly be taken to imply that some elevated standard of proof is called for.

(2) Nor does the seriousness of the consequences of a finding of fact affect the standard to which it must be proved. Whether a man was in a London street at a particular time might be of no great consequence if the issue is whether he was rightly issued with a parking ticket, but it might be of huge consequence if he has been charged with a murder that occurred that day in Paris. The evidential standard to which his presence in the street must be proved is nonetheless the same.

(3) The court takes account of any inherent probability or improbability of an event having occurred as part of a natural process of reasoning. But the fact that an event is a very common one does not lower the standard of probability to which it must be proved. Nor does the fact that an event is very uncommon raise the standard of proof that must be satisfied before it can be said to have occurred.

(4) Similarly, the frequency or infrequency with which an event generally occurs cannot divert attention from the question of whether it actually occurred.”

50. Munby LJ (as he then was) noted in **Re A (A Child) (Fact-finding Hearing: Speculation)** [2011] EWCA Civ 12 that findings of fact must be based on evidence:

“It is an elementary proposition that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation.”

51. The Court must not evaluate and assess the available evidence in separate compartments. Rather, regard must be had to the relevance of each piece of evidence to other evidence and to exercise an overview of the totality of the evidence in order to come to the conclusion whether the case put forward has been made out on the balance of probabilities - **Re T** [2004] 2 FLR 838 [§33].
52. The evidence of the lay parties and the explanations given by them are of the utmost importance and a clear assessment of their credibility and reliability must be made by the court. In the context of the consideration of a wide canvas of material in reaching the factual decisions in the case, investigations of fact should have regard to the wider context of social, emotional, ethical and moral factors. The assessment of credibility generally involves wider difficulties than mere ‘demeanour’, which is mostly concerned with whether the witness appears to be telling the truth as he or she now believes it to be. With every day that passes the memory becomes fainter and the imagination becomes more active. The human capacity for honestly believing something which bears no relation to what actually happened is unlimited. Therefore, contemporary documents are always of the utmost importance.
53. Every time a court has to assess ‘memory’ and ‘credibility’ it is faced with a difficult process and a sometimes almost impossibly difficult problem. In **Gestmin SGPS v**

Credit Suisse (UK) Ltd [2013] EWHC 3560 Leggatt J (as he then was), confirmed the importance of a proper approach to memory and eyewitness testimony –

“16. While everyone knows that memory is fallible, I do not believe that the legal system has sufficiently absorbed the lessons of a century of psychological research into the nature of memory and the unreliability of eyewitness testimony. One of the most important lessons of such research is that in everyday life we are not aware of the extent to which our own and other people's memories are unreliable and believe our memories to be more faithful than they are. Two common (and related) errors are to suppose: (1) that the stronger and more vivid is our feeling or experience of recollection, the more likely the recollection is to be accurate; and (2) that the more confident another person is in their recollection, the more likely their recollection is to be accurate.

17. Underlying both these errors is a faulty model of memory as a mental record which is fixed at the time of experience of an event and then fades (more or less slowly) over time. In fact, psychological research has demonstrated that memories are fluid and malleable, being constantly rewritten whenever they are retrieved. This is true even of so-called 'flashbulb' memories, that is memories of experiencing or learning of a particularly shocking or traumatic event. (The very description 'flashbulb' memory is in fact misleading, reflecting as it does the misconception that memory operates like a camera or other device that makes a fixed record of an experience.) External information can intrude into a witness's memory, as can his or her own thoughts and beliefs, and both can cause dramatic changes in recollection. Events can come to be recalled as memories which did not happen at all or which happened to someone else (referred to in the literature as a failure of source memory).

18. Memory is especially unreliable when it comes to recalling past beliefs. Our memories of past beliefs are revised to make them more consistent with our present beliefs. Studies have also shown that memory is particularly vulnerable to interference and alteration when a person is presented with new information or suggestions about an event in circumstances where his or her memory of it is already weak due to the passage of time.

19. The process of civil litigation itself subjects the memories of witnesses to powerful biases. The nature of litigation is such that witnesses often have a stake in a particular version of events. This is obvious where the witness is a party or has a tie of loyalty (such as an employment relationship) to a party to the proceedings. Other, more subtle influences include allegiances created by the process of preparing a witness statement and of coming to court to give evidence for one side in the dispute. A desire to assist, or at least not to prejudice, the party who has called the witness or that party's lawyers, as well as a natural desire to give a good impression in a public forum, can be significant motivating forces.

20. *Considerable interference with memory is also introduced in civil litigation by the procedure of preparing for trial. A witness is asked to make a statement, often (as in the present case) when a long time has already elapsed since the relevant events. The statement is usually drafted for the witness by a lawyer who is inevitably conscious of the significance for the issues in the case of what the witness does nor does not say. The statement is made after the witness's memory has been "refreshed" by reading documents. The documents considered often include statements of case and other argumentative material as well as documents which the witness did not see at the time or which came into existence after the events which he or she is being asked to recall. The statement may go through several iterations before it is finalised. Then, usually months later, the witness will be asked to re-read his or her statement and review documents again before giving evidence in court. The effect of this process is to establish in the mind of the witness the matters recorded in his or her own statement and other written material, whether they be true or false, and to cause the witness's memory of events to be based increasingly on this material and later interpretations of it rather than on the original experience of the events.*

21. *It is not uncommon (and the present case was no exception) for witnesses to be asked in cross-examination if they understand the difference between recollection and reconstruction or whether their evidence is a genuine recollection or a reconstruction of events. Such questions are misguided in at least two ways. First, they erroneously presuppose that there is a clear distinction between recollection and reconstruction, when all remembering of distant events involves reconstructive processes. Second, such questions disregard the fact that such processes are largely unconscious and that the strength, vividness and apparent authenticity of memories is not a reliable measure of their truth."*

54. Any fact which needs to be proved by the evidence of witnesses is generally to be proved by their oral evidence, although facts may also be proved by hearsay evidence.
55. Section 4 of the Civil Evidence Act 1995 provides that the court must have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence, and in particular to –
- i) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated;
 - ii) whether the evidence involves multiple hearsay;
 - iii) whether any person involved had any motive to conceal or misrepresent matters;
 - iv) whether the original account was an edited account, or was made in collaboration with another or for a particular purpose.
56. However, the general rule is that oral evidence given under cross-examination is the gold standard because it reflects the long-established common-law consensus that the

best way of assessing the reliability of evidence is by confronting the witness - *Carmarthenshire County Council v Y & Others* [2017] EWFC 36 at [8] per Mostyn J.

57. The court should be cautious when evaluating the evidence of a dishonest witness; see *R v Lucas* [1981] QB 720 –

“If a court concludes that a witness has lied about a matter, it does not follow that he has lied about everything. A witness may lie for many reasons. For example out of shame, humiliation, misplaced loyalty, panic, fear, distress, confusion and emotional pressure...The jury should in appropriate cases be reminded that people sometimes lie, for example, in an attempt to bolster up a just case, or out of shame or out of a wish to conceal disgraceful behaviour from their family.”

Documents created prior to the AGM

58. On 6 May 2015 Mr Fetaimia sent an email to the “planning enforcement team” setting out the terms of a letter written by Mrs Fetaimia to “Albert Court Management”. This letter, which is not dated, is addressed to “Gentlemen” and states (amongst other matters):

*“Fundamentally your mishandling of the building is poisoning my whole family! You manifestly failed your duty of care; you’re not preserving and maintaining the building as you were hired to do, but you rather **manipulate the tenants and Albert Court employees for your comfort and gains.**”*

and

*“Moreover, you dare to criticize my polite and correct husband, you personally owe him an apology, he called you in good faith gesture, he has the right to complain and your job is to listen and not to fire back at the tenants, once more it **demonstrates your lack of qualification** and your character.”*

and

*“What I have experienced recently **you have no qualifications to manage such historical building** let alone the social skills to handle day-to-day complaints from exclusive tenants.”*

[All my emphasis]

59. In her letter Mrs Fetaimia made various complaints about matters, including the existence of rats, issues with sewage and the standard of cleaning.

The recording provided by the Defendants of the AGM

60. I have listened to this recording on multiple occasions. After the votes in relation to the reappointment of directors of the First Claimant was read out Mrs Fetaimia became agitated, stating loudly her objections and suggesting that votes against (including hers)

had not been taken into account. Mr Rubie can be heard stating that the meeting should move on and “*we have heard your voice let’s carry on*” to which Mrs Fetaimia replied “*even if you have heard I don’t care if you care*” and continued to remonstrate loudly. The meeting starts to descend into what can only be described as a loud melee, however Mr Fetaimia can be heard on the recording stating words to the effect of “*tax evader evading full taxes ... I don’t want tax evader ... tax evader.*” Mrs Fetaimia can then be heard stating, very loudly “*tax evaders ruining [or it may be running] house in Knightsbridge ... Mr Merriman coming once a week and Mr Tim building villa in Italy and his wife cooking the book*”.

61. The Defendants then allege that their attempt to purchase the freehold to Flat 5A was “*blocked*” and “*was paid for*”. The meeting then descended further, however a voice (almost certainly Mr Rubie’s) can be heard saying loudly “*Peter, Peter for goodness sake stop, stop. Peter walk away, walk away Peter.*” That voice gets louder as this statement is made. Mr Fetaimia can be heard to say “*can you see what that guy was trying to do?*” and what I think are words to the effect of “*do you see the manager showing his penis in front of you?*” At the same time Mrs Fetaimia can be heard shouting loudly in the background. I cannot make out what she is saying, however the tenor and pitch of her voice did not alter after Mr Fetaimia made the comment about the manager. By this point the meeting can only be described as having descended into complete chaos. The recording ends abruptly and what I can only describe as “mid flow”. I had to listen to the recording many times in order to pick out the words in inverted commas; there is an awful lot of noise and commotion and these comments (with the exception of Mr Rubie towards the end of him shouting at “Peter”) are indistinct and difficult to pick out due to the melee that was going on at the AGM.

Documents created after the AGM

Mr Rubie’s note made on 3 December 2021

62. Mr Rubie made a note very shortly after the AGM which set out his recollection of what was said at the AGM by the Defendants. That note is dated 3 December 2019 and Mr Rubie’s evidence was that he wrote the first draft and sent it to the directors who were present at the AGM. They added some small details but the majority of the note was his work and from his recollection.
63. The body of the note is as follows. I have set it out in full as it is an important document, not only due to it being almost contemporaneous with the AGM, but also in light of the contents when considered against documents produced by the Defendants before and since the AGM and lines of cross examination put by them to witnesses in May 2022, two and a half years after this note was created.

“1. Charges:

- a) Board members do not pay Service & Maintenance (S&M) charges
- b) Rubie (R) does not live here (he lives in Bermuda)
- c) Merriman (M) was paid £54,000 (supposedly a bribe from a major supplier?)

- d) Aarons (A) changed the locks of 5A while we (Mr/Mrs Fetaimia) were away to prevent us from entering the flat
- e) M intercepted Mr Hitt's correspondence
- f) All directors are 'taking' money from Albert Court's major contractors
- g) You (AC directors have files (?) on me (f)
- h) You are too old to be directors
- i) There is sewerage in my flat
- j) There are rats outside my flat
- k) There is marihuana growing outside my flat
- l) We have mosquitos in the lower basement because of the fountain
- m) Why are we paying the terrorist insurance for Royal Albert Hall?
- n) We pay too much to 'fix' the lifts
- o) You don't do this for nothing
- p) What are you being paid?
- q) According to the minutes of the last AGM A/Court paid £70,000 for electricity (the actual amount was £20,026 as reported in the Service charge Budget)
- r) Mrs Fetamia [sic] reported that the auditor's fees were £400,000 (the actual fee was £8350)
- s) Mrs F claimed she had a copy of an HSBC bank statement showing a payment by DBR to an account in Switzerland. She did not identify the amount nor to whom it was supposedly made.
- t) When Mrs Reen requested that Mrs F 'calm down' Mrs F shouted at her and accused her of reading her (Mrs F's) private emails
- u) Mr A was approached by Mrs F demanding an apology and when it was not forthcoming Mr F shouted "you will go to jail" and Mrs F joined in and said "you will go to jail for 10 years and I hope you rot and die there"

2. Threats

- a) We will get you (to A)
- b) You will be dead (to A from Mrs F)"

Mrs Fetaimia's report to the police made on 2 December 2021

64. On 2 December 2019 Mrs Fetaimia completed an online report to the Metropolitan Police. In it she alleged that Mr Merriman did not take well to the legitimate queries that she raised at the AGM and instead of engaging sensibly in the debate he:

“became rather very violent and his course of conduct towards me was entirely unacceptable, a threatening course of demeanour intended to cause me alarm and distress. He was verbally abusive towards me telling me “I fucked you good, and I will do you more.” Given his inherent physical aggression in his actions, he firstly grinned and flashed his private parts at me, then he stood up and walked towards me and started to shout foul lewd language towards me saying “fuck you, fuck you” while Mr Rubie the Chairman was yelling at him “Peter stop! Walk away! Stop Peter walk away!” Despite being told this by his boss and others Mr Merriman kept coming towards me violently with his right hand holding his genitals and reaching for his pocket with his left hand with the intent to physically attack me. Thank God my husband intervened and made him step back and told the audience “Ladies and gentlemen this is our manager before your eyes.” I cannot begin to describe how shocking and painful it has been for me and my family”

65. In her online complaint to the police Mrs Fetaimia was asked “Do you have any video, audio or photo evidence?” She replied yes and in response to the question “Please describe what can be seen from your evidence” she wrote *“foul lewd language towards me and the moment he tried to physically assault me while the witnesses were screaming at him to stop.”*

66. On 30 January 2020 Mrs Fetaimia wrote a letter to Mr Rubie. In it she dealt with the events of the AGM on 27 November 2019 and the fact that she handed the share transfer form relating to Dondore Inc to Mr Rubie, who then passed it to Mr Aarons, who dismissed it as irrelevant and of no legal standing. It is apparent from this letter that Mrs Fetaimia was extremely aggrieved that Mr Aarons had suggested at the AGM that she had not once paid for her service charges, that she felt that this flew in the face of the judgment of Ms Tipples QC, that these lies had been invented by Mr Hitt and spread and broadcast by Mr Merriman and that:

“Despite the High Court of Justice judgment decision and the conclusive evidences, No apologies have been forthcoming verbally or in writing not even during the last Christmas party, neither from Mr Graeme, the Board Members or the Management(s)”

And

“Mr Graeme statement is plainly calculated to cause me significant harm and injury and to denigrate my reputation with my friends and my neighbours.

“this is what he has in fact done.””

67. Whilst this letter deals with events that occurred at the AGM and mentions Mr Merriman, and the reputational injury and harm that Mrs Fetaimia felt she had suffered at the hands of Mr Aarons, it makes no allegation that at the AGM Mr Merriman sought to expose himself to Mrs Fetaimia or in any other way assault her.
68. The police investigation was closed with no further action being taken. I note that in his second witness statement Mr Fetaimia alleges that Mr Merriman “*apologised to both Victoria and I after his attendance at the police station in January 2020*” however Mrs Fetaimia did not report this alleged apology to the police. In cross examination Mr Fetaimia was asked about this alleged apology and he said “*I met Mr Merriman at the Christmas party. We had a friendly meeting. Mr Merriman was there with his wife. He said “sorry about what happened”*”. Mr Fetaimia clarified that he was referring to the Christmas party that took place in December 2019.

The recording and transcript of the hearing before Mr Richard Smith on 13 January 2022

69. The recording and transcript provided by the Claimants’ solicitors accord with one another (with some very minor amendments that I have made as set out in paragraph 70 below, none of which reflect on the overall accuracy of the transcript). There is no difference that I can ascertain between the recording of the hearing on 13 January 2022 provided by the Claimants’ solicitors and the one that I listened to and which was provided to me directly by HMCTS.
70. During the course of the hearing on 13 January 2022 there were the following exchanges. The words in bold are ones that I have been able to add, with the benefit of having listened to the recording on a number of occasions, to the transcript prepared by the Claimants’ solicitors. VF denotes that Mrs Fetaimia is speaking:

Judge: I have made .. excuse me I have made my ruling, I have given my ruling.

VF: [Crosstalk] You are like them. You are corrupt like them. You are corrupt like them.

Judge: I have heard submissions from your Counsel, I have heard submissions from your counsel and made my ruling.

VF: You are corrupt. You are corrupt, wake up. And they are very corrupt.

Judge: Now I am going to deal with the quantum.

VF: **I have a degree in anti-corruption** and governance and I will prove that you are corrupt and it’s abuse of process and they never served me. At least one false [unclear] that they serve me. No, I am going to scrutinise the numbers.

Judge: Well if you are going to scrutinise the numbers either can you sit down and please be quiet as we go through.

VF: Why should I be quiet, I am paying for it, I am paying for you for everybody.

[Crosstalk]

Judge: I am going to hear the submissions from counsel as to the quantum of the costs I have ordered. Please do not argue with me, please sit down, **please sit down** and remain quiet and we will go through this and if you need an opportunity to speak to your counsel you will get it. Alright?

VF: Not alright.

Judge: Now can we get on please

VF: I should have been served with numbers beforehand and he is not even having those numbers and you don't have the numbers. What kind of performance is this?

Judge: I do have the numbers in front of me and I am looking at them.

VF: So let me see the numbers then. I don't see. My Google I don't have I don't open this e-filing I need on paper numbers. I don't have e-filing. I need to see the numbers what's going on here. They don't deserve a penny they are thieves. I will scrutinise every single penny **there**. Show me the numbers on paper please.

.....

Judge: Can you just let me speak to your counsel and then we will decide how to move forward.

VF: In another hour

[crosstalk]

Judge: Can you just let me finish please

VF: Why don't you let me see the numbers

Judge: Please let me finish

MF: Your Honour the same authorities for four hundred thousand pounds legal costs in the BVI liquidated our company

Judge: Look I am dealing with

MF: This is why she is upset

[Crosstalk]

VF: You need the money for your funeral

MF: You have to understand

71. The Judge then ruled that he would provide an opportunity for the Defendants to make any points in relation to the quantum of costs by 4pm the next day (which was a Friday),

with an opportunity for the Claimants to respond by 4pm on the following Monday. The following exchange then occurred (TD is Mr Daniel, Counsel for the Claimants):

- Judge: 4pm and I will give my ruling in writing in the meantime perhaps you could nevertheless continue to work together on the order such that I have a document which allows me to insert the relevant number that I decide is appropriate
- VF: Yes make sure the number doesn't come from you later then I sue you
- TD: Can I please enquire what I was proposing to do was to take the order that's in the bundle in Word send it to my learned friend whose email address I have now got with what I understand are the orders your Lordship has made between the two of us and then provide the court in Word so that if your Lordship wishes to amend anything of course it is much easier than coming back to us in pdf. Assuming that to be an acceptable way forward how would your Lordship like me to serve the Word copy through QBD or
- VF: Serve me first so I can look at what numbers you want me to pay you, idiot.

72. Mrs Fetaimia accepts that her last statement set out above was directed at Mr Daniel. She vigorously denies that any of her earlier comments that "you are corrupt" were aimed at the Judge. She denies that any reference to needing money for a funeral was directed at Mr Aarons.

Other recordings provided by the Defendants

73. Mr and Mrs Fetaimia also provided other audio and visual recordings. I have watched and/or listened to them (as the case may be). They include:
- (1) A recording of a conversation between Mr Fetaimia and David Szymocha (one of the porters) during which, amongst other matters, Mr Fetaimia discussed his assertion that the directors of the First Claimant had instructed the porters to ignore Mr and Mrs Fetaimia and their children. In response to this recording (which was adduced part of the way through the trial) Mr Szymocha made a second witness statement;
 - (2) A recording of a conversation between Mr Fetaimia and an unidentified third party, during which the third party (who Mr Fetaimia said was a contractor who he had asked to do work to Apartment 5A) said:

"I don't see why I should take money from my pocket to make Tim rich"
 - (3) A conversation between Mr and Mrs Fetaimia and Mr Jacquemard, the head porter, during which Mrs Fetaimia took issue about the late delivery of documents relating to works that the First Claimant intended to carry out to the boilers and heating system at Albert Court.

The HSBC statement

74. In his witness statement dated 11 March 2022 Mr Fetaimia said the following at paragraphs 52 to 55:

“52. About 3 years ago, I was provided with some documents by a prominent resident of Albert Court, who I do not wish to name, which show that DBR made payments to some of the directors, and certainly to Genevrier Ltd, to secure the tenders.

53. The documents provided appear at [MNF 1/30-33]. They show the various companies that Mr Aarons and his wife, Jing Jong, have interests in, and a suggestion that monies were paid to those companies by DBR.

54. One particular document was shown to me. That document appeared to be a page of an HSBC bank statement for an account in the name of DBR (London) Ltd. On that document, which I believed to be a true copy of a genuine HSBC statement, there is an entry which read:

11 Oct 2016 TRF400525 51374521 100,000.00

INTERNET TRANSFER

Genevrier Limited

55. I was naturally shocked at seeing that document because on the face of it, it shows that DBR paid what can only be described as a bribe (for want of a better and more appropriate word), to Genevrier Ltd to allow DBR to secure the tender for a particular job at Albert Court. The documents referred to above [MNF 1/30-33] also suggest that other payments were made to various companies in which Mr Aarons and Mr Rubie had an interest.”

75. The document at MNF 1/30-33 is a typed document headed “Who is accountable? Who is behind ALBERT COURT”. There is no indication of who prepared this document, when it was prepared, the circumstances in which it was prepared or the basis of the information contained therein. In short, this document is of no probative value.
76. However, Mr and Mrs Fetaimia claim to be in possession of the HSBC bank statement. As I understand it, they also claim that it was one of the documents that they produced at the November 2019 AGM.
77. For reasons that are known only to Mr and Mrs Fetaimia if the HSBC statement exists and if they are in possession of it they have chosen not to disclose it within these proceedings. In his cross examination Mr Fetaimia claimed to have been given this document by a prominent resident of Albert Court as said of this resident “he owns five apartments in Albert Court.” In her cross examination Mrs Fetaimia denied any knowledge of who had provided the statement and suggested it could have been put under their apartment door.
78. Mr and Mrs Fetaimia are aware of the importance of providing evidence to a court. They have both been involved in litigation outside of these proceedings. They had competent solicitors acting for them until shortly before the trial, and I am of the view that this court can properly infer that they would have been fully advised of their need

to comply with the directions made by Mr Richard Smith to file and serve documents that they wished to rely upon (including the HSBC statement).

79. Under cross examination Mr Fetaimia accepted that the HSBC statement was relevant to this case and the issues, that he had not provided it and had had the opportunity to do so since June 2020 (including providing two supplemental bundles of documents during the trial).
80. Furthermore, I note that in correspondence sent by Mrs Fetaimia to Ms Kim Hollis QC, which is set out in an email to a third party sent by Mr Fetaimia on 21 January 2021, Mrs Fetaimia indicated a wish to commence a prosecution against the directors of the First Claimant and asserted (amongst other matters):

“I have in my possession bank statements showing bribes being paid to the so-called volunteer directors and into their spouse's offshore bank accounts.”

81. Ms Hollis QC replied in the following terms. The emphasis in bold was added by her in her response. The emphasis in italics is mine:

“In order to prosecute in the United Kingdom there needs to be an **evidential basis** as opposed to **assertions of fraud and corruption**”

and

“You have highlighted 4 specific "crimes " that you allege against the ACM directors, *it would be useful to know if and what evidence you have in relation to each allegation*, in order that a proper assessment can be made and advice can be given to you on the likely success.”

Mr Bosworth's file note made on 6 April 2022

82. On 10 February 2022 Mrs Fetaimia was served with a statutory demand in respect of the unpaid costs order made by Mr Richard Smith. At 18.00 on 10 February 2022 Mr Bosworth, the Claimants' solicitor, made a file note as follows:

“Call in from Mr Fetaimia at 17:42. Mr Fetaimia very angrily telling me that I don't know what I have done, that he will fuck me up for what I have done to his wife, that I will end up in prison with Graham Aarons. I told Mr Fetaimia that he should not be calling me or speaking to me in this way. He ended the call at that stage. The entire call lasted for 46 seconds and was mainly Mr Fetaimia raging at me.”

The evidence from the Claimants' witnesses of fact

Mr Kerry Rubie MBE

83. Mr Rubie is the Chairman of the First Claimant and the Third Claimant. He has made two witness statements. In his first statement Mr Rubie addressed the events that occurred at the AGM and the intrusive requests for his private information made by the Defendants. This included exhibiting the note that Mr Rubie made and which is dated 3 December 2019. The full body of the note has already been set out (see paragraph 63 above). Mr Rubie's evidence was that he wrote the first draft and sent it to the directors

who were present at the AGM. They added some small details but the majority of the note was his work and from his recollection.

84. Mr Rubie further outlined in his first witness statement how he has been confronted three times by Mr Fetaimia in the street or the hallway when allegations had been made including, “*Aarons is a crook, we will get him*”. In his second statement Mr Rubie rejects the allegations made by Mr Fetaimia in his witness statement.
85. Mr Rubie, who is an elderly gentleman, was in the witness box for the approximately four hours as Mr Fetaimia subjected him to a lengthy cross examination. Mr Rubie was a calm and measured witness. There was only one point during this whole process where Mr Rubie showed the slightest sign of irritation; he raised his voice a little bit when for the umpteenth time a question he had already answered was repeated.
86. Lines of cross examination put to Mr Rubie included where was he resident for tax purposes and did he own a property in Bermuda, how many offshore companies he owned or controlled, what were the resources that he lives off, how many projects had he signed off that he had a personal financial interest in, why does DBR always win bids to do work at Albert Court, is Mr Rubie concerned that his misuse of the First Claimant’s funds will be exposed, how much is he paid for being a director, does he pay service charges to the First Claimant and whose idea was it to remove the upper age for directors of the First Claimant. I note that all of these questions relate to matters that Mr Rubie recorded in his note dated 3 December 2019 as being allegations made by the Defendants at the November 2019 AGM.
87. Mr Rubie was cross examined about the events at this AGM. He said that he remembered it well. He was asked if he recalled asking Mr Merriman to back off and his evidence was:

“I said that to Mr Aarons. You and Mr Aarons were in a very heated conversation. I said to Mr Aarons to “back off” I recall saying Graham walk away.”
88. Mr Rubie’s recollection of events in this detail does not accord with the recording that has now been provided to the court (and the Claimants) by the Defendants. Mr Rubie can be heard on this recording saying loudly “*Peter for God’s sake stop, stop. Peter walk away.*” This discrepancy between Mr Rubie’s oral evidence and the contemporaneous recording has been picked up on by the Defendants as evidence that Mr Rubie is (a) lying about this detail and (b) therefore lying in other parts of his evidence.
89. I have no doubt at all that Mr Rubie was mistaken when he gave oral evidence that his recollection was that he told Mr Aarons to walk away. In fact, he told Mr Merriman to walk away. As Leggett J (as he then was) commented in the *Gestmin* case the process of recalling events “*are largely unconscious and that the strength, vividness and apparent authenticity of memories is not a reliable measure of their truth.*” However, the fact that Mr Rubie was mistaken (despite asserting that he remembered well the events on the day) does not mean that he was lying to the court. As is apparent from the evidence of others who were present at the AGM, and as is apparent from the recording that I have listed to, events at the AGM were fast moving, dynamic, loud and chaotic. A lot was happening in a short space of time and I do not find it surprising that Mr

Rubie's recollection, some two and half years later, of whom he told to "sit down", was inaccurate. However, in my clear assessment of Mr Rubie's evidence, he did not seek to lie or mislead the court in relation to this issue.

90. Mr Rubie also said under cross examination that Mr Merriman sat beside him during the AGM with his legs under the table. That was also what Mr Rubie said to the police in January 2020 when they investigated Mrs Fetaimia's allegation against Mr Merriman. Mr Reen (whose evidence I deal with in paragraphs 127 to 129 below) said to the court that he was sat on the front row and he did see Mr Merriman stand up, but didn't think that he walked towards Mrs Fetaimia. Mr Burke, who also gave evidence, did not see Mr Merriman stand up. Mr Greenwood gave evidence that he did see Mr Merriman stand up at one point but he did not walk towards Mrs Fetaimia. Mr Merriman said under cross examination that he did not stand up until the end of the meeting. The recording from the AGM clearly records Mr Rubie telling Mr Merriman to "sit down", which indicates that that point in the meeting Mr Merriman was stood up.
91. I do not have the benefit of a recording of the whole AGM (despite having initially been told by Mr and Mrs Fetaimia that they possessed one) however I am more than satisfied on a balance of probabilities that the recording the court has been provided with is of the last 4 minutes or so of the AGM. Mr Aaron's evidence is that the meeting (and proposed AGM for the freehold company) was adjourned after the re-election of the directors. At this juncture there is ample evidence, both from the recording and other witnesses that Mr Merriman did stand up. That is not inconsistent with Mr Rubie's evidence that for the duration of the meeting Mr Merriman was sat down. Again, I do not have any concerns about this aspect of Mr Rubie's evidence and it does not in any way impact on my assessment of his credibility.
92. I found Mr Rubie to be a balanced and credible witness and one who was not in any way seeking to mislead the court but rather did his best to assist the court.

Mr Timothy Murray

93. Mr Murray has made three witness statements. In his first statement Mr Murray describes an incident of threatening behaviour in his office when, during a disagreement regarding accusations being made about Mr Merriman, Mr Fetaimia said to Mr Murray's wife, "*Shut your mouth*" and "*Do you and your family feel safe in your apartment?*" Mr Murray took this as a threat.
94. Mr Murray details how Mrs Fetaimia has made a false allegation against him. Mr Murray also described the AGM, including hearing the threat, "*We will get Mr Aarons; he will be dead*" and other false and distressing allegations. Mr Murray said he has "*suffered much abuse from both Mr and Mrs Fetaimia over an extended period*" and that Mrs Fetaimia has requested his personal information which was of concern to him.
95. Mr Murray also described how Mr Fetaimia made a false allegation that a contractor had pushed Mrs Fetaimia. Mr Murray viewed the CCTV which showed that the event did not occur, and he sent copies of this evidence to Mr Fetaimia as proof. He never received a response.

96. Mr Murray states that the harassing and aggressive behaviour has been continuous for two years and outlines the numerous false allegations that have been repeated. This included Mrs Fetaimia stating Mr Murray would lose his house and go to prison for 15 years, which left him feeling uneasy in light of the false allegations made to the police about Mr Merriman.
97. Mr Murray describes trying to console a cleaner who was crying as a result of aggression from Mrs Fetaimia. The cleaner subsequently resigned. He also describes a specific incident on 6 May 2021 involving a contractor and Tim Greenwood when Mrs Fetaimia behaved in a hostile and aggressive manner.
98. In his third statement, Mr Murray responded to the Defendants' evidence, including an incident on 10 February 2022 when Mrs Fetaimia claimed to have been assaulted. Mr Murray viewed the CCTV which did not reveal any assault and he showed this to the police who attended.
99. Mr Murray was a straightforward witness when in the witness box. He answered questions with a straight answer; for example when I asked him whether he had been asked to undertake a private investigation on Mr and Mrs Fetaimia he responded almost without hesitation that he had, and went on in response to questions to say that he was asked by the directors of ACM to hire private investigators to investigate Mr and Mrs Fetaimia's private life. When asked for the reason for doing this he stated "*it was just a general thing to find out who they were.*"
100. It was apparent to me that on a personal level Mr Murray finds the approach that Mr and Mrs Fetaimia have adopted towards him quite disagreeable. Mrs Murray gave evidence that the tensions and events that have occurred at Albert Court have had a seriously deleterious effect on her husband's health. However, both in the witness box and in one of the voice recordings provided by Mr and Mrs Fetaimia (where Mrs Fetaimia took issue with the fact that she had not been given prior warning that asbestos would be removed from common parts in close proximity to Apartment 5A) Mr Murray maintained a polite and professional approach towards the Defendants. This was so even when Mr Fetaimia was accusing Mr Murray during cross examination of accepting bribes from contractors as a pre-requisite for them being allowed to do work on apartments at Albert Court, receiving commission from a resident for finding him flats to purchase in Albert Court, assisting Mr Richard Hitt to change the locks to Apartment 5A in September 2015 and allowing a resident (Mrs Reen) to access private emails on computers belonging to ACM.
101. I found Mr Murray to be a measured and honest witness. His evidence in relation to the AGM was that:
- "Mrs Fetaimia started to get irate. She went and stood next to Peter [Mr Merriman] and made a comment that he should stand up but he didn't. She moved off wafting papers around of some description. She moved off again, and I went to stand next to Peter in case she came back and decided to throw something at him. It was quite shocking."*
- "I stood behind Peter I don't know who was screaming 'sit down, sit down' I was too busy concentrating on Mrs Fetaimia. I was standing there to*

make sure that Mrs Fetaimia didn't do something she would regret. I was facing the front – the audience.”

“The night was memorable in many ways but everything went very quickly. It was a bit of a free for all.”

“Mrs Fetaimia was very upset that evening”

102. Mr Murray did not at any time hear Mr Merriman say to Mrs Fetaimia that he had “fucked her before and would fuck her again.” Nor did he hear Mr Fetaimia say words to the effect of “ladies and gentlemen our secretary is showing us his genitals”.
103. Mr Murray’s evidence that Mrs Fetaimia was very upset and that the AGM descending into a bit of a free for all very much accords with the voice recording provided by Mr and Mrs Fetaimia (which had not been provided at the time Mr Murray gave evidence). I also note that at no stage on the voice recording can Mr Merriman be heard saying anything to Mrs Fetaimia, let alone the words the Defendants claim he used.

Mr Graeme Aarons’ evidence

104. Mr Aarons has made three witness statements. In his first statement, he describes an AGM on 27 November 2019 when the Defendants made a number of serious, unfounded allegations. During the AGM, Mrs Fetaimia pointed at Mr Aarons and said, “*We will get you and you will be dead*”, which shocked and concerned Mr Aarons. At one stage, Mr Fetaimia leant over towards Mr Aarons in a threatening manner and said, “*I will get you killed*”. Mr Aarons detailed his discoveries about Mr Fetaimia’s past that caused him to fear these were not just wild comments. Mr Aarons states that a false allegation was then made to the police against Mr Merriman and the “*devastating effect*” of this.
105. Mr Aarons describes a number of false allegations being repeated about the other directors, Mr Murray and himself, as well as requests for their personal information. He also described a part-time cleaner resigning over comments made to her by Mrs Fetaimia.
106. On 5 May 2021, as he was returning to Albert Court, Mr Fetaimia followed Mr Aarons inside, shook his first and shouted in a hostile manner, including calling Mr Aarons a thief.
107. On 6 May 2021, Mr Aarons became aware that Mr Fetaimia told Mr Rubie “*...Aarons is a crook, we will get him*”. Then, on 13 May 2021, Mr Aarons was again returning to Albert Court when Mr Fetaimia shouted, “*you are a thief taking money from your neighbours – we will get you*”. Mr Aarons described how he interpreted, “*we will get you*” in light of the death threats made at the AGM.
108. In his second statement, Mr Aarons details a further incident on 8 June 2021 when Mr Fetaimia followed him in Hyde Park and made a number of false allegations in an aggressive and threatening tone, whilst rubbing shoulders with Mr Aarons.
109. In his third statement, Mr Aarons rebuts a number of allegations within Mr Fetaimia’s witness statement and provides the evidence in support.

110. Mr Aarons gave evidence in a calm and measured manner. He displayed a mild demeanour throughout his time in the witness box and whilst he was being cross examined by Mr and Mrs Fetaimia, even when he was being asked questions about companies he controlled or had an interest in, whether he really was a qualified lawyer, his tax status in the United Kingdom and where he derives his income from. Many of these questions were attempts by Mr and Mrs Fetaimia to obtain information that they seem to think will assist them in establishing that Mr Aarons is involved in illegal activities. In my view it amounted to a form of passive aggression on the part of Mr and Mrs Fetaimia.
111. Other allegations made against Mr Aarons in cross examination included that he wrote all the witness statements for the Claimants' witnesses, that he wrote letter to the First Tier Tribunal (where Mrs Fetaimia has lodged a claim) that were sent out in the name of Russell Cooke and that he was paid money by DBR (London) Limited. Mr Aarons was also questioned (amongst other things) about whether he received any remuneration from ACM and whether he pays the service charges for his apartment.
112. In relation to the AGM Mr Aarons gave evidence that Mr Merriman was sitting at the far end of the table to him, with his legs under the table. His recollection was that at one stage Mr Rubie got up and walked behind Mr Merriman and that Mr Murray walked to the side of Mr Merriman "*and seemed to be there to protect him*". Mr Aarons also gave evidence that he took issue with Mr and Mrs Fetaimia "*when they said they had paid the service charge. I said no, that was incorrect. I repeated that on two or three occasions.*" In this regard Mr Aarons evidence supported the assertion by Mr and Mrs Fetaimia that he had stated at the AGM that they had not paid the service charges for Apartment 5A.
113. Mr Aarons thought that Mr Rubie said something to him to the effect of "well back off". Mr Aarons was rather unsure in his evidence about whether Mr Rubie did say this, however he was clear that the room at the time was in a state of chaos. The recording of the AGM reveals that Mr Aarons obvious lack of confidence in whether he heard Mr Rubie say "back off" to him was justified; in fact that comment was addressed by Mr Rubie to Mr Merriman. This was in my clear view not a deliberate attempt by Mr Aarons to mislead the court. In fact, my impression of Mr Aarons was of an honest and credible witness.

Mr Merriman's evidence

114. In his witness statement Mr Merriman details receiving a letter and a "bullying and harassing" phone call from both Defendants during which, "The Fetaimias said that they wanted the legal action against them by Albert Court dropped and used a similar threatening tone against me as that demonstrated in the letter". Mr Merriman recounted the events during the AGM and that, following this, a false allegation was made to the Metropolitan Police that he has exposed himself to Mrs Fetaimia. He described the whole process of attending the interview as causing a "huge amount of distress and anxiety, and actually continues to do so". He considered that he had been an "easy target" for harassing behaviour that would assist in avoiding the court action taken against the Defendants. He details his ongoing fear of repercussions and responds to a number of false allegations made about him in Mr Fetaimia's witness statement. He described the effect of this behaviour on him, which includes "the very real and detrimental effect" upon his life.

115. When giving evidence in the witness box about the allegation made against him by Mrs Fetaimia, Mr Merriman's horror that such an allegation had been made against him was palpable. His demeanour and tone of voice portrayed the trauma and distress that he has experienced as a result of being at the receiving end of such an allegation. He described the allegation by Mrs Fetaimia as *"the most outrageous slur, I can't begin to tell you"*
116. He gave evidence that he had decided to give a statement and come to court to give evidence, despite the risk of that the process re-traumatising him, when he learnt that Mr and Mrs Fetaimia has asserted that he had apologised for his behaviour at the AGM. He said this:
- "that is the reason why I am here today. To embellish a lie with another lie is too much to bear."*
117. This evidence was delivered with genuine conviction and with real pain and hurt in his voice. Either Mr Merriman was delivering a performance of Oscar-winning standards or he was telling the truth. I had no doubt at all that Mr Merriman was telling the truth. He was a thoroughly credible witness.

Mrs Rosa Murray

118. Mrs Murray made a witness statement that corroborated her husband's account in relation to Mr Fetaimia shouting at her husband in his office. Mrs Murray intervened as she could see her husband was upset. Mr Fetaimia waved his hands and Mrs Murray thought he might hit her, so she moved back. Mr Fetaimia then said, *"Shut your mouth"* and *"Do you and your family feel safe in your apartment?"* Mrs Murray was worried about this and took it as a threat. Mrs Murray also gave details of the deleterious effect the Defendants' behaviour has had on her husband's health and wellbeing.
119. Mrs Murray was a clear and convincing witness. She was polite but steadfast under cross examination that her evidence was accurate. It was suggested by Mr and Mrs Fetaimia during the course of the hearing (but not in cross examination) that Mrs Murray was prepared to lie to protect her husband and the perks they receive (predominantly free accommodation) however I note that in her witness statement she says *"I have on several occasions suggested that he leave his position and find something else."*

Mr Fabrice Jacquemard

120. Mr Jacquemard has made two statements. In his first statement, he states the porters wish the Defendants: *"...to cease the continuous aggressive and uncalled for attacks on directors and cease speaking to us in an aggressive demanding tone"*. Mr Jacquemard says it is not the fact of a complaint but the aggressive manner that is of concern. He outlines a number of allegations made regarding Messrs Murray, Merriman, Rubie and Aarons, including regarding corruption and the fact they will *"go to jail"*. In relation to one occasion relevant to himself, Mr Jacquemard states, *"On one occasion Mrs Fetaimia said to me: "You like to live here — then you will not be living here long". This upset me greatly as I am dependant on the accommodation; I have spent time and money making it into a decorated apartment to my liking"*.

121. Mr Jacquemard described receiving a complaint that Mrs Fetaimia had used abusive language towards a contracted window cleaner who refused to work at the building again. He concludes by describing that his stress levels have risen and he has visited his doctor.
122. In his second statement Mr Jacquemard explained how, after receiving the evidence in these proceedings, Mr Fetaimia told him to tear up his witness statement. Mr Jacquemard detailed his worries, but he felt he must stand up against this kind of conduct.
123. In oral evidence Mr Jacquemard emphasised that his job is to be *“able and amicable to everyone”*. He was however clear that he felt that Mrs Fetaimia harasses him *“not me personally but what I represent.”* That was in my view insightful evidence on the part of Mr Jacquemard. I was also struck by the palpable effect that the behaviour of the Defendants has had on him; Mr Jacquemard displayed a quiet dignity and a desire to act professionally towards all tenants at Albert Court, however the strain of events was clearly telling on him and I had no doubt at all that he was telling the truth when he said *“at one point I was anxious to come to work because of the complaints”* and that maybe Mrs Fetaimia didn’t realise it *“but is was constant ... I understand you might have your problems but to take it out on me”*. When Mrs Fetaimia stated *“I am frustrated that’s true, but I never meant to intimidate”* Mr Jacquemard was firm in his response that *“it’s the way I felt”*. I was left in no doubt at all that Mr Jacquemard would have preferred not to be drawn into the dispute between the parties, and is proud of his role and that of the porters, which is to provide a service to all of the tenants at Albert Court, but in the final analysis he felt that the behaviour of the Defendants had crossed a line and he needed to get involved. He said this:
- “We didn’t want to get involved but you never take no for an answer. At one point you were going too far – chasing Mr Aarons on the street. He’s an old person and should be treated with respect.”*
124. In cross examination Mr Jacquemard was asked if he had decorated his apartment. He said no. He also denied ever saying to Mrs Fetaimia that he had decorated his flat and could not move out. This piece of detail was picked up by Mr and Mrs Fetaimia as evidence that Mr Jacquemard was an unreliable witness because in paragraph 9 of his first statement he said that he was upset by a statement made to him by Mrs Fetaimia *“as I am dependent on the accommodation; I have spent time and money making it into a decorated apartment to my liking.”*
125. In my assessment nothing turned on this point; firstly because Mr Jacquemard denied saying to Mrs Fetaimia that he could not move out because he had decorated his flat whereas his witness statement explained why he was upset at Mrs Fetaimia’s comments. These two matters are not the same. Secondly, Mr Jacquemard was not asked questions about how he had spent time and money on his apartment and what he meant by *“decorated apartment”*. This could mean a variety of things, from a wholesale refurbishment of walls and other surfaces to adding personal effects to an already furnished and decorated apartment. Thirdly, whilst Mr Jacquemard’s English was good, it is not his first language and that was apparent from his delivery and syntax when giving evidence.
126. I was left in no doubt at all that Mr Jacquemard was a fair, balanced and truthful witness.

Mr Colin Reen

127. Mr Reen was present at the AGM. In his witness statement he gives an account of the AGM including that “*wild and unsubstantiated accusations*” were being made; Mrs Fetaimia continued to “*shout abuse*” at Messrs Aarons, Rubie and Merriman; the fact nothing untoward happened to Mrs Fetaimia; that Mrs Fetaimia shouted at Mr Aarons, “*You will go to jail and rot in jail*” and that the Defendants’ behaviour was “*quite threatening*”, and the aim appeared to include intimidating the Board members present.
128. In his evidence to the court Mr Reen said that he was sat in the front row of seats at the AGM. He therefore had a straight line of sight to the table at which Mr Aarons, Mr Rubie and Mr Merriman were sat. Mr Reen stated that at the AGM there was “*a certain level of disruption ... there was a lot of movement and demonstrations going on about things being said. I think that Mr Rubie tried to calm things down*”. At one point Mr Reen saw Mr Merriman stand up “*but I don’t think he walked towards Victoria*”. Mr Reen was clear that he did not see “*any altercation between Mrs Fetaimia and Mr Merriman*” and nor could he recall hearing Mr Fetaimia say anything to Mr Merriman or about Mr Aarons. He did however have a recollection of Mr Fetaimia “*waving a piece of paper around and making some sort of accusation*” and that he heard Mr Fetaimia tell Mr Aarons “*you will go to jail and you will rot in jail.*”
129. Mr Reen did not seek to elaborate his evidence; when he could not remember something or was not sure about something he said so. He was a straightforward and credible witness. I have no doubt that he did his best to assist the court.

Lord Leitch

130. Lord Leitch has made two statements. In his first statement, he described being confronted on at least five different occasions with various serious allegations being made. He describes how “*highly charged and aggressive*” the Defendants have become, trying to intimidate the officers of ACM. He states the allegations and accusations are harming the lives of people living and working in the building. In his second statement he denied a number of the claims made by Mr Fetaimia and clarified that an email chain exhibited by Mr Fetaimia has been taken out of context, and related solely to one particular issue when scaffolding was erected at Albert Court for a prolonged period of time.
131. Lord Leitch was asked questions in cross examination about photographs which the Defendants assert establish that Mrs Fetaimia was on one occasions followed by Mr Neil O’Sullivan. Mr O’Sullivan is a former police protection officer who has been engaged by ACM to provide security in light of the behaviour of the Defendants. My impression was that Lord Leitch was slightly irked by this line of questioning; if he was it was with good reason. The photographs fall far short of establishing what Mr and Mrs Fetaimia were suggesting.
132. Lord Leitch also said this in response to a question put to him in cross examination about whether he was concerned that “*the misuse of ACM funds is about to be exposed and the bomb is about to explode*”:

“Mr Fetaimia let me repeat what I have told you many times. I’ve told you when you’ve made allegations of fraud and corruption, I’ve said if there is a

case bring forward the evidence and the Board will examine it. You have never once got to me any evidence.”

133. Again, when this evidence was given I detected a note of exasperation and possibly even frustration in Lord Leitch’s voice. Again, this was for good reason; Lord Leitch clearly understands the value and necessity of evidence as opposed to allegation and suspicion.
134. It was suggested to Lord Leitch in cross examination that he was personally shielding people from the allegations that they have mismanaged fund. He denied that categorically and went on to state that he was very happy living at Albert Court and *“we have a very professional management group. The Board need to be commended for running the place as they do and doing it so well. I trust the Board, the managers, the concierge, they are all very good. I am very happy in the building.”*
135. In my assessment Lord Leitch was a balanced and fair witness.

Mr David Lucas

136. Mr Lucas is a director and shareholder of DBR (London) Limited. Mr and Mrs Fetaimia insisted that he attended court to be cross examined on his witness statement, in which he denied the allegations of bribery made in Mr Fetaimia’s witness statement. Mr Lucas observed in his witness statement that the *“genuine HSBC statement”* referred to by Mr Fetaimia cannot be true as the company has never held such a bank account. He repeated this evidence in the witness box. In my assessment Mr Lucas was a balanced and credible witness.
137. In his evidence Mr Lucas said that the allegations of bribery and corruption against his company were *“scandalous”* and that *“to be honest that is one of the reasons why I am here. My business partner is really concerned that rumours will get out and stick. I am here to clear our name.”*
138. Having insisted that Mr Lucas attend court and having cross examined him on the basis that his company had involved itself in bribery and corruption, which is an exceptionally serious allegation to make, Mr and Mrs Fetaimia resiled from this position when Mrs Fetaimia gave evidence. In cross examination she said of the HSBC statement, which has never been disclosed in these proceedings:

“I don’t know the credibility of the statement which is why I did not supply or give it to anyone”

And then a bit later:

“I’m 50/50 about it I told my husband there’s a 50/50 chance it’s real”

139. Mrs Fetaimia went on to clarify that in her view there was a 50% chance that the statement was genuine and a 50% chance that it was a forgery and accepted that if there was a payment from DBR to Genevrie *“it could have been not a bribe.”*
140. It is a shame that Mr Lucas was not in court to hear this evidence.

Mr Caesar Sepulveda

141. Mr Sepulveda is a process server. He made a witness statement four days after he served court papers on Mr Fetaimia. In it he described how Mr Fetaimia refused to accept personal service. When he was served, Mr Fetaimia became very angry and attempted to kick the documents back at Mr Sepulveda, who commented in cross examination that *“I remember it because it’s not every day that someone kicks documents back at you.”*
142. Mr Sepulveda was clear in his evidence to the court that he had never met or had any prior knowledge of the management of ACM. He did not know Mr Aarons or Mr Rubie and Mr Greenwood was *“just a name from a witness statement”*. There was absolutely no motivation or reason for Mr Sepulveda to lie or seek to mislead the court and in my assessment he was an honest and credible witness.

Mr Patrick Burke

143. In his witness statement Mr Burke described the conduct of the Defendants during the AGM as *“intimidating”*. He further described a number of untrue allegations and his concern at these. Over the two years before making his statement, he estimated he had been approached monthly when walking in the street or in the hallway when allegations would be made about Messrs Aarons, Rubie or Murray.
144. Mr Burke was an impressive witness. He did not seek to elaborate his evidence and it was clear that there were details of the AGM that he could not remember, for instance Mr Rubie telling Mr Merriman to sit down. Where he could not remember, Mr Burke said so. It was however patently clear to me that there were aspects of the AGM that made a real impression on Mr Burke. He said *“I remember the screaming and shouting ... the shouting and screaming was Mrs Fetaimia”*. He also said this:

“I know Victoria very well but I’ve never seen her like she was that evening – it was chaos and the shouting and screaming was appalling.

I do remember “we will get you and you will be dead”. I don’t remember the exact words but it was certainly a life threatening remark directed to Graeme Aarons. The words may be slightly wrong but it was going to be a murderous comment.”
145. Mr Burke gave evidence that he did not see Mr Merriman stand up and walk towards Mrs Fetaimia. This was put to him as one question, namely *“did you see Mr Merriman stand up and walk towards Mrs Fetaimia”* and no clarification was obtained as to whether Mr Burke did not see Mr Merriman stand up, or he saw him stand up but did not see him walk towards Mrs Fetaimia. Insofar as there was any discrepancy between Mr Burke’s evidence and that of other witnesses about whether Mr Merriman stood up, this does not in my view reflect at all on his credibility.
146. It was clear to me that Mr Burke found the process of giving evidence against Mr and Mrs Fetaimia, who he regards as his friends, difficult. It was equally clear that he regarded it as necessary in light of the behaviour of Mr and Mrs Fetaimia. When Mr Fetaimia asked Mr Burke whether he wished to see the Fetaimias move out of Albert Court Mr Burke replied *“if they change the error of their ways of course I would want them to stay. I like Mr Fetaimia. He’s Marcel to me.”* There was one point in cross examination when Mr Fetaimia said *“tell me you did your witness statement under pressure.”* It was clear that Mr Fetaimia wanted to believe this. Mr Burke’s response

was genuine and heartfelt; “no”. I had no doubt at all that he was telling the truth on this point and throughout his evidence.

147. I was also struck by another part of Mr Burke’s evidence. He said that he has a background in property management and that:

“The criticisms to Rubie and Aarons are an anathema to me. Mr Fetaimia knows this. I told him there is no way money could be stolen because the amount of service charges that are collected, you can’t take hundreds and thousands of pounds out of that money and run the building. You wouldn’t have the money to run it.”

Mr David Szymocha

148. Mr David Szymocha made two statements. The first was in response to Mr Fetaimia’s statement in which he claimed to have spoken to Mr Szymocha. In rebutting this, Mr Szymocha stated, *“I wish to make it absolutely clear that Mr Aarons has never attempted to coerce me into making a witness statement in relation to this matter at any time...I have never spoken to either Mr or Mrs Fetaimia about any meeting with Graeme Aarons and I have never spoken to them about anything to do with any proceedings at court.”* The second was in response to the voice recording provided during the trial by Mr and Mrs Fetaimia. In it, Mr Fetaimia engaged Mr Szymocha in a conversation. In it Mr Szymocha states that the conversation was instigated by Mr Fetaimia and *“this was shortly after the first hearing of the matter when the porters were told by management that Mr and Mrs Fetaimia should not approach the porter’s desk as they had been.”* Mr Szymocha also stated that *“Mr and Mrs Fetaimia are known by all the porters to be prone to complain about the service they receive if they feel it does not meet the levels they require.”*
149. I note that at the first hearing Mr and Mrs Fetaimia gave an undertaking to the court and the statement from Mr Szymocha about what he and the other porters had been told by ACM management was consistent with the undertaking that had been given, insofar as it prevented Mr and Mrs Fetaimia from approaching the porters in any way that could amount to harassment. The Claimants have made it abundantly clear that the object of the present proceedings is not to prevent the Defendants from making legitimate complaints. As Mr Szymocha himself said in evidence *“she [meaning Mrs Fetaimia] has a right to complain but sometimes it is in a very aggressive way ... it is not the complaints but the way that they are put.”*
150. My impression of Mr Szymocha was that he felt uncomfortable being dragged into the issues between the parties. He takes pride in the service that he provides to all tenants at Albert Court and he was clear that he did not want or feel comfortable with confrontational situations. He was clear that he did not initially make a witness statement because *“I had respect for you [meaning the Defendants] and I didn’t want to get involved”*. It was only after Mr Fetaimia alleged that he had been told by Mr Szymocha that Mr Aarons had coerced him to make a statement against the Defendants that Mr Szymocha made his first statement.

151. Mr Szymocha was also very clear that when he found out that Mr Fetaimia had covertly recorded a phone conversation with him he felt “*violated, used, harassed. I would never expect such a thing. You do not record other people.*”
152. Mr Szymocha was a thoroughly credible witness. It is a shame that Mr and Mrs Fetaimia, who profess to love the porters and treat them “like family”, have acted in such a way that Mr Szymocha felt compelled to “step into the fray” and give a witness statement. Mr and Mrs Fetaimia must have been aware that to do so was an anathema for Mr Szymocha (and likewise for Mr Jacquemard). Both of these gentlemen clearly possess a significant pride in the work that they do and the service that they offer to *all* of the tenants at Albert Court.

Mr Timothy Greenwood

153. Mr Greenwood has made two statements. In his first statement he described the “*abuse and accusations*” and “*aggressive/abusive behaviour*” including during the AGM and he gives details of the nature of these false allegations. He stated, “*...threats were made directly to Mr Aarons in terms of seeing him ‘dead’, this statement was made by Mrs Fetaimia*”. Mr Greenwood interpreted Mr Fetaimia as posing a risk to Mr Merriman and “*The level of personal abuse and threats made directly to Mr Rubie and Mr Aarons were completely unwarranted, without foundation and unacceptable.*”
154. Mr Greenwood further described an incident when Mrs Fetaimia made a false accusation against a subcontractor and Mr Murray that was disproved by CCTV. Mr Greenwood has witnessed Mrs Fetaimia being “*rude, aggressive and abusive*”. He further detailed on incident on 6 May 2021 when Mrs Fetaimia launched into a “*tirade*” and was “*abusive and threatening*” in the presence of an external contractor (who has been identified as Mr Laurence Goodman from Frampton-Martin Sage Design Limited). He further described how false allegations have been made about his own qualifications.
155. Mr Greenwood’s second statement rebuts a number of the building-related complaints made in Mr Fetaimia’s witness statement, insofar as these are relevant.
156. In the witness box Mr Greenwood gave evidence about the AGM. He said that he was sat on the front row next to Mr Burke and he did not move from that position during the meeting. He saw Mr and Mrs Fetaimia stand up and make accusations from the rear of the room about the misuse of funds and that Mr Merriman was taking money. Mrs Fetaimia was “*very mobile*” and as she moved around the room Mr Fetaimia approached the desk. He thought that at one stage he did see Mr Fetaimia give a document to Mr Rubie, who then passed it on to Mr Aarons, who rejected it as being irrelevant.
157. Mr Greenwood saw Mr Murray walk over and stand by Mr Merriman, having been gestured to do so by Mr Rubie, “*and at one point Mr Merriman did stand up.*” He was very clear that he did not see Mr Merriman expose any part of his body to Mrs Fetaimia and stated that Mr Merriman was sat at an open table with four legs and if Mr Merriman was sat down and exposing himself “*I can’t imagine me or someone else wouldn’t have seen it.*” He heard Mr Rubie raise his voice “*he had never done that before*” but he could not remember the words used.

158. Mr Greenwood was very clear that the incident on 6 May 2021 happened as set out in his witness statement. Mrs Fetaimia’s behaviour was such that he felt harassed and after the incident he took Mr Murray “*for a coffee. He was very low and affected*”. Mr Greenwood was sure that during the incident on 6 May 2021 Mrs Fetaimia used the word “servant” and was equally sure that Mrs Fetaimia did not refer to him as a “service provider”. He described Mrs Fetaimia’s demeanour as “*loud, aggressive. I can’t recall if she swore but it was in her tone and manner.*”

159. Mr Greenwood exhibited an email dated 14 May 2021 from Mr Goodman to his first witness statement. In it Mr Goodman stated:

“During this meeting, we were approached by a lady stating that subsequently I learned was a lessee at Albert Court.

To my surprise she launched into a verbal barrage, accusing you and Tim Murray of not being professionals, making allegations against your wives, and making accusations as to the proper management of the block.

The rant went on for several minutes.

Later that morning, after you and Tim Murray had left, the same lady returned and demanded to know (in a very loud and threatening manner) who I was, what I was doing in *her* house, who instructed me, what was my company name.

I told her my name and my company, why I was there and who instructed me.

The same accusations re you not being a *proper surveyor* was made.

I believe that she may also have been filming me without asking my permission.

.....

In all my years as a professional, I have never been spoken to by a client, resident or lessee, or indeed by anyone, in such an unnecessary or indeed intimidating way.”

160. Mr Goodman was not called to give evidence. His email is hearsay, and it is for the court to decide what weight, if any, to place on it. In this context I note that:

(1) Mr Goodman’s account accords with that of Mr Murray and Mr Greenwood.

(2) Mrs Fetaimia accepts that she spoke to Mr Goodman after his meeting with Mr Murray and Mr Greenwood on site had come to a conclusion.

(3) Mrs Fetaimia accepts that she asked Mr Goodman which company he was working for.

(4) Mrs Fetaimia accepts that she filmed her encounter with Mr Goodman and did not obtain his permission to do so.

161. All of the details in (2) to (4) above, which Mrs Fetaimia accepts are accurate, are included in Mr Goodman’s email. It is only those matters that may be disadvantageous to her case that Mrs Fetaimia denies. I also note that one of the allegations that Mr

Goodman makes is that Mrs Fetaimia accused Mr Greenwood of not being a “proper surveyor”. Questioning the qualifications of professionals is something that Mr and Mrs Fetaimia have done in the course of this case; they have regularly questioned whether Mr Aarons is a properly qualified lawyer and have regularly called into question the professionalism of the lawyers who act for the Claimants.

162. Whilst Mr Goodman’s account of events on 6 May 2021 has been untested in evidence it is entirely consistent with the accounts of Mr Greenwood and Mr Murray.
163. I found Mr Greenwood to be a reliable, credible witness. His shock at the events of 6 May 2021 was clear, as was his professionalism and his desire to assist the court without seeking to embellish his evidence.

Mr Patrick Bosworth

164. In his witness statement Mr Bosworth describes two incidents. The first was on 13 January 2022. Following the adverse cost ruling against the Defendants, and crucially at a time when both Defendants were subject to undertakings (which had only been renewed around an hour beforehand), Mr Bosworth witnessed the behaviour of Mr and Mrs Fetaimia, including:
- (1) Mrs Fetaimia was speaking in a loud and aggressive manner. Mrs Fetaimia called the judge “*corrupt*” and called Messrs Aarons and Rubie “*very corrupt*” while pointing at them. She also used the word “*thieves*”; and
 - (2) Mrs Fetaimia turned and was looking directly to Mr Aarons as she said, “*You need the money for your funeral.*”
165. Mr Bosworth described that Mr Aarons and Mr Rubie were visibly shaken and he had concerns at the Defendants’ behaviour when subject to undertakings.
166. Mr Bosworth has exhibited this part of the court’s audio recording and a transcript he has prepared of the comments he heard Mr and Mrs Fetaimia make. I have already set out part of the transcript in this judgment. Mr Bosworth’s evidence is entirely accurate in relation to what was said by Mr and Mrs Fetaimia in court. The allegation made by Mrs Fetaimia that Mr Bosworth had doctored the court recording is a serious and unfounded one. It was a desperate attempt by Mrs Fetaimia to explain why the transcript did not say what she claims she said.
167. I accept in its entirety Mr Bosworth’s evidence not only about what was said in court on 13 January but also at whom the various comments were aimed. This evidence is entirely consistent with the recording and who was speaking at the time.
168. Mr Bosworth also gave evidence about 10 February 2022. Following the Claimants’ attempt to enforce the unpaid costs order against Mrs Fetaimia, Mr Fetaimia made a telephone call to Mr Bosworth. There was no need for this as the Defendants had instructed Spencer-West LLP by this stage. Mr Bosworth states that during this call: “*Mr Fetaimia was very clearly angry and told me that I didn't know what I had done, that he would "fuck me up" for what I "have had done" to Mrs Fetaimia and that I "...will end up in prison with Graeme Aarons.*” Mr Bosworth made a contemporaneous note, which I have already set out in an earlier section of this judgment. He also raised this promptly with the Defendants’ solicitors but has received no response.

169. I found Mr Bosworth to be a credible and reliable witness.

Mr Sorin Lile

170. Mr Lile was not called to give evidence. He made a witness statement in which he described an incident when Mrs Fetaimia ran past the front desk shouting and Mr Fetaimia called the police, who then attended and spoke to Mr Murray. I do not intend to place any weight on this evidence.

The evidence from the Defendants

171. Before I turn to the individual evidence from the Defendants, I intend to make some general observations about Mr and Mrs Fetaimia based on the evidence (both written and oral) and my observations of them. I preface these observations by observing that English is not the first language for either of them, and whilst they are clearly intelligent and articulate individuals this is something that I must bear in mind. Even allowing for this fact, there were some threads that came out of their evidence and comments to the court, which in my view help to put some context to the case and which assist me when determining whether any of the Claimants' allegations are made out on a balance of probabilities. These are as follows:

- (1) They are both proud individuals; they both said as much. Mrs Fetaimia accepted that it is very important to her what others think of her. They both take great pride in living in a building which is regarded as being prestigious and which has prominent and wealthy people living in it. Mr Fetaimia emphasised in evidence that his wife has many friends in the building and that she was the “*star*” of a reality show called “*living with the Russians*”. In my assessment both Mr Fetaimia and Mrs Fetaimia are likely to take very personally any comments which may be interpreted as being capable of reducing their standing in the eyes of those who matter to them (this includes other residents of Albert Court).
- (2) They presented as a close couple, both strongly supportive of the other. However, the strong impression that I gained was that it is Mrs Fetaimia who has taken the lead in making allegations of fraud and undertaking investigative work on in an attempt to produce evidence in support of their allegations of fraud. She said in her evidence that she investigates tax frauds with a view to reporting them to HMRC for reward and at one point in the hearing when I suggested that at that very moment Mr Fetaimia listen to his wife his response was words to the effect of “*I did and it has got me here [meaning in court]*”
- (3) Both Mr and Mrs Fetaimia clearly regarded the Chancery Division proceedings as a full on assault to their family home and way of life. They felt under attack as a result of those proceedings.
- (4) The actions of Mr Hitt in changing the locks to Flat 5A and the issue with bailiffs sent on behalf of EDF no doubt contributed to that sense of feeling under attack and that they were not safe in their own home.
- (5) They clearly hold ACM responsible for the fact that Mr Hitt changed the locks. Mrs Fetaimia said in evidence of Mr Aarons “*my business was his business with Mr Richard.*”

- (6) That feeling of being under attack has been perpetuated as a result of the possession and forfeiture proceedings and the liquidation proceedings against Dondore Inc. Whatever the rights and wrongs of such proceedings (it is not for me to comment on this as it is strictly speaking not necessary to the issues in the present case) Mr and Mrs Fetaimia have clearly felt increasingly embattled and under attack.
- (7) When under attack Mr and Mrs Fetaimia are both capable of and have a tendency to defend by way of counter-attack. Under cross examination Mr Fetaimia directly addressed what can best be described as a rant at Mr Aarons, accusing him of “*sending those dogs*”, saying “*you’re going to face the story*” and “*you are not going to get away with it*”. Mr Fetaimia said that Mrs Murray had been the teacher of his daughter and “*I wouldn’t attack her for £10 million*” but then asserted that she had lied to the court to protect her husband. Mrs Fetaimia accused Mr Bosworth of doctoring the recording of the hearing on 13 January 2022. These are just some of many examples throughout the evidence and the hearing of the Defendants going on the attack in order to defend themselves and their actions.
- (8) Both Mr and Mrs Fetaimia are aware of the importance of providing evidence as opposed to unsupported allegations and suspicions. By ways of example, this was covered in the evidence of Lord Leitch, who told Mr Fetaimia that he should provide evidence to support his allegations of fraud, and in an email to Mrs Fetaimia from Ms Hollis QC, which I have already referred to.
- (9) Whilst Mr and Mrs Fetaimia profess to be very fond of staff who work for ACM in cross examination when asked about Mr Jacquemard Mrs Fetaimia said “*why would I abuse little people who work for me?*” Mr and Mrs Fetaimia clearly regard themselves as being highly superior to the staff, that the staff work for them (at one point in his evidence Mr Fetaimia referred to David Szymocha and the porters as “*my workers – they work for us – for the tenants*”) and that they are entitled to give the staff advice and guidance (including “*guidance*” to Mr Jacquemard to withdraw his witness statement). That attitude to the staff that the Defendants exhibited before me sits rather incongruously with their professed fondness for the staff, whom they claim to treat “*like family*”.
172. There are also certain patterns of behaviour that were common to the Defendants. In my clear assessment they have both, deliberately, tried to avoid stating what their case was. They were in court when Mr Richard Smith made his directions order. Mrs Fetaimia tried to explain away their non-compliance with the order to provide Points of Defence by stating that as these were Part 8 proceedings there is no obligation to file a defence. Not only was that suggestion clearly scripted, but it also pointedly ignored the fact that a court order (which is not an a la carte menu) required Points of Defence (which is not a defence per se) to be filed and served. Mr and Mrs Fetaimia are both clearly intelligent and articulate individuals. They were also represented when this order was made and until shortly before trial. I have no doubt at all that they were aware of their obligations to the court and deliberately chose not to comply with them.
173. This is entirely consistent with their approach throughout the final hearing; producing late evidence, then further evidence, and then in closing submissions asserting that there was yet further evidence that they could rely on if only they could get it to court.

174. The reluctance of the Defendants to “pin their colours to the mast” was clearly a tactic adopted by them in an attempt to give themselves as much room for movement when it came to putting their case at trial. That tactic did not work. Not because it did not enable them to try to change their case (they did and examples are set out below) but because the changes revealed a level of sophistication and determination on the part of the Defendants which gave the court a valuable insight into the lengths that the Defendants are prepared to go to. Some examples of changes during trial of the Defendants’ case are as follows:
- (1) The assertion that a recording of the entire AGM existed, only for a 4 minute 11 second recording to be provided;
 - (2) The allegation by Mrs Fetaimia that Mr Bosworth had doctored or edited the court recording of the hearing on 13 January 2022;
 - (3) The assertion by Mrs Fetaimia that at that hearing she said “what’s so funny”, which she initially alleged was aimed at Mr Aarons because he was laughing but later in the hearing asserted was aimed at Mr Rubie. To support this Mrs Fetaimia made a fresh (and somewhat bizarre) allegation that Mr Ruby was laughing/smiling and it reminded her of a character from a horror movie;
 - (4) Mr Fetaimia’s acceptance in cross examination that he had been the subject of the various convictions set out in Mr Aarons’ evidence. The denial that Mr Fetaimia maintained related to an arrest for assault. In relation to the other offences, most of which he had denied, he was forced to accept that they did relate to him. It is also of note that prior to the final hearing not only had Mr Fetaimia denied his convictions, he did so by pouring scorn on the Claimants’ evidence in multiple paragraphs of his witness statement;
 - (5) The figures attributed by the Defendants to the scale of the alleged fraud at Albert Court rose during the hearing from £2 million to £7 million to £8.6 million;
 - (6) The volte face by Mrs Fetaimia during cross examination when she effectively withdrew her allegation of bribery against Mr Lucas and his company and said that it was only 50/50 that the HSBC statement was genuine.

Mr Fetaimia’s evidence

175. Mr Fetaimia was a highly unsatisfactory witness lacking in both credibility and objectivity. Having observed him over the course of seven days, he is clearly intelligent and I am sure that he is capable of being a charming and engaging individual. However, there is another less attractive side to his character as well.
176. In both his written and oral evidence Mr Fetaimia displayed an almost obsessional determination to establish his and his wife’s allegations of fraud and embezzlement against ACM and its directors.
177. Mr and Mrs Fetaimia have attempted in the course of these proceedings to obtain information about ACM and its directors which they believe will support their claims and I have no doubt at all they will continue to pursue after this case has concluded. In his evidence Mr Fetaimia said “*I’m not going to harass you. I’m going to use the*

information that I have got for future legal cases and the police” and “I’m not going to stop until there’s an investigation into what happened to the £7 million that is missing and the freehold.”

178. This monomaniacal approach has caused Mr Fetaimia to lose all objectivity or sense of perspective. He said in his evidence that prior to the AGM he did not know who Mr Aarons was, my note of the evidence is:

“I didn’t know who he was until he threw the share document to Mr Rubie. That’s when I decided that he was the man running the show.”

179. It is clear to me that at the AGM the refusal by Mr Aarons to acknowledge that Mrs Fetaimia had any right, in her capacity as shareholder of Dondore Inc, to attend the AGM (technically he was correct because Dondore Inc was in liquidation at the time of the AGM) and his subsequent statement during the AGM that Mrs Fetaimia had not paid towards the service charges for Apartment 5A wounded Mr and Mrs Fetaimia’s pride. Mr Fetaimia said of this:

“She [meaning Mrs Fetaimia] was accepted like a second class person.”

180. I have no doubt that they felt that Mr Aarons’ approach demeaned them in the eyes of those present (and no doubt other leaseholders who might subsequently hear about what had been said).

181. Mr Fetaimia’s evidence that he did not know who Mr Aarons was prior to the AGM was telling, because whilst prior to the AGM Mr and Mrs Fetaimia did make complaints (either addressed letters to the management of ACM generically, or they addressed to Mr Murray and/or Mr Merriman) after the AGM Mr Aarons became the main focus of their anger and frustration. This was apparent during the final hearing. Again and again both Mr Fetaimia and Mrs Fetaimia sought to assert that Mr Aarons was responsible for all sorts of things, from assisting Mr Hitt in changing the locks to Apartment 5A in 2015 (although I note that in her judgment Ms Tipples QC stated that Mr Hitt was notified by the porters that the Defendants were no longer living there), to drafting all the Claimant’s witness statements, to being the principal director behind the alleged embezzlement of vast sums from ACM, to accepting bribes from contractors, to wanting to evict the Defendants from their home (and in so doing seeking to benefit financially as well) to “probably” personally coercing the porters into writing false witness statements. During his cross examination Mr Fetaimia asserted that Mr Merriman lied in evidence about what happened at the AGM and that *“he lost his temper [at the AGM]. He was misled by Mr Aarons. I blame Mr Aarons for that”*. This is by no means an exhaustive list, but it illustrates how in the eyes of Mr and Mrs Fetaimia Mr Aarons has become some sort of bogeyman and he is very much at the centre of their focus.

182. Not only was it apparent that Mr Aarons was at the centre of Mr Fetaimia’s focus, but it was also clear that Mr Fetaimia has developed a strong personal antipathy towards Mr Aarons. When cross examined about the phone call that he made to Mr Bosworth, Mr Fetaimia accepted not only that he threatened Mr Bosworth and “I meant it” but he then turned in court and spoke directly to Mr Aarons stating:

“You guys sent those dogs. You’re going to face the story. You’re not going to get away with it.”

183. The reference to “dogs” was a reference to the process server who shortly before Mr Fetaimia phoned Mr Bosworth personally served Mrs Fetaimia with a statutory demand for the unpaid costs order following the hearing on 13 January 2022.

184. There were elements of Mr Fetaimia’s evidence that were untruthful. He was dishonest in his witness statement made on 7 January 2022 when he stated at paragraph 77:

“I do not have the convictions that Mr Aarons refers to save that I did have a conviction, in 1984, for driving under the influence. I was deported from the USA because of the 9/11 incidents because I was a pilot, aircraft owner, running a flight school and of Algerian origin. Need I say more?”

185. Under cross examination and having been provided with incontrovertible evidence by the Claimants Mr Fetaimia was forced to admit that he has convictions for insurance fraud and failing to declare his conviction for driving under the influence to the Federal Aviation Authority.

186. Mr Fetaimia informed the court that on 13 January 2022 at no time did his wife shout at the judge or call anyone corrupt. That is directly contradicted by the transcript of the hearing, which I have personally compared to the court’s recording of the hearing and am satisfied is accurate. I note that the following day (and after it was indicated to Mr Fetaimia by me that he might want to read the transcript of the hearing prepared by Mr Bosworth) Mr Fetaimia sought to change his position, stating that his wife has said during the hearing that people were “corrupted”.

187. It was also apparent to me that Mr Fetaimia took some sort of pleasure out of seeing the Claimants’ witnesses attend court and go through the process of giving evidence and being cross examined. In relation to Mr Merriman, Mr Fetaimia suggested under cross examination that he felt sorry for Mr Merriman. When it was put to Mr Fetaimia that whilst he said he felt sorry for Mr Merriman, he had in fact dragged him through the court process, Mr Fetaimia grinned broadly and responded:

“Yes I did. I didn’t want Mr Aarons to choose and pick who came here. That is why I put my witness statement as I did so Mr Merriman would come to court and have his day in court.”

188. Mr Fetaimia also admitted under further questioning that he did not feel sorry for Mr Merriman at all, stating *“no, I wanted him to see the truth.”*

189. Mr Fetaimia also made spurious and unsubstantiated allegations when giving evidence. By way of examples (and by no means an exhaustive list):

- He claimed that Mr Aarons had threatened and coerced the porters, and that Mr Jacquemard had been told he would lose his perks if he did not give supportive evidence for the Claimants. When pressed for details Mr Fetaimia accepted that he had personally not heard any such threat being made but went on to assert and accept that the high point of his case on this issue was that an unidentified tenant

living at Albert Court had alleged that this happened. This tenant was not identified, let alone called to give evidence.

- Mr Fetaimia accepted that Mr Burke was an honourable and truthful man but went on to assert that Mr Burke gave evidence to “*protect his own personal interest*” (without identifying what they might be).
- The Claimant’s evidence (in witness statements made in June 2021) is that Mr Fetaimia has accused them of being crooked. Mr Fetaimia asserted under cross examination that “crooked” was not a word in his vocabulary. When it was pointed out that in his witness statements made on 7 January 2022 Mr Fetaimia alleged that “*this matter also consists of crooked accounting*” Mr Fetaimia suggested that the Claimants’ witnesses had in June 2021 copied his witness statement (which was not made until in January 2022).

190. I was also struck by the way in which Mr Fetaimia sought to explain some of his actions in a way that he clearly felt was more favourable to himself. He accepted that he asked Mr Jacquemard to withdraw his witness statement but would not accept that this was inappropriate, instead seeking to assert that “*he needs guidance*” and “*I don’t find it inappropriate. This is not a criminal case, it is a civil case.*” When asked why no letter before action had been sent to Mr Lucas’ company, DBR (London) Ltd or Mr Lucas, in relation to the allegation of bribery, Mr Fetaimia stated “*I didn’t make any allegations against Mr Lucas. My allegations is against Mr Aarons.*” When asked by me whether Mr Fetaimia thought it would have been fair to provide the HSBC statement to DBR (London) Ltd so it could understand the allegation against it Mr Fetaimia went on to assert that “*I didn’t want to hurt DBR or anyone. I haven’t got the guts to do it.*” My assessment of Mr Fetaimia is that he clearly has the intelligence and understanding to recognise that an allegation of bribery is a very serious matter, and one that has the potential to cause great harm to the entity at the receiving end of such an allegation.

191. There were also many occasions during his evidence when Mr Fetaimia also failed to answer a straight question with a straight answer.

Mrs Fetaimia’s evidence

192. Mrs Fetaimia by her own admission is a “*very strong person. Don’t expect me not to get frustrated.*” I was able to witness that frustration myself at points in the final hearing when Mrs Fetaimia raised her voice and became agitated, sometimes bordering on the argumentative with the court. Mrs Fetaimia seemed to relish the opportunity to throw insults and accusations at the Claimants and their barrister whilst they were in court.

193. This is no doubt in part because Mrs Fetaimia is concerned that she may lose possession of Apartment 5A. That fear is one that she has expressed on a number of occasions, both within and out with these proceedings. By way of example in a letter dated 13 February 2021 to Mr Dove of HM Land Registry Mrs Fetaimia wrote that:

“I’m a victim of a sophisticated international property scam concocted by Mr Graeme Aarons professed lawyer unknown to the SRA here or in Australia, he claims to work as a volunteer director with Albert Court Westminster management which manages my building Albert Court.”

Since I found out that some of Albert Court directors have been embezzling our service charges funds in tunes of millions per year to theirs and their spouses offshore bank accounts, they have embarked on witch hunt trying everything imaginable to evict me and my family from my hard-earned paid off flat without a resolution let alone me owing any money for the service charges or otherwise.”

194. Mrs Fetaimia has failed to provide any evidence to substantiate her allegation that ACM (or its directors) has embezzled any funds, let alone millions of pounds. However, having signed herself up to this unevicenced theory, it has been a theme that Mrs Fetaimia has returned to time and time again when seeking to explain why enforcement action has been taken against Dondore Inc and why the present proceedings have been issued. In adopting this approach, like her husband, Mrs Fetaimia has taken a monomaniacal approach and despite her obvious intellect has failed to consider whether there might be other reasons why these events have happened to her (or Dondore Inc). As with her husband, Mrs Fetaimia is totally lacking in objectivity.
195. Whilst on the face of it Mr and Mrs Fetaimia expressed their trust in the court and respect for the court, there were elements of Mrs Fetaimia’s behaviour that at times suggested a distinct lack of respect for the court.
196. Mrs Fetaimia asserted that she had been asleep for two hours before Mr Richard Smith gave his ruling on costs due to the monotony of Mr Daniel’s submissions and suggested that this is why she said “*wake up*” as others in the room (including seemingly the judge) had also been affected in the same way. On the last day of the hearing Mrs Fetaimia accused Mr Daniel of making a submission (before the costs ruling was handed down) that was insulting towards her. When I queried that I thought she had said that she was asleep at this point she paused, waved her hand dismissively towards me and said “*in between*”.
197. When Mrs Fetaimia returned to the witness box to continue being cross examined on Monday 16 May it was pointed out to the court that she had a notebook with her which was open and appeared to have notes in it. I explained to Mrs Fetaimia why that was not appropriate, that I needed her to give me evidence without the assistance of personal “aide memoirs” and asked her to give the notebook to her husband. She did so. Despite this explanation, when Mrs Fetaimia returned to the witness box after lunch she attempted to bring the notebook back with her. At a later point in the afternoon I noticed writing on Mrs Fetaimia’s left hand and queried what it was. She said it was notes of page references that she had written on her hand in case she couldn’t refer to her notebook. This was despite the explanation given in the morning and the fact that the court had made it clear to her that it was inappropriate to use notes from which to give evidence. This was a clear example of Mrs Fetaimia displaying a blatant disrespect for the court and its process.
198. Mrs Fetaimia altered her case as to what was said at the hearing on 13 January 2022 throughout the course of the final hearing. She firstly denied that she used the word “funeral”, then sought to suggest that she did use this word but was speaking to herself, then suggesting that Mr Rubie was laughing at her and she made a comment about “what is so funny” in response to this. I note that Mrs Fetaimia firstly alleged that it was Mr Rubie who was laughing and later alleged that it was Mr Aarons.

199. When Mrs Fetaimia realised that the transcript did not reveal that she made any reference to funny she sought to get herself out of the corner she had painted herself into by alleging that Mr Bosworth had doctored the court recording. That was a very serious allegation made against an officer of the court. It was totally baseless but had the potential to cause harm to Mr Bosworth.
200. This allegation against Mr Bosworth is an example not only of Mrs Fetaimia altering her case as the trial proceeded (and failing to do so consistently, having alleged that it was both Mr Rubie and Mr Aarons who were laughing) but also seeking to defend herself by going on the attack. This is something that I have already commented on, and it is not behaviour that is unique to the Defendants within the confines of the current litigation.
201. Having had the opportunity to observe and listen to Mrs Fetaimia over the course of seven days I was also left with the clear impression that whilst she is clearly intelligent, articulate and well educated person she is an individual with no self-doubt as to what she perceives is her own importance and status. In 2015 (long before the current proceedings commenced) Mrs Fetaimia wrote to the management of Albert Court in the following terms:
- “What I have experienced recently you have no qualifications to manage such historical building let alone the social skills to handle day-to-day complaints **from exclusive tenants**. You are too subjective you act as you are the rightful owners and it is making me very uncomfortable! As far as I’m concerned **you’re employed by us.**”* [my emphasis]
202. In cross examination Mrs Fetaimia, when asked about Mr Jacquemard’s’ evidence, responded *“why would I abuse little people who work for me?”*
203. Nor does Mrs Fetaimia have any insight into how she presents to other people or how they might interpret not only what she says, but the way that she says it. Mr Jacquemard, Mr Szymocha, Mr Murray and Mr Greenwood all gave evidence about being on the receiving end of verbal abuse from Mrs Fetaimia. In some cases they also gave evidence about how it had made them feel. When this evidence was given, there was no sign of regret or remorse on the part of Mrs Fetaimia. She was unable to understand that requesting private information from someone who through their solicitor had made it clear that they were feeling harassed by such actions could be seen by that person as being intimidating, commenting *“Jesus what is intimidating about that? It’s on Wikileaks.”*
204. I found Mrs Fetaimia to be a highly unsatisfactory witness who wholly lacks credibility or objectivity. She was also capable of lying in the most convincing of ways. She informed the court that *“I would never breach a court order”* and anyone listening to her would have found it difficult to believe otherwise. However, there is clear evidence that Mrs Fetaimia has breached court orders.

The court’s assessment of the evidence

General observations

205. The evidence from the Claimants is consistent and overwhelming. There is a distinct lack of motivation for the witnesses that the Claimants called to lie or seek to mislead the court. I also note that the Claimants are not seeking damages, even though this is a remedy that would have been available to them. The relief that they seek is an injunction and the terms of the draft injunction proposed by the Claimants is reasonable in its terms. It does not seek to silence the Defendants or prevent them from raising legitimate complaints through the proper legal channels should they chose to do so.
206. It is reasonable to assume that when people appear in court, and are subject to undertakings in relation to their allegedly harassing behaviour towards others, they will be on their best behaviour. It is in this context that the behaviour of Mr and Mrs Fetaimia on 13 January 2022 should be assessed. It is abundantly clear to me that the actions of Mrs Fetaimia in particular on 13 January 2022 were a window into how she behaves and reacts when matters do not go her own way. There were glimmers of this in the trial before me as well.
207. There were also glimmers in court (when I can assume that they were on best behaviour) of Mr and Mrs Fetaimia's attitude towards the staff employed by ACM. They both gave evidence to the effect that they pay for a service from ACM and there was a palpable attitude of a master/servant relationship (with the staff being, in the words of Mrs Fetaimia "*little people*").
208. There are a number of pieces of the Claimants' evidence that are supported by the later approach taken by Mr and Mrs Fetaimia, in particular their lines of questioning and assertions during the trial, which mirrored Mr Rubie's note of what he says was said by Mr and Mrs Fetaimia at the AGM.
209. I also note that the Defendants' case is that the directors of ACM, who all live in the same building, are all dishonest, as are other residents at Albert Court, and the dishonest directors have employed dishonest employees, found dishonest auditors and surveyors to work for them and instructed dishonest solicitors in England and the BVI. Most people are not corrupt. The co-incidence of dishonest people in the present case for the Defendants' case to be correct would be enormous. The alternative, which is far more probable (both inherently and on the basis of all the evidence that I have seen and read and observed) is that anyone who either stands up to Mr and Mrs Fetaimia or who acts in a way that is not consistent with their unsupported embezzlement theory, is branded a liar.

The court's findings of fact

Mr and Mrs Fetaimia's allegations of fraud, bribery and theft against the directors, employees and officers of ACM

210. I intend to deal with this issue first, as it is a thread that runs throughout the Defendants' case. It is also pertinent to the Claimants' allegations of harassment and any potential defence that the Defendants may have under section 1(3)(c) PFHA 1997.
211. There is not one piece of credible evidence to support the Defendants' allegations of fraud, bribery and theft. They have failed to provide the HSBC statement. They have now withdrawn their very serious allegation of bribery against DBR (London) Ltd. They rely on a voice recording from an unidentified individual to assert that Mr Murray

takes “backhanders” from contractors in return for permission being given for internal work to be done on flats. I have already dealt with the lack of probative value of such evidence. The Defendants’ allegations are just that; allegations. The currency of this court is evidence, not allegations. The Defendants are themselves well aware of the need to provide evidence but have continued to make baseless and unsubstantiated allegations regardless. That is a deeply worrying course of conduct, and one that is indicative of individuals whose actions are out of control.

Allegation 1

212. Mr and Mrs Murray were both truthful witnesses and I accept their evidence as to what was said by Mr Fetaimia to them in November 2019. I find that Mr Fetaimia shouted that Mr Merriman was a crook and when challenged by Mrs Murray told her to “*shut your mouth*” and asked “*do you and your family feel safe in your apartment?*”. This latter comment was intended by Mr Fetaimia to be interpreted by Mr and Mrs Murray as a threat to their home. The use of threats towards others is a modus operandi of Mr Fetaimia (and for that matter Mrs Fetaimia). It is particularly unedifying that Mr and Mrs Fetaimia, who have expressed the fear of losing their home, have been prepared to utilise threats of this nature against others.

Allegation 2

213. The starting point for any findings in relation to what did, or did not happen and what was, or was not, said at the AGM is the recording that has been provided by Mr and Mrs Fetaimia, the note made by Mr Rubie very shortly after the AGM and the complaint made by Mrs Fetaimia to the police. These are either contemporaneous (or near contemporaneous) documents. The court must then also consider the witness evidence.
214. It was submitted on behalf of the Claimants that Mr Rubie’s note is a devastating piece of evidence for the Defendants and their case. It is certainly true that many of the points set out in that note (in particular paragraphs a to h, o, p, s and t of section 1 of the note) are points that were put by Mr and Mrs Fetaimia, either in their witness statements or in cross examination at trial. In that regard, the note is of significant probative value because it is not only nearly contemporaneous, but in many regards the Defendants have by their later actions done or alleged that which is set out in the note. In my assessment this is not a co-incidence; it militates very strongly indeed towards establishing the truth of the matters set out in the note.
215. In her closing submissions Mrs Fetaimia submitted that the key piece of evidence which undermined all of the Claimants’ witnesses was paragraphs 26 and 27 of Mr Aarons’ first witness statement when he said (in relation to the second alleged threat to him which was made by Mr Fetaimia):

“26. At a later stage, Mr Fetaimia came to the table where I was sitting and leant over towards me in a threatening manner and said, “*I will get you killed*”. This was the second of a similar threat and I began to think that they must have something specific in mind. I was also concerned for my wife and children and the impact on them.

27. I don't believe this threat towards me by Mr Fetaimia was overheard by anyone else because at that time I was the only person seated at the table whilst

Mrs Fetaimia was prancing around shouting and Mr Rubie was trying to calm her down.”

216. It was submitted that in light of this evidence all of the witnesses who said that Mr Merriman was sitting down at the table had lied. I am unable to accept that submission. There are clearly some inconsistencies between the evidence of the Claimants’ witnesses, in particular in relation to whether Mr Merriman stood up or not and who Mr Rubie shouted at. I have considered those inconsistencies when considering the credibility of the witnesses in question. For the reasons already given, I am satisfied that they do not impact on the credibility of the individual witnesses.
217. There are also inconsistencies in the accounts given by Mr and Mrs Fetaimia. In his first statement Mr Fetaimia alleged, in paragraph 59 that “The 2nd Defendant was physically attacked during the AGM meeting by Peter Merriman ... we recorded the attack.” There is no mention of any alleged exposure or sexual assault. In his second statement Mr Fetaimia said this:
- “The allegation about Victoria being assaulted and subject to gross indecency by Mr Merriman was not false. Mr Merriman was extremely ashamed of his conduct and apologised to both Victoria and I after his attendance at the police station in January 2020.”*
218. Under cross examination Mr Fetaimia said that in fact Mr Merriman’s apology was given at the Albert Court 2019 Christmas party, when Mr Merriman allegedly said “*sorry about the altercation*”. Mr Fetaimia also said under cross examination that Mr Merriman did not confess to exposing himself to Mrs Fetaimia. This is rather different to Mr Fetaimia’s written evidence.
219. In her report to the police made on 2 December 2019 Mrs Fetaimia stated
- “He [meaning Mr Merriman] became rather very violent and his course of conduct towards me was entirely unacceptable, a threatening course of demeanor [sic] intended to cause me alarm and distress. He was verbally abusive towards me telling me "I fucked you good, and I will do you more". Given his inherent physical aggression in his actions, he firstly grinned and flashed his private parts at me, then he stood up and walked towards me and started to shout foul lewd language towards me saying "Fuck you, fuck you" while Mr. Rubie the Chairman was yelling at him "Peter stop! Walk away! Stop Peter walk away!"”*
220. The recording of the AGM (which the Defendants have known they possess since they made it at the AGM) does not record any foul or lewd language on the part of Mr Merriman. Mrs Fetaimia must have been aware that this was the case, however in her police report she went on to assert that she had some video, audio or photo evidence which established that Mr Merriman used “*foul lewd language towards me and the moment when he tried to physically assault me while the witnesses were screaming at him to stop.*”
221. In her cross examination Mrs Fetaimia sought to suggest that Mr Merriman spoke too quietly for his foul lewd language to be picked up on the recording. This directly contradicted what she said to the police on 2 December 2019.

222. In her letter dated 30 January 2022 to Mr Rubie Mrs Fetaimia dealt in some detail with the events at the AGM, setting out the reputational injury and harm that she felt she had suffered at the hands of Mr Aarons but making no allegation that Mr Merriman sought to expose himself to her or in any other way assault her. This letter was written about two months after the AGM and whilst matters would still have been relatively fresh in Mrs Fetaimia's mind.
223. In his second witness statement Mr Fetaimia sought to suggest that it was surprising that only Mr Burke heard the alleged death threats made towards Mr Aarons. That part of Mr Fetaimia's evidence was positively misleading; it has from the outset been the Claimants' case that the alleged death threat to Mr Aarons were heard by Mr Aarons, Mr Rubie, Mr Murray, Mr Greenwood and Mr Burke. They were all able to confirm this in their evidence to the court. They were all credible witnesses.
224. Having considered all of the evidence in relation to the AGM I am satisfied, on a balance of probabilities that:
- (1) At one stage (and shortly before Mr Rubie shouted at him) Mr Merriman stood up in response to the verbal aggression from Mrs Fetaimia;
 - (2) That Mr Rubie shouted at Mr Merriman to sit down;
 - (3) That Mr Fetaimia did say to Mr Aarons "*I will get you killed*"
 - (4) That Mrs Fetaimia did say to Mr Aarons "*We will get you and you will be dead*"
 - (5) That Mr and Mrs Fetaimia publicly made unfounded and untrue allegations of fraud, bribery and theft against the directors, employees and officers of ACM

Allegation 3

225. I find that that Mr Merriman did not expose his penis to Mrs Fetaimia nor did he assault or attempt to assault her in any way and that Mrs Fetaimia made a false report to the police that Mr Merriman exposed himself to her. In making this finding I take into account the totality of the evidence, including my assessment of the credibility of the Claimants' witnesses, the inconsistencies within the Defendants' own evidence on this issue and my general assessment of them as witnesses. I have already commented that having listened to the recording of the AGM many times I think that after Mr Rubie shouted "*Peter, Peter for goodness sake stop, stop. Peter walk away, walk away Peter*" Mr Fetaimia can be heard to say "*can you see what that guy was trying to do?*" and what I think are words to the effect of "*do you see the manager showing his penis in front of you?*" The fact that Mr Fetaimia may have said these words does not mean that it happened.
226. Mr and Mrs Fetaimia have a track record of making false allegations against individuals involved in this case. It is part of their modus operandi. In addition, not one of the credible witnesses who were present at the AGM witnessed Mr Merriman expose himself to Mrs Fetaimia. Not only is it inherently improbable that Mr Merriman would have chosen to respond to Mrs Fetaimia's provocation in this way, given the event and the number of people present, but if he had it is equally improbable that none of the witnesses saw it.

Allegation 4

227. Mr Fetaimia accepts that he complained to Mr Murray that a contractor of ACM had pushed Mrs Fetaimia. That allegation was false. I have considered the Claimants and Defendants' evidence on this issue in so finding. The CCTV stills do not establish that there was any merit in the allegation (in fact they establish the opposite) and I note that after ACM wrote to the Defendants refuting their allegation they did not pursue the matter any further. Their explanation for this, namely that they did not respond as they knew that the Claimants were seeking to build up evidence against them to support a false case, is both illogical and contradictory.

Allegation 5

228. This allegation arises from an email sent by Mrs Fetaimia on 30th January 2020 when she alleged that at the AGM Mr Aarons; *"kept shouting in front of numerous Directors and Leaseholders and (my friends) that were in attendance that I have not once paid for my service charges"* and that Mr Graeme's statements were *"outright lies."* It is said that these statements by Mrs Fetaimia are untrue.

229. In the course of her closing submissions Mrs Fetaimia accepted that she had not personally made any payments to ACM but asserted that *"all bills were paid by Mr Hitt as my proxy – it is true that I did not make payments but it is false that money was owed."*

230. In this regard, I note that:

- (1) In her judgment Ms Tipples QC (as she then was) noted that at the point when she heard evidence in her case Mr and Mrs Fetaimia had made all the payments for the outgoings on Apartment 5A;
- (2) That Mr Hitt paid off the outstanding service charge debt prior to the forfeiture claim being heard in the County Court;
- (3) That Mrs Fetaimia was only registered as the shareholder of the issued share capital in Dondore Limited on 30 July 2020;
- (4) That Mr Aarons is clearly aware of and cognisant with company law.

231. Mr Aarons was technically correct when he stated at the AGM that Mrs Fetaimia had not personally paid the service charge. Strictly, she was not in a position to do so given her lack of status as registered shareholder of Dondore Ltd and the subsequent liquidation order made against Dondore Ltd in the BVI. However, insofar as Mr Aarons' statement gave the impression that the service charges for Apartment 5A had not (or never) been paid they were incorrect. Any non-lawyer hearing a statement to the effect that Mrs Fetaimia had not once paid for her service charge would not understand the nuances. Nor clearly did Mrs Fetaimia. In the circumstances I am not satisfied that the letter that she sent on 30 January when looked at individually or collectively amounted to conduct that amounts to harassment for the purposes of the PFHA 1997.

Allegation 6

232. I accept the Claimants' evidence in relation to this issue. Mrs Fetaimia's complaints to Victoria (the cleaner) were delivered in such a way that Victoria was reduced to tears and threatened to resign.

Allegation 7

233. I accept the Claimants' evidence in relation to this issue. Mrs Fetaimia swore at a contracted window cleaner of ACM and that sub-contractor has since refused to work at Albert Court.

Allegation 8

234. This is no longer pursued by the Claimants.

Allegation 9

235. The Defendants accept making the requests for personal information but deny that this could amount to harassment. They justify their requests on the basis that Messrs Aarons and Rubie are directors of ACM and that Mr Aarons name is "*all over Wikileaks*" and "*it came together with the HSBC statement*". The fact that Messrs Aarons and Rubie are directors of ACM does not entitle a third party (even if that person is a leaseholder of a flat situated in Albert Court) to demand to know personal information about the directors. The letters sent by the Defendants were intrusive and part of the wide ranging fishing expedition that they have undertaken in an attempt to obtain information to support their allegations of fraud and theft. That behaviour continued throughout the final hearing. In the case of Mr Aarons, having not received a response (which is a clear indication that Mr Aarons was not prepared to engage on this subject) a further six letters were sent.

Allegation 10

236. I have no hesitation at all in preferring the evidence of Mr Aarons to that of Mr Fetaimia in relation to the incident on 5 May 2021. This is not only because in general terms Mr Aarons was a credible and balanced witness and Mr Fetaimia was a highly unsatisfactory one but also for the following reasons:

- (1) By this date Mr Fetaimia know or should have known Mr Aarons did not welcome any contact from him; this had been made abundantly clear in correspondence from Russell Cooke, who act for the Claimants.
- (2) Despite this fact Mr Fetaimia accepts that he approached Mr Aarons on 5 May 2021. There was no good reason for him to do this.
- (3) Mr Fetaimia is, as I have already observed, almost monomaniacal in his assertion that Mr Aarons has stolen money from ACM and the allegation that Mr Aarons is a thief is one that he has made on many occasions.
- (4) Mr Fetaimia's evidence that he approached Mr Aarons on this day "*in good faith to offer an olive branch*" is incongruous given the clear antipathy that Mr Fetaimia displays for Mr Aarons (and did in May 2021 – his antipathy is not a recently developed trait).

- (5) Mr Aarons evidence that Mr Fetaimia threatened to call the police is corroborated by the fact that later that day the police attended at Mr Aarons' property. I have no hesitation in finding that it was Mr Fetaimia who called the police. Mr Jacquemard gave evidence that prior to the police arriving at Albert Court Mr Fetaimia told him that the police would be coming for Mr Aarons. Furthermore, Mr Fetaimia is someone who himself made it clear in his evidence that if he made a threat he was prepared to carry it through; under cross examination Mr Fetaimia stated that he was "*going to put a claim in against you*" to Mr Daniel (in relation to the evidence adduced by the Claimants that Mr Fetaimia had whilst living in the United States been charged with assault causing bodily injury) and that "*it's not a threat it's a promise*".

Allegation 11(a)

237. I much prefer the evidence of Mr Rubie to Mr Fetaimia about what Mr Fetaimia said when Mr Fetaimia approached Mr Rubie on 6 May 2021. Not only was Mr Rubie a credible and balanced witness whereas Mr Fetaimia is not but Mr Rubie's evidence is corroborated insofar as after the incident he told Mr Aarons what Mr Fetaimia said. The allegations that Mr Fetaimia made to Mr Rubie on this day about Mr Aarons are consistent with the antipathy that Mr Fetaimia has displayed towards Mr Aarons since the AGM. 6 May 2021 was part of a pattern of behaviour on the part of Mr Fetaimia.

Allegation 11(b)

238. I also accept and much prefer the evidence of Mr Murray and Mr Greenwood to that of Mrs Fetaimia about what she said to them on 6 May 2021. Not only were they credible witnesses and Mrs Fetaimia was not but:
- (1) Their evidence is corroborated by the email from Mr Goodman, parts of which Mrs Fetaimia accepted were accurate.
 - (2) The allegation that Mrs Fetaimia stated that Mr Greenwood should be acting as her "*servant*" is entirely consistent with the attitude that Mrs Fetaimia displayed throughout the trial, not only in relation to her own sense of importance, but also towards the staff (whom I have no doubt she regards Mr Greenwood as being part of; to her he is one of the "*little people*").
 - (3) The allegation that Mr Greenwood is not a properly qualified surveyor is part of a pattern of behaviour by Mrs Fetaimia, who has questioned the qualifications or competence of many professionals involved in this case.
239. I have no hesitation at all in finding that the Claimants have proved allegations 11(a) and (b).

Allegation 12

240. Mrs Fetaimia accepts that she asked to see the porter's payslips. I have no doubt at all in accepting the evidence of Mr Jacquemard that Mr Lile and Mr Mark, the porters to whom Mrs Fetaimia made her demand, were shocked and felt threatened by this demand.

Allegation 13

241. Again, I have no hesitation at all in preferring the evidence of Mr Aarons to Mr Fetaimia in relation to the incident on 13 May 2021. This is not only because in general terms Mr Aarons was a credible and balanced witness and Mr Fetaimia was a highly unsatisfactory one but also for the following reasons:

- (1) By 13 May Mr Fetaimia knew or should have known Mr Aarons did not welcome any contact from him; this had been made abundantly clear in correspondence from Russell Cooke, who act for the Claimants and by the fact that Mr Aarons failed to engage with him on 5 May 2021.
- (2) Despite this fact Mr Fetaimia accepts that he approached Mr Aarons on 13 May 2021. There was no good reason for him to do this and Mr Fetaimia's explanation that he wanted to "*make peace*" with Mr Aarons is bordering on the farcical given Mr Fetaimia's case is that on 5 May he tried to offer an olive branch to Mr Aarons. I do not accept that this was the reason for Mr Fetaimia approaching Mr Aarons on 5 May, but if it had been the refusal of Mr Aarons to engage was a clear indication that he did not wish to "*make peace*". Nothing had altered in the eight days between these two encounters (save that on 6 May 2021 Mr and Mrs Fetaimia had both acted inappropriately).
- (3) Mr Fetaimia is, as I have already observed, almost monomaniacal in his assertion that Mr Aarons has stolen money from ACM and the allegation that Mr Aarons is a thief is one that he has made on many occasions.

Allegation 14

242. On this date Mr Fetaimia sent the following text to Mr Murray;

"Tim

We are paying you and your spouse to look after our bidding well-being which if you haven't noticed has been disintegrating by the minute.

We did not employ you as Albert Court delivery' courier boy for corrupt rogue solicitors.

Once more you deliver a letter other than from the building self-proclaimed management, and frighten my kids

AGAIN I will personally report you to the police and you know for what.

This is my last warning.

Marcel"

243. This text clearly has the potential to cause alarm or distress and I accept Mr Murray's evidence that this text is part of a course of conduct that has upset and disturbed him.

Allegation 15

244. Again, Mr Fetaimia's evidence was that he wanted to offer Mr Aarons an "*olive branch*". Again, I much prefer the evidence of Mr Aarons to Mr Fetaimia. I do not

intend to repeat it but the reasoning in paragraph 240 above for preferring Mr Aarons' evidence to that of Mr Fetaimia applies to this incident as well. I find that this incident happened as alleged by Mr Aarons.

Allegation 16

245. Mr Sepuldeva was a straightforward and credible witness. I accept his evidence and much prefer it to that of Mr Fetaimia, who whilst denying becoming angry has clearly demonstrated a capacity to get angry and/or aggressive, both in correspondence (see for instance the text that he sent to Mr Murray which is the subject matter of allegation 14) and, to a lesser degree (but whilst on his best behaviour) whilst in court. I lost count of the number of times during the hearing that I had to use both calming language and hand motions to encourage Mr (and Mrs) Fetaimia not to become overly agitated. I have no doubt at all that without that considerable calming input they would on numerous occasions have become more agitated than they were.

Allegation 17

246. It is Mr Fetaimia's case that he asked Mr Jacquemard to withdraw his witness statement. Mr Fetaimia asserts that in so doing he was merely giving "*guidance*" to Mr Jacquemard. Mr Jacquemard's evidence (which he confirmed in the witness box) was that Mr Fetaimia asked him to tear up his statement. I much prefer the evidence of Mr Jacquemard (who was an honest and credible witness) to that of Mr Fetaimia and find that Mr Fetaimia asked Mr Jacquemard to tear up his witness statement. I also note that it was not Mr Fetaimia's place to provide "*guidance*" to Mr Jacquemard, and I have no doubt at all that the purpose of the conversation that took place on 17 June was to try and intimidate Mr Jacquemard into withdrawing his witness statement. This was against a background where Mr Fetaimia had also on unspecified dates alluded to the possibility that Mr Jacquemard could lose his flat at Albert Court. I observe that the actions of Mr Fetaimia are hardly those of someone who regards the porters as his family.

Allegation 18

247. I am more than satisfied to the requisite standard that in court on 13 January 2022 Mrs Fetaimia said to Mr Aarons words to the effect that he "*would need money for his funeral*". I am also satisfied that Mrs Fetaimia stated that the Claimants and those associated with them were "*thieves*" and "*corrupt*". Mrs Fetaimia also accused the judge of being corrupt and suggested that she might sue him. Mrs Fetaimia's suggestion that "*they*" in the context of "*they are corrupt*" was a reference to the whole of Knightsbridge as opposed to the Claimants is nothing short of farcical. At one point Mrs Fetaimia suggested that this is what she meant because Knightsbridge is full of people who use off-shore companies. She clearly did not see the irony in this suggestion; not only is the lease to Apartment 5A held by an off-shore company but it is clear from the judgement of Ms Tipples QC that this structure was adopted by Mr Hitt at the request of Mrs Fetaimia.

Allegation 19

248. Mr Fetaimia accepted that he telephoned Mr Bosworth on 10 February 2022 but denied that he was angry and asserted that he simply said that if anything happened to his wife

(who was being seen to be paramedics at the time) he would hold Mr Bosworth personally responsible. I much prefer Mr Bosworth's evidence on this issue. This is for number of reasons:

- (1) For the reasons already set out I find that Mr Fetaimia was an unsatisfactory witness;
- (2) Mr Fetaimia is clearly highly protective of his wife. He is also prone to launching into angry tirades against individuals; he has done this both in his written and oral evidence. The evidence of Mr Bosworth about Mr Fetaimia's behaviour on 10 February 2022 is entirely consistent with Mr Fetaimia's behaviour on other occasions;
- (3) There was no reason for Mr Fetaimia to call Mr Bosworth at all on 10 February. At that stage he had solicitors acting for him (and indeed he made the point in his cross examination of Mr Bosworth that as Mrs Fetaimia was represented any attempt to serve a statutory demand on Mrs Fetaimia should have been arranged through solicitors);
- (4) There is no motivation for Mr Bosworth, as an officer of the court, to fabricate evidence against Mr Fetaimia (and thereby risk his professional career if caught out so doing). I observe that by 10 February 2022 the Claimants in this case already had an enormous amount of evidence that they could rely upon in order to satisfy the court that Mr and Mrs Fetaimia had committed harassment for the purposes of PFHA 1997.

249. I have no doubt at all that the red mist descended on Mr Fetaimia on 10 February after Mrs Fetaimia reacted so badly to being served with a statutory demand and in the heat of the moment Mr Fetaimia telephoned Mr Bosworth and that Mr Bosworth's evidence is an accurate account of what Mr Fetaimia said to him on that day.

Other non-date specific allegations against the Defendants

250. In addition to the items set out in Annex 1 (and numbered 1 to 19), all of which I find occurred (and as will be apparent from the section below all of which were capable of amounting to a course of conduct which amounts to harassment save for the letter sent by Mrs Fetaimia on 30 January 2022) I am also satisfied that on dates that have not been identified:

- (1) Mr Fetaimia made bullying and threatening comments to Mr Jacquemard, suggesting that he would not be living in his serviced flat for much longer;
- (2) Mr Murray was told by Mrs Fetaimia that he risked losing his house in Italy and going to prison, and the purpose of these comments was to intimidate and threaten Mr Murray;
- (3) The Defendants have made unfounded allegations against the Claimants which include:
 - (a) Those director Claimants were destitute before they became directors;
 - (b) Mr Aarons has exaggerated his professional credentials;

- (c) The directors of ACM have caused the death of another leaseholder;
- (4) The Defendants have made numerous allegations to the porters that the directors of ACM are thieves.
- (5) The Defendants have regularly covertly recorded conversations with others (including staff of ACM and its directors) without the permission of the other party.

The application of the court's findings of fact to the law

251. Applying the tests set out in PFHA 1997 and the case law previously referred to, subject to paragraph 252 below, the totality of the matters relied upon by the Claimants, and found by the court, amount to a course of conduct for the purposes of section 1(1) PFHA 1997 which amounts to harassment. I am more than satisfied that the Defendants knew that their actions amounted to harassment but for completeness if they did not know, then they ought to have known that it amounted to harassment because a reasonable person in possession of the same information would think that the course of conduct embarked upon by the Defendants in the present case amounted to harassment of the other. On the basis of my findings of fact no reasonable person would think otherwise.
252. The sole exception is the letter sent by Mrs Fetaimia on 30 January 2020, which I am not persuaded, even when looked at in the context of the totality of the case, Mrs Fetaimia knew or ought to have known amounted to harassment.
253. These findings and application of the law are more than sufficient in themselves to justify the making of an injunction in the terms of the draft injunction attached as Annex 2. Insofar as it is necessary I am also satisfied that by their course of conduct, which amounted to harassment, the Defendants also intended to persuade another person not to do something they were entitled to do and/or to do something they were not under any obligation to do. This included an intention to:
- (1) Cause the directors of ACM to resign their positions and or cause ACM to replace them;
 - (2) Cause the Claimants to leave and/or cease their involvement with Albert Court (including the management and running of it);
 - (3) Obtain personal information about the Claimants and the employees of ACM that the Defendants were not entitled to;
 - (4) Cause employees and sub-contractors of ACM to amend their work practices or to cease to work for ACM;
 - (5) Cause employees of ACM not to give evidence to this court (as they were entitled to if they so choose).
254. I do not intend to make any findings about whether the Defendants also intended to achieve the cessation of the enforcement of the lease of Apartment 5A and the reversal of the winding up of Dondore Inc. Those are issues that are best considered by other tribunals in the context of ongoing litigation.

The court's order

255. I make an order in the terms of the draft attached to this judgment as Annex 2. It will not prevent Mr and Mrs Fetaimia from making legitimate complaints through the proper channels. It will however prevent them from harassing those persons protected by the order. If ever there was a case where such an order is needed it is the present one. If I may indulge myself by quoting a line from a song by the late, great Ella Fitzgerald “it ain’t what you do but the way that you do it.” Moving forward, Mr and Mrs Fetaimia would be well advised to take this on board. From now on they will be able to make appropriate complaints in an appropriate manner but no more.
256. The Claimants are the winning parties. I will hear submissions on costs, but to assist Mr and Mrs Fetaimia they should be aware that the general rule under CPR 44.2(2) is that the Claimants are entitled to a costs order against them. I will also hear submissions on the basis on which any costs order, if made, should be awarded.

ANNEX 2: THE ORDER OF THE COURT

IN THE HIGH COURT OF JUSTICE
002232

Claim No: QB-2021-

QUEEN'S BENCH DIVISION

HHJ Sarah Richardson (Sitting as a Judge of the High Court)

Hearing: 9-16 May 2022

BETWEEN:

(1) ALBERT COURT (WESTMINSTER) MANAGEMENT COMPANY LTD
(in a representative capacity for and on behalf of its officers, employees and contractors)

(2) GRAEME PHILLIP AARONS
(on behalf of himself and in a representative capacity for and on behalf of the officers, employees and contractors of Albert Court (Westminster) Management Company Ltd)

(3) KERRY MICHAEL RUBIE

(4) TIMOTHY DOUGLAS MURRAY

(5) SOUSSI ZARIFEH KERMAN

(6) TIMOTHY IAN GREENWOOD

Claimants

-and-

(1) MARCEL NASSER FETAIMIA

(2) VICTORIA FETAIMIA

Defendants

ORDER FOR AN INJUNCTION

UPON considering the Claimants' Part 8 Claim

AND UPON HEARING Mr Daniel for the Claimants and the Defendants in person

AND UPON READING the witness statements and evidence relied upon by the Claimants and Defendants

AND UPON HEARING evidence from the witnesses for the Claimants and Defendants

IMPORTANT: -[SEP]- NOTICE TO THE DEFENDANTS

- (1) **This Order prohibits you from doing the acts set out in this Order. You should read it all carefully. You are advised to consult a Solicitor as soon as possible. You have a right to ask the Court to vary or discharge this Order.**
- (2) **If either of you disobeys this Order you may be found guilty of Contempt of Court and may be sent to prison or fined or your assets may be seized.**
- (3) **If, without reasonable excuse, either of you does anything which is prohibited by this Order you may be found guilty of an offence under section 3(6) of the Protection from Harassment Act 1997 for which you may be sent to prison or fined.**

IT IS ORDERED that:

THE INJUNCTION

- (1) The Defendants must not:
 - (a) Behave in a threatening and/or intimidating and/or abusive and/or insulting manner towards at any individual or group of individuals within the definition of ‘protected persons’ in Schedule 1;
 - (b) Make any threat to cause harm to any individual or group of individuals within the definition of ‘protected persons’ in Schedule 1;
 - (c) Make any threat of future action or legal proceedings towards any Claimant in these proceedings, save as is contained in writing and addressed to Russell Cooke LLP at 8 Bedford Row, London WC1R 4BX (‘the Solicitors’) marked for the attention of Mr Jason Hunter, such correspondence to be contained in a sealed envelope addressed to the relevant Claimant unless the Solicitors

have informed the relevant Defendant that they are instructed to accept service of letters before claim;

- (d) Make any threat of future action or legal proceedings towards any other individual or group of individuals within the definition of ‘protected persons’ in Schedule 1, save where this is in writing and in a sealed envelope marked with the name of the relevant protected person and addressed for the attention of the Chairman of Directors of Albert Court (Westminster) Management Company Limited sent c/o Mr Jason Hunter at Russell Cooke LLP at 8 Bedford Row, London WC1R 4BX;
- (e) Make any request for information concerning the private life, contact details, remuneration or business interests of any individual or group of individuals within the definition of ‘protected persons’ in Schedule 1 otherwise than in writing and addressed to the Chairman of Directors of Albert Court (Westminster) Management Company Limited, Flat 1b Albert Court London SW7 2BE, setting out the basis for any such request;
- (f) Direct any allegation of any past wrongdoing by any individual or group of individuals within the definition of ‘protected persons’ in Schedule 1 towards those persons, otherwise than in writing and addressed to the Chairman of Directors of Albert Court (Westminster) Management Company Limited, Flat 1b Albert Court London SW7 2BE and containing within such letter details and proof of such wrongdoing;
- (g) Communicate any information concerning the private life, contact details, remuneration, business interests or alleged past wrongdoing of any individual or group of individuals within the definition of ‘protected persons’ in Schedule 1 to any third party, save in respect of communications with legal advisers, police officers or government officials tasked with investigating such matters;
- (h) Interfere with work being performed, or services being provided, within or in connection with Albert Court, SW7 by any employee, officer or contractor of Albert Court (Westminster) Management Company Limited;

- (i) Direct any complaint concerning the services provided within or in connection with Albert Court, SW7 by any employee, officer or contractor of Albert Court (Westminster) Management Company Limited to any individual or group of individuals within the definition of 'protected persons' in Schedule 1, save as is contained in writing and addressed to the Chairman of Directors of Albert Court (Westminster) Management Company Limited, Flat 1b Albert Court London SW7 2BE and containing within such letter details and proof of such wrongdoing;
- (j) Make any video or audio recording on any mobile device in relation to any individual or group of individuals within the definition of 'protected persons' in Schedule 1, save where: (i) the informed consent of the person has been given in writing in advance of the recording; and (ii) such consent is audibly reconfirmed at the beginning of the recording;
- (k) Retain any video or audio recording in relation to any individual or group of individuals within the definition of 'protected persons' in Schedule 1, save where the person has given consent in writing.

COSTS OF THE CLAIM

- (2) To be dealt with via submissions

VARIATION OR DISCHARGE OF THIS ORDER

The Defendants may apply to the Court at any time to vary or discharge this Order but if they wish to do so they must first inform the Claimant's Solicitors in writing at least 48 hours beforehand.

NAME AND ADDRESS OF CLAIMANT'S SOLICITORS

The Claimant's Solicitors are: Russell Cooke LLP, 8 Bedford Row, London WC1R 4BX
Telephone: 020 8789 9111

INTERPRETATION OF THIS ORDER (INCLUDING THE SCHEDULES)

- (1) In this Order the words "he" "him" or "his" include "she" or "her" and "it" or "its".
- (2) Where there are two or more Defendants then (unless the contrary appears)
 - (a) References to "the Defendant" means either or both of them;
 - (b) An Order requiring "the Defendant" to do or not to do anything requires each Defendant to do or not to do it.

THE EFFECT OF THIS ORDER

- (1) A Defendant who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.

SERVICE OF THIS ORDER

This Order shall be served by the Claimant on the Defendant

Service of the order

The court has provided a sealed copy of this order to the serving party:
Russell Cooke LLP at 8 Bedford Row, London WC1R 4BX

[Ref: 25/JGH/112024.218]

SCHEDULE 1 – Protected Persons

- (1) Mr Graeme Phillip Aarons
- (2) Mr Kerry Michael Rubie
- (3) Mr Timothy Douglas Murray
- (4) Mrs Soussi Zarifeh Kerman
- (5) Mr Timothy Ian Greenwood
- (6) Mr Peter Kenneth Merriman
- (7) Mr Fabrice Louis Jacquemard
- (8) Mr David Szymocha
- (9) Mr Sorin Lile
- (10) Mr Patrick George Burke
- (11) Lord Alexander Park Leitch
- (12) Ms Rosa Litto Murray
- (13) Mr Colin Alfred Thomas Reen
- (14) Mr David Lucas

- (15) Mr Cesar Sepuldeva
- (16) Mr Jaden Sepuldeva
- (17) Lady Noelle Kristin Dowd Leitch
- (18) Mr Leander McCormick-Goodhart
- (19) Mr Paul Henry Van Hasbroek
- (20) Mr Simon Bailey
- (21) Mr Tim Mark
- (22) Mr William Martins
- (23) Ms Victoria Magit
- (24) **Any Director of Albert Court (Westminster) Management Company Limited**
- (25) Any contractor that the Defendant knows is engaged by Albert Court (Westminster)
- (26) Any member of staff that the Defendant knows is employed by Albert Court (Westminster) Management Company Limited, including cleaning and portorage staff
- (27) Any contractor that the Defendant knows is engaged by Albert Court (Westminster) Management Company Limited to perform works or provide services within or in connection with Albert Court.