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IN THE HIGH COURT OF JUSTICE

No. CR-2018-001137

CHANCERY DIVISION

INSOLVENCY AND COMPANIES COURT

Rolls Building

Wednesday, 11th April 2018

Before:

CHIEF REGISTRAR BRIGGS

B E T W E E N :

EARTH ENERGY INVESTMENTS LLP

Applicant

- and -

MIDDLESBROUGH FOOTBALL & ATHLETIC COMPANY
(1986) LIMITED

Respondent

THE APPLICANT appeared in person.

MR U. STAUNTON (instructed by Womble Bond Dickinson (UK) LLP) appeared on behalf of the
Respondent.

PROCEEDINGS

I N D E X

Page No.

SUBMISSIONS

Mr MILLENDER	1
Mr STAUNTON	18
In Reply Mr MILLENDER	24

(See separate transcript for judgment)

SUBMISSIONS

Mr STAUNTON	29
Mr MILLENDER	31
Mr STAUNTON	33

(Transcript prepared without the aid of documentation)

(11.30 a.m.)

- A** MR STAUNTON: Good morning, sir.
- THE CHIEF REGISTRAR: Good morning. Please take a seat. Hand up the attendance slip please. (Same handed) Yes, Mr Millender, I think to----
- MR MILLENDER: Hello, there. Yeah.
- B** THE CHIEF REGISTRAR: It is your application.
- MR MILLENDER: It's my application, sir, yes.
- THE CHIEF REGISTRAR: Yeah.
- MR MILLENDER: Good morning. We had a problem with this application because there's been
- C** some non-disclosure.
- THE CHIEF REGISTRAR: Yes. All right.
- MR MILLENDER: May I make this submission now?
- THE CHIEF REGISTRAR: You can make whatever submission you want to now.
- MR MILLENDER: We are missing the order of Mr Justice Nugee that was made on 21st March.
- D** The defendants asked for some direction. I believe it was either the 18th or 19th March.
- They asked the judge, Mr Justice Nugee, for some direction and this - the direction that the defendants were asking for was in relation to striking out my application of 1st March, on the grounds that the defendants alleged that my application was very similar to the other
- E** case that was heard on 5th February by Mr Justice Nugee. However, there's quite a material difference in the second application.
- The second application looks at the 619,000 unwarranted demands with menaces, and it also looks at the non-disclosure of the return date hearing on 16th January by Mr Justice Norris, whereby the defendant held - sorry, withheld rather, a fundamental piece of evidence, and that refers to the Penningtons Manches letter dated 11th January, containing what I've described as a "shopping list" of material exhibits that was with, withheld from the *ex parte* hearing before Mr Justice Arnold on 9th January 2017. So therefore----
- F**
- G** THE CHIEF REGISTRAR: So, so you're saying that the absence of the order from Mr Justice Nugee, dated 21st March, prevents you from pursuing this application?
- MR MILLENDER: Well not at all. In fact----
- THE CHIEF REGISTRAR: Well what are you saying?
- H**

MR MILLENDER: -- the 25,000 malicious winding up petition should never have happened because the case was *sub judice*, being heard by a High Court judge. The 25,000 relates to a Consent Order that was granted on the, on 16th January----

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --by Mr Justice Norris. That Consent Order was obtained in fraudulent non-disclosure, and that is subject to proceedings - it's subject to proceedings in terms of the 619,000 unwarranted demands with menaces. It's also subject to proceedings----

THE CHIEF REGISTRAR: Just a minute, because we, we're straying away - so you, you'd started by saying to me, "Is this the appropriate time to talk about the fact there was a missing disclosure of an order?"

MR MILLENDER: Yes, sir. That's right.

THE CHIEF REGISTRAR: How is that relevant to your application to rescind today?

MR MILLENDER: Very, very relevant indeed because----

THE CHIEF REGISTRAR: Explain to me why.

MR MILLENDER: On 12th, 12th February the defendants made a covert winding up petition.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: I, I didn't see it until the 22nd when it was served on my office.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: At that time all of the evidence to deal with this particular case was filed in 8690, the case heard before Mr Registrar Jones, and you know I have some problems with that case and the conduct of that case, where Registrar Jones failed to read the evidence before him, in particular p.2 of the N244 application, which would have proven to any judge acting reasonably that in fact the proof of debt is entirely false. It can't possibly owe, be owed because the defendants refused the grid connection, and one of the conditions or precedent to my energy supply agreement, to which that 4.1 million proof of debt relates, it all goes----

THE CHIEF REGISTRAR: I'm not following you. I don't understand what you're saying.

MR MILLENDER: It's a very long and complex matter.

THE CHIEF REGISTRAR: You, you're concentrating on Mr Justice, Mr Justice, Mr Registrar Jones in this matter.

MR MILLENDER: Jones, yes, I am.

THE CHIEF REGISTRAR: Now I'm asking you----

MR MILLENDER: Yeah.

THE CHIEF REGISTRAR: --about the order of 21st March.

MR MILLENDER: Yes.

THE CHIEF REGISTRAR: The order of Mr Justice Nugee.

MR MILLENDER: Who listed----

THE CHIEF REGISTRAR: My question to you is why is that relevant to your application for rescission?

MR MILLENDER: Because, quite simply, the 25,000 is being disputed in those proceedings being looked at by the High Court judge, and I've got a counterclaim against them in that case in the sum of circa 10.6 million.

THE CHIEF REGISTRAR: I see. Now did, have you brought with you then the proceedings which have been issued, which are now before the court?

MR MILLENDER: Yes, I have, sir. Yeah.

THE CHIEF REGISTRAR: And now where, where can I see those please?

MR MILLENDER: You can see a copy of the skeleton in that, in those proceedings. This was a copy of the skeleton that was lodged on 1st March. Unfortunately it doesn't have a seal on it for some reason.

THE CHIEF REGISTRAR: Well that's discursive. But where is the, where is the proceedings?

MR MILLENDER: The proceedings are in 140, sir.

THE CHIEF REGISTRAR: Okay. (After a pause) And, and when was this application made?

MR MILLENDER: On, on 1st March this year.

THE CHIEF REGISTRAR: On 1st March?

MR MILLENDER: Yeah. There was a, a subsequent hearing on the, on 5th February.

THE CHIEF REGISTRAR: So let me just make a note of that. Proceedings issued on 1st March, you say.

MR MILLENDER: But there was also a hearing on this case on 2nd February.

MR STAUNTON: The 5th February.

MR MILLENDER: Sorry, 5th February. You're right, yeah.

THE CHIEF REGISTRAR: The 5th February, but the proceedings weren't issued until 1st March?

MR MILLENDER: No, the proceedings have been in play all the way through this entire process.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: In January, late January 2018, Mr Millender make an application to set aside the discharging injunction for granting material on non-disclosure.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: That came on before Mr Justice Nugee on 5th February.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: He dismissed that application.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: Mr Millender made a similar application on 1st March and that's----

THE CHIEF REGISTRAR: Ah----

MR STAUNTON: --the skeleton in, in respect of the application. That application of 1st March is not in the bundle, nor is the application of late January, but the transcript of the hearing before Mr Justice Nugee----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --and his decision are in the bundle, and I will take you to those in due course.

MR MILLENDER: But that's passed.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: Isn't it? That's passed and that's gone, because Mr Justice Nugee was asked for some directions by the defendants - was it on or around the 18th or 19th March when you asked for the directions?

MR STAUNTON: About then.

MR MILLENDER: Surprised at the winding up, they asked for the directions to strike out my application, my second application because it was very similar to the first.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: But actually Mr Justice Nugee reviewed my submission, being that that I've just handed you, the skeleton dated 1st March, and he listed it for a half day hearing from 6th June onwards. So therefore matters were entirely *sub judice*. Mr Justice Nugee has found material non-disclosure relating to the hearing of the 1st - of 9th January 2017, whereby the defendants withheld 100 - circa 172 pages of witness exhibits that would have otherwise proven my statutory demand, and those matters were subject to proceedings when the defendants made this covert winding up petition in the sum of 25,000, when I've got a counterclaim against them exceeding 10.6.

THE CHIEF REGISTRAR: So as I understand your submission then, Mr Millender, there were - there was an application which was made on 1st March 2018, which had not been decided by the court on - by 28th March. Is that right?

MR MILLENDER: There was an order made on 21st March listing the case for hearing in June.

THE CHIEF REGISTRAR: Yeah. So it, it was listed on 21st March, or there was a listing on 21st March for June.

MR MILLENDER: Yes.

THE CHIEF REGISTRAR: So it hadn't been determined by the 28th March?

MR MILLENDER: Not at all, no. And in addition to that I, I made the application before
A Mr Registrar Jones on 15th November last year. I made that application with the explicit
request that my case be heard by a High Court judge. I did that because I wanted----

THE CHIEF REGISTRAR: Which, which application are you talking about?

MR MILLENDER: The one ending 8690.

THE CHIEF REGISTRAR: What, what was that about?

B MR MILLENDER: And that was my application pursuant to Rule 14.11 of the Insolvency Rules
to remove - for the court to adjudicate on the proof of debts, and it applied to that----

THE CHIEF REGISTRAR: But that, that's post liquidation. That's a different, different issue.

C MR MILLENDER: That's in - a different issue but the evidence was filed in that case because
I wanted to save court time and I wanted to amalgamate, because clearly the three false
misrepresentations and the fraudulent non-disclosure, and the later blackmail, are somewhat
inextricably linked.

D THE CHIEF REGISTRAR: So in, in order for me to understand the proceedings which were
issued on 1st March, and directions given on 21st March for a hearing on - in June, I need to
read your skeleton argument because you haven't brought with you the proceedings today.

MR MILLENDER: I didn't bring those proceedings with me today because they're being heard
by senior judiciary, sir.

E THE CHIEF REGISTRAR: Yeah. Well that, that's - (After a pause) - yes, and that, is that the
ground - that's - this is not mentioned in your skeleton argument of 29th March 2018.

MR MILLENDER: If I could find it - I think you'll find it is, sir. Let me just have a look.

THE CHIEF REGISTRAR: Yeah?

MR MILLENDER: Skeleton one to four. "The claimant refers to, " point three:

F "The claimant refers to the application to be heard before Mr Justice Arnold ending
140."

THE CHIEF REGISTRAR: Yes, yes.

MR MILLENDER:

G "Proving categorically that the 25K is disputed on genuine and substantial grounds
and is subject to change."

It's point four.

"It is submitted that Registrar Barber did not take the company's cross claiming into
consideration and that the winding up petition presented by the petitioner on ..."

H It should actually be 12th February - there's an omission there - rather than 12th January.

"... *ex parte* is an abuse of process."

THE CHIEF REGISTRAR: Yes. On paras.3 and 4, that relates to the matter heard before Mr Justice Arnold.

MR MILLENDER: Correct, yes.

THE CHIEF REGISTRAR: Thus to the - not, not to the application before Mr Justice Nugee, as you say, which was issued on 1st March.

MR MILLENDER: Sir----

THE CHIEF REGISTRAR: There's no mention of that (inaudible).

MR MILLENDER: --just a slight amendment to that, sir. You----

MR STAUNTON: They're all related.

THE CHIEF REGISTRAR: They're related----

MR MILLENDER: Yeah.

MR STAUNTON: On 9th January 2017----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --Middlesbrough obtained an application like notice, an injunction to restrain Earth Energy from presenting a petition.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: That hearing came on before Mr Justice Arnold.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: He made the order with the return over to 16th January----

THE CHIEF REGISTRAR: 2000 and what?

MR STAUNTON: --2017.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: And in January 2018 Mr Millender issued an application to discharge that injunction on the grounds of material non-disclosure, and that was heard by Mr Justice Nugee on 5th February----

THE CHIEF REGISTRAR: Right.

MR STAUNTON: --2018, when he dismissed it. And then the application issued on 1st March 2018 is another application to discharge the injunction on the grounds of material non-disclosure. So they're related.

THE CHIEF REGISTRAR: They're all related.

MR STAUNTON: They all, they all stem from the hearing in front of Mr Justice Arnold on 9th January 2017.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: And why is that, Mr Staunton? Why, why does that----?

THE CHIEF REGISTRAR: So, so discharge injunction application in January 2018, heard by
Mr Justice Nugee on February, in February----

MR STAUNTON: The 5th February.

MR STAUNTON: The 1st March, yes.

MR MILLENDER: The reason for the new application was because it addresses new matters.

Mr Justice Nugee - and the same is on the transcript - asked whether I would like to have
addressed the s.21 offence of blackmail, the, the unwarranted demand with menaces, and I
simply said, "Well there's insufficient time to. We're in the interim applications court.
We've got less than two hours to go through what is an extremely complex and lengthy
case," so I had to make another application. And in addition, all of the instances concerning
the material non-disclosure were not addressed at that hearing. We didn't address the return
date for non-disclosure, which was also an *ex parte* hearing because I didn't attend and
neither did Penningtons.

MR STAUNTON: It wasn't an *ex parte* hearing. It was dealt with by consent----

THE CHIEF REGISTRAR: Yes, I----

MR STAUNTON: --and nobody needed to attend.

THE CHIEF REGISTRAR: Right, okay. So looking at your skeleton - focussing on your
skeleton argument, Mr Millender, 29th March 2018----

MR MILLENDER: Yeah.

THE CHIEF REGISTRAR: --is there anything else you want to submit to me in relation to that?

MR MILLENDER: Yes. Quite simply----

THE CHIEF REGISTRAR: Yeah.

MR MILLENDER: --what about my money? Literally in that context. What about the 530,000
that I invested into the project for nothing up until 29th June 2015? By which time
Middlesbrough refused the grid connection and without it - I think we've all established -
without a grid connection the turbine's not very helpful; to put it mildly, without a
connection the turbine is defunct. It's absolutely pointless. And given the fact that the
entire purpose of the option agreement that I completed between the parties was to, in fact,
secure that very same and only possible grid connection for the project so that the power
can be generated from the turbine and delivered through a direct private supply to the
stadium, given the fact that they then refused that connection when it was a specific
condition, precedent of the customer, Middlesbrough Football Club, to take ownership of
those certain components, I think they're off on to a bit of a sticky wicket.

THE CHIEF REGISTRAR: I see. Now, now, now this is a, this - the company, which was wound up, was Earth Energy Investment LLP.

A MR MILLENDER: Yes. No, the first company that was wound up was our wind turbine sole purpose vehicle, set up for that specific project, called Empowering Wind MFC Ltd.

THE CHIEF REGISTRAR: So Empowering Wind was dissolved first of all, as I understand it, in - it was 2015.

MR MILLENDER: Well it was wound up. It was----

B THE CHIEF REGISTRAR: And then it was later wound up----

MR MILLENDER: Yes.

THE CHIEF REGISTRAR: --compulsorily on a petition by HMRC.

MR MILLENDER: Yes.

C THE CHIEF REGISTRAR: This is a, this is - this matter concerns energy?

MR MILLENDER: It does because I assigned----

THE CHIEF REGISTRAR: I see (inaudible), and you say that there is an assignment?

MR MILLENDER: There is, sir, yeah.

D THE CHIEF REGISTRAR: What, what - where is the assignment? Have you got that?

MR MILLENDER: The assignment is dated 29th June 2015. I did it a few days after----

THE CHIEF REGISTRAR: The 29th June?

MR MILLENDER: 2015.

THE CHIEF REGISTRAR: 2015.

E MR MILLENDER: Literally a few days I'd received the first unwarranted demand from Middlesbrough Football Club trying to extort from me the sum of £255,000. Now again I don't have a copy of the assignment with me, because it's all in the other case which is being heard by Mr Justice Nugee. However, sir, I can confirm that there is an assignment and that----

F THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --assignment, in my firm opinion after taking advice, does constitute a valid assignment of the debt for the purpose of connecting that debt in accordance of the Law of Property Act.

G THE CHIEF REGISTRAR: So what was the assignment of?

MR MILLENDER: It was an assignment of the monies, the 200 - sorry, the 200,000 plus the 330 technical project development costs that I've incurred from October 2012 through until 29th June 2015. The £200,000 lease premium I paid on 17th June 2013 and the development costs, the aborted costs in that project, and then I've got a further claim that I did submit in

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this application when I off sick on 27th. I, I wrote into Mrs Bryce at (inaudible) Listings. I said, "Look, I cannot attend the next hearing. I'm very ill." Unfortunately I went out after the hearing of the 26th, had some seafood and I was physically very, very ill. There was no way I could have attended the hearing on the 28th, so I, I put in a letter for the judge on the 27th, explaining that I was ill and I made some submissions in absence and they were, were-

B

THE CHIEF REGISTRAR: Yes, I've seen those.

MR MILLENDER: You've seen those, sir, exactly, yeah.

THE CHIEF REGISTRAR: So a, so it was an assignment of monies owed to Empowering Wind.

MR MILLENDER: And those monies----

THE CHIEF REGISTRAR: By whom?

C

MR MILLENDER: By Middlesbrough Football Club, sir. And those monies assigned, was the monies that I was seeking to collect from them owing to the statutory demand dated 6th January 2017, the same statutory demand that the defendants----

THE CHIEF REGISTRAR: So essentially it was an assignment of cause of action.

D

MR MILLENDER: No. It was an assign - it wasn't an assignment of the cause of action. The cause of action still sits effectively within Empowering Wind MFC Ltd. All I've assigned is the monies that I've invested----

THE CHIEF REGISTRAR: Just let me get that down. So the assignment - the, the causes of action----

E

MR MILLENDER: Are still vest in----

THE CHIEF REGISTRAR: --remain with----

MR MILLENDER: Yeah, Empowering Wind MFC Ltd.

THE CHIEF REGISTRAR: --Empowering Wind Investments?

F

MR MILLENDER: MFC Ltd, for Middlesbrough Football Club, sir.

THE CHIEF REGISTRAR: Oh, I see.

MR MILLENDER: Yeah.

THE CHIEF REGISTRAR: Thank you. Right, so, so the causes of action remain with Empowering Wind----

G

MR MILLENDER: But----

THE CHIEF REGISTRAR: --so the assignment - because I haven't got the documents.

MR MILLENDER: No problem. Yes, sure.

THE CHIEF REGISTRAR: So I'm just trying to understand exactly----

H

MR MILLENDER: So the assignment is purely relating to the monies; the, the physical cash that I invested into that project up until 29th June 2015.

A

THE CHIEF REGISTRAR: Of the physical cash, in your words----

MR MILLENDER: Yeah.

THE CHIEF REGISTRAR: --the, the money that----

MR MILLENDER: The money that we invested.

THE CHIEF REGISTRAR: --you invested. You, yourself, Mr Millender----

B

MR MILLENDER: I invested, yes, yes.

THE CHIEF REGISTRAR: --invested----

MR MILLENDER: Yes, invested into that company.

THE CHIEF REGISTRAR: Mr Millender-----

C

MR MILLENDER: The wind turbine project.

THE CHIEF REGISTRAR: --invested in the company.

MR MILLENDER: Well it was actually invested by a parent company effectively, the Earth Energy Investments. I put 200,000 in on the lease premium on 17th June 2013. I paid that from one of my other companies.

D

THE CHIEF REGISTRAR: Hang on----

MR MILLENDER: No, I didn't. I paid that from my personal account into Lupton Fawcett's client's account and that was transferred across to the Womble Bond Dickinson Solicitors on 17th June. Thereafter we had a long delay resulting from an - what did amount to be an unlawful planning condition, which went to the heart of the project - and when I say it went to the heart of the project, the condition in question - firstly I discharged all of my pre-commencement planning conditions so that the project could read, readily commence. Condition 7 of the planning permission for the wind turbine required me to provide a scheme to alleviate the impact of the radar - of the wind turbine development on the Durham Tees Valley Airport radar.

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In around about 23rd September 2013 - so two, three months, sir. We complete the lease in June 2013, so it was three months later, I submit the scheme to alleviate the impact on Durham Tees Valley Airport in accordance with the requirement of the condition. I submit that to the LPA. A few days later the LPA come back, and Maria Froggatt of the, the senior planner responsible for the application, comes back and says, "Mr Millender has done everything," in an open email involving Kevin Parks, the Planning Director. "Mr Millender

H

has done everything required to discharge the planning condition. Any further comments before we go ahead and discharge the condition?"

A

However a day or so later, Miss Froggatt wrote back to me and said, "We can't discharge the condition because the airport's made an objection, where in a holding objection, saying that you haven't done what's required to discharge it." When actually I did do what was required to charge, discharge it and it later transpired that - just the wording on the

B

condition, just so we're clear on this. When I say that it went to the heart of the planning permission I'm saying that because the scheme that currently doesn't exist on today's date, required implementing at the airport before use of the wind turbine commenced.

C

THE CHIEF REGISTRAR: This has got nothing to do with Middlesbrough, has it? This is between you and the planning office.

MR MILLENDER: No, it's got lots to do with Middlesbrough----

THE CHIEF REGISTRAR: Right.

MR MILLENDER: --because this is, this pertains to the original delay in which Middlesbrough then sought to invoice me for the 255,000.

D

THE CHIEF REGISTRAR: Well they were, they were invoicing for you for, for rent, weren't they, and rates----

MR MILLENDER: They were.

THE CHIEF REGISTRAR: --pursuant to this?

E

MR MILLENDER: But they had no legal - they had no locus to, to have done so, because that delay was a delay, beyond my reasonable control, constituting *force majeure* within the very wide operative provision of *force majeure* within my lease. The Energy Supply Agreement is known - you know, it doesn't matter anyway because I made the contract conditional. Now, the lease; the lease intended----

F

THE CHIEF REGISTRAR: Well before we go - what I'm quite keen to do, Mr Staunton, is there a copy somewhere of this assignment?

MR STAUTON: Yes. It's set out in detail in the decision of Mr Justice Nugee. If you turn to vol.2.

G

THE CHIEF REGISTRAR: Volume 2.

MR STAUTON: Point 2.

THE CHIEF REGISTRAR: Point 2, thank you.

MR STAUNTON: Tab 7.

H

THE CHIEF REGISTRAR: Tab 7, thank you.

MR STAUNTON: Yeah. This is a transcript of his judgment.

THE CHIEF REGISTRAR: Yes.

A MR STAUNTON: And you'll see that if you just turn over the page----

THE CHIEF REGISTRAR: Sorry?

MR STAUNTON: Just turn over the page, you'll see it's the decision of Mr Justice Nugee.

THE CHIEF REGISTRAR: Yes.

B MR STAUNTON: Now, we get into the question of the assignment, if you then turn on to para.9----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --and can I invite you to read to yourself----

THE CHIEF REGISTRAR: Thank you very much.

C MR STAUNTON: --paras.9 to 12.

THE CHIEF REGISTRAR: Yes. Have you got that, Mr Millender?

MR MILLENDER: I, I've seen it already. I know what Mr Staunton's referring to. My argument is very straightforward.

D MR STAUNTON: Well if you let the Registrar read it he will see the, what is said to be the assignment.

THE CHIEF REGISTRAR: Yes, Mr Justice Nugee.

MR MILLENDER: (After a pause) So let's - if I may, sir, when you've finished reaching----

THE CHIEF REGISTRAR: Yeah, let, let me read this.

E MR MILLENDER: Yeah, thank you.

THE CHIEF REGISTRAR: I think this could be quite important. (After a pause) Did you say down to 12, the bottom of 12?

MR STAUNTON: Yes. I think you need to read 12. That's Mr Justice Nugee's view.

F MR MILLENDER: Well it's not because the case is *sub judice*----

MR STAUNTON: Mr Millender, would you let the learned judge read.

THE CHIEF REGISTRAR: (After a pause) So, so he concluded that he was unsure that the - some had even took place.

MR STAUNTON: Yes, the----

G THE CHIEF REGISTRAR: That's not what I was hoping to - I, I wanted to know precisely the terms of the assignment----

MR STAUNTON: The assignment----

H THE CHIEF REGISTRAR: --as to what was assigned. Now I've been told by Mr Millender, and only told by him in open court, but it's only his recollection, that the assignment was not of

the cause of action. That remains within (inaudible) but of the fruits of the cause of action, which was monies which were set, as I understand it, to the old, to Empowering Wind if a claim was successful.

MR MILLENDER: No. That's completely incorrect.

MR STAUNTON: Just - sir, I don't want to cut Mr Millender short, but if you look at Mr Justice Nugee's decision, para.11, after the quotation----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --the first sentence:

"It is that which is now relied on as an assignment.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: My Lord, by that he means the Board Minute, and the Board Minute is set out in full at paragraph number ten.

THE CHIEF REGISTRAR: I see.

MR STAUNTON: It is true - para.10 says:

"It is clear that when the document (inaudible) as not having been disclosed to the Board Minute."

And then what refers, purports to be the assignment is set out in bold in paras.10 and 11.

THE CHIEF REGISTRAR: I see, I see.

MR STAUNTON: That's an exact quote by Mr Justice Nugee of the resolution----

THE CHIEF REGISTRAR: That's exactly - ah, that's where it is.

MR STAUNTON: --which is said to be the assignment.

THE CHIEF REGISTRAR: So "resolution," which is said to be the assignment.

MR STAUNTON: Yeah, yeah, absolutely.

THE CHIEF REGISTRAR: Yes, I see. So it's not meant to - that's a separate assignment document.

MR STAUNTON: We have not been made aware of any - other than that resolution.

MR MILLENDER: If I may, when, when you're ready, sir----

THE CHIEF REGISTRAR: Yes, when I'm ready.

MR MILLENDER: The, the----

THE CHIEF REGISTRAR: When I'm ready.

MR MILLENDER: Sorry, sorry.

MR STAUNTON: (After a pause) And I think the material distinction Mr Millender applauds is if you look at para.10, the quotation----

THE CHIEF REGISTRAR: Mmm hmm.

MR STAUNTON: --the last two lines on this p.4.

THE CHIEF REGISTRAR: Yes.

A MR STAUNTON: So there are two causes of action. The, the parent company----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --that's Earth Energy, recovering funds invested.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: And Empowering Wind recovering consequential losses.

B THE CHIEF REGISTRAR: Yes, I can see that.

MR STAUNTON: I think that's the distinction Mr Millender draws now.

MR MILLENDER: Yes. Sir - thank you.

THE CHIEF REGISTRAR: Mr Millender, you want to make an answer to that.

C MR MILLENDER: Yes. So in terms of - let's focus on the law.

THE CHIEF REGISTRAR: So I don't think I was too far wrong, was I? When I, I summed up what your short (inaudible)?

MR MILLENDER: Not at all, sir. No, you were, you were great.

THE CHIEF REGISTRAR: Now it's your turn, yes.

D MR MILLENDER: So what I'm - the point I'm making is in fact the Law of Property Act -

I forget the exact date behind it, but I know the terminology - is a very, very simple piece of legislation whereby if assign - in terms of assigning a debt for the purpose of collecting that debt, that Broad Minute - call it what you will, a piece of paper with my signature on it - constitutes a valid assignment in accordance with the Law of Property Act. I've assigned the monies invested. It's signed by me, a director of the company in Empowering Wind MFC, and I've assigned that date to the parent company for the purposes of collecting those aborted fees; and that is a valid assignment. Now I move on to----

E THE CHIEF REGISTRAR: That, that's what your case comes down to, isn't it?

F MR MILLENDER: Well, no. It comes down to a lot more than that because I've had a lot more costs since then as well, that I'm claiming on top, meaning the nine seven----

THE CHIEF REGISTRAR: Well you've only got - your cross claim has only got to equal or exceed £25,000.

G MR MILLENDER: Twenty-five, which, which is - clearly it does, but I do have other costs on top of that relating to the 972 in the summary of costs that I've supplied. I've had costs since 29th June 2015 that haven't been accounted for so those are accounted within the quantum of, of cross claim that I've submitted with the application.

H

THE CHIEF REGISTRAR: And, and are the - how did those costs - how, how did they accrue to - how are they confirmed on the company that's now been wound up, Earth Energy?

A MR MILLENDER: The company that was wound up, the costs, all of the costs that were being incurred, all the legal fees that I've incurred and everything else since, has all been incurred through----

THE CHIEF REGISTRAR: The injunctions and etc..

MR MILLENDER: Everything, all the way through, yeah, yeah.

B THE CHIEF REGISTRAR: That, that's what you wrote.

MR MILLENDER: Yeah, yeah, yeah, and indeed all the barrister's written advice and all the other bits and pieces that I've had to do since that time.

THE CHIEF REGISTRAR: Legal costs, yes.

C MR MILLENDER: So if we just based on the - let's look at it very practically, keep it very simple. Obviously I'm entitled to, to charge interest on the costs that were - the abortive costs. Let's just base the interest at 7 per cent above base. Just base it on the 200 grand. We've come out with a figure from 29th June 2015 which is more than double the 25 grand that I don't owe, and more than double the 25 grand that is, in any case *sub judice*, being
D heard by the High Court judge. So the Winding Up Petition, in its own right, is a malicious act that has been done, I allege, to pervert the course of justice, when on the balance of probabilities the defendants did clearly know that they're in a lot of trouble in relation to the blackmail and the fraud, in terms of the fraudulent misrepresentations.

E The fraudulent misrepresentation resulting in the winding up of my subsidiary, when Mr Registrar Baister previously adjourned the - this is, I'm talking about Empowering Wind MFC - previously adjourned that hearing so that I could enter into a CVA with the
F legitimate creditors. I'm friendly with the legitimate creditors, Smith Brothers, the electrical engineer, and GMR Consulting. They've done a lot of work with me over the years. They've both sent letters of support in saying that they don't want the, they didn't want the company to wound up and they're now supporting me to call a meeting of creditors, that I've been asking for since May last year----

G THE CHIEF REGISTRAR: And you're talking about Empowering----?

MR MILLENDER: I'm talking about Empowering Wind and----

THE CHIEF REGISTRAR: So that's nothing to do with this hearing today.

MR MILLENDER: Well it, it is in some respects because----

H THE CHIEF REGISTRAR: It isn't, because this is, this is an application by Earth Energy.

MR MILLENDER: The parent company.

THE CHIEF REGISTRAR: So let, let's try and focus on Earth Energy.

MR MILLENDER: Okay, okay, yeah. So----

THE CHIEF REGISTRAR: Now the, the picking out - so I've got your point about the assignment and I've summed that up to you and you've said that's correct. In relation to - my summary was correct - in relation to the, the first point you made, I still haven't quite grasped, or understood perhaps sufficiently well, so I ask you about this so that I do understand it sufficiently well. That is the proceedings which you say are currently on foot-

MR MILLENDER: Yeah.

THE CHIEF REGISTRAR: --at the moment, and I do understand that there was - the, the history of, of the injunctions in 2017, January 2017, and then you, you tried to discharge the injunction in 2018, a year later. That was dismissed by Mr Justice Nugee and then we come on to your new application----

MR MILLENDER: Yeah, just----

THE CHIEF REGISTRAR: --which is March 2018. Now I haven't got, I'd like to see a copy of that application.

MR MILLENDER: A copy of the application-----

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --before Mr Justice Nugee?

THE CHIEF REGISTRAR: Well it's in the High Court, isn't it? You're in the High Court now so it's here.

MR MILLENDER: Ah, yes, but this is, this is where we have a problem, sir, because as I - I do understand. A case being, that is *sub judice*, being heard by a High Court judge - and this case is being heard in fact by Mr Justice Arnold and that was the application that I made so that the case be put back before the, the judge that heard the original *ex parte* case - and there's a reason for that, and the reason for that is Mr Justice Nugee has a substantial knowledge of this case. And he would also have knowledge of my carry on with Cleveland Police in around June last year, when Mr Justice Arnold did come back and provide some commentary after reading the non-disclosure that I'd experienced from Cleveland Police, whereby Cleveland withheld some information from the City of London Police. So all of that is *sub judice*. The case in question, the defendants----

THE CHIEF REGISTRAR: But the, the pleadings are - your, your pleading are a public document and it's in the High Court.

MR MILLENDER: Of course, sir, yeah, yeah.

THE CHIEF REGISTRAR: So, so if the decision hasn't been made then it's outstand - the, the -
it will be outstanding.

MR MILLENDER: Till June----

THE CHIEF REGISTRAR: But it is a public document and therefore----

MR MILLENDER: Well, yes, sir.

THE CHIEF REGISTRAR: --it should be pretty available.

MR MILLENDER: Yes, yeah.

THE CHIEF REGISTRAR: Do we have a copy of it at all?

MR MILLENDER: I've got a copy on my, I've got a copy on my PC but I didn't really want to
open up my PC.

THE CHIEF REGISTRAR: All right, okay. Well I'm----

MR MILLENDER: It's a bit awkward, sorry about that. I didn't think----

THE CHIEF REGISTRAR: Perhaps I'll hear Mr Staunton on, on that issue.

MR MILLENDER: Well I----

THE CHIEF REGISTRAR: Going back to your skeleton argument on 29th March----

MR MILLENDER: We're not quite done on this point, sir.

THE CHIEF REGISTRAR: On what point?

MR MILLENDER: On the point that I'm making in terms of the application before Mr Justice
Nugee. The application was made on 1st March 2018.

THE CHIEF REGISTRAR: Yes, yes.

MR MILLENDER: On or around 19th March, the defendants sent in a letter to the judge asking
the judge for directions making an application to dismiss my application without a hearing,
and the judge then reviewed my submissions in the application before him made on 1st
March. He read through my skeleton that I've just provided yourself----

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --and turned round and said, "Well that's not going to happen. I'm going to
list the case for the hearing."

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: In full knowledge of that they should have then took these proceedings out
of the equation, out of the question.

THE CHIEF REGISTRAR: I see.

MR MILLENDER: They should have withdrawn the petition. They didn't withdraw the
petition.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: They went ahead and maliciously wound up the company in full knowledge of the circumstances.

THE CHIEF REGISTRAR: Well I, I've got your submission on that, yeah. Very good. Well thank you very much.

MR MILLENDER: Thank you.

THE CHIEF REGISTRAR: Is there anything else you need to show to, to just----?

MR MILLENDER: I think that's everything, sir.

THE CHIEF REGISTRAR: Thank you.

MR MILLENDER: Just----

THE CHIEF REGISTRAR: Well I, I - Mr Staunton, you're free to obviously go through - I've read your skeleton argument as I've read Mr Millender's skeleton argument, but I am interested obviously in it as an outstanding matter which is to be decided. I'm particularly interested in that.

MR STAUNTON: On 5th February Mr Justice - 2018, Mr Justice Nugee dismissed Earth Energy's application to discharge the injunction on the grounds of material non-disclosure.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: I'll take you to some passages in the - well I think if we just look at very briefly----

THE CHIEF REGISTRAR: I, I've read it.

MR STAUNTON: Yeah, it goes on to the end. You see he dismisses it.

THE CHIEF REGISTRAR: Yeah.

MR STAUNTON: Then on 1st March 2018, Mr Millender caused Earth Energy to issue another application to discharge the injunction on the grounds of material non-disclosure.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: The reason for this essentially is if the injunction is discharged on the grounds of material non-disclosure the petitioning debt goes, because the petitioning debt is £25,000 of costs ordered by consent in January 2017. That's the reason I think for that attack by Mr Millender. In late March my solicitors wrote to Mr Justice Nugee asking him to dismiss the application for the hearing because it was simply a repetition of what he had already decided.

THE CHIEF REGISTRAR: Was that late June----?

MR STAUNTON: Pardon me?

THE CHIEF REGISTRAR: Did you say late June? I couldn't hear you.

MR STAUNTON: No, no, late March.

THE CHIEF REGISTRAR: Late March.

MR STAUNTON: This year, 2018.

THE CHIEF REGISTRAR: Yes, I see. So it's identified----

MR STAUNTON: My solicitors----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --wrote to Mr Justice Nugee----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --inviting him to dismiss the application without a hearing because it was an abuse----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --it was simply a repetition of the application of January 2018, which he had dismissed----

THE CHIEF REGISTRAR: Okay.

MR STAUNTON: --in February 2018.

THE CHIEF REGISTRAR: Yes, I see.

MR STAUNTON: There is a, an order from Mr Justice Nugee, which is not in the bundle.

THE CHIEF REGISTRAR: Right.

MR STAUNTON: He declined the invitation to dismiss the second application without a hearing----

THE CHIEF REGISTRAR: Okay.

MR STAUNTON: --because he pointed out if he did so then Mr Millender would have a right to demand a hearing----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --to be summarily----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: -and he says in his order, "I have no doubt that Mr Millender would do so."

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: There is not point in dismissing the (inaudible) hearing because there's going to be a hearing.

THE CHIEF REGISTRAR: Yeah.

MR STAUNTON: That second application has been listed in a window opening on 6th June, a three day window.

THE CHIEF REGISTRAR: Right.

A MR STAUNTON: So that application was on foot when the winding up petition came before Judge Barber on 28th March. You've got my skeleton. The application to rescind doesn't introduce any new grounds. There's nothing new in this at all. It was all deal with by Judge Barber.

THE CHIEF REGISTRAR: Mmm hmm.

B MR STAUNTON: And I support that. So if you look - the first ground, if you look at the thin ring binder, tab 1, s.3, two things put forward; the, the Winding Up Order was an abuse of process; and this cross claim for a sum exceeding £900,000.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: The first of those commensurate with that, rescinded the Winding Up Order made by District Judge Barber, or Judge Barber (inaudible) it's an abuse of process.

C THE CHIEF REGISTRAR: Yes.

MR STAUNTON: Now as I understand it, that is the argument that the January 2017 order should be discharged for material non-disclosure, and they are the orders which provide the petitioning debt, and if that was to happen and the liability to pay costs of 25,000 went, then, of course, the petition would not have a debt in which to be founded.

D THE CHIEF REGISTRAR: No.

MR STAUNTON: That was all before Judge Barber. Can I take you to tab 4?

THE CHIEF REGISTRAR: Was it in the winding up court?

MR STAUNTON: Yes.

E THE CHIEF REGISTRAR: It was in, in the - done on the Wednesday or, or (inaudible)?

MR STAUNTON: Wednesday, 28th March, yes.

THE CHIEF REGISTRAR: Yes, I see.

MR STAUNTON: Can I take you to tab 4, paras.2 to 4? Sorry, can you look at the last page?

F You'll see this skeleton is 29th March.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: This is his skeleton in support of the application before Mr----

THE CHIEF REGISTRAR: This is the one I've just read, yeah.

MR STAUNTON: Yes, the skeleton to rescind.

G THE CHIEF REGISTRAR: Yeah.

MR STAUNTON: Now the first ground is set out in paras.2 to 4, namely that the cost order is to be disputed.

H THE CHIEF REGISTRAR: Yes.

MR STAUNTON: Now that's the second application to be heard in the window of 6th June. That was before Judge Barber. Can I take you please to tab 2? Do you have that, Judge, tab 2?

A

THE CHIEF REGISTRAR: Just give me some time. (sneeze) Excuse me. Judge, before Judge Barber on 28th March, yeah.

MR STAUNTON: Well I'm going to take you to what was before her. You'll see it's identical to what's now in the skeleton argument to support the application to rescind. Can I take you to tab 2?

B

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: You see there is an email, just a note of - you can see there that Miss Drewitt(?) says to Mr Millender, "Mr Justice Arnold is not the assigned judge." Mr Millender seems to think that Mr Justice Arnold is going to hear this application in June 2018.

C

THE CHIEF REGISTRAR: Yes, all right.

MR STAUNTON: But as I say, that's not - but it's just aside.

THE CHIEF REGISTRAR: Yes.

D

MR STAUNTON: What's important is, underneath that you have the email from Mr Millender, 27th March, sent at 12.21.

THE CHIEF REGISTRAR: Which page is that, sorry?

MR STAUNTON: This - it's still the first page of tab, tab 2.

THE CHIEF REGISTRAR: Tab, the first page, yes.

E

MR STAUNTON: Yeah, tab 2, first page. There's an email string.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: So two-thirds of the way down that email string you see the email from Mr Millender on 27th March, 12.21.

F

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: The day before the hearing of the winding up petition.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: He says in the first sentence he's unwell, unable to attend, and then paras.2 and 3 he sets out the first ground on which it should be dismissed. The hearing, the winding up is adjourned for that.

G

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: On 10th June he hears the case to which the £25,000 costs relates.

THE CHIEF REGISTRAR: Yes.

H

MR STAUNTON: Now with this email Mr Millender attached a skeleton, and if you turn to p.4, paginated in the right-hand corner----

A

THE CHIEF REGISTRAR: Yeah.

MR STAUNTON: --and if you look at the second page, it's the 21st March, and this is before Judge Barber----

THE CHIEF REGISTRAR: Yeah.

MR STAUNTON: --and paragraph numbered one----

B

THE CHIEF REGISTRAR: Mmm hmm.

MR STAUNTON: --is the first ground on which Mr Millender asks the court to rescind the Winding Up Order, namely there is an attack on the January 2017 order----

THE CHIEF REGISTRAR: Yes.

C

MR STAUNTON: --which gave rise to a liability of £25,000. So Judge Barber was aware of that assertion, the first ground on which the Winding Up Order should not be made----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --and nevertheless she, having considered it, proceeded to make the winding up order.

D

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: Can I take you to the second ground upon which Earth Energy ask you to rescind the Winding Up Order? And that's the cross claim, tab 1, box 3, second limb.

THE CHIEF REGISTRAR: Yes.

E

MR STAUNTON: The cross claim.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: And we see that's relied upon in this application to rescind at tab 4, para.6----

THE CHIEF REGISTRAR: Yes.

F

MR STAUNTON: --and paras.17 to 24. So there's a cross claim which extinguishes the liability to pay £25,000.

THE CHIEF REGISTRAR: Yeah.

MR STAUNTON: But we see that also was before Judge Barber and she made the Winding Up Order. Tab 2.

G

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: Page 1.

THE CHIEF REGISTRAR: Yes, I see that.

MR STAUNTON: Final paragraph in that page:

H

"I do not owe Middlesbrough."

This is the cross claim. If we turn on to the skeleton in support at page numbered four, paras.2 to 8.

A THE CHIEF REGISTRAR: Yes.

MR STAUNTON: There is the cross claim. There is the assignment. So the two grounds upon which Earth Energy invite you to rescind the Winding Up Order were before Judge Barber----

THE CHIEF REGISTRAR: Yes.

B MR STAUNTON: --and she considered them. I attended that hearing.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: I explained the situation to her. She was well aware of the two arguments, namely there was an application to set aside the injunction of January 2017 on the grounds of material non-disclosure, and if that succeeded it would eliminate the petition debt. I told her of course it had been heard by Mr Justice Nugee on 5th February 2018 and he dismissed the application on 1st March. Mr Millender issued another application to be heard in the window of 6th June. I told your Lord this. I also explained to Judge Barber how the cross claim came about, going back to 2014 when Empowering Wind entered the various grievances on Middlesbrough and there was a falling out between them. The - Middlesbrough forfeits the lease and the Energy Supply Agreement just comes to nothing and then that gives rise to substantial correspondence, during which Mr Millender had advanced all these claims. I explained all this to Judge Barber, and despite these claims by Empowering Wind, the winding up petition in - came on for hearing in September 2016----

E MR MILLENDER: Sixteen.

MR STAUNTON: --I think it was. It was a petition by HMRC supported by Middlesbrough. It was not Middlesbrough's petition and Mr Millender attended that hearing, and nevertheless Mr Registrar Baister, having been told that the company had been dissolved, made a double barrel order. So on what, on what----

F THE CHIEF REGISTRAR: You've made this submission.

MR STAUNTON: --legitimate grounds can Earth Energy invite you today, Judge, to rescind the Winding Up Order? You have my written submissions and I've just explained to you, I hope clearly enough, that both of the grounds now relied upon by Earth Energy were before Judge Barber on 28th March, and she decided to make the Winding Up Order. This, this is----

G MR MILLENDER: *Ex parte*.

H MR STAUNTON: It, it isn't an *ex parte*.

THE CHIEF REGISTRAR: No, it wasn't *ex parte*.

MR STAUNTON: No, Mr Millender seems to think----

MR MILLENDER: But I wasn't there.

MR STAUNTON: --that because you didn't notify the debtor in advance you could present a petition that's something *ex parte*, and of course the petition was presented. It was then served. It was advertised and it came on for hearing on 28th March. Mr Millender knew of the hearing but he was unable to attend due to personal circumstances. That's unfortunate. But Mr - Judge Barber knew of the two arguments that Earth Energy now rely upon in support of this application before you. It is a misconceived application.

MR STAUNTON: I don't personally - sir, if I may when you're ready?

THE CHIEF REGISTRAR: Just a moment please. Let me just take a note.

MR MILLENDER: Yes.

THE CHIEF REGISTRAR: (After a pause) Yes, Mr Millender?

MR MILLENDER: We're not addressing the, the salient points here, sir, unfortunately. Mr - firstly I will address what Mr Staunton just talked about pertaining to the winding up of Empowering Wind MFC on 19th September 2016. The reason that the company was wound up----

THE CHIEF REGISTRAR: Well I've got that. It would be more helpful to me if you dealt with the winding up of Earth Energy.

MR MILLENDER: Certainly, okay. I, I'll drop back to what I was saying.

THE CHIEF REGISTRAR: Because Empowering----

MR MILLENDER: I'll move on to this----

THE CHIEF REGISTRAR: --Empowering - I understand why you'd like to tell me that----

MR MILLENDER: Yeah.

THE CHIEF REGISTRAR: --but just to be clear----

MR MILLENDER: It's separate, yeah.

THE CHIEF REGISTRAR: It is a separate matter because you're not disputing that Empowering Wind should have been wound up. It was wound up by HMRC and that's the end of it. That is not before the court today.

MR MILLENDER: No, it's not, sir. Okay.

THE CHIEF REGISTRAR: The only matter before the court today is whether or not I should rescind using the exercise of my discretion----

MR MILLENDER: Yeah.

THE CHIEF REGISTRAR: --the Winding Up Order made by the High Court on 28th March.

A MR MILLENDER: Yes, sir. Okay, fundamentally I have a cross claim and my cross claim far exceeds the 25 grand. I don't owe these people any money. Let's just base it on the £200,000; the lease premium that I paid on 17th June 2013 on the sole basis that the grid connection agreement had been finalised.

THE CHIEF REGISTRAR: Yeah, I, I - you've already told me about that. So I understand that.

B MR MILLENDER: So, so the point I'm making is I don't owe them the money. So the winding up petition is unlawful because I don't owe them the money. I don't owe them the money because I've got a cross claim. I also don't owe them the money because this proceedings and that 25 grand is subject to challenge, and in addition the letter from Penningtons dated 11th January 2017, the second piece of non-disclosure that wasn't covered in the first hearing of 5th February before Mr Justice Nugee, contained a shopping list of those material exhibits and it also stated, quite categorically, that each party shall bear its own costs. Therefore confirming quite categorically that I did not agree to that Consent Order. That piece of information was not presented before Mr Justice Norris on the return date. Had that information been presented there would be no 25 grand cost order, because any judge acting reasonably would have looked at the shopping list of material exhibits that were withheld, and said, "Well there's obviously been significant material non-disclosure at the hearing. I'm not going to grant the order."

E When the hearing, when the - the material withheld was actually the fundamental grid connection documents, the three grid connection documents, that would have otherwise proven that Middlesbrough didn't sign the agreement by the distribution network operator, dated February 2015, so that the connection for the turbine could be established. Why did I, why did I enter into the contract?

F THE CHIEF REGISTRAR: Has anybody brought along a copy of *Metrocab Ltd & Ors, Re* [2010] EWHC 1317?

MR STAUNTON: Yes. (Same handed)

THE CHIEF REGISTRAR: That's very, that's very helpful.

MR STAUNTON: Paragraph 36.

G THE CHIEF REGISTRAR: Thank you very much.

MR MILLENDER: I looked at that in some detail but *Metro Cab* has nothing to do with Earth Energy Investments. Nothing whatsoever. No relation whatsoever to this case.

MR STAUNTON: Paragraph 36, Judge.

H THE CHIEF REGISTRAR: Mmm hmm. (After a pause) Do you have a copy of it, Mr----?

MR MILLENDER: It, it - I've seen it, sir, yes. Thank you.

THE CHIEF REGISTRAR: Have you read para.26?

A

MR MILLENDER: I've seen it. Well I've seen the document, yes.

THE CHIEF REGISTRAR: It just sets out the principles and what you have to prove.

MR MILLENDER: Yes.

THE CHIEF REGISTRAR: So it's the court, it's a test that the court has to provide.

B

MR MILLENDER: Of course. Yeah, yeah, I've looked at that. The cross claim should have done it in itself.

MR STAUNTON: (After a pause) I only rely upon three sentences in para.36. After the first paragraph:

"The power to rescind is discretionary and is only to be exercised with caution ..."

C

Then (ii):

"The onus is on the applicant to satisfy the court that it is an appropriate case in which to exercise the discretion ..."

And then the first sentence in (iii):

D

"... must involve a material difference from those before the court that made the original order."

THE CHIEF REGISTRAR: (After a pause) This is a matter before Mr - well before a High Court Judge. It's not, I don't think it's been reserved to any judge, the application which was listed in March----

E

MR STAUNTON: Issued.

THE CHIEF REGISTRAR: Issued in March.

MR STAUNTON: To be heard in the window 2nd June.

THE CHIEF REGISTRAR: To be heard in June.

F

MR STAUNTON: It's not, it's not allocated to any particular judge.

THE CHIEF REGISTRAR: No, I wouldn't have thought so.

MR STAUNTON: You saw that email from Mr Justice Arnold's clerk saying that he was not the appointed judge.

THE CHIEF REGISTRAR: Yes.

G

MR STAUNTON: So it will just go----

THE CHIEF REGISTRAR: So the----

MR STAUNTON: --whatever, the challenge has to be listed in June, in front of the judge.

THE CHIEF REGISTRAR: Yes.

H

MR STAUNTON: If it survives.

THE CHIEF REGISTRAR: Yeah, well----

MR STAUNTON: Because if in fact the Winding Up Order continues, my solicitor will no doubt be in contact with the liquidator, which will probably be somebody from the OR's office, inviting them to withdraw the application. So it may not actually come on, but if it does come on it will be listed - whoever judge is listed----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --who selects the judge.

THE CHIEF REGISTRAR: Well my question was, is it still listed?

MR STAUNTON: Pardon me. It's still listed. It's, it's in the window, the three day window, 6th June.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: So this is an action winding - in winding this company up unlawfully, this is a direct action in perverting the course of justice in full knowledge that the part - the second application I made on 1st March covers material non-disclosure. It covers blackmail in the sum of 619,000 and it covers the three false misrepresentations, namely the first fraud for, for misrepresentation that Mr Staunton made on 19th September, stating that the, Empowering Wind MFC owes his client £255,000. You did make that submission, didn't you, Mr Staunton? And that was the submission that caused the winding up, because Mr Registrar Baister said, "Ah, Mr Millender, you haven't disclosed"----

THE CHIEF REGISTRAR: But you're talking about Empowering Wind again, aren't you?

MR MILLENDER: Empowering - we're talking about Empowering Wind. But I'm now taking about the----

THE CHIEF REGISTRAR: I only want to hear about Earth----

MR MILLENDER: --false misrepresentations that are linked to this case.

THE CHIEF REGISTRAR: Well I only want to talk about Earth Energy.

MR MILLENDER: Exactly.

THE CHIEF REGISTRAR: Yeah.

MR MILLENDER: That are linked to the case that's before Mr Justice - or was before

Mr Justice Nugee, the same application that I made on 1st March, which cumulates all of the incidents, the non-disclosure, the blackmail in the sum of 619,000, and the three false misrepresentations, the 255, the 541,308, and then a month later the 4.1 million. That's some power generation. I mean there's no turbine. It's all fraud.

THE CHIEF REGISTRAR: (After a pause) I'm going to take a very unusual step in this case and that is I am going to decide, for reasons I shall give very briefly, that rather than rescind this

order to wind up today with a discretion then just to keep the petition alive and then relist it in the winding up list after the hearing in June. Rather than do that I think it's best that I adjourn today's hearing for rescission to be heard at the same time as the application, which is listed currently, in June.

MR MILLENDER: Perfect.

(See separate transcript for judgment)

THE CHIEF REGISTRAR: I am now being interrupted.

MR MILLENDER: Sir, I'm interrupting for a very specific reason. You yourself earlier in this hearing, you said to me, "You don't address that. That's in the other case," referring to Empowering Wind MFC. You, sir, you've just read out a case before----

THE CHIEF REGISTRAR: Well----

MR MILLENDER: --well it was before and determined by Mr Justice Nugee----

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --but a case that is *sub judice* and a case that is still subject to proceedings.

THE CHIEF REGISTRAR: Mr Millender, let me finish my judgment and then you can make your point.

MR MILLENDER: Certainly.

(See separate transcript for judgment)

MR STAUNTON: Sir, in actual fact, the order that Mr Justice Nugee made on the invitation of my solicitors to dismiss the second application is in the bundle. It's in the ring binder at tab 3.

THE CHIEF REGISTRAR: Right.

MR STAUNTON: It's in the ring binder at Tab 3. Can I just take you to it very, very briefly? This reads----

THE CHIEF REGISTRAR: Tab 3?

MR STAUNTON: Yeah, tab 3 of the ring binder.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: Yeah. So you'll see at the paragraph numbered one of the order, "does not think fit to dismiss the application without a hearing," and he sets out reasons, and they are exactly as I said they were. If you look under "Reasons", if you turn over the page---

THE CHIEF REGISTRAR: Ah, right.

MR STAUNTON: --he referred to the fact under 28.3(c) that applied to have it set aside.

A THE CHIEF REGISTRAR: Right, yes. Yes, I see that.

MR STAUNTON: And then when you look at para.3, the final three lines, "In the circumstances."

THE CHIEF REGISTRAR: I see.

B MR STAUNTON: And then para.4, therefore he decided it's not proportionate because there's never going to be a hearing. That's what's Mr Justice Nugee decided.

THE CHIEF REGISTRAR: Thank you very much, Mr Staunton.

MR STAUNTON: Now that----

C THE CHIEF REGISTRAR: I, I adopt those same, same reasons to, to - and which is much better articulated than what I've done - to adjourn the matter before - for the judge to hear at the same time in the case. So far----

MR MILLENDER: Sir, there's one final submission----

MR STAUNTON: Well I think - sorry, yes, sorry. I'm just----

D THE CHIEF REGISTRAR: Let me just hear this.

MR STAUNTON: --I'm just, I'm only concerned with perhaps the order.

THE CHIEF REGISTRAR: Right.

MR STAUNTON: So I'm not sure if you're going to invite me to draw up the order. I'm quite happy to do so. But I think which order this application identified is to be listed to be heard together, but if you could look at tab number 3----

E THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --second recital:

"The application dated 1st March 2018 in ..."

F And then I could put in the title of these proceedings.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: Because it's a separate application.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: To be listed - to be heard together with that.

G THE CHIEF REGISTRAR: Yes.

MR STAUNTON: And as I said the listing officer has already decided that that was a half-day hearing in a window opening on 6th June for three days.

THE CHIEF REGISTRAR: Yes.

H MR STAUNTON: And I think the order can say all of that quite easily.

THE CHIEF REGISTRAR: I think so.

MR STAUNTON: Are you, are you going to invite me to draw up the order?

A

THE CHIEF REGISTRAR: I will, if you don't mind, Mr Staunton.

MR STAUNTON: Yeah, I'm perfectly happy to do so.

THE CHIEF REGISTRAR: Thank you very much. And it seems to me that that time estimate doesn't need to be altered, because it----

MR STAUNTON: My submissions on it will be quite short, on both.

B

THE CHIEF REGISTRAR: Yes. I mean it, it seems to me that if the, if the court were to decide that there was a potential cross claim then that's a genuine and substantial dispute. That's it - it will be rescinded. If on the other hand, there is a - the court finds there nothing in it, then there can be no genuine and substantial dispute.

C

MR STAUNTON: Or if it finds the *Metrocab* guidelines----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: This is a matter that was all before Judge Barber.

THE CHIEF REGISTRAR: Yes, exactly, yes.

D

MR STAUNTON: Indeed, yeah. So I will draw up that order. It will say, it will simply say listed to be heard together with, and then identify this----

THE CHIEF REGISTRAR: To, to be heard together with, yes.

MR STAUNTON: Yes.

THE CHIEF REGISTRAR: Do you agree, Mr Millender, that the----

E

MR MILLENDER: I - well I mean whether I do or don't----

THE CHIEF REGISTRAR: --that in, in the, in----

MR MILLENDER: --is immaterial.

THE CHIEF REGISTRAR: No, no, that it needs no longer, longer period of time than already provided.

F

MR MILLENDER: I, I object to what's happened today. I object to what's happened today on the fundamental and basic ground in law, and that is----

THE CHIEF REGISTRAR: Okay. Do you want me to determine the matter today?

G

MR MILLENDER: And that is that I'm owed substantially more money than the £25,000, by the defendants. So, therefore, why have you not, on that sole ground, on the sole ground that the 200,000 and the interest pertaining to that, just on that basis alone, doubled the amount of the 25? In my firm opinion, sir, you should have rescinded this application, this----

THE CHIEF REGISTRAR: Well fine, you can, you can----

H

MR MILLENDER: --because----

THE CHIEF REGISTRAR: --you can seek to appeal to it.

MR MILLENDER: I'm going to, yeah.

A THE CHIEF REGISTRAR: Okay. Well that's (inaudible).

MR MILLENDER: But principally, principally----

THE CHIEF REGISTRAR: Do you want to make out your grounds now then and I, I'll deal with your application to appeal?

B MR MILLENDER: Well I'd like to make it in a formal application to appeal, sir, if I may, rather than doing it on, on a whim.

THE CHIEF REGISTRAR: Yeah, that's fine.

MR MILLENDER: If that's okay. Thank you.

THE CHIEF REGISTRAR: Mmm hmm.

C MR MILLENDER: Lastly, there is one further submission. You did read out Mr - the defendant's statement.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: But you didn't read out mine, sir.

THE CHIEF REGISTRAR: Yes.

D MR MILLENDER: And this is material, so I would like to turn to tab 6, which is a statement that I made before the police, who are involved, and who've been involved since the 20th - well actually since 9th January - and this----

THE CHIEF REGISTRAR: Is that tab 6 of the big bundle?

E MR STAUNTON: Of the ring binder.

MR MILLENDER: The small, smaller bundle please, yeah.

THE CHIEF REGISTRAR: The small one.

MR MILLENDER: Tab 6 is this confidential filing that I made in the other case, CR 2017----

F THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --the one heard before Mr Registrar Jones.

THE CHIEF REGISTRAR: Mmm hmm.

MR MILLENDER: We have got problems with that one because there are various filings and pieces of evidence, including the barrister's written advice at p.2 of the N244 application----

G THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --and this fundamental evidence has been, would appear to have been disregarded by Mr Registrar Jones----

THE CHIEF REGISTRAR: Yeah.

H MR MILLENDER: --so as to favour the position of the defendant.

THE CHIEF REGISTRAR: Right.

MR MILLENDER: This particular case and what's happened within it----

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --is also being addressed in the case before the High Court judges. On the, on the sole base - this is why I haven't yet made an appeal on this case - on the basis that over 4 million of their proof of debt is blatantly false, and on the basis that I had a claim lodged in this set of proceedings when Mr Jones, Mr Registrar Jones then asked me to submit the package. It, it wasn't about submitting a package because the claim was already lodged within those proceedings in confidential filings. So, so----

THE CHIEF REGISTRAR: What's that got to do with the adjourning of today's application? I don't understand.

MR MILLENDER: So, so what's happening is the - all of the points aren't being addressed in these hearings. It's all very one sided towards the defendants.

THE CHIEF REGISTRAR: Why did, why did you not take, why did you not take me to this before, Mr Millender, during your, your submissions?

MR MILLENDER: I, I was waiting for you, sir, to finish what you were doing with reading out the defendant's bundle first, which you were doing.

THE CHIEF REGISTRAR: No, no, that was my judgment.

MR MILLENDER: And then I said----

THE CHIEF REGISTRAR: Why in your submissions did you not - if you thought this was really core to, to your application for rescission of----

MR MILLENDER: It is, because it----

THE CHIEF REGISTRAR: --Earth Energy Investments Limited----

MR MILLENDER: It is, yeah.

THE CHIEF REGISTRAR: --why did you not take me to it during the course of your submissions?

MR MILLENDER: I really wanted to focus on the issues in question, sir, which is----

THE CHIEF REGISTRAR: Well which----

MR MILLENDER: --which is really this rescission application before you today.

THE CHIEF REGISTRAR: Yes, well that's right.

MR MILLENDER: This, this particular one focuses on the entire background.

THE CHIEF REGISTRAR: Yes.

MR MILLENDER: The fact that the subsidiary was wound up and now they are seeking predatory litigation to wind up the parent company on the basis of £25,000 that I don't even

owe, and the fact that I'm walking out of here today and the, the application hasn't been rescinded----

A THE CHIEF REGISTRAR: Yes.

MR MILLENDER: --you know, for 25 grand, the damage that this has done to the parent company, the fact I can't access my bank accounts, that costs more than 25 grand in damages. Sir, why is this application not being rescinded here and now today, because I don't owe them the 25 grand? I didn't owe them the 25 grand when they made the petition on 12th February. So therefore, it's wholly illogical that the, the rescission hasn't been granted, because I don't owe them the money.

B THE CHIEF REGISTRAR: Thank you. Well thank you very much for explaining all that to me. I've given my reasons for adjourning it.

C MR MILLENDER: Yeah.

MR STAUNTON: I have one further----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --series of orders to request from you.

THE CHIEF REGISTRAR: Yes.

D MR STAUNTON: This is the final order made by Judge Jones----

THE CHIEF REGISTRAR: Right.

MR STAUNTON: --on the application of, for a (inaudible) in November 2017. My Lord, if you see in there, he has in para.1, since there's going to be a further hearing, paragraph numbered two:

E "A further hearing is an application for non-party costs made against Mr Millender." So he joins Mr Millender. There were some doubts as to whether Mr Millender had made the application or not. That's why, "insofar as necessary." So he joins Mr Millender.

F THE CHIEF REGISTRAR: I see.

MR STAUNTON: Then at paras.3, 4 and 5----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --he gives directions. Now if I take you to 46.2 of the CPR----

THE CHIEF REGISTRAR: What are you asking me for?

G MR STAUNTON: I'm going to ask you to make an order in similar terms to that of Judge Jones.

THE CHIEF REGISTRAR: Right.

MR STAUNTON: So an order to - we've notified Mr Millender by that letter on your right hand, he will receive a non-party costs order.

H THE CHIEF REGISTRAR: I see (inaudible).

MR STAUNTON: 46.2, 46.2 requires Mr Millender then to be joined to the application to rescind.

A THE CHIEF REGISTRAR: Yes.

MR STAUNTON: And then a timetable for objections for what I'm going to say, etc., and we've got the contact timetable. But to bring it on, the order is, sir, to bring it on together with the hearing of that application.

THE CHIEF REGISTRAR: With, with the application in June?

B MR STAUNTON: It's some time in June, yeah.

THE CHIEF REGISTRAR: (inaudible)an undertaking, yes.

MR STAUNTON: It's the application referred to in Judge Jones' order.

THE CHIEF REGISTRAR: I see.

C MR MILLENDER: Sir, I have an objection to this.

MR STAUNTON: Now this is - sorry, can I just----

MR MILLENDER: This is (inaudible) litigation.

MR STAUNTON: Can I just----?

D THE CHIEF REGISTRAR: Let me finishing here what----

MR MILLENDER: Sure.

THE CHIEF REGISTRAR: I can only hear one person at a time.

MR MILLENDER: Yeah, sure.

MR STAUNTON: So you know from the rules that Mr Millender must be joined as a party to the application to rescind the Winding Up Order----

E THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --so we're now going to (inaudible). He must be given an opportunity, hence paras.3, 4 and 5 are Judge Jones's order. Now of course those timetables cannot be achieved really because para.3 is by Friday. I could do this quite quickly and invite a similar order that by Monday, 16th April, the respondent shall file and serve (inaudible) for rescind (inaudible) number three. I'm happy for Mr Millender to have to 11th May, and then para.5, I'm happy for us to have until 25th May. Now that petition is in the course of being listed and it's some time after 11th June - see para.1 - and all I'd be asking for is an order to include this, if you're with me, that the direction, the application for non-party costs would be listed to be heard together with this, and again we've got a different title----

G THE CHIEF REGISTRAR: When you say, "with this"?

MR STAUNTON: Yeah, well the - with the hearing ending CR-2017----

H THE CHIEF REGISTRAR: On 11th January - no, 11th June.

MR STAUNTON: It's 690. Well some time after the hearing in June.

THE CHIEF REGISTRAR: Some time after?

MR STAUNTON: Yeah.

THE CHIEF REGISTRAR: But what - but this is a separate matter, isn't it?

MR STAUNTON: Yes.

THE CHIEF REGISTRAR: Shouldn't it, shouldn't this matter be dealt with by whoever is going to hear the rescission application and the application which Mr Millender has made----

MR STAUNTON: I'm, I'm happy for it to be dealt with then.

THE CHIEF REGISTRAR: Yes. I mean it seems to me this is a case----

MR STAUNTON: (inaudible - over speaking)

MR MILLENDER: Sir, if you just want to add the predatory litigation then, just for the record.

MR STAUNTON: That's a slightly tighter timetable of course because what Judge Jones was doing, was listing it after 11th June because he knew of the hearing listed in the window of 6th, 7th and 8th June. So he pushed off the non-party costs order to later. Now they both have a very similar flavour and therefore, in my submission, rather than taking - determine a non-party costs order at the hearing, a half day window on 6th, 7th and 8th June, which is going to be enough to deal with, with the application to discharge the injunction, we've got the application to rescind----

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --it might be better to list it with this, and I can quite easily in the order make sure that it dovetailed to take, to (inaudible).

THE CHIEF REGISTRAR: Well I'm not comfortable with that. I think the same judge should hear it all.

MR STAUNTON: I mean I'm happy with that if you're happy to make the directions.

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: So the only thing that's slightly unusual, it's an anticipation of the application to rescind being dismissed, presumably that----

THE CHIEF REGISTRAR: Yes, no, quite.

MR STAUNTON: Yes.

THE CHIEF REGISTRAR: I mean if Mr Millender succeeds that's the end of it.

MR STAUNTON: Absolutely.

THE CHIEF REGISTRAR: Yeah.

MR STAUNTON: But what must be under 46.2, is allow a proper opportunity.

THE CHIEF REGISTRAR: For, for Mr Millender?

MR STAUNTON: Mr Millender. So therefore we have to go first----

THE CHIEF REGISTRAR: Yes, answer him.

A

MR STAUNTON: --and set out the grounds on which we say----

THE CHIEF REGISTRAR: Yes, I see. I understand.

MR STAUNTON: --a non-party costs order. He gets an opportunity to respond. We get a right to reply if advised.

THE CHIEF REGISTRAR: Yes.

B

MR STAUNTON: And that----

MR MILLENDER: That must work both ways, sir.

THE CHIEF REGISTRAR: Yeah.

C

MR MILLENDER: It must work both ways, so therefore I would seek to make Mr Staunton personally liable for the costs in the application, along with all of the directors of the football club. The law must work both ways. So seeing as Mr Staunton----

THE CHIEF REGISTRAR: Right.

MR STAUNTON: It doesn't relate to the costs order.

D

MR MILLENDER: --is very clear and very keen to make these predatory attempts to make me personally liable for costs, when Mr Registrar Jones abuses his position by failing to act----

THE CHIEF REGISTRAR: Yeah.

MR MILLENDER: --in accordance with the law in removing the proof of debt, which is wholly fraudulent----

E

MR STAUNTON: If Mr Millender wishes to make an order (inaudible - over speaking)----

MR MILLENDER: I will make Mr Staunton personally liable.

THE CHIEF REGISTRAR: Yes, that's a good point.

MR STAUNTON: (inaudible - over speaking) have been in the fight of it.

F

MR MILLENDER: Fine.

THE CHIEF REGISTRAR: Right. Well very well, Mr Staunton, I'll make it as directions but it must be heard by the - at the same time.

MR STAUNTON: At the same time, indeed.

THE CHIEF REGISTRAR: And if Mr Millender succeeds, he succeeds.

G

MR STAUNTON: Indeed.

THE CHIEF REGISTRAR: And if he fails, he fails so----

MR STAUNTON: Indeed. I'm quite happy to draft the order. Do you have an email address to which I should send it?

H

THE CHIEF REGISTRAR: Well if you go to the counter, you'll get my clerk.

MR STAUNTON: Yes, indeed. Now Judge Jones - I think it was only Judge Jones - invited me to draw this order, the one we're looking at----

A THE CHIEF REGISTRAR: Yes.

MR STAUNTON: --but without reference to Mr Millender.

THE CHIEF REGISTRAR: Right.

MR STAUNTON: Because I think he's concerned that Mr Millender will ask for so many additions to the draft order that it becomes unmanageable. Obviously----

B MR MILLENDER: Is that right?

MR STAUNTON: --it's for you to approve, or you are you content for me just to send the draft to you and you'll approve it?

THE CHIEF REGISTRAR: Well I'll have a note and I'll be able to - if you send it to my clerk.

C MR STAUNTON: Yeah.

THE CHIEF REGISTRAR: Then I'll have a note of the orders, which I shall make.

MR MILLENDER: Could I see a copy of the, the draft order?

THE CHIEF REGISTRAR: And, and a copy should be sent to Mr Millender.

MR STAUNTON: Do you want me to send a copy to Mr----?

D THE CHIEF REGISTRAR: Yes please, yeah. So Order 1, I'm going to list it down now.

(1) Application to rescind Winding Up Order made on 28th March 2018 shall be adjourned and heard at the same time----

MR STAUNTON: And I'll fill in the blanks with the wording.

E THE CHIEF REGISTRAR: --as the matter listed----

MR STAUNTON: So the application in, number, of 1st March 2018----

THE CHIEF REGISTRAR: Either - yes.

MR STAUNTON: --listed to be heard in the window of, the three day window from 6th June.

F THE CHIEF REGISTRAR: Thank you very much. Jean, that's, that's the first order. The second order then is that directions for a non-party costs order, giving Mr Millender an opportunity to object----

MR STAUNTON: You need to make an order joining Mr Millender to the application to rescind.

THE CHIEF REGISTRAR: Yes.

G MR MILLENDER: I'm not joined to it though, am I? I'm not - the applicant is Earth Energy Investment and that's the applicant making a rescission application. So how am I joined to it?

MR STAUNTON: So, so, Judge, it's tab numbered one of the ring binder, joining----

THE CHIEF REGISTRAR: Yes, and I'm just, I'm just - but, but he needs to have an opportunity to object by May, you say?

A

MR STAUNTON: Well we've got to go first.

THE CHIEF REGISTRAR: You've got to go first.

MR STAUNTON: So it would be in order in the terms of paragraph numbered three----

THE CHIEF REGISTRAR: Three, yeah.

MR STAUNTON: --of Mr Justice Jones', and I'll do it by Monday.

B

THE CHIEF REGISTRAR: Yes.

MR STAUNTON: So by 4.00 p.m. on the 16th.

THE CHIEF REGISTRAR: By 4.00 p.m. on the 16th, yes.

MR STAUNTON: The respondent shall and then (inaudible).

C

THE CHIEF REGISTRAR: Yeah, and then Mr Millender has an opportunity to respond.

MR STAUNTON: And we're happy to give him until 11th May.

THE CHIEF REGISTRAR: Well - because that makes sense because otherwise it's double work for him. So he can, if you do it on 11th May then Mr Millender can do the whole thing in one day.

D

MR MILLENDER: Thank you, sir.

MR STAUNTON: And then paragraph numbered five of Judge Jones' order, shall - if so advised by, and certainly able to reply.

THE CHIEF REGISTRAR: And then the - Mr Millender will be joined.

E

MR STAUNTON: Yeah.

THE CHIEF REGISTRAR: Thank you very much. Mr Millender, if you wish to make an application for appeal then you can lodge - you said you wanted to do (inaudible).

MR MILLENDER: Yeah, I, I don't want to appeal your case, sir. I'm going to appeal the, what Mr Registrar Jones has done.

F

THE CHIEF REGISTRAR: I see.

MR MILLENDER: That's fine. That's what I'm going to do, yeah, yeah.

THE CHIEF REGISTRAR: Very good. Thank you very much, everyone.

MR MILLENDER: Thank you.

G

MR STAUNTON: Thank you, sir.

THE CHIEF REGISTRAR: Good morning.

MR STAUNTON: Do you wish us to retrieve those files for----?

THE CHIEF REGISTRAR: Yes. I mean I - yes, they will come in useful at another time. I will hand those over. There are various - (Same handed).

H

MR MILLENDER: Okay, thank you.

MR STAUNTON: Goodbye.

THE CHIEF REGISTRAR: Good morning. Oh, this is your skeleton argument you handed up.

Do you want that back?

MR MILLENDER: Yeah, I'd better do. Thank you. (Same handed) Cheers

THE CHIEF REGISTRAR: Thank you.

(1.00 p.m.)

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