NEUTRAL CITATION NUMBER: [2026] CIGC (FSD) 4

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD 72 OF 2022 (DDJ)
CAUSE NO: FSD 74 OF 2022 (DDJ)

IN THE MATTER OF THE COMPANIES ACT (2022 REVISION)
AND IN THE MATTER OF NEW FRONTIER HEALTH CORPORATION

Before:	The Hon. Justice David Doyle
Appearances:	Lord Pannick KC instructed by Nigel Smith and Kalyani Dixit of Carey Olsen for the Carey Olsen Dissenters, and Katie Logan of Campbells for the Campbells Dissenters Paul Mitchell KC instructed by Jessica Williams and Aline Mooney of Harney, Westwood & Riegels (Cayman) LLP for New Frontier Health Corporation
Heard:	23 January 2026
***Ex tempore* Judgment delivered:**	23 January 2026
Draft transcript of Judgment circulated:	23 January 2026
Transcript of Judgment approved:	27 January 2026

Determination of an application for recusal

JUDGMENT

Introduction

1. This morning I had the privilege of hearing legal submissions from Lord Pannick KC who appeared for various dissenters on the instructions of Campbells and Carey Olsen (the "Dissenters") and Paul Mitchell KC who appeared on the instructions of Harney, Westwood & Riegels (Cayman) LLP for New Frontier Health Corporation (the "Company") and I reserved my judgment for a few hours. I now deliver my judgment.

The Recusal Summons

2. By a summons dated 12 December 2025 the Dissenters seek an order that I recuse myself "from adjudicating over these proceedings, and shall not have any further involvement in any part of these proceedings" (the "Recusal Summons").

3. The grounds of the Recusal Summons were not stated in the summons itself but were provided in an accompanying skeleton argument dated 12 December 2025 which was in admirably concise and restrained terms and filed on behalf of the Dissenters. I note also the first affidavit of Alexander Azim Shoghi sworn on 10 December 2025.

4. It is stated that Mr Travis Taylor ("Mr Taylor") is the expert witness in the field of valuation for the Dissenters and Professor Kenneth Lehn ("Professor Lehn") is the expert witness in the field of valuation for the Company in the trial in this case due to commence on 2 February 2026. It is added that Mr Taylor and Professor Lehn were also the opposing expert witnesses in the 51job proceedings. Mr Taylor was for the dissenters in that case and Professor Lehn for the company.

5. At paragraph 16 of the Dissenters' skeleton argument the following appears:

"16 In the 51job Decision, Justice Doyle made a number of highly critical comments about Mr Taylor's expert evidence, rejecting his DCF (discounted cash flow) method of analysis. The main criticisms are at paragraphs 750-751, 848-849, 915, 921-922, 939-939 (sic) of the 51job Judgment. Justice Doyle emphasised his conclusions are "*on the facts and in the particular circumstances of this [51job] case*". But the paragraphs contain a fundamental and comprehensive rejection of the methods of, and analysis by, Mr Taylor.

For example:

(a) At paragraph 750:

> "*I have concluded that no weight whatsoever can be placed on Mr Taylor's DCF analysis. It is fundamentally flawed and totally unreliable*."

(b) At paragraph 751:

> "*on a sliding scale of 0-10 I place Mr Taylor's DCF analysis at a 0 and try as I might I cannot confidently budge it any further up the scale.*"

(c) At paragraph 849:

> "*The conclusions made by Mr Taylor in respect of his event study were demolished in a methodical and effective cross-examination.*"

(d) At paragraph 915:

> "*Mr Taylor's DCF approach in this case has been totally discredited in cross-examination … It is not a reliable indicator of fair value. I place no reliance upon it.*"

(e) At paragraph 937:

> "*The foundations of the Dissenters' ambitious and 'heroic' DCF approach, to put it mildly, were totally undermined during a penetrating, wide ranging and well-focused cross-examination of Mr Taylor who on occasions was too ready to defend the indefensible.*"

(f) At paragraph 939:

> "*The $111.06 figure Mr Taylor has come up with is from another planet in another galaxy totally removed from the real world the Company occupied and would occupy at the relevant times. It does not exist in reality. It only exists in the Dissenters' speculative, distorted, and unreliable DCF spreadsheet.*""

6. I have taken care to read those paragraphs in full and to consider them in the context of the 51job Judgment, delivered on 24 November 2025, as a whole, just as a fair-minded and informed observer would.

7. The Dissenters add at paragraph 17 of their skeleton argument that Mr Taylor's "*DCF valuation method and analysis will again fall to be assessed by Justice Doyle in the NFH Proceedings*" i.e. these proceedings.

8. The Dissenters in their evidence refer to Justice Doyle's highly critical comments about Mr Taylor's expert evidence and his heavy and very strong criticisms in respect of Mr Taylor's valuation method and analysis in the 51job proceedings. They add that the same methodology and analysis (albeit applied to different facts) will again fall to be determined by Justice Doyle in these proceedings. The Dissenters add that they consider that a fair minded and informed observer would think that there is a real possibility that (with the best will in the world) there would be pre-determination by Justice Doyle of the issues relating to Mr Taylor's expert evidence in these proceedings (paragraph 21 of the first affidavit of Alexander Azim Shoghi sworn on 10 December

2025 on behalf of all the Dissenters). The Dissenters respectfully request that to avoid that real possibility another judge should hear and determine these proceedings.

9. The Dissenters do not allege actual bias. They say that the question is not whether Justice Doyle could or will hear the proceedings fairly. They submit, however, that "*[the] fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that Justice Doyle will pre-determine issues in the case*" (paragraph 40 of their skeleton argument). They add that they made the recusal application without delay as soon as the grounds for it arose. The Dissenters in their skeleton argument say that:

(1) the issues in the 51job proceedings and these proceedings are very closely analogous, not just because they both concern the assessment of fair value, but because the Dissenters rely in this case as in the 51job proceedings on the evidence and methodology of Mr Taylor;

(2) the 51job Judgment and in particular Justice Doyle's assessment of the value of Mr Taylor's evidence and methodology was very recent;

(3) the terms in which Justice Doyle rejected Mr Taylor's evidence and methodology were exceptionally critical;

(4) the question is not whether Justice Doyle was entitled to be so highly critical of Mr Taylor's evidence. That will be considered by the Court of Appeal in the appeal against the 51job Judgment. The issue is whether, as the Dissenters submit, in the circumstances of this case, and in light of the highly critical observations by Justice Doyle about Mr Taylor's evidence and methodology, this is a case where a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that Justice Doyle would pre-determine the issues in the case.

10. I note all that Lord Pannick KC, who appeared for the Dissenters, has had to say on their behalf.

11. Lord Pannick KC emphasised, amongst others, the following points in his oral submissions:

(1) the legal test in respect of recusal is well established. As Lord Lloyd-Jones stated at [16] in *Stubbs v R* [2019] AC 868 relevant factors include (a) the nature of the previous and

current issues, (b) their proximity to each other and (c) the terms in which the previous determinations were pronounced;

(2) the Dissenters do not allege actual bias and the allegation of apparent bias is on the basis of unconscious predisposition. The authorities speak of "*unconscious effect of that situation*" (*Almazeedi v Penner* 2018 (1) CILR 143 at [1]) and the "possibility of unconscious bias" (*Lawal v Northern Spirit Ltd* [2003] ICR 856 at [14]) and whether the judge was "subconsciously biased" (*Lawal* at [21]); and

(3) the abuse of process allegations by the Company will not assist the court in determining the Recusal Summons, either the Court will find the recusal test satisfied in law or it will not.

12. The Company in its "Skeleton Submissions for the Company Recusal Application" dated 16 January 2026 make, amongst others, the following points:

(1) The Recusal Summons is not well founded. It is an abuse of process. It has been brought in bad faith.

(2) In truth the Dissenters simply do not want their case tried by Justice Doyle. Alternatively, the Dissenters appear to be trying to use the Recusal Summons for an ulterior purpose: namely to delay the trial in the present case until they have secured an appeal judgment in the 51job case. The Dissenters appear to be trying to goad the court into recusing itself. There is *prima facie* evidence of involvement by the Dissenters in "*an internationally co-ordinated whispering campaign against Justice Doyle.*" (paragraph 3 of the Skeleton Submissions for the Company). In his oral submissions before the Court this morning Mr Mitchell said that the "whispering campaign" point had now been "parked" by the Company.

(3) The Company is concerned that the Dissenters are pursuing an alternative, undisclosed, fall-back position that the trial of the petition in this case be adjourned. If Justice Doyle decided to recuse himself, it seems likely the trial would be adjourned to reflect alternative judicial availability. If Justice Doyle considered that he was obliged to sit it is conceivable that the Dissenters would seek permission to appeal and the final determination of such

application and any associated applications (such as for a stay) could take some weeks: the result would be further disruption to the preparation for and conduct of the trial, possibly to the point where it is just not possible to have a fair trial within the current schedule.

(4) The words in the 51job Judgment highlighted by the Dissenters have been taken out of context and the whole of the paragraphs in question should be considered.

(5) The rejection of Mr Taylor's evidence was tied to the facts and circumstances of the 51job case, based on Mr Taylor's unsatisfactory answers in cross-examination and by comparison with the cogent evidence of Professor Lehn, and was not in any sense an attack on Mr Taylor's character. It was expressed in language appropriate to the discharge of the judicial function.

(6) It is hardly rare for a judge to criticise an expert's evidence in case A and then accept it in case B (for an example see the judgments of Trower J in *Bank of St Petersburg OJSC v Arkhangalsky* [2022] EWHC 2499 (Ch) at [472] and *PrivatBank v Kolomisky* [2025] EWHC 1987 (Ch) at [1230]).

(7) The Company in this case will be challenging Mr Taylor's evidence and may refer in cross-examination to the findings made about his approach in the 51job Judgment but that does not mean Justice Doyle cannot sit.

13. I note all that Paul Mitchell KC, who appeared for the Company, has had to say on its behalf.

14. Mr Mitchell KC emphasised, amongst others, the following points in his oral submissions:

(1) applications for recusal are intensely fact sensitive;

(2) the comments in the 51job Judgment in respect of Mr Taylor were appropriate and judicious. Mr Taylor's evidence was properly assessed. It is important to look at the criticisms against Mr Taylor in the context of the entire case. The criticisms were made in the particular circumstances of that case. The American judges use phrases such as "different galaxies" in respect of valuation evidence and the "garbage in; garbage out" (at [937] of the 51job Judgment) was a quote from Professor Lehn and were not comments indicative of a closed mind in respect of Mr Taylor's evidence in this case;

(3) the fair minded and informed observer would take into account the circumstances specified in paragraph 21 of the Company's Skeleton Submissions and also the fact that the Dissenters have no fears of not getting a fair judgment from Justice Doyle in this case;

(4) the Recusal Summons is an abuse of process because (a) it is close to hopeless when you read the 51job Judgment in its entirety, (b) the Dissenters' contrasting positions in progressing their Recusal Summons (where they make no criticism of Justice Doyle) and the appeal in the 51job case (where they make criticisms of Justice Doyle), and (c) the Dissenters are trying to choose their judge and the Recusal Summons is impermissible judge shopping; and

(5) this is an obvious case where the recusal application should be dismissed. There is no room for real doubt on an objectively justified basis.

The relevant law in respect of the Recusal Summons

15. I now turn to the relevant law in respect of the Recusal Summons.

16. The relevant recusal test is not in dispute. It was stated in *Porter v Magill* [2002] 2 AC 357, 494 at [103] and has been applied in this jurisdiction on many occasions. For examples see *Perry v Lopag Trust* (CICA 19 November 2021; Sir Jack Beatson JA at [152]), *Jian Ying Ourgame High Growth Investment Fund v Xiang and Six Others* 2022 (2) CILR 144 Doyle J at [15], *Arnage v Walkers* (FSD 16 June 2023; Doyle J at [17]) and *International Airfinance Corporation* (FSD 16 July 2025; Kawaley J at [6]).

17. The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.

18. In *Stubbs* at [15] Lord Lloyd-Jones, sitting in the Judicial Committee of the Privy Council and dealing with a criminal appeal, stated:

> "The appearance of bias as a result of pre-determination or pre-judgment is a recognised ground of recusal"

There then appear quotes from other judges as follows:

> "The appearance of bias includes a clear indication of a prematurely closed mind."
>
> "The concept of bias … extends further to any real possibility that a judge would approach a case with a closed mind or, indeed, with anything other than an objective view; a real possibility in other words that he might in some way have 'pre-judged' the case."

19. Lord Lloyd-Jones at [16] added:

> "A judicial ruling necessarily involves preferring the submissions of one party over another. However, it is obviously not the case that any prior involvement by a judge in the course of litigation will require him to recuse himself from a further judicial role in respect of the same dispute. In the great majority of such cases there will simply be no basis on which it could be suggested that the judge should recuse himself, notwithstanding earlier rulings in favour of one party or another, and there will often be great advantages to the parties and to the administration of justice in securing judicial continuity. The issue will only arise at all in circumstances where prior involvement is such as might suggest to a fair-minded and informed observer that the judge's mind is closed in some respect relevant to the decision which must now be made. It is not possible to provide a comprehensive list of factors which may be relevant to this issue which will necessarily depend on the particular circumstances of each case. (See generally, *Locobail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451, para 25, per Lord Bingham of Cornhill CJ; *Livesey v New South Wales Bar Association* (1983) 151 CLR 288, 299.) However, relevant factors are likely to include the nature of the previous and current issues, their proximity to each other and the terms in which the previous determinations were pronounced."

20. At [23] Lord Lloyd-Jones accepted a submission that the fact that a judge has previously made a decision adverse to the interests of a litigant is not, of itself, sufficient to establish the appearance of bias. That was on the basis that the fair-minded and informed observer does not assume that because a judge has taken an adverse view of a previous application or applications, he or she will have pre-judged, or will not deal fairly with, all future applications by the same litigant. Lord

Lloyd-Jones added: "*However, different considerations apply when the occasions for further ruling do not arise in the same proceedings, but in a separate appeal*."

21. It is no answer to a recusal application that the judge will arrive at a correct result on the merits of the case. As Lord Lloyd-Jones succinctly put it at [30]:

> "… we are here concerned not with the merits of the substantive case for the prosecution but with apparent bias. The appellants are entitled to a hearing before an independent and impartial tribunal and the possibility, even probability, that such a tribunal might come to the same conclusions, if that were the case, is irrelevant …".

22. At [34] Lord Lloyd-Jones emphasised:

> "The Board wholeheartedly agrees with the Court of Appeal that a judge should not recuse himself unless there is a sound reason for recusal, lest unmeritorious applications for recusal become the norm and result in damage to the administration of justice. In particular, it is necessary to stand firm against illegitimate attempts to influence which judge shall sit in a particular case."

23. Mason J made a similar point in the High Court of Australia in *Re JRL; Ex parte CJL* (1986) 66 ALR 239 at 246:

> "Although it is important that justice must be seen to be done, it is equally important that judicial officers discharge their duty to sit and do not, by acceding too readily to suggestions of appearance of bias, encourage parties to believe that by seeking the disqualification of a judge, they will have their case tried by someone thought to be more likely to decide the case in their favour."

24. In *Locobail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451 Lord Bingham CJ, Lord Woolf MR and Sir Richard Scott VC sitting in the Court of Appeal of England and Wales at [25] stated:

> "In most cases, we think, the answer, one way or the other, will be obvious. But if in any case there is a real doubt, that doubt should be resolved in favour of recusal …"

25. I note the interesting discussion by Professor Abimbola. A. Olowofoyeku in *Inappropriate recusals* LQR 2016, 132 (Apr), 318-337 on the need for such real doubts to be objectively justified.

26. The three judges in *Locobail* at [25] although stressing that every recusal application must be decided on the facts and circumstances of the individual case, stated that they could not conceive of circumstances in which "previous judicial decisions" could soundly found an objection. They added that a real danger of bias might well be thought to arise if:

> "… in a case where the credibility of any individual were an issue to be decided by the judge, he had in a previous case rejected the evidence of that person in such outspoken terms as to throw doubt on his ability to approach such person's evidence with an open mind on any later occasion …
>
> The mere fact that a judge, earlier in the same case or a previous case, had commented adversely on a party or witness, or found the evidence of a party or witness to be unreliable, would not without more found a sustainable objection." (quoted by Sir Jack Beatson JA at [163] of his judgment in *Perry v Lopag*).

27. In *AWG Group Ltd v Morrison* [2006] 1 WLR 1163 Mummery LJ at [29]:

> "Sixthly, while I fully understand the judge's concerns … about the prejudicial effect that his withdrawal from the trial would have on the parties and on the administration of justice, those concerns are totally irrelevant to the crucial question of the real possibility of bias and automatic disqualification of the judge. In terms of time, cost and listing it might well be more efficient and convenient to proceed with the trial, but efficiency and convenience are not the determinative legal values: the paramount concern of the legal system is to administer justice, which must be, and must be seen by the litigants and fair-minded members of the public, to be fair and impartial. Anything else is not worth having."

At [30] the English appeal judge added:

> "By far the safer course is to remove all possibility of apparent bias by the recusal of the judge before the trial even begins."

28. In similar vein in *Jian Ying* at [39] I stated:

> "… It is important to maintain the community's trust and confidence in the administration of justice that justice must not only be done it must also be seen to be done. Moreover consideration of inconvenience and costs do not count in a case where the principle of perception of judicial impartiality is properly invoked. This is because the right to a fair trial by an impartial and independent tribunal is a fundamental principle of justice both at common law and under the Constitution. The recusal test is a mandatory test. It is not a discretionary case management decision reached by weighing various facts in the balance …".

29. Lord Hope in *Helow v Secretary of State for the Home Department and another* [2008] 1 WLR 2416 at [2] stated:

> "The observer who is fair-minded is the sort of person who always reserves judgment on every point until she has seen and fully understood both sides of the argument. She is not unduly sensitive or suspicious, as Kirby J observed in *Johnson v Johnson* (2000) 201 CLR 488, 509, para 53. Her approach must not be confused with that of the person who has brought the complaint. The "real possibility" test ensures that there is this measure of detachment. The assumptions that the complainer makes are not to be attributed to the observer unless they can be justified objectively. But she is not complacent either. She knows that fairness requires that a judge must be, and must be seen to be, unbiased. She knows that judges, like anybody else, have their weaknesses. She will not shrink from the conclusion, if it can be justified objectively, that things that they have said or done or associations that they have formed may make it difficult for them to judge the case before them impartially."

30. Lord Mance in *Almazeedi v Penner* at [1] referred to the fact that there had been no suggestion of actual bias but as the Court of Appeal (2015 (2) CILR 156 at [61]) pointed out "if a judge of the utmost integrity lacks independence [or I would add impartiality] "then there is a danger of the unconscious effect of that situation which it is impossible to calibrate or evidence"."

31. Lord Steyn in *Lawal* at [14] stated:

> "Public perception of the possibility of unconscious bias is the key."

and at [19]:

> "… the threshold is only a real possibility of unconscious bias"

and at [21]:

> "… Concretely, would such an observer consider that it was reasonably possible that the wing member may be subconsciously biased".

32. The Dissenters also refer to *Livesey v The New South Wales Bar Association* (1983) 151 CLR 288 where the High Court of Australia (Mason, Murphy, Brennan, Deane and Dawson JJ) stated at pages 293-294:

> "… a judge should not sit to hear a case if in all the circumstances the parties or the public might entertain a reasonable apprehension that he might not bring an impartial and unprejudiced mind to the resolution of the question involved in it."

At page 300 that final appellate court for Australia added (in a paragraph cited by the Privy Council in *Stubbs* at [20]):

> "… a fair-minded observer might entertain a reasonable apprehension of bias by reason of prejudgment if a judge sits to hear a case at first instance after he has, in a previous case, expressed clear views either about a question of fact which constitutes a live and significant issue in the subsequent case or about the credit of a witness whose evidence is of significance on such a question of fact …".

33. I should add that at [34] of *Stubbs* Lord Lloyd-Jones stated:

> "The Board is also conscious that the limited size of the Court of Appeal in some jurisdictions, such as The Bahamas, can make it difficult to avoid accidental listings before judges who have had some prior involvement with parties or with earlier stages in the

proceedings. However, for the reasons stated above, the Board is of the clear view that the complaint made by the appellants is well founded. In its view, the decisions of Isaacs J made during the second trial would lead a fair-minded and informed observer to conclude that there was a real possibility that he had pre-judged issues which fell for consideration on the appeal to the Court of Appeal and that the appellants did not have the appearance of a fresh tribunal of three judges to consider their appeals. In reaching this conclusion, the Board has not been influenced by the decision of the High Court of Australia in *Livesey's* case 151 CLR 288 and expresses no view on whether that decision should be followed."

34. Staying with the Australian jurisprudence the Company refers to *Vakauta v Kelly* [1989] HCA 44, (1989) 167 CLR 568 another decision by the High Court of Australia. The case concerned a judge's statements in respect of medical expert witnesses who he felt were prone to make light of a plaintiff's disabilities and he expressed such feelings in "forceful and colourful terms" ([2] of Dawson J's judgment). Brennan, Deane and Gaudron JJ at [2] stated:

> "2. It is inevitable that a judge who sits regularly to hear claims for damages for personal injury will form views about the reliability and impartiality of some medical experts who are frequent witnesses in his or her court. In some cases and notwithstanding the professional detachment of an experienced judge, it will be all but impossible to put such preconceived views entirely to one side in weighing the evidence of a particular medical expert. That does not, however, mean that the judge is disqualified from hearing the particular action or any other action involving that medical expert as a witness. The requirement of the reality and the appearance of impartial justice in the administration of the law by the courts is one which must be observed in the real world of actual litigation. That requirement will not be infringed merely because a judge carries with him or her the knowledge that some medical witnesses, who are regularly called to give evidence on behalf of particular classes of plaintiffs (e.g. members of a particular trade union), are likely to be less sceptical of a plaintiff's claims and less optimistic in their prognosis of the extent of future recovery than are other medical witnesses who are regularly called to give evidence on behalf of particular classes of defendants (e.g. those whose liability is covered by a particular insurer). If it were so infringed, the administration of justice in personal injuries cases would be all but impossible. In that regard, both necessity and common sense require that a distinction be drawn between the case where a judge has some

> preconceived views about the expertise or reliability of the professional opinions of an expert medical witness and the case where a judge has preconceived views about the credit or trustworthiness of a non-expert witness "whose evidence is of significance on … a question of fact" which "constitutes a live and significant issue" in the case (see *Livesey v. New South Wales Bar Association* [1983] HCA 17; (1983) 151 CLR 288 at p 300).

35. The three Australian judges at [4] referred to the "ill-defined line beyond which the expression by a trial judge of preconceived views about the reliability of particular expert witnesses could threaten the appearance of impartial justice … Knowledge of his or her own integrity can sometimes lead a judge to fail to appreciate that particular comments made in the course of a trial may wrongly convey to one or other of the parties to the litigation or to a lay observer an impression of bias …". They concluded at [7] that "his Honour's comments in his judgment fall on the wrong side of that line … An experienced lawyer would appreciate the ability of a trial judge to ensure that preconceived views do not cause the actual decision to be tainted by prejudgment or bias. The likelihood that the lay observer would not lies at the heart of the requirement of the appearances as well as the reality of impartial justice."

36. Dawson J at [8] stated:

> "The question is, therefore, not whether the learned trial judge had preconceived views arising from his previous experience, but whether his preconceptions were of such a kind or were so expressed as to lead a reasonable person to apprehend that he was unable to approach the resolution of the case in a fair and even-handed manner without any inclination towards one side or the other."

37. In *Credit Suisse London Nominees Limited v Principal Investors Fund I Limited* (FSD unreported judgment, 21 November 2022) at [85] to [89] I referred to the "precautionary principle" and some of the relevant authorities. I also noted the Cayman Judicial Code and the closing words at paragraph [19]:

> "If the issue of apparent bias is raised before the judge has embarked on the hearing it may be sensible for the judge to decline to sit to avoid adding to the other contentious issues in the case."

At [89] I added:

> "Judges faced with recusal issues must, where relevant, have regard to the precautionary principle but they must also have regard to the duty to sit (absent good grounds for recusal) and they must guard against the abuse of judge shopping."

Determination of the Recusal Summons

38. I now come to my determination of the Recusal Summons.

39. I have considered all the circumstances that could properly be taken into consideration by the fair-minded and informed observer. Although the comments made in the 51job Judgment were justified it should be noted that an appeal is pending. Moreover, as the authorities make plain, it matters not that the comments were justified or that I would reach the correct decision in these proceedings after trial. In cases of apparent bias it is, in the interests of justice, the reasonable perception of the fair-minded and informed observer that prevails.

40. I have not been persuaded by the Company that the Recusal Summons was an abuse of process. The Company in its Skeleton Submissions refers to the appeal material in 51job and submits that the Recusal Summons is an abuse of process. There is nothing in the appeal material or the articles or the UK parliamentary questions brought to the attention of the Court by the Company that persuades me that the Recusal Summons is an abuse of process. I do not find that the Recusal Summons was brought in bad faith. I do not accept that "*the Dissenters appear to be trying here to goad the court into recusing itself*." (paragraph 2c. of the Company's Skeleton Submissions). The Recusal Summons, the skeleton argument, the evidence and oral submissions in support of it were made in good faith and in a restrained, measured and respectful way. Furthermore, the Recusal Summons was made on a timely basis. It was made within a reasonable time following the delivery of the 51job Judgment. I do not criticise the Dissenters for the timing or the way in which they have advanced the Recusal Summons.

41. I take into account, as would the fair-minded observer, (a) the fact that the nature of the issues which arose in 51job in respect of Mr Taylor's evidence and his approach to the DCF methodology in that case will also be issues in this case in general terms albeit that the factual context will inevitably be different; (b) the fact that the 51job Judgment was delivered in late November 2025

and the trial in this case is due to commence early next month and (c) the terms in which I criticised Mr Taylor's evidence and his approach to the DCF methodology in 51job.

42. As to whether I should recuse or not, this is not a clear and obvious case, despite what Mr Mitchell says so eloquently on behalf of the Company. During the hearing today having had the benefit of submissions from two experienced and persuasive counsel, I reveal, in the interests of open justice and transparency, that I was from time to time in two minds as to whether some of the comments made in the 51job Judgment crossed the recusal line or not and was in some real doubt as to whether I should recuse or not.

43. Having reflected on the position with the benefit of consideration of the relevant recusal law and the helpful submissions put before the court by counsel and taking into account the wise comments in *Locobail* (in particular those at [25]) and the other relevant authorities I have resolved that real doubt in favour of recusal.

44. I have concluded that the recusal line has been crossed and I am duty bound, in accordance with my judicial oath, to recuse. I have been driven to the conclusion that the fair-minded and informed observer, having considered the adverse comments I made against Mr Taylor in the 51job Judgment (in particular those at [939]), would apprehend that I could have an unconscious inclination against Mr Taylor's approach to the DCF methodology and that there was a real possibility of unconscious bias. The observer would conclude that there was a real possibility that unconsciously I had a prematurely closed mind and would approach Mr Taylor's evidence with something other than an objective view and open mind and a real possibility that I might in some way unconsciously prejudge issues against the evidence of Mr Taylor, in these proceedings. The observer would conclude that what I said in the 51job Judgment in respect of Mr Taylor would make it difficult for me to be seen to deal with the Dissenters and Mr Taylor in this case impartially. As Lord Steyn said in *Lawal* the perception of the possibility of unconscious bias is the key and, in the particular circumstances of this case, it unlocks the Recusal Summons in favour of recusal.

45. I grant the Recusal Summons and am minded to make no order as to costs in respect of it.

46. I am acutely conscious that it is highly likely that my decision to recuse will result in the vacation of the trial next month as new dates will have to be set convenient to the new judge assigned to

preside over this case but as Mummery LJ stated in *AWG Group Ltd v Morrison* [2006] 1 WLR 1163 at [29]:

> "… efficiency and convenience are not determinative legal values: the paramount concern of the legal system is to administer justice, which must be, and must be seen by the litigants and fair-minded members of the public, to be fair and impartial. Anything else is not worth having."

47. I am grateful to counsel and their respective legal teams for their assistance to the court.

48. The attorneys should email to my PA before 12 noon on Tuesday 27 January 2026 draft orders reflecting the determinations in this judgment (agreed as to form and content).

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THE HON. JUSTICE DAVID DOYLE

JUDGE OF THE GRAND COURT