



Neutral Citation Number: [2026] CIGC (Civ) 5

Cause No: G2023-0203

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

BETWEEN:

**(1) RAULITO GONZALEZ
(2) TASHIANA FFRENCH-GONZALEZ**

Plaintiffs

-and-

**(1) THE PORT AUTHORITY OF THE CAYMAN ISLANDS
(2) THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS**

Defendants

Appearances:

Mr Clayton Phuran of CP Attorneys for the Plaintiffs

Mr David Collier of Ritch & Conolly for the First Defendant

Mr Michael Smith of the Attorney General’s Chambers for the Second Defendant

Before:

The Honourable Justice Jalil Asif KC

Heard:

20 November 2024 and 21 March 2025

Judgment:

27 January 2026

Claim for maliciously obtaining search warrant—delay in filing summons for directions—claim potentially statute barred—deficiencies in pleaded case—whether claim should be struck out

JUDGMENT

A. Introduction

1. This is my judgment on certain issues raised by the Attorney General on the hearing of the Plaintiffs' summons for directions in this matter. The First Defendant, which I shall refer to as the Port Authority, supports the Attorney General's position. The Attorney General is the statutory defendant for civil claims regarding the Anti-Corruption Commission, which I shall refer to as the Commission. I regret that this judgment has been significantly delayed due to other matters occupying the Court's time. I am very grateful to the parties for their patience in waiting for this judgment.
2. Mr and Mrs Gonzalez include two separate claims in their Statement of Claim. In brief summary, their first claim is for the alleged malicious, dishonest or reckless obtaining of a search warrant from a Grand Court Judge on or about 30 January 2019 and its execution at their home on 13 February 2019, leading to the arrest of Mr and Mrs Gonzalez, on what was Mrs French-Gonzalez's birthday, on suspicion of fraud, breach of trust by a public officer and conflict of interest under the Anti-Corruption Act. Mr and Mrs Gonzalez allege that the Port Authority obtained the search warrant "by, through or with" the Commission. They complain that the Port Authority and the Commission acted without reasonable and probable cause in seeking and executing the search warrant, and did so maliciously, dishonestly or recklessly. Mr and Mrs Gonzalez do not appear to complain about their arrest. It is common ground that Mr and Mrs Gonzalez were not charged with any offence following their arrest.
3. The second limb of Mr and Mrs Gonzalez's pleaded claim is that Mr Gonzalez was wrongfully or constructively dismissed by the Port Authority as the result of the Port Authority's conduct in a number of pleaded respects regarding Mr Gonzalez's employment. Mr and Mrs Gonzalez seek general damages, damage to reputation and compensatory damages in a sum exceeding CI \$470,000

together with aggravated damages. I do not need to go into the underlying facts in further detail for the purpose of this judgment.

B. Procedural history

4. Mr and Mrs Gonzalez filed their writ and Statement of Claim on 23 October 2023, just over 4½ years after the events about which they complain. They served the writ and Statement of Claim on the Port Authority and on the Attorney General on 4 December 2023 and 10 November 2023 respectively. The Port Authority and the Attorney General filed acknowledgements of service on 13 December and 14 November 2023 respectively. The Attorney General served a Request for Further & Better Particulars on 23 November 2023. On 7 December 2023, the Attorney General served a Defence. The Defence raises two preliminary matters, as well as substantive defences on the merits:
 - 4.1 what is the correct form of Mr and Mrs Gonzalez’s action: is it intended to be a civil claim, a judicial review or a claim under the Bill of Rights and, depending on the answer, should the Commission be removed as “interested party”? and
 - 4.2 does section 27 of the Port Authority Act (1999 revision) have the result that Mr and Mrs Gonzalez’s claims against the Port Authority are statute barred?
5. The Port Authority served its Defence on 11 January 2024, following an agreed extension of time to do so. The Port Authority adopted the preliminary matters raised by the Attorney General in his Defence in addition to its own substantive defences.
6. Pleadings are deemed to have closed on 26 January 2024: see GCR O.18, r.20. As a result, the Rules required Mr and Mrs Gonzalez to file their summons for directions by 26 February 2024: see GCR O.25, r.1.
7. Mr and Mrs Gonzalez did not take steps to advance the proceedings until 5 July 2024, when they served their responses to the Commission’s Request for Further & Better Particulars and circulated a draft order for directions for comments by the Defendants. On 11 July 2024, the Attorney General objected that Mr and Mrs Gonzalez’s draft directions did not address the two preliminary points

raised in his Defence, which the Attorney General wished the Court to consider on the summons for directions. The Attorney General also raised the question of Mr and Mrs Gonzalez's delay in filing their summons for directions. The Port Authority followed on the next day, agreeing with the Attorney General's position and adding that it required the Plaintiffs to serve a Notice of Intention to Proceed.

8. Mr and Mrs Gonzalez served a Notice of Intention to Proceed on 22 July 2024. On 23 August 2024, the day after the Notice expired, Mr and Mrs Gonzalez circulated a draft summons for directions which did not include the three matters that the Attorney General had indicated he wished to raise. Mr and Mrs Gonzalez filed their summons for directions on 28 August 2024. On 5 September 2024, the Attorney General filed a Notice under GCR O.25, r.7(1) indicating that he wished to raise the preliminary points that I have identified.

C. The issues raised by the Defendants on the summons for directions

9. The summons for directions first came before me on 20 November 2024, at which time Mr and Mrs Gonzalez were represented by Mr Clayton Phuran of CP Attorneys, the Port Authority was represented by Mr David Collier of Ritch & Conolly and the Attorney General was represented by Mr Michael Smith of the Attorney General's Chambers.
10. I had sympathy with Mr Smith's complaint that Mr and Mrs Gonzalez's Statement of Claim fails properly to plead the matters of fact that they rely upon to support the inference that the Port Authority and the Commission acted without reasonable and probable cause and acted maliciously, dishonestly or recklessly, as pleaded. I also agreed with Mr Smith that Mr and Mrs Gonzalez's Further & Better Particulars do not assist because Mr and Mrs Gonzalez refused to provide the particulars requested on the basis that the Statement of Claim is adequately pleaded. I therefore adjourned the summons for directions and ordered that Mr and Mrs Gonzalez should prepare a draft Amended Statement of Claim properly pleading the facts that they rely upon in order to found the inference of malice, dishonesty and/or recklessness that they say should be drawn. I directed that they should circulate the draft well in advance of the hearing of the adjourned summons for direction so as to

give the Defendants the opportunity to consider whether they would consent to the proposed amendments.

11. The adjourned summons for directions came back before me for further hearing on 21 March 2025, when the parties were again represented by Mr Phuran, Mr Collier and Mr Smith. Mr and Mrs Gonzalez had prepared a draft Amended Statement of Claim, which I was told they had only circulated to the Defendants on 10 March 2025. Mr Collier indicated that the Port Authority does not object to the proposed amendments but complained that the proposed amendments still do not make clear the factual case that the Port Authority must meet. Mr Smith did not consent to the proposed amendments and continued to focus on the three matters that the Attorney General wishes to raise as preliminary points. In addition, he argued that the Plaintiffs' claims should be struck out as an abuse of process.
12. I will therefore now address the points raised by Mr Smith on the Attorney General's behalf. In doing so, I bear in mind that the ultimate relief sought in respect of each of Mr Smith's applications is that Mr and Mrs Gonzalez's claim should be struck out.

D. Is Mr and Mrs Gonzalez's claim susceptible to being struck out at all?

13. As I have indicated, Mr Smith seeks an order from the Court striking out Mr and Mrs Gonzalez's claim on various different bases. It is often said that there is significant procedural overlap between applications to strike out and applications for reverse summary judgment. Indeed, in many cases, a defendant includes both in its summons. I consider that the substance of Mr Smith's applications is equivalent to applications for reverse summary judgment against Mr and Mrs Gonzalez.
14. The difficulty that this presents procedurally is that GCR O.14 r.1(2) excludes the ability to seek summary judgment where the action includes a claim for libel, slander or malicious prosecution, amongst other situations. This also applies to defendants' applications by virtue of GCR O.14, r.12(2). In my judgment, the reference to malicious prosecution must encompass a claim for maliciously obtaining and executing a search warrant: it is clear from the majority opinion of the Privy Council

in *Gibbs v Rea* [1998] AC 786, which I consider later in this judgment, that both causes of action are within the overall family of tortious claims that the Privy Council indicated can be labelled as intentional abuse of the processes of the court. Thus, there is a real question in my mind whether the Attorney General can pursue the application to strike out Mr and Mrs Gonzalez's claim consistently with GCR O.14, r.12(2) and r.1(2). However, as this is not a point that was raised during the course of the hearing, I will assume in the Defendants' favour that there is no procedural bar to their attempt to strike out Mr and Mrs Gonzalez's claim.

15. Comprehensive guidance on the test to be applied on an application for summary judgment is set out in the judgment of Lewison J (as he then was) in the English case of *EasyAir Ltd v Opal Telecom Ltd* [2009] EWHC 339 (Ch) at paragraph 15, which is routinely applied in the Grand Court. In brief and suitably recast for an application by a defendant for reverse summary judgment, a defendant must show that the plaintiff has no real prospect of success on his or her claim. In response, the plaintiff must satisfy the court that its claim does have a realistic prospect of success, which means that the claim must be more than merely arguable, or that there is some other reason why there should be a trial. Substantially the same test is applied on a strike out application.
16. The court must be careful not to be drawn into a mini-trial of disputed issues. The court will refuse summary judgment if it concludes that there are matters of fact or law that should be determined at a trial or there is some other reason why there should be a trial. The court can take into account evidence that can reasonably be expected to be available at trial, even if not before the court on the application. It does not follow from the appearance of simplicity that a case should be decided summarily without the fuller investigation into the facts inherent in a trial. The court should hesitate about making a final decision without a trial, even where there is no obvious conflict of fact at the time of the application, if there are reasonable grounds for believing that a fuller investigation into the facts of the case would add to or alter the interpretation of the evidence available to the judge and might affect the outcome of the case as a result. However, it is not enough simply to argue that the case should be allowed to go to trial because something might turn up that could have a bearing on the question before the court.

17. If the court is satisfied that it has all the evidence necessary for the proper determination of the question and that the parties have had an adequate opportunity to argue their positions, the court should grasp the nettle and decide the point: if the respondent's case is bad in law, they will in truth have no real prospect of succeeding on their claim or successfully defending the claim against them, as the case may be. Similarly, if the applicant's case is bad in law, the sooner that is determined the better, in order to avoid wasting everyone's time and costs.

E. Consequences of the summons for directions being filed out of time

18. Mr Smith complains that Mr and Mrs Gonzalez's summons for directions was filed late, and outside the one-month period allowed by the Rules. Mr Phuran does not put forward any explanation or excuse for this delay. I accept the validity of Mr Smith's complaint.
19. Mr Smith's argument is, in essence, that Mr and Mrs Gonzalez's claim should be dismissed for want of prosecution. Many of the cases concerning strike out for want of prosecution are founded on a failure by a plaintiff to issue a summons for directions in time.
20. In order to succeed in having Mr and Mrs Gonzalez's claim dismissed on this basis, Mr Smith has to show that the relevant limitation period has elapsed; that there has been inordinate and inexcusable delay by Mr and Mrs Gonzalez after the expiry of the limitation period; and that that culpable delay has caused prejudice to the Defendants or as between them, or that it is no longer possible to have a fair trial. This is because, unless the limitation period has expired, Mr and Mrs Gonzalez could simply start a new action; and unless there is inordinate and inexcusable delay causative of prejudice or an inability to have a fair trial, it will not be just to deprive Mr and Mrs Gonzalez of their claim.
21. Subject to section 27 of the Port Authority Act, which I consider later in this judgment, the limitation period for Mr and Mrs Gonzalez's claim is likely to be 6 years, and thus only expired at the end of January or during February 2025. Thus, there is no relevant delay by Mr and Mrs Gonzalez after the expiry of the limitation period on which to base an application to strike out for want of prosecution.

In addition, there is no evidence put before me of any prejudice to or between the Defendants, and which is said to flow from any culpable delay.

22. I am therefore not satisfied that Mr Smith has demonstrated any of the matters that he must establish to have Mr and Mrs Gonzalez's claim struck out for want of prosecution. In the circumstances, the just outcome is that I should extend time for Mr and Mrs Gonzalez's summons for directions.

F. The correct form of Mr and Mrs Gonzalez's action

23. At the hearing on 20 November 2024, Mr Phuran confirmed that, notwithstanding the way in which the proceedings have been titled, Mr and Mrs Gonzalez's claim is intended to be a normal civil claim for breaches of duty causing damage, and not a claim for judicial review or a petition under the Bill of Rights. In response, I indicated that the defendants should be identified as "Defendants" and not "Respondents" and that the Commission should be removed as an "interested party". In those circumstances, Mr Smith's complaints about the correct nature of the proceedings and the possible procedural issues if the claim were intended to be an application for judicial review or a petition under the Bill of Rights all fall away.

G. Limitation under section 27 of the Port Authority Act (1999 revision)

24. Section 27 of the Port Authority Act (1999 Revision) provides:

“Limitation

27. Claims against the Authority for damages shall be ineffective unless made within three months of the arising of the claim or of the damage coming to the notice of the person interested therein or having a duty to inform such person thereof.”

25. Mr Smith is right that section 27 of the Port Authority Act appears to apply a broad limitation period of three months for any claims for damages against the Port Authority. However, section 27 must be read in the context of the Port Authority Act as a whole. The Act creates the Port Authority, provides its management structure, sets out the principles for its financial operation, vests the land comprising port areas in the Port Authority, identifies its functions, authorises the employment of

port officers and labourers and deals with the management and charges for freight passing through ports. The Act does not address obligations that the Port Authority might have to third parties and, apart from giving the Port Authority power to hire and to pay employees, the Act says nothing about the terms of employment and the rights and liabilities of the Port Authority and its employees between themselves.

26. I did not get assistance from Mr Phuran on this point and neither did Mr Smith identify any potential counterarguments to the position for which he advocated. As a result, I am not satisfied that I have heard full argument on it. Mr Smith may well turn out to be correct that section 27 should be construed as applying to all aspects of the Port Authority's operations. However, having regard to the terms of section 27 of the Port Authority Act in its statutory context, I cannot rule out the argument that section 27 is intended to apply to matters addressed within the Act rather than matters that are not and so, for example, it applies to claims in respect of freight passing through a port and the other responsibilities allocated to the Port Authority under the Act, rather than covering, for example, claims of the kind that Mr and Mrs Gonzalez wish to bring, which are not otherwise addressed anywhere within the Port Authority Act.
27. I consider that this is something that should be considered and determined with the benefit of detailed argument at a full trial, rather than on a summary basis in circumstances where I am not satisfied that all aspects of the argument have been fully and properly presented to me.

H. Abuse of process

28. Mr Smith argued orally at some length that Mr and Mrs Gonzalez's claims that the Defendants did not have reasonable and probable cause and that they acted maliciously, dishonestly or recklessly in obtaining and executing the search warrant is very weak, that they have no reasonable prospect of success on that claim, that it is bound to fail and it should therefore be characterised as an abuse of process. He seeks to have this part of Mr and Mrs Gonzalez's action struck out as an abuse of process under GCR O.18, r.19. As I have indicated earlier in this judgment, this is equivalent to Mr

Smith seeking reverse summary judgment against Mr and Mrs Gonzalez, and the applicable test is essentially the same.

29. The fact that the Attorney General has not filed a summons or notice under GCR O.25, r.7 identifying that he was seeking relief under GCR O.18, r.19 and specifying the grounds for the application is unfortunate and made it more difficult than necessary for Mr Phuran to respond to the application. I take that into account in my consideration of the merits of the Attorney General's application and the counterarguments to it.

30. Mr Smith draws my attention to two authorities highlighting the difficulty for a plaintiff in proving the absence of reasonable and probable cause to put the wheels of justice in motion. The first is Williamson v Att-Gen of Trinidad and Tobago [2014] UKPC 29. That case concerned a claim for malicious prosecution. Lord Kerr said at paragraphs 11-13:

"11. In order to make out a claim for malicious prosecution, it must be shown, among other things, that the prosecutor lacked reasonable and probable cause for the prosecution and that he was actuated by malice. These particular elements constitute [a] significant challenge by way of proof. It has to be shown that there was no reasonable or probable cause for the launch of the proceedings. This requires the proof of a negative proposition, normally among the most difficult of evidential requirements. Secondly, malice must be established. A good working definition of what is required for proof of malice in the criminal context is to be found in A v NSW [2007] HCA 10; 230 CLR 500, at para 91:

'What is clear is that, to constitute malice, the dominant purpose of the prosecutor must be a purpose other than the proper invocation of the criminal law - an 'illegitimate or oblique motive'. That improper purpose must be the sole or dominant purpose actuating the prosecutor'

12. An improper and wrongful motive lies at the heart of the tort, therefore. It must be the driving force behind the prosecution. In other words, it has to be shown that the prosecutor's motives is for a purpose other than bringing a person to justice [...]. The wrongful motive involves an intention to manipulate or abuse the legal system [...]. Proving malice is a 'high hurdle' for the claimant to pass [...].

13. Malice can be inferred from a lack of reasonable and probable cause [...]. But a finding of malice is always dependent on the facts of the individual case. It is for the tribunal of fact to make the finding according to its assessment of the evidence."

31. Mr Smith notes that the burden is on Mr and Mrs Gonzalez to prove an absence of reasonable care on the Defendants' part and that Mr and Mrs Gonzalez have not pleaded what the Commission's motive might be in pursuing the grant and execution of a search warrant to support their allegation that it acted maliciously, dishonestly or recklessly. He points out that section 31 of the Anti-

Corruption Act requires that the investigating officer obtain the assistance of the DPP to obtain a search warrant from a Grand Court Judge. He argues that Mr and Mrs Gonzalez's case therefore requires that they establish that the Commission's investigating officer connived with the DPP to persuade the Judge to grant the search warrant. He says that this is so unlikely that there is not even a faint hope that the claim might succeed. He also argues that Mr and Mrs Gonzalez will have to show that the extensive evidence obtained by the investigating officer did not show reasonable and probable cause for applying for and executing the search warrant. Mr Smith says that this is an impossible hurdle for Mr and Mrs Gonzalez to surmount, with the result that their claim must be viewed as an abuse of process.

32. At the adjourned hearing of the summons for directions, Mr Smith renewed his argument and referred me to three passages in the Privy Council's opinion in *Gibbs v Rea* [1998] AC 786 in support of his position. This was an appeal from the Court of Appeal of the Cayman Islands and is therefore directly applicable in the Islands. The first passage relied on by Mr Smith was also cited to me by Mr Phuran and I set it out below. The other passages relied on by Mr Smith come from the joint dissenting opinion of Lord Goff and Lord Hope. I therefore do find them of assistance.
33. So far as the Port Authority is concerned, Mr Collier says that he does not understand how the claim for malice is made against the Port Authority. Other than that, he does not add to the arguments made by Mr Smith.
34. Mr Phuran responds by relying on *Gibbs v Rea* and, in particular, a passage at page 797B-798B, where Gault J, giving the opinion of the majority of the Board said:

"[...] their Lordships agree with the conclusions reached by the courts below and accepted by counsel. That it is an actionable wrong to procure the issue of a search warrant without reasonable cause and with malice has long been recognised though seldom successfully prosecuted: Elsee v. Smith (1822) 2 Chit. 304, Hope v. Evered (1886) 17 Q.B.D. 338, 340, Everett v. Ribbands [1952] 2 Q.B. 198, 205, Reynolds v. Commissioner of Police of the Metropolis [1985] Q.B. 881, 886. Generally any damage will arise from execution rather than issue of a warrant but there may be special circumstances in which it can be shown that the issue of the warrant will itself cause harm. It is the essential element of malice that distinguishes the cause of action from that of trespass where entry is made without authority or on the authority of a warrant invalid on its face. It is akin to malicious prosecution which is a well established tort and to the less common tort of maliciously procuring an arrest: Roy v. Prior [1971] A.C. 470. The true foundation of each is intentional abuse of the processes of the court. Malice in this

context has the special meaning common to other torts and covers not only spite and ill-will but also improper motive. In the present context the requirement of improper motive would be satisfied by proof of intent to use the process of the court for granting a warrant for a purpose other than to search in the permitted circumstances.

There was little real difference between counsel as to the elements of the tort of maliciously procuring a search warrant though their respective formulations emphasised different aspects. In essence the plaintiff must show the following. 1. That the defendant made or caused to be made a successful application for the search warrant. 2. That the defendant did not have reasonable and probable cause to make the application. What amounts to reasonable cause depends upon the statutory conditions for grant of the warrant. The statement of Hawkins J. in Hicks v. Faulkner (1878) 8 Q.B.D. 167, 171, approved in the House of Lords in Herniman v. Smith [1938] A.C. 305, 316, made with reference to malicious prosecution can be adapted for present purposes (although not necessarily for all purposes: Gliniski v. Melver [1962] A.C. 726, 758, per Lord Denning). It must be shown that the defendant lacked any bona fide belief that he or she was placing before the issuing judge material sufficient to meet the conditions for issue of the warrant sought. In this case the relevant conditions are, inter alia, reasonable suspicion that the specified person has carried on or has benefited from drug trafficking and that material valuable to the investigation might be on the designated premises. That encompasses the subjective belief in good faith that material grounds for suspicion exist and the objective requirement that the belief is reasonably held. 3. That the defendant acted with malice. and 4. That the damage resulted from the issue or execution of the warrant.

The second and third elements are those on which assessment of the evidence is required. The plaintiff had the burden of proving not only that the detective inspector lacked an honest belief that he had material satisfying the conditions for issue of the warrants but also that he was actuated by malice. The first required proof of the negative absence of the necessary state of mind. The second required proof of more than absence of 'reasonable cause' although that could be evidence of malice [...]"

35. Mr Phuran says that this clearly establishes that there is a cause of action for procuring the issue and execution of a search warrant without reasonable cause and with malice, contrary to the faint suggestion on behalf the Defendants that there is not.
36. Secondly, Gibbs clarifies the meaning of "malice" for the purpose of a claim of this kind, namely that it does not necessarily require animus or hostility to the plaintiff: instead malice has the special meaning in this context of including improper motive, and can be satisfied in a search warrant case by showing an intention to obtain a warrant for a purpose other than to carry out the search in the circumstances permitted by the statute.
37. Mr Phuran's overall point in response to Mr Smith is that the issues raised by Mr and Mrs Gonzalez's claim are extremely fact dependent and it is therefore inappropriate to try to resolve them on a summary basis, and that do so would require the court to engage in an impermissible mini-trial.

38. I agree with Mr Smith that Mr and Mrs Gonzalez's claim is poorly pleaded and does not currently make clear what are the facts that they rely upon to support the inference that the obtaining and execution of the search warrant was done maliciously, dishonestly or recklessly. However, I cannot put out of account the possibility that Mr Phuran, or other counsel instructed to assist Mr Phuran on behalf of Mr and Mrs Gonzalez, will be able further to amend their Statement of Claim to make clear the facts that give rise to the inference of malice, dishonesty or recklessness.
39. I also agree with Mr Smith that Mr and Mrs Gonzalez are likely to find it very difficult to prove the absence of reasonable and probable cause and to persuade the court to draw the inference of malice, dishonesty or recklessness on the part of the Defendants. But that is not to say that there is no real prospect of them being able to do so on the basis of the factual evidence that may be adduced at trial.
40. In that regard, I note that there appear to be around 50 witness statements that were obtained in connection with the investigation into Mr and Mrs Gonzalez, and which have been exhibited by Mr Richard Robinson on behalf of Mr and Mrs Gonzalez. Many of these post-date the search warrant and are therefore likely to be of limited relevance. However, it appears that there is still likely to be a significant volume of factual material that will need to be considered at trial in order to resolve the issues, and which might justify drawing the inference of malice. It would be wholly inappropriate for me to try to resolve that issue now, which would require me to embark on an assessment of the strengths and weaknesses of the factual evidence, which is a matter for trial not an interlocutory hearing.
41. Finally, in my judgment there is a public interest in having claims of this kind determined at trial, with a full examination of the evidence in public, rather than at an interlocutory stage in chambers. It is important that the operation of the machinery of justice is held up to the light in cases where it is alleged that it has been misused. If, following a full review of the evidence, the claim is dismissed, then that assists with maintaining public confidence in the operation of the system; conversely, if the claim is upheld, it is important that that is seen to be the outcome and that those who misuse the state's coercive powers are exposed in public, also in order to maintain public confidence. This

may well be part of the underlying reason for the prohibition in GCR O.14, r.1(2) and r.12(2) on seeking summary judgment in malicious prosecution cases.

I. Disposal

42. For the reasons that I have set out, I conclude that I should reject Mr Smith's applications to strike out Mr and Mrs Gonzalez's claim in respect of the alleged malicious, dishonest or reckless obtaining of the search warrant against them on or about 30 January 2019 and its execution at their home on 13 February 2019.
43. I continue to have real concerns about the adequacy of Mr and Mrs Gonzalez's Statement of Claim. However, it is inappropriate for me to say more about this until Mr and Mrs Gonzalez apply to amend their Statement of Claim. In the circumstances, I will leave it to the parties to pursue any continuing complaints about the adequacy of Mr and Mrs Gonzalez's proposed Amended Statement of Claim, which can be pursued before me, if necessary, on a further restored hearing of the summons for directions or on a separate summons for leave to amend or for further and better particulars.
44. I invite Mr Phuran, Mr Collier and Mr Smith to seek to agree and submit a draft order for directions for the conduct of this matter to a trial. If they are unable to reach agreement, then they should arrange for the summons for directions to be restored.
45. In addition, I will consider any applications in respect of costs. Counsel are requested to indicate within 14 days of handing down of this judgment: (a) whether they wish to be heard on costs and any consequential matters, providing their agreed available dates and time estimate for a hearing; or (b) whether they will submit written submissions on those points, to be filed within a further 14 days.

Dated 27 January 2026



**THE HONOURABLE JUSTICE JALIL ASIF KC
JUDGE OF THE GRAND COURT**