



Neutral Citation Number: 2025] EWHC 1104 (Ch)

Case No: HC-2016-001261

BL-2018-000648

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

BUSINESS LIST (Ch D)

Royal Courts of Justice, Rolls Building

Fetter Lane, London, EC4A 1NL

Date: 07/05/2025

Before:

MR SIMON GLEESON

Between:

MR BERNARD JACOB CARL

- and -

(1) MR JOHN HAWKINS

(2) SPECIALIST CARS OF MALDON LIMITED

(3) MR RICHARD EDWARDS

(4) MR ANDREW HOWARTH

(5) MRS LORNA EDWARDS

(6) MR GRAEME SCHOLES

(7) LEFT HAND DRIVE LIMITED

(8) MR CHRISTOPHER WILLIAMS

(9) MR VIKASH LIMBANI

(10) [NOT USED]

(11) [NOT USED]

(12) [NOT USED]

(13) MR SCOTT DAVIS

(14) MR SIMON GREENWOOD

(15) MANSA LIMITED

(16) PESCARA INTERNATIONAL LIMITED

Claimant

Defendants

The **Claimant** appeared in person.

Philip Williams (instructed by **Rippon Patel**) for the **9th Defendant**.

The **5th Defendant** appeared in person.
The other Defendants did not appear and were not represented.

Hearing date: 23 January 2025

APPROVED JUDGMENT

Mr Simon Gleeson:

1. As has been the case throughout this litigation, the attempt to hold a consequential hearing was only intermittently successful, and a number of points arose on which I indicated a willingness to consider further written submissions. I have now received those submissions, along with a fair amount of other material. I have taken all of this into account in reaching my conclusions below, and some of the conclusions that I have reached differ from the initial views that I indicated I might hold during the hearing.
2. I also note that the circulation of this judgment in draft to the parties produced a substantial volume of submissions, in some cases raising new points and seeking to adduce new evidence. As a matter of ordinary practice this material was inadmissible, and I probably should not have considered it. However, given that the relevant parties are in person and therefore presumably unfamiliar with the requirements of court procedure, I did review this material in order to see whether it contained anything that directly impacted any finding which I have made. I am satisfied that it did not. I also note (as I did in my substantive judgment) that it is not for me to consider any appeal against my findings – that is the task of the Court of Appeal. Both parties have indicated an intention to appeal certain parts of this judgment.

3. There have been attempts to settle this litigation since the hearing, and it is extremely disappointing that such a settlement has not been reached. Since most of the remaining live issues are between Mr Carl and Mrs Edwards and are as to costs, and since those issues can only be resolved through further litigation before a costs judge, I find it astonishing that either party would wish to continue this dispute. However, I cannot force parties to settle against their will.
4. I should also record that, in order to assist the parties appearing in person, I circulated after the consequential hearing a note of the (numerous) issues raised at that hearing in order to assist them in responding on the various issues which they had undertaken to address. I made clear in that note that this communication was not a judgment or a ruling of any kind, but simply an aide-memoire intended to help them focus their efforts going forward.
5. There are relatively few issues left between the parties, and most of these relate to costs. The 4th Defendant, Mr Howarth, having lost his claim in the main action, has been made bankrupt, thereby joining (as I understand it) the majority of the Defendants. He was therefore no longer represented by Counsel in this hearing, and did not appear in person. The two remaining active defendants are Mrs Edwards and Mr Limbani. Mr Limbani seeks to recover some element of his costs after I ruled that his conduct in the main action should debar him from any such recovery. Mrs Edwards position is more complex. Mrs Edwards was a party to two actions brought by Mr Carl – the main action and the cheque action. She was unsuccessful in the cheque action, but successful in the main action, so there are difficult costs issues to consider.

Mr Carl's application for relief against the 8th Defendant

6. At the consequential hearing Mr Carl raised the issue of a Lamborghini Countach which he said had been acquired for Mr Williams out of the funds misappropriated from Mr Carl. This related in particular to two payments - £175,000 to a car broker in respect of the purchase of the Countach, and a further £15,000 paid to a company controlled by Mr Williams in respect of the purchase. These payments were, as I found in my main judgment, made to Mr Williams by the 6th Defendant, Mr. Scholes, out of funds received by him from Mr Carl to fund the acquisition of various cars which were not in fact purchased. I think it is clear that this constitutes knowing receipt of these monies by Mr Williams, who is therefore liable to repay them. I had understood Mr Carl at the hearing to be asking for a proprietary remedy over the car itself – an order which I felt I had insufficient information to make. However, he has since confirmed that the order he seeks is that Mr Williams should account to him for the value of the sums received – an order to which he is entitled, since the fact of the receipt was proved by evidence submitted (although not tested by cross-examination) at trial.

The Interim Costs order arising from the “Briggs” hearing

7. There are a number of applications in relation to the costs of the pre-trial stages through which this matter went, and in particular the costs position arising out of the Judgment of ICC Judge Briggs (sitting as a High Court judge) in this matter in June 2021. A short summary of the facts is as follows. Richards J held a pre-trial hearing on 17 May 2021 and given directions as to service of documents, with a view to the main hearing commencing on 22 June 2021. His

order specified that the costs of that hearing should be costs in the case. On 18 June Mrs Edwards made an application to amend her defence to Deputy Master Arkush, who ordered that the question of whether to permit the amendment be adjourned for the trial judge to determine at trial. This brings us to what was to have been the trial hearing before Briggs J. It was clear at the commencement of that hearing that there had been substantial noncompliance on all sides with the order made by Richards J and that the case was not ready to be tried. Briggs J therefore made the only order open to him, which was to adjourn the trial and order a further case management hearing. However, he clearly took the view that the primary reason for the noncompliance was the delay by the Claimant in serving documents and exchanging skeletons, and therefore ordered that

“Costs thrown away by reason of the adjournment ... shall be the Defendants to be assessed if not agreed on a standard basis”.

8. It should come as no surprise that costs were not agreed, and no assessment has yet been undertaken. Mrs Edwards and Mr Limbani have submitted N260 forms in respect of their claims for these costs, and seek a payment on account in this respect.
9. As regards Mr Limbani, his total claimed is £36,825 plus VAT, including a brief fee of £20,000 plus VAT for counsel. Mr Carl has paid £20,000 plus VAT to Mr Limbani's solicitors to discharge the obligation in respect of Counsel's fee, but has made no further payment in respect of the remaining £16,825.
10. As regards Mrs Edwards, her total claimed is for £39,673. This is made up of her costs of the hearing before Richards J on 17 May 2021 (for £19,341.90) and her costs of the hearing before Briggs J (£19,200).

11. Mr Carl makes a number of points about these figures; most of which boil down to the fact that work described on the relevant forms was by way of trial preparation, and was not “thrown away”. He therefore argues that the costs “thrown away” by the Briggs hearing are very significantly less than the amounts claimed by either Mr Limbani or Mrs Edwards. He also says that the costs within the scope of Briggs J’s reference to costs thrown away cannot extend to the costs of the prior hearing before Richards J.
12. The meaning of the term “costs thrown away” is not strictly prescribed. There are certain cases where “costs thrown away” are clearly identifiable – for example, where a party has made an application for an order which is subsequently set aside. However, in a situation where parties incur costs preparing for a trial which does subsequently take place, it is not at all clear that, in the event of an adjournment, the entirety of those costs can be described as “wasted”. I think that it is clear that at least some of the costs incurred by Mrs Edwards relate to preparation for the hearing which took place, and that those elements of costs cannot be described as “wasted”. I am not in a position to perform a summary assessment as to which of the costs incurred by Mrs Edwards were in fact wasted, and they must therefore be dealt with in the terms of the order of Briggs J, as to be assessed if not agreed.
13. Mr Carl has provided detailed submissions addressing the individual items set out in the claims submitted by Mr Limbani and Mrs Edwards. If he were to succeed in all of these submissions, then the amount of these claims would be so small that no meaningful payment on account would be justified. I am not prepared to order a payment on account in circumstances where the eventual

amount of costs awarded could potentially be significantly less than the value of the payment. I am therefore not able to order a payment on account of these costs, which will have to be considered as part of the overall costs assessment.

Mr Limbani's Application for Sanctions against Mr Carl

14. In paragraph 433 of my judgment in the main action, I held that Mr Limbani should not be entitled to his costs in the action, since he had escaped liability through a strategy of deliberate non-disclosure and non-co-operation. Mr Limbani's counsel then put to me in the consequential hearing that I should nonetheless require Mr Carl to make a contribution to Mr Limbani's costs as a sanction to be imposed on him for breach of the pre-action protocol. The basis of this argument was that Mr Carl had served proceedings on Mr Limbani without any pre-action correspondence, that this constituted a breach of the pre-action protocol in place at the relevant time, and that this was deserving of sanction by the court.
15. Pre-action conduct is (and was at all material times) governed by the Practice Direction on Pre-Action Conduct and Protocols. Various detailed protocols are set out for certain types of action, but there is not (and was not at the relevant time) a specific protocol for claims in conversion and wrongful interference with goods, which is the claim that was advanced against Mr Limbani. However, this situation is covered by Paragraph 6 of the Protocol, which provides that

“ Where there is no relevant pre-action protocol, the parties should exchange correspondence and information to comply with the objectives in paragraph 3, bearing in mind that compliance should be proportionate.”

16. Paragraph 3 of the Protocol provides that

“Before commencing proceedings, the court will expect the parties to have exchanged sufficient information to—

- (a) understand each other’s position;
- (b) make decisions about how to proceed;
- (c) try to settle the issues without proceedings;
- (d) consider a form of Alternative Dispute Resolution (ADR) to assist with settlement;
- (e) support the efficient management of those proceedings; and
- (f) reduce the costs of resolving the dispute.”

17. Mr Limbani’s case is that he did not receive a pre-action letter of any form. It has been impossible for Mr Carl to determine whether such a letter was sent or not, since he is currently in dispute with his then solicitors, and does not have access to their files. Mr Limbani’s solicitors have confirmed that no such letter has been included in their instructions. However, since they only began representing Mr Limbani in 2020, this is not surprising.

18. I think that in this context the order of events is instructive. In 2016 Mr. Carl sought to serve Mr Limbani with a writ in relation to his US proceedings through a process server. The evidence of the process server was that he handed Mr Limbani the papers through the window of his car, and that Mr Limbani threw the papers back at him and then drove away. Mr Carl subsequently discontinued the US proceedings and commenced proceedings in the UK. In May 2018 he applied to join Mr Limbani as a party to those proceedings. On 8th June 2018 the same process server endeavoured unsuccessfully to serve process on Mr Limbani, but manage to serve him successfully in person on 11th June at his home address. In December 2018 Mr Limbani sought to challenge this on the

basis that he had not been served with the relevant papers. Since, in addition to papers sent to his home address, there was an affidavit from a process server to the effect that he had been personally served with the relevant documents, this argument did not prevail.

19. I am in no position to judge whether to believe Mr Limbani that he did not receive a letter before action. However, for the purpose of this judgment, I am prepared to proceed on the basis that he did not.
20. Mr Carl observes – I think reasonably - that since the service concerned occurred in 2018 and this point had not been alluded to in the proceedings at any point, it is too late to bring it up now. Technically this is incorrect – a failure to comply with the pre-action protocol can be brought up at any time. However, I think it is true that the failure of Mr Limbani’s solicitors to raise the issue at any point prior to the hearing of this case casts considerable doubt on their argument that failure to comply with the protocol has prejudiced his position. Their argument is that that prejudice arose from the fact that if Mr Limbani had received a pre-action letter he would have instructed solicitors earlier. However, since he did not instruct solicitors even when served with the proceedings, this must be rejected. Possibly more importantly, the whole purpose of pre-action correspondence is to avoid litigation. In a case of this kind, where the allegations are of serious wrongdoing, the scope for any such pre-action negotiation is slim. This is, for example, why the RTA protocol explicitly falls away where allegations of fraud are involved (see 4.5(1)(d)).
21. I think the correct way to approach this is as follows. I will assume that no pre-action letter was sent. I therefore ask whether this was reasonable and

proportionate in the circumstances. In order to answer that question I have to ask whether a reasonable man in the shoes of the Claimant, knowing what he knew about the conduct of the Defendant to date, should have concluded that one or more of the objectives set out in paragraph 3 would have been achieved by the sending of such a letter.

22. Given that Mr Carl's objective at this time was simply to get Mr Limbani to engage with the process, the question is as to whether it was reasonable for him and his solicitors to conclude that no useful purpose would be served by the sending of a pre-action letter, and that service with leave of the court was the only tool available to them. I think the way to approach this is to ask whether the sending of such a letter would have been likely to achieve any of the objectives set out in the Pre-Action Protocol.
23. As regards the objectives of enabling each side to understand the other's position and making decisions about how to proceed, I have no doubt that, having received the US process, Mr Limbani knew exactly what Mr Carl's case entailed and how it was likely to proceed. It seems extremely unlikely that Mr Limbani would voluntarily have responded to a pre-action letter at a time when his main objective seemed to be to avoid engagement. As regards the prospect of settlement without proceedings, it is very hard to see how this could have worked. Mr Carl's objective was not to obtain damages from Mr Limbani, but to persuade him to give evidence as to what he knew of the dealings involving his cars – an effort which Mr Limbani has stoutly resisted throughout this hearing, even to the extent of giving materially incorrect evidence to this court. This is not a case in which settlement was ever an option, and the same is true

of the various forms of ADR. I am also unable to see how the sending of such a letter would have contributed to the efficient management of these proceedings, or any reduction in the costs of resolving the dispute. I am therefore satisfied that, even if in fact a pre-action letter was not sent, the decision to proceed without sending such a letter was reasonable and proportionate, and no sanction should be imposed on Mr Carl for any such failure.

24. Possibly inspired by Mr Limbani's raising of this point, Mrs Edwards – in post-action correspondence – raised a similar point as regards the letters before action received by her on 17 July and 28 February 2018, which she now says were also defective. I dismiss this request for the same reason – it is impossible to identify any prejudice which might have been suffered by Mrs Edwards, and in a fraud action of this kind the negotiations and settlement which the pre-action protocols are intended to facilitate can reasonably be dismissed as a possibility.

Mr Carl's Claim for Interest

25. This claim causes some difficulty. Mr Carl requested that the pre-judgment interest rate to be awarded to him should reflect the increased costs that he had suffered by reason of his having had to refinance his lines of credit on more onerous terms, rather than the ordinary cost of funds rate.
26. The basic principle to be applied is that "Interest is awarded to compensate claimants for being kept out of money which ought to have been paid to them rather than as compensation for damage done" (*Carrasco v Johnson* [2018] EWCA Civ 87 at [17(1)]).

27. Where (as here) a claim is made in equity relating to dishonest assistance and/or receipt of property, the equitable jurisdiction to award interest is engaged. The principles to be applied are as set out by Lord Denning MR in *Wallersteiner v Moir (No 2)* [1975] QB 373 at 388:

"...in equity, interest is never awarded by way of punishment. Equity awards it whenever money is misused by an executor or a trustee or anyone else in a fiduciary position – who has misapplied the money and made use of it himself for his own benefit. The court:

"presumes that the party against whom relief is sought has made that amount of profit which persons ordinarily do make in trade, and in these cases the court directs rests to be made" i.e. compound interest: see *Burdick v Garrick*, 5 Ch App 233, 242, per Lord Hatherley LC.

28. Equitable interest may operate in one of two ways – it may compensate a beneficiary for loss, or require a fiduciary to disgorge a profit - in other words, it may have either a compensatory or a restitutionary function. In this case there is no restitutionary element – the monies misappropriated seem to have been simply squandered. The issue is simply as to how Mr Carl may be most appropriately compensated.
29. There is authority that I should look at the position in generic terms rather than focussing on the specific position of the claimant in calculating statutory interest (*Sir Owen George Glenn Knzm Onzm v Eric John Watson* [2018] EWHC 2016 (Ch) Per Nugee J at 549). However, some of the claims in this action relate to knowing receipt of Mr. Carl's property, and in such cases the Court of Appeal in the same case (*Watson v Kea Investments* [2019] EWCA Civ 1759) has held that a trial judge has a discretion to award interest at a higher rate than the ordinary cost of funds. The question here is as to whether I should exercise that discretion.

30. I think that here are clearly some grounds for exercising discretion in this case – Mr Carl was clearly engaged in trading in these cars with a view to profit, and can show that he had realised some significant gains in this business. However, I am not about to speculate on what those gains might have been, or indeed whether there might have been countervailing losses. Equally, I am in no position to say that the change in his costs of borrowing was exclusively due to the acts of the Defendants, or might have had other additional concerns. I therefore think that the pre-judgment interest rate which Mr Carl should receive in respect of his claims should simply be the investment rate, that is, 1% above the Bank of England base rate.

31. This leaves the question as to whether this interest should be compounded. The principles to be applied by this court were articulated in *Westdeutsche Landesbank Girozentrale v Islington London Borough Council* [1996] AC 669, and succinctly summarised by Foxton J at [38] in *Hotel Portfolio II v Ruhan* [2022] EWHC 1695 (Comm):

"Courts of equity have jurisdiction to award compound interest where money has been obtained and retained by fraud (and, even in the absence of fraud, where a trustee or fiduciary defendant has withheld or misapplied trust money and/or improperly profited from the trust): *Westdeutsche v Islington LBC* [1996] AC 669 ; *Black v Davies* [2005] EWCA Civ 531...It has also been held that compound interest can be awarded on claims for equitable compensation: *Watson v Kea Investments Limited* [2019] 4 WLR 145.

32. Because the acts of the relevant defendants constituted a dishonest appropriation of the Claimants money and assets, I think that this claim should be assessed on a compound basis, as was decided by Smith J in *Mitchell v Al-Jaber* [2023] EWHC 1239 (Ch) at [55-56].

The Costs of This Action

33. The position as regards the costs of this action is mostly straightforward – Mr Carl has succeeded against all but two of the defendants, and is entitled to his costs from them. As against Mr Limbani, the position could be summarised as a no-score draw, and no costs are payable by either side. The position as regards Mrs Edwards is more complex.
34. Mr Carl was successful against Mrs Edwards in the cheque action. However, he did not succeed before me in establishing his case that Mrs Edwards had been in knowing receipt of the funds paid into her account by her then husband. She is therefore entitled to her costs of that action against him.
35. I had suggested in my judgment that these costs might be allocated 80/20 as between the main action and the cheque action, as a basis for settlement, relying primarily on the costs budget approved by Master Kaye on 19 May 2020. This suggested that Mrs Edwards costs would be £132,150 for the main action, and £39,900 for the cheque action, giving a roughly 80/20 split. At roughly the same time, Mr Carl filed a Precedent H costs budget which suggested that his overall costs for the entire action would be in excess of £1.4m, of which £627,770 had already been incurred.
36. Mr Carl points out that there is something badly wrong with the costs figures ultimately submitted by the other parties. His point is that at around this time he dispensed with legal counsel and conducted his case in person. The result of this is that his total costs (excluding the claim for his own time) are around £750,000 – that is, around 55% of his budgeted costs. Mrs Edwards, however, who began to represent herself at about the same time, says that her

total costs were £291,758.85. Of this, £242,818.25 was payable to her former solicitors and counsel, with the balance being her own time calculated at £19 per hour. This means that her claim for costs is 220% of her budgeted amount. Mr Carl correctly argues that this cannot be right – if Mrs Edwards budgeted costs assumed that she would be represented by counsel throughout, it is entirely implausible to argue that her total costs are so much higher than budget even though she disposed with the services of counsel well before trial.

37. I therefore think that I have no option here but to order that costs in this action be assessed through detailed assessments before a costs Judge. My suggested 80/20 split will therefore fall away.

Mr Carl's Claim for Contractual Interest under the Bill of Sale

38. This is a contractual claim which arises out of the terms of a Bill of Sale executed by Mrs Edwards to Mr Carl on 22 February 2013 in respect of an interest in an Alfa Romeo 8C.
39. It seems to me to be clear that the primary motivation of Mr Edwards in persuading Mrs Edwards to sign the bill of sale was to try and keep the car out of the hands of his trustee in bankruptcy by creating an ownership interest in it in favour of Mr Carl. I am satisfied that at all material times Mr Carl knew this to be the case.
40. Bills of Sale are governed by the Bills of Sale Act 1878, as amended by the Bills of Sale Act 1882. They come in two forms. The more conventionally encountered is the absolute bill of sale, which transfers absolute ownership from one person to another, and these are frequently encountered in transactions

involving valuable cars. However, there is a separate regime which applies to security bills of sale which exists under the 1882 Act. This enables a private person to create a security interest in property in his possession provided that various formalities are complied with and the bill is signed and witnessed. The Bill of Sale concerned here is a security bill.

41. The security interest created by this particular document has long gone. However, its relevance is that the Bill itself recorded a covenant by Mrs Edwards to pay the principal and interest on an amount of \$415,000 due to Mr Carl, with interest accruing at the rate of 12% per annum. It is accepted by Mr Carl that this was a reference to the amount of £221,000 advanced by him to CSPL and which was covered by the cheque which Mrs Edwards had written to him. I think it is the case that this is a valid covenant, even though the consideration provided had been advanced some time ago and did not envisage the grant of the Bill of Sale at the time it was paid, and it appears on the face of the bill as a unilateral undertaking on the part of Mrs Edwards.
42. This covenant was an integral part of the Bill, and the Bill must have ceased to have had effect when Mr Carl consented to Mrs Edwards' release of the car to the trustee in Bankruptcy of Mr Edwards (see Halsbury's Laws of England Vol 49 para 381). However, I do not think that the release of the security interest created by the Bill had the effect of abrogating the covenant to pay interest that it contained, which I think continued in force in accordance with its terms.
43. Mrs Edwards response to this is that she had no idea what the Bill of Sale was, or what its effects were, that she had signed it only under pressure from her husband, and that she should therefore not be bound by it.

44. The bill itself was drawn up by solicitors (a Mr Zaidi of Edwin Coe), but Mrs Edwards was not independently advised as to its content. Mr Carl described his position as regards Edwin Coe as follows

“23. I then instructed a lawyer who represented both myself and Mrs Edwards to draw up a Bill of Sale that provided me with security in the Alfa Romeo in the amount of my March 2012 advance to CSPL

24. The lawyer submitted the draft to me and suggested that I send it to Mrs Edwards. I did so.

25. The lawyer separately advised Mrs Edwards that he could not represent her with regard to the Bill of Sale and suggested that she seek independent advice.

26. It appears the only advice Mrs Edwards sought was from her husband. As she later explained, Richard told her to sign it, so she did; she still does not know why.”

45. It seems clear that at this time Mr Zaidi was jointly representing both Mrs Edwards and Mr Carl - Mr Carl sent an e-mail to Mrs Edwards of the 17 December 2012 to the effect that Mr Zaidi will be paid £12,500 “to continue to on with representing you and me in the ongoing litigation”. His position that he could not independently advise Mrs Edwards was therefore entirely proper.
46. It is clear law that a party who has signed a written agreement does not have a defence to the enforcement of that agreement arising merely out of the fact that they did not understand it – something more would be needed. This raises once again the position as regards Mrs Edwards’ attempts to raise a defence of undue influence. I dealt with this issue in paragraphs 143-5 of my main judgment, and do not repeat it here. The position is and remains that Mrs Edwards has consistently declined to make any claim of undue influence against Mr Edwards in these proceedings, and I cannot find in her favour on a case which she has declined to raise herself. I note that Mrs Edwards has submitted that the Bill was

a “sham”, in that she did not understand it. However, I am clear that Mr Edwards, who negotiated it in her name, clearly did understand it, and that it was intended by both Mr Carl and Mr Edwards to have exactly the effect that it purported to have. There is therefore nothing in this point.

47. I had initially formed the view that this claim could not be raised in the main action, since it was not pleaded therein. However, I accept that it was fully pleaded in the cheque action, and, since the two actions are heard together, it constitutes a valid claim against Mrs Edwards in the conjoined actions.
48. Mr Carl’s claim for interest under the Bill of Sale is for £67,000. This is calculated on the basis that the payment of £198,000 on 3 July 2015 discharged the majority of this debt, and the payment of £23,000 by Mrs Edwards’ brother-in-law on 6 December 2016 discharged the remainder. I think he is entitled to this claim.
49. Mrs Edwards suggested (after receiving the draft of this judgment) that she had an alternative argument in this regard, to the effect that the Bill of Sale had not been registered with the court and was therefore invalid under the Bills of Sale Acts. This point was not raised at trial, and I am not able to consider it at this late stage. Where a point of this kind is not addressed in evidence, the court should (and I think must) apply the presumption that *omnia praesumuntur rite esse acta*, and presume the document to have been validly executed and perfected in the absence of any challenge or evidence to the contrary. However, in any event, such invalidity it is not relevant to any of the points at issue. The judgment for the sum of £198,000 is not a judgment on the Bill, but a judgment on the Cheque, so the invalidity of the Bill is not relevant to that claim. As

regards interest, the Bill records the agreement made by Mr Edwards on behalf of Mrs Edwards that she should pay interest on the specified sum at the agreed rate for as long as the principal amount remained unpaid, and that agreement is valid as a simple contract regardless of the validity or otherwise of the Bill. The Bill merely evidences it.

The Costs Discount

50. Mr Carl protests the discount of 40% which I ordered to be applied to his costs to reflect the chaotic and unstructured way in which he has approached this litigation. I have no sympathy for this protest. The conduct of this litigation has clearly become Mr Carl's retirement hobby, and this has resulted in an outpouring of correspondence which has confused and complicated the positions of the other parties to the litigation. The court extends considerable tolerance to litigants in person, but it is not right that other litigants in person in the same proceedings should suffer from this tolerance without some sanction being imposed to reflect the court's disapproval of the way in which the proceedings were in fact conducted. Mr Carl also notes that the application of this discount to the (already very low) hourly rate applied to litigants in person means that his own work on the case is so negligibly recompensed as to be almost nugatory. I understand that concern, but do not share it.
51. I do, however, accept that because of the complicated position arising from the existence of mutual cross-claims for costs, both in respect of these proceedings and in respect of earlier unpaid orders, the calculation of this amount could have unintended consequences. I therefore think that this discount should be applied

only to any net balance claimed by Mr Carl after any such cross-claims have been taken into account.

52. Finally, I note that Mr Carl complains that there is no equivalent discount applied to Mrs Edwards' actions, despite the fact that her conduct of the action was in some respects at least as chaotic as his own. This is not an entirely unjustified argument. However, it is primarily the responsibility of the claimant to bring his case to court in such a fashion as to promote the efficient implementation of justice. Where a claimant chooses to dispense with legal representation and as a result causes significant prejudice to the court and the other parties, I think he must bear the consequences of that decision alone.

Appeal Against the Main Judgment

53. Mr Carl identifies a point in the main judgment which he wishes to appeal. This is my finding in the main judgment that Mrs Edwards did not have sufficient knowledge to constitute her a knowing recipient or knowing assistant in relation to the monies disbursed from her bank account by Mr Edwards. The basis for this application is that I should have found that Mr Edwards' track record of misfeasance should have put Mrs Edwards on notice of the fact that he was engaged in wrongdoing, and that her failure to investigate gave rise to constructive knowledge on her part, even in the absence of actual knowledge. I regard this as a matter of fact, and not an issue where a Court of Appeal would be likely to intervene. I therefore do not think that the criteria for giving permission to appeal are met, and I decline to give such permission.
54. Mrs Edwards has (I think) indicated that she wishes to appeal the finding that interest is due in the amount recorded on the face of the executed Bill of Sale,

and set out in her letter to the court the grounds on which such an appeal would rest. These are that (a) the Bill itself was a “sham”, (b) that the agreement in the bill was inconsistent with earlier communications between Mr Carl and Mr Edwards (specifically, Mr Carl’s e-mail of 7 March 2012) (c) that the terms of the bill as executed differed from an earlier draft apparently agreed, and (d) that the bill is void for lack of registration. I have already addressed ground (a); ground (b) is a misrepresentation of the e-mail from Mr Carl, which stated that Mr Carl would not require interest as long as the principal amount was repaid within two weeks; ground (c) goes nowhere, since the earlier draft related to a different transaction in respect of a different car; and, as noted above, it is too late to raise ground (d). I therefore refuse leave to appeal on this point on these grounds.

55. I would remind both parties that it is open to them to appeal this refusal directly to the Court of Appeal provided that they do so in a timely fashion.

Other Issues

56. There were some requests for amendments to the terms of my initial judgment. In particular, Mr Carl asked that a reference to Mr Hamann in para 244 be corrected, since it is potentially significant in other litigation – I am happy to make this change. Mr Carl pointed out that I had failed in paras 267 and 268 to make clear that the references to those liable in knowing receipt did not include Mrs Edwards, who I have found not to have the requisite level of knowledge. I will correct those references. Since no order has yet been made in these proceedings, I clearly have jurisdiction to amend the terms of my judgment if

such an amendment would further the course of justice (as confirmed by the Court of Appeal in *Re Barrell Enterprises* [1973] 1 WLR 19).

57. Mr Carl asked for indemnity costs against Mr Edwards and Mr Howarth on two bases – one being in recognition of the fact that they had been found to have been fraudulent, the other that the basis of significant noncompliance with the rules of court. It is clear from *Pisante v Logathetis* [2022] EWHC 2575 that the fact that a defendant has been found to have acted fraudulently is not of itself grounds for the award of indemnity costs. Consequently, the only basis for the award of indemnity costs in this case would be on the basis that “... conduct, albeit falling short of misconduct deserving of moral condemnation, can be so unreasonable as to justify an order for indemnity costs ...” Per Simon Brown LJ in *Kiam v MGN (No2)* [2002] EWCA Civ 66. He added, “To my mind, however, such conduct would need to be unreasonable to a high degree; unreasonable in this context does not mean merely wrong or misguided in hindsight ...”.
58. In this context, Mr Carl specifically refers to Mr Howarth’s application for his committal, which I agree was egregious. However, even in Mr Howarth’s case I do not think that the test for indemnity costs is satisfied. As regards Mr Edwards, his sole role in the case has been to refuse to participate in it in any way. I do not think that this is a ground for the grant of indemnity costs against him.
59. Although in this case the failures to comply with the rules of court have been significant on all sides, I do not regard any of them as being so serious as to justify indemnity costs.

60. Mr Carl asks for pre-judgment interest against Mr Williams in respect of the £25,000 misappropriated by Mr Williams as referred to in paragraph 121 of my Judgment, as from the date of defalcation (March 2014) I agree that he is entitled to this. For the reasons set out above, this should also be compounded annually.
61. Mr Carl observed that he was likely to wish to pursue Mr Hawkins post-bankruptcy for the liabilities in deceit which he will incur as a result of the final order in these proceedings pursuant to s.281(3) of the Insolvency Act 2006, and asked for an order to that effect. I do not think that that is an order which I can make. I can record on the face of the order that the findings against Mr Hawkins arose in the tort of deceit, but the question of the applicability or otherwise of s.281(3) will be a matter for the judge hearing whatever subsequent claim Mr Carl seeks to bring against Mr Hawkins after his release from Bankruptcy.
62. Mrs Edwards referred to her having been successful in a “counterclaim” in the cheque action. This is incorrect. The cheque action concerned the question of whether Mrs Edwards was liable on the cheque, and it was found that she was. Her claim for the return of the £198,000 was raised in the cheque action, but it could never have constituted a defence to that action, and was not found to have done so. It is therefore wrong to say that she was successful in a counterclaim in that action.
63. As regards Mr Limbani, Mr Carl argued that he had made an offer which Mr Limbani had failed to beat. His position was that he had offered a “drop hands” settlement to Mr Limbani, which Mr Limbani’s solicitors had refused unless Mr Carl agreed to make a contribution to Mr Limbani’s costs. Since my judgment was that Mr Limbani was not liable to Mr Carl but his conduct was such that he

should not have his costs, Mr Carl argues that Mr Limbani has failed to beat his offer. Mr Williams, for Mr Limbani, argued that Part 36 was not relevant here, since although Mr Carl had made a series of offers, only the first of these had been a formal Part 36 offer, and the subsequent correspondence was informal. There is no clearly identifiable offer which has been beaten. I agree with Mr Williams on this point, but I note that, even if I did not, I would regard this as a case where under CPR 36.17(3) I would consider it “unjust” to award costs against Mr Limbani in this basis. Consequently I think my initial decision should stand.

64. There is an issue as regards the orange Porsche. It is clearly established that this car is owned by Mr Carl, and is currently in his possession. However, Mr Howarth still holds the V5 Registration document for this vehicle, and (I understand) refuses to return it. I am prepared to make an order requiring Mr Howarth to deliver up this document. However, the order to be made at the conclusion of this part of the proceedings will provide that Mr Carl is both the owner and the possessor of the vehicle, and this should be sufficient to get the DVLA to issue a new V5 to Mr Carl.