



Neutral Citation Number: [2026] EWHC 38 (KB)

Case No. QB-2022-001698

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice,
Strand, London WC2A 2LL

Date: 14 January 2026

Before :

THE HONOURABLE MR JUSTICE PEPPERALL

Between :

**DHAN KUMAR LIMBU
and 23 others**

Claimants

- and -

**(1) DYSON TECHNOLOGY LIMITED
(2) DYSON LIMITED
(3) DYSON MANUFACTURING SDN BHD**

Defendants

The Claimants were represented by **Edward Craven KC, Piers Feltham, Thomas Fairclough** and **Joshua Jackson** (instructed by **Leigh Day**)
The Defendants were represented by **Nicholas Sloboda KC** and **Veena Srirangam** (instructed by **Slaughter and May**)

Hearing date: 19 December 2025

Approved judgment

This judgment was handed down remotely on 14 January 2026 by circulation to the parties and by release to the National Archives.

THE HONOURABLE MR JUSTICE PEPPERALL:

1. This action is brought by or on behalf of twenty-four Nepalese and Bangladeshi migrant workers in respect of working and living conditions in two Malaysian factories manufacturing components for the Dyson supply chain. The parties agree that it is appropriate to order that the claim should be tried in stages and that it will be necessary at some point to identify lead claimants. This judgment is principally concerned with whether the court should order split trials of liability and quantum or whether it is appropriate to order the trial of preliminary issues as to the defendants' potential liability upon the pleaded facts, and the associated question of when lead claimants should be identified.

BACKGROUND

2. The two factories are in Johor Bahru, Malaysia and were operated by two associated Malaysian companies, ATA Industrial (M) Sdn Bhd and Jabco Filter System Sdn Bhd. The migrant workers allege that they were unlawfully trafficked to Malaysia and that they were subjected to conditions of forced labour, exploitative and abusive working and living conditions and, in some cases, detention, torture and beating in the course of their employment at the factories. These claims are brought against Dyson Technology Limited, an English company concerned with the invention, development, sale and service of domestic appliances and commercial hand dryers and batteries; Dyson Limited, an English company concerned with the sale and service of domestic appliances and commercial hand dryers; and Dyson Manufacturing Sdn Bhd, a Malaysian company concerned with the manufacture, sale and distribution of Dyson products.
3. The claimants argue that the Dyson companies controlled the working and living conditions at the factories through detailed contractual provisions with ATA and Jabco. Further, they argue that Dyson exerted a high degree of control over operations and conditions at the factories and that Dyson knew, or ought reasonably to have known, of the high risk that workers might be subjected to unlawful forced labour and denied their minimum legal employment rights. The claim is pleaded in negligence, false imprisonment, intimidation, assault, battery, and unjust enrichment:
 - 3.1 Negligence: The claimants argue that Dyson breached a common law duty of care to take all reasonable steps to ensure that they did not suffer foreseeable economic loss as a result of their working and living conditions while employed at the factories manufacturing Dyson components.
 - 3.2 Intentional torts: The claimants argue that the Dyson companies were jointly liable for the torts of false imprisonment, intimidation,

assault, and battery committed against the claimants in the course of their employment at the factories.

- 3.3 Unjust enrichment: Further, the claimants argue that the Dyson companies have been unjustly enriched at their expense.
4. The defendants deny any liability to the claimants. They specifically deny that they assumed any responsibility towards the migrant workers in the Malaysian factories and that they owed such workers any duty of care. Dyson put the claimants to proof of their alleged working and living conditions while denying actual knowledge of the same. They argue that the claimants wrongly seek to hold Dyson liable for the actions of independent third parties that the defendants neither owned nor controlled. Dyson assert that many of the matters alleged are outside their knowledge and therefore they put the claimants to proof. Dyson deny any joint liability for intentional torts committed by third parties. Further, Dyson deny any liability in unjust enrichment. Such claim is, Dyson argue, misconceived in Malaysian law. Finally, Dyson assert that a number of claims are time-barred.

THE PROCEDURAL HISTORY

5. Proceedings were issued on 27 May 2022. Dyson disputed jurisdiction arguing that Malaysia was the more appropriate forum. That issue was initially determined in Dyson's favour but, by a judgment handed down on 13 December 2024, the Court of Appeal rejected the jurisdiction challenge and lifted the stay imposed by the deputy judge: see Limbu & Others v. Dyson Technology Ltd & Others [2023] EWHC 2592 (KB) and, on appeal, [2024] EWCA Civ 1564, [2025] I.C.R. 560. There was then some further delay while Dyson sought permission to appeal the issue of jurisdiction to the Supreme Court. Permission was refused on 6 May 2025 and, accordingly, this action now proceeds in this jurisdiction although it is common ground that the applicable law is Malaysian.
6. The claimants filed Amended Particulars of Claim on 22 July 2025, Dyson filed their defence on 12 September 2025 and the claimants filed a Reply on 24 October 2025.
7. I heard the first costs and case management conference in this case on 19 December 2025. While the parties agree a number of directions in principle, they take fundamentally different positions as to the appropriate issues to be tried at stage 1 and as to when the court should seek to identify lead claimants. There are also issues as to the appropriate expert evidence at this stage. Further, there are applications to strike out passages in the Amended Particulars of Claim and Reply, and a cross-application to re-amend the Particulars of Claim and amend the Reply. In addition, there is an issue as to whether the court should order early

disclosure of certain key documents. Finally, there is the question of cost budgeting.

THE CASE MANAGEMENT OF THESE CLAIMS

8. In managing this case, I have particular regard to the need to ensure that this litigation is dealt with justly and at proportionate cost. The following aspects of the overriding objective are particularly relevant in this case:

- 8.1 Ensuring parties are on an equal footing: In the course of the jurisdiction challenge, Popplewell LJ rightly remarked, at [59]:

“In a case such as the present, where there is a huge imbalance between the impoverished and vulnerable claimants and the well-resourced and commercially experienced defendants, and the allegations are of very serious human rights abuses, there is a particular need to ensure equality of arms in the conduct of litigation if justice is to be served.”

Such inequality of arms was in part addressed by the jurisdiction decision that has ensured that these claimants are represented by experienced and well-resourced lawyers who have agreed to act for them on a conditional fee basis. Nevertheless, the court must be astute to manage the case to ensure that the parties are on an equal footing so that effective access to justice can be achieved.

- 8.2 Vulnerability: The claimants are among the world’s poorest workers. Their case is that they were trafficked to work under conditions of debt bondage where they suffered exploitative and abusive working conditions. Many are illiterate and have little or no English. Circumstances will vary, but it may well be that many can properly be described as vulnerable. Some adaptation of the trial process may therefore be required in order to ensure their full and effective participation in their own case and to secure their best evidence.
- 8.3 Costs: The total cost budgets filed by the parties for this case are enormous. In managing this litigation, it is important that I seek to ensure that the case is tried at proportionate cost and that I keep in mind that the scale of the anticipated costs in this case has serious implications for achieving access to justice:

- (a) Securing access to justice for the claimants:

- (i) The claimants can only secure access to justice by instructing their lawyers on conditional fee agreements. The ability even of a major law firm such as Leigh Day to run up enormous costs on a contingent basis cannot be unlimited. More pertinently, the ability and willingness of the individual barristers who represent these claimants to risk more and more of their fee income on a contingent basis year after year, will also be limited. The court must therefore be astute not to allow the well-resourced defendants to cause this litigation to become so mired in

procedural wrangling and the eventual resolution of these claims to be so delayed that the continued willingness of the claimants' lawyers to act for them on a conditional fee basis is called into question.

- (ii) Even if the claimants' legal team is held together, the claimants have a real interest in the total cost of this claim since, should they succeed at trial, substantial success fees will no doubt be deducted from their claims. The court must therefore also be astute to the risk that judgment in the claimants' favour could prove to be something of a pyrrhic victory. Effective access to justice is not achieved if successful claimants recover very little of their damages while eye-watering sums are recovered in costs by the lawyers who took the substantial risk of acting on a contingent basis. That said, the success fees payable by any claimant will be limited to 25% of the sums recovered in respect of general damages for pain, suffering and loss of amenity and damages for past pecuniary losses.

- (b) Securing access to justice for the defendants: Even if successful in their defence of these claims, Dyson are very unlikely to recover their substantial legal costs. Not only do the claimants start off with the presumption of costs protection through the Qualified One-Way Cost Shifting rules, but there is no insurance policy to cover the risk of an adverse costs order and no real prospect of enforcing any costs order in favour of the defendants save by way of set-off against any damages recovered by the claimants.

8.4 Ensuring that the case is dealt with expeditiously and fairly: These proceedings have been delayed by the jurisdiction challenge, the claimants' successful appeal to the Court of Appeal, and the defendants' unsuccessful bid to appeal the issue further to the Supreme Court. As a direct result, pleadings only closed in the autumn of 2025 more than three years after proceedings were issued and the first case management conference was held a couple of months later on 19 December 2025. While doing justice requires that the parties must be given time to prepare properly for trial, it is also important that this litigation is now driven forward. All parties are entitled to have these claims heard within a reasonable time and in managing this case I keep in mind the delay caused by the jurisdiction issue and the compelling need for this litigation now to be progressed promptly. Indeed, Bean LJ was moved to make the same observation in Alame v. Shell plc [2024] EWCA Civ 1500, [2025] Env. L.R. 17, at [102], in similar circumstances.

8.5 Promoting the use of alternative dispute resolution: Alternative dispute resolution may have substantial benefits for all parties in securing a cost-effective and timely resolution of these claims. The parties are not, however, currently able to settle these claims and it is clear that certain critical issues will have to be tried before there is any real prospect of settlement. In deciding how to manage this

case, the court should keep in mind the desirability of resolving those issues that can be tried at proportionate cost and within a reasonable timeframe and which will best allow the parties to reassess their positions. Doing so may well unlock the possibility of alternative dispute resolution or at least allow the parties to make informed decisions as to settlement offers or discontinuance.

- 8.6 The duty of co-operation: Rule 1.3 of the Civil Procedure Rules 1998 provides that the parties are required to help the court to further the overriding objective of dealing with this case justly and at proportionate cost. Co-operation in group litigation is of the utmost importance: Município de Mariana v. BHP Group (UK) Ltd [2022] EWCA Civ 951, [2022] 1 W.L.R. 4691, at [138]. As the managing judge for this litigation, it is important that I stress from the outset that I expect a high level of realism and co-operation from the parties in their approach to case management.
9. Before turning to the arguments, I should also record some uncertainty as to whether the court has all of the final parties before it:
- 9.1 Claimants: Oliver Holland, the partner with conduct of this claim at Leigh Day, explains that his firm has been contacted by several hundred further migrant workers with potential similar claims against Dyson. Of those, his firm has identified that some 70-100 further workers may have valid claims. By a letter dated 1 December 2025, Leigh Day gave notice that those additional clients are likely to issue claims early in 2026. Should that happen and the new claim is consolidated with the current action, this litigation would be substantially expanded from the twenty-four current claimants to some four or five times that number. No party suggested that the court should delay the case management conference or that the anticipated issue of proceedings by a substantial additional number of claimants need derail directions for the stage 1 trial. That said, Nicholas Sloboda KC and Veena Srirangam, who appear for the defendants, submit that the prospect of a substantial number of additional claimants would have a significant effect on the liability trial proposed by the claimants. I will address that argument and the claimants' response below.
- 9.2 Defendants: The claimants have not brought any claim against either ATA or Jabco, and accordingly the success of their action depends not just on proving that their direct employers acted unlawfully but upon establishing the liability of one or more of the Dyson defendants. There is no indication that that position will change.
- 9.3 Third Parties: While Dyson's lawyers told the Court of Appeal that the defendants intended to pursue third-party claims against ATA and Jabco, no third party notice has been issued seeking either an indemnity or contribution in respect of any liability that might be established in these proceedings. There must remain some uncertainty as to whether Dyson might yet pursue ATA and Jabco

but, given that they have served their Defence, the court's permission would now be required to issue a third party notice pursuant to r.20.7.

ISSUE 1: SPLIT TRIALS AND PRELIMINARY ISSUES

THE ARGUMENT

10. Edward Craven KC, Piers Feltham, Thomas Fairclough and Joshua Jackson, who appear for the claimants, submit that the court should identify six lead claimants and try all issues of liability at stage 1. Mr Craven concedes that the court would have to determine whether the alleged breaches of duty caused loss while questions of the quantification of any such loss would be left over for a subsequent trial. Such trial would require expert evidence as to Malaysian law and, he asserts, forensic accountancy evidence in order to establish the claimants' case as to unjust enrichment. The claimants' proposal would, he argues, allow the court to make findings as to liability on the basis of actual findings of fact as to the working and living conditions in the two factories. Such a trial could, he submits, be accommodated within a 20-day listing from April 2027.
11. Against that, Mr Sloboda and Ms Srirangam submit that the court should try the following threshold issues of liability at stage 1:

Negligence:

- 11.1 Did the defendants owe a duty of care to the claimants under Malaysian Law as alleged? (Amended Particulars of Claim, paras 83-87; Defence, paras 99-103).
- 11.2 Did the defendants breach any duty of care owed to the claimants as alleged? (Amended Particulars of Claim, paras 89-90; Defence, paras 104-105).

Intentional torts:

- 11.3 Assuming that torts of false imprisonment, intimidation, assault and battery were carried out as alleged in the Amended Particulars of Claim at paras 91.1-91.3, are the defendants jointly liable for one or more such torts because they either (a) assisted in the commission of those tortious acts pursuant to a common design with the primary tortfeasors to commit such tortious acts; and/or (b) procured the commission of those torts by inducement, incitement or persuasion of the primary tortfeasors? (Amended Particulars of Claim, paras 91.4-92; Defence, paras 110-112).

Unjust enrichment:

- 11.4 If the defendants were enriched, as alleged in the Amended Particulars of Claim at para. 94, was any such enrichment at the expense of the claimants because (a) the defendants received the enrichment pursuant to a set of related transactions operating in a co-ordinated way which formed a single scheme; or (b) the circumstances in which the defendants were enriched fall within the

“genuine exceptions” to “direct enrichment” referred to in Investment Trust Companies v. Revenue & Customs Commissioners [2017] UKSC 29, [2018] A.C. 275, at [50]? (Amended Particulars of Claim, paras 95-97; Defence, paras 115-117).

12. Although it is not entirely clear from such formulation, Mr Sloboda asserts that these issues can be tried relatively conveniently without requiring the claimants to give evidence. Accordingly, he envisages that the negligence issues would also proceed on assumed facts. Thus, the defendants’ proposal is that these threshold issues of liability are determined on the assumption that the claimants will establish the fact of their employment, the exploitative and abusive working and living conditions, the commission of the intentional torts, and that the Dyson companies were enriched as alleged in each case in the Amended Particulars of Claim. Such trial could he submits, be accommodated within a 20-day listing from April 2027.
13. Mr Sloboda argues that the trial of threshold issues of liability at stage 1 without, at that stage, considering the merits of individual claims was the approach taken in two of the largest class actions currently before the High Court. He cites the approach advocated by the Court of Appeal, and ultimately taken by O’Farrell J, in Mariana, at [188], and the approach taken by the joint managing judges, Cockerill LJ and Constable J, in the Pan NOx Emissions Litigation as explained at [2024] EWHC 1728 (KB), at [10]-[11].
14. In arguing against the claimants’ proposal, Mr Sloboda cautions that the process of identifying lead claimants will be complex and time consuming. Further, he argues that lead claimants cannot be selected until the anticipated additional claimants have been joined and pleaded their cases. There would then be a need for individual Particulars of Claim, Defences and Replies. The proposal would also require the migrant workers to give evidence both at the liability trial and then again at the quantum trial.
15. Mr Sloboda argues that the claimants’ proposal to try liability issues in respect of unjust enrichment would require extensive review and disclosure of financial documents over a decade of trading. Further, the proposal would involve substantial lay evidence from the claimants, defence lay evidence, expert evidence as to Malaysian law, forensic accountancy evidence, and possibly medical evidence in respect of the issue of causation. The need to establish causation would, he submits, prevent there being a clean split between liability and quantum. Such a trial could not, he submits, be heard in 20 days and would require a 42-day listing.

16. In reply, Mr Craven cautions that Dyson's approach would require the court to try the threshold liability issues on assumed facts. Citing Neuberger J's well-known observations in Steele v. Steele [2001] C.P. Rep. 106, Mr Craven urges me to resist the siren song of determining preliminary issues on assumed facts that might later prove to be disputed by Dyson. He particularly identifies the problem of how the court can try Dyson's alleged knowledge of facts that are, on their approach, to be assumed. Further, he submits that the defendants' proposal seeks to deny the claimants a voice, delay by a matter of years the claimants' opportunity to give their evidence, and set up a trial that can only finally dispose of proceedings in favour of Dyson.
17. Asked whether the claimants' own proposals risk their electing to call a substantial number of claimants in support of the case advanced by the lead claimants, Mr Craven responded that their current intention was to call no more than ten witnesses as to conditions in the factories, namely six lead claimants and four additional witnesses.
18. I should also record that much of the parties' pre-hearing correspondence and written submissions were devoted to seeking to establish that their opponents had changed their previous positions on these matters. Certainly, it is true that counsel representing Dyson before the Court of Appeal then anticipated that the court should first try the issue of liability on a lead claimant basis while the claimants' position has also evolved from an earlier apparent acceptance that only certain "generic issues of liability" should be tried and the omission (which might have been no more than oversight) of any initial proposal to identify lead claimants. With limited success, I encouraged the parties not to focus on seeking to persuade me that their opponents had changed their position but upon the actual advantages and disadvantages of the final proposals now before the court. In fairness, Leigh Day was right in its letter of 18 November 2025 to suggest that it would be more productive to focus attention on the case management directions rather than rehash the parties' different interpretations of past correspondence, and Mr Craven was right to anticipate in his written submissions that the court was unlikely to be interested with petty procedural sniping. For the avoidance of doubt, I am not assisted in determining the proper management of this case by tit-for-tat points as to whose position has changed. My focus is upon identifying the management of this case that will best allow me to deal with this case justly and at proportionate cost.

ANALYSIS

Lead claimants

19. No group litigation order has been made or sought pursuant to r.19.22. Nevertheless, this action is already brought by twenty-four claimants and it is envisaged that that number may soon be well over one hundred. Even with twenty-four claimants, the position has already been reached where

there are a significant number of claimants before the court with very similar claims in respect of working and living conditions at the two Malaysian factories. Each individual claim is likely to be relatively modest in value compared with the enormous cost of this litigation and it is likely that decisions on liability reached in respect of a number of lead claimants would be extremely valuable in allowing the parties to settle the claims brought by the remaining claimants. Accordingly, this case is in my judgment a paradigm example of a case where it would be convenient to try a representative sample of lead cases.

20. This analysis is not in dispute. The difference between the parties is not as to whether the court should try lead claims but when. The claimants argue that lead claimants should be identified immediately and that the court should order a split trial of the issue of liability in respect of the lead claims. They argue that lead claimants can readily be selected without delay and that any new claims should simply be stayed pending trial of the lead claims. As already explained, the defendants respond that it is not yet necessary or desirable to identify lead claimants and that the court should first try the threshold liability issues at stage 1 which can be tried without any evidence from the claimants.
21. No party applied to adjourn the case management conference pending greater clarity as to any possible application to join an additional 70-100 claimants or to consolidate proceedings should such new claimants issue a fresh claim. They were right not to do so; these proceedings have already been on foot for over 3½ years and there is no certainty as to if or when any such application might be made. The court can only manage the case that is currently before it and, accordingly, I must focus on the claim by these twenty-four claimants. Equally I do not seek to prejudge the approach that might be taken should a substantial raft of new claimants be joined in this action save to observe that one important consideration will be to ensure that the case is not blown off course.
22. In Lancaster v. Peacock [2020] EWHC 1231 (Ch), Fancourt J sitting with Master Kaye addressed the number of lead claimants that might be appropriate in a case. They explained, at [3]:

“It is not, of course, necessary to have very many sample claimants in order to decide common issues. The purpose of a broader selection of sample claimants, beyond what is needed to try the common issues, is to generate sufficiently broad guidance for the likely disposal of all the other claims, whose particular facts will vary, while at the same time not overcomplicating or encumbering or significantly adding to the cost of the trial.”
23. For reasons that I explain more fully below, I consider that lead claimants should be identified at this stage. Accordingly, I shall invite submissions at the adjourned case management conference as to the proper selection

of lead claimants but venture the following initial views lest they assist the parties in understanding my current thinking:

- 23.1 First, while there is no magic to the six lead cases suggested by the claimants, my preliminary view is that six is about right. It is sufficient that a selection can be made of claimants who truly represent the broader class of twenty-four while still securing substantial savings in costs and time in requiring the parties to focus on six rather than all twenty-four cases.
- 23.2 Secondly, my preliminary view is that it would not be particularly onerous to identify a suitable number of lead claimants from the class of twenty-four. The parties already have the benefit of Schedule 1 to the Amended Particulars of Claim that should provide a useful guide to the appropriate selection.
- 23.3 Thirdly, as Popplewell LJ observed during the jurisdiction challenge, Dhan Kumar Limbu (the First Claimant) would appear to be an obvious choice. Mr Limbu alleges that he worked at ATA's factory for over 9 years from April 2012 to July 2021 as a machine operator, in quality control and as a line leader. He can therefore give evidence of his working and living conditions at those premises in various roles over a long period of time. He alleges that he paid a recruitment fee; he was required to work excessive hours for unlawfully low wages without regular rest days without suitable personal protective equipment; he was forced to live in overcrowded, insanitary and defective accommodation at his own expense; he was restricted in his ability to leave the factory and accommodation; and his passport and visa were retained by ATA. Importantly, he alleges that he was a whistleblower who was punished for seeking to expose the conditions at the factory. He pleads that he was taken to a local police station where he was interrogated and beaten in the presence of ATA management and then forced into making a false statement about working and living conditions.
- 23.4 Fourthly, it is foreseeable that the claimants might wish to call evidence from Mohammed Anwaer Hossain (the Twenty-Third Claimant) since he alleges that he was punished for his actions in smuggling out photographs that were published in the Sunday Mirror newspaper by being forced by managers to attend a local police station where he was interrogated, threatened and forced to sign a false statement. If the court is to be asked to consider the truth of his account in any event, the parties should consider whether it would be better if he were a lead claimant rather than simply a witness.
- 23.5 Fifthly, it would not appear to be sensible to consider Sabitra Danuwar (the Twenty-Fourth Claimant) who brings this action on behalf of her son's estate and who is unlikely to have direct knowledge of conditions in the factories.
- 23.6 Sixthly, it will be necessary to consider the case for focusing the stage 1 trial on claims arising from conditions at the ATA facility at

which twenty-three of the twenty-four migrants worked or, alternatively, upon also having some evidence in respect of conditions at the factory operated by Jabco.

- 23.7 Seventhly, consideration should no doubt be given to identifying a mix of Nepalese and Bangladeshi claimants and to identifying those with longer periods of service and who bring in a more diverse range of factual allegations. Once that exercise has been undertaken it should become clearer whether six is the right number or whether a more representative sample requires one or two more lead claimants while still controlling the cost and complexity of the trial.

Split trials and preliminary issues

24. It is common ground that the court should not order a full trial of all issues even on a lead claimant basis. As discussed above, the battleground is as to whether the court should order split trials of the issues of liability and quantum, or whether the court should first try discrete issues as to the defendants' potential liability as preliminary issues.
25. In the course of argument there was some discussion as to whether there was any real difference between the trial of a preliminary issue and a split trial. In complex personal injury and clinical negligence litigation, issues of liability are routinely tried separately from issues of quantum. While often referred to as a split trial, the King's Bench Guide makes the point that in such cases the court is in reality ordering the trial of liability as a preliminary issue. The precise terminology may not matter but there is a stark difference between a conventional split trial of the issue of liability and a trial of preliminary issues in the sense explained by David Steel J in McLoughlin v. Jones [2001] EWCA Civ 1743, [2002] Q.B. 1312, at [66], as the trial of a potentially decisive question, usually of law, that can be decided on the basis of a schedule of agreed or assumed facts. That distinction was rightly recognised by Peter Macdonald Eggers KC sitting as a deputy judge in Jinxin Inc. v. Aser Media Pte Ltd [2022] EWHC 2431 (Comm), at [20]:

“On some occasions, split trials and trials of preliminary issues are terms which are used interchangeably. This is for good reason: because they often amount to the same thing. However, the archetypical preliminary issues trial is one which requires the determination of one or a few issues (often, but not always, an issue of law) whose resolution depends on the court drawing certain assumptions, which generally occupies the court for a short period of time, and whose outcome has the real potential to save the parties and the court of the need for a substantially longer trial. By comparison, a split trial may involve all of the issues being determined at two or more separate hearings, each concerned with a substantial number of issues both of law and fact, and yet the first hearing has again the real potential to avoid the need for a subsequent hearing or subsequent hearings. Very often, where trials are split, the first trial need not make any assumptions of fact. This

may be where the distinction between split trials and preliminary issues trials resides. In any case, it is the potential to save the court and the parties from having to deal, at a subsequent hearing, with issues which become irrelevant depending on the decision reached by the court at the first trial which is common to both preliminary issues trials and split trials.”

26. Trials of preliminary issues in the sense identified in McLoughlin have their value but can, as Lord Scarman observed in Tilling v. Whiteman [1980] A.C. 1, at p.25, all too often prove to be treacherous short cuts whose price can be delay, anxiety and expense. Tilling was a simple county court possession claim in which, rather than embark on a straightforward exercise of hearing the evidence, the judge decided the preliminary issue of whether on assumed facts the landlords would be entitled to possession. The judge decided that issue against the landlords and dismissed the possession claim. Two appeals later, the House of Lords found that the judge had wrongly decided the preliminary issue and, since there were no findings of fact, there was no option other than to remit the case for trial to the county court. Deprecating the course that proceedings had taken, Lord Wilberforce observed, at pp.17-18:

“So the case has reached this House on hypothetical facts, the correctness of which remain to be tried. I, with others of your Lordships, have often protested against the practice of allowing preliminary points to be taken, since this course frequently adds to the difficulties of courts of appeal and tends to increase the cost and time of legal proceedings. If this practice cannot be confined to cases where the facts are complicated and the legal issue short and easily decided, cases outside this guiding principle should at least be exceptional.”

27. Lord Neuberger often warned of the dangers inherent in ordering the trial of preliminary issues:

27.1 In his well-known judgment as a puisne judge in Steele, Neuberger J declined to give judgment on the preliminary issue listed for trial before him. He identified ten matters that should be considered before ordering the trial of preliminary issues:

- (a) Whether the determination of the preliminary issue would dispose of the case or at least one aspect of the case.
- (b) Whether the determination of the preliminary issue could significantly cut down the cost and time involved in pre-trial preparation or in connection with the trial itself.
- (c) Where the preliminary issue is an issue of law, the court should ask itself how much effort, if any, will be involved in identifying the relevant facts for the purpose of the preliminary issue.

- (d) Where the preliminary issue is an issue of law, to what extent is it to be determined on agreed facts. As to this, the judge explained:

“The more the facts are in dispute, the greater the risk that the law cannot be safely determined until the disputes of fact have been resolved. Indeed, the determination of a preliminary issue, if there are serious disputes of fact, will run a serious risk of being either unsafe or useless. Unsafe because it may be determined on facts which turn out to be incorrect, and this could even risk unfairly prejudicing one of the parties; useless because, having been determined on facts which turn out to be wrong, it would be of no value.”

- (e) Where the facts are not agreed, the court should ask itself to what extent that impinges on the value of a preliminary issue.
- (f) Whether the determination of a preliminary issue may unreasonably fetter the parties or the court in achieving a just result.
- (g) Whether there is a risk that the determination of a preliminary issue may increase costs and/or delay the trial. Where determination of the preliminary issue could prompt settlement, that was a factor to weigh against such risk.
- (h) To what extent might the determination of the preliminary issue turn out to be irrelevant.
- (i) Whether there is a risk that the determination of the preliminary issue could lead to an application to amend the pleadings to avoid the consequences of the court’s determination.
- (j) Whether in all the circumstances it is just to order the trial of a preliminary issue.

27.2 As Master of the Rolls, Lord Neuberger criticised the decision at first instance in Bond v. Dunster [2011] EWCA Civ 455 to order a four-day preliminary issue trial at which oral evidence was heard, much of it from witnesses who could reasonably be expected to give evidence at a subsequent hearing. As to that, he said, at [107]:

“While they have their value, it is notorious that preliminary issues often turn out to be misconceived, in that, while they are intended to short-circuit the proceedings, they actually increase the time and cost of resolving the underlying dispute. It would, in my judgment, require a very exceptional case, almost inevitably one where a subsequent multi-week trial was anticipated, before a preliminary issue hearing, involving witnesses and expected to last four days, could be justified.”

27.3 Again as Master of the Rolls he observed of the appeal in Rosetti Marketing Ltd v. Diamond Sofa Co. Ltd [2012] EWCA Civ 1021, [2013] Bus L.R. 543, at [1]:

“It represents yet another cautionary tale about the dangers of preliminary issues. In particular, it demonstrates that (i) while often attractive prospectively, the siren song of agreeing or ordering preliminary issues should normally be resisted, (ii) if there are nonetheless to be preliminary issues, it is vital that the issues themselves, and the agreed facts or assumptions on which they are based, are simply, clearly and precisely formulated, and (iii) once formulated, the issues should be answered in a clear and precise way.”

28. In Woodland v. Swimming Teachers Association [2013] UKSC 66, [2014] A.C. 537, a school pupil suffered severe brain damage during a swimming lesson that had been arranged by her school but took place at a pool operated by a third party. She sued the Swimming Teachers Association, the contractor that employed the swimming teacher and the lifeguard, the lifeguard herself, the education authority that ran her school, and a further local authority that operated the pool. At first instance, the judge tried as a preliminary issue the question of whether the education authority owed a school pupil a non-delegable duty to secure that reasonable care was taken of her during the school day. Finding that no such duty was owed, the judge struck out that aspect of the claim against the education authority. On a second appeal, the Supreme Court held that the education authority could in law be liable for injury caused by the negligence of an independent contractor to whom it had delegated its education function and control over the pupil during the school day. Accordingly, the case had to be remitted. Lord Sumption commented, at [2]:

“The appeal provides a useful occasion for reviewing the law on what have been called ‘non-delegable duties of care’. But it must be very doubtful whether deciding such a point on the pleadings was really in the interests of these parties or of the efficient conduct of their litigation. The pleadings are unsatisfactory. There are no findings of fact and almost everything is disputed. A decision of the point presently before us will not be decisive of the litigation either way because there are other bases of claim independent of it. The point has taken more than two years to reach this stage, during which, if the allegation had been allowed to go to trial, it would almost certainly have been decided by now. As it is, regardless of the outcome of this appeal it will now have to go back to the High Court to find the relevant facts.”

29. To similar effect, Lord Hope observed in SCA Packaging Ltd v. Boyle [2009] UKHL 37 that the power of a tribunal to order the hearing of a preliminary issue should be “exercised with caution and resorted to only sparingly”. He endorsed Lindsay J’s observation in an earlier case that the essential criterion was whether there was a succinct knockout point that was capable of being decided after only a relatively short hearing. That, Lord Hope added, was unlikely to be the case where the preliminary issue

could not be entirely divorced from the merits of the case or where it would require consideration of a substantial body of evidence.

30. In my judgment, the defendants' proposal has the superficial attraction of cutting to the chase of determining what might well prove to be the central issues in this case as to the defendants' control and auditing of the factories and the extent of their knowledge of the treatment of the migrant workers. Such issues will be central to the question of whether the Dyson companies owed a duty of care to the claimants and, if they did, the question of liability in negligence. Further, such issues will be important in determining whether the Dyson companies are jointly liable for the alleged intentional torts and the success of the claim in unjust enrichment.
31. There are, however, a number of sound reasons why, in my judgment, the court should not be distracted by the siren song extolling the potential virtues of the defendants' proposed threshold issues trial:
 - 31.1 First, the defendants have put the claimants to proof of their working and living conditions while denying other factual allegations. These matters must therefore be proved despite, as Popplewell LJ noted in the jurisdiction appeal at [39], the fact that Dyson's focus at least in pre-issue correspondence was not on the truth or otherwise of the claimants' underlying allegations but upon the extent to which any liability could attach to the two English defendants. Since the defendants' proposal seeks to determine issues of law on assumptions as to disputed facts, any findings as to the alleged duty of care, Dyson's liability for breach, or Dyson's joint liability for the intentional torts will only be as good as the assumptions on which they are made. It would be open to the defendants to argue that notwithstanding an adverse conclusion on assumed facts, no duty of care was actually owed to a particular claimant upon the actual facts of his or her case and that breach of duty or joint liability is not in fact established.
 - 31.2 Secondly, despite assuming the truth of the claimants' allegations as to their working and living conditions, the proposal envisages determining issues in respect of the defendants' alleged knowledge and control of such conditions and their acts and omissions on the evidence. Such a trial risks dangerous confusion as to the boundaries between the facts that are to be assumed without proof and the facts that are to be determined on the evidence. Further, there is a real conceptual difficulty with the proposal that the court should make findings of fact as to Dyson's knowledge and control of matters that remain disputed and are only to be assumed for the purpose of the liability trial.
 - 31.3 Thirdly, it is foreseeable that the unsuccessful parties will wish to test my conclusions as to the existence of a duty of care, breach of duty, and/or Dyson's alleged joint liability on appeal. Acceding to the defendants' proposal would require the appellate courts to

grapple with difficult and perhaps novel points of law upon assumed facts despite clear guidance from the Court of Appeal and Supreme Court as to the undesirability of such course.

- 31.4 Fourthly, if not dispositive, the defendants' proposed trial would be likely to delay by a number of years the claimants' opportunity to give evidence in support of their individual claims. The proposal has the preliminary issues being heard in April 2027. Any appeal would probably not be heard until late 2028 or early 2029, and a second appeal to the Supreme Court would delay matters still further. All of that before the court identifies any lead claimants or addresses their actual claims.
- 31.5 Fifthly, although presented as the sole liability trial after which the court would determine issues of causation and quantum, the reality is that the defendants' proposal envisages the issue of liability being determined over two trials – one in respect of the defendants' preliminary issues and a second trial in respect of the lead claimants' cases. Accordingly, there would be a risk that the appeal courts would likewise have to address issues of liability twice before this litigation could even progress to quantum. The proposal is therefore liable to cause very substantial extra delay and cost by comparison with the claimants' proposal for a single liability trial followed by a single right of appeal on liability issues.
32. I therefore consider that the defendants' proposal would not allow the court to deal with this case justly and at proportionate cost. In particular, acceding to Dyson's proposals would impede the fair resolution of issues on assumed facts both at first instance and on appeal, and would breach my duty to ensure that this litigation, which has already been delayed by the jurisdiction challenge, is now progressed promptly.
33. I acknowledge that the stage 1 trial in Mariana did not focus on individual claims but rather upon questions as to the defendants' liability for the collapse of the Fundao dam in Brazil and the widespread environmental damage that was caused. The issues tried at stage 1 were broadly whether the defendants were strictly liable under Brazilian law for environmental damage and whether they were liable for fault-based liability under the Brazilian Civil Code or the Brazilian Corporate Law. Anticipating such an approach, the Court of Appeal had observed in dismissing the jurisdiction challenge, at [188]:
- “Significantly, by [the stage of the case management conference] the parties, represented by sophisticated litigators experienced in the field, would have been obliged fully to co-operate in putting forward case management proposals. Those could have included, for example, a proposal that the issue of indirect polluter strict liability be tried preliminarily, or that the control basis of such liability be determined first. A trial of such a preliminary issue would not appear to require the involvement of any evidence from any individual claimants; rather it would turn on the defendants'

knowledge, control and conduct, and the scope of the dispute on these aspects of the claim would be apparent from the defendants' responsive pleading to the [Master Particulars of Claim]. Were liability to be established, generic causation and quantum issues could be identified and tried. The outcomes of quantum trials on individual selected test cases could be used to inform settlement of individual cases across the board."

34. Thus, the stage 1 liability issues in Mariana did not turn on anything that the claimants could say in evidence but upon generic questions as to the proper application of the strict liability rules and the defendants' liability for the fault-based liability of the impecunious owner and operator. It was only if liability was established on one or more of those bases that it would be necessary to consider whether individual claimants had suffered loss and damage by reason of the collapse of the dam.
35. Likewise, I acknowledge that threshold liability issues were ordered to be tried in the Pan-NOx litigation without identifying lead claimants or trying any individual claims. In that case, the claimants alleged that car manufacturers had sold diesel cars that did not comply with applicable regulatory regimes in that they contained software that cheated or subverted their true level of emissions. The court ordered that the first trial should determine whether it was bound by findings of the German Federal Motor Transport Authority. A second trial was described as the main evidential phase and would determine whether the cars contained defeat devices, whether that was justified, legal issues as to the construction of the Emissions Regulation, and whether the supply of cars with defeat devices breached EU law and/or contracts of sale. These were generic issues that did not require the identification of or involvement of lead claimants.
36. I do not find either Mariana or Pan NOx to be helpful in formulating the proper approach in this case. Mariana concerns a single catastrophic event that had profound consequences for hundreds of thousands of people and businesses. There is no doubt that the dam collapsed causing loss of life and widespread environmental and physical damage. There may subsequently be an issue as to whether individual claimants suffered loss and damage by reason of the disaster, but the claimants have little if anything to say about liability. There are potentially millions of claimants in Pan NOx, being those who bought diesel cars fitted with defeat devices. Technical witnesses can assist with how the cars were mass produced and there was unlikely to be anything useful to the issue of liability that any individual claimant would be able to say.
37. This is, however, a very different case. Here, the narrative starts with the individual claimants. The core factual assertions are that these migrant workers were subjected to exploitative and abusive working and living

conditions while employed in the Dyson supply chain. It is that alleged ill-treatment that lies at the heart of the case and in respect of which it is alleged that the defendants owed and breached a duty of care, and that they were jointly liable for the intentional torts committed by those who managed the factories. Importantly, the alleged ill-treatment gives content to the allegation that the defendants knew and controlled the true state of affairs at the factories. In my judgment, resolution of the issue of liability in respect of a representative number of lead claimants will allow the court to consider the key issues as to Dyson's liability, if any, for such conditions on the basis of actual findings of fact rather than on the uncertain basis of assumed facts.

38. With the exception of the claim in unjust enrichment, it is not, in my judgment, particularly complicated to try liability issues in respect of lead claimants. Issues as to the alleged mistreatment of migrant workers will largely turn on witness evidence from those who worked in, managed, visited, or audited the factories as to working and living conditions; any photographic or documentary evidence as to these matters and in particular any inspection or audit reports; and any records of hours worked by individual workers, the wages paid, the deductions made from their wages, and the holidays taken. Issues as to whether such working and living conditions were unlawful will turn upon those findings of fact and the expert evidence of Malaysian law. Further, issues as to Dyson's liability, if any, for such working and living conditions will turn on those findings of fact; evidence as to the companies' control of the operations in the factories; evidence as to their knowledge of such conditions; and further expert evidence upon interesting questions of Malaysian law as to Dyson's alleged liability for its failure properly to control the management of its supply chain.
39. No one suggests that quantum issues as to the extent of any injury, loss and damage should be tried at stage 1. I agree and there is of course nothing exceptional about split trials of liability and quantum.
40. There was some debate in the course of argument as to the issue of causation. While I was not addressed on any differences between English and Malaysian law on this issue, it may be that it is necessary to prove some loss to establish liability for some causes of action while other torts are actionable without proof of loss. Certainly that is the position in England & Wales where, for example, a negligence claim requires proof of loss whereas the torts of false imprisonment, assault and battery are actionable without proof of loss. That was therefore also the law of Peninsular Malaysia on 7 April 1956 since the Civil Law Act 1956 adopted the English common law in preparation for independence the following year. Whether it remains the law of Peninsular Malaysia will be an issue – should it be in dispute – for the experts in Malaysian law.

41. The fact that – depending on Malaysian law on this point - some evidence may be required to establish that at least some injury, loss or damage was caused but not to quantify the same is not a novel problem. For example, the fact that a personal injury claimant in this jurisdiction cannot establish liability without establishing that the defendant's negligence or breach of statutory duty caused at least some injury, loss or damage does not prevent the courts from hearing split trials of liability and quantum. Nor does it usually require any medical evidence at the liability trial, it being common ground – or at least easily established without medical evidence - that the claimant suffered at least some injury, loss or damage by reason of the alleged negligence or breach of statutory duty. Likewise here, if a claimant establishes that the defendants breached any duty of care owed to him or her and that but for such breach of duty the claimant would not have been:

- 41.1 unlawfully forced to work in the factories;
 - 41.2 required to pay back recruitment fees and expenses out of his or her wages;
 - 41.3 forced to work excessive hours or to work without the minimum paid holidays provided by law;
 - 41.4 forced to work without being paid the minimum wages provided by law;
 - 41.5 housed in overcrowded, insanitary and degrading accommodation;
 - 41.6 required to work without adequate protective clothing, equipment and training or without proper access to medical treatment for injuries sustained during work on the Dyson supply chain;
 - 41.7 victimised and punished for seeking to expose abusive working and living conditions;
 - 41.8 restricted from leaving the site; or
 - 41.9 assaulted, beaten, threatened or intimidated;
- then in reality it is likely that liability for damages to be assessed will have been established.

42. That said, the parties should co-operate in keeping the issue of causation under active review. If a real causation issue is identified in relation to any particular cause of action pursued by a claimant which under Malaysian law is arguably only actionable on proof of loss and upon which that claimant might require medical or other expert evidence at the liability trial then the parties should consider whether that is a reason to remove that person from the list of lead claimants. Alternatively, they should consider whether they might require limited expert evidence on that issue. The court will not be impressed by gamesmanship on this issue but seeks the parties' co-operation and assistance in ensuring that the necessary liability issues are fairly tried without simply defaulting to the safety-first and expensive approach of needlessly relying on medical or other expert evidence in each case at the liability stage. That calls for co-

operation and the early identification of a problem, and neither an opportunistic defence ambush at trial on the basis that a particular claim fails for want of expert evidence on causation nor a failure by the claimants' legal team to engage with the issue.

43. I have given anxious consideration to whether the claim in unjust enrichment should be determined at the liability trial. I acknowledge that, at the time of the jurisdiction appeal, it was assumed that all liability issues would be heard together. Further, I acknowledge that its exclusion would be untidy in that issues of liability in unjust enrichment would then fall to be determined at the quantum hearing. Against that, making a finding as to the unjust enrichment claim is not essential to determining what happened in the factories or the extent to which the defendants are liable either in negligence or jointly in respect of the intentional torts. In fact, the unjust enrichment claim is parasitic upon establishing the alleged exploitative and abusive working and living conditions. Indeed, the core premise (pleaded at paragraph 94.1 of the Amended Particulars of Claim) is that Dyson obtained the manufacture of parts and products at a cost significantly below the true and fair market price that they would have had to pay had Dyson contracted with factories that respected the human and employment rights of its workers. Such enrichment is alleged to have been at the expense of the claimants on the basis of the alleged exploitative and abusive working conditions and it is asserted that the claimants' high degree of vulnerability and the extent and egregiousness of their exploitation set against the size of the profits made by the defendants require the court to grant the restitutionary remedy of unjust enrichment (paragraphs 95 and 97).
44. In my judgment, the issues of liability for and the assessment of the extent of any unjust enrichment cannot be safely or conveniently split from each other. Further, it would be disproportionate and inconvenient to give permission to the parties to rely on forensic accountancy evidence in respect of the liability aspect of unjust enrichment before trying issues as to the working and living conditions in the factories and of liability in respect of the negligence and intentional tort claims. Disproportionate in that it would require expensive forensic accountancy evidence to be prepared and given twice: first at the liability trial and then – should liability be established – the experts would have to take into account the court's findings in the first trial, prepare further reports and ultimately give expert evidence as to the quantum of the unjust enrichment for the purposes of the quantum trial. And inconvenient since it is difficult to see how the forensic accountants could easily identify and assess the alleged enrichment without first being guided by the court's actual findings of fact as to the working and living conditions in the factories and Dyson's knowledge or control of such conditions.

45. For these reasons:

- 45.1 I direct that lead claimants should now be identified. I will hear the parties as to the final number and process for selection of lead claimants at the adjourned case management conference.
- 45.2 I direct that there should be a trial of all issues of liability in respect of the lead claimants' claims in negligence, false imprisonment, intimidation, assault and battery.
- 45.3 For the avoidance of doubt, I direct that the claim in unjust enrichment will not be tried at this stage.

ISSUE 2: EXPERT EVIDENCE

- 46. At the hearing on 19 December, I granted the parties permission to rely on expert evidence as to Malaysian law. While they have already agreed draft directions for the orderly exchange of reports, the administration of written questions, and the preparation of joint reports, I do not grant permission at this stage to call oral expert evidence at the liability trial. That issue must be considered at the pre-trial review once it is clear what the disputes of Malaysian law are.
- 47. At this stage, no other expert evidence is necessary for the liability trial.

ISSUE 3: STATEMENTS OF CASE

- 48. By an application made on 21 November 2025, the defendants applied for an order striking out paragraphs 98-99 of the Amended Particulars of Claim and over 200 paragraphs and sub-paragraphs of the Reply. By a cross-application dated 11 December 2025, the claimants sought permission:
 - 48.1 to amend their Reply by withdrawing the majority of the paragraphs that were the subject of the defendants' application;
 - 48.2 to re-amend their Particulars of Claim in respect of aggravated damages; and
 - 48.3 to amend the capacity in which the twenty-fourth claimant brings her claim.

THE STRIKE-OUT AND WITHDRAWAL APPLICATIONS

The applications

- 49. There is no dispute that large swathes of the Reply should come out:
 - 49.1 The defendants argue that the Reply infringed the basic rules of pleading and that these passages should never have been pleaded. Accordingly, they should now be struck out.
 - 49.2 The claimants argue that the strike-out application should never have been made and that the present dispute is both arid and of

trifling importance. They argue that the defendants' application should be dismissed and that the appropriate course is to allow the claimants' application to withdraw most of the impugned passages.

50. Such dispute is indeed arid, but the starting point is that the Reply was defective and there was clearly no justification for a 66-page Reply in this case:
- 50.1 Statements of case should be as concise as possible and should only plead material facts, that is to say those which are necessary to formulate a cause of action or defence, not background facts or evidence: Tchenguiz v. Grant Thornton LLP [2015] EWHC 405 (Comm), [2015] 1 All E.R. (Comm) 961; Grove Park Properties Ltd v. Royal Bank of Scotland plc [2018] EWHC 3521 (Comm), at [24]; and Re King Solutions Group Ltd [2021] EWCA Civ 1943, [2022] Bus L.R. 184, at [62].
- 50.2 In Martlet Homes Ltd v. Mulalley & Co. Ltd [2021] EWHC 296 (TCC), I made clear, at [20], that an additional ground of claim cannot be pleaded in a Reply. I explained that the real purpose of a Reply is to refute a ground of defence. Further, I observed that while there is no obligation to respond upon the facts, a Reply can sometimes usefully admit a fact alleged in the Defence (thereby avoiding the cost and trouble of needing to prove the fact and allowing the court and parties to focus on the real issues) while explaining why such admitted fact does not provide a defence to the claim. Alternatively, a Reply can deny an allegation and usefully explain why such allegation must be wrong.
- 50.3 A Reply should not, however, be used to repeat or embellish what already appears in the Particulars of Claim or to make general observations or comments: White Book (2025 Ed.), paras 15.8.1 and 16.7.1.
- 50.4 Further, it is wrong in principle to plead matters which do not support or relate to any of the remedies sought and to plead immaterial matters with a view to obtaining more extensive disclosure: Charter UK Ltd v. Nationwide Building Society [2009] EWHC 1002 (TCC), at [15]; Grove Park, at [24]; and King Solutions, at [62].
- 50.5 Save where allowed by the rules, parties have no unfettered right to amend their statements of case. A claim is not pleaded by asserting an alleged right to amend the statement of case in the future: Charter UK, at [15]-[23].
51. In my judgment, the claimants' Reply breached each of these cardinal principles. As a direct result, it was substantially longer than it should have been. While often the court will not strike out a statement of case simply because it pleads some irrelevant issues or generates some untidiness in the pleadings, there is a distinction between a case in which an occasional lapse in pleading practice causes the type of untidiness

tolerated by Jackson J in Atos Consulting Ltd v. Avis Europe plc [2005] EWHC 982 (TCC), [2005] CP Rep 43, at [18], and cases such as the present where the wholesale breach of the rules would otherwise leave in place a 66-page Reply that would serve only to obfuscate whether there was anything of value in the document. In my judgment, this Reply is likely to obstruct the just disposal of the proceedings and the offending passages were therefore liable to be struck out pursuant to r.3.4(2)(b).

52. When faced with a meritorious strike-out application, it was somewhat tactical to seek to withdraw the impugned parts of the Reply by amendment rather than taking the more straightforward path of consenting to the strike-out application. In any event, the strike-out application was first in time and, insofar as it matters, I strike out the passages that the parties agree should be removed from the Reply.
53. The nine paragraphs still in dispute consist variously of commentary, repetition and statements of law. They serve no purpose and should not have been pleaded in the Reply. Had these nine paragraphs been the only objectionable passages in the Reply, I might well have been persuaded that they introduced some untidiness but did not warrant an application to strike out. That was not, however, the position and I also strike out these nine paragraphs.
54. The position is different in respect of the Amended Particulars of Claim. Paragraphs 98-99 should not have been pleaded but would not of themselves have justified a strike-out application. Accordingly, I would allow the claimants to delete those two paragraphs by way of re-amendment.

Costs

55. It is, however, perfectly obvious that this issue has become all about costs and that all parties are jockeying for forensic advantage:
 - 55.1 Slaughter and May raised the defendants' concerns about the Reply on 14 November seeking proposals by mid-day on 19 November. That was always tight but the costs and case management conference was then listed for 3 December.
 - 55.2 Leigh Day provided a holding response on 19 November indicating that they would review their statements of case and provide a substantive response by 26 November. By then the hearing had been relisted for 19 December.
 - 55.3 Slaughter and May elected not to wait a few more days and filed the defendants' application on 21 November.
 - 55.4 On 26 November, Leigh Day conceded that the majority of the contested paragraphs in the Reply should be withdrawn as a "purely pragmatic step" while maintaining sixteen paragraphs.

- 55.5 On 4 December, Slaughter and May conceded the retention of seven of the sixteen paragraphs, refused to agree that the claim for aggravated damages could be moved to the Particulars of Claim, sought the defendants' costs of the strike-out application on the indemnity basis, and sought agreement that 50% of the costs of the Reply should be disallowed.
- 55.6 By an application notice dated 11 December, Leigh Day then made its amendment application. While the formal application was required to amend the claim for aggravated damages in the Particulars of Claim and to amend the capacity of the twenty-fourth claimant, the claimants also used the application to seek permission to withdraw large swathes of its statements of case rather than being seen to consent in part to the strike-out application.
56. Having substantially succeeded in the strike-out application, the general rule is of course that the defendants should be awarded their costs. The court is, however, required to have regard to all the circumstances of the case including conduct and specifically whether it was reasonable for a party to raise, pursue or contest a particular issue, and the manner in which the parties pursued or defended the issue: r.44.2(4)-(5). Applying these principles, I conclude:
- 56.1 The starting point is that the Reply should never have been pleaded in the way that it was and the defendants acted reasonably in raising the issue.
- 56.2 That said, the defendants acted somewhat aggressively in making their application on 21 November rather than waiting for the promised substantive response on 26 November that would still have left over 3 weeks to the relisted hearing. Indeed, had they waited it would have been clear that the claimants would concede that the bulk of the passages complained about should be withdrawn.
- 56.3 Thereafter the issue quickly narrowed to the rather sterile question of whether the court should strike out or allow the claimants to withdraw parts of the Reply and Amended Particulars of Claim and the nine remaining paragraphs in the Reply. The claimants ought to have simply consented to the application that had already been made but equally the defendants' unreasonable insistence that they should agree to pay indemnity costs contributed to preventing the parties from resolving this storm in a teacup.
- 56.4 Ultimately, the defendants succeeded in striking out both the conceded parts of the Reply and the remaining nine paragraphs although not in striking out paragraphs 98-99 of the Amended Particulars of Claim.
57. This was therefore a meritorious and reasonable application that was pursued somewhat aggressively and without proper regard to the parties' duty under r.1.3. In my judgment, the appropriate costs order is that the

claimants should pay 50% of the defendants' costs of the strike-out application. There are no proper grounds for awarding costs on the indemnity basis and accordingly I will assess costs on the standard basis.

58. The defendants have provided a schedule of costs in respect of the application totalling £61,366.03. I accept Mr Craven's argument that to spend over £60,000 on this issue was both unreasonable and disproportionate. The application has been fought without any proper regard to the actual importance of the issue or the value of these claims. While Mr Sloboda's advice was properly sought, the issue should then have been delegated to junior counsel. Equally, the defendants were entitled to the advice of the partner responsible for this litigation but not to their claim for over 18 hours of her time working on the documents. I accept that it is somewhat involved to identify the precise targets for strike out amidst a 66-page pleading, but this application did not remotely justify over 100 hours' work on the documents (including over 12 hours' work on costs) and over 8 hours' attendance on counsel. Indeed, the work required to argue this application substantially reduced as soon as it became clear that the claimants would not seek to defend the vast majority of the impugned paragraphs.
59. Furthermore, counsel's fees are claimed as a proportion of the brief fees for the entire costs and case management conference. I do not accept either the premise that the reasonable and proportionate total spend on counsel's brief fees for the case management conference was anything like £105,000 nor the suggestion that the remaining issues of whether (1) the offending paragraphs should be struck out or withdrawn by amendment, and (2) the disputed nine paragraphs should be struck out, justified anything approaching 20% of such brief fees.
60. When assessing costs on the standard basis, r.44.3 requires the court to resolve any dispute as to whether costs were reasonably and proportionately incurred or whether they were reasonable and proportionate in amount in favour of the paying party. In my judgment, the reasonable and proportionate costs of this application were no more than £12,000. Accordingly, I award the defendants the sum of £6,000, being 50% of such costs.
61. Let the parties take note. As I have already observed, it is particularly important in group litigation of this sort that the parties should comply with their duty under r.1.3 to help the court in furthering the overriding objective of dealing with the case justly and at proportionate cost. That calls for co-operation rather than opportunism, aggression or – on the other side – tactical manoeuvring and burying one's head in the sand. In this instance, the defendants were right to criticise the drafting of the Reply and the claimants would have been better advised to have consented to the order sought and move on rather than make their cross-

application in the hope of deflecting the court's attention to the reality of the position or insist that certain paragraphs should not be struck out at all when in fact counsel was not prepared to advance any positive argument for their retention. Although largely successful in their application, the defendants have, however, pursued this matter aggressively and without proper regard to their duty to help the court in ensuring the just and proportionate resolution of this claim. They have in consequence recovered only a fraction of the unreasonable and disproportionate costs that they spent on this issue.

62. A separate issue arises as to the costs of the Reply. The defendants invite me to direct that in any event 50% of the costs of the Reply should be disallowed. It is undoubtedly right that some part of the costs of drafting the Reply will have been unreasonably incurred on pleading the many paragraphs and sub-paragraphs that should never have been in the Reply. That is a perfectly proper point for the costs judge to take into account on detailed assessment, but I agree with Mr Craven that I am not in a position to calculate the extent of the wasted costs incurred. Accordingly, I leave this issue for detailed assessment in due course should that be required and I do not tie the hands of the costs judge by making the direction sought by the defendants.

THE AGGRAVATED DAMAGES AMENDMENT

63. The claimants plead a claim for aggravated damages. Currently, they rely on three matters: Dyson's alleged persistent and unjustified failure to prevent the claimants from being subjected to unlawful forced labour; Dyson's alleged persistent failure to prevent the claimants from being exposed to an unacceptably high risk of serious personal injury; and Dyson's alleged continued failure to apologise. By their application, the claimants seek to re-amend paragraph 124 of their Particulars of Claim to plead two additional particulars:

“124.4 The fact that in 2022 the Defendants issued a challenge to the jurisdiction of the English court which:

- (a) was calculated to impede the Claimants' ability to pursue and obtain redress from the Defendants in respect of the severe exploitation and mistreatment which the Claimants had been subjected to; and
- (b) had the consequence (which was entirely foreseeable to the Defendants) of delaying the Claimants' access to a remedy in this jurisdiction by a period of more than two years, in circumstances where the Defendants knew that the Claimants were in a position of exceptional vulnerability and hardship and that such delay would inevitably perpetuate and exacerbate that hardship.

124.5 The fact that the First and Second Defendants brought and pursued for more than two years libel proceedings

against Channel Four Television Corporation and Independent Television News Limited in 2022, which were calculated to prevent legitimate journalistic reporting about the exploitation and mistreatment which the Claimants had been subjected to at the Factory Facilities and Accommodation.”

64. Resisting these amendments, Mr Sloboda argues that the new case is hopeless. He observes that the jurisdiction challenge was plainly arguable and indeed that Dyson succeeded at first instance. Equally, he argues that the libel claim was arguable even if it was subsequently discontinued. He argues that the claimants have failed to establish a real prospect of success upon these amendments and complains that it is entirely unclear how Dyson can respond to the amendments without waiving privilege in its legal advice.
65. Citing Commissioner for Police for the Metropolis v. Shaw [2012] I.C.R. 464, Mr Craven responds that it is settled law that the way in which litigation is pursued can give rise to a claim in aggravated damages. He submits that it is properly arguable that the jurisdiction challenge was calculated to impede these claims. Why else, he asks rhetorically, was jurisdiction fought so doggedly?
66. Given that the Court of Appeal found that these claims are primarily brought against English companies; that the Malaysian Dyson company was a group company for whom the litigation would be co-ordinated and conducted from England by English officers and employees; that Dyson were tough and difficult opponents who would take every step legitimately available to them to defeat the claims; and that the effects of declining jurisdiction included that the claimants:
- 66.1 would be at the disadvantage of relying on Dyson’s uncertain undertakings to fund disbursements in Malaysian proceedings;
- 66.2 would not have access in Malaysia to the experienced and well-resourced lawyers that are available to them in this jurisdiction; and
- 66.3 had a reasonable and well-founded fear of giving evidence in person in Malaysia,
- it is not an enormous stretch to allege that Dyson’s actions in pursuing the jurisdiction challenge might have been calculated to impede the claimants’ ability to pursue and obtain redress. Certainly, on the Court of Appeal’s analysis, a successful jurisdiction challenge would have made it more difficult for these claimants to seek effective access to justice. Further, it is not an enormous stretch from the Master of the Rolls’ observation during the course of argument that the “very large elephant sitting in the middle of the court room” was that the jurisdiction challenge appeared to be “a bit of a device”.

67. The story of the libel proceedings is curious. The claim was issued against two national broadcasters and it is plainly arguable that such proceedings were at least in part designed to prevent journalists from publishing further reports about the alleged exploitation and mistreatment of the claimants. As Popplewell LJ remarked in the jurisdiction appeal, the libel proceedings were discontinued after the broadcasters pleaded a truth defence and shortly after Warby LJ gave permission for the libel defence to be relied on in the appeal. Popplewell LJ added, at [43]:

“No reason has been given by Dyson UK for such discontinuance. The timing and history is such that a cynical observer might infer that this was in whole or in part to obtain tactical advantage in this appeal. Mr Gibson suggests, however, that there are a number of legitimate reasons why [Dyson] might now have decided to discontinue which are unrelated to the effect it might have on this appeal, and I will proceed on that basis.”

68. As to privilege, the issue raised by these re-amendments is whether the defendants’ actions in issuing the jurisdiction challenge were calculated to impede the claims and whether the libel proceedings were calculated to prevent legitimate journalistic reporting. These are not questions as to the merits of the jurisdiction challenge or the libel proceedings but as to the defendants’ intentions in deciding to challenge jurisdiction and in deciding to issue libel proceedings. It is not beyond the defendants’ very experienced legal team to chart a careful course in responding to such allegations without waiving privilege.
69. In my judgment, the claimants succeed in overcoming the low hurdle of establishing that these re-amendments have a real, as opposed to fanciful, prospect of success. I therefore allow the re-amendments to paragraph 124 of the Particulars of Claim.

THE CAPACITY AMENDMENT

70. There was insufficient time to hear the argument on the capacity re-amendment on 19 December 2025 and, in any event, the defendants sought time to respond to that part of the application. Accordingly, I gave directions and that aspect of the claimants’ application will be heard at the adjourned case management conference if it remains in dispute.

ISSUE 4: EARLY DISCLOSURE

THE ARGUMENT

71. The draft directions envisage disclosure being given by 11 June 2026. The claimants seek, however, early disclosure of five categories of documents that were referred to in the defamation proceedings:

- 71.1 Minutes from at least four separate meetings between Dyson and ATA that took place in October and November 2021 regarding their ongoing commercial relationship.
 - 71.2 A report from RBA/Elevate dated September 2021 in respect of an audit carried out between 26 July and 8 September 2021 in respect of ATA's factory facilities.
 - 71.3 The reports from five audits carried out by Dyson or on their behalf by Intertek Group plc or its subsidiary between 2019 and 2021.
 - 71.4 Six letters from Martin Bowen, Dyson's Chief Legal Officer, to ATA dated 27 May, 18 and 25 June, 7 and 20 July, and 20 October 2021.
 - 71.5 The pre-approvals and requests from Dyson for ATA workers to work on rest days to maximise production volumes in October and November 2021.
72. By Slaughter and May's letter dated 23 October 2025, the defendants confirmed that these documents would fall within their standard disclosure although they reserved the right to withhold inspection on the basis of privilege and to redact confidential information that was not relevant to this case.
73. Mr Craven submits that these five classes of documents are clearly highly relevant and very important. Acknowledging that the only question is the timing of disclosure, he argues that early inspection of key documents will help in facilitating an effective disclosure process and may lead to further investigation of factual issues or amendment of the pleaded case. It is, he contends, a targeted and proportionate request for disclosure of documents that Dyson will already have identified. It would, he submits, be consistent with Dyson's duty of co-operation for it now to give this early disclosure.
74. In response, Mr Sloboda asks the rhetorical question as to why it matters whether the claimants get these documents in March or June. There is, he argues, no justification for early disclosure and this is not a case where the claimants have been unable to plead their case.

ANALYSIS

75. Generally, the court does not order specific disclosure until the parties have first given disclosure. Orders for early specific disclosure are not routine but may be made where, taking into account the overriding objective and the respective consequences of making or not making the order, the applicant demonstrates a proper basis for early disclosure: Bullring Ltd v. Laing O'Rourke Midlands [2016] EWHC 3092 (TCC), per Coulson J, at [20]. Coulson J added that for a proper basis to be identified, there had to be something important or significant which could be achieved by ordering early disclosure. There therefore had to be a good

reason for ordering early disclosure although the judge rejected the suggestion that something out of the ordinary was required as “possibly overstating the position”.

76. In Cavallari v. Mercedes-Benz Group AG [2023] EWHC 1888 (KB), [2024] R.T.R. 1, Fraser J made clear, at [31], that an applicant’s inability to plead its case without early disclosure is a powerful factor in favour of such an order but that it is not an essential prerequisite. Cavallari is group litigation. Fraser J observed, at [33]-[36]:

“33. In my judgment, although group litigation is of course governed by the CPR generally and also must take account of the overriding objective in the CPR, there are differences in terms of scale that mean when the general principles to disclosure – and in particular early disclosure – are applied, a different outcome might occur in respect of this subject. This is because in group litigation it is more likely that if a particular discrete document is known to exist, and to be directly relevant to the issues (regardless of whether that document is itself admissible as proof of its findings and conclusions, which the [Korean Fair Trade Commission (‘KFTC’) Decision] is not, as has been explained above) it would be more usual to order early disclosure of it, than if the litigation were more conventional involving very few parties. In group litigation such as this, I struggle to see that disclosure of some of these documents ought to be delayed merely because pleadings have not closed. I am not for a moment suggesting that early disclosure will more readily be ordered in group litigation; such orders will be relatively rare. But the ‘something important or significant’ in group litigation may more readily be satisfied in group litigation than otherwise.

34. This is for two main reasons. Firstly, early disclosure of a document such as the unredacted KFTC Decision itself may, and in this case probably will, assist the parties in refining the issues between them in the group litigation generally. This assistance to the parties will also help to inform the court as to the direction of the group litigation in terms of what issues can usefully be resolved, when, and in which order. Case management is important in most, if not all, complex cases, but in group litigation it is even more important, given the nature, scale and duration of such cases ...

35. The second reason is that co-operation by the parties, required in any event of all parties under CPR Part 1, is even more important in group litigation. It is hardly co-operative for a party with a directly relevant document, which I find the KFTC to be, to take the position that in principle it is disclosable, but to resist that on the basis of ‘not yet’.

36. Early disclosure in this case also assists in correcting what Mr de la Mare correctly describes as the information asymmetry

between the parties. There is sufficient information in the public domain concerning the diesel emissions landscape for these many hundreds of thousands of claimants to consider, or suspect, they have a claim, and for the Generic Particulars of Claim to be drafted. However, the sooner their legal advisers are aware of the full content of the KFTC Decision the better, as this will help those advisers realise either their case is weaker than they thought, stronger, or perhaps about the same. Such detail can only helpfully advance the group litigation at an early stage.”

77. In *Alame*, Bean LJ observed, at [102], that in a case where there is both a substantial inequality of arms and asymmetry of information, all case management decisions should be informed by the overriding objective and, in particular, the court’s obligation to ensure so far as reasonably practicable that the parties are on an equal footing and can participate fully in proceedings.
78. Here, the claimants have been able to plead their case. They know better than anyone the actual working and living conditions at the factories, but there is an asymmetry of information between the parties as to what was reported to and known by Dyson. Quoting Lord Briggs’ own earlier observation in another case, Popplewell LJ commented in the jurisdiction appeal, at [57], that it is highly likely that there will be amendments given that, in a case of this kind, the importance of disclosure of documents internal to Dyson is “blindingly obvious”.
79. Dyson has already incurred costs of over £540,000 on disclosure in this litigation. Within that level of expenditure, it is inconceivable that the defendants have not already identified and considered the key documents now sought, especially since such documents were pleaded in the libel case. I do not therefore accept that it would be onerous now to require Dyson to disclose a small number of key documents. Dyson’s position is, however, protected since I do not order a specific search for documents. Rather, Dyson should co-operate by disclosing such of these apparently key documents as have already been found.
80. Balanced against that minor inconvenience, the problem with amendments made after disclosure or, even later after the exchange of witness evidence, is that they require the parties to reconsider their disclosure and witness evidence in light of the amended allegations. That can cause additional cost and prejudice the ability of the parties to comply with the procedural timetable. While not routine, I accept that there is therefore something important that can be achieved by a strictly limited order for early specific disclosure of a small number of known key documents that are likely to reveal the defendants’ knowledge or control of working and living conditions at the factories and whether Dyson was

requiring overtime to be worked on rest days despite any such knowledge. There is therefore a proper basis for the order sought which is, in my judgment, in accordance with the overriding objective of dealing with this case justly and at proportionate cost in that it:

- 80.1 will better allow the claimants to assess the defendants' knowledge of the working and living conditions in the factories and the strength or weakness of their claims;
- 80.2 will allow the claimants to give early consideration to whether targeted re-amendments are required;
- 80.3 will not be burdensome because no search will be ordered; and
- 80.4 will simply require compliance with the parties' mutual duty of co-operation.

- 81. The order obtained does, however, come with responsibilities. Having asked for and obtained an order for limited early disclosure, the claimants would breach their own obligations under r.1.3 if they fail to consider such documents and formulate any necessary consequential re-amendments with expedition.
- 82. I therefore order the defendants to give early specific disclosure of known documents in each of the categories identified at paragraph 71 above.

ISSUE 5: REMAINING DIRECTIONS TO TRIAL

- 83. Having considered the parties' draft directions and their rival submissions, I accept the claimants' argument that the liability trial that I have ordered will be ready for hearing by 15 April 2027. Now that the scope and approximate date of the trial have been resolved, it is necessary to finalise the directions in order to achieve the just and proportionate trial of the issue of liability on that timetable. In this area, there has been considerable co-operation and substantial progress has already been made. I now invite the parties to seek to agree the remaining directions or at least to narrow any remaining areas of dispute in advance of the adjourned case management hearing.
- 84. I particularly invite the parties to consider whether disclosure relevant to the unjust enrichment claim should be given together with disclosure on other liability issues (thereby avoiding the undesirability of argument as to what, if any, financial disclosure is in any event relevant to the liability trial and of substantial further time being sought for financial disclosure after the liability trial) or delayed until judgment has been given on the liability trial (thereby saving costs of disclosure that might ultimately not be needed).

ISSUE 6: COSTS MANAGEMENT

85. The argument on other issues on 19 December 2025 meant that there was insufficient time to embark on costs management. It was not an exercise to be rushed given the total budgets for incurred and anticipated future expenditure of £5.2 million for the claimants and £7.5 million for the defendants. Furthermore, it would have been neither just nor sensible to have embarked on budgeting without first settling the issue of exactly what was to be tried. As I observed at the hearing in December, it will now be necessary for the parties to review their budgets in light of the case management decisions that I have taken and the issue of costs management will have to be determined at the adjourned case management conference.
86. At the December hearing, I gave notice that I was very concerned by the enormous incurred and budgeted expenditure in this case and that the parties should not expect their projected costs – where they are not agreed – to be approved in anything like the sums estimated in their budgets. I accept that those observations were very much a matter of first impression and that my comments were made before hearing argument on the budgets. The parties may seek to persuade me otherwise but, nevertheless, I invite the parties to co-operate in seeking to identify tangible cost savings in their final budgets.