Neutral Citation Number: [2026] EWHC 2293 (Ch)

Case No: BL-2020-001050

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 10 September 2026

Before :

MR JUSTICE RICHARD SMITH

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Between :

(1) LOUDMILA BOURLAKOVA
(2) HERMITAGE ONE LIMITED
(3) GREENBAY INVEST HOLDINGS LIMITED (formerly known as Maravan Services Limited)
(4) VERONICA BOURLAKOVA

Claimants

- and –

(1) THE ESTATE OF OLEG BOURLAKOV
(2) DANIEL TRIBALDOS
(3) LEO SERVICES HOLDING LTD
(4) LEO TRUST SWITZERLAND AG
(5) REUWEN SCHWARZ
(6) SEMEN ANUFRIEV
(7) NIKOLAI KAZAKOV
(8) VERA KAZAKOVA
(9) COLUMBUS HOLDING AND ENTERPRISES SA
(10) FINCO FINANCIAL INC
(11) GATIABE BUSINESS INC
(12) EDELWEISS INVESTMENTS INC
(13) IPEC INTERNATIONAL PETROLEUM CO INC
(14) HEMAREN STIFTUNG
(15) WLAMIL FOUNDATION
(16) DELOS GLOBAL SA
(17) JOVELLANOS INVESTMENTS CORP
(18) FUNDACION CANTUCCI **(Third Party)**
(19) ANAHILL STIFTUNG **(Fourth Party)**
(20) SILVER ANGEL YACHTING LIMITED
(21) PRIMEWAYSERV LIMITED (formerly known as Cypcoserve Limited)

Defendants

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Patrick Harty & James Goodwin (instructed by **Mischon De Reya LLP**) for the **Claimants**
Thomas Grant KC & Ryan James Turner (instructed by **Forsters LLP)** for the **First Defendant**

Hearing date: 15 June 2026

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APPROVED JUDGMENT

MR JUSTICE RICHARD SMITH:

Introduction

1. This judgment concerns the Claimants' application dated 8 December 2025 (**MPR Application**) for a direction that Mr Nicholas Jacob (**Mr Jacob**), the Court-appointed representative of the estate of the First Defendant, Mr Oleg Bourlakov (**Estate** or **D1**, as appropriate), should not pursue issues concerning the Ukrainian matrimonial property regime (**MPR**) as pleaded in these English proceedings by way of defence and counterclaim to certain claims made by the Claimants against D1. The MPR Application is supported by two witness statements from Ms Pigott (16th and 21st) for the Claimants and one from Ms Oghanna (3rd) for Mr Jacob.

Background

2. On 16 July 2020, the Claimants issued the Claim Form in these English proceedings. Although the claim has since been amended a number of times, the essential allegations from the Claimants' side continue to be succinctly captured by the following:-

> "Following the breakdown in marital relations, [D1] pursued a strategy (in combination with the other Defendants) of dishonest and/ or improper and/ or unlawful actions with the ultimate objective of maximising his own share of assets which are (or have been) assets of each of the separate members of the Bourlakov nuclear family … and minimising or even extinguishing [the First Claimant]'s share."

3. The Particulars of Claim (as amended from time to time) (**PoC**) explain that some of the assets the subject of these proceedings might be subject to potential claims under Ukrainian matrimonial law but that such matrimonial claims are not the subject of these English proceedings. The Claimants say that this reflects the 'consensus' that D1 was not resident in England when he died, that Estate succession will be considered by a foreign court and that such foreign court will also conduct the liquidation of the matrimonial estate of D1 and his wife, Mrs Bourlakova (**C1**).

4. Indeed, a month before the issue of these proceedings, D1 started certain proceedings in Monaco against C1 and his two daughters, including the Fourth Claimant (**C4**), seeking to enforce his MPR rights (**Asset Transfer Proceedings**), claiming that C1 had transferred away assets that had been entrusted to her and held in her name as matrimonial property. Relatedly, the Claimants also point to the jurisdiction challenge in these proceedings made by the Seventh Defendant, Mr Nikolai Kazakov (**D7**), in which he did not suggest that MPR issues should be considered in England rather than in Monaco where the Asset Transfer Proceedings had been started and the liquidation of the matrimonial estate would proceed.

5. D1 died on 21 June 2021. The Asset Transfer Proceedings were apparently suspended but D7 and his wife, Vera Kazakova (**D8**), sought to resume these based on their suggested status as 'universal legatees'.

6. Following D1's death, and after some delay, time was then spent addressing the position of the Estate in these proceedings, culminating on 12 October 2023 in this Court's appointment, upon the Claimants' application, of Mr Jacob as the CPR, Part 19.12 representative of the Estate. That appointment was not uncontentious, the (then) Monaco Provisional Administrator of the Estate (**PA**), A&S Expertise SAS (**A&S**), making its own application for its appointment, albeit withdrawing this at the hearing given uncertainty concerning its role as PA following developments in related litigation in Monaco. Certain challenges having apparently taken their course in Monaco, there now appears to be no dispute as to A&S' appointment as PA.

7. Following Mr Jacob's appointment as representative of the Estate, I gave certain directions on 1 August 2024 concerning his powers and duties, including confirming his power to advance counterclaims on the Estate's behalf. Mr Jacob served the Estate's Defence and Counterclaim and certain additional claims on 31 October 2024. The effect was to introduce for the first time MPR issues into these English proceedings.

D1's MPR defence and counterclaims

8. The counterclaims are made on alternative bases, namely that there was a nomineeship in favour of D1 governed by Monégasque law in respect of C1's property, alternatively that D1 had joint common property rights in all matrimonial property as a matter of Ukrainian law. The effect of the latter is said to be that C1 could only dispose of such matrimonial property with D1's consent. Since C1 made such disposals without such consent, they are said to be void or liable to be set aside under the Ukrainian Family Code, with C1 also liable to compensate the Estate for such dispositions and C4 liable to give restitution for disposed property received from C1.

9. Although the Estate says that the full extent of C1's dealings with property in alleged breach of the nomineeship or D1's MPR rights is not known, it has identified dealings totalling some US$911m, comprising (i) $616m transferred from the Second Claimant on or after 31 May 2018 (as part of the establishment of the Golden Wheat Settlement) (ii) $256m transferred from C1 to C4 on or around 5 June 2018 (iii) $34m transferred from C1 to C4 on or around 27 June 2018 (iv) $5m transferred from C1 to Elena Bourlakova on or around 10 October 2018 and (iv) property said to have been transferred from, or on the instruction of, C1 to the Golden Wheat Settlement. It is common ground that these transactions are also the subject of the Asset Transfer Proceedings. Notably perhaps, D1's girlfriend at the time of his death and mother of his youngest daughter (**Ms Shevtsova**), is party to the Asset Transfer Proceedings. There may be a question as to whether D7 and D8 are formally parties before the Monégasque Court but the relevant 'plumitif' or directions order permits them to file submissions in advance of what has

been described as the 'final hearing' in the Asset Transfer Proceedings in November 2026.

10. C1 says that it makes little sense for the Estate to frame its counterclaims in the alternative. If assets held by C1 are joint matrimonial property, they are also joint matrimonial property if held by her as D1's nominee. This framing is also said to be an attempt by the Estate to argue that D1's MPR claim should be brought into account but C1's should not.

11. The Estate also advances a defence to C1's claims based on the Ukrainian MPR. The thrust is that, if the property the subject of C1's claims was not held for D1 pursuant to the alleged nomineeship, it was joint matrimonial property. As such, any monetary award to be made in C1's favour would also be subject to D1's joint common property rights and C1 could not be entitled to relief against the Estate greater than her share thereof. The Claimants say that it is notable here too that the Estate does not suggest that D1's MPR claim against C1 should be limited in the same way. Instead, it says that this should proceed in full in these English proceedings without taking any account of C1's MPR rights, the latter then apparently to be dealt with by the court conducting the liquidation of C1's and D1's joint matrimonial estate.

12. C1's complaint here perhaps foreshadows one of her principal arguments on the MPR Application, namely that all MPR issues, not only those against C1, should be dealt with together by the same court applying the same principles in the same consistent manner, enabling a full and proper account against both sides.

Subsequent developments

13. Mr Jacob's appointment has not been without its own difficulties, particularly with respect to the funding of his representation of the Estate in these proceedings. That issue was later resolved, with a funding regime put in place following my order of 6 May 2025, albeit not without the Claimants first applying unsuccessfully for Mr Jacob's discharge as representative.

14. On 28 May 2025, A&S took over the Asset Transfer Proceedings on behalf of the Estate. According to the Claimants, a procedural timetable has now been set by the Monégasque Court, including the 'final hearing' on 26 November 2026 already mentioned, and provision for written submissions in the meantime, including from D7 and D8, Ms Shevtsova and the Claimants. Judgment is said to be expected in early 2027.

15. The Claimants also say that A&S have proposed that the Monégasque Court determines as a preliminary issue the question of whether the assets subject to the Asset Transfer Proceedings are matrimonial property or C1's personal property, with the issue of what remedy should be granted if, contrary to C1's case, the assets were joint matrimonial property, to be assessed subsequently. It is said that, if this approach is adopted, the key

issue of whether those assets were joint matrimonial property can still be expected to be determined in Monaco by early 2027. As such, the Claimants disagree that these English proceedings will be tried before the Asset Transfer Proceedings.

Other proceedings in Monaco and Latvia

16. In addition to the Asset Transfer Proceedings, there are further related proceedings in Monaco and Latvia, the two candidate jurisdictions for the place of D1's residence at his death. Unlike these English proceedings, they also involve Ms Shevtsova. They include the 'Monaco Estate Proceedings' and related or ancillary claims concerned with the succession to the Estate and they engage multiple issues arising from the various claims of the potential beneficiaries. Ms Shevtsova herself has also commenced a claim in Monaco to liquidate the matrimonial estate.

17. The ongoing proceedings in Lavia include those issued by C1 on 2 December 2025 for her share of the matrimonial property under the MPR with a view to the full liquidation of the matrimonial estate of C1 and D1. Mr Jacob notes that this claim was brought by C1 despite the Asset Transfer Proceedings in Monaco and more than a year after Mr Jacob had filed D1's Defence and Counterclaims in these English proceedings. The implication at least is that these further Latvian proceedings are tactical and indicative of forum shopping, including in conjunction with the MPR Application. C1, however, says that she was required to issue these proceedings because of the expiry of a potential limitation period and did so on the basis of the earlier evidence of Ms Shevtsova that Latvia was D1's place of residence at his death. C1 says that she intends to apply to stay the Latvian proceedings to allow the Latvian Court to take account of decisions in these proceedings as to the ownership of assets and the damages claims.

Split trial

18. I should also add that, as a result of my judgment dated 24 April 2026 [2026] EWHC 926 (Ch) concerning D7's disclosure application dated 18 November 2025 with respect to its counterclaims against C1, a 'split trial' has been directed in these proceedings. One effect is that the remedies aspects of the counterclaim advanced by the Estate in respect of its allegations that C1 and C4 held assets for the benefit of D1 will not be determined at the trial listed to commence on 5 October 2027.

The MPR Application

19. The MPR Application was issued on 8 December 2025. This too was more than a year after the Estate had filed D1's Defence and Counterclaims in these proceedings. There was some criticism for the time taken by the Claimants to make the application. The Claimants say that they were, in fact, attempting to engage meaningfully with D1 about how best to deal with the MPR claim, albeit ultimately to no avail. The time taken for

the listing of the MPR Application also came in for some comment. This was explained as principally due to the availability of D1's counsel.

20. I now summarise the parties' respective arguments on the MPR Application, conveyed effectively on both sides over the course of a day.

(a) The Claimants' position on the MPR Application

21. The Claimants referred me by way of background to the 'marker' in the PoC which canvassed the prospect of the parties' MPR claims but expressly carved them out from these English proceedings, the other parties not suggesting on the jurisdiction challenge before Trower J that these should be heard other than in Monaco. To the contrary, D7 and D8 positively asserted then that claims with respect to matrimonial property would be heard in Monaco. The Claimants did not demur, asserting that questions of ownership of the relevant assets and related damages claims should be heard in England, with this Court's findings then feeding through into the Monégasque proceedings concerning succession and matrimonial property issues. Latvia entered the frame later for the reasons already noted.

22. One suggested reason for that 'marker' was the MPR claim already before the Monégasque Court in the form of the Asset Transfer Proceedings commenced by D1 against C1 and their daughters while D1 was still alive. That claim is a wide ranging one, the summons indicating that it covers the same ground and assets as D1's MPR claim in this jurisdiction. Having now taken up those proceedings in Monaco on behalf of the Estate, A&S has indicated that it wishes the hearing in November 2026 to deal with whether the property in issue is matrimonial property. If the Monégasque Court decides that it is not, the Claimants will have won and that will be the end of the case. If it decides that the assets are matrimonial property, there will then be a question as to what order to make. Either way, there will be a determination by February 2027 of whether these assets are matrimonial property. As for any related determination by the English Courts, although the Monégasque law evidence before Trower J did not directly address the question, it does suggest that it is unlikely to be recognised in Monaco given the pendency of proceedings there about the same subject matter and/ or if it is inconsistent with a Monégasque decision on the issue.

23. Although the Monégasque and Latvian proceedings encompass the assets the subject matter of the MPR claim in these proceedings, their scope is broader, also bringing in many more assets potentially the subject of the matrimonial estate, including the Claimants' claims for damages in respect of matrimonial property. There is no suggestion that the process of dividing all the assets of the matrimonial estate could or should be resolved in England. Dealing in England with part of the matrimonial estate from the perspective of D1's MPR rights only will result in a one-sided liquidation. Moreover, it appears that Mr Jacob seeks to bring within the scope of the MPR claim all property *disposed of* by C1, including all "property gratuitously disposed of", whether or

not specified. The potential breadth of that claim will itself lead to procedural difficulties but, even then, it does not appear to encompass all assets held by C1 and which may be amenable to D1's MPR rights.

24. The Claimants also referred me to the somewhat open-textured nature of the approach of the court when applying the Ukrainian MPR, including having regard to "the interests of the wife, husband and children, as well as other essential circumstances." As such, the court is not merely charged with undertaking a 50/50 division of the matrimonial estate by reference to value nor could it be given that many of the assets would be distributed in kind. The breadth of the considerations to which regard will potentially be had in liquidating the matrimonial estate militates in favour of a single court undertaking that task, adopting a consistent approach and with the involvement of all parties, including Ms Shevtsova.

25. Given these matters, it would be too narrow a focus to say, as Mr Jacob does, that he is under a duty to pursue these counterclaims because they will 'swell' the Estate. With proceedings elsewhere, matters are much more complex. The proper question is whether it is necessary to bring the MPR counterclaims here at all when the foreign proceedings are already on foot. In this regard, the pursuit of MPR claim in this jurisdiction was suggested to be unfair to the Claimants and contrary to the interests of the Estate for a number of reasons:-

(i) Mr Jacob's approach risks the courts considering these issues taking inconsistent approaches, with different outcomes in different jurisdictions for the Estate and the Claimants. For example, they might treat differently assets held indirectly through foundations. So, were the English Court to take the view that C1's indirectly held assets were not matrimonial property, there would be no reduction in C1's claims herein on that account. The Monégasque Court might take the opposite view with respect to indirectly held assets. Were that to occur, assuming the English judgment would be recognised, this inconsistency in approach could operate unfairly to the Estate and, therefore, the beneficiaries. Even if C1 were to bring her MPR claims in England, that would not fix the problem because, as noted, there would still be other assets on C1's side that are not the subject of these proceedings. Since the English MPR claim does not deal with the entire matrimonial estate, a foreign court doing just that and which is met with an incoming English judgment dealing only with part may scratch its head as to how, if at all, it can give effect to at least that element of the English judgment addressing the MPR aspects and possibly ignore it;

(ii) The risk of inconsistent judgments also arises: first, Mr Jacob's pursuit of the MPR counterclaim in England might result in a different outcome from the same claim in the Asset Transfer Proceedings with potentially disastrous legal results; second, the inconsistency could arise from the potential for issues to be decided differently, for example, as to whether indirect interests in assets qualify as matrimonial property. This will lead to recognition battles in different jurisdictions and increase cost and delay. The goal is not to secure the largest number in the English proceedings without regard to whether that will be of any help to anyone or the potential further multiplication of disputes;

(iii) As to recognition of any English judgment, Mr Jacob appears to have been under the misconception that any judgment on the MPR claim would be readily enforceable internationally. The MPR claim is expressly carved out from the scope of the Recast Brussels I and Lugano Conventions. Although Council Regulation 2016/1103 concerning recognition of international MPRs does not apply in this case, it is a strong indicator as to the courts likely to be considered as having jurisdiction over the MPR claim. The two candidates are Monaco and Latvia. As already noted from the earlier expert evidence, an English judgment is unlikely to be recognised in Monaco where, as here, the Asset Transfer Proceedings are pending before the Monégasque Courts on the same subject matter. Ms Shevtsova appears to share the view that an English judgment on the MPR claim would not be recognised in Monaco. This begs the question as to the utility of any such judgment if it will not be recognised in the jurisdiction where the liquidation of the matrimonial estate will occur.

(iv) The risk of duplicative litigation arises in two ways: first, from the Claimants' perspective, they are being sued in the same cause of action in two jurisdictions. That is unfair; second, it is highly undesirable for the potential beneficiaries because they will incur additional cost. That is unfair and amounts to an abuse of process when there is no good reason for the pursuit of proceedings in both England and Monaco;

(v) As to the procedural consequences, Mr Jacob has recently said that disclosure starting three years before these proceedings, even before C1 and D1 fell out, was required. This will also apparently be sought for any dealing arguably concerning property worth more than US$100,000. For these litigants, that would bring in a whole array of assets and lead to much complexity. Although Mr Jacob does not appear now to press for MPR claim purposes the requests made by D7 on the recent disclosure application, the Model C requests they have intimated are both broadly framed and will be a springboard for yet more. These appear to have been formulated to come up with something which can be presented as achievable before trial. However, they could not be satisfied before the existing disclosure deadline and may well result in someone saying that the trial should be adjourned.

26. As to Mr Jacob's position, he has acknowledged the desirability of avoiding inconsistent judgments. However, his suggestion that the MPR Application was premature could only be maintained for so long. Despite the expectation of this Court that the parties should engage, Mr Jacob declined. The first meaningful engagement came in the form of Mr Jacob's skeleton for the MPR Application hearing but even this does not explain why

duplicative litigation is required. Nor does it engage with the downsides identified by the Claimants. Mr Jacob's suggestion that pursuit of the MPR claim must be through the adversarial English process of oral evidence and broader disclosure is parochial in outlook. Nor does the suggestion that Mr Jacob should have the fullest possible picture justify duplicative litigation. Nor do suggested concerns about whether A&S will do a good job in the Asset Transfer Proceedings. Mr Jacob does not have any choice about who should pursue them. The concerns previously expressed by the Claimants about A&S concerned the pursuit of significant fraud claims in this jurisdiction, not MPR claims in Monaco. Nor are the Claimants attempting to put off scrutiny of their own suggested 'unsavoury' actions. The MPR Application is concerned with matrimonial property, not alleged fraud.

27. Finally, there was some debate as to the jurisdiction of this Court to grant the relief sought by the Claimants. CPR, Part 19.12 provides little, if any, guidance. However, the Claimants say that it is a pragmatic power to advance litigation and manage proceedings when a party has died and they point to how Mr Jacob had previously expressed the power in similar terms himself. CPR, Part 19.12 is more often invoked in relation to small estates and/ or where the representative is closely aligned with the estate, such as an executor or next of kin. As such, it would be inappropriate to circumscribe this rule by reference to principles engaged on challenges to the actions of officeholders such as trustees or insolvency practitioners who are more likely to be afforded a wide margin of appreciation in the exercise of their powers or discretions. They are generally professionals. Although Mr Jacob is a professional appointee, that is not the 'norm' under CPR, Part 19.12. Such officeholders also generally have other controls on the exercise of their powers such as liquidation committees in the case of insolvency or the general ability of beneficiaries to determine a trust if they all agree.

28. Nor, even if it would be appropriate to 'read across' the constraints on other officeholders, would it be right to say that the Claimants' interest in the relief sought is *qua* litigating party rather than *qua* beneficiary. The majority of grounds advanced concern the adverse effect of the pursuit of the MPR claim in this jurisdiction on the Estate as a whole (of which the Claimants are potential beneficiaries). These include Claimants' concerns about the potential inconsistent approach of different courts to the MPR claims, risk of inconsistent judgments and recognition problems. However, C1 did accept that some points, such as the MPR claim only taking account of D1's MPR rights, and D1's abuse of process in requiring the Claimants to meet two sets of parallel proceedings, are taken in the Claimants' capacity as litigants.

29. Nevertheless, as an officer of the Court, Mr Jacob is also required to act fairly towards the Claimants even if that might not be in the interests of the Estate as a whole. In *Lehman Bros Australia Ltd v McNamara and others* [2020] EWCA Civ 321, the Court acceded to the application of the applicant liquidators as to the unfairness of the actions of the administrators even though that application was adverse to the interests of the creditors as a whole, David Richards LJ stating (at [68]-[69]) that:-

> " …. The court will not permit its officers to act in a way that it would be clearly wrong for the court itself to act. That is to be judged by the standard of the right-thinking person, representing the current view of society. If one were to pose the question "would it be proper for the court to act unfairly?", only one answer is possible. It is interesting to note that fairness was introduced by some judges in the cases dealing with *Ex p James* at a comparatively early stage, but in general "fairness" as a test in substantive, as opposed to procedural, law has grown significantly since many of those cases were decided. In so far as it involves a broader test than, say, dishonourable, it reflects a development in the standards of conduct to be expected of the court and its officers.
>
> The application of the principle in *Ex p James* in any case will critically turn on the particular facts of that case."

30. The Claimants also say that this Court has its own interests in avoiding conflicts with foreign courts and ensuring that its proceedings are managed pragmatically and appropriately. The Court's interests are not necessarily as narrow as the parties'. The cases on administrators and trustees do not grapple with those interests which are pointedly engaged here. It would also be odd if the Court has to the power to appoint or remove a representative (as to which there is no dispute) but could not act short of removal if the representative took a step which was not in the interests of the heirs as a whole, not least here where Mr Jacob has been exonerated against potential liability.

31. The Court also has the power to grant a case management stay where it is in the interests of justice to do so. Although such stays are perhaps rare, exceptional circumstances are not required but are, in any event, present here given the complex parallel litigation. Although an available power, such a stay is not the Claimants' primary form of relief sought. In this case, the English Court would not be awaiting the determination of a sub-issue in a foreign court with a temporary stay being granted in the meantime. Rather, the Claimants say that all MPR issues should be finally determined elsewhere.

32. Finally, the Claimants point out that they are, and have been, prepared to offer undertakings to instil confidence that the Estate's MPR rights will be protected. In particular, C1 is willing to undertake that, if the MPR Application succeeds, she will accept in whichever jurisdiction is conducting the liquidation of the matrimonial estate (Monaco or Latvia) that any damages she recovers in these English proceedings in respect of common matrimonial property should be taken into account in the liquidation of the joint matrimonial estate. Mr Jacob has recently engaged on this proposal but his counter-proposal is unacceptable since it seeks to implicate awards in the Claimants' favour other than in respect of matrimonial property and unduly to restrict enforcement.

(b) <u>Mr Jacob's position</u>

33. Mr Jacob's overarching position was that everything he does in these proceedings is guided by what he considers, with the benefit of legal advice, to be the best interests of the Estate. In that regard, I was taken to the background to Mr Jacob's appointment in October 2023, as to which, the Claimants did question A&S' ability to conduct complex fraud litigation in this jurisdiction. However, the Claimants' criticisms on the CPR, Part 19.12 appointment applications were more far reaching and primarily directed to A&S' suggested lack of independence. Mr Jacob referred to various parts of the Claimants' submissions from that time, including:-

> "A&S' actions in Monaco and its approach to the timing of its application suggest strongly that A&S have and continue to act in concert with the Kazakovs and would therefore be unable to properly take into account the position of [C1] or her daughters (or Ms Shevtsova as guardian for her daughter) as persons who are likely to have a substantial interest in the Deceased's estate."

34. Although Mr Jacob took and takes no position on such sustained criticisms of A&S, the Claimants must have had grounds for advancing them and he obviously cannot ignore them. Serious criticisms are now advanced in submission at least, if not in the evidence, of Mr Jacob for advancing the MPR claim in these proceedings. However, he was proposed for appointment by the Claimants precisely because of his independence and professionalism. He was also appointed, in part, because he had no 'skin in the game', the Court noting at the time the inevitability, and possible desirability, of the fragmentation of proceedings and representation.

35. Moreover, when Mr Jacob himself sought directions in July 2024 about various issues, the Court made the point in its related judgment [2024] EWHC 1937 (Ch) that he was not expected to act neutrally but, based on his perception and advice, he would likely set up positions adverse to other parties. The Court also confirmed that there was no impediment to Mr Jacob applying for directions when appropriate. That was said to be consistent with the overriding objective and Court's case management powers under the Civil Procedure Rules and the inherent power of the Court to control its own processes. However, the Court was not saying that there was a general right on the part of the litigating parties to have a debate about whether his decisions were right or wrong. The Court's judgment, also reflecting the power to make counterclaims (a power not sought by Mr Jacob or, indeed, any of the parties), was then translated into an order with which he has sought to comply.

36. Finally by way of background, I was reminded of the Claimants' application in 2024 to discharge Mr Jacob from his position as representative of the Estate, one of the grounds advanced at the time being that he had misunderstood his role and was taking too active a stance in the proceedings. As to that, I noted in my related ruling that:-

> "Although there may well be criticisms about how he has gone about certain matters which can be addressed in the context of detailed assessment envisaged

> in the indemnity arrangements between the parties, in the context of this case, involving serious allegations of conspiracy and fraud, and an Estate of its apparent potential value, I do not consider that Mr Jacob can be criticised for the overall position he has adopted in advancing a positive defence to the claims, including counterclaims against a number of parties, and undertaking the relevant associated work he has, including verification of those defences and counterclaims, so far as is reasonably possible, in the somewhat different position in which he finds himself from the other parties."

37. The Court was indicating there that Mr Jacob was doing what had been asked of him. Moreover, there has not been any refusal to engage with the Claimants in relation to the MPR Application. Mr Jacob is not a recalcitrant litigant. Rather, as the Court also made clear in the same judgment, the resources available to Mr Jacob do not permit him simply to start a new chain of correspondence on every new point in the same way as the other parties but he has fully addressed the application in his evidence.

38. As for the so-called 'directions' sought by the Claimants, Mr Jacob served the statement of case containing the MPR claim in October 2024. The Claimants say that this was the first time the MPR issues were introduced into these proceedings but that was the appropriate time. Although the Asset Transfer Proceedings in Monaco had been commenced by D1 in June 2020, they were inactive. It may have been common ground between the Claimants and D7 on the jurisdiction application that the MPR issues would be dealt with in Monaco but it was not common ground with D1 or Mr Jacob, the former having died, the latter not yet appointed, and the Estate then unrepresented.

39. Mr Jacob having been appointed as representative, he has formed the view that any award representing the assets said to have been misappropriated by D1 falls to be reduced to the extent those assets comprise matrimonial property as understood under Ukrainian law. No-one has suggested that such defence cannot be adjudicated upon in England as a matter of this Court's jurisdiction. Nor has anyone suggested that it is not a proper defence as a matter of law, let alone advanced a related reverse summary judgment or strike out application. Nor is Mr Jacob a lone voice in the wilderness. D7 has positively said that he supports the continued pursuit of the MPR claim in this jurisdiction and Mr Jacob is not aware of any objection from Ms Shevtsova either.

40. Nor, until their submissions on the MPR Application, did the Claimants frame their application or evidence in terms of Mr Jacob acting unreasonably, the Claimants, in fact, expressly eschewing any criticism of Mr Jacob in their evidence.

41. Nor did the Claimants advance the MPR Application by reference to the case management stay jurisdiction. They are seeking an irrevocable direction for Mr Jacob not to pursue the MPR claim, not a temporary stay based on some future event. Although the Claimants appeared unenthusiastic in submission about a case management stay, it would be wrong for them to switch jurisdictional bases so late.

42. If acceded to, the MPR Application would have serious and wide-ranging implications for the Estate's case before the Court. In effect, an award for US$100m based on the Claimants' claims of misappropriation and otherwise amenable to a deduction of US$50m on account of D1's MPR claim, would be enforceable for the full amount. Mr Jacob did not, and does not, consider that outcome to be in the best interests of the Estate. When presented with Ukrainian law evidence that this defence is available, it was entirely proper for, in fact incumbent on, him to plead this.

43. In advancing the MPR claim, Mr Jacob is not asking the Court to engage in a 'mini' or 'one-way' liquidation of the matrimonial estate. Rather, he is simply seeking to protect the Estate by asking the Court to require C1 to bring back within it assets of which she has divested herself through a number of dispositions carried out in a manner contrary to the Ukrainian MPR. The Court is not being asked to tread on the toes of the Monégasque or Latvian Courts, rather than to restore the relevant assets to the Estate so that it can be administered on a correct basis in whatever foreign jurisdiction might be the right one. It is precisely so there can be a proper accounting by those foreign courts that Mr Jacob seeks here to have brought into account those assets which C1 has chosen not to keep under her own name or control.

44. As to the suggested 'unfairness', the restoration to the matrimonial estate of the assets implicated by the MPR claim will not then require this Court to embark on their division. The Claimants say that these English proceedings are solely concerned with finding out which party misappropriated which assets from which other parties. The MPR claim is precisely within that aegis. In fact, there is no suggestion that the relevant assets might not be matrimonial property. The Claimants' evidence on the application for the appointment of the CPR, Part 19.12 representative confirms that "[u]nder the applicable Ukrainian matrimonial property regime, [D1] and [C1] were joint owners of all assets acquired during their marriage." Moreover, the Claimants' pleaded response to the MPR claim is a narrow one, largely comprising admission and non-admission. Although they might seek to develop that response to call into question whether these assets are, in fact, matrimonial property, it would be unusual for the Court to stop the MPR claim in its tracks on the basis of that possibility.

45. That is not to say that C1 cannot seek to assert her MPR rights. The fact that Mr Jacob has pleaded D1's MPR entitlement does not prevent C1 from doing the same. That is the nature of adversarial litigation. It is not unfair for Mr Jacob not to have set up C1's own response for her. Were C1 to seek to develop her claim in due course, Mr Jacob would take a view on it. However, he has responded to the case advanced against the Estate and there is presently very little pleaded difference with respect to the MPR issue. C1 has advanced the argument in Monaco that there was an agreement between her and D1 to exclude the assets the subject of the Asset Transfer Proceedings from the scope of the MPR. Although that is not advanced by C1 in this jurisdiction in the MPR context, C1

has taken a not dissimilar line in response to the Estate's primary counterclaim against her by reference to the alleged nomineeship agreement.

46. Finally, everyone does agree that, on that primary counterclaim, this Court will be deciding whether assets disposed of by C1 were held by her absolutely. The same is true of D7's not dissimilar claims against C1. The question arising on the MPR claim is materially the same, albeit under a different legal regime. The scope for duplicative litigation and inconsistent judgments would, in fact, lie in the peculiar course of deciding that question under the nomineeship agreement but not under the MPR.

47. As for the Monégasque proceedings, the Asset Transfer Proceedings were issued by D1 in June 2020. He died a year later. There appears to have been little activity therein prior to Mr Jacob serving the Estate's Defence and Counterclaim in these proceedings in October 2024. A&S then took over the Asset Transfer Proceedings eight months later. However, Mr Jacob has a limited insight into those proceedings and their trajectory. The procedural position remained opaque when the MPR Application was issued in December 2025.

48. In April 2026, Mr Jacob was told in Pigott 21 that "a procedural timetable has been stipulated for the Asset Transfer Proceedings for the parties' submissions through to a final hearing on 26 November 2026, and that a judgment is expected ca. 2 months after the 26 November 2026 hearing (i.e. by late January – early February 2027)." However, that final hearing would apparently last a single day, with the risk that any decision in Monaco would be made without the benefit of disclosure or cross-examination. Mr Jacob's concern in this regard is not an expression of English exceptionalism but paying appropriate regard to the best interests of the Estate in the proper resolution of an issue implicating assets worth nearly US$1bn. Moreover, there have been multiple examples in this case of the parties saying that something would be achieved in the Monégasque Courts in a certain period of time but such assurances rarely materialise.

49. According to Ms Pigott, "A&S has suggested that the hearing in November 2026 should be used to determine the question of whether the assets which are the subject of the Monaco Asset Transfer Proceedings were joint matrimonial property or Mrs Bourlakova's personal property, with the issue of what remedy should be granted if, contrary to the Bourlakovas' case, the assets were joint matrimonial property to be assessed subsequently." Mr Jacob notes that this is said to be A&S' 'suggestion', described in C1's skeleton as a proposal. In the evidence, C1 says further that "A&S have asked the Court, as a preliminary issue, to order the parties to the proceedings to file submissions on the question of whether the assets claimed by Mr Bourlakov during his lifetime were Mrs Bourlakova's personal property or community property." It is far from clear that the Court has ordered that this should happen. I was also referred to what was described as a machine translation of the latest submission from A&S in the Asset Transfer Proceedings. Mr Jacob says that it is difficult to comprehend what was being asked of the Monégasque Court in that document, let alone discern the Claimants'

contention that there will be a final hearing on whether assets worth a billion dollars and disposed of by C1 are within the matrimonial estate.

50. In these circumstances, Mr Jacob cannot be criticised for having come to, and maintaining, the view that it would be wrong for him permanently to drop a defence and counterclaim which would have significant consequences for the Estate. There may come a time when matters are clearer and appropriately re-visited but he cannot properly take the decision suggested on the MPR Application. Such opaqueness as to the nature of the ongoing proceedings in Monaco and what, if anything, might be decided later this year, rather puts into perspective C1's submissions about the suggested risk of parallel proceedings, duplicative litigation and recognition issues.

51. Mr Jacob accepted that the Court had jurisdiction over him but submitted that its power to intervene arose where there was an allegation of breach of duty or the improper exercise of a power vested in him. That is consistent with the general policy as regards the non-intervention by the Court in the actions of officeholders supported by leading authorities such as *Pitt v Holt; Futter v Futter* [2013] 2 AC 108 (at [73] and [88]) and *Lehtimäki v Cooper; Re The Children's Investment Fund Foundation (UK)* [2022] AC 155 (at [120]-[121], [201] and [216]).

52. That policy is also said to be reflected in my prior decisions investing Mr Jacob with the authority to exercise his professional judgment as to what the Estate should or should not do in these proceedings. However, this Court does not have an untrammelled supervisory jurisdiction to override decisions made by him based on submissions by other parties that one particular outcome would be better than another. Just because a CPR 19.12 representative might not be a professional person does not import some more liberal standard for intervention in that context. Nor is the position any different just because the officeholder here happens to be engaged in the conduct of litigation which the Court is supervising and case managing.

53. Nor have the Claimants articulated a coherent or rational test for what threshold needs to be surmounted for this Court to intervene. The fact that the Claimants have a number of reasons why they say these proceedings should be heard in Monaco is no basis for this Court to intervene at any stage. It would be a recipe for satellite litigation. In this case, one could envisage, for example, the hypothetical circumstance in which, based on what was revealed by disclosure, Mr Jacob might seek to amend his pleading to advance a positive case that there was, in fact, no partnership agreement between D1 and D7. That would be adverse to D7 but it cannot be right in those circumstances for D7 to be permitted to seek directions from the Court that Mr Jacob should not pursue such an amendment other than by way of resistance on familiar CPR, Part 17 grounds.

54. As to the question of standing, when issued, the MPR Application was on its face made by an adverse party. The Court's jurisdiction over the MPR claim not having been challenged, that is an odd basis on which to seek its effective dismissal without

identifying some CPR, Part 24 or Part 3.4 ground. One can understand from the Claimants' perspective why it would be of benefit to be relieved of a large monetary claim. However, that rather explains why they do not have standing. Presumably recognising the difficulties of an adverse litigant seeking to ask the Court to tell the adversary what to do, the Claimants then sought to repackage the MPR Application in their skeleton argument and oral submissions as advanced *qua* potential beneficiary of the Estate. However, the Claimants conceded that some grounds relied on were adversarial rather than advanced in the best interests of the Estate. Moreover, there has been no attempt by the Claimants to join the other potential beneficiaries to the application, including D7 or Ms Shevtsova. Nor, even though they too will have a right to a say as to what might be in the Estate's interests, have they sought to join A&S or the Latvian administrators.

55. Likewise, it was not until the hearing that the MPR Application started to become framed in terms of 'abuse' or of Mr Jacob acting 'unfairly' in the sense of the *ex p James* jurisdiction. Allowing the Claimants now to introduce these elements would itself be unfair, not least the lack of a proper opportunity to meet the application as it has been put in submission, including through responsive evidence. That is against the background of the MPR Application not having been issued until 14 months after Mr Jacob submitted the Estate's Defence and Counterclaim. This also informs the Claimants' points as to the procedural consequences. Having made the MPR Application so late in the day, it becomes a bootstraps argument to say that there is insufficient time for the necessary intervening steps to take place such that the MPR claim cannot be heard at the trial due to commence in October 2027.

Discussion

56. In considering whether the intervention sought by the Claimants is appropriate here, some context is important. As Ms Pigott explains in her evidence, the disputes between the parties span a number of jurisdictions involving proceedings in Monaco, Latvia, these proceedings in England and others besides. It is litigation of vast and international proportion. As I said in my earlier judgment following Mr Jacob's prior directions application in the context of his exoneration from liability (at [54]):-

> "These matters play out against the background of international litigation activity between the parties in multiple jurisdictions, with seemingly no stone left unturned on either side, or legal expense spared in its pursuit. As noted, that encompasses not just the substantive dispute but related disputes about Mr Bourlakov's will, the administration of the Estate and the identity of the relevant administrators appointed in those jurisdictions. As I myself found not long after becoming the docketed judge, this litigation is extraordinary, not merely in terms of the value of the assets being argued over, but also the intensity of that litigation activity and the parties' efforts on all sides to secure litigation advantage. In short, everything it seems is fair game."

57. The Claimants nominated Mr Jacob as proposed representative because of his experience of international estates disputes. He, in turn, is advised by solicitors and counsel with similarly relevant experience. These considerations informed the Court's decision to appoint him in these proceedings as did his accountability as a Court appointee and officer. As to his duties as CPR, Part 19.12 representative, I noted in the same judgment (at [28]):-

> " … Mr Jacob's role in this case is to familiarise himself with the claims and, with the benefit of the legal advice received from his legal team, to take steps to represent the best interests of the Estate as a whole for the purpose of these proceedings. The Kazakovs appeared initially to take exception to the suggestion that Mr Jacob would need "to weigh impartially the interests of all persons potentially interested in the Estate, whether as creditors or beneficiaries" (as was reflected in paragraph 25(ii) of the reasons for my order dated 12 October 2023), albeit such difference as there was ended up being one of emphasis. This merely reflects the reality that there are multiple and competing claims against the Estate, whether as potential beneficiary and/ or creditor, and that it does not fall to Mr Jacob to determine which of those claims might, in fact, be good. The corollary is that Mr Jacob should act impartially as between those claiming to be interested as such, considering their interests collectively, not individually. That does not mean that Mr Jacob is required to act neutrally between the parties. To the contrary, the promotion of the interests of the Estate as a whole in the conduct on its behalf of these proceedings will, in all likelihood, set up positions adverse to one or more of those claiming to be interested in it."

58. The focus of the litigation in this jurisdiction is on the alleged misappropriation of assets. That began with the Claimants' related claims against the Defendants. The claims before this Court have since expanded by way of the Estate's and D7's counterclaims relating to the Claimants' alleged misappropriation of assets, including those the subject of the Asset Transfer Proceedings. However, the underlying legal theories are not limited to the alleged unauthorised transfer of matrimonial property. In that sense, it could be said that less separates the two sets of proceedings today than it did on the jurisdiction application before Trower J.

59. Against that background, I now turn to the MPR Application. As to this, the high point of the Claimants' allegations was that Mr Jacob was acting abusively through his pursuit in this jurisdiction of litigation in the form of the MPR claim which duplicates the Asset Transfer Proceedings. Although the issue of abuse of process was canvassed in Ms Pigott's reply evidence, that was in tentative terms. I agree that, if an allegation of abuse was to be made on the MPR Application, as it clearly was in submission, that should have been put explicitly and clearly in the original application and supporting evidence so that Mr Jacob had a fair opportunity to deal with it. That did not happen.

60. More substantively, as Ms Pigott said in her reply evidence, it is not necessarily the case that the pursuit of the same claims in different jurisdictions amounts to an abuse. In this case, Mr Jacob put forward the Estate's counterclaims, including the MPR claim, in October 2024. Although this post-dated the commencement of the Asset Transfer Proceedings, the evidence indicates that these had fallen into abeyance following D1's death. Despite D7's apparent efforts to revive them, they do not appear to have advanced meaningfully in the meantime. A&S did subsequently intervene in, and apparently take over, the Asset Transfer Proceedings but that does not appear to have happened until after Mr Jacob had filed his Defence and Counterclaim in England. In circumstances in which the Court had directed that Mr Jacob has the power to advance counterclaims on behalf of the Estate, his duties included the promotion of the Estate's interests, the Asset Transfer Proceedings had not advanced meaningfully and the Ukrainian MPR affords a viable defence and counterclaim to the Claimants' asset misappropriation claims, I cannot accept that Mr Jacob acted abusively in putting forward the MPR claim in these proceedings.

61. Moreover, I also agree that it is presently unclear what will happen at the 'final hearing' in the Asset Transfer Proceedings in November 2026. In particular, it was unclear whether the Monégasque Court has adopted, or will adopt, A&S' apparent suggestion that the hearing should be used to decide whether the assets the subject of those proceedings are matrimonial property and, if not, with what consequence for the advancement of MPR issues in Monaco.

62. My difficulty in this regard is not the suitability of Monégasque procedures, but the absence of a comprehensive and authoritative explanation of what will, in fact, be decided at the final hearing and to what end the various scheduled submissions are directed. I struggled to discern the position from those submissions that had apparently been filed. Likewise, the correspondence from the Claimants' Monégasque lawyers, CMS, although helpful on the question of the enforcement in Monaco of an English judgment on the MPR claim, was not so illuminating on the question of what will occur in the Asset Transfer Proceedings beyond the position intimated in submission. Again, the matter was expressed in somewhat tentative terms. Nor could I see within the evidence any indication of A&S' stance with respect to Mr Jacob's pursuit of the MPR claim in these proceedings.

63. Moreover, although the Claimants have brought their own MPR proceedings in Latvia, these were only commenced relatively recently in December 2025. Their status, and Claimants' related intentions beyond a proposed application for an immediate stay, are also unclear. Drawing the above threads together, on the information presented, I was unable to answer the 'proper question' posited by the Claimants as to whether it was necessary to bring the MPR claim in this jurisdiction in light of the other pending proceedings elsewhere.

64. In my view, this present lack of clarity disposes of the allegation of abuse of process. Nor, more generally, can I accede to the suggestion that this Court should direct Mr Jacob effectively to relinquish the MPR claim in these proceedings. I would accept in principle that the Court has the power to intervene, including by possible removal, where a CPR, Part 19.12 representative fails to act in the interests of the estate that he or she represents in the relevant proceedings, including on account of that representative's pursuit, or possibly non-pursuit, of particular claims or steps therein. However, there is no basis for this Court to conclude that Mr Jacob has acted otherwise than in accordance with the best interests of the Estate. He has taken the actions he has based on extensive legal advice, in the context of claims which are viable on the merits and over which this Court has jurisdiction, and where the position in the related claims in Monaco remains obscure.

65. Nor can it be said that Mr Jacob has acted 'unfairly' or in a 'one-sided' manner in framing his counterclaim in the way he has, it being a matter for the Claimants, not Mr Jacob, whether they wish to set up in response a broader case as to the engagement of C1's interests under the MPR. That is the nature of adversarial litigation, not, in my view, an issue of unfairness in the discharge of Mr Jacob's duties as CPR, Part 19.12 representative and officer of the Court. There is no sufficient basis for me to conclude on the facts here that the principles indicated by David Richards LJ in *Lehman* are engaged.

66. I would agree that the considerations raised by the Claimants such as inconsistent judgments, recognition issues and potentially duplicative litigation may well give rise to valid concerns. The 'double-counting' issue was not pressed at the hearing so much as the desirability of a single court adopting a single, consistent approach in its application of the MPR to the entirety of the potential matrimonial estate. It seems to me that the former could be addressed in the framing of any relief from this Court. The latter was, in my view, a more compelling point, not answered by Mr Jacob's submission that he was not undertaking through the MPR claim a liquidation or partial liquidation of the Estate. It is also relevant, in my view, that Ms Shevtsova is a party to the Monégasque proceedings but does not appear before this Court.

67. However, as I canvassed provisionally at the outset of the hearing of the MPR Application, the nature of these concerns was such that they appear more appropriately addressed by way of a case management order, possibly in the nature of a stay, rather than effectively requiring Mr Jacob to discontinue a claim properly brought before the English Court. The prospect of such an order was canvassed in the reply evidence and developed in submission but, again, the MPR Application was not framed in such terms at the outset. In any event, the Court would still require a better understanding of the status and direction of the Monégasque and Latvian proceedings before entertaining the grant of such an order. I therefore decline the MPR Application.

68. Despite this, both parties accepted that a pragmatic approach is appropriate. I agree. If it does transpire that the MPR claim will be finally determined in Monaco in November

or more meaningful information at least becomes available then, I agree that it would be appropriate for Mr Jacob to take stock of his pursuit here of the MPR claim. There is another reason for pragmatism. As the Court foreshadowed in its judgment dismissing D7's disclosure application dated 18 November 2025, there does appear to be significant overlap, at least to the extent of the assets implicated, between the MPR claim and the other counterclaims advanced in these proceedings against the Claimants for which the Court has already directed a split trial. If anything, that was rather reinforced by some of Mr Jacob's submissions on the MPR Application. The parties need to take proper account of, and a realistic approach to, that aspect too.

69. Having refused the MPR Application, there will be a CMC to consider further the pursuit of the MPR claim. This should not take place before the 'final hearing' in the Asset Transfer Proceedings in Monaco in November. The Court will require concrete information then as to the status of the Asset Transfer Proceedings, what occurred at that November hearing and what the Monégasque Court is, in fact, in the process of deciding. In the draft judgment circulated to the parties, I also proposed addressing at that CMC any disputed consequential matters arising from the MPR Application. I have since received certain representations from the parties as to how such matters are most appropriately disposed of. Given the limited scope of the disputed issues, the time estimate indicated for that CMC and the extent of the Court's resources already deployed on the MPR Application, I have decided instead that the more efficient course is to deal with these matters in writing following receipt of further related submissions.