Neutral Citation Number: [2025] EWHC 1843 (Ch)

Case No: CR-2025-MAN-000077

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS IN MANCHESTER
INSOLVENCY AND COMPANIES LIST (CR)

In the matter of Wall Lag (Wales) Limited
And in the matter of the Companies Act 2006

Date: 18 July 2025

Before :

HHJ Halliwell sitting as a Judge of the High Court at Manchester

- -

Between :

(1) JANE GRIFFITHS
(2) JULIE JONES

Petitioners

- and -

(1) BARBARA WHEATLEY
(2) ALISON GOMM
(3) BEVERLEY GRIFFITHS
(4) TRACY GRIFFITHS
(5) SAMUEL GRIFFITHS
(6) DANIEL GRIFFITHS
(7) WALL LAG (WALES) LIMITED

Respondents

- -
- -

Mr Stephen Hackett (instructed by **RHF Solicitors**) for the **Petitioners**
Mr Tony Beswetherick KC (instructed by **Claremont Litigation**) for the **First and Second Respondents**

Hearing date: 26 June 2025

- -

JUDGMENT

This judgment was handed down remotely at 10.30am on 18 July 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives

HHJ Halliwell :

(1) Introduction

1. On 20 January 2025, an unfair prejudice petition ("**the Petition**"), under *CA 2006 s994*, was presented in respect of Wall Lag (Wales) Limited ("**the Company**"). The Petitioners (together "**the Petitioners**") are Jane Griffiths ("**Mrs Griffiths**") and Julie Jones ("**Mrs Jones**"). The Respondents to the Petition are Barbara Wheatley ("**Mrs Wheatley**"), Mrs Alison Gomm ("**Mrs Gomm**"), Beverley Griffiths ("**Miss Beverley Griffiths**"), Tracy Griffiths ("**Miss Tracy Griffiths**"), Samuel Griffiths ("**Mr Samuel Griffiths**"), Mr Daniel Griffiths ("**Mr Daniel Griffiths**") and the Company itself.

2. Before me, there are three applications for disposal, namely: (1) an application, on behalf of Mrs Wheatley and Mrs Gomm, for summary judgment or an order striking out the Petition ("**the Main Application**"); (2) an application, on behalf of the Petitioners, for relief from sanction in respect of their failure to file and serve evidence in accordance with a court order dated 11 April 2025 ("**the Relief from Sanction Application**"); and (3) an application, again on behalf of the Petitioners, for permission to amend their Points of Claim in support of the Petition ("**the Amendment Application**").

3. At the hearing before me on 26 June 2025, Mr Stephen Hackett, of counsel, appeared for the Petitioners and Mr Tony Beswetherick KC appeared for Mrs Wheatley and Mrs Gomm. No one attended the hearing on behalf of the other respondents to the Petition. However, following the hearing, Miss Beverley Griffiths and Miss Tracy Griffiths filed letters dated 4 July 2025 confirming that, whilst they would abide by the Court's decision, they would be content for the Petition to be struck out or summary judgment entered on the Main Application.

(2) Background

4. The Company was incorporated as long ago as 7 March 1977 and commenced business supplying and installing of cavity wall insulation. More recently, it has supplied and installed central heating and air conditioning, providing plumbing and ancillary services. For many years, Messrs Richard Clwyd Griffiths ("**Mr Griffiths**") and Alan Wheatley ("**Mr Wheatley**") operated the business with

Mr John Roberts. However, Mr Roberts was never a shareholder and, several years ago, he resigned as a director.

5. In November 2020, Mr Griffiths ceased to be actively involved in the management of the business although he was formally recorded as a director at Companies House until his death on 4 September 2024. Mr Wheatley died shortly before Mr Griffiths in 2023. With effect from April 2023, he was no longer recorded as a director at Companies House.

6. Mrs Griffiths is Mr Griffiths' widow. Mrs Jones, Miss Beverley Griffiths, Miss Tracey Griffiths, Mr Samuel Griffiths and Mr Daniel Griffiths are Mr Griffiths' adult children.

7. Mrs Wheatley is Mr Griffiths' sister. She is also Mr Wheatley's widow. Mrs Gomm is her daughter.

8. Mrs Wheatley, Mrs Gomm and Miss Beverley Griffiths are now the Company's only directors. Mrs Gomm and Miss Beverley Griffiths were appointed as directors when, in November 2020, Mr Griffiths ceased to be actively involved in the management of the Company. Since then, Mrs Gomm has been designated managing director and, on that basis, assumed responsibility for the management of the Company. Mrs Wheatley was appointed as a director on 15 May 2023.

9. The Company's issued share capital of £25,000 is divided into 25,000 ordinary shares. The Company's most recent annual return at Companies House was filed as long ago as 12 October 2015. It was then recorded that Mr and Mrs Griffiths and Mr and Mrs Wheatley held 6,250 ordinary shares each.

10. The Petition has been presented on the footing that Mrs Griffiths is still entitled, in her personal capacity, to some 6,250 shares. It is also contended that, as Mr Griffiths' personal representatives, Mrs Griffiths and Ms Jones hold another 6,250 shares as part of his unadministered estate. However, this is in issue.

11. On behalf of Mrs Wheatley and Mrs Gomm, a copy of the register of shareholders has been filed in evidence stating that Mrs Wheatley was registered with 12,500 shares on 11 April 2023. No doubt, this is on the basis that, in addition to her own 6,250 shares, Mr Wheatley's shares have become vested in Mrs Wheatley as his personal representative. According to the registered entries,

Mrs Griffiths is registered with 6,250 shares and another 6,250 shares are still held in the name of Mr Griffiths.

12. Following Mr Griffiths' death in September 2024, there were discussions between Mrs Griffiths and Mrs Wheatley in relation to the acquisition and disposal of the shares held in the names of Mr and Mrs Griffiths. After Mrs Wheatley had offered to purchase the shares, Mrs Griffiths advised her – by letter dated 5 November 2024 – that, to make an informed decision, it was important for Mrs Wheatley and the other directors to furnish Mrs Griffiths "and the other beneficiaries of [Mr Griffiths'] will…with a comprehensive set of both financial and legal information relating to the entire business of [the Company] together with the other entities that [the Company] owns or has an interest in". Mrs Griffiths also advised Mrs Wheatley that "in addition we have engaged with a Corporate Finance Firm, that I have briefed to look at Disposing our shares to an international competitor, or a complete sale if we cannot agree on a fair valuation or come to an amicable settlement". In the final paragraph of her letter, Mrs Griffiths stated: "I hope you can furnish us with the above information so that we can accurately assess the valuation of the business and performance of the business under your Directorship with the Management Team you have put in place".

13. On the same day, 5 November 2024, Mr Daniel Griffiths advised Mrs Gomm, by email, that "we've got a few ideas in place and people interested in our shares of the site and business" and "we've also got a valuation being done on the 12th of November so we'll be down there in the afternoon with the valuer and will need access everywhere". It was implicit, in the email, that Mr Daniel Griffiths was aligned with Mrs Griffiths and the references to "our shares" were to the shares held in the names of Mr and Mrs Griffiths.

14. By letter dated 11 November 2024, Mrs Wheatley's solicitors, Claremont Litigation ("**Claremont**"), contacted Mrs Griffiths' solicitors, RHF Solicitors ("**RHF**"), with a response to Mrs Wheatley's letter dated 5 November 2024. Under the heading "Requests for documentation and information", they stated as follows.

"We note the request for documentation and information which Mrs Griffiths has made. Whilst our client qua director has no issue providing your client with such documentation and information which she might be entitled to receive in her capacity as a shareholder in the Company we are concerned that the documentation and information which is sought by your client's letter goes beyond that which she is entitled to receive.

Please would you explain the legal basis for your client's requests for documentation and information and what she proposes to do with such information and documentation. Our client is understandably and justifiably concerned that your client intends to disclose the Company's confidential and commercially sensitive information with the Company's competitors given her admission to having engaged advisers to sell her shares to one of the Company's competitors…

We are instructed to make plain at this very early stage that our client has made an open offer to purchase your client's shares (together with the shares of those other minority shareholders who have acquired (or are shortly to acquire) the shares of the late Richard Clwyd Griffiths at fair value".

15. By letter dated 25 November 2024, RHF confirmed that, in addition to Mrs Griffiths, Messrs Daniel and Samuel Griffiths were their clients. They stated that, whilst their clients were "interested in selling their shares", they had "not approached any competitor nor disclosed any information to any non-adviser third party" and "the material originally requested is necessary for our clients and their advisors to form a view as to the value of the Company and by extension their shares". They also confirmed that they were seeking *inter alia* a "full headcount of staff…, trial balance for current year and last year, … up to date management accounts, say for the period ending 31 October 2024,… aged Debtors and Creditors list for the current financial year, …ABC analysis of sales,… Bank statements for the period 1 January 2022 to date". They confirmed that the information would be treated as confidential but warned that "you will be aware of the various court applications which are available to our clients in respect of provision of the above documents".

16. By letter dated 29 November 2024, Claremont provided RHF with an organisational chart with details of staff numbers but declined to provide them with management accounts or the rest of the information sought in respect of the Company's accounting records. This was on the basis that "our client will not agree to provide your client with confidential and commercially sensitive documentation and information regarding the Company's business and affairs without your client having first committed to selling her shares to our client at fair value". However, they stated that, if Mrs Griffiths entered into such a commitment and agreed to be bound by the determination of an independent valuer, their clients would "engage in the valuation process in good faith and with full transparency" once RHF confirmed that the "Company's documentation and information can only be used for [valuation] purposes…"

17. However, Mrs Griffiths was not prepared to proceed on this basis. By letter dated 11 December 2024, RHF stated that "our clients are able to sell the shares to whomsoever they wish" and "your demands in relation to the appointment of an independent valuer are without any force in law". They also threatened to issue an unfair prejudice petition stating that their clients' shareholding had been "diminished by the conduct of [Mrs Wheatley] and others in control of the Company". This was "borne out by the over employment of staff" and the failure of the Company to make "a profit for several years".

18. By letter dated 10 January 2025, Claremont provided RHF with copies of the Company's accounts for the years ending on 31 March 2023 and 31 March 2024. These were unaudited on the basis that the Company was exempt from the statutory audit requirements. They included an income statement, with details of the Company's operating profit for each financial year, and a balance sheet setting out the Company's financial position at the end of the year. As at 31 March 2024, the Company was shown to have net assets of £1,453,230.

19. Having acknowledged receipt, RHF advised Claremont that they had instructed counsel to prepare Points of Claim in support of an unfair prejudice petition. By letter dated 13 January 2025, they forwarded a draft copy of the Points of Claim giving them seven days for consideration on the basis that "this period is enough to enable you to take instructions as to supply of all the information we had

previously requested so that our client can seek an independent valuation of the shares held by our clients in the Company".

20. Seven days later, on 20 January 2025, the Petitioners issued proceedings.

(3) The Unfairly Prejudicial Conduct

21. From the above correspondence, it appears the claim was initially prompted by Mrs Wheatley's failure to provide Mrs Griffiths with the information her solicitors had sought for the valuation of her shares. However, in their Points of Claim, the Petitioners sought to rely, more widely, on the following as unfairly prejudicial conduct, namely:

    (i) improper transactions ("**the Improper Transactions Allegations**") (Para 39.1);

    (ii) misapplication of Company funds on the employment of "friends and family on sinecures" ("**the Sinecure Allegations**") (Para 39.2);

    (iii) the failure to give Mrs Wheatley access to the Company's financial records (Para 39.3.1) ("**the Information Allegation**"); and

    (iv) the refusal to appoint Mrs Griffiths as a director ("**the Appointment Allegation**") (Para 39.3.2).

22. By the Amendment Application, the Petitioners seek to modify the claim by withdrawing the Improper Transaction Allegations as allegations of unfairly prejudicial conduct and adding, to Para 39.2, an allegation that funds have been advanced to Mrs Gomm without board approval and on non-commercial terms ("**the Directors Loan Allegation**").

(4) The Relief from Sanction Application

23. The Relief from Sanction Application was issued after the Main Application. However, it was logically the first for disposal since the purpose of this Application was to obtain permission for the Petitioners to rely on evidence at the hearing of the Main Application.

24. By order dated 11 April 2025, HHJ Cawson KC directed the Petitioners to file and serve any evidence on which they intended to rely, in response, no later than 28 days after his order was sealed. Since the order was not sealed until 9 May 2024, service was required by 4pm on 6 June 2024. The Petitioners failed to comply with this deadline and required relief from sanction.

25. At the hearing on 26 June, Mr Beswetherick confirmed that his clients consent to the Relief from Sanction Application. They have also filed and served evidence themselves in reply. Consent has not been given on behalf of the other respondents but they have chosen not to put the matter in issue. I have thus admitted the Petitioners' evidence and, to the extent necessary, the evidence filed in reply on the basis that the three-fold test in *Denton* is satisfied.

26. I shall thus make an order formally confirming that, to the extent the evidence filed at the hearing on behalf of the Petitioners was not in compliance with the order dated 11 April 2025, they have been given relief from sanction. For the avoidance of doubt, the evidence filed in reply has also been admitted. I have thus admitted all the evidence filed on behalf of the parties.

(5) The Main Application

27. The Main Application is founded on *CPR 24* and/or *CPR 3.4(2).* Mrs Wheatley and Mrs Gomm contend that the claim has no real prospect of success. They also contend that there is no legal basis for the Petition and/or it is an abuse of the process of the court.

28. On an application for reverse summary judgment under *CPR 24.2(a)(i),* Lewison J (as he was) provided guidance, in *Easyair Ltd v Opal Telecom Ltd [2009] EWHC 339 (Ch),* at *[15],* on the principles for determining whether a claimant has a real prospect of succeeding on the claim. This guidance was approved by the Court of Appeal in *AC Ward & Sons Ltd v Catlin (Five) Ltd [2009] EWCA Civ 1098; [2010] Lloyd's Rep. I.R. 301* at 24. It is as follows.

    i. The court must consider whether the claimant has a "realistic" as opposed to a "fanciful" prospect of success: *Swain v Hillman [2001] 1 All E.R. 91*;

ii. A "realistic" claim is one that carries some degree of conviction. This means a claim or defence that is more than merely arguable: *ED & F Man Liquid Products v Patel [2003] EWCA Civ 472* at [8];

iii. In reaching its conclusion the court must not conduct a "mini-trial": *Swain v Hillman*;

iv. This does not mean that the court must take at face value and without analysis everything that a claimant says in his statements before the court. In some cases it may be clear that there is no real substance in factual assertions made, particularly if contradicted by contemporaneous documents: *ED & F Man Liquid Products v Patel* at [10];

v. However, in reaching its conclusion the court must take into account not only the evidence actually placed before it on the application for summary judgment, but also the evidence that can reasonably be expected to be available at trial: *Royal Brompton Hospital NHS Trust v Hammond (No.5) [2001] EWCA Civ 550*;

vi. Although a case may turn out at trial not to be really complicated, it does not follow that it should be decided without the fuller investigation into the facts at trial than is possible or permissible on summary judgment. Thus the court should hesitate about making a final decision without a trial, even where there is no obvious conflict of fact at the time of the application, where reasonable grounds exist for believing that a fuller investigation into the facts of the case would add to or alter the evidence available to a trial judge and so affect the outcome of the case: *Doncaster Pharmaceuticals Group Ltd v Bolton Pharmaceutical Co 100 Ltd [2007] F.S.R. 3*;

vii. On the other hand it is not uncommon for an application under Pt 24 to give rise to a short point of law or construction and, if the court is satisfied that it has before it all the evidence necessary for the proper determination of the question and that the parties have had an adequate opportunity to address it in argument, it should grasp the nettle and decide it. The reason is quite simple: if the respondent's case is bad in

> law, he will in truth have no real prospect of succeeding on his claim or successfully defending the claim against him, as the case may be. Similarly, if the applicant's case is bad in law, the sooner that is determined, the better. If it is possible to show by evidence that although material in the form of documents or oral evidence that would put the documents in another light is not currently before the court, such material is likely to exist and can be expected to be available at trial, it would be wrong to give summary judgment because there would be a real, as opposed to a fanciful, prospect of success. However, it is not enough simply to argue that the case should be allowed to go to trial because something may turn up which would have a bearing on the question of construction: *ICI Chemicals & Polymers Ltd v TTE Training Ltd [2007] EWCA Civ 725*."

29. *CPR 3.4 (1)(a)* applies to cases in which a party's statement of case discloses no reasonable grounds for bringing the claim and *CPR 3.4(1)(b)* applies where the statement of case is an abuse of process or otherwise likely to obstruct the just disposal of the case. There will be an abuse of process where the claim is brought for a collateral purpose so as to transcend the ordinary and proper use of the proceedings, *A-G v Barker [2000] 1 FLR 759* (per Lord Bingham).

30. It is not in issue that the statutory jurisdiction in *CPR 24* and *3.4* applies to an unfair prejudice petition founded on *Section 994* of the *Companies Act 2006.* In the present case, the Petition is based on allegations of historic and continuing unfairly prejudicial conduct. The critical issue for the court is thus whether, based on such allegations, the Petitioners have no realistic prospect of establishing their case or, alternatively, whether their case discloses no reasonable ground for bringing the claim or amounts to an abuse of the process of the court or will otherwise obstruct the just disposal of the case.

31. As a member, Mrs Griffiths plainly has *standing* to present an unfair prejudice petition. This is less obvious in the case of Mrs Jones. Mrs Jones is not registered as a shareholder and there is an issue about the devolution of Mr Griffiths' estate. If, together with Mrs Griffiths, Mrs Jones was named as an executrix in Mr Griffiths' final valid will, his estate will already have devolved on her in this capacity and she will be entitled to a grant of probate although the

legal title to Mr Griffiths' shares is subject to registration, *CA 2006 s112(1), National Westminster Bank plc v IRC [1995] 1 AC 111.* As it happens, I understand there is an issue about the validity of Mr Griffiths' will but I have not been provided with evidence nor have I heard argument with respect to this issue. In view of the fact that Mrs Griffiths has standing to present the Petition in her personal capacity, I shall not dismiss or strike out the Petition on the basis simply that Mrs Jones lacks standing. Indeed, I am not invited to do so.

32. To assess the merits of the Main Application, it is thus necessary to revisit the relevant parts of the statutory jurisdiction in *Section 994(1)*. *Section 994(1)* applies where the Company's affairs are being or have been conducted in a manner unfairly prejudicial to the interests of the members generally or some part of the members, including the Petitioners. This can be established by identifying, on the part of the directors, a breach of the Company's constitution or other contractual commitments, *O'Neill v Phillips [1999] 2 BCLC 1 at 7-8*, which is causative of such prejudice. At least in the case of a "quasi-partnership", it can also be established by showing that one or more of the parties has repudiated the understanding on which the quasi-partnership was formed, *O'Neill (supra) at 11*. However, it is of the essence of such an arrangement that the company was the vehicle for a business founded on a personal relationship or understanding between two or more of the directors with qualities of mutual confidence, trust and good faith.

33. In the present case, the factual background in relation to the formation of the Company is obscure. Following the deaths of Mr Wheatley and Mr Griffiths, there is little, if any, evidence about the understanding on which the Company was formed. Although Mrs Wheately is Mr Griffiths' sister, it is also unclear whether the family relationship between Mr Wheatley and Mr Griffiths post-dated the formation of the Company and the understanding on which the business was first set up. However, it is possible to draw inferences about the factual background and there is every chance that more evidence will become available if and once the matter proceeds to trial. To the Petitioners' advantage, I shall thus assume that, when the Company was formed, Mr Wheatley and Mr Griffiths were closely acquainted and the Company was formed or purchased as a vehicle for a business to be conducted by them personally. At one point, Mr

Roberts was also involved in the management of the business – no doubt on a professional basis - but it is not suggested he was ever a member.

34. For the purposes of this application, I shall also assume that, for many years, Mr Wheatley and Mr Griffiths managed the business together. Initially, this involved supplying and installing cavity wall and loft insulation but some ten years ago the Company diversified its business and re-focussed on the design, supply and installation of central heating, air-conditioning, plumbing and ancillary services. I shall also assume that, until November 2020 or thereabouts, Mr Griffiths and Mr Wheatley continued to run the business together. More likely than not, Mr Griffiths and Mr Wheatley were, indeed, entitled to an expectation that they would act towards one another in good faith and, for so long as they wished to participate in the management of the business or act as a director and were capable of performing such a role, they would be entitled to do so. No doubt, to the extent this required them to have access to the Company's accounts, management or otherwise, and the Company's accounting records, they were entitled to such access. For the purposes of the Main Application, I shall assume this remained the case for Mr Griffiths and Mr Wheatley until their respective deaths although it does appear, at least in the case of Mr Griffiths, that he ceased to be involved in the management once Mrs Gomm and Miss Beverley Griffiths were appointed as directors and took over the management of the Company.

35. However, Mrs Jones has never been registered as a shareholder and Mrs Griffiths was not registered as a shareholder until after the Company's Annual Return on 4 October 2010. No doubt, this followed a transaction under which Mrs Griffiths' shares were transferred to her by Mr Griffiths himself. However, it is not suggested that Mrs Griffiths or, indeed, Mrs Jones participated or played a role in the management of the Company when it first commenced in business or, indeed, during the following period. Nor can any substantial evidence be discerned of a common understanding or agreement between each of the registered shareholders that Mrs Griffiths or Mrs Jones would somehow become involved in the business themselves, whether as a director or in a managerial role. There is also no evidence that they ever become involved in the business in such a way or were capable of performing such a role.

36. No material claim appears to have been asserted in respect of the matters giving rise to the Petition until shortly before it was presented. Whilst Mrs Griffiths has recently asserted a right to information in relation to the Company, including the Company's accounts and accounting records, it can be surmised she has done so for the purpose of obtaining a share valuation and disposing of her shares rather than playing an active role in the management of the Company. In Para 39.3.2 of the Points of Claim, it is stated that, at some undefined point in time, Mr Griffiths wished his widow to be appointed as a director. However, there is no suggestion Mr Griffiths and Mr Wheatley reached a common understanding she would be appointed as such, certainly at any time prior to Mr Griffiths' resignation as a director. It is contended only that there came a time when Mr Griffiths and Mr Wheatley each wished their respective wives to be appointed as directors. Consistently with this, in May 2023, Mrs Wheatley was appointed as a director. However, there is no evidence Mrs Wheatley was herself entitled to an expectation, rooted in a common understanding between the shareholders prior to her appointment, that she would be appointed as such. Had she had such an expectation, it is by no means obvious that she would thus have been entitled to appointment.

37. It is at least inherent in their case that the Petitioners are themselves entitled to such an expectation in their capacity as personal representatives of Mr Griffiths' estate. However, regardless of the issues about the validity of Mr Griffiths' final will, such a case is fundamentally flawed. This is because it can be taken that Mr Griffiths' rights, if any, to act as a director and participate in the management of the Company were personal to him. In the absence of evidence of an intention to the contrary, they would not have devolved with his estate. If, indeed, there was a common understanding or agreement between Mr Griffiths and Mr Wheatley sufficient to give rise to transcendent equitable considerations, there is nothing to suggest they ever envisaged these would be transferable to third parties or, indeed, devolve with their estate. It is also inherently unlikely this was envisaged. No doubt, Mr Griffiths and Mr Wheatley had their own particular skills and experience. It matters not whether, in his later years, Mr Griffiths wished his wife to take on a role in the Company.

38. In these circumstances, I am satisfied that the Petitioners have no real prospect of succeeding on the Petition the Appointment Allegation or, indeed, the Information Allegation.

39. Firstly, these Allegations are not founded on the Company's formal constitution nor are they founded on any contractual or statutory rights. The Company's Articles incorporated *Regulation 125* of *Table A* which provided only that "…no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting". Of course, the members are collectively entitled to appoint directors at a general meeting but they do not have a unilateral contractual or statutory right to do so.

40. Secondly, in the absence of such rights, the Petitioners have not advanced a legally sustainable case that they are entitled, in equity, to a material expectation other than as provided by the Articles. They have been provided with the Company's annual accounts for the years ending on 31 March 2023 and 2024. The directors are under no obligation to provide them with additional information to assist them in obtaining a valuation of the shares or disposing of such shares. Nor is there an arguable case that Mrs Griffiths or, indeed, Mrs Jones might somehow be entitled, in equity, to be appointed as a director.

41. In support of his case that the Petitioners are entitled to additional information, Mr Hackett has referred me to the judgment of Hart J in *Re Regional Airports Ltd [1999] 2 BCLC 30*. At *80a-b,* Hart J determined, on the facts of the case before him, that there was a "common assumption at the outset…that each of the shareholders was to be on the board, and (whether or not on the board) entitled to a reasonable flow of management information concerning the company…" He also concluded that, contrary to the reasonable expectations of some of the members, the board had exercised its powers to their disadvantage and unfair prejudice was established. However, the expectations of the petitioners, as shareholders, to a place on the board were critical to Hart J's determination. Unlike the Petitioners in the present case, it was envisaged they would personally be entitled, at an early stage, to a role in the management of the company's affairs or its decision-making at board level and, on this basis, they were duly appointed to the board. Consistently with their rights and

expectations as such, they were entitled to information relating to the management of the company and the "broad strategic issues", *80a-b.* However, it was not suggested they were entitled to information for the purpose of valuing their shares.

42. Whilst it is understandable the Petitioners now wish to dispose of the relevant shares following Mr Griffiths' death, there is no shareholders' agreement and the Articles do not require Mrs Wheatley to purchase the shares. Nevertheless, Mrs Wheatley's solicitors have canvassed, in correspondence, a solution which would involve providing an independent valuer with the information required to enable Mrs Wheatley to purchase the relevant shares at their fair value. If such an arrangement was considered acceptable in principle subject, no doubt, to matters of detail, it was always open to the Petitioners to return to them with modified proposals. Had they done so, there is every reason to believe that, with good will on both sides, an arrangement could have been reached for the shares to be sold at their market value on the basis that, having committed to the transaction, the Petitioners were provided with all the information necessary for the valuation of the relevant shares.

43. It would certainly appear from the pre-litigation correspondence that, in issuing the Petition, the primary motivation of the Petitioners was to obtain the information required to value their shares and, having done so, dispose of the shares at their full market value, whether to Mrs Wheatley or a third-party purchaser. With this object in mind, th**e** Information Allegations and the Appointment Allegation are central to their case. However, they rely – in addition – on the Sinecure Allegation and the Directors Loan Allegation.

44. I shall thus deal with these additional allegations now. For the avoidance of doubt, however, in my judgment, the Petitioners do not have a realistic prospect of success, more generally, on these aspects of their case.

45. In Para 39.2 of the draft Amended Points of Claim, the Sinecures Allegations are conflated with the Directions Loan Allegation. In substance, it is alleged that the directors have been "improperly retaining friends and family on sinecures… The Petitioners reserve the right to seek to re-amend these Points of Claim in respect of this issue following disclosure. So far as the remuneration

of staff on over-generous terms unfavourable to the Company is concerned, this is an issue that will require detailed analysis at trial and in all probability expert evidence".

46. In Paras 39.2.1, "[Miss Beverley Griffiths], Mrs Wheatley, Mrs Gomm and Mr Gomm" are identified as remunerated employees and, in Para 39.2.2, it is stated that "the Petitioners believe that Harry Gomm and Liz Gomm (Mrs Gomm's son and step son's wife respectively) all appear to be on the payroll of the Company." However, the Petitioners fail to substantiate their case by identifying the role of each such employee, together with details of their remuneration and the extent to which it is excessive. No doubt, the Petitioners contend that they cannot do so prior to disclosure. However, in my judgment, it is at least incumbent on them to set out the essential elements of their case. In view of the fact that this is a family business, it is not surprising that a substantial number of family members are employees of the Company. It is not enough for the Petitioners to state baldly that such employees are excessively remunerated without reference to their designation, the circumstances in which they were employed and, in general terms, their levels of remuneration, and why this is likely to be excessive.

47. In response, Mr Stephen Inglis, the solicitor for Mrs Wheatley and Mrs Gomm, has filed a witness statement dated 1 April 2025 with a table explaining the role of each relevant employee. This includes Mrs Gomm, Mrs Wheatley, Miss Beverley Griffiths, Mr Andrew Gomm, Mr Harry Gomm, Mr Patrick Gomm, Miss Elisabeth Gomm and Miss Roxanne Watkin Ellis. Miss Beverley Griffiths is the daughter of Mr Griffiths and Miss Ellis is his granddaughter. In response to a vague allegation that the remuneration of Mrs Gomm and Mrs Wheatley has increased, Mr Ingles states that this is incorrect. Mrs Gomm's salary, as managing director, is £35,000 and Mrs Wheatley's salary is £32,445. Based on the available evidence, there is no reason to doubt Mr Inglis's observation – on instructions - that "these salaries are particularly low given the size of the Company and the roles and responsibilities of Mrs Gomm and Mrs Wheatley…".

48. The Directors Loan Allegation, in Para 39.2 of the Points of Claim, is that loans were "advanced to Mrs Gomm and/or others without board approval and/or on

non-commercial terms". The loan or loans to "others" are unidentified. However, the loan to Mrs Gomm was in the sum of £6500. It was advanced against Mrs Gomm's director's loan account in October 2022 and repaid on 27 March 2023. In my judgment, this isolated historic transaction plainly does not, in itself, furnish the Petitioners with grounds for an unfair prejudice petition. Firstly, it was for a modest amount, repaid no more than six months later. It is alleged that the loan was not on commercial terms but it is not alleged what terms should have been imposed nor is the extent to which a failure to impose such terms might have been causative of unfair prejudice. There is no evidence of any subsequent loans to Mrs Gomm. Secondly, the logic of the allegation that the loan lacked board approval is difficult to discern in the context of the unfair prejudice petition itself. The Petitioners' case is founded on the proposition that the affairs of the Company are being conducted unfairly and it is at least implicit, in their case, that the affairs of the Company are being conducted by or through the board itself. The directors are thus joined as respondents to the Petition. Thirdly, there is otherwise no specific challenge to the lawfulness of the payment. The statutory requirement for *members'* approval of such a loan would have been dispensed with under *CA 2006 s207(1)* on the basis that it was for an amount less than £10,000.

49. The Improper Transactions Allegation, in Para 39.1, is no longer pursued. It included an allegation that, for no legitimate purpose, the Company made payments, in June and October 2022, of £34,882.25 and £46,005.08. However, evidence has been filed on behalf of Mrs Wheatley and Mrs Gomm to show that each such payment was made for legitimate purposes in the ordinary course of the Company's business.

50. In my judgment, the Petition has no real prospect of success, whether based on the Petitioners' current Points of Claim or in its draft amended form. Once the Petition is construed with either such document, no reasonable grounds for bringing the claim is disclosed. No doubt, the Petitioners' real object is to achieve the sale of their shares at the best obtainable price and, with this end, their grievances are rooted mainly in the Information Allegation and the Appointment Allegation. However, the Petitioners have not identified special circumstances requiring the directors to provide them with information beyond

their strict rights under the Articles nor, indeed, have they set out a recognised legal basis to show that Mrs Griffiths is entitled to be appointed as a director nor that, owing to the failure of the Company to appoint her as such, one or more of the members have been caused unfair prejudice.

51. For good reason, the Improper Transactions are no longer pursued. Moreover, the remaining allegations, namely the Sinecure Allegations and the Directors Loan Allegation are not separately capable of founding a successful petition. The Sinecure Allegations are at best speculative; they are without a substantial factual foundation. The Directors Loan Allegation is based on a single historic transaction of limited pecuniary value. On its face and in isolation, it does not amount to unfairly prejudicial conduct capable of sustaining an unfair prejudice petition under *Section 994* of the *Companies Act 2006.*

(6) The Amendment Application

52. Since the Petition has no real prospect of success and, whether in its current or draft amended form, the Points of Claim does not disclose reasonable grounds for bringing the claim, the Amendment Application shall be dismissed.

(7) Disposal

53. For the avoidance of doubt, the Relief from Sanction application is allowed. However, I shall give summary judgment in favour of Mrs Wheatley and Mrs Gomm on the Main Application. Had I not entered summary judgment under *CPR Part 24*, I would have been minded to strike out the Petition under *CPR 3.4.* The Amendment Application is dismissed.