



Neutral Citation Number: **[2025] EWHC 1228 (Ch)**

Case No: **CR-2023-005099**

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT

IN THE MATTER OF SIGNIFIER MEDICAL TECHNOLOGIES LIMITED
[COMPANY NUMBER: 09455560]
AND IN THE MATTER OF THE COMPANIES ACT 2006
B E T W E E N :

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

Date: 22 May 2025

Before :

DEPUTY INSOLVENCY AND COMPANIES COURT JUDGE ADDY KC

Between :

- (1) SEGULAH MEDICAL ACCELERATION
AB
(2) SPEECA LIMITED
(3) CHRIS TUOHY
(4) KIERAN GALLAHUE
(5) JIM HINRICHS

Petitioners

**THE PETITIONERS LISTED AT SCHEDULE 1
TO THE PETITION**

- and -

- (1) AKHILESH SHAILENDRA TRIPATHI
(2) ANSHUL SAMA
(3) SIGNIFIER MEDICAL TECHNOLOGIES
LIMITED

Respondents

Mark Baldock (instructed by **Proskauer Rose (London) LLP**) appeared on behalf of the
Petitioners.

Richard Bowles (instructed by **Mishcon de Reya LLP**) appeared on behalf of the First
Respondent.

Hearing dates: 6 March 2025 with further written submissions filed on 25 and 26 March 2025
Draft Judgment circulated to the parties: 15 May 2025

JUDGMENT

DEPUTY INSOLVENCY AND COMPANIES COURT JUDGE ADDY KC:

1. This short written ruling concerns 2 remaining issues between the parties in relation to their joint Disclosure Review Document (“**DRD**”), following a day long costs and case management conference (“**CCMC**”) on a petition presented pursuant to section 994, Companies Act 2006, in respect of Signifier Medical Technologies Limited (“**the Company**”), heard before me on 6 March 2025. The trial of the Petition is not due to commence before October 2026. At the CCMC and in their respective written submissions on the 2 issues, the Petitioners were represented by Mr Baldock of counsel and the First Respondent was represented by Mr Bowles of counsel. Although the Second Respondent was represented at the CCMC by counsel, the remaining issues I have been asked to decide do not concern the Second Respondent and accordingly no written submissions have been filed on his behalf.
2. At the hearing of the CCMC, which lasted a full day and concluded at 17.05, considerable progress was made between the parties and with the assistance of the court in relation to the issues between the parties in respect of the DRD and it was anticipated that, with further cooperative dialogue between the Petitioners and the Respondents after the hearing, the remaining issues in respect of the DRD (which required further discussion between the parties) would be resolved consensually. Unfortunately, that did not prove to be the case and, whilst there has undoubtedly been further progress made between the parties, pursuant to an agreed provision made in the Order dated 6 March 2025, for the parties to invite the Court to determine any outstanding issues on paper, on 25 and 26 March 2025 the Petitioners and the First Respondent filed their respective written submissions on the remaining issues between them. The parties were

subsequently informed that consideration of the outstanding issues had been delayed due to a bereavement and the court has not been made aware of any further developments between the parties in respect of those issues in the meantime.

3. The Amended Points of Claim and the Amended Points of Defence served in respect of the Petition are extensive. However, for present purposes, it suffices to refer to the following factual background, taken from the case summary agreed between the parties (and in so far as it concerns the issues between the Petitioners and the First Respondent):

- i) The Petition relates to the conduct of the affairs of the Company, whose co-founders are the First Respondent, Mr Tripathi, and the Second Respondent, Professor Sama.
- ii) The Company carries on a business developing and commercialising non-invasive solutions for patients with sleep disordered breathing conditions, such as sleep apnoea.
- iii) The Petitioners complain about (i) the appointment of seven individuals to the board of directors of the Company on 23 August 2023, said to be under the control of Mr Tripathi, and (ii) the removal of three individuals as directors on 6 September 2023, described as “Independent Board Members”.
- iv) The Petitioners say that (i) the said changes to the board were motivated by a desire to, and did in fact, stop an investigation into alleged wrongdoing by Mr Tripathi as CEO of the Company, which is

perpetuated by the current board; and that (ii) both Mr Tripathi and Professor Sama are said to be sufficiently causally connected to the unfairly prejudicial conduct because, it is alleged, Mr Tripathi and Professor Sama, without whose votes the resolutions would not have passed, entered into an arrangement to vote for a purpose which they were aware was detrimental to the Company, which has resulted in the current board breaching their duties by continuing to fail to investigate the alleged wrongdoing of Mr Tripathi.

- v) The Petitioners also complain that Mr Tripathi has breached his duties as a director of the Company in various respects, including in misusing company funds to make payments totalling some £3.5 million, of which the Petitioners seek payment to the Company to remedy the alleged wrongs.
- vi) Mr Tripathi denies all allegations of unfair prejudice. First, Mr Tripathi denies the changes to the board of directors were motivated by a desire to act for a purpose which was in any way detrimental to the Company and denies that he was motivated by trying to stop an investigation into his conduct (he notes that that investigation remains ongoing under the current board). Rather, the changes to the board were necessary in circumstances where the previous board was causing harm to the Company. Second, in any event, he denies that he was able to control the votes of shareholders and particularly denies all allegations of an “arrangement” between himself and Professor Sama. Rather, he asserts that the vote was conducted entirely in line with “shareholder

democracy” in which “the majority of shareholders took the view that the [Board] should be replaced”. Third, in any event, it is denied that the appointment of the new directors has been detrimental to the Company, whether as alleged or at all. In fact, the Company has become substantially more successful under the current board.

vii) Further, Mr Tripathi denies that there has been any breach of duty on his part occasioning the Company any loss.

4. Professor Sama similarly denies his involvement in the Petitioners’ alleged scheme and denies all allegations of unfair prejudice, but (as indicated) his position is not relevant for the purposes of the 2 issues I am asked to determine.
5. The 2 issues I am asked to determine on paper are (i) the appropriate formulation of “Issue 6” in Section 1A of the DRD and (ii) the appropriate formulation of Model C requests in Section 1A of the DRD in respect of “Issue 11” (as identified in Section 1B). Whilst all other outstanding issues in respect of the DRD have been resolved, despite further solicitors’ correspondence (to which I have been referred), the relevant parties have been unable to agree these 2 issues. I address each in turn below.

Issue 6

6. The formulation of the issue for disclosure (referred to by the parties as Issue 6) as it is now proposed by the Petitioners, is as follows:

“The First Respondent’s role in a secondary share sale of shares registered in the name of Miss Silvie Kent in June 2023, and why the First Respondent facilitated such sales.”

7. This proposed issue for disclosure is said to stem from paragraph 12(b) of the Amended Petition, which states (**my emphasis**):

“12. In addition to the findings of the Wilson Report (as confirmed by the disciplinary hearing), the Board’s letter to the shareholders dated 14 August 2023 (“14 August Letter”), the truth of the facts therein the Petitioners aver, also stated (among other things) that:

[...]

b. “While [SMT] has been in dire need of funding for at least the past 9 months, in June [2023, the 1st Respondent], while CEO of SMT, facilitated the sale of shares for a shareholder to whom he has a close personal relationship, rather than use the funds from this investor to fund [SMT].... [B]y facilitating sales of secondary shares, [the 1st Respondent] has raised capital for persons close to him of tens of millions of US dollars, likely exceeding the total primary capital raised for use by [SMT] in growing its business” (§10). This was further elaborated in the Independent Board Members’ letter to SMT’s shareholders dated 23 August 2023 (“23 August Letter”, at p 12, §15a):

“... [The 1st Respondent] secretly facilitated the sale of SMT shares from a close friend to a new investor in SMT at a value significantly in excess of that being considered by a group of insiders doing diligence at the exact same time.... This is a clear violation of SMT’s policy requiring board approval prior to any secondary share sales and of [his] duty to put the Company’s interest ahead of his own or those of his close acquaintances. The Board has asked numerous times for more detail regarding the sale of secondary shares in the past months and yet [the 1st Respondent] has still not provided an explanation of why he would do such a thing nor how many shares were sold, and for what value. In fact he denied his participation in the sales to the Board at a recent meeting.””.

8. In answer, in paragraph 65 of his Amended Points of Defence, the First Respondent admits that the passages of the letter recited are accurate quotations but denies their substance and further states, at §65(4)(ii),

“The substance of the allegations at paragraph 12b is not understood, as it is not clear who these allegations refer to. It should be noted that the First Respondent has lent \$5 million to the Company in unsecured loans since February 2023.”

9. The issue for disclosure as now proposed by the Petitioners materially differs from the form in which it had been proposed in the version of the DRD before the court at the CCMC hearing. It had then referred to “*Mr Tripathi’s role in a secondary share sale for a shareholder to whom he has a close personal*

relationship ... in June 2023". Accordingly, since the CCMC, the Petitioners have identified to the First Respondent (in a letter sent by their solicitors on 11 March 2025) that the "*shareholder to whom he has a close personal relationship*" referred to in §12(b) of the Amended Petition, is a Miss Silvie Kent.

10. The position now taken on behalf of the First Respondent is that he should amend his Amended Points of Defence (the name of the relevant shareholder having been identified) before any related issue for disclosure is determined and that, instead of determining the relevant issue for disclosure now, the court should defer determination pending the service of Re-Amended Points of Defence as, so the First Respondent avers, "*only then will the issues between the parties become clear*". However, whilst this position was advanced in correspondence dated 18 March 2025, the court has not been informed of any proposed corresponding amendments to the Amended Points of Defence. Nor (so far as the court is aware) has the likely *nature* of any proposed amendment to the Amended Points of Defence been indicated to the Petitioners and the First Respondent has not proposed any alternative formulation of the issue for disclosure.
11. On the face of the Amended Petition and the Amended Points of Defence as they currently stand, what is in issue between the parties (because the First Respondent denies the same and, as stated in the existing amendment to §65 of the Amended Points of Defence, "*for the avoidance of doubt, the First Respondent joins issue with the Petitioners averment (made by amendment) of the truth of those allegations*") is whether the First Respondent facilitated a

secondary sale of shares in the Company to a third person (with whom it is alleged the First Respondent has a close personal relationship) in June 2023 and, if so, whether that was in breach of his duties as a director (which the Petitioners contend would fall within the remit of section 994 of the Companies Act but which the First Respondent might dispute – see §66 of the Amended Points of Defence). This is reflected in §1.6 of the Petitioners’ proposed list of issues for trial, albeit these are not agreed by the First Respondent, which reads, “*Did the First Respondent breach his duties to the company in any of the following respects:... 1.6 Facilitating a secondary sale of shares in SMT in June 2023?*”. The only material difference now is that the name of the relevant shareholder has been specified.

12. In circumstances where there has been no indication from the First Respondent as to what (if anything) is likely to change in relation to the issues which are presently in dispute, simply by virtue of the relevant shareholder having now been named, it does not seem to me that there is any obvious purpose in further delaying the formulation of the issue for disclosure. In this regard I bear in mind that, as the Chancellor stated in *McParland & Partners Ltd v Whitehead*, *Practice Note* [2020] EWHC 298 (Ch) at [46],

“... issues for disclosure are very different from issues for trial. Issues for disclosure are issues to which undisclosed documents in the hands of one or more of the parties is likely to be relevant and important for the fair resolution of the case”.”

13. It seems very unlikely that Amended Points of Defence (in circumstances where the First Respondent has already denied the truth of the allegations recited) would alter the fact that the issue now identified by the Petitioners is one to

which undisclosed documents in the hands of the parties are likely to be relevant and important for the fair resolution of the case. It is also desirable to avoid further delaying the progression of the proceedings.

14. It is plainly sensible (for the assistance of the document reviewers and to narrow the scope) that the issue for disclosure should specify the name of the relevant shareholder now identified by the Petitioners, and, in the circumstances, in my judgment (and in the absence of any alternative formulation having been put forward on behalf of the First Respondent) Issue 6 in the DRD should be formulated as presently proposed by the Petitioners.

Issue 11

15. The parties have agreed between them the following formulation of the 11th issue for disclosure, “*The relationship between the First Respondent and the 7 Individuals*”; and there are to be Model C Requests in respect of such issue for disclosure. The “*7 Individuals*” is a defined term, referring to the 7 individual persons specified by name in §16 of the Amended Petition, whom it is not necessary to name in this Judgment but who were (as identified in the case summary above) appointed as directors of the Company on 23 August 2023 and who the Petitioners allege are under the control of the First Respondent. The parties are further agreed that the requests will be in the same form in respect of each of the 7 Individuals, such that there will be 7 such Model C Requests.
16. The issue between the parties is the precise formulation of those mirror Model C Requests:
 - i) The Petitioners contend that the appropriate formulation should be –

“All communications by or on behalf of the First Respondent in relation to (1) the appointment of [name] to SMT’s board and (2) [name’s] performance of his role as director of SMT on or after [date].”

- ii) Whereas the First Respondent contends that the formulation should be *“All communications by or on behalf of the First Respondent in relation to (1) the appointment of [name] to SMT’s board and (2) dealings with [name] in respect of SMT board meetings on or after [date].”*

Accordingly, the issue between the parties is only as to the wording of the second limb of each such request.

- 17. Having regard to the parties’ written submissions and to the oral submissions which were made at the CCMC, it appears to me to be the mutual intention of the parties that the second limb of the Model C Requests is intended to capture all communications by or on behalf of the First Respondent in relation to the *factual conduct* of each of the 7 Individuals *as a director* of the Company.
- 18. It is regrettable that the parties have been unable to reach agreement between them as to the appropriate formulation of these Model C Requests, particularly in circumstances when they will have well in mind the categories of documents they are intending to capture. Whereas the First Respondent’s position is that the reference to *“performance of their role as a director”* is too broad and likely to bring in all documents relating to the individual’s role at the Company, which it is contended would be disproportionate and unnecessarily increase the time and cost of disclosure, the Petitioners make the point that restricting it to *“dealings in respect of board meetings”* after the date of their appointment is too narrow, in circumstances where it cannot be assumed that decisions were only taken by directors *at board meetings* and that relevant communications

would only have taken place in relation to their future conduct as directors after their respective appointment, such that the scope must be wider than that.

19. In the absence of the parties being able to reach an agreement between them as to alternatively formulated Model C Requests (which would capture the categories of documents they have in mind) it seems to me that, with a view to resolving the impasse between them and whilst it might be imperfect, the Model C Requests should be formulated as follows:

“All communications by or on behalf of the First Respondent in relation to (1) the appointment of [name] to SMT’s board and (2) [name’s] conduct as a director of SMT”.

20. Bearing in mind that in respect of the second limb it will only capture *“all communications by or on behalf of the First Respondent in relation to [name’s] conduct as a director of SMT”*, I am not persuaded that this will be too broad and likely to bring in all documents relating to the individual’s role at the Company. By requiring the communications (by or on behalf of the First Respondent) to be in relation to the particular individual’s *conduct as a director* (whether such conduct is by commission or omission) it ought to be sufficiently limited to communications that are relevant in respect of the relationship between the named individual and the First Respondent (that being the agreed Issue for Disclosure).

21. However, if the parties are able to agree between them in writing a revised formulation which they consider better reflects their intentions, then I give permission for them to substitute such an agreed reformulation of the Model C Requests for that which I have otherwise determined.