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**IN THE COMPETITION**

Case No. : 1672/5/7/24

**APPEAL**  
**TRIBUNAL**

Court of Session Supreme Courts,  
11 Parliament Square,  
Edinburgh,  
EH1 1RQ

Tuesday 29<sup>th</sup> April 2025

Before:

The Honourable Lord Richardson  
Peter Anderson  
Charles Bankes

(Sitting as a Tribunal in Scotland)

**BETWEEN:**

Patrick Henry McAuley

**Claimant**

v

Faculty of Advocates Services LTD

**Defendant**

---

**A P P E A R A N C E S**

Patrick Henry McAuley On Behalf of Himself

Richard Keen KC On behalf The Faculty of Advocates Services LTD (Instructed by Balfour and  
Manson LLP)

Tuesday, 29 April 2025

Case management conference

(10.57 am)

LORD RICHARDSON: Good morning, Mr McAuley.

MR MCAULEY: Morning, Judge Richardson. Good morning,  
Judge Bankes. Good morning, Judge Anderson.

LORD RICHARDSON: I thought it might be helpful to begin by  
just making clear that so far as the Tribunal are  
concerned, this case management hearing is principally  
concerned with procedural matters, but nonetheless there  
are a number of motions before us that, if it is  
appropriate, we will deal with as well.

Before I go any further, Mr McAuley, I understand from  
reading the papers that you are currently signed off your  
work; is that correct?

MR MCAULEY: Yes.

LORD RICHARDSON: Yes. So I just wanted to -- if, for  
whatever reason, during the course of the hearing you  
require a short break, please tell us and we will do our  
best to accommodate that. Do you understand?

MR MCAULEY: Yes. I should be fine.

LORD RICHARDSON: Right. The second thing I noticed,  
Mr McAuley, from my consideration of the documents was  
certainly at one point, you had had a difficulty in  
gaining sight of the documents lodged by the defender

1           and I just wanted to confirm that you had had sight of  
2           the documents, in particular the skeleton argument and  
3           the proposed agenda, that had been lodged by the  
4           defendant; is that right?

5       MR MCAULEY:   Yes.

6       LORD RICHARDSON:   Yes, thank you.

7           Now, given that the principal purpose of this hearing is  
8           procedural, so far as the Tribunal was concerned, we are not  
9           particularly attracted by either side seeking to rehearse the  
10          substantive merits of their positions. Having considered the  
11          agendas lodged by both parties, and we are grateful to both  
12          sides for lodging those, the first issue that we would like  
13          to be addressed is the question of amendment, Mr McAuley.

14       MR MCAULEY:   Yes.

15       LORD RICHARDSON:   Now, I understand, Mr McAuley, that you  
16          seek to amend the identity of the party that you are  
17          pursuing these proceedings against from the Faculty of  
18          Advocate Services Ltd. I understand that. Am

19          I correct --

20       MR MCAULEY:   Yes.

21       LORD RICHARDSON:   -- that you still wish to amend?

22       MR MCAULEY:   Yes.

23       LORD RICHARDSON:   So then the question is which party do you  
24          want to amend that to, if you understand my question.

25       MR MCAULEY:   Yes.

1 LORD RICHARDSON: Because you will have seen from the  
2 defences that have been lodged on behalf of Faculty of  
3 Advocate Services Ltd -- albeit I think those defences  
4 make clear that they have been lodged essentially on  
5 behalf of two parties: on the one hand, Faculty  
6 Services Ltd and, separately, the Faculty of Advocates.  
7 So those are two separate entities. Do you understand  
8 that, Mr McAuley?

9 MR MCAULEY: Yes.

10 LORD RICHARDSON: Lord Keen, can I just confirm: am I right  
11 in my understanding that the defences that are lodged  
12 and indeed your instruction before us today is on behalf  
13 of both of those entities? Is that right?

14 LORD KEEN: My Lord, I am instructed on both -- on behalf of  
15 both Faculty Services Ltd and the Faculty of Advocates,  
16 as anticipated by the written response to the claim  
17 intimated on 25 January of 2025. We have refused to  
18 consent to the amendment to the claim which was sought  
19 by Mr McAuley --

20 LORD RICHARDSON: Yes.

21 LORD KEEN: -- for very particular reasons, given the party  
22 he wanted to name. That is all I will say.

23 LORD RICHARDSON: I understand that and I will come back to  
24 you, if I may, Lord Keen, but what I wanted to be clear  
25 about to begin with from Mr McAuley is to understand

1           which of those two entities you wish to pursue.

2           Can I just check, Mr McAuley, is your microphone turned  
3           on?

4       MR MCAULEY:   Yes.

5       LORD RICHARDSON:  That does not seem to be making any  
6           difference.  Perhaps the ...

7       MR MCAULEY:  Yes.  Well, it may be helpful to start by  
8           saying the reason that I did it to Faculty of Advocate  
9           Services Ltd was I was filling out the forms, so I had  
10          my computer screen up, so half of it was the  
11          Companies House information and half was the document  
12          that I was typing.

13      LORD RICHARDSON:  Yes, yes.

14      MR MCAULEY:  So basically, I got -- I basically put the name  
15          of the address into the name of the company.

16      LORD RICHARDSON:  Yes.

17      MR MCAULEY:  But it was Faculty Services Ltd which  
18          I intended to.

19      LORD RICHARDSON:  Yes.

20      MR MCAULEY:  The reason that I intended to do that is  
21          because their classification of industry -- their  
22          classification of industry at Companies House is  
23          barrister services.

24      LORD RICHARDSON:  Yes, I have seen that and the Tribunal  
25          understand that.  The point I want to be very clear

1           about is you will have seen from the documents that are  
2           lodged by on behalf of both Faculty Services Ltd and the  
3           Faculty of Advocates that so far as they are concerned,  
4           there is -- Faculty Services Ltd is a services company  
5           and the regulatory body, so the body that is responsible  
6           for the rules which, as I understand it, you are seeking  
7           to challenge, is the Faculty of Advocates. That is what  
8           they say.

9           Now, I understand you may take a different view or you  
10          may not, but what I want to understand first of all, just to  
11          confirm, is that you are clear that these are two separate  
12          and different bodies. Do you understand that?

13       MR MCAULEY: I did read that carefully and look it up. So  
14          there is a Faculty of Advocates registered as a charity  
15          with the Scottish Charities Commission --

16       LORD RICHARDSON: Yes.

17       MR MCAULEY: -- but as a point of law, they are required to  
18          say what their purposes are and it does not say -- it  
19          lists six purposes and none of them are barrister  
20          services.

21       LORD RICHARDSON: Right. So --

22       MR MCAULEY: I think under the rules, I might be able to add  
23          another party. I mean, if it was going to come to that,  
24          I would like to have Faculty Services Ltd there because  
25          I have seen them in the court provide barrister

1 services. It says barristers at Companies House, and  
2 I perhaps could add Faculty of Advocates as well and  
3 just make it two parties and then we could address that  
4 point.

5 LORD RICHARDSON: So if I understand correctly, what you are  
6 now seeking to do, and this would be a change slightly  
7 from -- well, not slightly; it would be a change from  
8 what you have said thus far, but in writing. But what  
9 you are proposing now is you would like to amend to  
10 introduce both Faculty Services Ltd and the Faculty of  
11 Advocates; is that correct?

12 MR MCAULEY: Well, yes, I mean, if the respondents agree  
13 that if -- on that plea in law for the -- they organise  
14 it that no party is liable for expenses, I would be  
15 happy to do that and we could just -- if -- I mean, if  
16 the parties --

17 LORD RICHARDSON: Well, that -- you are -- sorry, sorry.

18 MR MCAULEY: If the panel found that as a justiciable issue  
19 that it might be of Faculty of Advocates and Faculty --  
20 I mean, the reason I do not want to put that in is  
21 because under section 9 of the Companies Act, it says  
22 you must declare who the lawful purpose is, and I think  
23 it is under -- under section, I think it is, 836, it is  
24 a crime to -- if you do not say the purpose lawfully.

25 LORD RICHARDSON: Yes.

1 MR MCAULEY: So that is why I just do not understand what  
2 they are saying. I have not seen the other  
3 organisation -- another organisation called the Faculty  
4 of Advocates that has the purpose of saying, "We provide  
5 barrister services". So I do not understand their  
6 arguments, but if the panel want to make it, I will make  
7 the --

8 LORD RICHARDSON: It is not what we want --

9 MR MCAULEY: That is fine. I will then -- I will make the  
10 application and we could add another party or add  
11 Faculty Services Ltd --

12 LORD RICHARDSON: So -- well, first of all, obviously,  
13 Mr McAuley, we have to -- you will appreciate that we  
14 have to take this in stages. So the first thing that  
15 I want to do is to understand -- what the Tribunal wants  
16 to do is to understand what you are asking us and then  
17 of course I will require to find out what the position  
18 of Lord Keen is in relation to that matter and then the  
19 Tribunal will have to make a decision.

20 But just to be clear, you are seeking now to amend  
21 Faculty of Advocate Services Ltd to both Faculty Services Ltd  
22 and the Faculty of Advocates; is that correct?

23 MR MCAULEY: Yes, yes.

24 LORD RICHARDSON: Thank you very much. Well, I will hear  
25 from Lord Keen now. Thank you.



1           Lord Keen, so you have heard now what Mr McAuley's  
2           amended position is. What is the position of those that you  
3           represent?

4       LORD KEEN: My Lord, insofar, but only insofar as Mr McAuley  
5           seeks to introduce the Faculty of Advocates as the  
6           subject of this claim --

7       LORD RICHARDSON: Yes.

8       LORD KEEN: -- we would not oppose that --

9       LORD RICHARDSON: Yes.

10      LORD KEEN: -- albeit we are not expressly consenting.

11      LORD RICHARDSON: No, I understand.

12      LORD KEEN: Under rule 32, it is for the Tribunal to give  
13           permission for such amendment and in that context, and  
14           having regard to rule 32(2)(b), I would not take any  
15           issue with the suggestion that Mr McAuley made a genuine  
16           mistake --

17      LORD RICHARDSON: Yes.

18      LORD KEEN: -- with regard to the identification of  
19           a limited company.

20      LORD RICHARDSON: Yes.

21      LORD KEEN: Nevertheless, I would object to an amendment  
22           that also brought in Faculty Services Ltd --

23      LORD RICHARDSON: Yes.

24      LORD KEEN: -- for the reasons that we have sought to set  
25           out. That is just a service company. That position is

1 supported by the two affidavits that have been lodged.

2 LORD RICHARDSON: Yes.

3 LORD KEEN: Pursuant to section 120 of the Legal Services  
4 Act 2010, it is quite clear that the party responsible  
5 for regulating the Faculty of Advocates and the  
6 profession of advocates and their professional practise  
7 is the Court of Session, which may in turn exercise that  
8 either by way of the Lord President or by way of the  
9 Faculty of Advocates itself.

10 LORD RICHARDSON: Yes, and you are referring now, I think,  
11 to the copy of -- well, to the Legal Services (Scotland)  
12 Act 2010, a copy of which helpfully you handed up.

13 LORD KEEN: Indeed.

14 LORD RICHARDSON: May I take it that Mr McAuley has also  
15 been --

16 LORD KEEN: He was provided with that this morning, my Lord.

17 LORD RICHARDSON: Thank you.

18 LORD KEEN: It was just to make clear that if the amendment  
19 is to introduce the Faculty of Advocates, so be it.

20 LORD RICHARDSON: Yes. No, that is very helpful. Well, let  
21 me just clarify what Mr McAuley's position.

22 Now, Mr McAuley, you have heard what Lord Keen said.

23 MR MCAULEY: Yes --

24 LORD RICHARDSON: Just a moment. Let me make my point first  
25 of all, if I may.

1           Lord Keen is saying that the Faculty of Advocates would  
2           not oppose an amendment to introduce the Faculty of Advocates  
3           and they say that the Faculty of Advocates is the body which  
4           is responsible for regulating advocates and advocacy services  
5           in terms of the 2010 Act.

6           Now, the issue really for you becomes quite a sharp one,  
7           which is whether you would insist -- and it is a matter  
8           entirely for you; the Tribunal cannot advise you -- on that  
9           part of your amendment which seeks to introduce Faculty  
10          Services Ltd as a defender, because at the moment, they are  
11          not a defender --

12       MR MCAULEY:   Yes.

13       LORD RICHARDSON:  -- because of the issue with the name.  We  
14          understand how that has come about, but the question is:  
15          are you insisting on introducing them or not?

16       MR MCAULEY:   Yes.  Well, I think it is -- Lord Keen referred  
17          to the section 32.

18       LORD RICHARDSON:  Yes.

19       MR MCAULEY:   I think he referred to section 32(2) in the  
20          genuine error, but that one only applies if it is  
21          time-barred, which it is not time-barred because it is  
22          the --

23       LORD RICHARDSON:  Well, sorry to --

24       MR MCAULEY:   Under schedule 8A of the Competition Act, the  
25          prescription period is five years and the limitation

1 period is six years.

2 LORD RICHARDSON: I think you may have --

3 MR MCAULEY: So --

4 LORD RICHARDSON: Sorry to interrupt you, Mr McAuley. I am

5 very sorry to interrupt you, but I just wonder if you

6 have misunderstood what Lord Keen -- because he is not

7 opposing --

8 MR MCAULEY: Yes. Basically, my position is that under

9 section 32(1), I would seek to amend the Faculty of

10 Advocate Services Ltd to Faculty Services Ltd.

11 LORD RICHARDSON: So you are still insisting on that?

12 MR MCAULEY: Yes. Then under section 30 -- regulation 28,

13 "Additional Parties", I would make the application to

14 add Faculty of Advocates, which is --

15 LORD RICHARDSON: Very well. That is helpful. That is

16 clear. So if I understand, you are still insisting on

17 Faculty Services Ltd being a party; is that correct?

18 MR MCAULEY: Yes.

19 LORD RICHARDSON: Yes, and you also wish to add Faculty of

20 Advocates.

21 Now, Lord Keen, if I understand correctly, you do not

22 oppose Faculty of Advocates being introduced, but you would

23 oppose -- or you would seek to insist on your strikeout

24 motion in relation to Faculty Services Ltd; is that correct?

25 LORD KEEN: Exactly so, my Lord.

1 LORD RICHARDSON: Very well. (Pause)

2 Very well. So what the Tribunal will do is that we will  
3 allow the amendment to introduce Faculty Services Ltd and we  
4 will allow the Faculty of Advocates itself to be added as  
5 a defender to the proceedings. But on that basis, I think  
6 the next matter that the Tribunal wishes to consider is  
7 Lord Keen's strikeout motion in relation to Faculty  
8 Services Ltd.

9 Now, Mr McAuley, you have seen the basis of that set out  
10 in the skeleton argument and in the defences. Are you in  
11 a position to deal with that today?

12 MR MCAULEY: My Lord, yes. The reason I do defend that is  
13 because of the cases submitted with the Glasgow  
14 City Council one --

15 LORD RICHARDSON: Well, we will come on to it. We will take  
16 it in stages.

17 MR MCAULEY: -- which will be perfect for me.

18 LORD RICHARDSON: We will take it in stages, Mr McAuley, and  
19 I will give you a chance to make your submissions in  
20 just a moment, but I just want to be clear that that is  
21 the road that we are going down, if you see what I mean.  
22 All right?

23 MR MCAULEY: Yes.

24 LORD RICHARDSON: Now, Lord Keen, am I correct to understand  
25 that in light of the Tribunal's ruling on the question

1           of amendment and the introduction of the new party, you  
2           do insist on your motion in relation to Faculty  
3           Services Ltd; is that correct?

4       LORD KEEN: My Lord, I would insist on it in respect of both  
5           parties --

6       LORD RICHARDSON: I understand that.

7       LORD KEEN: -- just to be clear.

8       LORD RICHARDSON: I understand that and we will come back to  
9           the second part of that, but the point that the  
10          Tribunal -- the agenda that the Tribunal wishes to  
11          follow is to deal first of all with the question of  
12          Faculty Services Ltd, which raises a discrete point.

13      LORD KEEN: I am content to deal with it in that order,  
14          my Lord.

15      LORD RICHARDSON: Just so you understand, Mr McAuley, what  
16          I am going to do then and the Tribunal is going to do is  
17          we will hear from Lord Keen on the strikeout motion  
18          insofar as it relates to Faculty Services Ltd and then  
19          we will give you an opportunity to respond at that  
20          point. Do you understand?

21      MR MCAULEY: Yes.

22      LORD RICHARDSON: Yes, thank you.

23           Lord Keen.

24      LORD KEEN: My Lord, in a sense, it is quite difficult to  
25          separate out the grounds for the strikeout motion as

1           against FSL, Faculty Services Ltd, and the Faculty of  
2           Advocates, but I will say something quite shortly about  
3           Faculty Services Ltd --

4       LORD RICHARDSON:   Yes.

5       LORD KEEN:   -- which is that the original registration of  
6           the company was, of course, dictated by the list of  
7           companies allowed in terms of the register and it seems  
8           that back in 1971, the heading taken was "barrister  
9           services".

10      LORD RICHARDSON:   Yes.

11      LORD KEEN:   Essentially, as set out in the affidavits that  
12           have been produced, FSL is a service company of the  
13           Faculty of Advocates which has no role in the  
14           professional practise, conduct or regulation of those  
15           who hold the office of advocate.

16      LORD RICHARDSON:   Yes, and your authority for that is?

17      LORD KEEN:   Section 120 and section 121 of the 2010 Act,  
18           my Lord --

19      LORD RICHARDSON:   Yes.

20      LORD KEEN:   -- where there is no reference whatsoever to  
21           Faculty Services Ltd.

22           I am aware that Mr McAuley has alluded to the fact that  
23           at least in one instance where an amicus had been appointed,  
24           he appeared in the Law Report as an advocate with the name  
25           Faculty Services Ltd following.

1           First of all, this claim is not about the appointment or  
2           otherwise of an amicus.

3       LORD RICHARDSON:   Yes.

4       LORD KEEN:   That, in my view, is an end of the matter.

5       LORD RICHARDSON:   Yes.

6       LORD KEEN:   But I would add this.   My understanding is that  
7           where an amicus is to be appointed, the matter is  
8           presented to the Dean of the Faculty of Advocates.

9       LORD RICHARDSON:   Yes.

10      LORD KEEN:   He will then refer the matter to the clerks of  
11           Faculty Services Ltd.

12      LORD RICHARDSON:   Yes.

13      LORD KEEN:   Where an amicus is appointed, there is, of  
14           course, no instructing agent --

15      LORD RICHARDSON:   Yes.

16      LORD KEEN:   -- but because the arrangement has been made by  
17           the clerks, it is listed as Faculty Services Ltd.

18      LORD RICHARDSON:   Yes.

19      LORD KEEN:   I do not see how myself that raises an issue  
20           with which we are concerned pursuant to section 2 or  
21           section 18 of the Competition Act, which is the basis of  
22           the two claims that have now been directed at Faculty  
23           Services Ltd and the Faculty of Advocates.

24           I am, however, entirely prepared to address those claims  
25           insofar as they are directed against the relevant statutory



1           bodies responsible for matters of regulation/professional  
2           practise in respect of those who hold the office of advocate.

3       LORD RICHARDSON: Yes. Well, thank you. Is there anything  
4           else you wanted to --

5       LORD KEEN: Nothing more, my Lord.

6           Do the members of the Tribunal have any questions? No.  
7           Thank you.

8       MR ANDERSON: Perhaps just one, Lord Keen, if I may. Can  
9           you help the Tribunal and perhaps even Mr McAuley to  
10          understand: is it essential for someone who is  
11          practising as an advocate to subscribe to and use the  
12          services of Faculty Services Ltd or can they operate  
13          independently of Faculty Services Ltd?

14       LORD KEEN: A number of members of the Faculty of Advocates  
15          contract out of the service company obligation and  
16          therefore have clerks who are not employed by Faculty  
17          Services Ltd, and that has been the position for more  
18          than ten years. So there are members of Faculty. There  
19          are individuals who hold the office of advocate, with  
20          all the rights and privileges that go with it, who are  
21          not linked in any sense whatsoever with Faculty  
22          Services Ltd, but are subject to the regulation  
23          provisions made by the Court of Session, as delegated to  
24          the Lord President of the Court of Session or to the  
25          Faculty of Advocates.

1 MR ANDERSON: Thank you.

2 LORD RICHARDSON: Thank you. Now, thank you, Lord Keen.

3 Now, Mr McAuley.

4 MR MCAULEY: Does Lord Keen know how many are not members of  
5 the organisation? It is just for competition law, the  
6 exact percentage does matter.

7 LORD RICHARDSON: Well, I am not sure it necessarily --  
8 I think the first question you would need to address is  
9 what you say is the relevance of Faculty Services Ltd to  
10 your claim.

11 MR MCAULEY: Yes. Well, Faculty Services Ltd, as alluded to  
12 earlier, Lord Keen stated that the company was  
13 registered in 1971 and that was the industry  
14 classification back then, but every year now you have to  
15 do a confirmation statement under section 853 of the  
16 Companies Act. 853BA it is.

17 LORD RICHARDSON: Just so I understand it, would I be right  
18 in understanding that your entire argument depends on  
19 the registration at Companies House; is that right?

20 MR MCAULEY: Yes. Well, as I say, that is why I did it to  
21 that company, because you can see the names of the  
22 directors and all advocates.

23 LORD RICHARDSON: Yes.

24 MR MCAULEY: The vast majority of advocates in Scotland are  
25 members of that company.

1 LORD RICHARDSON: Yes.

2 MR MCAULEY: As I say, if that was -- I mean, the types of  
3 services that Lord Keen is talking about that company  
4 providing, in any company, you do not just have to list  
5 one purpose. You can list several. So all of these  
6 other purposes that he is referring to, none of them are  
7 listed there, so --

8 LORD RICHARDSON: But if I can just pin you down somewhat  
9 just so I understand your position, your complaint  
10 before this Tribunal is as to the way in which the  
11 provision of services by an advocate are regulated; is  
12 that correct? Because you say that you should be  
13 treated as a solicitor and that you should have had  
14 access as a solicitor to advocacy services; is that  
15 right --

16 MR MCAULEY: Yes.

17 LORD RICHARDSON: -- in a nutshell?

18 MR MCAULEY: Yes, yes.

19 LORD RICHARDSON: I appreciate there is more to it than  
20 that, but in a nutshell, that is it.

21 MR MCAULEY: Yes.

22 LORD RICHARDSON: Now, if that is correct, the point that  
23 Lord Keen is making is to say that Faculty Services Ltd  
24 is not responsible in any way for making the rules or  
25 enforcing the rules --

1 MR MCAULEY: Yes.

2 LORD RICHARDSON: -- which you are complaining about. Do  
3 you understand that? Do you understand the argument?

4 MR MCAULEY: Well, I do understand the argument.

5 LORD RICHARDSON: Yes.

6 MR MCAULEY: It is just, as I say, I can see here the  
7 Faculty of Advocates is a charity with a number.

8 LORD RICHARDSON: Yes.

9 MR MCAULEY: It has trustees. As I say, I mean, it is not  
10 necessarily a complaint about conduct I am making. It  
11 is more just I need someone that is familiar that has  
12 done the devilling and have the skills, because it does  
13 remind me a bit of being almost -- an advocate, it is  
14 a bit like a teacher. Like it is -- you could have  
15 completed a degree in maths or whatever. You still need  
16 to do teacher training --

17 LORD RICHARDSON: Yes.

18 MR MCAULEY: -- so that you know how to educate the pupils.  
19 It is --

20 LORD RICHARDSON: I do not want to stop you, Mr McAuley.  
21 I wonder if we are getting a little bit far from the  
22 point. The issue here is that section 120 of the Legal  
23 Services (Scotland) Act is quite clear, is it not? It  
24 says that the responsibilities of regulation are -- of  
25 advocates are provided by the court and by the Faculty

1           of Advocates, and there is no reference to Faculty  
2           Services Ltd there, is there?

3       MR MCAULEY: Yes, although the point I am trying to make is  
4           if -- I mean, I have a copy of the Charities Commission  
5           here if you want it.

6       LORD RICHARDSON: I wonder if there is a further confusion  
7           here, Mr McAuley, and correct me if I am wrong. Are you  
8           aware that the Faculty of Advocates itself is a legal  
9           entity --

10      MR MCAULEY: Yes. Well --

11      LORD RICHARDSON: -- and has been a legal entity for  
12           hundreds of years?

13      MR MCAULEY: Yes. Well, that is what I am saying.

14      LORD RICHARDSON: It is not the charitable status.

15      MR MCAULEY: What is its legal penalty then? Is it  
16           a statutory body? Is --

17      LORD RICHARDSON: No. It is a unique legal personality. It  
18           has a legal -- its legal status is created -- its  
19           corporate legal personality arises from prescription.  
20           It is unique in Scots law.

21      MR MCAULEY: It is just hard for me to get my head around  
22           that concept. Like, the way it looks to me looking at  
23           arguments is the Faculty of Advocates is a charity,  
24           which -- all of those things as regards to conduct, they  
25           are all listed as being done by that charity; letting

1           people in. If people do not conform to their teaching,  
2           they are disciplined, etc.

3       LORD RICHARDSON: Yes.

4       MR MCAULEY: Then it -- I mean, it seems hard for me to  
5           understand the amount that advocates charge per hour  
6           that that can be done through a charity, but --

7       LORD RICHARDSON: I do not think it is.

8       MR MCAULEY: I just cannot get my head around the legal  
9           personality. I have -- when you are taught at uni, you  
10          are taught someone is either a citizen, a partnership,  
11          an LLP, a company. I just cannot see -- I do not follow  
12          the point.

13      LORD RICHARDSON: No. Very well. Well --

14      MR MCAULEY: It is -- as I say, I mean, I have read that  
15          here it says "admitting persons to ... prescribing the  
16          criteria for the admission, regulating professional  
17          practise, conduct and discipline". That is all to do  
18          with if an advocate does not do the services well --

19      LORD RICHARDSON: Yes, yes.

20      MR MCAULEY: -- which is different when -- it is different  
21          from actually providing the services. I mean, I can  
22          understand that. I mean, that charity does that, so it  
23          is -- or it says it is doing that and --

24      LORD RICHARDSON: Very well.

25      MR MCAULEY: The second point that he made -- that Lord Keen

1           made about an amicus, that would be fine; I mean, if it  
2           was Welsh, for example, or one of the members that is  
3           there.

4       LORD RICHARDSON:   Yes.

5       MR MCAULEY:   That is all I really want; someone that I can  
6           explain the case to and they are familiar with the  
7           procedure for standing up and educating the judges,  
8           because I have done this before.  It is very difficult  
9           when you are actually on your feet to educate the  
10          judges, because I have made points and they have just  
11          not gone in and they have just gone -- so it is  
12          extremely difficult, and that is what I am saying.  I do  
13          not think that is in the judge's interest or the  
14          parties' because, as I say, it reminds me of, like, the  
15          good teachers at school.  They can actually get the  
16          point to stick, whereas other people, it just does not.

17                It is not necessarily your knowledge, but the people that  
18          are members of that company have done the devilling, so they  
19          know how to explain it to you.  They can read your body  
20          language, if you are understanding it, etc.

21       LORD RICHARDSON:   Yes.

22       MR MCAULEY:   They did that for a year.  So that is what  
23           I was saying.  Like, with regards to the amicus, the  
24           amicus would be fine because that is just a skill set  
25           and --

1 LORD RICHARDSON: Yes, I think you might -- I am sorry to  
2 interrupt you again, Mr McAuley, but I wonder if you are  
3 slightly misunderstanding what Lord Keen was talking  
4 about. I think Lord Keen was talking about the  
5 reference that you have made to a case which refers to  
6 an advocate being as of Faculty Services Ltd and he is  
7 saying that relates to the amicus procedure, which is  
8 where the court appoints someone to come and argue  
9 a point for the benefit of the court. So that is quite  
10 a different situation from the one you are dealing with.

11 But what I am keen to understand is -- and we have  
12 clearly read what you have said in your written documents.  
13 What other points do you want to make in relation to the  
14 Faculty Services Ltd issue beyond that which you have set out  
15 in your written documents? Because that is what I am keen --  
16 I think the Tribunal are keen to focus on at the moment.

17 MR MCAULEY: I mean, that is basically -- as you said there,  
18 the court wanted to appoint someone when there was  
19 nobody there.

20 LORD RICHARDSON: Yes.

21 MR MCAULEY: The court went to Faculty Services Ltd.

22 LORD RICHARDSON: Yes. Well, I think what Lord Keen said --

23 MR MCAULEY: So I am following the lead of the --

24 LORD RICHARDSON: No, I do not think that is quite right,  
25 Mr McAuley. I think what Lord Keen said is that the



1 Faculty -- the court went to the Dean of Faculty, who is  
2 head of the Faculty.

3 MR MCAULEY: Yes.

4 LORD RICHARDSON: Then, through that process, the Faculty  
5 engaged with Faculty Services Ltd in order to facilitate  
6 the services of an advocate for the court. So that is  
7 a slightly different situation.

8 But what I am keen to understand for the moment is what  
9 your argument is?

10 MR MCAULEY: Yes, that --

11 LORD RICHARDSON: So what else do you want --

12 MR MCAULEY: I guess what my argument does come down to if  
13 you look at the remedy I am seeking at the end, all  
14 I basically want is --

15 LORD RICHARDSON: Yes.

16 MR MCAULEY: I mean, I have quite -- I basically just want  
17 someone that can -- that is skilled and skilled on their  
18 feet, skilled in oral argument, skilled in teaching.

19 LORD RICHARDSON: Yes, as I have said already, Mr McAuley --

20 MR MCAULEY: If it means getting -- I mean, as long as I can  
21 potentially get that. I mean, what I do not want to  
22 happen is I let Faculty Services Ltd go and then,  
23 I mean, there is even potentially appeals from here and  
24 then a judge says, "Oh, you have sued the wrong  
25 company".

1 LORD RICHARDSON: Yes, absolutely. I understand that.

2 MR MCAULEY: I think it would be safe -- I think it would be

3 safe just to have both --

4 LORD RICHARDSON: Yes.

5 MR MCAULEY: -- in case -- just basically, as I say, because

6 the documents do say "barrister".

7 LORD RICHARDSON: Yes.

8 MR MCAULEY: So, I mean, Lord Keen might be right on that

9 point with regards to its legal personality, etc.

10 LORD RICHARDSON: Yes.

11 MR MCAULEY: But I think it is safe for us just to keep both

12 in case there is any --

13 LORD RICHARDSON: Right. I understand that.

14 MR MCAULEY: Even if Judge Bankes or Judge Anderson or

15 yourself maybe sit down and think, "Oh, was that right?"

16 Because sometimes that does happen.

17 LORD RICHARDSON: Yes.

18 MR MCAULEY: You know, there is a point that you think is

19 right at the time and then later, you go, "Was it?"

20 LORD RICHARDSON: Yes, yes.

21 MR MCAULEY: You know, so I can see Lord Keen's arguments

22 are very good in the sense that -- that prescription one

23 and the unique personality, which I had not heard of.

24 LORD RICHARDSON: Yes.

25 MR MCAULEY: So I think we should just keep both and if that

1           turns out to be correct, then so be it and, as I say,  
2           hopefully the remedy will be at the end of it all, I can  
3           get someone to stand on their feet and make the  
4           arguments for me.

5       LORD RICHARDSON: Yes. Well, thank you. Thank you.

6           Are there any questions for Mr McAuley? No. Thank you.

7           Now, Lord Keen, perhaps you can help with this. I was  
8           struggling slightly with the precise nature of the Faculty of  
9           Advocates' legal personality, and that is a question that  
10          Mr McAuley has raised and he has pointed to this charitable  
11          registration and also Faculty Services. Can you help us with  
12          what the precise basis of the Faculty's legal personality is?

13       LORD KEEN: My Lord, it is the subject of not inconsiderable  
14          debate --

15       LORD RICHARDSON: Yes.

16       LORD KEEN: -- for at least the past 100 years, but in  
17          a nutshell, my Lord, the Faculty of Advocates is  
18          an unincorporated association.

19       LORD RICHARDSON: Does it have legal personality?

20       LORD KEEN: As an unincorporated association, it does have  
21          legal personality.

22          Could I add one further point?

23       LORD RICHARDSON: Yes.

24       LORD KEEN: Insofar as I appear on behalf of the Faculty of  
25          Advocates, we are prepared to accept and let it be

1 recorded that insofar as Mr McAuley has any claims  
2 arising under section 2 or section 18 of the  
3 Competition Act --

4 LORD RICHARDSON: Yes.

5 LORD KEEN: -- pertaining to the professional practise,  
6 conduct or instruction of counsel in Scotland who have  
7 been admitted to the office of advocate, that claim can  
8 properly be laid at the door of the Faculty of  
9 Advocates.

10 LORD RICHARDSON: Yes. That is very helpful. Thank you,  
11 Lord Keen.

12 Mr McAuley, did you understand what Lord Keen just said?  
13 So essentially, what he is saying is -- I think he is seeking  
14 to set your mind at rest that insofar as, as you put it, it  
15 might later transpire that for whatever reason, as yet  
16 unknown, that Faculty Services was the correct body and the  
17 Faculty of Advocates was not, the Faculty is accepting  
18 responsibility essentially for any such claim insofar as it  
19 arises under section 2 or section 18 of the Act.

20 Would you be content in those circumstances simply to  
21 proceed against the Faculty? I mean, of course, the hearing  
22 is being transcribed anyway, but we would note that.

23 MR MCAULEY: As long as -- yes, as long as I have that  
24 guarantee --

25 LORD RICHARDSON: Yes.

1 MR MCAULEY: -- that it is not going to come back to bite  
2 me, then I would be happy with that. Yes, that is fine.

3 LORD RICHARDSON: Yes, yes.

4 MR BANKES: Could I ask only two questions?

5 LORD RICHARDSON: Please.

6 MR BANKES: First, as one who is not familiar with the  
7 Scottish legal system, could you explain to me the  
8 relationship between the Faculty and its members and the  
9 extent to which the members are liable for the liability  
10 of the Faculty, or is it entirely separate from the  
11 advocates who belong to the Faculty?

12 Secondly, does it have a balance sheet and assets so that  
13 were Mr McAuley to succeed in his claim for damages, there  
14 would be something from which he could be paid?

15 LORD KEEN: Answering both questions, my Lord, as  
16 an unincorporated association, all members have  
17 unlimited liability.

18 MR BANKES: But he does not need to include in the claim  
19 form the members? The Faculty is separate from the  
20 members.

21 LORD KEEN: Indeed.

22 Secondly, the Faculty does have a balance sheet and it  
23 does actually maintain one of the copyright libraries of the  
24 United Kingdom, albeit the non-legal texts have by trust been  
25 handed over to the National Library of Scotland at its

1 foundation in 1925.

2 If you have an opportunity to go into Parliament Hall,  
3 you will see at least one very striking sculpture of  
4 Duncan Forbes of Culloden, which is one of the more  
5 significant assets of the Faculty. But it has a more than  
6 sufficient balance sheet to meet any liabilities that could  
7 arise out of the present claim.

8 MR BANKES: More importantly, if necessary, Mr McAuley could  
9 proceed against its members --

10 LORD KEEN: Absolutely.

11 MR BANKES: -- rather than force the nation of Scotland to  
12 sell its treasures.

13 LORD KEEN: It is not the nation of Scotland to sell  
14 treasures, my Lord; it would be the Faculty of  
15 Advocates --

16 MR BANKES: To sell the nation's treasures.

17 LORD KEEN: Whether it is the nation's treasures --

18 MR BANKES: I just want to be very clear. I just want -- on  
19 behalf of Mr McAuley's behalf, I want to clarify both of  
20 those points.

21 LORD KEEN: Yes. There is no question about the ability of  
22 the Faculty of Advocates and its members to meet any  
23 claim arising out of this.

24 MR BANKES: You have given him the assurance that he can  
25 proceed against the Faculty without also proceeding

1           separately against its members?

2       LORD KEEN:   Yes, my Lord.

3       MR BANKES:   Yes, okay.

4       MR MCAULEY:   Would that make it a partnership under the  
5           Partnership Act 1890?

6       LORD RICHARDSON:  No.  I think, if I may encourage you,  
7           Mr McAuley, to -- I think Patterson v Bates has a useful  
8           section setting out the -- and also Professor Walker's  
9           book on the Scottish legal system has a useful section  
10          on the unique status that the Faculty holds within the  
11          Scottish legal system.

12                Very well.  But just to be clear, in light of that, in  
13          light of Mr -- the questions of the Tribunal clarifying the  
14          position and in light of the position as set out by  
15          Lord Keen, are you content, therefore, that we proceed in  
16          these proceedings on the basis that it is yourself and the  
17          Faculty of Advocates alone?

18       MR MCAULEY:  Yes, on the basis of that, that is fine.

19       LORD RICHARDSON:  Very well.

20       MR MCAULEY:  I would also -- sorry to interject.  I did also  
21          make the application that I realise now it was on the  
22          wrong basis.  I think there can be interim -- interim  
23          orders -- orders provided.

24       LORD RICHARDSON:  Yes, we will come back to that.  I think  
25          what I would be grateful for you to point to in that

1        regard is what the legal basis for that is because the  
2        Tribunal -- but we will come back to that because before  
3        we get there, I think, therefore -- let me just  
4        confirm -- the Tribunal is content essentially to  
5        proceed to grant the strikeout insofar as it applies  
6        simply to Faculty Services Ltd in light of the position  
7        as set out by Lord Keen. We will grant that.

8                That means we then move on, as the next issue that the  
9        Tribunal was keen to understand how we will deal with is,  
10       Lord Keen, your related strikeout motion in relation to the  
11       remaining claim against the Faculty of Advocates. Now, in  
12       that regard, the Tribunal's understanding of the position  
13       was, and no criticism is intended in this regard, that you  
14       had essentially set out the position in relation to the  
15       amendment and then the position in relation to Faculty  
16       Services Ltd and, to some extent, at a third alternative,  
17       which is what the position was in relation to the case  
18       against the Faculty of Advocates.

19                What the Tribunal was keen to understand and would be  
20       minded -- the way the Tribunal would be minded to deal with  
21       this is to require the Faculty to set out fully in writing  
22       its position in relation to why the claim against the Faculty  
23       ought to be struck out, because it seemed to the Tribunal you  
24       had touched upon one or two arguments. In no way suggesting  
25       those arguments are not fully sufficient, if you are correct,



1 to dispose of the action, but what the Tribunal is very keen  
2 to avoid is a situation in which all of the arguments which  
3 are going to deal with strikeout that you may have in  
4 relation to the claim as it is presently framed are set out  
5 in one submission by the Faculty to which Mr McAuley would  
6 have an opportunity to respond and we would fix a hearing for  
7 the disposal of that.

8 That was the provisional view the Tribunal reached,  
9 having considered the papers. What is your position in that  
10 regard?

11 LORD KEEN: Well, as your Lordship has noted, we put in  
12 almost an addendum to our skeleton directed to the  
13 possibility that the claim would be directed against the  
14 Faculty of Advocates --

15 LORD RICHARDSON: Yes.

16 LORD KEEN: -- but was not originally directed against the  
17 Faculty of Advocates and nor was it proposed that it  
18 should be directed against them by way of an amendment  
19 pursuant to rule 32.

20 LORD RICHARDSON: Yes.

21 LORD KEEN: So I accept that the explanation given there is  
22 relatively brief.

23 LORD RICHARDSON: Yes.

24 LORD KEEN: I would venture that quite a short point can be  
25 made in support of the strikeout application on behalf

1           of the Faculty of Advocates.

2       LORD RICHARDSON:   Yes, okay.

3       LORD KEEN:   But if the Tribunal is minded to have a fully  
4           worked submission in writing --

5       LORD RICHARDSON:   Yes.

6       LORD KEEN:   -- from the Faculty with Mr McAuley being given  
7           the opportunity to respond in writing, if that is what  
8           he chooses to do --

9       LORD RICHARDSON:   Yes.

10      LORD KEEN:   -- then I am in your Lordship's hands, because  
11           this is a procedural hearing.

12                I would merely observe that pursuant to rule 41, of  
13           course, strikeout can be at any stage of the proceedings.

14      LORD RICHARDSON:   Yes.

15      LORD KEEN:   Pursuant to rule 4, there is a principle of  
16           attempting to dispose of matters on a just and  
17           proportionate basis. But, having said that, I recognise  
18           that in terms of rule 4(1)(a), there is also an issue  
19           about equality of footing. It does strike me that  
20           perhaps, having regard to that, the course of action  
21           proposed by the Tribunal will be more appropriate,  
22           inasmuch as it would give Mr McAuley clear and ample  
23           opportunity to respond to a case now made by the Faculty  
24           of Advocates against whom he had not originally  
25           anticipated directing his claim.

1 LORD RICHARDSON: Indeed. The other matter that occurred to  
2 the Tribunal was that, and I think Mr McAuley has  
3 touched upon in his skeleton and certainly in the  
4 further clarification to his skeleton, that there are  
5 issues potentially that go beyond the identity of the  
6 defender and go into questions of remedy and, as it  
7 were, into the way that the claim is currently framed.

8 Now, what the Tribunal is keen to have focused at this  
9 stage, in written submissions, would be insofar as the  
10 Faculty take issue with that, we think it would be of  
11 assistance both to the Tribunal, and indeed to Mr McAuley not  
12 least, to have those matters articulated, such that they can  
13 be resolved one way or the other at this hearing that we are  
14 discussing, rather than having a situation in which, as it  
15 were, arguments are dealt with on a salami-slicing basis,  
16 which would seem less satisfactory for a number of reasons.

17 So what the Tribunal is keen to do is to encourage the  
18 Faculty to set out all of the arguments it wishes to insist  
19 upon in support of its strikeout motion in one document, as  
20 it were, thus to enable Mr McAuley to have an opportunity to  
21 respond to those if he so wishes, and then for us to have  
22 a hearing at which those matters can be ventilated.

23 LORD KEEN: It may be that it comes back to one  
24 fundamental --

25 LORD RICHARDSON: It may be.

1 LORD KEEN: -- point, my Lord. But I hear what my Lord  
2 says, and clearly this is a procedural hearing and I am  
3 in the Tribunal's hands as to how they want to deal with  
4 this matter. As I have previously observed, I am  
5 conscious of the principle under rule 4 of ensuring that  
6 there is equality, as it were, of footing of parties  
7 before this Tribunal, and I would not want to be seen to  
8 be taking some advantage, if I can put it in those  
9 terms, by moving a motion today that Mr McAuley might  
10 not feel he was fully prepared to respond to.

11 LORD RICHARDSON: Yes. No, thank you, Lord Keen.

12 Now, Mr McAuley, you have heard the discussion I have had  
13 with Lord Keen, and what I was explaining there was that the  
14 Tribunal's provisional view was that, in relation to the case  
15 as we now have it, which is your case against the Faculty of  
16 Advocates, that rather than try and deal with the arguments  
17 that the Faculty want to make at this stage, partly because,  
18 as Lord Keen has said, they were touched upon but they were  
19 not fully fleshed out in the skeleton argument for various  
20 reasons; what the Tribunal is minded to do is to allow  
21 a certain period of time for the Faculty to set out its  
22 position in writing and then to allow you an opportunity to  
23 respond, and thereafter to -- well, we will fix the hearing  
24 now, but thereafter there would be a hearing at which we  
25 could deal with those matters. Are you content that we

1           proceed on that basis or do you have an alternative  
2           suggestion?

3       MR MCAULEY: Yes, I noted Lord Keen mentioned in the  
4           equality of arms thing and the issue, and under  
5           regulation 24 there is -- the court has the power to  
6           make interim orders, which if they are in the public  
7           interest, if it is protecting the public interest. So  
8           I mean, if Lord Keen consented as well, I would be happy  
9           to have an advocate or an amicus curiae represent or  
10          make the submissions in this case and I could sit as  
11          the -- I mean, I will do them as well, it is not  
12          a problem, but I do think it is in the public interest  
13          for there to be an advocate or an amicus curiae as  
14          an interim order, and then you can maybe decide at the  
15          end of the judgment this was a one-off.

16       LORD RICHARDSON: Yes.

17       MR MCAULEY: Because it is very difficult when you are the  
18          person that is doing it, because it is impossible not to  
19          become emotional. So it is more like you can make your  
20          emotional arguments almost to your advocate, which is  
21          almost like crude oil and then they can refine them and  
22          then they can put them in a way that is effective.

23       LORD RICHARDSON: Let us deal with this in stages,  
24          Mr McAuley. The first one, the first question is how we  
25          are going to deal with defender's position to strike out

1           your case. So we will deal with that first of all. As  
2           I understood you, what you just told me, you are quite  
3           content that we proceed on that basis, on the basis that  
4           I have explained: in other words, we would allow the  
5           defender a period of time, we would allow you a period  
6           of time, and we would fix a hearing at which those  
7           matters can be addressed. Are you content we proceed on  
8           that basis?

9       MR MCAULEY: Yes, that is fine.

10      LORD RICHARDSON: We will come back to the question of any  
11           motion you wish to make on interim orders. We will come  
12           back to that.

13                Lord Keen, in terms of timing, how much time would you  
14           require to prepare written submissions in this regard?

15      LORD KEEN: I would seek a period of four weeks, my Lord.

16      LORD RICHARDSON: Yes, very well. Thank you.

17                Now, Mr McAuley, how much time would you wish to have to  
18           respond? So we are talking essentially at the end of May you  
19           will have written submissions from the Faculty. How much  
20           time would you wish to respond?

21      MR MCAULEY: Two weeks is fine.

22      LORD RICHARDSON: What I am going to do, Mr McAuley, is I am  
23           going to allow you four weeks, I think, because I think  
24           for various reasons we may be looking, in terms of when  
25           we try and find a hearing, there will be time to fit

1           that in, and I just rather think that you might find  
2           two weeks to be quite difficult given everything else  
3           you may have to deal with.

4       MR MCAULEY:   Okay.

5       LORD RICHARDSON:   So that is fine.   Then in terms of fixing  
6           a hearing, if we are looking essentially in eight weeks'  
7           time, I think what I am going to do is briefly adjourn  
8           now, which I think we are going to need to do anyway for  
9           the shorthand writers, the transcribers.   I will adjourn  
10          now for 15 minutes or so, so we can discuss,  
11          the Tribunal can discuss possible dates, and we will sit  
12          again at or around midday.   Does that suit everyone?

13       Thank you.

14       (11.46 am)

15                               (Short break)

16       (11.59 am)

17       LORD RICHARDSON:   Now, having considered the question of  
18           diaries, the Tribunal, if we work on the basis that the  
19           Faculty is to have four weeks and then Mr McAuley is to  
20           have four weeks, taking into account the various  
21           holidays that we need to factor in, we have landed upon  
22           Friday, 15 August as the date for a hearing.

23               Now, Mr McAuley, would you be available to argue the  
24           matters on that day?

25       MR MCAULEY:   15 August is actually my birthday, but if that

1           is most convenient for everyone, that is fine. Like in  
2           terms of meetings, I know getting schedules to meet and  
3           everything, that is not a problem if it is ...

4   LORD RICHARDSON: Just a moment. (Pause)

5           I think we can maybe move it to the 14th, if that might  
6           be easier.

7           Lord Keen, would either you or, if you are not available,  
8           would --

9   LORD KEEN: My Lord, if I am not available, counsel will be  
10          available on that date.

11   LORD RICHARDSON: Thank you. Very well, so we will proceed  
12          on that basis, then. The Faculty will be given  
13          four weeks to set out the full basis upon which it  
14          insists on its motion for strikeout of the claim against  
15          it. Thereafter, Mr McAuley will be given four weeks to  
16          respond, and we will fix a hearing for 15 August. The  
17          order we issue -- the 14th.

18   LORD KEEN: I think we said 14 August.

19   LORD RICHARDSON: The order we issue will include provision  
20          for the lodging of skeleton arguments and for the bundle  
21          of authorities and documents insofar as they are relied  
22          upon.

23          Now, Mr McAuley, the one matter that insofar as  
24          the Tribunal understands remains is your motion for interim  
25          orders.



1 MR MCAULEY: Yes.

2 LORD RICHARDSON: Now, the difficulty we have with that  
3 motion is you only gave notice of it essentially in your  
4 most recent document. What we are minded to do is to  
5 give you, as it were, four weeks to set out the basis  
6 upon which you would insist on interim orders and the  
7 Faculty four weeks to respond thereafter. So we will  
8 deal with that issue as well in the event that the  
9 strikeout motion is unsuccessful. Are you content we  
10 proceed on that basis?

11 MR MCAULEY: Yes, that is great.

12 LORD RICHARDSON: Excellent.

13 Lord Keen, are you content?

14 LORD KEEN: I am, my Lord. Just to clarify, what  
15 I understand my Lord anticipates is a written statement  
16 of case which will then be answered by Mr McAuley and  
17 thereafter, in preparation for the hearing, a separate  
18 skeleton; or is he envisaging that it should be the  
19 skeleton which represents the case that is going to be  
20 presented? I am content with either.

21 LORD RICHARDSON: Yes.

22 LORD KEEN: I think it would be more appropriate to deal  
23 with it on the latter basis.

24 LORD RICHARDSON: I agree.

25 LORD KEEN: I just want to be clear.

1 LORD RICHARDSON: I agree. I think you are quite right to  
2 seek that correction. I think what the Tribunal is  
3 looking for is a fully set out argument.

4 LORD KEEN: Yes.

5 LORD RICHARDSON: So you are right. So whether in fact on  
6 reflection whether we need further skeletons in advance  
7 of the hearing, that may unnecessary.

8 MR BANKES: One document is fine.

9 LORD RICHARDSON: Yes, very well.

10 MR BANKES: And one document (inaudible).

11 LORD RICHARDSON: Do you understand as well, Mr McAuley?

12 Perfect.

13 MR MCAULEY: Yes.

14 LORD RICHARDSON: I am grateful to you, Mr McAuley, and also  
15 to you, Lord Keen. Are there any other issues that we  
16 can usefully deal with this afternoon, or does that  
17 conclude the hearing? Mr McAuley, from your part?

18 MR MCAULEY: That is everything. Thank you.

19 LORD RICHARDSON: Thank you.

20 LORD KEEN: Only one matter, which is I would invite  
21 the Tribunal to reserve all questions of expenses.

22 LORD RICHARDSON: Yes.

23 Mr McAuley, are you content we do that?

24 MR MCAULEY: Yes.

25 LORD RICHARDSON: We will reserve all questions of expenses.

1 Thank you very much. Thank you.

2 (12.03 pm)

3 (Hearing concluded)

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