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4 record.
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6 **IN THE COMPETITION**
7 **APPEAL TRIBUNAL**
8

Case No: 1643/7/7/24

9
10 Salisbury Square House
11 8 Salisbury Square
12 London EC4Y 8AP
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Wednesday 20th May 2026

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16 Before:

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18 Justin Turner KC
19

20 (Sitting as a Tribunal in England and Wales)
21

22
23 BETWEEN:

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25 **WATERSIDE CLASS LIMITED**

26
27 **Proposed Class Representative**

28 v

29
30 **(1) MOWI ASA, (2) MOWI HOLDING AS, (3) GRIEG SEAFOOD ASA, (4)**
31 **SALMAR ASA, (5) LERØY SEAFOOD GROUP ASA, AND (6) SCOTTISH**
32 **SEA FARMS LIMITED**

33 **Proposed Defendants**
34
35

36 **A P P E A R A N C E S**
37

38 Sarah Abram KC on behalf of Waterside Class Limited (instructed by Simmons & Simmons)
39

40 Emma Mockford on behalf of (1) Mowi ASA, (2) Mowi Holding AS, (3) Grieg Seafood
41 ASA, (4) Salmar ASA, (5) Lerøy Seafood Group ASA, and (6) Scottish Sea Farms Limited
42 (instructed by Skadden, Arps, Slate, Meagher & Flom (UK) LLP; Freshfields LLP; Schjødt
43 LLP; Cleary Gottlieb Steen & Hamilton LLP, and Shepherd and Wedderburn LLP)
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46 Digital Transcription by Epiq Europe Ltd
47 Lower Ground, 46 Chancery Lane, London, WC2A 1JE
48 Tel No: 020 7404 1400
49 Email: ukclient@epiglobal.co.uk
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(10.30 am)

THE CHAIR: Some of you are joining us livestream on our website, so I am going to start with a warning.

An official recording is being made and an authorised transcript will be produced. It is prohibited for anyone else to make a recording, whether audio or visual, of the proceedings and breach of that provision is punishable as contempt of court.

Ms Abram. Good morning.

Submissions by MS ABRAM

MS ABRAM: I appear for the PCR, and Ms Mockford appears for the Proposed Defendants.

Would it be convenient to turn through the provisions of the composite draft order?

THE CHAIR: Yes, sure.

MS ABRAM: I'm grateful. Sir, as you can see, it's mainly in black with a colour coding for the points --

THE CHAIR: Just give me a second. I'll just make sure. I don't know if I've got the up-to-date one in front of me.

MS ABRAM: Let me hand up a copy.

THE CHAIR: Oh, if you've got one, that's very kind. Thank you.

MS ABRAM: I'll hand up a letter at the same time, I'll also hand up a letter that you'll need to see in a moment, sir, just while I'm giving you things. (Handed)

THE CHAIR: Thank you.

MS ABRAM: This is a composite draft that's been agreed as a composite between the parties and filed. Just to turn through the pages of it.

THE CHAIR: Yes. Keep going. I'm listening.

1 MS ABRAM: You'll see that it's happily mainly in black. Paragraphs 1 to 3 are the first
2 section, and they deal effectively with proposals to advance the joint case
3 management of these proposed proceedings if certified, and the other salmon claims.
4 The heading --

5 THE CHAIR: Why do we need to disapply rule 102? Surely you must be entitled to
6 give each other your pleadings if you're doing it voluntarily. Isn't that right?

7 MS ABRAM: Yes. We think that's the case. It's a provision for good order, so --

8 THE CHAIR: It's out of an abundance of caution.

9 MS ABRAM: Out of an abundance of caution, and in fact both 2 and 3 fall into that
10 category.

11 THE CHAIR: Yes.

12 MS ABRAM: 2 provides that, insofar as non-confidential versions of pleadings are
13 exchanged, they can be used for the purpose of the proceedings into which they're
14 provided, for an abundance of caution; and 3 just makes extremely clear that until
15 there are confidentiality arrangements in place across the proceedings, no confidential
16 material should be required to be shared between them.

17 THE CHAIR: Yes, I understand that. Then what about 1? I haven't seen any consents
18 from Asda or Tesco.

19 MS ABRAM: Let me tell you the position on that, sir. The Asda Claimants and the
20 Tesco Claimants both consent to 1 to 3, as do the Proposed Defendants.

21 THE CHAIR: Have I seen that correspondence, or --

22 MS ABRAM: I don't know whether you've got that, sir. That has come in relatively
23 recently. In fact, the Tesco consent has just come in this morning.

24 THE CHAIR: Right.

25 MS ABRAM: We can provide that for good order, if that would be of assistance.

26 THE CHAIR: Well, I mean, I'm not really sure it's even appropriate in these

1 | proceedings to make that order, given they are not party to those proceedings. Do we
2 | need one? You have agreed a date. Can we not just live with 2 and 3?

3 | MS ABRAM: Our aim is to make sure that the pleadings are exchanged between the
4 | sets of the proceedings --

5 | THE CHAIR: Right.

6 | MS ABRAM: -- and provided that happens, we don't mind whether it's pursuant to an
7 | order or not. It's certainly agreed between all the parties that are here and Asda and
8 | Tesco that that should happen.

9 | THE CHAIR: Okay. Well, I'm disinclined to make it at the moment, given that the
10 | other proceedings aren't before me. If there are any problems come back, and we'll
11 | bang heads together if necessary.

12 | MS ABRAM: I'm grateful. But I do need to tell you something about these pleadings.

13 | THE CHAIR: Yes.

14 | MS ABRAM: I handed up a letter from Clifford Chance at the same time as the draft
15 | order. That's a letter from Cermaq, which we've just received. I'm sorry. It's in A5.

16 | THE CHAIR: No, that's all right.

17 | MS ABRAM: I'll just give you a moment to read that, if I may.

18 | THE CHAIR: Yes. Just remind me how Cermaq fit in.

19 | MS ABRAM: Cermaq are a defendant to the retailer claims --

20 | THE CHAIR: Yes.

21 | MS ABRAM: -- but not a Proposed Defendant in the proposed collective proceedings.
22 | (Pause)

23 | THE CHAIR: Right. Understood.

24 | MS ABRAM: Cermaq don't agree to provide their pleadings.

25 | THE CHAIR: Yes.

26 | MS ABRAM: That is somewhat uncooperative, sir, in the circumstances. I hear what

1 you say about being reluctant to make an order against parties that are not parties to
2 these proceedings in any event, and, sir, perhaps that's the answer to that question.

3 We do put down a marker that we find that very surprising in circumstances where, in
4 fact, as the PDs themselves have pointed out, quite a lot of these pleadings have
5 already been referred to in open court, and so may be available on that basis anyway.

6 THE CHAIR: I'm certainly happy to say I think it would be extremely sensible, and
7 indeed desirable, that the pleadings are exchanged as you've suggested, which I'm
8 grateful.

9 I won't make any order against anyone in the terms of paragraph 1 today, but
10 obviously we can arrange a joint case management conference promptly if necessary,
11 if that can't happen with cooperation.

12 MS ABRAM: I'm very grateful, sir.

13 THE CHAIR: Will that be sensible -- and then we'll make paragraphs 2 and 3 -- it will
14 need a little bit of rejigging, out of an abundance of caution. I would hate people to
15 give the impression that they can't exchange in a cooperative way pleadings with each
16 other -- their own pleadings, that is -- in future actions, because we made an order in
17 this case.

18 Right. Sorry. That's 1 to 3.

19 MS ABRAM: I'm very grateful.

20 Let me go on to 4 to the end of the draft, which are effectively the directions for the
21 next steps.

22 THE CHAIR: Directions. Yes. You're envisaging a hearing --

23 MS ABRAM: In the autumn. We have suggested, paragraph 11, the first available
24 date after 2 November.

25 THE CHAIR: Right.

26 MS ABRAM: The directions are designed to lead up to that. We suggest a time

1 estimate of one day, consistent with what happened last time.

2 Effectively the directions are agreed, subject to some question marks over the dates
3 in the latter stages.

4 THE CHAIR: Right. Yes. Sorry. Taking you off your course, but thinking ahead, it
5 will be desirable to have a case-management conference in all the actions -- joint
6 case-management conference -- where we decide whether they're going to be case
7 managed together, which almost certainly they will be, unless anyone has any specific
8 points on that.

9 When would that be?

10 MS ABRAM: Well, the Tribunal may decide to do this in various ways, sir, but one
11 possibility to float with you; there are clearly different options. Either you could deal
12 with certification separately from joint case management, or the Tribunal might
13 consider that it would be sensible to have a joint hearing of the certification issues in
14 this case and the case management issues, as between the salmon proceedings.
15 That might be an efficient use of court time and enable things to move forward as
16 quickly as possible.

17 We've said that for our part, we want to press on, of course, if the claims are to be
18 certified, and we don't want anything that happens in this case to delay what might
19 happen in the other salmon proceedings.

20 THE CHAIR: Yes, sure. Okay. We will need to liaise with all the parties to find out
21 a day for a case management conference. I'm not sure where they've all got to, so we
22 had better make investigations.

23 Fine. There is some issue on some of the timings.

24 Discussion about timings

25 MS ABRAM: That's right, sir.

26 If you go back to 4, the starting point, it's all agreed between all the parties that we

1 | should file any further application for a CPO by the beginning of July. We think that's
2 | the quickest we can do it.

3 | THE CHAIR: Yes, I've read this and read the dates. I probably need to hear from
4 | Ms Mockford as to why she needs longer, I expect, which we will come back to.

5 | Just elaborate a little bit on how you are envisaging these proceedings will be
6 | developed between now and the next hearing. As I understand it, you're going to look
7 | at distribution.

8 | MS ABRAM: We are going to look at distribution, and in my skeleton argument, I set
9 | out a list of the documents that we intend to file. That's in paragraph 2 of my skeleton
10 | on page 2.

11 | What we've done is we've gone through the decision, through the judgment that the
12 | Tribunal gave, and identified each of the action points and addressed the way in which
13 | we intend to deal with those action points. We recognise that we will need to put in
14 | another witness statement, Heal 2, from the PCR, addressing the points on
15 | remuneration, for example.

16 | THE CHAIR: It's not just addressing the points. It's addressing the substantive issue,
17 | I think, as opposed to just --

18 | MS ABRAM: The substantive --

19 | THE CHAIR: The substantive issue as to what the Class Representative is going to
20 | be, how the Class Representative is going to be remunerated.

21 | MS ABRAM: Quite so.

22 | THE CHAIR: It's not just a question of explaining it (overspeaking).

23 | MS ABRAM: Not just explaining it. I hear that, sir. That message has come through
24 | loud and clear.

25 | Remuneration; there are issues on the advisory panel on the cost benefit analysis,
26 | and so we will address all those points from the judgment.

1 2.2: I've addressed the litigation plan. This goes to the way in which the proceedings
2 would be case managed. You may have seen that we have, even before seeing the
3 pleadings across the claims, put to the retailer Claimants a proposal at a very high
4 level, admittedly, for joint case management, split trial liability and quantum, and joint
5 representation at the liability stage.

6 THE CHAIR: (Overspeaking) seems a sensible starting point. See what everybody
7 says.

8 MS ABRAM: I'm grateful.

9 Cost budget; again, that comes out of the same point in relation to cooperation with
10 the retailer Claimants. Then there was a subsidiary point about the detail of the way
11 that cost budgets are customarily put together in collective proceedings and in the
12 judgment, which we will also address.

13 At 2.4, that's the point on distribution and take-up, so the heart of the judgment on that.
14 Then there were also some more detailed or consequential points on funding, which
15 we will also address at the same time. That's the plan.

16 THE CHAIR: Thank you.

17 Is there anything else you needed to raise?

18 MS ABRAM: There's nothing else that I need to raise.

19 THE CHAIR: I'm grateful.

20 I just need to hear from Ms Mockford.

21

22 Submissions from MS MOCKFORD

23 MS MOCKFORD: Sir, as you have heard, the main issue in dispute is the timing for
24 our response.

25 THE CHAIR: Yes.

26 MS MOCKFORD: What we have proposed is that we have eight weeks for our

1 response from the point at which we get the renewed application. The PCR has given
2 us five in their time frame. You can see those dates at paragraph 5.

3 THE CHAIR: Yes, so what do you need to do? I mean, a lot of these issues
4 were -- although we are obviously grateful for your comments, they are really issues
5 between the Tribunal and the Class Representative, as opposed to matters that
6 directly concern you, which you'll need to respond to in detail.

7 What did you have in mind that you needed to respond to in detail that was likely to
8 require extra time?

9 MS MOCKFORD: It's difficult to know precisely what the issues are going to be before
10 we've seen the PCR's application.

11 THE CHAIR: Well, we've got an idea of the scope.

12 MS MOCKFORD: We have an idea. And what that idea suggests is that there are
13 going to be material changes to a large number of the issues, obviously, those that
14 were under discussion in the judgment, but including, in particular, how the PCR
15 intends to litigate the claims, which is something that clearly does involve the Proposed
16 Defendants and requires the proposal --

17 THE CHAIR: As I understand it, they're envisaging a joint legal team, which, I mean,
18 you don't need any time to consider your position on that.

19 MS MOCKFORD: Well, we don't know precisely what the proposals are going to be.
20 So, at the moment, what they've done so far, as we understand it, is write to the
21 retailers and ask the retailers whether there can be scope for a joint team, whether, in
22 particular, it would be possible to have a split trial dealing with liability, and then
23 pass-on. Those proposals have been made without reference to the Proposed
24 Defendants. And we have concerns about them already because, for example, there
25 are differences in the scope of all the claims. And so the extent to which that's going
26 to be possible, we don't know.

1 There are also points that the Proposed Defendants have been raising in
2 correspondence with the Asda Claimants, in particular, about the need for potential
3 preliminary issues in these claims, in particular on limitation. And so, we say, well, all
4 of that's going to require consideration, and we don't know what the outline -- as far as
5 I'm aware, there's been no response from the retailers to the PCR's proposal so far.
6 When they do come, it's all going to need to be considered and it's going to need to
7 be considered in the round. And we say that will take time.

8 Costs and funding arrangements: we say we also have a proper interest in
9 considering, and distribution likewise. Distribution was obviously the focus of our
10 response last time, and many of the points. I hear what the Tribunal says about this
11 being points that the (inaudible) took up between the tribunal and the PCR, but they
12 were also points that were floated in the Proposed Defendants' responses at some
13 length and considered. We say, well, we're going to have to consider the cost benefit
14 of the proceedings going forward as well, on that basis. So, we say that there are
15 material changes that are being made to the application, and all of that takes time to
16 consider.

17 Secondly, we have a general concern that we're fixing a timetable now in
18 circumstances where the PCR has a good idea of what their renewed application is
19 going to look like. It's going to have taken them on their own best estimate, 11 weeks
20 to put together since the judgment. And they're giving us five, discounting August, to
21 respond to it and the circumstances --

22 THE CHAIR: Distribution is a thorny issue, plainly. And that will take time, no doubt,
23 to formulate a plan for that. You don't have that problem.

24 Okay. Is there anything else you wanted to say on the timings?

25 MS MOCKFORD: Well, the third point we make is that unlike the PCR, we are not
26 one entity. We're five Proposed Defendants, and we're having to liaise and cooperate

1 between us. We're doing that for the benefit of all parties, and, we hope, the Tribunal,
2 as well. But it does take time to liaise between five different corporate groups and to
3 get instructions from all of them. And points need to be considered --

4 THE CHAIR: We've got two months at the moment to respond on these issues.
5 I appreciate there is August, and no doubt people will be taking their summer holidays
6 at various stages, but putting a line through the whole of August seems unnecessarily
7 generous.

8 MS MOCKFORD: We say it does affect both the availability of the legal and the client
9 teams as well. It's vacation time both here and in Norway.

10 THE CHAIR: But only barristers take holidays for the entirety of August. Most people
11 will be available at various times in August, I have no doubt.

12 MS MOCKFORD: I see the point.

13 The other point I would make is that the PCR has given itself four weeks for reply
14 evidence from the point at which our response is in, and that if any time was to be
15 shaved off somewhere, it could be shaved off there rather than in our response time.

16 THE CHAIR: You're agreed on a November -- you don't want it earlier than
17 November?

18 MS MOCKFORD: No. And the reason we proposed a later date, a) is to take into
19 account the extra time that we're proposing that we're suggesting we need for our joint
20 response; and b) also because of the availability of leading counsel, who is in a trial
21 through November into early December.

22 THE CHAIR: Okay. Well, I can't fix this around counsel's availability. It's only at such
23 early stages.

24 So, was there anything else you wanted to add?

25 MS MOCKFORD: No, I think, on dates for the response, that's the main thing.

26 THE CHAIR: I'm going to go with the dates suggested by the Proposed Class

1 Representative. I think they're extremely generous to both sides, and it's undesirable
2 that this matter should be delayed further than the beginning of November.

3 I'm inclined to have the parties to the other actions, the Asda proceedings and
4 Tesco proceedings, to attend for a joint case-management conference on the date of
5 this hearing. It depends a little bit about how heavy the hearing is going to be.
6 Obviously, we've been through most, coming down to a few specific points, some of
7 which will concern the other parties. Joint case-management, expense of that, that's
8 clearly going to --

9 Do you have any comment on that or objection to it?

10 MS MOCKFORD: Correspondence in relation to when a CMC should be in the Asda
11 and Tesco proceedings --

12 THE CHAIR: Well, they should attend that hearing so that we can have a direction
13 that the proceedings be jointly case-managed if they're going ahead. Obviously, this
14 is all contingent on them going ahead. So, at least we can deal with that matter and
15 certain directions. What directions it's appropriate to deal with at that stage, I leave
16 for further discussion.

17 MS MOCKFORD: All I was going to say is, correspondence in relation to when there
18 should be a CMC in those proceedings has been ongoing.

19 THE CHAIR: Right.

20 MS MOCKFORD: And the position of the Asda Claimants, at least, is that it should be
21 very soon.

22 THE CHAIR: Right.

23 MS MOCKFORD: As I understand it, possibly before December.

24 THE CHAIR: But there's not a date in the diary?

25 MS MOCKFORD: There's no date in the diary.

26 THE CHAIR: So, it's unlikely to be before the end of term; is that right, or not?

1 MS MOCKFORD: I think that is probably unlikely at this stage.

2 THE CHAIR: So, we're only talking about the difference between October and
3 November.

4 MS MOCKFORD: Quite right.

5 The point we were going to make is that we think certification should be dealt with first,
6 before the question of joint case management of the Waterside proceedings with the
7 Asda and Tesco proceedings. That doesn't mean that joint case management in the
8 Asda and Tesco proceedings needs to be postponed to the point at which certification
9 is done, but we think it is putting the cart before the horse to deal with joint case
10 management in advance of certification, in advance of a final determination on
11 certification of the Waterside proceedings. And we also think it makes sense for the
12 matters to proceed in tandem, and so I can understand the sense in dealing with it at
13 one hearing if the Tribunal is anticipating, however, that it will be able to give judgment
14 at that hearing on certification. Otherwise, this issue and, in my submission, that
15 prejudices the outcome, because otherwise, potentially, we're asking --

16 THE CHAIR: There are various ways of doing it. We could possibly have the hearings
17 back-to-back. We could possibly give a result without giving reasons. We could
18 possibly make it contingent on the assumption it's being certified, and then revisit that
19 in the event it isn't.

20 So, there are various ways around that. But if it's not heard, obviously, I appreciate
21 one can give directions in each of the proceedings. They can all go off and then we
22 can try and bring them back together at a later stage, but it just seems it might be most
23 efficient at least to consider doing that at the beginning of November.

24 MS MOCKFORD: I'm grateful for the indication, sir. Can I take instructions?

25 THE CHAIR: Well, yes. Yes, by all means. But I'm not asking you to make a firm
26 commitment one way or the other now. I'm just asking if you've got any comments on

1 it.

2 MS MOCKFORD: I think my comments are those I've made.

3 THE CHAIR: Yes.

4 MS MOCKFORD: Parties who aren't before you are pushing for sooner dates than
5 December, so I don't and I can't speak for them. My clients' position is that certification
6 should be dealt with first, and a case-management hearing should follow.

7 THE CHAIR: Yes. Okay. If there's anything else anyone wants to add to that? Fine.
8 Okay.

9 Thank you very much. So, subject to those amendments, I'll make that order, and we
10 will be liaising with you about a date at the beginning of November.

11 MS ABRAM: I'm really grateful, sir.

12 Could I just ask a couple of follow-up questions, just to make sure that we've really
13 captured what you've got in mind? First, in relation to, well, both in relation to the
14 hearing, the joint hearing, number 2: is a one-day time estimate sufficient for both
15 aspects?

16 THE CHAIR: I think it'll be sufficient for these proceedings. [But] If we're having a joint
17 case-management conference, with all the parties, I think we will certainly put
18 a second day in the diary.

19 MS ABRAM: An extra day.

20 THE CHAIR: Yes.

21 MS ABRAM: I'm really grateful, sir.

22 And could I just also flag one point in relation to that joint case-management aspect:
23 there will be a live question about the extent of the issues, the degree of detail at which
24 the Tribunal will consider joint case management at that stage, because, quite clearly,
25 in my submission, if there is going to be certification of this claim, there should be
26 some kind of joint case-management. So that question of principle is likely to be

1 readily answered. And then the question is: how does that case management work
2 together?

3 And I think I apprehend, sir, that you've got in mind that that hearing should deal with
4 the detail of how precisely that would work, rather than just the question of principle.
5 Just so one knows what the parties need to prepare for.

6 THE CHAIR: Yes. Obviously, we'll deal with as much as we're able to deal with.
7 I mean, these proceedings have been, particularly the Asda and Tesco proceedings,
8 on foot for a while. I'm sure they're chomping at the bit to move this along.
9 Yes. I mean, you know what you have to do from the last judgment. You'll know
10 whether you're able to do it or not. And if you are able to do it, then obviously you can
11 start liaising on directions, detailed directions, for this case going forward. If, on the
12 other hand, you don't feel you'll be able to do what you've been invited to do, no doubt
13 for good reason, then it may be more difficult.

14 MS ABRAM: I hear that, sir. And one thing that would really help the parties,
15 doubtless, across all the proceedings, is to have as much cooperation as possible in
16 terms of sharing documents and sharing correspondence, because actually we've got
17 relatively little insight into what's going on in the Asda and Tesco proceedings, and
18 we're not currently being copied to all of the correspondence in the Asda and
19 Tesco proceedings, of which I make no criticism because we're not yet certified.

20 THE CHAIR: I understand that.

21 MS ABRAM: That order hasn't been made, but that would be very helpful.

22 THE CHAIR: Well, obviously, that will be desirable. If there's limited cooperation at
23 this stage, that has the potential to delay the Asda and Tesco proceedings. So, it's in
24 the interests of the Asda and Tesco parties to cooperate with the class.

25 MS ABRAM: I'm very grateful, sir.

26 THE CHAIR: But I can't say any more because they're not here today. If you hit

1 | problems, you can certainly put a further hearing in the diary before we deal with
2 | certification, to see if we can do anything to assist on that.

3 | MS ABRAM: I'm very grateful, sir.

4 | THE CHAIR: Okay. Thank you very much.

5 | (10.53 am)

6 | (The hearing concluded)

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Key to punctuation used in transcript

--	Double dashes are used at the end of a line to indicate that the person's speech was cut off by someone else speaking
...	Ellipsis is used at the end of a line to indicate that the person tailed off their speech and did not finish the sentence.
- xx xx xx -	A pair of single dashes is used to separate strong interruptions from the rest of the sentence e.g. An honest politician - if such a creature exists - would never agree to such a plan. These are unlike commas, which only separate off a weak interruption.
-	Single dashes are used when the strong interruption comes at the end of the sentence, e.g. There was no other way - or was there?