IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

Cause No. 92 **of 2020**

AND IN THE MATTER OF AN APPLICATION UNDER SECTION 26 OF THE CAYMAN ISLANDS CONSTITUTIONAL ORDER, 2009

IN THE MATTER OF GRAND COURT RULES, ORDER 9, RULES 2 AND 4, ORDER 15, RULES 12 AND 16, ORDER 77A, RULES 1, 3 AND 4

AND IN THE MATTER OF SECTIONS 7, 8, 9, 12, 15, 19, 23, 24 AND 27 OF THE CAYMAN ISLANDS CONSTITUTIONAL ORDER 2009 AND SECTION 11(2) OF THE GRAND COURT LAW (2015 REVISION)

AND IN THE MATTER OF THE PROCEEDS OF CRIME LAW (2020 REVISION) AND THE ANTI-MONEY LAUNDERING REGULATIONS (2020 REVISION)

AND IN THE MATTER OF THE ASSIGNMENT BY THE CABINET OF THE CAYMAN ISLANDS TO THE CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION OF THE FUNCTION OF A SUPERVISORY AUTHORITY FOR THE PURPOSE OF MONITORING COMPLIANCE WITH REGARD TO THE ANTI-MONEY LAUNDERING REGULATIONS RESPECTING ALL ATTORNEYS-AT-LAW IN THE CAYMAN ISLANDS

BETWEEN: (1) **HENRY ORREN MERREN IV**
(2) **HANSON PHILLIP EBANKS**
(3) **ALRIC JEREMY LINDSAY**

PETITIONERS

AND: (1) **THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS**
(2) **THE PREMIER OF THE CAYMAN ISLANDS**
(3) **THE CABINET OF THE CAYMAN ISLANDS**
(4) **THE LEGISLATIVE ASSEMBLY OF THE CAYMAN ISLANDS**
(5) **CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION LTD.**
(6) **CAYMAN ATTORNEYS REGULATION AUTHORITY**

RESPONDENTS

CIVIL REGISTRY PAYMENT $200 JUN 12 2020 352979 CIV-01 CAYMAN ISLANDS GOVERNMENT

CLERK OF COURT CIV-01 JUN 04 2020 Cayman Islands Government

GRAND COURT CIV-01 CAYMAN ISLANDS

PETITION

Pursuant to GCR O.9, r.4, this Petition has been fixed for hearing on the day of 2020 starting at am/pm

To the Grand Court

The humble petition of:

(1) **Henry Orren Merren IV** of P.O. Box 481, Grand Cayman KY1-1106, Cayman Islands;
(2) **Hanson Phillip Ebanks** of P.O. Box 10134, Grand Cayman KY1-1002, Cayman Islands; and
(3) **Alric Jeremy Lindsay** of P.O. Box 11371, Grand Cayman KY1-1109, Cayman Islands;

(hereinafter together the "**Petitioners**"), representing (pursuant to GCR O.15, r.12) all duly licensed attorneys-at-law in the Cayman Islands who have the same interests in these proceedings as the Petitioners, so as to be binding on all persons who have the same interests in these proceedings as the Respondents, shows that:

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Part A: Definitions, Abbreviations and Designations

1. As the context admits or requires, terms defined in:

   (1) GCR O.77A, r.1(1);

   (2) ss.2(1), 28 and 124(1), Constitution;

   (3) ss.2-3(1), IL;

   (4) s.2, PAL;

   (5) s.2(1), PCL; and/or

   (6) r.2, AMLR

   shall have the same meaning when used in this Petition.

2. The following abbreviations and designations shall have the following respective meanings when used in this Petition:

   (1) "**AG**" means the incumbent Attorney General, Hon. Samuel Bulgin, who is the First Respondent;

(2) "**AL**" means the Accountants Law (2020 Revision);

(3) "**ALPA**" means the Association of Legal Professionals and Advocates (Cayman) Ltd;

(4) "**ALPA's LBA**" means ALPA's letter before action to CIG, CILPA and CARA (dated 11 February 2020);

(5) "**AML-CTF**" means anti-money laundering and counter terrorist financing;

(6) "**AMLR**" means the Anti-Money Laundering Regulations (2020 Revision), which were made pursuant to s.145, PCL (being the primary legislation);

(7) "**AMLSG**" means the Anti-Money Laundering Steering Group;

(8) "**ARGW**" means attorneys reputations and good will (including sensitive information, confidential information, trade secrets and intellectual property);

(9) "**Attorneys**" means all attorneys-at-law currently and duly licensed to practice law in the Cayman Islands pursuant to the LPL;

(10) "**BoR**" means the Bill of Rights;

(11) "**Cabinet**" means the Cabinet in and for the Cayman Islands vested with executive authority of the Cayman Islands (pursuant to ss.43-44, Constitution), which is the Third Respondent;

(12) "**CARA**" means the Cayman Attorneys Regulation Authority, which is the Fifth Respondent;

(13) "**CBA**" means the Caymanian Bar Association;

(14) "**CFATF**" means the Caribbean Financial Action Task Force;

(15) "**CIG**" means the Cayman Islands Government;

(16) "**CILPA**" means the Cayman Islands Legal Practitioners Association Ltd., which is the Fourth Respondent;

(17) "**CILS**" means the Cayman Islands Law Society;

(18) "**CIMA**" means the Cayman Islands Monetary Authority;

(19) "**Condition Precedent**" means the statutory condition precedent to CILPA acting with AMLR-compliance monitoring responsibility (set out in s.1(c) of the Schedule to the LAMAL, which (by amendment) inserted s.22A, LPL) that the '*objects of [CILPA] shall include regulation of attorneys-at-law to ensure their compliance with [AML] and [CT] legislation*';

(20) "**Constitutional Supremacy**" means that the Constitution is the supreme law of the Cayman Islands and the CIG's arms of government, including the LA (legislative arm) and Cabinet (executive arm), are not able to pass legislation (whether primary legislation and/or subordinate legislation) incompatible with the Constitution;

(21) "**CPI**" means confidential-privileged information (including personal data protected under the DPL and trade secrets) and legal professional privileged information;

(22) "**DCI**" the Department of Commerce and Investment of the CIG;

(23) "**DPL**" means the Data Protection Law 2017;

(24) "**FATF**" means the Financial Action Task Force;

(25) "**FRA**" means the Financial Reporting Authority established pursuant to section 3(1) of the PCL;

(26) "**Gazette**" means the *Cayman Islands Gazette*;

(27) "**GCL**" means Grand Court Law (2015 Revision);

(28) "**IL**" means the Interpretation Law (1995 Revision);

(29) "**Institute**" means the Cayman Islands Institute of Professional Accountants;

(30) "**LA**" means the Legislative Assembly of the Cayman Islands, which is the Third Respondent;

(31) "**LAMAL**" means the Legal Associations (Miscellaneous Amendments) Law 2018;

(32) "**LPL**" means the Legal Practitioners Law (2015 Revision);

(33) "**LPP**" means legal professional privilege;

(34) "**MAL**" means the Monetary Authority Law (2020 Revision);

(35) "**ML-TF**" means money laundering and terrorist financing;

(36) "**Mr. Ebanks**" means H. Philip Ebanks, who is the Second Petitioner;

(37) "**Mr. Lindsay**" means Alric Lindsay, who is the Third Petitioner;

(38) "**Mr. Merren**" means Henry Orren Merren IV, who is the First Petitioner;

(39) "**Ms. Guile**" means Clare Guile, an administrative functionary of CARA;

(40) "**Ms. Woodward**" means Judy Woodward, an administrative functionary of CARA;

(41) "**PAL**" means the Public Authorities Law (2020 Revision);

(42) "**PCL**" means the Proceeds of Crime Law (2020 Revision);

(43) "**PMFL**" means the Public Management and Finance Law (2020 Revision);

(44) "**Premier**" means the incumbent Premier, Hon. Alden McLaughlin, who is the Second Respondent;

(45) "**Purchase Agreement**" means the purchase agreement (dated 8th November 2019) between the Cabinet and CILPA;

(46) "**Supreme Constitutional Eye**" (which is shorthand for the Court's '*all seeing supreme constitutional eye of justice*') means that Court's jurisdiction to penetrate the surface (on the face of things) and not preventing the Court from seeing the real activities and true nature of relationships for what they really are (including looking behind form and seeing the real and true substance) that obtains in reality and over which the Court has jurisdiction, in order to uphold Constitutional supremacy; and

(47) "**Supreme Law**" means the Cayman Islands Constitution Order 2009.

3. As the context admits or requires, any of the laws or regulations mentioned above shall include any subsequent modifications thereof, as well as any relevant preceding versions thereof.

Part B: Summary of Core Issues

4. The Petitioners contend that, *inter alia*, the salient and core issues for focus herein include the following:

(1) The Cabinet's (decision and act of) assignment of AMLR-compliance monitoring functions to CILPA (on 19 February 2019) and notice thereof published in the Cayman Islands Gazette on 10 April 2019, which the Petitioners assert were done irrationally and unlawfully (contrary to s.19, BoR), and now require consideration by the Courts.

(2) The legal basis upon which a "Supervisory Authority" derives its lawful authority is r.55B(c) of the AMLR (as subordinate legislation) exceeds the scope of s.4(9) of the PCL (as primary legislation), which is thus *ultra vires* the law and, therefore, unlawful and void *ab initio* (contrary

to s.19, BoR). Therefore, neither CILPA nor CARA are a Supervisory Authority, which is currently a legal impossibility for either to be appointed as such.

(3) CILPA's delegation of AMLR-compliance monitoring function to CARA (on 29 May 2019), which the Petitioners assert was an *ultra vires* abdication of authority, which, *inter alia*, was unlawful, irrational (pursuant to s.19, BoR) and void *ab initio* delegation, wherein CILPA abdicated its authority (assigned by Cabinet to it) to CARA (contrary to s.19, BoR).

(4) The Cabinet's decision to (and act of) entering into the Purchase Agreement (via the AG on behalf of Cabinet) with CILPA (on 8 November 2019), in order to subsidize CILPA (and/or, perhaps, CARA) irrationally, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR), which has also threatened and/or breached the Petitioners' the rights and freedoms as follows:

   (a) freedom of association (contrary to s.12, BoR);

   (b) privacy and property rights (contrary to ss.9, 15, BoR);

   (c) and right to a fair trial (contrary to s.7, BoR);

   (d) right to no punishment without law (contrary to s.8, BoR); and

   (e) which (whether intended or not) had the effect of discriminating against Caymanian sole practitioners (and Attorneys) in small law firms (contrary to ss.1(2)(a), 16, BoR), who chose not to be members of CILPA and/or register with CARA.

(5) CARA's e-mail blast seeking to have all Attorneys register with CARA (on or about late July or early August 2019) by no later than 30 August 2019 irrationally and unlawfully (contrary to ss.19, 24, BoR) threatened and/or breached the Petitioners' rights and freedoms as (and Attorneys) freedom of association (contrary to s.12, BoR), as well as privacy and property rights (contrary to ss.9, 15, BoR, even if at any relevant time one or more of them were voluntarily a member of CILPA and/or voluntarily registered with CARA.

(6) The Cabinet (with the assistance of the AG's guidance and the Premier's blessing) proposing and tabling the LPAB on 10 October 2019, which was irrationally and unlawfully (pursuant to ss.19, 24, BoR) threatened and/or breached, *inter alia*, freedom of association (contrary to s.12, BoR).

(7) The Premier and the AG (on behalf of Cabinet and/or the LA) created legitimate expectations (on 22 October 2019), which were relied on by, *inter alia*, the First Petitioner and the Second Petitioner to their detriment, which unlawfully and irrationally (contrary to ss.19, 24, BoR) threatened and/or breached the Petitioners' fundamental rights and freedoms (contrary to ss.7, 8, 9, 12, 15, BoR, taken together with ss.1(2)(a), 16, BoR).

(8) The Purchase Agreement entered into between the CIG (via the AG on behalf of the Cabinet) with CILPA (on 8 November 2019), which irrationally and unlawfully (contrary to ss.19, 24, BoR) threatened and/or breached the Petitioners' freedom of association (contrary s.12, BoR).

(9) CARA's e-mail notification (on 18 November 2019) seeking to have the First Petitioner and/or the Second Petitioner to register with CARA by no later than 29 November 2019, where there was no legal basis for registering and was thus irrational and unlawful (contrary to s.19, BoR).

(10) The LA (with the guidance and direction of the AG and the Premier's blessing on or about the 22 November 2019) approving the subsidy money for CILPA (pursuant to the Purchase Agreement entered into between CARA and the CIG via the AG on behalf of the Cabinet), which was irrational and unlawful, *ultra vires* and void *ab initio* (contrary to s.19, BoR).

(11) CARA's breach notice (on 23 January 2020) to the First Petitioner for not registering with CARA by 29 November 2019, which was irrational and unlawful (contrary to s.19, BoR).

(12) CARA's breach notice (on 24 January 2020) to the Second Petitioner for not registering with CARA by 29 November 2019, which was irrational and unlawful (contrary to s.19, BoR).

(13) The AG's letter (dated 11 December 2019), which created a legitimate expectation (contrary to s.7, 15, BoR) to the First Petitioner and the Second Petitioner and was relied on to their detriment, which was not fulfilled and irrationally (pursuant to ss.19, 24, BoR) breached their legitimate expectations (contrary to ss.15, 19, 24, BoR).

(14) CARA's notice (on 31 January 2020) to the Third Petitioner requesting information/documentation and providing notice of an attempted onsite investigation at his premises (on 17 February 2020), which was irrational and unlawful (contrary to s.19, BoR), as well as threatened and/or breached Constitutional privacy and property rights (contrary to ss.9, 15, BoR).

(15) CARA's breach notice (on 18 February 2020) to the Third Petitioner for failure to provide documents requested (r.53A(1), AMLR), not appearing before CARA to answer questions (r.53A(3), AMLR) and failure to allow an onsite investigatory visit at his business premises (r.55M, AMLR), which irrationally, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) threatened and/or breached freedom of association and privacy and property rights (contrary to ss.9, 15, BoR).

(16) CARA's administrative fine notices (on 16 March 2020) for CI$58,500 to the First Petitioner and the Second Petitioner for failure to register with CARA (on 29 November 2019, under r.55F, AMLR), which irrationally, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) threatened and/or breached their freedom of association, privacy and property rights (contrary to ss.9, 12, 15, BoR).

(17) CARA's administrative fine notice (on 24 March 2020, under r.55M, AMLR) for CI$5,000 to the Third Petitioner for failure to allow a onsite investigatory visit at the his business premises, which irrationally, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) threatened and/or breached his freedom of association, privacy and property rights (contrary to ss.9, 12, 15, BoR).

(18) All threats and/or breaches of the Petitioners' fundamental rights and freedoms, which were carried out be CARA (on behalf of CILPA) were done whilst acting *ultra vires* as a Supervisory Authority (as r.55B(c), AMLR is *ultra vires* s.4(9), PCL, and, therefore, unlawful, pursuant to ss.19, 24, BoR, and discriminatory, pursuant to s.16, BoR).

Part C: Parties to this Petition and Key Aims of this Constitutional Action

5. **Petitioners**: The First Petitioner is a Caymanian individual who has operated as a sole practitioner since on or about March or April 2009 to the present, who does not have an incorporated practice, and who is (and has been) licensed to practice law in the Cayman Islands (pursuant to the LPL).

6. The Second Petitioner is a Caymanian individual, who does not have an incorporated practice, who operated as a sole practitioner until December 2019 (at which time he was joined by a second practitioner, who focuses solely on criminal and civil litigation) and who has since then been operating as such and is licensed to practice law in the Cayman Islands (pursuant to the LPL).

7. The Third Petitioner is a Caymanian individual, who has operated as a sole practitioner, who does not have an incorporated practice, and who is (and has been) licensed to practice law in the Cayman Islands (pursuant to the LPL).

8. The First Petitioner and the Second Petitioner are and/or were at relevant times members of ALPA and members of ALPA's executive committee.

9. The First Petitioner has never been a member of CILPA, nor has he ever registered with (or submitted to) CARA.

10. The Second Petitioner was a member of CILPA (until his resignation on or before 7 February 2020), but he never registered with CARA.

11. The Third Petitioner is a Caymanian individual, who was admitted to practice as an attorney-at-law, on 16 February 2005, was a member of CILPA (until his resignation on 11th February 2020), when he also asked CARA to discontinue using his data (personal or otherwise) for any all purposes and to immediately delete all of his information from their records.

12. **Respondents**: The AG holds a public office (in accordance with s.56(1), Constitution) and is appointed (pursuant to s.106), and (pursuant thereto) is the principal legal advisor to CIG and to the LA (in accordance with s.56(2), Constitution).

13. The Cabinet is the executive arm of CIG (as defined by ss.43-44, Constitution) and as established and functioning pursuant to Part III of the Constitution. And, the Cabinet has collective responsibility for formulation of policy and implementation of such policies to the LA (pursuant to s.44(3), Constitution) and the Cabinet shall determine its own procedures for the conduct of its business, provided it does not infringe the Constitution (pursuant to s.44(4), Constitution).

14. The LA is the legislative arm of CIG (as defined by ss.59-60, Constitution) and as established and functioning pursuant to Part IV of the Constitution. The LA '*may make laws for the peace, order and good government of the Cayman Islands*', subject to the overriding obligation to respect Constitutional Supremacy (pursuant to s.59(2), Constitution).

15. Furthermore, the Petitioners assert that it is a Constitutional obligation, *inter alia*, that:

    (1) the LA and the Cabinet '*shall uphold the rule of law and judicial independence*' (in accordance with s.107, Constitution);

    (2) the Constitution '*affirms the rule of law and the democratic values of human dignity, equality and freedom*' (under s.1(2)(a), BoR) and '*confirms or creates certain responsibilities of the government and corresponding rights of every person against government*' (pursuant to s.1(2)(b), BoR)

    (3) here "government" includes '*public official*' (as defined in s.28, BoR, and as provided for in s.1(3), BoR).

16. **Condition Precedent**: The Petitioners aver that CILPA was to comply with a statutory Condition Precedent to fulfill, before being given AMLR-compliance monitoring responsibility, for CILPA's objects (in its Memorandum of Association) to include AML-CFT regulation of lawyers (pursuant to s.1(c) of the Schedule to the LAMAL, which was passed by the LA on 18 December 2018 and came into effect on 21 February 2019—just two days after Cabinet assigned AMLR-compliance monitoring responsibility to CILPA). Section 1(c) of the LAMAL, which amended the LPL, by inserting a s.22A, LPL stated:

    "The objects of [CILPA] shall include the regulation of attorneys-at-law to ensure their compliance with anti-money laundering and counter-terrorism legislation."

    There appears to have been significant coordination between the LA and/or Cabinet and/or the Premier and/or the AG with CILPA leading up to and attempting to implement CILPA as a "self-regulatory body" before the said assignment took place.

17. **CILPA's Memorandum of Association, Object 4(m)** : The Petitioners contend that CILPA is a private company limited by guarantee, which was incorporated on 2nd October 2018. By the objects of CILPA's Memorandum of Association, CILPA's remit (in terms of AMLR-compliance monitoring) was limited to its members only from the inception of CILPA and until 16th December 2019, when its clause 4(m) of CILPA's Memorandum of Association was amended purportedly to encompass all legal practitioners in the Cayman Islands (whether or not they are members). The content of CILPA's Memorandum of Association can be tracked as follows:

(1) CILPA's objects in its Amended and Restated Memorandum of Association (Amended by Special Resolution dated 15 November 2018) in clause 4(m) stated, as follows:

"to act as a "supervisory authority" (as defined in the Anti-Money Laundering (Designated Non-Financial Business and Professions) (No.1) Regulations 2017) for firms of attorneys-at-law who are also members of [CILPA], being an authority which [CILPA] must cause to be supported by a suitably-financed supervisory executive."

(2) CILPA's objects in its Amended and Restated Memorandum of Association (Amended by Special Resolution dated 16 December 2019) in clause 4(m) stated, as follows:

"to act as a "supervisory authority" as defined in the Anti-Money Laundering Regulations (Revised) (as amended from time to time) for firms of attorneys-at-law (including individuals) licensed to practise law in the Cayman Islands."

18. The Petitioners aver that, *inter alia*, CILPA's amendment to clause 4(m) of its Memorandum of Association on 16th December 2019 (as well as the Cabinet's deferral (on 6th December 2019) of the LPAB) threatened and/or breached the Petitioners' freedom of association (contrary to s.12, BoR) and the sanctity of LPP (protected under s.9, BoR).

19. **CARA Not a Legal Entity—A Legal Fiction**: 11 February 2020, in its response letter to the ALPA LBA (dated 11 January 2020), CARA, by its own admission, noted that CARA is not a separate legal entity.

20. It claims to be a lawfully established sub-committee of CILPA, created for the specific purpose of becoming CILPA's delegate respecting the powers assigned by the Cabinet to CILPA (pursuant to s.4(9), PCL). However, the Petitioners assert that notwithstanding such delegated responsibility to CARA (be it *ultra vires* or not), CILPA's board would still have continuing obligations assigned to it by the Cabinet and board members of both CILPA and CARA (as well as CARA's employees and functionaries) are personally liable respecting their performance of such continuing obligations.

21. The Petitioners assert that this is important, because they have suffered the significant personal and professional detriment on account of doing what Attorneys are supposed to do, which is assess matters for themselves and form an opinion, rather than follow the crowd down a wrong pathway.

22. This is why the Second Petitioner and Third Petitioner (like St. Paul in the Bible) saw the light, which led them to resign from CILPA, upon realising the blinding truth (which was not initially appreciated) that there are unavoidable conflicts-of-interest and, *inter alia*, that Attorneys from large law firms populated the CILPA board and would ultimately influence and/or control CARA.

23. The Petitioners aver that neither CILPA nor CARA is a "Supervisory Authority" (pursuant to r.55B(c), AMLR), being *ultra vires* s.4(9) of the PCL, because this subordinate legislation exceeds the scope of the PCL as the primary legislation, thereby rendering r.55B(c) void *ab initio* and unenforceable.

24. The Petitioners aver that CARA is a legal fiction and is the "alter ego" of CILPA, which controls CARA (as *per* the CARA Regulations).

25. **CILPA's Absence of Basis**: Notwithstanding CARA's apparent lack of *vires* and/or of lawful functions, Ms. Guile (having the titles first of Head of Supervision and later Head of CARA) and Ms. Woodward (Head of Enforcement of CARA) have at all times held themselves out to be the employees, agents, officers and/or other functionaries of CARA. Hugo Lodge, who was previously a partner in Maples, subsequently became Lead Supervisor of CARA on 19 May 2019. On 22 November 2019, the First Petitioner warned Ms. Guiles via email (copying in members of the LA and the Cabinet, including the AG and the Premier), *inter alia*, that:

(1) CILPA and/or CARA do not have authority to bind non-members of CILPA, only its members, as CILPA was only a private sector association acting as a self-regulatory body; and

(2) there was an absence of proper legal/statutory basis for CILPA and/or CARA to have jurisdiction over all Attorneys that are non-members of CILPA;

and that (if the LPAB was passed by the LA) it would breach the Petitioner's freedom of association (in violation of their constitutional right not to be members of CILPA) (contrary to s.12, BoR).

26. And, on 22 November 2019, Ms. Guile responded via email acknowledging receipt of the First Petitioner's letter and promised that CARA '*will carefully consider the contents in due course*', which promise she failed to keep, in breach of her/its obligation and of the First Petitioner's corresponding right to be given written reasons (in breach of s.19(2), BoR), which created a "legitimate expectation" to the First Petitioner that CARA would look into his concerns (pursuant to ss.1(2)(a), 7, 15, 19(1)-(2), BoR), but which was irrationally, unlawfully and unconstitutionally (contrary to ss.1(2)(a)-(b), 19, 24, BoR), carried out by CARA (on behalf of CILPA) in a discriminatory manner against him as a Caymanian sole practitioner (contrary to ss.1(2)(a), 16, BoR), who chose not to be a member of CILPA and not to register with CARA, as well as putting forward opposing views publicly in writing.

27. The Petitioners have been aggrieved by invasive intrusions into their legitimate Constitutional rights, freedoms, privileges and interests as Caymanian Attorneys-at-law by way of the public functions unlawfully and irrationally carried out by CILPA/CARA stemming from the AMLR-compliance "monitoring" responsibility assigned by the Cabinet to CILPA (as a "*self-regulatory body*") and by CILPA's unlawful sub-assignment (and/or sub-delegation) of such public functions and responsibility to CARA (contrary to ss.19, 24, BoR), which has been carried out in a discriminatory manner targeting Caymanian sole practitioners and Attorneys in small law firms, who are not members of CILPA (contrary to ss.1(2)(a),16, BoR).

28. **Constitutional Action to Safeguard Constitutional Supremacy**: The Petitioners seek to ensure that Constitutional Supremacy is upheld in the Cayman Islands (in accordance with s.59(2), Constitution). In particular, the Petitioners seek to ensure that the BoRs are upheld and not threatened or breached (pursuant to s.26(1), BoR), as well as ensuring that legislation is not incompatible with the Constitution (pursuant to s.23, BoR) and that there are no irrational, disproportionate, procedurally unfair and/or unlawful acts (including failures to act) or decisions carried out that are incompatible with the Constitution (pursuant to ss.s.1, 19, 24, BoR).

29. The heart and essence of this Petition thus seeks to ensure that:

(1) the rule of law is upheld (in accordance with s.1(2)(a), BoR) and Constitutional rights and freedoms are protected;

(2) the risk/danger of the CILPA/CARA carrying out self-regulatory AMLR-compliance monitoring regime being used as a discriminatory tool of oppression against Caymanian sole practitioners and Attorneys in small law firms (contrary to ss. 1(2)(a),16, BoR) be exposed and stopped;

(3) the sanctity of LPP and confidentiality (including personal data and trade secrets) are safeguarded and protected under the Constitution (in accordance with s. 9, BoR);

(4) the public's faith, trust and confidence in the attorney-client relationship in the Cayman Islands is restored and protected;

(5) instead of unlawfully being required to register with CILPA/CARA and in line with what is required of accountants (pursuant to s.29, AL), Attorneys (as officers of the Court, pursuant to s.5(3), LPL) should only be required annually to file with CIMA (or with a PAL-compliant regulator established for all Attorneys) a certificate respecting their AMLR-compliance or non-compliance;

(6) there be lawful AMLR-compliance monitoring of all Attorneys conducting "*relevant financial business*" in the Cayman Islands (including sole practitioners and small law firms) undertaken by an existing "*public body*" (that is properly structured and functioning in accordance with the PAL);

or, alternatively, that there be a different PAL-compliant AML regime established for all Attorneys—separate and apart from the larger law firms, to avoid the serious potential for unfair disadvantage and/or discriminatory treatment to Caymanian sole practitioners and smaller law firms (contrary to ss.1(2)(a), 16, BoR), with the attendant risk/danger of actual or threatened breach of their Constitutional rights and freedoms and/or other forms of attendant mischief and/or prejudice to their interests and "legitimate expectations" (protected under s.15, BoR); and

(7) Caymanian attorneys (whether practicing as sole practitioners and/or in a small or large firm and whether practicing domestically only or having a multi-jurisdictional presence) not be treated in a discriminatory and/or unfair manner (contrary ss.1(2)(a), 16, BoR) by the AG, by the Premier (in breach of his duty to act in the best interest of the Cayman Islands, under s.50, Constitution), by Cabinet, by the LA (in breach of its duty to make laws for the peace, order and good government of the Cayman Islands, under s.59(2), Constitution) and/or by other Attorneys licensed to practice law in the Cayman Islands (irrespective of whether they are Caymanian or non-Caymanian).

30. Caymanian Attorneys have recently been subjected to actual and/or threatened breaches of their Constitutional rights and freedoms as practicing Attorneys in the Cayman Islands by the AG, by the Cabinet, by the LA and/or by CILPA/CARA (under ss.7, 8, 9, 12, 15, BoR taken together with ss.1, 16, BoR), as well as actual and/or threatened unlawful breaches of various of their governmental responsibilities by CIG (under ss.19, 24, BoR).

31. **Unlawful Administrative Fines Issued to Petitioners**: The Petitioners aver that:

(1) The First Petitioner received by email (on 23 January 2020) a breach notice from CARA for failing to Register with CARA (under r.55F, AMLR) (along with their enforcement policy) and threatening to issue a fine of up to $100, 000.

(2) The Second Petitioner received by email (on 24 January 2020) a breach notice by email from CARA for failing to Register with CARA (under r.55F, AMLR) (along with their 'enforcement policy') and threatening to issue a fine of up to $50,000.

(3) The Third Petitioner received by email (on 18 February 2020) a breach notice from CARA for failing to allow an onsite investigation visit (under r.55M, AMLR) by 17 February 2020, failing to provide documents (under r.53A(1), AMLR) and for failing to attend before CARA (under r.53A(3), AMLR) threatening to issue a fine up to CI$15,000.

32. The First Petitioner and Second Petitioner aver that a "legitimate expectation" (protected under ss.1(2)(a), 15, 19(2), 15, BoR) was created by the Premier and by the AG in a meeting with ALPA (on 22 October 2019) and in a letter from the AG to ALPA (dated 11 December 2019), wherein ALPA and its members (including the First Petitioner and Second Petitioner) were led to believe that (before any decision was to be made concerning the AML regime for the Cayman Islands and/or before any administrative fines or other penal sanctions were to be taken) there would be an opportunity for ALPA to provide (and for CIG to receive) further input from the entire legal profession of the Cayman Islands (not just from CILPA members, from registrants with CARA and/or from the larger law firms).

33. The Respondents, however, have not abided by on the most basic fundamental, which is to ensure that the legal basis upon which they purport to allow decisions and acts, which on account of r.55B(c) of the AMLR being *ultra vires* s.4(9) of the PCL, every decision and act (including failure to act) has been oppressively irrational, *ultra vires*, unlawful and unconstitutional (contrary to ss.1, 19, 24, BoR).

34. However, no such further consultation with ALPA and/or with ALPA members occurred before the Petitioners (who are or were predominantly ALPA members and/or executive committee members of ALPA) were issued breach notices (referred to above) as follows:

(1) The First Petitioner received (on 16 March 2020) a fine notice by email from CARA for failing to Register with CARA (pursuant to r.55F, AMLR) and issuing a fine of $58,500;

(2) The Second Petitioner received (on 16 March 2020) a fine notice by email from CARA for failing to Register with CARA (pursuant to r.55F, AMLR) (along with CARA's 'enforcement policy') and issuing a fine of $58,500; and

(3) The Third Petitioner received (on 24 March 2020) a fine notice by email from CARA for not allowing an onsite visit (pursuant to r.55M, AMLR) and issuing a fine of $5,000.

The Petitioners aver that CILPA/CARA were acting *ultra vires* and unlawfully the entire time that AML self-supervisory functions were attempted to be carried out, which needs to be stopped forthwith.

35. The Cabinet's assignment of AMLR-compliance monitoring (under s.4(9), PCL) as a Supervisory Authority (under r.55B(c), AMLR) was *ultra vires* and unlawful (contrary to s.19, BoR), therefore, being assigned *sine causa*, as the subordinate legislation (r.55B(c), AMLR) exceeded the scope of authority of the primary legislation (s.4(9), PCL), and CILPA's delegation of *ultra vires* authority was an *ultra vires* abdication (even if it would have been lawful) to CARA (contrary to s.19, BoR).

36. **Non-Fulfilment of Legitimate Expectations**: Such "legitimate expectations" created by the Premier and by the AG on behalf of CIG (as the legal advisor to Cabinet and the LA and as the Leaders of the Cabinet, respectively) should have been fulfilled (as they were and are protected, under s.7, 15, 19(1)-(2), BoR) and (since they were not fulfilled) it was not Constitutionally lawful, rational, proportionate and/or procedurally fair (under s.19(1), BoR) and for which no written reasons were given (contrary to s.19(2), BoR).

37. Such "legitimate expectations" created a safeguard (ss.1(2)(a)-(b), 7, 15, 19(1)-(2), BoR) that the Petitioners reasonably believed to exist before any penal action was to be taken (such as, threatening and/or issuing administrative fines) and this caused the Petitioners not to issue legal proceedings earlier (such that some relevant 3-month time limits to commence judicial review action expired without such action being taken by ALPA and/or by any Petitioner(s), who were or are ALPA members).

38. Now, on a basis of the public interest concerning the legal profession in the Cayman Islands (being Constitutionally a democratic society in which Constitutional Supremacy obtains), this action has been brought to stop and/or to prevent actual and/or perceived injustice resulting from actual or threatened breaches of our Constitutional rights, freedoms (contrary to ss.23, 26, BoR) and interests and also from non-fulfillment by the AG, by the Premier, by the Cabinet and/or by the LA of our "legitimate expectations" (contrary to ss.1(2), 15, 19, 24, BoR) and in a discriminatory manner towards Caymanian sole practitioners and small law firms (contrary to ss.1(2)(a), 16, BoR).

39. The Petitioners further assert that, on 30 December 2019, the First Petitioner wrote to the AG explaining a further shortcoming of the AML regime, which is one of the greatest AML risk and exposure for the Cayman Islands, because:

"There is also information (that certain practitioners have collected) prima facie indicating numerous unlicensed lawyers in foreign jurisdictions practicing Cayman Islands law, with no steps being taken to address this (as far as I am aware)."

However, the Petitioners have no indication that this has been addressed, but there is a *per se* legitimate expectation that the LA and/or Cabinet should address this matter in order to safeguard against any harm and damage that could be inflicted on the Cayman Islands financial industry and/or legal profession's interest in maintaining.

40. The Petitioners note here that, it appears that one of the functions of the recently proposed Legal Services Bill, *inter alia*, was to grandfather in all Attorneys currently practicing Cayman Islands law illegally without a practice certificate. The Petitioners, therefore, are concerned that CILPA and CARA are runaway freight trains, which are causing damage to the legal profession in the Cayman Islands, and the Petitioners, who have taken a stand for all noble and integral purposes are ironically the ones, who are being persecuted oppressively irrationally and unlawfully (contrary to ss.19, 24, BoR).

41. The Petitioners serve as a voice for all legal practitioners in the Cayman Islands, whose Constitutional rights, freedoms and interests are not being protected by the AG, by the Premier, by the Cabinet and/or by the LA and who are not fairly and/or adequately being represented by CILPA/CARA.

42. This includes Attorneys who became CILPA members and/or who registered with CARA out of well-founded fear of adverse consequences (including risk/danger of draconian fines/penalties being imposed on them and threatening to their continued ability to practice law in the Cayman Islands), but who are opposed to CILPA's/CARA's unlawful and oppressive irrational self-regulatory AMLR-compliance monitoring regime (contrary to s.19, BoR) and who would support the sort of lawful and proper AML regulation of attorneys-at-law in the Cayman Islands that has been proposed by the Petitioners.

43. The Petitioners are now asking that their Constitutional rights and freedoms be stress-tested in light of the self-regulatory AMLR-compliance monitoring regime assigned by the Cabinet of CIG to CILPA, and which CILPA, in turn, unlawfully delegated to CARA without any proper legal basis to do so (contrary to s.19, BoR), and which CARA has unlawfully and irrationally (contrary to ss.19, 24, BoR) sought to enforce against both members and non-members of CILPA in a discriminatory manner biased against Caymanian sole practitioners and small law firms (contrary to ss.1(2)(a), 16, BoR).

Part D: Petitioners Request Extension of Time to File this Petition, If the Court Deems It Necessary

44. Section 26(4), BoR provides:

> '*Proceedings under subsection (1) shall be commenced within one year of the decision or act that is claimed to breach the [BoR], or from the date on which such decision or act could reasonably have been known to the complainant; but the Grand Court shall extend time on application by the complainant where such an extension would in the opinion of the Court be in the interests of justice.*'

45. Although (prior to the Extraordinary Gazette, dated 10 April 2019) some ALPA members and some CILPA members discussed (and were in correspondence concerning) a proposed assignment by the Cabinet to CILPA of AMLR-compliance monitoring responsibility for Attorneys, it was not until after the actual assignment was published in that Extraordinary Gazette that the exact date and terms of such assignment could reasonably have been known to the Petitioners.

46. Moreover, it was not until the AG (on behalf of the Cabinet) entered into the Purchase Agreement with CILPA on or about 8 November 2019 (and the Finance Committee of the LA approved funding for the Purchase Agreement, on or about 22 November 2019) that the unlawful CILPA/CARA regulatory regime came into full effect (contrary to s.19, BoR).

47. Moreover, the Petitioners assert that various decisions, acts and/or omissions (failures to act) on the part of one or more of the Respondents at various relevant times (that ultimately culminated in CARA irrationally, disproportionately, procedurally unfairly and unlawfully (contrary to ss.19, 24, BoR) issuing administrative fine notices against the Petitioners (contrary to ss.7, 8, 9, 12, 15, BoR) and that was in effect the **final straw** in a **cumulative string of inextricably interconnected** actions, omissions, decisions and/or events) in breach of various provisions of the BoR as detailed in this Petition, which was discriminatory against Caymanian sole practitioners and Attorneys in small law firm who chose not to be members of CILPA and/or not to register with CARA and who are in a minority of less than five percent (5%) of the legal profession who did not register with CARA (contrary to ss.192)(a), 16, BoR).

48. In light of above, the complexity of the factual and legal issues presented in this Petition, the restrictions imposed on all Attorneys (including the Petitioners) during the current national emergency and "stay at home" lock-down related to the COVID-19 pandemic, the need for most of the Petitioners to focus on filing the applications for leave to appeal against CARA's unlawfully imposed administrative fines,

it has been impossible for the Petitioners to meet in person and difficult to coordinate fully between all of the Petitioners to finalise and to file this Petition.

49. Therefore, the Petitioners hereby request (as being in the interests of justice and fairness) such extension of time on filing this Petition as the Court may deem necessary for, *inter alia*, the following:

    (1) The promulgation of the LAMAL (on 19 December 2018) by the LA; and

    (2) The assignment by the Cabinet (on 19 February 2019 and publishing of the same in the Gazette on 10 April 2019) of the AMLR-compliance monitoring responsibility to CILPA (pursuant to s.4(9), PCL).

Part E: Chronology of Key Events and Correspondence

50. **June 2008**: In June 2008, the PCL was promulgated with an aim of dealing with criminal offences (including drug trafficking, money-laundering and financing of terrorism), so as to stop criminals from benefitting from their criminal activity, which was in contravention of criminal laws. The PCL was not promulgated with the intent of a purpose, which allowed AMLR-compliance monitoring of Attorneys by a self-regulatory body, having a board with other attorneys in active practice of law, who also seek to monitor other Attorneys.

51. **14 November 2018**: On the 14 November 2018, the Premier's and the AG's statements in the LA will be relied upon by the Petitioners to explain points, which might not be clear in this Petition, because it indicates some aspects of subjectivity, which (when taken together with objective observations) will give rational understanding to issues at hand.

52. **19 December 2018**: On 19 December 2018, the LAMAL was passed by the LA (as tabled by Cabinet). The Cabinet and/or the LA were clearly liaising with the larger law firms concerning an AML regime for Attorneys, but failed to consult the Petitioners, who would have taken issue with their chosen route.

53. **1 January 2019**: On 1 January 2019, the Third Petitioner effectively became a recorded member of CILPA.

54. **7 January 2019**: On or about 7 January 2019, the First Petitioner (along with other Attorneys), who are Caymanian Attorneys (practicing in small law firms and sole practitioners), formed ALPA being concerned with a purported winding up and merger of the CBA and CILS and the promulgation of the LAMAL in December 2018. This was to give a voice to Caymanian sole practitioners and Attorneys in small law firms, who seemed to not have a voice and whose needs had not been properly considered.

55. **19 February 2019**: On 19 February 2019, Cabinet assigned CILPA the responsibility for AMLR-compliance monitoring of Attorneys conducting "*relevant financial business*" (pursuant to s.4(9), PCL). This happened without any thorough consultation with Caymanian sole practitioners and small law firms. The First Petitioner was unaware that this had occurred, until sometime in or about mid-April 2019.

56. **21 February 2019**: On 21 February 2019, LAMAL came into effect (via the Legal Associations (Miscellaneous Amendments) Law 2108 (Commencement) Order 2019). (The First Petitioner was unaware of this until after it happened, as his radar was looking out for any changes to the LPL, but (unsuspectingly) the amendment to the LPL came through the LAMAL. The LAMAL was deceptively named, in that its aim was predominantly to amend the LPL, while purporting to amend a "Legal Associations Law" which did not exist.)

57. **27 March 2019**: On or about 27 March 2019, ALPA wrote to Cabinet and members of the LA, informing them of ALPA's formation, requesting that ALPA should be informed and consulted on all matters affecting the legal profession.

58. **1 April 2019**: On 1 April 2019, the AG wrote to CILPA explaining that, *inter alia*, CILPA had been assigned AML supervisory authority (pursuant to s.4(9), PCL) in the Cayman Islands (on 19 February 2019), wherein CILPA had (purportedly) been designated as the supervisory authority for attorneys-at-law as purportedly (under r.55(c), AMLR) for "*firms of attorneys-at-law that engage in or assist other persons in relevant financial business, or otherwise act for or on behalf of such persons in relevant financial business*", as well as that "*CILPA had been vested with the duties and powers specified in Part XIIA of the [AMLR]*".

59. **6 April 2019**: On 6 April 2019, Mr. Collins (president of CILPA) wrote to the Petitioners (who are members of ALPA) indicating that the CIG had assigned CILPA responsibility of AMLR-compliance monitoring.

60. **10 April 2019**: On 10 April 2019, Cabinet placed a notification in the Gazette that CILPA had been assigned AMLR-compliance monitoring responsibility over attorneys conducting "relevant financial business" (pursuant to s.4(9), PCL), who are not regulated by CIMA.

61. **29 May 2019**: On 29 May 2019, CILPA created CARA (as a sub-committee) and delegated to CILPA's AMLR-compliance monitoring responsibilities (purportedly including CILPA's public functions, duties and powers in relation to all aspects of its AMLR-compliance monitoring responsibilities, and thereby purporting to delegate to CARA more responsibility than Cabinet assigned to CILPA, save in so far as they are preserved in the "*CILPA Regulations in Respect of CARA 2019*") ("**CARA Regulations**").

62. **18 June 2019**: On 18 June 2019, Cabinet promulgated various amendments to the AMLR (specifically Anti-Money Laundering (Amendment) (No. 2) Regulations 2019.

63. **1 August 2019**: On or about 1 August 2019, volunteers (predominantly Articled Clerks and support staff from Walkers and Maples) acting on behalf of CARA, wrote to the Petitioners (and all other Attorneys) requiring them (against the threat of administrative fines and/or penal sanctions) to register with CARA, regardless of whether or not they were members of CILPA.

64. **27 August 2019**: On 27 August 2019, ALPA wrote to Cabinet (addressed to the Premier) to express its grave concerns about CILPA and CARA as AML regime.

65. **30 August 2019**: On 30 August 2019, Orren Merren III ("**Orren Merren**") wrote the AG seeking answers to his concerns raised pertaining to CILPA/CARA. Therein, Orren Merren stated:

> *"Herewith is the email I received on 1 August 2019 from Martynna Berry, self-described as an Intern with the Maples Group. She indicates that she's a volunteer assisting CARA with the process to register attorneys-at-law in accordance with the Cayman Islands Anti-Money Laundering Regulations (2018 Revision) as amended ("**AML Regs**"). She also states that the deadline for registration is today and that the CARA registration form should be emailed to info@cara.ky.*
>
> *The name CARA is prima facie misleading, as it implies that it is a duly created statutory authority, similar to CIMA or the Financial Reporting Authority ("**FRA**"). However, one of the attachments from Ms. Berry explains that CARA was merely established by CILPA...,a company formed under the Cayman Islands Company Law, purportedly to discharge CILPA's duty as the professional supervisory body for lawyers. She also asserts that (under the AML Regs) Cabinet designated CILPA as a professional supervisory body for attorneys.*
>
> *CARA is generating serious controversy among a cross-section of our local legal profession, especially among Caymanians who are sole practitioners (such as myself) or whose practice is structured in smaller law firms. Since CILPA is dominated by the larger multi-national law firms, ALPA...was formed to represent the interests of such sole practitioners and smaller law firms.*
>
> *Before I (and many other Caymanians) submit to CARA registration (purportedly with penal consequences for non-compliance), please clarify the following:*
>
> *1. Is CARA a duly created statutory authority, along the lines of CIMA or FRA?*

2. *If not, what lawful authority does CILPA have properly vested in it to create CARA and to delegate to CARA whatever responsibility of "monitoring" attorneys' AML compliance that Cabinet (by Notice in the Extraordinary Gazette No 26/2019) purportedly assigned to CILPA pursuant to section 4(9) of the [PCL]?*

3. *Does the scope of "monitoring" such compliance include supervision, enforcement and liaising with law enforcement and other competent authorities (as stated in one of the attachments sent to me by Ms. Berry)?*

4. *Has CILPA been properly designated by Order in Cabinet as a Supervisory Authority in accordance with r.55B(c) of the Regs? If so, there is no mention of same in the Gazette Notice, nor have I seen any Order in Cabinet duly published in that regard.*

5. *If CILPA has been properly so designated, can it properly function as a "self-regulatory body" for attorneys who are not members of CILPA?*

6. *Should ALPA also be designated as a "self-regulatory body" for its members? If so, the Schedule to the [LAMAL] would need to be amended.*

7. *Alternatively, should FRA be designated as the Supervisory Authority for all attorneys, unless and until CARA can be established as a statutory authority (after appropriate consultation with the entire legal profession, not just with CILPA)?*

I shall be grateful for your urgent response to the foregoing."

Later that same day (30 August 2019), the AG wrote to Orren Merren stating: "*Many thanks for your email. I am promising to read same and will respond next week.*" However, to present, the AG has not responded to Orren Merren (contrary to s.19(2), BoR). This created a legitimate expectation to Orren Merren and to his son, the First Petitioner, (pursuant to s.15, BoR), which they both relied on to their detriment, and which remains irrationally unfulfilled to present date (contrary to ss.15, 19, BoR).

66. **Late August or Early September 2019**: On or about late August or early September 2019, the First Petitioner attended the offices of Mr. David Wight (Elected Member for George Town West) and Ms. Barbara Conolly (Elected Member for George Town South), where:

(1) The First Petitioner dropped off copies of ALPA's letter to the Premier (dated 27 August 2019) at reception for both Mr. Wight and Ms. Conolly, as well as provided his business card and requested a meeting with both of them (or, alternatively, meetings with each of them separately), because he wanted to explain his personal concerns about the defective CILPA-CARA AML self-regulatory regime and the draconian AMLR provisions that needed to be changed.

(2) The First Petitioner lives in and is a registered voter in George Town South, so Ms. Conolly is the elected representative for his constituency (of GTS).

67. The First Petitioner often goes to Mr. Wight's family's gas station located in GTS and (a few weeks after the First Petitioner dropped off the ALPA letters and his business cards, as well as requested to meet with both Ms. Conolly and Mr. Wight, either together or separately) the following occurred:

(1) The First Petitioner saw Mr. Wight, where they had an opportunity to speak briefly.

(2) Mr. Wight acknowledged that he was notified that the First Petitioner requested to speak with him and Ms. Conolly, but he explained that it was very hard to get both himself and her in the same place to meet, because they were both very busy.

(3) Mr. Wight promised that, when they were able to schedule a meeting with the First Petitioner, the First Petitioner would be notified, because they did want to ensure that they listened to the First Petitioner's concerns

(4) However, to present date, neither Ms. Conolly nor Mr. Wight contacted the First Petitioner to set a meeting to hear his concerns, as was promised by Mr. Wight, thereby creating a legitimate expectation (pursuant to s.15, 19(2), BoR) to the First Petitioner by a member of the LA (who is a Government backbench member), which the First Petitioner relied on to his detriment, and there

was also a breach of written reasons for not ultimately meeting with the First Petitioner (contrary to s.19(2), BoR).

68. **11 September 2019**: On 11 September 2019, CILPA (via Mr. David Collins) wrote to the Premier in response to ALPA's letter (dated 27 August 2019) stating, *inter alia*, that:

    (1) Upon the request of the Premier to ALPA's letter (dated 27 August 2019) regarding the status and activities of CILPA and CARA in relation to CARA's functions;

    (2) CILPA was incorporated (on 2 October 2018) "*with the objective of representing the entire legal profession in the Cayman Islands*";

    (3) '*Under its Memorandum of Association, CILPA's objects include "if so authorised by the [CIG], to act as a "supervisory authority" (as defined in the Anti-Money Laundering (Designated Non-Financial Business and Professions (No. 1) Regulations 2017) for firms of attorneys-at-law…*"

    (4) CIG designated CILPA as the supervisory authority for attorneys-at-law by a Cabinet decision on 19 February 2019 made under s.4(9), [PCL];

    (5) '*The Cabinet's assignment, notice of which was published in the Cayman Islands Gazette on 10 April 2019, therefore gave CILPA the statutory responsibility for monitoring, supervising and enforcing anti-money laundering compliance by attorneys-at-law, both those who choose to become members of CILPA and those who decline, including the powers and responsibilities of a Supervisory Authority under Part XIIA of the AMLR.*'

    (6) CILPA delegated its duties and powers as a Supervisory Authority under Part XIIA of the AMLR to CARA, to the exclusion of CILPA's Council's own duties and powers in relation to AML supervision; and

    (7) "*None of the current CARA board members are practicing attorneys or members of the CILPA Council*".

    The Petitioners aver, *inter alia*, that Mr. Collins does not quote the entirety of CILPA's object 4(m) in its Memorandum of Association, which appears to be deliberately and irrationally disguising the fact that it only applied to Attorneys, who were also CILPA members, which would have indicated that not all Attorneys (such as the First Petitioner) were caught therein (contrary to s.19, BoR).

69. **7 October 2019**: On 7 October 2019, the First Petitioner wrote to the Premier (copying in the AG) explaining that CILPA (which is a private sector association acting as a self-regulatory body) can only act as AML regulator over its members, but not non-members. And, that the FRA should be assigned AML regulatory functions for non-CILPA members. However, to present, the Premier (nor the AG) responded to the First Petitioner (contrary to s.19(2), BoR).

70. **10 October 2019**: On 10 October 2019, Cabinet proposed LPAB (to amend the LPL), proposing to provide for, *inter alia*, all Attorneys being deemed to be CILPA-members for AMLR-compliance monitoring purposes.

71. **22 October 2019**: On 22 October 2019, ALPA executive council members met with the Premier, AG and Hon. Minister Hew, wherein, *inter alia*, the following is notable:

    (1) The AG emphasized that the Cabinet was experiencing AML fatigue.

    (2) The AG and Premier dismissed the assertion that the FRA could be able to monitor the First Petitioner and Second Petitioner, as well as other Attorneys (including ALPA members), who had not become CILPA members and/or registered with CARA, because they said that the FRA could only receive dissemination of information.

    (3) The Premier, when asked by the First Petitioner if CIMA could monitor the First Petitioner and Second Petitioner, as well as other Attorneys (including ALPA members, who had not become

CILPA members and/or registered with CARA, said "*Are you going to pay for it?*" The First Petitioner suggested that, since the Cabinet was subsidizing CILPA for AML monitoring, then could the portion of the funds be reallocated to CIMA to cover AMLR-compliance monitoring of those Attorneys who resisted CILPA/CARA?

(4) Although the Premier dismissed that possibility, the AG suggested that perhaps ALPA could self-regulate its members if ALPA obtained Not-For-Profit status. However, the ALPA executive members indicated that they were not seeking to self-regulate ALPA members, but preferred instead a public body (which is subject to the PAL).

(5) This was left as a matter for further dialogue at a future time, which never happened. However, it created a "legitimate expectation" (pursuant to s.15, BoR), which was never fulfilled by Cabinet, by the AG and/or by the Premier, although the First Petitioner and Second Petitioner (as well as others present at the meeting) relied on that "legitimate expectation" to their detriment.

(6) When it was suggested that (if the LPAB was passed by the LA) it would breach the First Petitioner's and Second Petitioner's (as well as other Attorneys') freedom of association (contrary to s.12, BoR), the AG seemed to rely heavily on the Court of Appeal of Barbados decision in *Nurse AG and Barbados Bar Association v Nurse*, in order to dispel any suggestion that their freedom of association would be breached.

(7) The Premier, who (along with the AG and Minister Hew) listened to representations that the ALPA executive council members (which included the First Petitioner and the Second Petitioner) about content that they deemed relevant to include in a Legal Service Bill or Legal Practitioners Bill to amend the LPL, and the Premier made it clear that (since he had formed the Government and as long as he had the numbers in the LA) a Bill would be passed before the next election.

(8) The Premier and the AG expressly promised the ALPA executive council members present (inclusive of the First Petitioner and Second Petitioner) that, before any such Bill was passed and before further steps with respect to the AML regime was taken, there would be follow up meetings and opportunity to further engage with them, so as to take on board their specific views and positions about what was coming in the future. This created the legitimate expectation that there would be opportunity for further consultation (pursuant to s.15, BoR), but which did not occur.

(9) The Premier, towards the latter part of the meeting, thanked the ALPA executive council members (including the First Petitioner and Second Petitioner), and specifically noted to them that they found the meeting productive and insightful, and specifically that they were a far easier group to deal with than the CILPA group.

(10) The First Petitioner and the Second Petitioner, as well as others who were present, left with the impression that this meeting went fairly well and they were optimistic that something reasonable and positive could be worked out between the Cabinet, the AG and the Premier in a manner that would address their concerns.

72. **8 November 2019**: On 8 November 2019, the Cabinet (on behalf of CIG, signed by the AG) and CILPA (signed by CILPA's president) entered into the Purchase Agreement (pursuant to s.30, PMFL) for Cabinet purchasing outputs and being delivered by CILPA for "*Regulation of Attorneys for AML/CFT purposes*" for 30-50 "*onsite and offsite inspections of Attorneys and enforcement*", specifically 30-50 onsite/offsite inspections and enforcement for CI$1,087,523 in 2020 (for 1 January to 31 December 2020) and for 40-60 onsite/offsite inspections and enforcement for CI$1,212,000 in 2021 (for 1 January 2021 to 31 December 2021). However, there is a significant stipulation, which states:

"This [Purchase] Agreement will automatically terminate when alternative arrangements for the issuance of practicing certificates by a regulatory body come into effect under an intended Legal Services Law (or similar legislation that provides for same)."

The Petitioners aver, *inter alia*, that, if CILPA or CARA (or similar) are able to issue annual practicing certificates for Attorneys, this currently threatens (and, if passed, will breach) the Petitioners' freedom of association (contrary to s.12, BoR) and privacy and property rights (contrary to ss.9, 15, BoR), as well as right to a fair trial (contrary to s.7, BoR) and would irrationally, disproportionately, procedurally unfairly and unlawfully (contrary to ss.19, 24, BoR) discriminate against the Petitioners (contrary to s.16, BoR), who are Caymanian sole practitioners and Attorneys in small law firms that chose not to be members of CILPA and/or register with CARA. The Petitioners further aver that they (and all Attorneys) have a *per se* legitimate expectation (pursuant to ss.7, 15, BoR) to lawful administration (under s.19, BoR) and principles of legality and constitutionality (under s.24, BoR), and, if such body were to issue annual practicing certificates, these would be breached (as they are already threatened, by intention of the Cabinet and/or the LA therein, and further Constitutional action would be required to be initiated at such time (pursuant to s.26(1), BoR).

73. **18 November 2019**: On 18 November 2019, Ms. Guile (on behalf of CARA) wrote to the First Petitioner explaining, *inter alia*, that attorneys are required to register with CARA and failure to register may be subject to DNFPB administrative fines regime (as per the AMLR).

74. **22 November 2019**: On 22 November 2019, the First Petitioner wrote to Ms. Guile, on behalf of CARA (copying in members of the LA and Cabinet), explaining that, *inter alia*, there is no legal basis binding non-members of CILPA, which is a private sector association, to submit to CILPA-CARA for AML regulatory purposes and that the LA passing the LPAB would breach the Petitioners' *in personam* right to freedom of association (pursuant to s.12, BoR).

75. **22 November 2019**: On 22 November 2019, Ms. Guile responded to the First Petitioner stating:

> *"Thank you for your email and attached letter dated 22 November 2019. We will carefully consider the contents and respond in due course."*

Here Ms. Guile (on behalf of CARA, which itself was acting on behalf of CILPA) created a legitimate expectation to the First Petitioner that CARA would carefully consider the contents of his letter (dated 22 November 2019) and respond in due course, but never did respond (contrary to s.19(2), BoR).

76. **22 November 2019**: On 22 November 2019, the Portfolio of Legal Affairs was up for consideration in Finance Committee in the LA (specifically item NGS 89 for CILPA CI$1,087,523 in 2020 and CI$1,212,000 in 2021). In particular the following questions, statements and/or dialogue, *inter alia*, took place, which is important to highlight, as follows:

(1) Mr. Ezzard Miller (Elected LA Member for North Side) questioned why was the Cabinet funding CILPA, since attorneys make more money annually than any other professionals.

(2) Mr. Arden McLean (Leader of the Opposition, Elected LA Member for East End) asked whether it was normal for the CIG to fund private associations. The AG responded "*no*".

(3) The AG explained, *inter alia*, the following:

(a) No. It was not common for CIG to fund private associations.

(b) However, based on CFATF's mutual evaluation report, which identified deficiencies in AML-CTF framework in the Cayman Islands, *inter alia*, there was not an AML regulator for Attorneys.

(c) Therefore, to address that (based on CIG's discussions with the CBA and CILS) a "*self-regulatory*" framework was to be provided by CILPA, which is modeled from the "same way" accounts were "*self-regulated*" by the Institute. Stating that CILPA was a "*self-regulatory body for lawyers*" (under s.4(9), PCL).

(d) Emphasizing that, in the same way that accountants were able to collect annual fees to fund such self-regulation by the Institute, then lawyers would be able to keep their fees to self-

regulation via a Purchase Agreement, whereby the CIG would give CILPA that subsidy to offset AML self-regulatory expenses.

(4) Mr. McLean highlighted a concern that there were unlicensed lawyers practicing Cayman Islands law in foreign jurisdictions, and that is a matter of concern to the Petitioners.

(5) Mr. Kenneth Bryan (Elected LA Member for George Town Central) asked if it was correct that, in order for CARA to carryout AML self-regulation for attorneys, did the attorneys have to be a member of CARA.

(6) The AG's response was "*Yes and no*". Explaining that the requirement is that the CIG designated CILPA as an AML self-regulatory body and that non-compliance with requests to register is (in and of itself) a breach, so at law CILPA (or CARA) was the body to request lawyers "to do certain things".

(7) Mr. Bryan, once again asked, if CARA has the authority under the law to mandate lawyers to be a member of CILPA, especially if such lawyers do not want to join CILPA.

(8) The AG said he was "*not sure what was being suggested*", but wanted to clarify that CARA was a sub-committee of CILPA. CILPA was designated to be AML regulator, which CILPA had delegated that AML responsibility to CARA (as a subcommittee of CILPA), and that the whole purpose of having CARA is to try as much as possible (although not perfect) to create a "*Chinese wall*".

(9) Mr. Bryan further explained that, the reason he was asking this line of questions, was because Attorneys, who were not members of CILPA, were being threatened that they had to register with CARA (against the asserted consequences) "*today*".

The Petitioners aver, *inter alia*, that the AG (in answering the line of questions that Mr. Bryan posed to him on 22 November 2019) kept saying "the expectation" was and it was "hoped", when referring to what he thought the obligations to register with CILPA were. However, the AG was irrationally incorrect and completely misguided (contrary to s.19, BoR), as, *inter alia*, object 4(m) of CILPA's Memorandum of Association still even stated that only members of CILPA were self-regulated, not to mention all the other defective issues highlighted herein. Lastly, there are things that the AG said in Finance Committee of the LA, on which the Petitioners will rely to explain some issues of subjectivity, which could only otherwise be assumed and looked at objectively.

77. **2 December 2019**: On 2 December 2019, ALPA wrote to the Premier (copying in Cabinet, the LA and CILPA) explaining, *inter alia*, that passage of the LPAB would breach Attorneys, who are not CILPA members, freedom of association or non-association (contrary to s.12, BoR).

78. **5 December 2019**: The LA's website indicates that the LPAB was withdrawn on 5 December 2019. The First Petitioner was given informal notification that the LPAB was withdrawn on 6 December 2019. However, on 11 December 2019, the AG expressly stated that the LPAB was deferred in order to facilitate further dialogue, but that it was deemed necessary, then the LPAB would be dealt with in 2020. Whilst CARA's e-mail to ALPA (on 20 December 2019) stated that the LPAB had been withdrawn, the AG's Chambers response letter (dated 6 March 2020) to the ALPA LBA (dated 11 January 2020) explains:

"With respect to the relief sought in relation to the LPAB, please note that CIG does not intend to proceed with this Bill given the amendment effected by CILPA's Articles of Association (see para. 2.4(d) of their letter)."

79. **11 December 2019**: On 11 December 2019, the AG replied to ALPA (responding to ALPA's memo and correspondence on 2 December 2019) by email and explained, *inter alia*, to the effect that:

(1) CIG had decided to defer passage of the LPAB in order to facilitate further dialogue;

(2) after further conversation, if it was deemed necessary, the LPAB would be dealt with in 2020;

(3) because CILPA had been designated as a self-regulatory supervisory authority for attorneys (pursuant to s.4(9), PCL and AMLRs), ALPA members may wish to consider, whether there is an existing obligation for all attorneys to comply with r.55F, AMLR, until such time as any further policy decisions are taken by CIG for regulating the legal profession;

(4) such matters would be further ventilated during planned discussion between CIG and the legal profession on the proposed Legal Services Bill;

(5) CIG was happy with the meeting (on 22nd October 2019) between ALPA and CIG, which the Premier, other Ministers and the AG found to be an extremely productive first meeting;

(6) the intent was for there to be an early meeting between CIG, ALPA and CILPA, with the aim of ensuring that all views were properly taken into consideration; and

(7) the necessary invitation would be issued in due course.

The Petitioners aver that the AG's letter created "legitimate expectations" to ALPA members (including the First Petitioner and the Second Petitioner), which have not been fulfilled (contrary to ss.7, 15, BoR) and which caused the First Petitioner's and Second Petitioner's interests to be adversely affected without being provided written reasons (contrary to s.19(2), BoR), which was oppressively irrational and unlawful (contrary to ss.19(1), 24, BoR).

80. **16 December 2019**: On 16 December 2019, CILPA amended its Memorandum and Articles of Association, wherein the objects no longer reflected that CILPA could only act as AML Supervisory Authority for its members, which was an alternative attempt for the LA not needing to pass the LPAB and risk breaching the First Petitioner's freedom of association (contrary to s.12, BoR) and which it had already threatened by proposing and tabling it (on 10 October 2019).

81. **20 December 2019**: On 20 December 2019, CARA wrote ALPA sending mixed messages (contradicting the AG's letter dated 11 December 2019) and explained, *inter alia*, to the effect that CARA:

(1) received its copy of ALPA's letter to the AG (dated 2nd December 2019) and CARA noted that ALPA opposed the LPAB;

(2) confirmed that the LPAB would not be proceeding and it would not be compulsory for attorneys in the Cayman Islands to be members of CILPA.

(3) indicated that a resolution had been passed at a special general meeting of CILPA to amend and restate CILPA's Memorandum and Articles of Association.

(4) wished to explore how best to address remaining concerns that ALPA raised in connection with CARA's authority and remit.

(5) wanted to meet with representatives of ALPA (on 3rd January 2020).

However, the Petitioners aver that ALPA did not respond to CARA, because, *inter alia*, ALPA does not recognize CARA's authority to be a lawful and proper AML regulator for all duly licensed attorneys-at-law in the Cayman Islands (in particular, not for any attorneys, who are not current members of CILPA and who have not voluntarily submitted to CARA).

82. **30 December 2019**: On 30 December 2019, the First Petitioner wrote to the AG (copying members of LA and the Cabinet) highlighting defects in the CILPA/CARA regime as follows:

(1) LPP, which is a "*fundamental human right*", protected as a Constitutional privacy right (under s.9, BoR) upon the basis of private communications between clients with their Attorneys;

(2) r.55M of the AMLR was incompatible with s.9, BoR, as its "*reasonably required*" safeguard (under r.55M(2), AMLR), which did not expressly protect LPP (under r.55L(2), AMLR) against requests to provide information and/or documentation to which the LPP safeguard did not further protect against entry, search, seizure and investigation functions that could be subsequently carried and thus provided a defective safeguard overall—and (in another jurisdiction) such the "search and seizure" AML regulatory statutory provisions were held, *inter alia*, to be unconstitutional for lacking proper safeguards to protect LPP and were struck down;

(3) the "Chinese wall" between CILPA-CARA was inadequate to be maintained, as it reasonably anticipates danger/risk of breach, disclosure, prejudice and/or mischief of breach of CPI by inescapable conflicts-of-interest among commercial competitors, which condemns the entire AML self-regulatory regime;

(4) there was a need for a new AML regulatory regime (with an independent PAL-compliant public body and new customized AML regulations specifically tailored for the legal profession in the Cayman Islands) and only Attorneys conducting "relevant financial business" were to be subject to AMLR-compliance monitoring;

(5) requested written answers (pursuant to s.19(2), BoR) with specificity (including clarifying mixed messages between the AG's letter (dated 11 December 2019) and in CARA's email (on 20 December 2019);

(6) if the Petitioners' freedom of association was breached (contrary to s.12, BoR), then an application for some form of judicial intervention was likely.

However, to the present date, neither the AG (nor anyone on behalf of the AG or AG's Chambers) has responded to the First Petitioner's letter (dated 30 December 2019), which is a further breach by the AG of his governmental responsibility to provide written reasons (contrary to s.19(2), BoR), as was expressly requested of him.

83. **23 January 2020**: On 23 January 2020, the First Petitioner (allegedly for Orren Merren & Co, although Mr. Merren practices as a sole practitioner, not as Orren Merren & Co) received a Breach Notice for up to a maximum of CI$100,000 for failing to register with CARA. Given that the purported notice to Orren Merren & Company was incorrectly addressed and sent to Orrie Merren, there was defective service and it was void *ab initio*. The First Petitioner, who is a sole practitioner and who has been expressly declared this each year to CIG's Judicial Department when renewing his and/or his father's respective annual practicing certificates (including Orren Merren, who is principal attorney for Orren Merren & Co, expressly identifying that Orren Merren & Co and the First Petitioner are both sole practitioners with separate legal practices).

84. **24 January 2020**: On 24 January 2020, PSG received Breach Notice for up to CI$100,000.

85. **27 January 2020**: On 27 January 2020, CILPA amended CARA Regulations.

86. **31 January 2020**: On 31 January 2020, the Third Petitioner received a letter from CARA seeking to conduct an AML onsite inspection of his business premises on 17 February 2020.

87. **31 January 2020**: On 31st January 2020, the Third Petitioner emailed Erin Powell of CARA covering in effect the following:

(1) CARA is not a legal entity, but rather a subcommittee of CILPA (made up of competing law firms);

(2) CARA's website says it is an "*operational arm*" of CILPA and (if so) all information gathered by CARA would be easily available to the partners in competing law firms;

(3) requesting copies of controls that CARA has in place to ensure security and confidentiality of the information gathered on inspections, especially on small firms and sole practitioners;

(4) requesting confirmation on how CARA intends to deal with conflicts-of-interest, citing as examples:

(a) if details of transactions of small firm clients are gathered during an inspection and such details are available to the CILPA board (CARA being an "operational arm" of CILPA);

(b) a sole practitioner is onboarding a new client and is competing with a law firm, whose member sits on the board of CILPA for the same client; or

(c) a sole practitioner has won a client away from a competing law firm, whose member sits on the board of CILPA;

and explaining that (in such a case) a "random" inspection could (presumably) be ordered by CARA upon instructions from a law firm member, who sits on CILPA's board, perhaps resulting in a negative review of the said sole practitioner;

(5) requesting confirmation of whether there is a plan by CIG for AML regulation of lawyers to move away from this structure, which has the appearance of conflicts-of-interest (with no explanation of how such conflicts will be satisfactorily managed by a more independent public body like the FRA); and

(6) requesting whether a sole practitioner (with no other attorneys on staff and no administrative staff) may also act as AMLCO and MLRO? And, if yes, would there be a requirement for a DMLRO?

88. **6 February 2020**: On 6 February 2020, CILPA:

(1) ratified adoption of revised CARA regulations (having been circulated for review and adopted unanimously by CILPA's executive council on 25 January 2020);

(2) proposed adoption of amended CARA Regulations; and

(3) amended CARA Regulations approved confirmed and ratified in all respects.

89. **6 February 2020**: On 6th February 2020, CARA wrote to the Third Petitioner to produce various documents (under r.53A, AMLR).

90. **7 February 2020**: On 7 February 2020, the President of CILPA (Mr. David Collins) wrote to the Second Petitioner acknowledging the Second Petitioner's resignation from CILPA on or before 7 February 2020 and encouraged the Second Petitioner to reconsider resigning from CILPA.

91. **10 February 2020**: On 10th February 2020, the Lead Supervisor for CARA (Hugo Lodge) wrote to the Third Petitioner, explaining that CARA had not received a reply to its correspondence (dated 6th February 2020), as well as attached was a formal Information Requirement (pursuant to rr.55B(c), 55D, 53A(1), AMLR) and a formal Notice to Attend (pursuant to rr.55B(c), 55D, 53A(3), AMLR). The Petitioners note that this was an act by CARA, which threatened (and/or breached) the Third Petitioner's fundamental rights to privacy and property (contrary to ss.9, 15, BoR) even whilst still a member of CILPA and when registered with CARA, as well as being oppressively irrational and unlawful (contrary to ss.19, 24, BoR) and was discriminatory towards a Caymanian sole practitioner (contrary to s.16, BoR).

92. **10 February 2020**: On 10th February 2020, the Third Petitioner responded to CARA by email, explaining concerns that he had with the CILPA-CARA corporate structure (with actual conflicts-of-interest among law firm members who sit on the CARA and CILPA boards and with CILPA board members being from competing law firms representing competing interests) and also explaining that his client had raised two concerns:

(1) permission to share data was required (as a result of data protection restrictions overseas) and he had not received such permission; and

(2) possible sharing of sensitive data and/or confidential client information by CARA with the CILPA board members could lead to a breach of confidentiality and other uncertainties, and (as a result) legal advice would be sought and maybe an application to the Court for directions would be needed to clarify issues, as well as requiring that any conversation with CARA would have to be in the presence of his attorneys.

93. **11 February 2020**: On 11 February 2020, the First Petitioner (along with other ALPA executive council members) sent ALPA LBA to CIG, CILPA and CARA.

94. **13 February 2020**: On 13th February 2020, Jodie Woodward of CARA emailed the First Petitioner requesting his representations concerning the Breach Notice sent to him on 23rd January 2020. The First Petitioner was preparing for litigation, so he did not respond to this request.

95. **14 February 2020**: On 14 February 2020, the Third Petitioner wrote to Ms. Simone Ebanks at the AG's Chambers stating, *inter alia*, the following:

(1) Noting that the Third Petitioner received a letter (date 31 January 2020) from CARA regarding an AMLR supervisory on-site inspection at his business premises, which was requested for arrangements to be made on 17 February 2020.

(2) Noting concerns, however, relating to the structure of CARA and resulting, unresolvable conflicts-of-interest.

(3) Noting a risk of breach of confidentiality by CARA in respect of sensitive client information, which CARA aims to gather on inspections of small law firms.

(4) Thus, as a result of these risks (*i.e.* unresolvable conflicts-of-interest and breach of confidentiality), as well as data protection concerns, the Third Petitioner forwarded his documents requested by CARA to the AG (and AG's Chambers) for the purposes of confirming that he has AML policies and procedures in place.

(5) The Third Petitioner, *inter alia*, does not handle client money and services are primarily related to formation of Cayman investment funds upon receipt of instructions from Cayman Islands regulated services providers, which conducts all KYC checks.

(6) The Third Petitioner currently has three active clients, one of which was being on-boarded at that moment.

(7) The rest covered concerns, in detail, relating to:

(a) CILPA-CARA corporate structure lacking independence of the CARA on its boards;

(b) conflicts of interest, where CILPA's board has partners from competing law firms, and there was not adequate comfort as to how conflicts are dealt with, and risk of abuse, especially against sole practitioners;

(c) breach of confidentiality, where CILPA board members might have access to information collected by CARA, especially concerning that one law firm, who has a member on the board of CILPA who was recently involved in court proceedings relating to breach of confidentiality;

(d) Chinese walls not being able to potentially prevent tipping off by a CILPA board member, where CARA is investigating a law firm;

(e) data protection breaches, were concerning relating to sensitive client information, and one client was subject to data protection legislation in another jurisdiction; and

(f) although claiming to be independent, CARA is, *inter alia*, not independent and is riddled with unresolved conflicts-of-interest.

96. **14 February 2020**: On 14 February 2020, the First Petitioner attended an AML conference at the Ritz Carlton. At the lunch break the AG came over, where, *inter alia*, the First Petitioner and the AG exchanged pleasantries. The AG noted that he received the ALPA LBA (to which the Petitioners were both signatories) and, *inter alia*, the AG said that litigation was not going to be necessary. The Petitioner responded that, if that was so, then please put it in writing and/or take the necessary action for that to be the case.

97. **16 February 2020**: On 16 February 2020, the First Petitioner wrote to the AG noting, *inter alia*, that the AG's letter (dated 11 December 2019) created legitimate expectations and requested written responses to past attached correspondence (7 October, 22 November and 30 December 2019) pursuant to the AG's obligation to provide written reasons (pursuant to s.19(2), BoR). Therein, the First Petitioner wrote, *inter alia*, the following:

    (1) The First Petitioner wrote to the AG based on a short dialogue that they had (on 14 February 2020 at an AML conference) and the First Petitioner was writing to the AG based on the AG's contention that litigation would not be necessary (and in a good faith effort to direct the AG's attention to what is in line with the rule of law and what is in the best interest of the Cayman Islands and legal profession);

    (2) The First Petitioner requested responses to all correspondence, which no written responses had been provided (pursuant to s.19(2), BoR);

    (3) The First Petitioner requested the AG consider whether it was believed that the AG answered questions and/or made statements in Finance Committee (on 22 November 2019) that were accurate and completely truthful and/or whether the AG might (upon reflection) be incorrect;

    (4) The First Petitioner asked the AG to consider his position thoroughly before responding;

    (5) The First Petitioner also asked the AG to indicate whether (or not) the AG believed that the Hon. Premier, the CIG (particularly Cabinet) and the AG (himself) had fully and consistently (in relation to this matter) been acting in the best interests of the Cayman Islands; and

    (6) The First Petitioner thanked the AG, in advance, for the AG's kind attention and focus in fulfilling his Constitutional responsibility, as well as noting that the First Petitioner hoped that the right decisions could still be made and could satisfactorily still be taken to avoid litigation.

    To date, the AG has still not responded to the First Petitioner's e-mail (on 16 February 2020) requesting a written response(s) in breach of the AG's Constitutional responsibility (contrary to s.19(2), BoR), which has now contributed to the present litigation, which might have been avoided by open and transparent dialogue.

98. **17 February 2020**: On 17 February 2020, the AG's Chambers wrote to the Petitioners requesting an extension to respond to LBAs (specifically the ALPA LBA) from the First Petitioner and Second Petitioner (along with other members of ALPA, who are also members of its executive council).

99. **17 February 2020**: On 17 February 2020, the First Petitioner sent responses conditioning such extension on, *inter alia*, undertaking that CARA will cease enforcement action, which it was hoped might lead to an eased atmosphere and potential environment for issues to be discussed with an aim towards settling this matter before proceedings were actually issued.

100. **17 February 2020**: On 17th February 2020, the Third Petitioner emailed CARA with his further explanations.

101. **18 February 2020**: On 18th February, Jodie Woodward of CARA emailed the Third Petitioner attaching correspondence as follows:

    (1) CARA's enforcement policy;

(2) a formal Breach Notice for Failing to Facilitate an On-Site Visit, Failing to Provide Documentation Requested and Failing to Attend CARA; and

(3) a formal Breach Notice for proposed minor fines (pursuant to rr.55B(c), 55D, 55ZC, AMLR) for CI$15,000.

102. **18 February 2020**: On 18th February 2020, the Third Petitioner emailed Jody Woodward of CARA, to explain in effect the following:

(1) since he's not a CILPA member, the documents requested by CARA were forwarded to the AG;

(2) the reasons for forwarding were due to glaring conflicts-of-interest between the boards of CILPA and CARA, risk of breach of client confidentiality by members of CILPA's board (made up of competing law firms, including partners) and data protection concerns raised by his clients;

(3) it was unclear how CILPA (and its subcommittee were being funded: including whether this was being done by any competing law firms or their partners);

(4) explaining that this information will be aired publicly to educate the general public of the lack of independence with the CILPA/CARA corporate structure and related matters;

(5) emphasizing the importance of making the general public aware of what this means for the continuity of small Caymanian law firms, which are now directly or indirectly subject to unlawful "regulation" by CARA; and

(6) expressing his desire to join any relevant legal action being pursued by other small Caymanian law firms in connection with this conflicted, non-independent CILPA/CARA structure purporting to act as an independent AML regulator.

103. **18 February 2020**: On 18 February 2020, the First Petitioner wrote to the AG noting, *inter alia*, that his letter (dated 11 December 2019) created legitimate expectations and requested written responses to past attached correspondence (on 7 October, 22 November and 30 December 2019) pursuant to the Constitutional obligation to provide written reasons (pursuant to s.19(2), BoR).

104. **21 February 2020**: On 21 February 2020, the First Petitioner wrote to the AG (copying in Cabinet Secretary, CILPA and CARA) pointing out, *inter alia*, the following:

(1) actual and/or threatened breaches of Constitutional rights and freedoms (contrary to ss.9, 12, 15, 19, BoR, taken together with s.16, BoR) and that the Petitioners will be seeking damages (taking into account all the circumstances of the case and that the award is necessary to afford just satisfaction to the Petitioners);

(2) r.55M of the AMLR appeared to threaten and/or breach s.9 of the BoR, especially pertaining to protection of LPP;

(3) highlighting that there were grave concerns about CILPA's and CARA's boards, where commercial competitors sitting thereon had inescapable conflicts-of-interest, and the "Chinese wall" (created as an information barrier) between CILPA and CARA that is inadequate for protecting CPI that reasonably anticipates—when informed of the relevant facts—the existence of risk/danger of breach, disclosure, prejudice and/or mischief;

(4) therefore, the dangers to the LPP and "Chinese wall" concerns are fundamental defects and this condemns the entire self-regulatory AML compliance monitoring regime—as now conceived and being implemented with CILPA having a role (and CARA having a disputed role) in this self-regulatory scheme—from ever being viable and satisfactory;

(5) highlighting that there were grave concerns about anti-trust issues, which were not safeguarded in the Cayman Islands; and

(6) it appeared that unlicensed practice of Cayman Islands law by lawyers in other jurisdictions had not been addressed and that this appeared to be one of (if not the largest) exposures of the Cayman Islands with respect to AML regulation.

105. **25 February 2020**: On 25 February 2020, CARA provided its response to the Petitioners LBA—and (that same day) the First Petitioner and PSG responded confirming receipt;

106. **25 February 2020**: On 25 February 2020, CILPA wrote to ALPA notifying that it required a short extension. Later that same day (25 February 2020) the First Petitioner confirmed receipt of CILPA's e-mail, but the First Petitioner did not grant any extension to CILPA.

107. **25 February 2020**: On 25 February 2020, the AG's Chambers wrote to the Petitioners explaining that the AG was traveling and would not be back until 27 February 2020, at which time the AG would then communicate with the Petitioners.

108. **2 March 2020**: On 2 March 2020, CILPA wrote to the Petitioners responding to the Petitioners LBA and (later that same day) attached scanned documents as attachments to CILPA's earlier response letter.

109. **3 March 2020**: On 3 March 2020, the First Petitioner wrote CILPA confirming receipt of CILPA's response to the Petitioners' LBAs.

110. **4 March 2020**: On 4 March 2020, PSG wrote CILPA confirming receipt of CILPA's response to the Petitioners LBA.

111. **On 9 March 2020**: On 9 March 2020, the First Petitioner and Second Petitioner received the AG's response letter (in hard copy) to the Petitioners LBA, which were dated 6 March 2020.

112. **16 March 2020**: On 16 March 2020, Ms. Woodward (on behalf of CARA) wrote the Petitioners, providing Fine Notices as follows:

(1) to the First Petitioner (erroneously of Orren Merren & Co) for CI$58, 500; and

(2) to the Second Defendant for CI$58,500.

113. **24 March 2020**: On 24 March 2020, CARA provided a Fine Notice to the Third Petitioner for $15,000.

114. **24 March 2020**: On 24 March 2020, the Third Petitioner wrote to Ms. Woodward (of CARA) and stated, *inter alia*, the following:

(1) Noting that the Third Petitioner had received CARA's email (dated 24 March 2020) purporting to impose a fine in connection with a request for an inspection of his client records;

(2) As Ms. Woodward was aware, notwithstanding any purported delegation by CILPA of AML supervisory functions to CARA, CILPA retains the ultimate responsibility for discharge of such purposed AML functions—this meant that CILPA has ultimate supervision over the said subcommittee of CARA and must supervise the delegation from time to time to confirm whether the delegation remains appropriate;

(3) For clarity and for CARA's records, the Third Petitioner is not opposed to supervision of AML processes for lawyers (conducting 'relevant financial business') by an independent statutory authority authorized under the PAL;

(4) To demonstrate the Third Petitioner's commitment to compliance with the Cayman Islands AML regime, he emailed Ms. Woodward (on 28 February 2020) stating, *inter alia*, the following:

"the documents requested by CARA as a CILPA subcommittee were forwarded to the [AG] on 14 February 2020. The reasons for forwarding to the [AG] are the glaring conflicts of interest between the board of CILPA and CARA as its subcommittee directly employed by the CILPA board (made up of competing law

firm partners) and data protection concerns raised by clients. Further, it [was] unclear how the CILPA subcommittee [was] being funded i.e. whether by competing law firms or their partners."

(5) The above-mentioned conflicts-of-interest appear to remain unresolved, the proposed AML infrastructure for lawyers continues to lack independence. Also, possible tipping-off in the future by the said subcommittee to competing law firms (thereby breaching the Cayman Islands AMLR) remains a concern.

(6) Possible data protection breaches and possible breaches of client confidentiality by CARA are also disturbing to contemplate, given the forgoing.

(7) In fact, the purported infrastructure is likely to result in "fishing expeditions" of small Caymanian law firms and the eradication of their businesses in favour of large law firms, whose representatives sit on the boards of CILPA (of which CARA is a subcommittee).

(8) In the absence of detailed directions from the AG's office, the Third Petitioner put the subcommittee (CARA) on notice that clarification, directions or other action will be sought through the courts.

(9) For CARA's records, the Third Petitioner attached his resignation from CILPA (dated 11 February 2020), which required:

(a) CILPA to immediately discontinue to use his data (personal or otherwise) for any and all purposes and to immediately delete all of his information from all records;

(b) this included any records or information held by any subcommittee of CILPA; and

(c) the Third Petitioner trusted that CARA will comply with the requirements of the data protection legislation and guide itself accordingly.

115. **14 April-May 2020**: On 14 April 2020, the First Petitioner and Second Petitioner filed leave to appeal administrative fines and for judicial review (with supporting affidavit, draft order, listing form and table of contents). Starting from April and leading into May 2020, the First Petitioner (Cause No. G 70 of 2020) and the Second Petitioner (Cause No. G 72 of 2020) filed Appeals to the administrative fines from CARA and, the First Petitioner's action was an amalgamation of an Appeal and Judicial Review. The First Petitioner has also received a stay on enforcement action by CARA (on behalf of CILPA), so that such CARA's actions should cease in order for legal action to be the determining factor in this matter.

116. **Failure to Provide Written Reasons (s.19(2), BoR) and Non-Fulfilment of Legitimate Expectations (s.15, BoR)**: The Petitioners aver that the failures to respond by the following respondents to the following Petitioners breached the governmental responsibility to provide written reasons (contrary to s.19(2), BoR) as follows:

(1) AG's failure to respond to Orren Merren (from 30 August 2019), although creating a "legitimate expectation" to Orren Merren (which he and his son, the First Petitioner, have relied upon to their detriment);

(2) The Premier's failure to respond to the First Petitioner (from 7 October 2019);

(3) CARA's failure to respond to the First Petitioner (from 22 November 2019), although creating a legitimate expectation on 11 December 2019 (protected under s.15, BoR), which was relied upon by the First Petitioner and the Second Petitioner to their detriment, but was irrationally never fulfilled (contrary to s.19, BoR).

(4) AG's failure to respond to ALPA (from 2 December 2019);

(5) AG's failure to respond based on undertaking to do so and having created "legitimate expectation" in favour of ALPA (from 11 December 2019), which the First Petitioner and the Second Petitioner,

who were members and/or executive council members of ALPA, did not issue an LBA and/or legal proceedings sooner, and, in particular, the First Petitioner, who was in the process of finalizing a draft letter before action (personally on his behalf), which (if the First Petitioner did not get word of the AG's letter by 18 December 2019) the First Petitioner was aiming to send to CILPA, CARA and the CIG (particularly going after the AG, Cabinet and the LA) pertaining to the matter herein, but the legitimate expectations were not fulfilled (contrary to ss.7, 15, 19, BoR);

(6) AG's failure to respond to the First Petitioner (from 30 December 2019);

(7) AG's failure to respond to the First Petitioner (from 16 February 2020);

(8) AG's failure to respond to the First Petitioner (from 21 February 2020);

(9) CILPA's failure to respond to the ALPA LBA (by 25 February 2020—not received until 6 March 2020 via e-mail); and

(10) AG's failure to respond to the ALPA LBA (by 25 February 2020—not received until 9 March 2020 in hard copy, although dated 6 March 2020).

117. The "legitimate expectations", which were created in favour of certain Petitioners (and/or Attorneys) and protected (under s.15, BoR), were breached by non-responsiveness and/or inaction taken (contrary to s.19(2), BoR) and/or done in a discriminatory manner against Caymanian sole practitioners and small law firms (contrary to ss.1(2)(a), 16, BoR), which has led to the threat and/or breach of the Petitioners' constitutional rights:

(1) privacy and property rights (contrary to ss.9, 15, BoR);

(2) freedom of association (contrary to s.12, BoR);

(3) as well as being oppressively irrational, disproportionate, procedurally unfair and unlawful (contrary to ss.19(1), 24, BoR); and

(4) which was all done with discriminatory treatment towards Caymanian sole practitioners and Attorneys in small law firms (contrary to ss.1(2)(a), 16, BoR).

Part F: General Issues of Constitutional Importance

118. **The Court's Supreme Constitutional Eye of Justice**: The Petitioners aver that (just like the Court's 'eye of equity') the Court's *all seeing* ***Supreme Constitutional Eye of Justice*** is not prevented from focusing on the real activities and true nature of relationships (as well as identifying the resulting detrimental consequences flowing therefrom) and now the Court's "eye" requires sharp focus in order to prevent stultification of the Constitution (pursuant to s.26, BoR in accordance with ss.23, 24, 25, BoR) and to protect Constitutional Supremacy that obtains in the Cayman Islands (pursuant to s. 59(2), Constitution and in accordance with s.44(4), Constitution). (our emphasis added)

119. The Petitioners assert that this is important, because, in the Cayman Islands, where Constitutional Supremacy obtains (pursuant to s.59(2), Constitution and in accordance with s.44(4), Constitution) and the Supreme Law may not be stultified and the rule of law subverted (pursuant to s.1(2)(a), BoR; s.107, Constitution), unless justified by the Constitution itself, because this is significantly different from the UK, where Parliamentary Supremacy obtains and where the Parliament is supreme and can more forcefully infringe the unwritten Constitution without stultifying the rule of law.

120. The Petitioners contend that this is an even more important differentiation between English law (founded on Parliamentary Supremacy) and Cayman Islands law (founded on Constitutional Supremacy, which is premised on the Constitution's BoR being a cornerstone of democracy, under s.1(1), BoR), and the significance of Brexit, which may influence the situation even more so in the UK, which appears to strengthen the Parliamentary Supremacy principle even more so in English law.

121. **Stultification of Constitutional Rights and Freedoms (s.26, BoR)**: The Petitioners aver that their Constitutional rights and freedoms have been threatened and/or breached (contrary to ss.7, 8, 9, 12, 15, BoR), which stultifies (and thus makes a fool of) the Constitution, and have brought this Constitutional action on that basis (pursuant to s.26(1), BoR). The Petitioners assert that it is imperative that Constitutional Supremacy is respected and observed (in accordance with s.59(2), Constitution) and that the Constitution, which is the Supreme Law of (and BoR is the cornerstone of democracy in) the Cayman Islands (pursuant to s.59(2), Constitution; s.1(1), BoR), is not stultified.

122. **Incompatibility Stultifies the Constitution's BoR—Incompatibility of Legislation (ss.23, 25 BoR) and Unlawful Decisions/Acts (s.24, BoR)**: The Petitioners aver that there are provisions in the AMLRs (specifically rr.53A, 55G-55H, 55L, 55M, 55R-55ZK, AMLR) that are incompatible with the BoR (specifically incompatible with ss.7, 9, 12, 15, BoR) and the Petitioners seek, *inter alia*, declarations of incompatibility (pursuant to s.23(1), BoR), where Cabinet and/or the LA have stultified the Constitution's BoR.

123. And, the Petitioners aver that, where CILPA, CARA, the LA and/or Cabinet (and/or the AG and/or the Premier) have made unlawful decisions and/or acted unlawfully in a way that is incompatible with the BoR (under s.24, BoR and has thus stultified (and made a fool of) the Constitution (contrary to ss.1(1)-(2)(a)-(b), BoR), which is the Supreme Law of (and the BoR which is the cornerstone of democracy in) the Cayman Islands (pursuant to s.59(2), Constitution; s.1(1), BoR).

124. **Pyramid of Unconstitutional Factors—The *Coe v Governor* Version (s.26, BoR)**: The Petitioners aver that a **pyramid** can be **constructed** in which, **at the base**, threats and/or breaches to their (standalone actionable fundamental rights and freedoms) primary unconstitutional factors (such as, ss.7, 8, 9, 12, 15, BoR) are the **reasons why**, **higher up**, there is a *prima facie* basis for bringing this Constitutional action (pursuant to s.26(1), BoR) and also why the parasitic (non-standalone actionable) secondary unconstitutional factors (such as, ss.16, 19, 23, 24, BoR) become applicable in an auxiliary fashion, which is then the **master reason why**, **higher up still**, such infringements stultify (and make a fool of) the Constitution (as there being an absence of a Constitutional basis to reasonably justify the threatened or breached Constitutional rights or freedoms, pursuant to s.24, BoR), for which the Court may grant relief and/or a remedy (under s.27(1), BoR) and/or award damages (under s.27(2), BoR).

125. The Petitioners contend that this pyramid of unconstitutional factors formula accords with the conventional *Coe v Governor* view, but there will be a boarder principle argued ultimately below. The Petitioners further assert that the pyramid-structure (or the question-structure below) will work, in most scenarios, with a surgical simplicity. The Petitioners assert that the pyramid of construction provide clean rational and logical map of the law pertaining to Constitutional action (pursuant to s.26, BoR) and provide an orderly way of working through such matters in future situations.

126. The Petitioners assert, *inter alia*, the pyramids could be reconstructed in the form of a set of questions, in which if an answer to the question unlocks the ability to move onward to the next question (at a higher level in the pyramid). The Petitioners aver that, whether employing either the pyramid-structure or the question-structure, this provides a road map for intelligible analysis of Constitutional action matters, which works with a surgical simplicity.

127. **Questions-Structure—Restructuring Pyramid of Unconstitutional Factors**: For an example of the pyramid of unconstitutional factors can be restructured via the questions-structure, this can be re-formulated in this form of questions:

    (1) Does a primary unconstitutional factor (such as ss.2-19, BoR) appear to be infringed? If so, a Constitutional action may be brought without the need for judicial review first (contrary to s.24, BoR, pursuant to s.26(1), BoR) pursuant to s.26(1), BoR). Then, move on to the next question.

    (2) Has there been a threatened or breached Constitutional right or freedom enshrined in the BoR? If so, there is a *prima facie* action made out by the Petitioner (under a Petition) or (Plaintiff under a

Writ) and (if applicable) there is freedom to include any parasitic secondary unconstitutional factors into the analysis? Then, the move on to the next question.

(3) Does the Respondent (under a Petition action) or Defendant (under a Writ action) have a Constitutional justification for the infringement (or some defense, which holds good)? If so, then the analysis is complete and the Petitioner's/Plaintiff's action fails on that point, but, if no, then move on to the next question.

(4) What relief or remedies are available? Consider any applicable sub-questions for relief or remedies, as follows:

(a) Has a right or freedom under the BoR been threatened or breached? If so, then relief/remedy/order (*e.g.* declaration, prohibition, injunction or quashing) may be available (pursuant to s.27(1), BoR). And, if so, if (taking into account all of the circumstances of the case) the Court is satisfied that an award of damages is necessary, then damages may be awarded (pursuant to s.27(2), BoR).

(b) Has the incompatibility of legislation been questioned? If so, then is it possible to interpret the legislation in a manner, where it can be read and given effect to in a way compatible with the rights or freedoms in the BoR? If so, then such interpretation will be applied by the Court (under s.25, BoR); but, if no, then a declaration of incompatibility will be made (pursuant to s.23(1), BoR).

(c) If legislation has been declared incompatible with the BoR, then is it primary legislation or subordinate legislation? This is important, because, if it is primary legislation, then was there an unlawful decision or act (or failure to act) under which the route the legislation was declared incompatible (under s.24, BoR), or was it a pure declaration of incompatibility (under s.23(1), BoR)?

128. And, if a declaration of incompatibility is applicable (under s.23(1), BoR), is it primary or subordinate legislation? If primary legislation, then the LA will have to decide how to remedy the incompatibility; but, if secondary legislation, then the Court may grant relief (under s.27(1), BoR), such as a quashing order or injunction or prohibition order.

129. **Pyramid of Incompatible Legislation**: The Petitioners aver that a **pyramid** can be **constructed** in which, **at the base**, where (primary or subordinate) legislation is found to be incompatible with the BoR (under s.23 BoR), **becomes the reason why**, **higher up**, if the compatibility of (primary or subordinate) legislation with the BoR is unclear or ambiguous, and cannot be read and given effect in a way that is compatible with the BoR (under s.25, BoR), **which is then the master reason why**, **higher up still**, the legislation *prima facie* stultifies the Constitution's BoR and the Court **must** make a declaration of incompatibility, specifying where the legislation is incompatible with the relevant section(s) of the BoR and the nature of incompatibility, (pursuant to s.23(1), BoR) and may **quash** incompatible **subordinate legislation** (pursuant to s.27(1), BoR, in accordance with ss.23, 25, BoR), but the **LA** shall decide how to **remedy** incompatible **primary legislation** (pursuant to s.23(2)-(3), BoR).

130. **Governmental Responsibilities and Corresponding Constitutional Rights (s.19, BoR)**: The Petitioners aver that, even if they were only arguing lawful administrative action (pursuant to s.19, BoR), this matter exemplifies the **reason why** and requires sharp focus by the Supreme Constitutional Eye of Justice, because this is necessary to ensure the integrity of the three branches of government (executive, legislative and judicial), so that the Supreme Law is not being stultified and not to make a fool of the Constitution in the Cayman Islands.

131. The Petitioners aver that the '*Bill of Rights, Freedoms and Responsibilities is a cornerstone of democracy in the Cayman Islands*' (pursuant to s.1(1), BoR). The Petitioners further aver that the

BoRs '*confirms or creates certain responsibilities of government and corresponding rights of every person against the government*' (pursuant to s.1(2)(b), BoR).

132. As such, the Petitioners aver that s.19, BoR requires recognition for what it is, which is a governmental responsibility with a corresponding right (pursuant to s.1(2)(b), BoR) of the Petitioners (and all Attorneys), who have been adversely affected by (unlawful, oppressively irrational, disproportionate and/or procedurally unfair administrative action, pursuant to s.19(1), BoR) by a public official's decision or act (including failure to act, pursuant to s.28, BoR).

133. The Petitioners assert that the Constitution provides that any Attorney '*has the right to request and be given written reasons for that act or decision*' (pursuant to s.19(2), BoR), especially where they have exercised their Constitutional right to request and be provided written reasons for such acts and/or decisions (pursuant to s.19(2), BoR), which are important questions and information pertaining to the integrity of the legal profession.

134. The Petitioners, therefore, aver that, *inter alia*, the Constitutional right to lawful administrative action (under s.19, BoR) is a fundamental human right and upholds the rule of law (enshrined in s.1(2(a), BoR), which merits being placed at the base of the (above-mentioned at paragraph 121) pyramid of unconstitutional factors with the other primary unconstitutional factors (such as, ss.7, 8, 9, 12, 15, BoR).

135. The Petitioners aver, *inter alia*, that there is need for clarification by the Court to make a choice as to whether it is better to invite litigation more frequently, where only governmental administrative responsibilities are threatened or breached. In that scenario, litigants are required to bring judicial review proceedings (pursuant to GCR. O53) within three months, instead of attempting to notify government of such issues in order to attempt to have them corrected.

136. And, although this Petition alleges threats and breaches to human rights and freedoms in the BoR, this matter is a good illustration of Petitioners, who did attempt to avoid litigation to their potential detriment. Reason being, attempting to engage government and wait for answers and/or action affecting change can delay time and run out limitation period in which to challenge (especially if no human rights and freedoms were threatened or breached, because the "exclusivity principle" provides for judicial review action).

137. The First Petitioner's efforts writing to Respondents, in seeking to highlight defects with the AML regime, are as follows:

(1) On 7 October 2019, the First Petitioner wrote to the Premier (copying in the AG) seeking to point out that non-members of CILPA were not required to register with CARA for AML regime monitoring, because there was an absence of legal basis to do so, and that only CILPA members were bound, but that the First Petitioner was (at that time) open to a public body (such as, the FRA) to monitor AMLR-compliance;

(2) On 30 December 2019, the First Petitioner wrote to the AG:

(a) to point out fundamental defects, grave concerns and suggest solutions to be discussed, where the AG had created a "legitimate expectation" (protected under ss.7, 15, 19, BoR) to engage on ventilating views in his letter (dated 11 December 2019); and

(b) the First Petitioner relied upon, to his detriment (contrary to ss.7, 15, BoR), which there appears to have bee discriminatory non-responsiveness by the AG (contrary to ss.19(1)-(2), BoR taken together with ss.1(2)(a), 16, BoR);

(3) On 22 November 2019, the First Petitioner wrote to Ms. Guile (on behalf of CARA), wherein members of the LA and the Cabinet were copied in, explaining, *inter alia*, the following:

(a) that CILPA was a private sector association purporting to act as a self-regulatory body, which could only bind CILPA members, not non-members; and

(b) that (if the LA passed the LPAB deeming Attorneys to be CILPA-members for AML regime monitoring purposes, it would breach Attorneys'(who were not CILPA members) freedom of association or non-association (contrary to s.12, BoR);

(4) On 16 February 2019, the First Petitioner wrote to the AG (via e-mail) stating:

(a) legitimate expectations were created (protected under ss.7, 15, BoR) by the AG's letter (dated 11 December 2020) and requested written responses to attached past correspondence (on 7 October, 22 November, 30 December 2019), pursuant to the AG's obligation to provide written reasons (pursuant to s.19(2), BoR), but the AG did not respond; and

(b) since, the AG created a legitimate expectation (protected under ss.7, 15, BoR) at an AML conference at the Ritz Carlton (on 14 February 2020, where the AG told the First Petitioner, *inter alia*, that he received the ALPA LBA (to which the First Petitioner and Second Petitioner were parties) and that litigation would ultimately not be necessary;

(5) On 21 February 2020, the First Petitioner wrote to the AG (copying in CILPA, CARA and the Cabinet Secretary), explaining, *inter alia*, that:

(a) there were threats and/or breaches to Constitutional rights and freedoms (including ss.9, 12, 15, 19, BoR);

(b) there were inescapable conflicts-of-interest among commercial competitors sitting on CILPA's board (and/or CARA's board), which could not be cured or overcome;

(c) LPP was threatened and/or breached;

(d) the Chinese wall (as an information barrier) between CILPA and CARA—when informed of the facts—reasonably anticipated a danger of risk of breach, disclosure, prejudice and/or mischief (particularly to CPI);

(e) there were grave concerns about anti-trust issues, which were not safeguarded in the Cayman Islands, but that were threatened by the CILPA-CARA self-regulatory AML regime; and

(f) it appeared that unlicensed practice of Cayman Islands law by lawyers in other jurisdictions had not been addressed and that this appeared to be one of (if not the largest) exposures of the Cayman Islands with respect to the AMLR regime;

(6) if litigation was commenced, the First Petitioner (as well as his colleagues) would be seeking damages.

However, the First Petitioner did not irrationally and unlawfully (pursuant to ss.19(1), 24, BoR) receive a response to any of the above correspondence (contrary to s.19(2), BoR), where it appears to have been a product of discriminatory treatment against Caymanian sole practitioners, who (because there was no legal basis to do so) chose to not be a member of CILPA and not register with CARA (contrary to ss.1(2)(a), 16, BoR).

138. The Petitioners aver, *inter alia*, that the above-mentioned failures to respond (pursuant to s.19(2), BoR) were decisions or acts, including failure to act (pursuant to s.28, BoR), which ultimately led to the First Petitioner's Constitutional rights and freedoms being threatened and/or breached (contrary to ss.7, 8, 9, 12, 15, **19**, **24**, BoR, taken together with ss.1(2)(a), 16, BoR).

139. The Petitioners aver, *inter alia*, that owing to the government's non-responsiveness, in the future, rather than try constructively to engage government (or public official or purported public officials), because seeking to constructively engage in communication would be running out important time

limits, but instead working to prepare (such as, research and drafting documentation) for legal proceedings.

140. The Petitioners aver that this requires clarification as to whether the Cayman Islands is a democratic society that invites a litigation-trigger-finger-happy environment, or whether there is fair middle ground, especially since codified judicial review grounds are enshrined in s.19(1), BoR, and seek the Courts consideration of this point.

141. **Litigation Could Have Been Avoided**: The Petitioners aver that where professionals (such as, Attorneys) are trying to communicate with the CIG (whether it be Cabinet, the LA, the AG, the Premier and/or any other public official), it is important that they are not ignored and are provided substantive reasons for their decisions or acts (under s.19(2), BoR), which would (or has) adversely affected the Petitioners; then, the Petitioners assert that such **non-responsiveness invites litigation**, whereas **proper engagement** with the Petitioners, who are all Caymanian citizens, practicing as sole practitioners (specifically the First Petitioner and the Third Petitioner) and/or in a small law firm (specifically the Second Petitioner), **may have very well assisted in avoiding this litigation.**

142. The Petitioners assert, *inter alia*, that meaningful communication with the legal profession is integral to the sanctity and integrity of the justice system of the Cayman Islands (pursuant to s.15, BoR), as well as to good governance (in accordance with ss.19, 23, 24, BoR). The LA and the Cabinet '*shall uphold the rule of law and judicial independence*' (pursuant to s.107, Constitution), which ensures that the judiciary is an independent branch of government, with a duty aimed at ensuring that the administration of justice and the rule of law are upheld in the Cayman Islands, which is the obligation of the Courts to act as a check and balance on the legislative (LA) and executive (Cabinet) branches of government. The Petitioners, therefore, aver that, as a fulfilment of the judicial branch of government's obligations, it is imperative to ensure that lawyers in the Cayman Islands have the tools they needs, which ensures that the judiciary has a live and vibrant amount of lawyers available, who the judiciary engages in administering justice and ensuring that the rule of law is upheld.

143. The Petitioners further aver, *inter alia*, that the AG's non-responsiveness (contrary to s.19(2), BoR) to pertinent issues raised by ALPA in correspondence (on 27 August and 2 December 2019) and the First Petitioner's correspondence (on 7 October, 22 November, 30 December 2019 and on 16 February, 21 February 2020), which have all not been responded to by the AG (or by the Premier to the First Petitioner's e-mail on 7 October 2019) and have significantly contributed to creating distrust of the Cabinet (especially the AG) and are (in part) contributing factors to this Constitutional action.

144. The Petitioners contend that the same applies to Mr. Wight's and Ms. Conolly's non-responsiveness (on behalf of the LA) to the First Petitioner request to meet in order to explain his grave concerns about the AML regime and without providing reasons (contrary to s.19(2), BoR), which was irrational (contrary to s.19(1), BoR). The Petitioners, therefore, assert that the definition of an "act" includes "failure to act", excluding '*failure to introduce before the Legislative Assembly, or for the Legislature to enact the primary legislation*' (pursuant to s.28, BoR).

145. The Petitioners further aver that Mr. Wight's non-fulfillment of the legitimate expectation he created (specifically a **reliance expectation**) that he and Ms. Connolly would meet with the First Petitioner and listen to his concerns (contrary to ss.1(1)-(2), 7, 15, 19(2), 28, BoR) and the First Petitioner's ***per se*** legitimate expectation that he should be able to meet with the members of the LA, who is responsible for his constituency as a registered voter of GTS (contrary to s.15, BoR).

146. The Petitioners aver that, *inter alia*, such failure to respond or even acknowledge receipt (pursuant to ss.19(2), 28, BoR) was oppressively irrationally, disproportionate, procedurally unfair and unlawful (contrary to ss.19(1), 24, BoR), which has ultimately led to (or, at least, significantly contributed to) them receiving administrative fines threatening and/or breach of the following:

(1) privacy and property rights (pursuant to ss.9, 15, BoR) protecting CPI and ARGW;

(2) right to a fair trial (pursuant to s.7, BoR);

(3) freedom of association (pursuant to s.12, BoR), where CARA (on behalf of CILPA) were attempting to require them to register with CARA *sine causa*, but the Petitioners, who were not members of CILPA and/or had resigned from CILPA, had no legal obligation to register;

(4) this also threatens their personal liberty were criminal charges to follow (contrary to s.5, BoR); and

(5) which has all been discriminatory towards targeted Caymanian sole practitioners and small law firms (pursuant s.16, BoR), who choose not to be members of CILPA and/or not to register with CARA.

147. **Importance of Strict Adherence to the Constitution and Necessity Not to Dilute Attorneys' Constitutional Rights, Freedoms and Privileges (LPP)**: The Petitioners further aver that the Supreme Law '*affirms the rule of law and democratic values of human dignity, equality and freedom*' (pursuant to s.1(2)(a), BoR) and thus LPP and confidentiality obligations (protected under s.9, BoR), as well as commercially sensitive information/documentation (protected under ss.9, 15, BoR) and the Petitioners' ARGW of their legal practices (protected under s.15, BoR).

148. The Petitioners aver that a "*legal representative*" means '*a person entitled to practice in the Cayman Islands as an attorney-at-law*' (pursuant to s.7(12), BoR), and the Court is **empowered to exclude** from '*proceedings **persons other than the parties** to them and their legal representatives to the extent as the court...**may be empowered by law to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice**, or in interlocutory proceedings,..or the **commercial confidence or of the private lives** of persons concerned in the proceedings*' (pursuant to s.7(10)(a), BoR).

149. The Petitioners further assert that the Supreme Law also guarantees them a Constitutional right to lawful, rational, proportionate and procedurally fair decisions and acts of public officials (pursuant to ss.19, 24, BoR), and freedom to associate or not to associate, which is important to independence of the Cayman Islands' Bar and reflects the Cayman Islands not having the 'cab-rank rule' (protected under s.12, BoR), as well as fundamental the necessity of ensuring that all have a right to a fair trial (pursuant to s.7, BoR) and right to no punishment without law (pursuant to s.8, BoR), which is evidence of "*a cornerstone of democracy in the Cayman Islands*" (pursuant to s.1(1), BoR) that must be preserved, so that the Petitioners (and Attorneys) have the tools they need to do their job, which have been as such from time immemorial and have created legitimate expectations (protected under s.15, BoR).

150. The Petitioners aver that (above all else) Constitutional Supremacy must be respected at all times (as enshrined in s.59(2), Constitution), which also evidences respect for the 'rule of law' (as enshrined in s.1(2)(a), BoR; s.107, Constitution). The Petitioners aver that, to do otherwise, would stultify the Supreme Law and make a fool of the Constitution, the legal profession and every citizen of the Cayman Islands' Constitutional rights and freedoms (that are enshrined in the BoR).

151. The Petitioners assert that Attorneys help protect and enforce private and public rights, freedoms and obligations in the Cayman Islands, which is the hallmark of a democratic society, and it is important that Attorneys have the required rights, freedom, privileges and independence, which are sacred pillars of the legal profession from time immemorial, because there is a legitimate expectation that the Petitioners (and all Attorneys) enjoy (pursuant to s.15, BoR).

152. **Supreme Constitutional Importance of LPP and Confidentiality**: The Petitioners aver that the most sacred of all of these is LPP, which is a fundamental human right, protected as private communications of clients with their attorneys (protected under s.9, BoR). The Petitioners assert that these LPP

principles (protected under s.9, 15, BoR) are protected as legitimate expectations of Attorneys from time immemorial (pursuant to ss.7, 15, BoR).

153. The Petitioners further assert that LPP is a fundamental condition upon which the administration of justice as a whole rests, which guarantees that clients are able to consult their attorneys in confidence for the purposes of ensuring that clients can be completely truthful with their attorneys and to be sure that what the clients tell their attorneys in confidence will never be revealed without their consent (pursuant to s.9, BoR).

154. The Petitioners aver that confidentiality (protected under s.9, BoR) is the handmaiden of LPP, which protects obligations of confidentiality, as well as confidential information itself, and is necessary as a tool for carrying out their legal functions, and which protects the public's faith, trust and confidence in the attorney-client relationship (pursuant to ss.9, 15, BoR). Otherwise, the AMLR-compliance monitoring regime, therefore, threatens to erode confidentiality, which does not amount to LPP, which is protected as a privacy right (pursuant to s.9, BoR).

155. If accountants' commercially sensitive information, which is confidential, is protected as a privacy right (under s.9, BoR, which is confirmed in *Ernst & Young Ltd v Department of Immigration*), then there is no room for arguing that the same does not apply to Attorneys (and even more so at a higher level, which gives them the protection needed to carry out their professional duties).

156. The Petitioners assert that, *inter alia*, CARA's response letter (dated 11 February 2020) to the ALPA LBA (dated 11 January 2020) throws up the point for consideration, as follows:

> *"Paragraph 10 raises an academic objection in respect of Legal Professional Privilege ("LPP"). The point does not arise as CARA has not requested any LPP material. The Applicants are invited to point to any occasion on which they state that CARA has ever requested LPP material, or that they or anyone has ever asserted to CARA that LPP applies in respect of anything requested, or CARA disagreed on its application or otherwise. There is no current point for a Court to decide."*

157. The Petitioners aver that this is one of the reasons that the Third Petitioner did not comply with CARA's requests to provide documentation, attend before CARA nor allow CARA to conduct an onsite investigatory visit, because, otherwise, the Third Petitioner, who is not guilty of criminality nor wrongdoing, would have been diluting his concomitant duty to his clients' cause.

158. The Petitioners aver that there have been requests from CARA, which seek confidential information and/or commercially sensitive information, which LPP may not attach, but which have confidential obligations (protected under s.9, BoR) and (in the proprietary sense, as a right *in rem*) the confidential information itself (protected as under ss.9, 15, BoR).

159. The Petitioners, therefore, further aver that CARA's letter (on 24 March 2020) to the Third Petitioner (on 24 March 2020), when issuing the Third Petitioner an administrative fine of CI$5,000, was that CARA '*ha[d]**not requested** any **confidential information** that may be **covered by** **legal professional privilege***', and CARA, therefore, contended that the Third Petitioner could not rely upon an LPP safeguard (under with r.55L(2), AMLR) to resist confidential information (or personal data, protected under the DPL and ss.9, 15, BoR) when requested (under r.53A(1), (3), AMLR), but CARA did admit (both expressly and by implication) to requesting confidential information (protected under s.9, 15, BoR).

160. The Petitioners vigorously aver that, (on 30 December 2019) the First Petitioner warned the AG about this flaw in the AMLRs (specifically the deficiencies between rr.53A, 55L, 55M, AMLR and its unconstitutionality with s.9, BoR, which was left vulnerable to being declared incompatible under s.23-24, BoR), but the AG has irrationally and unlawfully not responded to the First Petitioner (contrary to s.19(2), BoR) and now a manifestation of the grave concern has now materialized with respect to the Third Petitioner.

161. The Petitioners, therefore, aver, *inter alia*, that rr.55L, 55M of the AMLR do not protect confidential information (to which LPP does not attach) and where a defense of LPP that they also provide a deficient safeguard for the LPP, because if information/documentation was not provided, it could then be obtained through an onsite investigatory visit at business premises, which threatens and/or breaches privacy and property rights (contrary to ss.9, 15, BoR) and it was thus unlawful (contrary to s.24, BoR) as being carried out in a manner which is incompatible with the BoR.

162. **Unconstitutional "Search and Seizure" Provisions (r.55M, AMLR) Incompatible with Privacy Rights (s.9(2), BoR)**: The Petitioners aver that Attorneys require protection for entry, search, seizure and investigation functions from being carried out at their home and/or business premises (pursuant to s.9(2), BoR). The Petitioners aver that regulation 55M of the AMLR (as subordinate legislation) is *ultra vires* section 199A of the PCL (as primary legislation) for being outside the scope of the primary legislation, which is thus oppressively irrational, disproportionate, procedurally unfair and unlawful (pursuant to s.19, 24, BoR); and r.55M, AMLR is incompatible with s.9, BoR (pursuant to s.23, BoR).

163. The Petitioners aver that Constitutional protection against unconstitutional entry, search, seizure and investigation functions (under r.55M, AMLR) are required in order to protect the following:

(1) The Petitioners' client's LPP, which is a fundamental human right, to private communications of clients with their Attorneys and is an absolute right (which is inviolable), that is protected as a privacy right (under s.9, BoR);

(2) The Petitioners' confidentiality obligations owed to their clients (to which LPP does not attach), which is protected as a privacy right (under s.9, BoR);

(3) The Petitioners' clients' confidential information, which does not amount to LPP (including trade secrets and personal data—the latter protected under DPL), that are protected as privacy and property rights (under ss.9, 15, BoR);

(4) The Petitioners' own confidential information (including trade secrets, intellectual property, personal data and commercially sensitive information) protected as privacy and property rights (under ss.9, 15, BoR);

(5) The Petitioners' privacy rights against no search of their person (protected under s.9(2), BoR);

(6) The Petitioners' Constitutional rights against no search of their property (wherever its location is physically stored and/or electronically and/or otherwise), which are protected as privacy rights (under s.9(2), BoR), as well as (in part) as property rights (under s.15, BoR); and

(7) The Petitioners' Constitutional rights against no entry of their homes and/or business premises, which is protected as privacy rights (under s.9(2), BoR), as well as property rights (under s.15, BoR).

164. On 30 December 2019, the First Petitioner wrote to the AG, wherein it was emphasized, *inter alia*, that: "*In another jurisdiction, the AML self-regulatory regimes' 'search and seizure' statutory powers were held to be unconstitutional as applied to lawyers for protection of legal professional privilege.*" The Petitioners aver that, *inter alia*, this is ripe for the same treatment by the Court, especially since the protection afforded under the Constitution in the Cayman Islands is more far reaching and tightly guarded than in many other jurisdictions.

165. The Petitioners contend that there shall be no entry onto business premises of Attorneys, unless by consent or by order of the Court (under s.9(2)-(3)(d), BoR), and only where it is "*reasonably justifiable in a democratic society*" (under s.9(3), BoR).

166. **Draconian AMLRs Threaten to Destroy the Legal Profession**: The Petitioners further assert that to apply the AMLR and its regime to Attorneys so strictly and unreasonably will stultify the Supreme Law of the Cayman Islands and make a fool of the Constitution and of the legal profession.

167. The Petitioners aver that (especially when applied to Attorneys, who are protectors of private citizens' legal rights, obligations and freedoms as aided by the Constitution) the draconian AMLRs are oppressively irrational, disproportionate, procedurally unfair and unlawful (under ss.19, 24, BoR), which was discriminatory to Caymanian sole practitioners and Attorneys in small law firms (pursuant to s.16, BoR), who are less of a threat than the larger multi-jurisdictional law firms, which have a global presence.

168. The Petitioners assert that the decisions and acts of CILPA and/or CARA have already shown that it was an oppressively irrational and unlawful decision and/or act of Cabinet's attempted assignment of AMLR-compliance monitoring responsibility. As will be shown below, this was a failed assignment as concerns the entire legal profession (pursuant to ss.19, 24 BoR), especially in terms of correcting the deficiencies in Cayman's AML regime as highlighted in the recommendations of FATF/CFATF.

169. On 30 December 2019, the First Petitioner drew the following to the AG's attention:

> *"There is a need to have customized AML regulations, which are specifically tailored for the legal profession (whether practicing as a sole practitioner or in a firm of any size and scope, including multi-jurisdiction law firms with a presence in the Cayman Islands). In particular, this calls for a properly appointed statutory AML regulator—which is a '**public body**'—entirely for attorneys and law-firms. That needs a different kind of treatment, separate and apart from the blanket approach of the current 'one size fits all' AML regulatory regime. It is only attorneys, who are conducting '**relevant financial business**' (and are not regulated by CIMA), that may be monitored for AML regulation purposes, and thus regulation of the entire legal profession for AML purposes is not specifically called for based on the 'plain reading' (or ordinary meaning) of the clear statutory language. Thus, as officers of the Court, attorneys, who **do not practice** (or attach to) '**relevant financial business**', should be able to make a written declaration periodically and be taken as answering honestly and honourably, subject to the disciplinary jurisdiction of the court to suspend or disbar for misconduct."*

170. The Petitioners further aver that:

(1) It was even more oppressively illogical and irrational (under ss.19, 24, BoR) for the chosen CILPA-CARA bifurcated corporate model with a "Chinese wall" for protection, which *ipso facto* reasonably anticipates the danger of risk of breach, disclosure, mischief and/or prejudice to CPI (pursuant to ss.9, 15, BoR);

(2) It was further amplified against the backdrop of commercial competitors (specifically attorneys in active practice, some of whom are partners in law firms), who have inescapable conflicts-of-interest that cannot be cured or overcome, sitting on CILPA (and/or CARA) board(s) (pursuant to ss.15, 19, BoR taken together with ss.1(2)(a), 16, BoR);

(3) the other rights and freedoms were infringed in a discriminatory manner towards Caymanian sole practitioners and in Attorneys small law firms (contrary to ss.1(2)(a), 16, BoR), who have chosen not to become members of CILPA and/or not register with CARA, because there was (and still is) an absence of a legal basis to do so (*sine causa*);

(4) neither CILPA nor CARA is Supervisory Authority, because r.55B(c) of the AMLR (as subsidiary legislation) is outside the scope of s.4(9) of the PCL (as primary legislation), which is *ultra vires*, unlawful and void *ab initio* (pursuant to ss.19, 24, BoR); and

(5) threatened and/or breached the Petitioners' constitutional rights and freedoms (contrary to ss.7, 8, 9, 12, 15, 19, 23, 24, BoR and taken together with ss.1(2)(a), 16, BoR), and requiring relief, a remedy and/or damages under s.27, BoR).

171. The Petitioners aver that, *inter alia*, Mr. Hugo Lodge, who used to be a partner in Maples, has (either an apparent or actual) a conflict-of-interest in respect of that large law firm and it would be unsafe to have Mr. Lodge oversee any AMLR-compliance monitoring activities with respect thereto (ss.19, BoR taken together with ss.1(2)(a), 16, BoR).

172. The Petitioners further aver that, as a result of the cumulative effect of threats and/or breaches to the Petitioners' Constitutional rights and freedoms (specifically ss.7, 8, 9, 12, 15, 16, 19, 23, 24, BoR), the AMLRs are unsafe to apply to Attorneys (especially Caymanian sole practitioners and Attorneys in small law firms, who have predominantly domestic practices, such as the Petitioners).

173. The Petitioners assert that (in net result) the AMLRs are:

(1) oppressively irrational, disproportionate, procedurally unfair and unlawful to Attorneys (contrary to ss.19, 24, BoR);

(2) threaten the sanctity of LPP and confidentiality (protected under s.9, BoR), which, *inter alia*, are vitally important tools of the legal profession for Attorneys to conduct their trade and for sustainability of their legal practices (protected under s.15, BoR); and

(3) are, *ipso facto*, discriminatory towards Caymanian sole practitioners and Attorneys in small law firms (contrary to ss.1(2)(a), 16, BoR), who have chosen not to become members of CILPA and/or register with CARA.

174. The Petitioners aver that, given the cumulative effect of the various *ultra vires* (e.g., rr.55B(c), 55M, AMLR, which are *ultra vires* s.4(9) and 199A, PCL, respectively) provisions of the AMLR that are oppressively irrational, extremely unlawful and incompatible with the BoR (contrary to s.24, BoR) and procedurally unfair, unintelligibly disproportionate (contrary to s.19, BoR) and undemocratically bias and that these AMLRs have been used (in a short period of time) as a discriminatory tool of oppression, which is the exact opposite of any hallmark of a democratic society. Therefore, the entire AMLRs are unsafe and unconstitutional, so they must be declared incompatible (both the subordinate legislation and the acts committed under their authority) with the BoR.

175. **Large Firms vs. Small Firms—Proportionate Trade Off**: The Petitioners further (and in the alternative) aver that, whilst the AMLRs dilute important Constitutionally protected rights, freedoms and privileges (including LPP) that are vital to Attorneys to conduct their trade (pursuant to s.7, 9, 15, BoR), there is a balancing act to be played between compliance with international requirements of the FATF/CFATF (as well as OECD) and non-dilution of fundamental rights and freedoms.

176. And, as such, the Petitioners contend that the larger law firms (especially the largest law firms, which have significantly high monetary value flowing through their client accounts and engage in investment fund practice) should be required to comply with the AMLRs and the AML regime, especially since they are the biggest threats to money-laundering in the Cayman Islands and pose the greatest reputational risk, if they do not have an AML regulator watching over their shoulder to dispel the appearance that there may be foul play, as well as the fact that the larger law firms seem to be leading the charge in embracing the AMLR-compliance monitoring regime and appear firmly committed to the self-regulatory AML regime structure.

177. As such, the Petitioners aver that, *inter alia*, it is lawful, rational, proportionate and procedurally fair for the larger law firms to have AMLR-compliance monitoring regime actively applied to their sector of the legal profession (in accordance with s.19, BoR), whist the passive AML regime is more suited to the Caymanians sole practitioners and Attorneys in small law firms, especially those who only carry on domestic legal practice.

178. The Petitioners aver that it is the large law firms, which pose the greatest threat to AML and (in a democratic society) it is more lawful, rational, procedurally fair and proportionate that they should be subject to an active, risk-based AMLR-compliance monitoring regime. The large law firms, who were likely the intended target of the FATF/CFATF recommendations such that lawyers in the Cayman Islands need to be brought under an active, risk-based AML regime, along with the banks, financial services providers and others who pose a greater risk (especially as compared with Caymanian Attorneys who are sole practitioners and with those who practice in small law firms).

179. The Petitioners assert that to bring Caymanian sole practitioners and small law firms into AMLR-compliance monitoring scope would be oppressively irrational and disproportionate to any threat they pose to money-laundering (contrary to s.19, BoR), but that it would be proportionate and justifiable in a democratic society to have the larger law firms within scope of an active AML regime.

180. The Petitioners further aver that to bring Caymanian sole practitioners and Attorneys in small law firms into scope of the AMLR-compliance monitoring regime (especially small firms with five attorneys or less, who predominantly only practice domestic Cayman Islands law) would be unduly burdensome financially (contrary to s.15, BoR) and be discriminatory treatment towards them, with too much regulatory red tape (contrary to ss.1(2)(a), 16, BoR), but that the passive AML regime (which applied previously) should continue.

181. The Petitioners aver that Caymanian sole practitioners and Attorneys in small law firms need not pay for the sins of the larger law firms, who were and still are the largest threat to money-laundering in the Cayman Islands (as well as perhaps other jurisdictions), and this appears to be a proportionate and legitimate trade off against the large amounts of profits that they make and the share of the Cayman Islands' legal services market that they saturate (both domestically and internationally, where (in the latter) Cayman Islands law is practiced outside of the Cayman Islands).

FULL PARTICULARS OF BREACHES AND/OR THREATS OF BREACH AS AGAINST THE PETITIONERS (GCR O.77A, r.4(1))

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182. In addition to the relevant facts, circumstances, points of law and averments pleaded above, the Petitioners set out below in further detail the full particulars of the breaches and/or threatened breaches of their rights and freedoms under the BoR as required for purposes of GCR O.77A, r.4(1) and also of the nature of the Petitioners' claims and/or the relief or remedies as required for purposes of GCR O.9, r.2(1). And, the Petitioners repeat paragraphs

183. Also, full particulars of key correspondence that has passed between some of the Petitioners and some of the Respondents are set out in the preceding and in the following paragraphs of this Petition. However, in addition to copies of such correspondence being exhibited to affidavits in support of this Petition, further relevant correspondence and/or explanations may also be mentioned in detail in such affidavits.

Part G: <u>Pyramid Structures of Analysis</u>

184. **Pyramids Intelligible Framework**: The Pyramid structures are useful for analysis of Constitutional action issues—leaving aside unlawful acts and decisions (pursuant to s.24, BoR), which sit on both sides of the line—which requires focus herein. The Petitioners contend that the pyramid of unconstitutional factors requires s.19, BoR to be added to the "base" of the pyramid as a primary unconstitutional factor (a constitutional personal right), which has a dual function as a corresponding governmental responsibility (pursuant to s.1(2)(b), BoR), and, as such, is the reason it is found enshrined in the BoR, which '*is a cornerstone of democracy in the Cayman Islands*' (pursuant to s.1(1), BoR).

185. The Petitioners aver that (at least) the right to request and be provided written answer, where an individual has been affected adversely by a decision or act of a public official (pursuant to s.19(2), BoR), makes this very clear and pronounced, which is even more clear when it is elucidated that the definition of an "***act***" includes "***failure to act***" (pursuant to s.28, BoR). The Petitioners contend that s.19(2) of the BoR creates a legitimate expectation of public official's fulfilling these legitimate

expectations, where there is a corresponding fundamental personal right of individuals, such as the First Petitioner, which requires being fulfilled (s.1(2(b), BoR), so as to not stultify (and make a fool of) the Constitution's BoR and Constitutional Supremacy (s.59(2), Constitution).

186. The Petitioners contend that, where a failure to act is deemed to be an act, which has threatened and/or breached an individual's fundamental human rights and freedoms (pursuant to s.26(1), BoR), then the true nature of why the governmental administrative sub-section (s.19(2), BoR) is stated in the negative and the fundamental personal right sub-section (s.19(1), BoR) is stated in the positive, which corresponds precisely with how structed to be (pursuant to s.1(2)(b), BoR).

187. The Petitioners, therefore, assert, *inter alia*, that that is why the pyramid of unconstitutional factors below differs from the conventional *Coe v Governor* structure (above). The Petitioners, however, note that, in any event, this does not affect their Petition action, because their fundamental human rights and freedoms have (indeed) been threatened and/or breached, which gives them a *prima facie* right to bring this Petition.

188. **Pyramid of Unconstitutional Factors (s.26(1), BoR)**: The Petitioners aver that a **pyramid** can be **constructed** in which, **at the base**, threats and/or breaches to their (standalone actionable fundamental rights and freedoms) primary unconstitutional factors (such as, ss.7, 8, 9, 12, 15, 19, BoR) are the **reasons why**, **higher up**, there is a *prima facie* basis for bringing this Constitutional action (pursuant to s.26(1), BoR) and also why the parasitic (non-standalone actionable) secondary unconstitutional factors (such as, ss.16, 23, 24, BoR) become applicable in an auxiliary fashion, which is then the **master reason why**, **higher up still**, such infringements that stultify (and make a fool of) the Constitution (there being an absence of a Constitutional basis to reasonably justify the threatened or breached Constitutional rights or freedoms *sine causa*), for which the Court to grant relief and/or a remedy or order (under s.27(1), BoR) and/or to award damages (under s.27(2), BoR), where, *inter alia*, (taking into account all the circumstances of this case), the Court is satisfied that such an awards is necessary to afford just satisfaction.

189. **Pyramid of Incompatible Legislation**: The Petitioners aver that a **pyramid** can be **constructed** in which, **at the base**, where (primary or subordinate) legislation is found to be incompatible with the BoR (under s.23 BoR), becomes the **reason why**, **higher up**, if the compatibility of (primary or subordinate) legislation with the BoR is unclear or ambiguous, and cannot be read and given effect in a way that is compatible with the BoR (under s.25, BoR), which is then the **master reason why**, **higher up still**, the legislation *prima facie* stultifies the Constitution's BoR and the Court **must** make a declaration of incompatibility, specifying where the legislation is incompatible with the relevant section(s) of the BoR and the nature of incompatibility (pursuant to s.23(1), BoR), and may **quash** incompatible **subordinate legislation** (pursuant to s.27(1), BoR, in accordance with ss.23, 25, BoR), but the **LA** shall decide how to **remedy** incompatible **primary legislation** (pursuant to s.23(2)-(3), BoR).

Part H: Public Official's Responsibility to Provide Written Reasons As Part of an Individual's Fundamental Personal Rights (s.19(2), BoR)

190. **"Right" to Request and Be Provided Written Reasons (s.19(2), BoR)**: All decisions, acts and/or failures to act of "*public officials*" must be lawful, rational, proportionate and procedurally fair (pursuant to s.19(1), BoR). Every person whose interests have been adversely affected by a public official's decision or act (including failure to act) has the right to request and be given written reasons for that decision, act and/or failure to act (pursuant to s.19(2), BoR). The Petitioners repeat **paragraphs 69, 74, 82, 96-97, 99, 103-104, 116-177, 130-146, 169 above**.

191. Since the Petitioners have brought this Constitutional action (pursuant to s.26(1), BoR) alleging threatened and/or breached rights and freedoms in the Constitution (pursuant to ss.7, 9, 12, 15, BoR, taken together with ss.1(2)(a), 16, BoR), the Petitioners also seek to challenge various failures to

provide written reasons (pursuant to s.19(2), BoR), especially since there was non-responsiveness by the AG, by the Premier and/or by CILPA/CARA to various concerns expressed in writing by one or more of the Petitioners alleging infringement of Constitutional rights and freedoms.

192. The Petitioners, therefore, further assert, *inter alia*, that (as a result AML regime-related threats and/or breaches to their fundamental rights and freedoms) the only branch of government that has not inflicted harm on the Petitioners is the assistance of the judiciary, which is now needed to uphold the sanctity of the BoR, which is the cornerstone of democracy in the Cayman Islands (pursuant to s.1(1), BoR) and which affirms "the rule of law" (pursuant to s.1(2)(a), BoR), because the LA and the Cabinet are obligated to "*uphold the rule of law and judicial independence*" (pursuant to s.107, Constitution) and the Petitioners seek to have the judiciary assist with upholding the rule of the law and having Constitutional Supremacy respected.

193. The Petitioners repeat paragraphs 113-114, 127-143 and rely on the cumulative effect of continuous non-responsiveness to the detriment of the Petitioners, which stultified lawful administrative action (pursuant to s.19, BoR) and the rule of law (pursuant to s.1(2)(a), BoR). The Petitioners avert that, where there the cumulative effect of continuous non-responsiveness (in *prima facie* breach of s.19(2), BoR) occurs, then (somewhere along the way) it reaches the "final straw" moment, where the adversely affected person (as well as others, who observe this) become concerned that the government may be slipping away from a "democratic society" into something far worse. And, the Petitioners further assert, *inter alia*, the following:

(1) When the CIG (whether, *inter alia*, the LA, the Cabinet, the Premier and the AG) are engaged in correspondence by members of the legal profession (such as, the First Petitioner and the Third Petitioner attempted), but there is non-responsiveness in upholding the Constitutional duties to respond back in written (contrary to s.19(2), BoR) by Attorneys who they and/or their clients are adversely affected by such decisions, acts and/or failures to act (pursuant to s.28, BoR), is then understood that the duties of lawful administration and principles of legality (protected under s.19, BoR) and principles of constitutionality (pursuant to ss.23, 24, BoR), which are governmental responsibilities, but also have corresponding rights to private citizens and individuals (pursuant to s.1(2(b), BoR), are indeed fundamental rights and freedoms (pursuant to s.1(1)-(2), 19, 24, BoR) that are enjoyed as personal rights, since this is a corresponding duality of rights and freedoms (pursuant to s.1(2)(b), BoR), which can be seen by the positive governmental responsibilities in s.19(1), BoR and the negative private rights in s.19(2), BoR, which shows the circularity of rights (on one side of the coin) and governmental responsibilities (on the other side of the coin), which are fundamental human rights which are have been placed under the BoR (s.19, 23, 24, BoR), which is a cornerstone of democracy (under s.1(1), BoR) for a reason, which is just that, they are both responsibilities of government, as well as fundamental rights of individuals (pursuant to s.1(2)(a), BoR).

Part I: Regulation 55B(c) of the AMLR Is *Ultra Vires* Section 4(9) of the PCL: Therefore, Neither CILPA Nor CARA Is a "Supervisory Authority"

194. The Petitioners repeat and assert that CILPA and/or CARA are acting *ultra vires* as a Supervisory Authority lacking a legal basis (*sine causa*).

195. **Neither CILPA Nor CARA Is a "Supervisory Authority"—*Ultra Vires* at All Times**: The Petitioners seek to contrast the different definitions of "Supervisory Authority" in the primary legislation (s.2(1), PCL) and in the subordinate legislation (s.2(1), AMLR), as follows:

(1) The definition of "**Supervisory Authority**" (pursuant to s.2(1), PCL), states, as follows:

> "**Supervisory Authority**" *means the [CIMA] or other body that may be assigned,* ***pursuant to section 4(9)****, the responsibility of monitoring compliance with regulations made under the [PCL] in relation to*

persons carrying out relevant financial business who are not otherwise subject to such monitoring the [CIMA].' (emphasis added in bold)

(2) The definition of "**Supervisory Authority**" in the subordinate legislation (pursuant to r.2(1), AMLR) states, as follows:

> *'"**Supervisory Authority**" means the [CIMA] or other body that may be assigned responsibility of monitoring compliance with money laundering regulations made under the [PCL] in relation to persons carrying out "relevant financial business" who are not otherwise subject to such monitoring by the [CIMA]." (emphasis underlined)*

(3) The definition in the primary legislation (pursuant to s.2(1), PCL) states "...assigned, **pursuant to section 4(9), the** responsibility...", whereas the definition in the subordinate legislation (pursuant to r.2(1), AMLR) states: "...assigned responsibility...".

(4) It is important to note that the definitions are almost the same, but not quite, because the primary legislation (under s.2(1), PCL) states: "*pursuant to section 4(9)*" of the PCL, whereas the subordinate legislation (under r.2(1), AMLR) only does not cite the provision that pursuant to which power to assign responsibility to a Supervisory Authority is derived.

(5) As such, the definition of "Supervisory Authority" in the primary legislation (under s.2(1), PCL), therefore, prevails over the subordinate legislation (under r.2(1), AMLR).

(6) In particular, the Petitioners assert that all powers, duties, responsibilities and/or functions in relation to a Supervisory Authority under the PCL and/or under the AMLR can only apply to such "*other body*" when it has been duly assigned AMLR-compliance monitoring responsibility by the Cabinet "*pursuant to section 4(9)*", PCL. This is very important, as will now be seen below.

196. The Petitioners now highlight precisely where the Cabinet erred, when making the primary legislation (pursuant to r.55B(c), AMLR) *ultra vires* the primary legislation (pursuant to s.4(9), PCL) as exceeding the scope of the primary-enabling legislation, as follows:

(1) The Petitioners assert that the statutory source, where a "Supervisory Authority" is derived from in the primary legislation, is found (pursuant to s.4(9), PCL), which states, as follows:

> *"The Cabinet may assign the Financial Reporting Authority, a public body or a self-regulatory body the responsibility of monitoring compliance with money laundering regulations made under this [PCL] in relations to persons **conducting** "relevant financial business", who are not otherwise subject to monitoring by the [CIMA]."*

(2) The Petitioners also state that the provision in the subordinate legislation, which purports to designate as "Supervisory Authorities" of "DNFBPs" (pursuant to r.55B(c), AMLR), as follows:

> *"The following bodies are designated as Supervisory Authorities of the following DNFBPs for the purposes of this Part —...(c) a public body or self-regulatory body assigned by Cabinet by Order – for firms of attorneys at law that **engage in** or **assist other persons in the planning** or **execution** of relevant financial business, or **otherwise act for or on behalf of such persons** in relevant financial business.*

(3) As such, **regulation 55B(c), AMLR** (subordinate legislation) is ***ultra vires*** section **4(9), PCL** (primary legislation), because the **subordination legislation** is **wider** in **scope** than the primary legislation, and, therefore, it is thus oppressively irrational, disproportionate and unlawful (contrary to ss.19, BoR) and is void *ab initio*.

(4) The Petitioners, therefore, aver that neither CILPA nor CARA is a "Supervisory Authority", because the subordinate legislation (under r.55B(c), AMLR) exceeds the authorised scope of the primary legislation (under s.4(9), PCL), which is *prima facie ultra vires* the law and void *ab initio*.

(5) The Petitioners also aver that, by its express terms, s.4(9) of the PCL only empowers the Cabinet to assign "*the **responsibility of monitoring***" (but not regulating, supervising and/or enforcing) such AMLR-compliance, which are far beyond the scope of what the primary legislation authorizes; and, as such, the Purchase Agreement is *ultra vires* the primary legislation (s.4(9),

PCL), which is, therefore, irrationally and unlawfully entered into outside the scope of the primary legislation (pursuant to s.4(9), PCL) and thus *ultra vires* and void *ab initio*.

(6) The Petitioners aver, *inter alia*, that every decision made by and/or act carried out by CILPA (and CARA), since the Cabinet purported assigned AML regime monitoring responsibilities (on 19 February 2019) has been unlawful and *ultra vires* and, therefore, should be declared *ultra vires* and quashed (pursuant to s.27(1), BoR).

197. The Petitioners further aver that there is no obligation to register under r.55F, AMLR, as CILPA and/or CARA are acting *ultra vires* as self-Supervisory Authority (as r.55B(c), AMLR is *ultra vires*).

198. **Power to Make Regulations**: As defined in s.2(1) of the PCL, "*competent authority*" means '**a public body** in the [Cayman] Islands charged with responsibility for combating [ML-TF]' (emphasis added in bold), including:

(1) the FRA and any authority charged with the responsibility for investigating and prosecuting money laundering, associated predicate offences and terrorist financing, and seizing or freezing and confiscating criminal assets;

(2) any authority receiving reports on cross-border transportation of currency and bearer negotiable instruments; and

(3) any authority having [AML-CTF] supervisory or monitoring responsibility aimed at ensuring compliance by a "*relevant financial business*" with [AML-CTF] requirements.

199. The Petitioners assert that, in this definition of "*competent authority*", no specific mention is made of any "*self-regulatory body*" and paragraph (c) thereof refers to having AML-CTF "*supervisory or monitoring*" responsibility (whereas, by its terms, s.4(9), PCL only empowers the Cabinet to assign "*the responsibility of monitoring*", but not regulating, supervising and/or enforcing) such AMLR-compliance.

200. **Cabinet's Power to Make Regulations**: The Petitioners aver that the Cabinet's power to make regulations under the PCL is as follows:

(1) pursuant to s.3(3), PCL (to give effect to the provisions of ss.3(1)-(2), 4-12, PCL, specifically as relates to the role, powers, functions, duties and immunity of the FRA and of the AMLSG);

(2) pursuant to s.145, PCL (upon the recommendation of the AMLSG, the CIMA and the FRA, "*prescribing measures to be taken to prevent the use of the financial system and any other facilities provided in or from the [Cayman] Islands for the purposes of criminal conduct*"); and

(3) pursuant to s.201, PCL (for giving effect to the PCL).

201. The Petitioners, therefore, make the following observations and assertions, *inter alia*, as follows:

(1) However, none of these powers to make regulations purports to increase or to expand the express power "*pursuant to section 4(9)*" of the PCL for the Cabinet to assign responsibility for AMLR-compliance monitoring to the FRA, to a "*public body*" or to a "*self-regulatory body*".

(2) The Petitioners aver that the definition of "*Supervisory Authority*" in the primary legislation (under s. 2(1), PCL) also does not (and cannot) enlarge the express power of the Cabinet to assign such responsibility beyond monitoring AMLR-compliance (that is, not so as to extend to regulating, supervising and/or enforcing such compliance); nor does this definition specify whether "*other body*" refers to a "*public body*", a "*self-regulatory body*" or both.

202. The Petitioners, therefore, assert that the AMLRs are irrational and unlawful (contrary to s.19, BoR), which were done *ultra vires* and are void *ab initio*, and, therefore, should be declared ultra vires and quashed (pursuant to s.27(1), BoR).

203. **Assignments of Supervisory Authorities—CILPA (*ultra vires*) and DCI (valid)**: The Petitioners further note the following:

(1) The Petitioners aver that, as listed under the PCL in the "*laws in force*" portion of the website www.judicial.ky as of the date of this Petition, the Cabinet has only made two such assignments: one to CILPA (a private sector association) and the other to the DCI (a "*public body*" as a current department of the CIG).

(2) By notice in an Extraordinary Gazette (dated 12 July 2019), the Cabinet assigned to the DCI the responsibility of monitoring AMLR-compliance:

(a) by persons undertaking property development within the meaning set out in s.2, Trade and Business Licensing Law (2019 Revision) and the subsequent sale of that property without using a real estate agent or broker; and

(b) by persons undertaking property investment without using a real estate agent or broker.

(3) CIMA's website (at https://www.cima.ky/amlcft) states in effect that the DCI is "*a public sector supervisor*" with AMLR-compliance monitoring responsibility "*specifically for real estate agents and brokers*" and also for precious metals and stone dealers; however, such responsibility is not within the limited scope of the above-mentioned assignment by the Cabinet, but this is irrationally incorrect (pursuant to s.19, BoR).

(4) Similarly, the DCI website features, *inter alia*, guidance notes for real estate, property developers and dealers in precious metal and stones: See http://www.dci.gov.ky/powerpanel/laravel-filemanager/files/1/5d7f213119c7a.pdf). At ¶1.9 thereof, it states:

"The primary target audience of this guidance is real estate agents when they act for buyers or sellers; however, it extends to other professionals and organizations that undertake real estate transaction activity including real estate developers, builders, property managers, and corporate inhouse real estate officers."

Therefore, *prima facie* DCI's role as a Supervisory Authority is limited to the scope expressly within the above-mentioned assignment by the Cabinet.

204. By notice in an Extraordinary Gazette (dated 10 April 2019), the Cabinet assigned such AMLR-compliance monitoring responsibility to CILPA in the following terms: '*Pursuant to section 4(9) of the [PCL] the Cabinet on 19 February 2019 assigned to [CILPA] the responsibility of monitoring compliance by attorneys-at-law with money laundering regulations made under the [PCL].*'

205. The Petitioners further aver that, with respect to assignments of responsibility, it is important to note the following:

(1) Although this notice did not expressly state that such assignment was to a "*self-regulatory body*" (being that CILPA is a private sector association), it could not be assigned to CILPA as a "public body", nor could such assignment lawfully and irrationally extend to CILPA monitoring Attorneys, who are not CILPA members; and, the Petitioners (not being current members of CILPA), thus aver that they are not caught within the scope of CILPA's AMLR-compliance monitoring responsibility (pursuant to s.19, BoR).

(2) Pursuant to r.55B(c), AMLR, either a "*public body*" or a "*self-regulatory body*" assigned by the Cabinet by Order for firms of Attorneys (that engage in or assist other persons in the planning or execution of "relevant *financial business*") is to be designated as a Supervisory Authority.

(3) The Petitioners, therefore, aver that, with respect to CILPA being *ultra vires*, the following is important to note, as follows:

(a) to the extent that any provisions of r.55B(c), AMLR, exceeds the authorised scope of s.4(9), PCL (the primary legislation), it is *ultra vires*, unlawful and void *ab initio* and is oppressively irrational (contrary to s.19, BoR); and

(b) r.55B(c), AMLR, which is outside the s.4(9), PCL and thus irrational and unlawful for being *ultra vires* (contrary to ss.19, 24, BoR), is incompatible with ss.12, 19, BoR (pursuant to s.23, 24, BoR) and should be quashed (pursuant to s.27), BoR).

(4) The Petitioners contend, however, that the DCI appointment is valid, but not CILPA's as the follows:

(a) unlike the assignment to the DCI that is expressly mentioned in r.55B(a) of the AMLR, the Cabinet's assignment to CILPA is irrationally and unlawfully not expressly mentioned in r.55B(c), AMLR (contrary to ss.19, 24, BoR); and

(b) also like the purported designation of the Institute as a Supervisory Authority mentioned in r.55B(b) of the AMLR, the assignment mentioned in regulation 55B(c) of the AMLR does not refer to assignment by the Cabinet as having been "*pursuant to section 4(9)*" of the PCL.

206. **AML Regimes for Attorneys and Accountants**: Different: The Petitioners aver that the AG and the Premier, upon close analysis, were incorrect that the Institute's model for an AML monitoring regime for accounts was the analogous model being used for Attorneys, for the reasons, as follows:

(1) The role of the Institute (as a private sector association similar to CILPA) to regulate accountants under the AL has been irrationally and unlawfully incorrectly cited, *inter alia*, by the AG (on 22 October 2019) to the First Petitioner and Second Petitioner as a model for CILPA/CARA regulating all Attorneys (pursuant to ss.19, 24, BoR).

(2) However, the Cabinet has irrationally and unlawfully not assigned to the Institute ("pursuant to section 4(9)", PCL) AMLR-compliance monitoring responsibility for accountants (pursuant to ss.19, 24, BoR) as an error of law (and/or fact) and thus the Institute is not a Supervisory Authority as defined by s.2(1), PCL.

(3) Therefore, notwithstanding r.55B(b), AMLR, which purports (without such assignment by the Cabinet "*pursuant to section 4(9)*" of the PCL) to designate the Institute as a Supervisory Authority for firms of accountants, this regulation cannot so constitute the Institute that is not a Supervisory Authority as defined in s.2(1), PCL (as primary legislation), because of the irrational and unlawful error by Cabinet in creating such provision of the AMLR (contrary to ss.19, 24, BoR).

(4) The Petitioners assert that, in accordance with the AL, AMLR-compliance by all licensed accountants is satisfied by annually filing with CIMA a certificate (pursuant to s.29, AL) that provides:

'*On or before the 31st January in each year, every sole practitioner, public accountant and firm of public accountants shall file with [CIMA] a certificate in the form prescribed by the Council [of the Institute] stating that to the best of their knowledge and belief, the applicable requirements of the [PCL] and any regulations made thereunder have been complied with, or to the extent that they have not been complied with, disclosing the nature and extent of non-compliance.*'

(5) The Petitioners aver that, were the equivalent of annual filing of such certificate with CIMA now required of all Attorneys (without more), there would be no issue for the Petitioners to seek redress pursuant to this Petition.

(6) The Petitioners, therefore, assert that the LA and Cabinet (being guided by their leader, the Premier, and their legal advisor, the AG) have irrationally discriminated against Attorneys, whereby AML regime requirements for accountants were less onerous than for Attorneys, although the AG and Premier (on 22 October 2019) to the First Petitioner and Second Petitioner that AML monitoring of Attorneys was based on what was in place for accountants (contrary to s.19, BoR taken together with ss.1(2)(a), 16, BoR).

(7) The Petitioners further aver that, when the stream-lined annual certificate filing regime for accountants (under the AL) is contrasted with the overreaching, invasive and unlawful CILPA/CARA regime (purportedly pursuant to the PCL), it is oppressively irrational, manifestly and unlawfully disproportionate and discriminatory against Attorneys and the Petitioners, in particular, (contrary to ss.19, 24, BoR when taken together with ss.1(2)(a), 16, BoR).

(8) The Petitioners aver, *inter alia*, that the AMLR regimes are structured illogically, irrationally and disproportionately, especially when the different regimes for accountants and Attorneys are compared, which is very confusing.

207. **"Relevant Financial Business" Required for AMLR-Monitoring**: The Petitioners aver that the phrase "*relevant financial business*" is defined in s.2(1) of the PCL, paragraph (g) of which means '*the business of engaging in ... any of the activities set out in Schedule 6*' which includes any activity (that could extend to relevant activities of some, but not all, Attorneys) related to:

"9. Advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchaser of undertakings; and

14. ... legal and accounting services provided in the course of business relating to:

(a) the sale, purchase or mortgage of land or interests in land on behalf of clients or customers;

(b) management of client money, securities or other assets;

(c) organization or contributions for the creation, operation or management of companies;

(d) management of bank, savings or securities accounts; and

(e) *the creation, operation or management of legal persons or arrangements, and buying and selling of business entities."*

208. **Relevant Consideration for PMFL—Purchase Agreement and Subsidy Funding Unlawful**: In contrast, the Petitioners assert that neither "*public body*" nor "*self-regulatory body*" is defined in section 2(1) of the PCL or in section 2(1) of the AMLR. Therefore, interpretation functions become important to consider, as follows:

(1) The plain reading is called for as the starting point, as provided for, in s.3(2), IL, as follows:

'Every local law of the Islands shall be carried out and applied according to the plain reading, and not according to any private construction, and any private construction influencing a decision in any case shall be deemed a sufficient cause for appeal or new trial or counter prosecution.'

(2) The Petitioners, therefore, aver that, interpretation of the primary legislation, in the context of s. 4(9) of the PCL, the terms "*monitoring*", "*public body*" and "*self-regulatory body*" are to be carried out and applied according to the plain reading, and not according to any private construction (pursuant to s.3(2), IL).

209. **Judiciary's Help Needed as Check and Balance on Legislative (LA) and Executive (Cabinet)**: The Petitioners, therefore, aver that the only branch of government that has not inflicted AML regime threats and/or breaches to their fundamental rights and freedoms is the judiciary, which is now needed to uphold the sanctity of the BoR, which is the cornerstone of democracy in the Cayman Islands (pursuant to s.1(1), BoR) and which affirms "the rule of law" (pursuant to s.1(2)(a), BoR), because the LA and the Cabinet are obligated to "uphold the rule of law and judicial independence" (pursuant to s.107, Constitution) and the Petitioners seek to have the judiciary assist with upholding the rule of the law and having Constitutional Supremacy respected.

210. The Petitioners further aver, *inter alia*, the following points to note, as follows:

(1) Regulations 55B(c) of the AMLR is *ultra vires* s.4(9) of the PCL (as well as s.2(1), PCL) and void *ab initio*, which must now be quashed (pursuant to s.27(1), BoR).

(2) CILPA has been acting as a Supervisory Authority *ultra vires*, which has been oppressively irrational and unlawful, wherein the Petitioners have suffered decisions and/or acts that have threatened and/or breached their fundamental rights and freedoms (contrary to ss.7, 8, 9, 12, 15, 19(2), BoR taken together with ss.1(2)(a), 16, BoR, pursuant to ss.19, 24, BoR).

(3) CARA has been acting (as a purportedly independent sub-committee of CILPA, with an independent board) as an *ultra vires* Supervisory Authority, which has made decisions and acted

(*sine causa*) irrationally, disproportionately, procedurally unfair and unlawfully (contrary to ss.19, 24, BoR), wherein fundamental rights and freedoms of the Petitioners have been threatened and/or breached (contrary to ss.7, 8, 9, 12, 15, 19(2), BoR taken together with ss.1(2)(a), 16, BoR, pursuant to ss.19, 24, BoR).

(4) Cabinet's assignment (was *sine causa*) of AMLR-compliance monitoring to CILPA (pursuant to s.4(9), PCL) over Attorneys (on 19 February 2019 and notice published in the Gazette on 10 April 2019), who are conducting "relevant financial business" (and not monitored by CIMA) *ultra vires* and void *ab initio*, which must now be quashed (pursuant to s.27(1), BoR).

(5) Cabinet (via the AG on behalf of the CIG with the support of the Premier) entering into the Purchase Agreement (on 8 November 2019) with CILPA was *ultra vires* and void *ab initio*, which must now be quashed (pursuant to s.27(1), BoR).

(6) CILPA's AMLR-compliance monitoring responsibility assigned *sine causa* to it by the Cabinet, which CILPA then delegated *sine causa* to CARA, was an *ultra vires* abdication of its purported authority (which was itslef *ultra vires* from the start) and was void *ab initio*, which must now be quashed (pursuant to s.27(1), BoR).

(7) CARA's acts of aggressively requiring *sine causa* to get the First Petitioner (against the backdrop of penal sanction and/or administrative fines) to register with CARA by 30 August 2019 and 29 November 2019, respectively, and ultimately issuing a CI$58,500 fine against him (on $58,500) was all unlawful, oppressively irrational and disproportionate (pursuant to s.19, 24, BoR) *ultra vires* and void *ab initio*, which was also breached his right not (contrary to ss.7, 8, 9, 12, 15, 19(2), BoR taken together with ss.1(2)(a), 16, BoR), which must now be quashed (pursuant to s.27(1), BoR) and damages awarded (pursuant to s27(2), BoR).

(8) The AG's non-responsiveness to the First Petitioner's correspondence was irrational and the First Petitioner seeks an order of mandamus for him to justify his position (pursuant to s.27(1), BoR) and damages be awarded (pursuant to s.27(2), BoR).

(9) CARA's (via Ms. Guile) failure to respond back to the First Petitioner, although undertaking to do so (on 22 November 2019), which created a legitimate expectation (pursuant to ss.7, 15, BoR), but which was never fulfilled (contrary to s.19(2), BoR) and later issues him breach notice, fine notice and ultimately a fine (on 16 March 2020) whilst acting *ultra vires*, was oppressively irrational and unlawful (contrary to ss.19, 24, BoR), as well as having threatened and/or breached his fundamental rights and freedoms (contrary to ss.7, 8, 9, 12, 15, 19(2), BoR) in a discriminatory manner (contrary to ss.1(2)(a), 16, BoR), and the damages should be awarded to the First Petitioner (pursuant to s.27(2), BoR).

(10) CARA's acts of aggressively requiring *sine causa* to get the Second Petitioner (against the backdrop of penal sanction and/or administrative fines) to register with CARA by 30 August 2019 and 29 November 2019, respectively, and ultimately issuing a CI$58,500 fine against him (on $58,500) was all unlawful, oppressively irrational and disproportionate (pursuant to s.19, 24, BoR) *ultra vires* and void *ab initio*, as well as contrary to fundamental rights and freedoms (contrary to ss.7, 8, 9, 12, 15, BoR taken together with ss.1(2)(a),16, BoR), which must now be quashed (pursuant to s.27(1), BoR) and damages awarded (pursuant to s27(2), BoR).

(11) CARA's acts of aggressively requiring *sine causa* to get the Third Petitioner (against the backdrop of penal sanction and/or administrative fines) to allow an onsite visit at his business premises, provide documentation/information and attempt before CARA at their premises and ultimately issuing a CI$5,500 fine against him (on 24 March 2020) was all unlawful, oppressively irrational and disproportionate (pursuant to s.19, 24, BoR) *ultra vires* and void *ab initio*, as well as contrary to fundamental rights and freedoms (contrary to ss.7, 9, 12, 15, BoR taken together with ss.1(2)(a), 16, BoR), which must now be quashed (pursuant to s.27(1), BoR) and damages awarded (pursuant to s27(2), BoR).

(12) The LA and Cabinet have an obligation to uphold the rule of law (pursuant to s.107, Constitution; s.1(1), BoR), but have failed at doing so and the Petitioners should now be awarded damages (pursuant to s.27(2), BoR).

(13) The AG, as the principal advisor to the LA and the CIG—particularly to Cabinet—(pursuant to s.56(2), Constitution), has failed in his duties and the Petitioners should be awarded damages (pursuant to s.27(2), BoR) for his failure.

(14) The Premier, who is the leader of the CIG and Cabinet, and who is obligated to exercise his functions in the "*best interest of the Cayman Islands*" (pursuant to s.50, Constitution), has failed in doing so and the Petitioners should be awarded damages (pursuant to s.27(2), Constitution) for his failure.

Part J: Purchase Agreement Enter into Between CILPA and the Cabinet (with Funding Approved by the Finance Committee of the LA)

211. The Petitioners repeat **paragraphs 194 to 210** above and challenge the Cabinet (via the AG on behalf of the Cabinet) entering into the Purchase Agreement with CILPA (on 8 November 2019) and the LA approving the subsidy to CILPA (on or about 22 November 2019).

212. '*All Government expenses, assets and the incurrence of liabilities shall require appropriation by the [LA], unless otherwise provided by law*' (pursuant to s.111(2), Constitution), which, the Petitioners aver is why the LA, in Finance Committee, was required to approve and pass the appropriation for subsidizing CILPA pursuant to the Purchase Agreement.

213. The Petitioners aver that, *inter alia*, the CIG (via the AG on behalf of the Cabinet) entering into the Purchase Agreement with CILPA (on 8 November 2019) and the LA's approval of the subsidy to CILPA pursuant to the Purchase Agreement (on or about 22 November 2019), threatened and/or breached the Petitioners' (and Attorneys') fundamental rights and freedoms, as follows:

(1) freedom of association (contrary to s.12, BoR);

(2) privacy and property rights (contrary to ss.9, 15 BoR);

(3) right to a fair trial (contrary to s.7, BoR); and

(4) which led to the First Petitioner's and the Second Petitioner's right to no punishment without law being breached by CARA, on behalf of CILPA, (contrary to s.8, BoR); and

(5) which has paved the way for CILPA and/or CARA to discriminatorily target Caymanian sole practitioners and Attorneys in small law firms, who chose to not be members of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR),

since, as the r.55B(c) of the AMLR is *ultra vires* the s.4(9) of the PCL, because the subordinate legislation's scope is in excess of the primary legislation, and thus oppressively irrational, unlawful (pursuant to ss.19, 24, BoR), *ultra vires* and void *ab initio*.

214. The Petitioners further aver, *inter alia*, the following:

(1) The Purchase Agreement is strictly between the CIG (via the AG on behalf of the Cabinet) and CILPA.

(2) It appears that that CARA, which is not mentioned in the Purchase Agreement, has been funded with the subsidy money to carry out functions of regulation and enforcement, which is outside the scope of monitoring AMLR-compliance of Attorneys conducting "*relevant financial business*", who are not monitored by CIMA (pursuant to s.4(9), PCL).

(3) Therefore, such functions (of regulation and enforcement) are clearly and excessively outside the scope of the primary legislation (in accordance with s.4(9), PCL), which is *ultra vires* for being

oppressively irrational, disproportionate and unlawful (contrary to ss.19, 24, BoR) and was void *ab initio*.

(4) Thus, the functions that the CIG (via the AG on behalf of Cabinet) entered into the Purchase Agreement (on 8 November 2019) with CILPA (but not CARA), wherein the Purchase Agreement sought to give regulation and enforcement powers, which were beyond the scope provided for in the primary legislation (s.4(9), PCL) were *ultra vires*, and it was void *ab initio*, and, therefore, should be declared *ultra vires* and quashed (pursuant to s.27(1), BoR).

(5) CILPA/CARA have been operating as an AML self-Supervisory Authority unlawfully and have been operating without lawful authority *sine causa*, wherein the subsidy money (authorised by the LA on or about 22 November 2019) has been used unlawfully and, therefore, is funding unauthorised-unlawful functions of CILPA/CARA, which must be stopped.

(6) The Purchase Agreement was between CILPA and CARA, therefore, it is unlawful and *ultra vires* to use any such subside money to fund functions carried out by CARA (even if CILPA were not operating unlawfully).

(7) The scope of outputs, which are the subject matter of the Purchase Agreement, exceed the scope of authority that the primary legislation permits (s.4(9), PCL) and which are also *ultra vires* and unlawful (even if CILPA's and/or CARA's foundational basis of authority were not to have been *ultra vires*), therefore, the Cabinet has been an accessory to the unlawful acts and decisions of CILPA/CARA (contrary to s.19, BoR).

215. The Petitioners aver that, *inter alia*, the AG, the Cabinet and the LA are all guilty of threatening and/or breaching the Petitioners' fundamental rights and freedoms (contrary to ss.7, 9, 12, 15, BoR) via CILPA and/or CARA, which was oppressively irrational, disproportionate, procedurally unfair and unlawful (contrary to ss.19, 24, BoR).

216. The Petitioners further assert that the AG (on behalf of the Cabinet, in which he is an *ex officio* member) entered into the Purchase Agreement for the CIG with CILPA, which was intended to legitimize CILPA through government funding, since the AG expressed (on 22 October 2019) that he is convinced that Court of Appeal of Barbados (in the *Nurse* case) provides the road map to legitimizing CILPA, part of which included government funding.

217. The First Petitioner has written to the AG on (30 December 2019, 16 & 21 February 2020), wherein the questions and comments were made about the Purchase Agreement and/or the AG's comments in Finance Committee in the LA (on 22 November 2019), which the AG (although being requested to provide written answers) did not comply with his constitutional obligation (contrary to s.19(2), BoR), as well as non-fulfillment and thus breaching legitimate expectations (contrary to ss.15, 19(2), BoR), which was oppressively irrational and unlawful (contrary to s.19(1), BoR) and (at it least appears) to be discriminatory to Caymanian sole practitioners and Attorneys in small law firms (contrary to s.16, BoR). On 30 December 2019, the First Petitioner, in no uncertain terms, asked the AG the following:

"Has the subsidy money (approved in Finance Committee) been paid to CILPA (and/or CARA)?"

However, the AG has been irrationally non-responsive to correspondence sent to him by the First Petitioner and has not provided written reasons (contrary to s.19(2), BoR), although the First Petitioner has made significant efforts to engage (either writing directly or copying him in on correspondence) the AG (such as, on 7 October, 22 November, 30 December 2019, 16 February, 21 February 2020).

218. The Petitioners aver that, *inter alia*, the Purchase Agreement has an oppressively irrational and unlawful purpose (contrary to s.19, BoR), which encourages certain annual quotas of enforcement action, which is not determined by whether there is actual criminal liability to enforce penal action, and has thus bred an environment of administrative fines and penal enforcement by sending CILPA and/or CARA on a Salem witch hunt to find something that is not necessarily there in a discriminatory manner (contrary to ss.1(2)(a), 16, BoR) in order to appease international pressure brought on the CIG

via FATF and/or CFATF. The Petitioners contend that it has made them targets as the low hanging fruit and most likely to be able to defend against such attack by CILPA and/or CARA as well as the larger law firms, as well as it has bred an environment where it appears that they are deemed guilty until proven innocent (contrary to s.7(1)-(2), BoR).

219. The Petitioners aver that the First Petitioner warned the AG (as well as the Cabinet, CILPA and CARA) of this via an e-mail (on 21 February 2020), where he stated, *inter alia*, the following:

> *"I also requested whether CILPA and/or CARA have received the subsidy money (approved in Finance Committee for appropriation in the recent budget) and require written reasons (under s.19(2), BoR). There is a concern that the Purchase Agreement between CIG and CILPA has been vitiated (via mistake of law or fact, want of authority, as ultra vires as unlawful obtaining or conferral of an enriching benefit (under the "Woolwich principle" or similar) and/or misrepresentation or otherwise), wherein CILPA and/or CARA has/have been unjustly enriched at the expense of the public purse and may be under a remedial right to make restitution thereof. Furthermore, there is also concern that the CIG may have been an accessory to a misappropriation and/or whether CILPA and/or CARA has been a knowing recipient to such subsidy funds."*

220. The Petitioners aver that, *inter alia*, the Purchase Agreement, which the AG, the Cabinet and the LA (with the Premier's support), has been vitiated for being unlawful and *ultra vires*, but has been vitiated by the unjust factors of mistake of law or fact, want of authority, misrepresentation and/or the '*Woolwich* principle' and/or an offshoot of that principle (relating to unlawful conferral of benefits), which has allowed CILPA and/or CARA to inflict oppressively irrational and unlawful AML functions (contrary to s.19(1), BoR), which have been carried out as a tool of oppression that has targeted Caymanian sole practitioners and Attorneys in small law firms, who have chosen to not be members of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR), and has become an unfortunate part of history relating to the legal profession in the Cayman Islands. The Petitioners further assert that there is now an obligation for CILPA and/or CARA to make restitution (*in personam* or *in rem*) of the subsidy money received under the Purchase Agreement with the CIG and restore what belongs to the public purse.

221. The Petitioners aver that, *inter alia*, the AG, the Cabinet, the Premier and the LA no longer have the faith, trust and confidence of their part of the legal profession, as well as neither having faith, trust and confidence in CILPA and CARA to act in any capacity as public officials carrying out any public function. As a result, the Petitioners contend that this has bred an environment of distrust and feeling of disregard for the rule of law (contrary to s.1(2)(a), BoR; 107, Constitution) and Constitutional Supremacy (pursuant to s.59(2), Constitution).

222. The Petitioners aver, *inter alia*, that by allowing the AG to enter into the Purchase Agreement on behalf of the Cabinet, whether this was proper "formulation of policy" and "*directing implementation of such policy*" by Cabinet, which the Cabinet is "*collectively responsible*" to the LA for such policy and its implementation (in accordance with s.44(4), Constitution), as well as whether Premier was acting in accordance with his Constitutional obligation to exercise his functions "*in the best interests of the Cayman Islands*" (pursuant to s.50, Constitution).

223. The Petitioners further aver, *inter alia*, that (by approving the Purchase Agreement in Finance Committee on or about 22 November 2019) the LA did not respect Constitution Supremacy nor "*make laws for the peace, order and good government of the Cayman Islands*" (in accordance with s.59(2), Constitution).

224. The Petitioners aver, *inter alia*, that this Purchase Agreement has instilled a distrust for the CIG (inclusive of the LA, the Cabinet, the AG and the Premier), as well as the board members, employees and functionaries of CILPA and CARA, which will take years to repair. The Petitioners assert that, *inter alia*, there is a feeling that the Cayman Islands Government has turned its back on supporting their sector of the legal profession and now no longer trust the CIG's motives with respect to them.

225. The Petitioners aver, *inter alia*, that this has set back good relations between the larger firms and the small firms (including Caymanian sole practitioners) and will likely take a long time before trust can be restored. And, the Petitioners assert that this was not their intention for relations in the legal profession, which is unfortunate and embarrassing for the legal profession in the Cayman Islands, as well as the fact that this will become a reputational risk to the stability of the Cayman Islands legal profession to the international community and could damage future business opportunities for the Cayman Islands' legal profession.

226. **Purchase Agreement**: On or about 8 November 2019, the AG (on behalf of the Cabinet) and the incumbent President of CILPA entered into the Purchase Agreement (prepared in accordance with s.30(2), PMFL, which empowered the Cabinet to enter into a written purchase agreement with a non-governmental output supplier for the supply of a relevant output), specifically for payment of CI$1,087,523 and CI$1,212,000.00, respectively, during the financial year 2020 (ending on 31 December 2020) and for the financial year 2021 (ending 31 December 2021), respectively.

227. The Petitioners aver that, *inter alia*, as required by the PMFL, the Purchase Agreement was irrationally and unlawfully presented to the LA (on or about 22 November 2019) by the Cabinet (contrary to ss.19, 24, BoR), and the expenditure pursuant thereto was approved by the Finance Committee of the LA (on or about 22 November 2019) irrationally and unlawfully (contrary to ss.19, 24, BoR), for the following reasons:

(1) Section 1 of the Purchase Agreement states that the purpose, thereof, was "*to ensure that the performance of CILPA is clearly understood and agreed by both parties.*"

(2) In clause 2 of the Purchase Agreement, the description of outputs to be delivered by CILPA was stated to be "*Regulation of Attorneys for AML/CFT purposes*" and the quantity of such outputs to be 30-50 "*onsite and offsite inspections of Attorneys and enforcement*" in 2020 and 40-60 in 2021, respectively.

(3) However, the Petitioners aver that, *inter alia*, the Cabinet was only empowered to assign responsibility for monitoring (not regulating, inspecting and/or enforcing) relevant AMLR-compliance (pursuant to s.4(9), PCL), which was an irrational and unlawful error on the part of Cabinet (contrary to ss.19, 24, BoR), but also threatened and/or breached freedom of association (contrary to s.12, BoR).

(4) Therefore, the Petitioners aver that the scope of such outputs exceeds the Cabinet's power "*pursuant to section 4(9)*" of the PCL, which renders the Purchase Agreement *ultra vires* the PCL, void *ab initio* and unenforceable as being unlawful and irrational (contrary to ss.19, 24, BoR) and, therefore, the Purchase Agreement should be quashed (pursuant to s.27(1), BoR).

(5) And, as such, CILPA should forthwith return/refund to CIG any and all funds unlawfully and/or erroneously authorised by the Finance Committee of the LA (on or about 22 November 2019) and paid to CILPA/CARA, because CILPA (and/or CARA) would, therefore, be unjustly enriched at the expense of the public purse and a remedial right (*in personam* or *in rem*) to restitution must, therefore, be made to the CIG (pursuant to s.15, BoR) by CILPA and/or CARA.

(6) At the end of the Purchase Agreement, it states: '*This Agreement will automatically terminate when alternative arrangements for the issuance of practicing certificates by a regulatory body come into effect under an intended Legal Services Law (or any similar legislation that provides for same).*'

(7) In essence, the Purchase Agreement with CILPA was intended to be a temporary arrangement pending the LA's passage of such legislation pursuant to which a "*regulatory body*" would issue practicing certificates for Attorneys (in place of current issuance by the Clerk of the Court, under ss.11-13, LPL and enrolment, if applicable, under s.5, BoR).

(8) The Petitioners aver, *inter alia*, that this is a threat to the independence of the Bar, which will likely cause more harm than good and would appear to be an underlying motive of power and control, disguised as AML regime functions and which is irrational, disproportionate, procedurally unfair and unlawful (contrary to ss.19, 24, BoR) and which threatens to breach the Petitioners' and other Attorneys' fundamental rights and freedoms, including the following:

(a) freedom of association (contrary to s.12, BoR);

(b) privacy rights (contrary to s.9, BoR);

(c) property rights (contrary to s.15, BoR);

(d) right to a fair trial (contrary to s.7 BoR); and

(e) which (at least objectively) appears to be discriminatory treatment, which favours the larger law firms, and is biased towards Attorneys in smaller law firms and Caymanian sole practitioners (contrary to ss.1(2)(a), 16, BoR).

(9) Section 3, PAL provides: '*In the event of any inconsistency between the provisions of [the PAL] and the operation of any other law, the provisions of [the PAL] shall prevail to the extent of any inconsistency.*'

(10) Therefore, the Petitioners aver that provisions of the PAL shall prevail over the operation of the PCL to the extent of any inconsistency, including whether Attorneys, who are not CILPA members, can be subject to AMLR-compliance monitoring (and/or regulating, supervising and enforcing such AMLR-compliance) by such a "*self-regulatory body*".

(11) Sections 4(1), 5-6, PAL provide:

'*4(1). The purposes of this Law is to provide uniform regulation of the management and governance of public authorities.*

5. The purposes of a public authority is to help the Government to achieve its policy objectives when those objectives are more effectively accomplished through the use of separate legal entities rather than through the civil service.

6. Public authorities are not part of the civil service but are part of the public service and, as such, shall operate in a manner which best serves the public interest.'

(12) As defined in s.2(1) of the PAL:

(a) "*public authority*" means '*a statutory authority or government company*';

(b) "*purchase agreement*" means '*an agreement which specifies all the outputs the Cabinet intends to purchase from a public authority and which is prepared in accordance with section 49 of the [PMFL]*';

(c) "*regulatory function*" (a) includes the function to regulate and supervise persons in accordance with the Law, which governs the authority; and (b) has the meaning assigning by the Law, which governs the authority; and

(d) "*statutory authority*" means an entity established by a law to carry out functions, which are capable under that law, of being funded, partly or entirely, by money provided by the Cabinet, and for which the Governor or the Cabinet has the power to appoint or dismiss the majority of the board or other governing body.

(13) The Petitioners aver from the foregoing, a "*public body*" (but not a "*self-regulatory body*") fits within the scope, definitions, functions, purposes and objectives of a public authority (under the PAL).

(14) In contrast, the Petitioners aver that the scope and functions of a "*self-regulatory body*" fit and are consistent with a private sector association and/or a non-governmental output supplier that is

organized and empowered to regulate exclusively and privately its own members (but not also non-members).

(15) In particular, the Petitioners aver that the notice of Cabinet's assignment to CILPA (as published in the Extraordinary Gazette, dated 10 April 2019), in effect, covered public AMLR-compliance monitoring functions, but not extending to "*regulatory functions*" (as defined in s.2, PAL) and also not extending to monitoring of Attorneys, who are not members of CILPA.

(16) The Petitioners aver, therefore, to the extent of such inconsistency between such operation of the Cabinet's assignment to CILPA of AMLR-compliance monitoring responsibility of Attorneys "*pursuant to section 4(9)*" of the PCL and the relevant provisions of the PAL, the PAL provisions shall prevail (in accordance with s.3, PAL) in order to prevent stultification of the PAL unlawfully and irrationally (contrary to s.19, BoR).

(17) Moreover, s.25, BoR provides: '*In any case where the compatibility of primary or subordinate legislation with the [BoR] is unclear or ambiguous, such legislation must, so far as it is possible to do so, be read and given effect in a way which is compatible with the rights set out in this Part.*'

(18) For reasons that are detailed below, the Petitioners submit that neither CILPA, CARA nor any other "*self-regulatory body*" is appropriate and/or lawful (especially given concerns related to LPP and protection of Constitutional rights, freedoms and privileges under the BoR) to have AMLR-compliance monitoring responsibility for Attorneys assigned to them by the Cabinet "*pursuant to section 4(9)*" of the PCL and/or otherwise, even if only limited to such monitoring of their own members.

(19) Although the AG and the Premier have been fully aware of the Petitioners' concerns that CILPA's irrational, unlawful and *ultra vires* delegation to CARA (without any lawful basis to do so and of the Petitioners' objections and complaints concerning same) of CILPA's (purported) statutory functions and responsibility to carry out public functions (under the PCL) as assigned to CILPA by the Cabinet, the AG and the Cabinet have enabled and/or allowed CILPA's unlawful delegation to CARA without taking any necessary and appropriate steps effectively to stop, address and/or correct it.

(20) The Petitioners aver, *inter alia*, that (even if CILPA were not acting *ultra vires* as a Supervisory Authority) the delegation of AMLR-compliance monitoring responsibility (purported assigned to CILPA by the Cabinet, pursuant to s.4(9), PCL) was an *ultra vires* abdication of authority to CARA (contrary to s.19, BoR) and, therefore, was void ab initio and should be quashed (pursuant to s.19, BoR).

(21) Moreover, the Petitioners had previously made it clear to the AG and to the Premier that they do not object to having their AMLR-compliance properly monitored by a "*public body*" (in particular, a PAL-compliant public authority that is properly and lawfully established to monitor all Attorneys and which has independent and objective board members, employees and/or functionaries).

228. The Petitioners, therefore, aver that, with respect to the Purchase Agreement, *inter alia*, theirs (and other Attorneys') fundamental rights and freedoms are irrationally, disproportionately, procedurally unfairly and unlawfully (contrary to ss.19, 24, BoR) threatened (and/or may be breached), as follows:

(1) Freedom of association (contrary to s.12, BoR), if Attorneys and the Petitioners, would be obligated to register with CARA (and/or CILPA) in order to practice law in the Cayman Islands, where either CILPA and/or CARA issues practice certificates and/or carries out functions for enrollments for enrollment, where their freedom not to associate would be threatened now (at least) and/or breached, which appears to be discriminatory treatment towards Caymanian sole practitioners and Attorneys in small law firms, especially those who chose not to be members of CILPA and/or not register with CARA (contrary to ss.1(2)(a), 16, BoR).

(2) LPP and confidentiality obligations (relating to CPI and ARGW) have been irrationally, disproportionately, procedurally unfairly and unlawfully (contrary to ss.9, 15, BoR), wherein CPI (and ARGW) would be subject to inspection and productions upon request to CILPA and/or CARA (and/or a similar type of body) with a "Chinese wall" (as an information barrier, as between CILPA and CARA) with board members who, if in active legal practice, have inescapable conflicts-of-interest amongst commercial competitors, which cannot be overcome or be cured, which reasonably anticipates (in the same way that a reasonable man would) a danger of risk of disclosure, breach, mischief and/or prejudice to CPI (and/or ARGW), where there appears to have been decided with discriminatory treatment towards Caymanian sole practitioners and Attorneys in small law firms, especially those who chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR).

(3) Right to a fair trial (contrary to s.7, BoR) where, if the Petitioners resist out of genuine concern as to such structures not being in their clients or their interests and more so to their jeopardy (as the Petitioners are now doing), try to then resist, it would affect their ability to be licensed to practice law, which would cause detriment to their finances, the good will of their businesses, reputations and ability to earn a living (all contrary to ss.9, 15, BoR), where there appears to have been decided with discriminatory treatment towards Caymanian sole practitioners and Attorneys in small law firms, especially those who chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR).

(4) Property rights (contrary to s.15, BoR), which include their licence to practice law, which is also a legitimate expectation, pursuant to ss.1(2), 15, BoR) of theirs, their finances, their careers as Attorneys, their ability to earn a living for themselves and their families and their ability to contribute to charities, would be detrimentally affected in such circumstances, there appears to have been decided with discriminatory treatment towards Caymanian sole practitioners and Attorneys in small law firms, especially those who chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR).

(5) Right to no punishment without crime (contrary s.8, BoR), which has already been breached by CARA (on behalf of CILPA) against the First Petitioner and the Second Petitioner, and, as is possible, history may repeat itself against them and/or other Attorneys, especially those who may be targeted with bias for exercising their freedom of expression (pursuant to s.11, BoR) there appears to have been decided with discriminatory treatment towards Caymanian sole practitioners and Attorneys in small law firms, especially those who chose not to be members of CILPA and/or not register with CARA (contrary to ss.1(2)(a), 16, BoR).

(6) The discriminatory treatment (contrary to ss.1(2)(a), 16, BoR, taken together with ss.1(2), 7, 8, 9, 12, 15, 19, BoR) appears to be the collusion between the CIG (inclusive of the Premier, the AG, the Cabinet and the LA) with CILPA, CARA and/or similar body, which may be created under the proposed Legal Services Bill, which seeks to grandfather in those who have practiced unlicensed Cayman Islands law unlawfully in contravention of ss.9, 10, 12(3), LPL, which needs to be avoided and unintelligible bias against (and/or mistreatment of) the Petitioners' fundamental rights and freedoms needs to be protected and preserved for the betterment and greater good of the Cayman Islands as a whole.

229. **Summary of Issues**: The Petitioners aver, *inter alia*, that the net (or cumulative) effect of the forgoing is as follows:

(1) Neither CILPA (nor the Institute) is a Supervisory Authority as defined in s.2(1), PCL (ss.2(1), 4(9), PCL; rr.2(1), 55F, AMLR) and there is an absence of legal basis (it is *sine causa*), and (as such) does not have AMLR-compliance monitoring responsibility properly vested in it with the force of law, because it is *ultra vires* the PCL and is operating, unlawfully (contrary to ss.12, 15, 19, 24, BoR) and the assignment by Cabinet to CILPA was *ultra vires* and void *ab initio*.

(2) CARA is also not a Supervisory Authority (on account of the foregoing: ss.2(1), 4(9), PCL; rr.2(1), 55B(c), AMLR, because there is an absence of legal basis and thus *sine causa*) and (even if CILPA were to have properly been a Supervisory Authority, which it is not) CILPA's delegation to CARA of CILPA's purported AMLR-compliance monitoring responsibility amounted to an *ultra vires* abdication of CILPA's purported authority, which was thus irrational and unlawful (pursuant to ss.12, 15, 19, 24, BoR) and void *ab initio*.

(3) The Purchase Agreement, which was entered into by the CIG (via the AG on behalf of the Cabinet) is irrational, unlawful and *ultra vires* (pursuant to s.12, 15, 19, 24, BoR) and void *ab initio*. Therefore, the subsidy money paid to CILPA (and, if paid by CILPA to or for the benefit of CARA) under the Purchase Agreement has unjustly enriched CILPA (and/or CARA) at the expense of the CIG and must now make restitution (*in personam* or *in rem*) to the public purse.

(4) The Petitioners aver that the subsidy money paid to CILPA pursuant to the Purchase Agreement, which was not lawfully authorised by s.4(9) of the PCL (as there was an absence of legal basis to do so, because it is *sine causa*), is tainted as unlawfully received proceeds.

(5) If CILPA paid any of the subsidy money (received pursuant to the Purchase Agreement) to CARA, then CARA would also be unjustly enriched at the expense of the CIG (as a third-party recipient of an enriching benefit) and must make restitution (*in personam* or *in rem*) to the public purse.

(6) By entering into the Purchase Agreement with CILPA (including paying over the subsidy money), Cabinet (as an accessory, as well as the AG) and CILPA (as an accessory and/or primary actor) and/or CARA (as a primary actor), though attempting to oppressively irrationally and unlawfully require the Petitioners to register with CARA (contrary to ss.12, 15, 19, 24, BoR), have threatened and/or breached the Petitioners':

(a) *in personam* right to freedom of association (contrary to, s.12, BoR);

(b) privacy and property rights (contrary to ss.9, 15, BoR);

(c) right to a fair trial (contrary to s.7, BoR); and

(d) have infringed the other rights and freedoms in a discriminatory manner targeting Caymanian sole practitioners (such as the First Petitioner and Third Petitioner) and Attorneys in small law firms (such as the Second Petitioner), who chose to not be members of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR).

Part K: Corporate Constitution: Not Binding on Non-Members of CILPA, Who Also Have No Obligation to Register with CARA

230. **Non-Members Not Bound by CILPA's Memorandum and Articles of Association**: The Petitioners repeat **paragraphs 194 to 229**.

231. CILPA was formed as an ordinary (resident) company (pursuant to the Companies Law) and registered with the Companies Registry of the Cayman Islands, such that can only bind its members.

232. It is worth noting, s.25(3), Companies Law (2020 Revision), states, in relevant part, as follows:

> *"When registered the said articles of association shall bind the company and the members thereof to the same extent as if each member had subscribed that person's name and affixed that person's seal thereto, and there was in such articles contained a covenant on the part of that person, that person's heir, executors and administrators to conform to all the regulations contained in such articles subject to this Law; ..."*

233. The Petitioners aver, *inter alia*, that s.25(3) of the Companies Law, creates a statutory contract only in respect of rights and duties of members as such, so that (if the Memorandum and Articles of Association provide for other matters) those provisions do not form part of the statutory contract.

234. The Petitioners further aver that a provision in the Memorandum or Articles of Association, which does not relate to the rights and duties of members as such, does not form part of the statutory contract

between the company (*i.e.* CILPA) and its members and, *a fortiori*, no such provision creates a binding statutory contract between the company (*i.e.* CILPA) and who is not currently a member of the company.

235. The Petitioners note s.1(c) to the Schedule any person to the LAMAL (which amended the LPL by inserting s.22A), which states as follows:

> *"The objects of the [CILPA] shall include the regulation of attorneys-at-law to ensure their compliance with [AML] and [CTF] legislation."*

This was, in effect, a Condition Precedent (pursuant to s.1(c) of the Schedule to the LAMAL), which the LA set in place before CILPA was (purportedly supposed to be) able to carry out any AMLR-compliance monitoring functions.

236. Notwithstanding what s.22A of the LPL, as so amended, now provides, the Petitioners aver that the objects in CILPA's Memorandum of Association and its Articles of Association still can only bind its current members, not non-members of CILPA. And, the Petitioners further aver, *inter alia*, that Schedule 3 of the Monetary Authority Law provides that CILPA is a "*private sector association*".

237. On 6 March 2020, the AG (on behalf of the Cabinet, and in his response letter to the ALPA LBA) wrote, *inter alia*, as follows:

> *'As you are no doubt aware, the CFATF 4th Round Mutual Evaluation Report for the Cayman Islands highlighted the need for "lawyers, in particular, those that do not have any affiliation with licensed TCSP's, [to] be supervised for AML/CFT [sic] compliance".*
>
> *This is consistent with the FATF Recommendations ("the Recommendations") which provides that:*
>
> ***'Countries should ensure that the other categories of DNFBPs are subject to effective systems for monitoring and ensuring compliance with AMLR/CFT [sic] requirements.*** *This should be performed on a risk-sensitive basis.* ***This may be performed (a) by a supervisor or (b) by an appropriate self-regulatory body (SRB), provided that such a body can ensure that its members comply with their obligations to combat money laundering and terrorist financing[.]***
>
> *The supervisor or SRB should also (a) take the necessary measures to prevent criminals or their associates from being professionally accredited, or holding or being the beneficial owner of a significant or controlling interest or holding a management function, e.g. through evaluating persons on the basis of a "fit and proper" test; and (b) have effective, proportionate, and dissuasive sanctions in line with Recommendation 35 to deal with failure to comply with AML/CFT [sic] requirements.'* (our emphasis added)

238. The Petitioners, therefore, aver, *inter alia*, that the FATF's Recommendations specifically provided for the choice between (i) a supervisory or (ii) an appropriate self-regulatory body, but only if such self-regulatory body can ensure that its members comply with their obligations to combat ML-TF, because FATF understood the difficulties that can accompany attempting to get all Attorneys to voluntarily "comply" via a self-regulatory body.

239. The Petitioners, however, assert that the Cabinet (with the AG taking the lead) have effectively failed at properly implementing FATF's recommendation, but have instead created chaos by improperly attempting to empower CILPA/CARA to make a further oppressively irrational and unlawful mess of things (contrary to ss.19, 24, BoR), which has, in fact, happened.

240. The Petitioners aver that the First Petitioner made this abundantly clear in his letter (dated 22 November 2019) to Ms. Guile (of CARA), which was sent via e-mail and copied to members of the LA and the Cabinet (including the AG and the Premier), stating, *inter alia*, the following:

> *'As I have previously mentioned to the Hon. Premier and to Hon. Attorney General, in paragraph 2 of the Schedule to the [LAMAL], [CILPA] is categorized as a "private [sector] association". Thus, CILPA cannot properly function as a self-regulatory body to regulate the entire legal profession. CILPA can only regulate its own members, not non-members.*

That is why the C.I. Government has proposed the [LPAB], which inter alia seeks to make every attorney-at-law admitted to practice and who holds a practicing certificate to be deemed to be a member of CILPA for the purposes of enabling CILPA to carry out its duties as Supervisory Authority. However, this would unlawfully force persons (such as myself), who have chosen not to become members of CILPA, to be regulated by CILPA for the purposes of AML regulation of the profession. CILPA/CARA is/are not able to regulate non-members of the legal profession, who are not registered members of CILPA. CILPA is merely a "private [sector] association" acting as a "self-regulatory body".

It seems to me that your e-mail seeks to strong-arm us (who have not joined CILPA/CARA nor voluntarily submitted to CARA information for AML regulatory purposes) into submission and being forced to be CILPA members, although CILPA/CARA do not have a proper statutory/legal grounding to do so. Is CILPA/CARA a "self-regulatory body" (pursuant to s.4(9), Proceeds of Crime Law (2019 Revision)) or a "forced-regulatory body" in absence of a legal basis upon which to hang its hat? It's definitely the latter.

The above-mentioned [LPAB] attempts to serve as a catch-all safety-lever for the legal profession for AML purposes, which has failed effectively to cover the entire legal profession. If the [LPAB] is passed by the [LA], it would be a prima facie breach/contravention of Caymanian legal practitioners' in personam right to freedom of association (and/or non-association) under...section 12 of the [BoR].

Is this not an attempted exercise in futility? Does CILPA/CARA not know where it stands with respect to a proper legal basis on which to regulate the legal profession in the Cayman Islands?

...

I personally am offended and perplexed by your insulting and threatening e-mail, asserting that there will be a DNFBP administrative fines regime. If such legal threats are attempted to be carried out on me, then you can expect legal proceedings to follow. I will not be run over by a CILPA/CARA bulldozer unfairly and unfounded in law without a real fight to the end.

There is no one that respects the rule of law more than myself and (if I am subject to an actual binding legal obligation) I will abide by the law. However, I take your e-mail as a slap in the face to the rule of law and to the spirit of good faith working together for the best interests of the Cayman Islands.

Is CILPA/CARA trying to scare us into submission/cooperation, when there is no proper legal basis for forcing us to become members of CILPA against our will and free choice of association or non-association? Does CILPA/CARA think that such scare tactics are conducive to creating an atmosphere of good faith and a collaborative spirit of working together between ALPA and CILPA/CARA? Or, is this a last ditch attempt to enforce an untenable legal position?

...

I urge the [LA] to take note of this abusive and untenable position, which needs immediate redress. I will not submit to the authority of CILPA/CARA, which has not created a lawful legal basis for me (against my will and better judgment) to be regulated by this illegitimate attempt to force me to become a CILPA member (or to submit to CARA's or CILPA's authority in the absence of a proper legal basis).'

241. The Petitioners aver, *inter alia*, that:

(1) they had (and have) a *per se* legitimate expectation (pursuant to s.15, BoR) that there was (and still is) no legal basis (*sine causa*) obligating them to become members of CILPA and/or to register with CARA (contrary to ss.8, 12, 15, 19, BoR);

(2) this did, however, unlawfully threaten and/or breach their freedom of association (pursuant to ss.19, 24, BoR contrary to 12, BoR) in a discriminatory manner (contrary to ss.1(2)(a), 16, BoR) against Caymanian sole practitioners and Attorneys in small law firms, who chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR);

(3) CILPA's and/or CARA's (as well as the Cabinet's) attempts to have them do so is an oppressively irrational and unlawful action (contrary to ss.19, 24, BoR), which is misguided and not obligatory, because there is an absence of a proper legal basis (*sine causa*) upon which to demand non-members to register with CARA (contrary to ss.8, 12, 15, 19, BoR); and

(4) this threatened and/or breached the Petitioners' freedom of association (contrary to s.12, BoR) in a discriminatory manner against Caymanian sole practitioners and/or Attorneys in small law firms, who chose not to be members of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR).

242. The Petitioners further aver, *inter alia*, that the FATF's and CFATF's efforts to increase the international AML pressure on jurisdictions (such as the Cayman Islands) is an oppressively irrational attempt at introducing anti-competition blockades to doing business in offshore jurisdictions and seeking to chase business from offshore jurisdictions back onshore (contrary to s.19, BoR), which threatens and/or breaches their local economies' property rights (contrary to s.15, BoR) in a discriminatory manner (contrary to ss.1(2)(a), 16, BoR).

243. On 2 March 2020, CILPA (in response to the ALPA LBA) wrote (at paragraph 2.4(c)-(d)), *inter alia*, the following:

> *"(c) The objects and powers expressly set out in CILPA's Amended and Restated Memorandum of Association, and for which CILPA was established, include to "act as a "supervisory authority" as defined in the Money Laundering Regulations (Revised)" (as amended from time to time) for firms of attorneys-at-law (including individuals) Licensed to practise law in the Cayman Islands (Object 4(m));*
>
> *(d) Pursuant to Article 11 of CILPA's Amended and Restated Articles of Association (Amended by Special Resolution dated 16 December 2019) (the "Articles"), the CILPA Council is empowered to manage the affairs of CILPA and are authorised, for that purpose, to exercise all the powers of CILPA;"*

244. On 6 March 2020, the AG (in response to the ALPA LBA) wrote, *inter alia*, the following:

> *"With respect to the relief sought in relation to the LPAB, please note that CIG does not intend to proceed with this [LPAB] given the amendment effected by CILPA to its Articles of Association (see paragraph 2.4(d) of their letter)."*

245. The Petitioners aver that the LPAB, which was withdrawn or deferred in or about 5 or 6 December 2019, just days after receiving ALPA's letter, memorandum and supporting authorities on 2 December 2019, which substantially set out why the LPAB would unlawfully (contrary to ss.19, 24, BoR) breach the Petitioners' freedom of association (contrary to s.12, BoR), was aborted.

246. The Petitioners, therefore, aver, *inter alia*, that the Cabinet (including the AG and the Premier) realised (at least) implicitly that passing the LPAB would have unlawfully (pursuant to ss.19, 24, BoR) breached, but did actually threaten, the Petitioners' (and other Attorneys') freedom of association or non-association (contrary to s.12, BoR) and (as such) the alternative attempted route to achieve the same or similar goal was by CILPA amending the Objects in its Memorandum of Association as a way to get around it, which was a failed irrational and unlawful decision and/or act by the Cabinet and/or by CILPA (pursuant to ss.24, BoR contrary to ss.12, 19, BoR).

247. The Petitioners further contend, however, that:

(1) neither they (nor other Attorneys, who are not members of CILPA) are bound by the objects in CILPA's Memorandum of Association nor by the articles in CILPA's Articles of Association;

(2) because, the Memorandum of Association, *inter alia*, does not bind non-members to a statutory contract or statutory covenant relating to powers (*sine causa*), duties and functions relating to CILPA, which is a private company (pursuant to s.12, BoR); and

(3) as such, there is an absence of a legal basis to demand the Petitioners to register with CARA against the threat of administrative fines and/or penal sanctions (contrary to s.8, BoR).

248. The Petitioners aver, *inter alia*, that it is irrational and unlawful to try to bind non-members of a private body corporate, which is a private sector association purportedly acting as "self-regulatory body", and which can only bind its members to the statutory contract (or statutory covenant), not non-members (contrary to ss.12, 19, 24, BoR; s.25(3), Companies Law).

249. The Petitioners reject both the AG's and CILPA's contentions mentioned above and will vigorously challenge the legitimacy of these assertions herein, wherein there is an absence of a legal-constitutional basis upon which to hang their hat (contrary to ss.8, 12, 15, 19, 24, BoR), for the following reasons:

(1) CILPA got its purported assignment (on 19 February 2019, which was published in the Gazette on 10 April 2019) from the Cabinet, which was irrational and unlawful, the scope authorised of

s.4(9), PCL (primary legislation), only offers "monitoring" AMLR compliance by Attorneys (not powers or functions of regulating, supervising and/or enforcing) and because CILPA cannot bind non-members; and

(2) CARA got its purported delegation from CILPA (on 29 May 2019), where CILPA abdicated its authority to CARA, which CILPA received from the Cabinet, rendering such purported delegation *ultra vires*, irrational and unlawful, and therefore, *ultra vires* and void *ab initio*.

250. The Petitioners, therefore, further aver, *inter alia*, the following:

(1) CILPA has members from much other large law firms, who have appeared to have had involvement with unlicensed lawyers in other foreign jurisdictions, who appear to have been practicing Cayman Islands law unlawfully, which (although being notified about this for years now) the AG and the Premier, as well as the Cabinet and the LA, have not seemed to want to do anything about it or actually do anything about it (contrary to ss.15, 19, 24, BoR), which appears to have been discriminatory to local Attorneys (including Caymanian Attorneys) unlawfully (contrary to ss.1(2)(a), 16, 19, 24, BoR).

(2) The Petitioners are confused as to why the CIG (inclusive of the LA and the Cabinet), the AG and the Premier objectively appear to be using CILPA/CARA AML regime (which is operating *ultra vires* the law and exercise of powers in excess of the authorised scope of the law and powers), which is being used as an oppressively irrational, disproportionate, procedurally unfair, unlawful and unconstitutional (contrary to ss.19, 24, BoR) discriminatory tool of oppression against the Petitioners and other Attorneys, who all Caymanian Attorneys in small law firms and act as sole practitioners, that have chosen not to be members of CILPA and/or not to register with CARA (contrary to s.16, BoR).

(3) The Petitioners are concerned that, because the Premier has been permitted from being Premier for a third terms, the Premier may be attacking what may appear to be the most vulnerable sector of the legal profession, which appears to be motivated by the succumbing to internation pressures, but without taking into consideration the rational and lawful issues (pursuant to ss.19, 24, BoR) that local Attorneys (including the Petitioners) have and it being used as ruling with an iron fist, instead of abiding by principles of Constitutional Supremacy (pursuant to ss.59(2), Constitution) and the rule of law (pursuant to ss.1(2)(a), 107) important to the administration of justice, which the LA and the Cabinet (including the Premier and the AG) seemed to have disregarded giving full thought and attention to in their acts and decisions.

(4) The Petitioners feel that the Cayman Islands legal profession is now at a crossroads, as well as the Cayman Islands jurisdiction, as to whether the Cayman Islands is indeed a true democratic society or whether the Cayman Islands is drifting into something worse or closer to a dictatorship, because this is important that the democratic principles and values are unhelp in the Cayman Islands (pursuant to s.1, BoR), as well as the duties of public officials of legality (pursuant to s.19, BoR) and (pursuant to s.24, BoR), and to not stultify the principles of fairness, human dignity equality, freedom (pursuant to s.1, BoR) and ensuring that the principle of non-discrimination is upheld (pursuant to s.16, BoR).

(5) The Petitioners further aver that the President of CILPA, who is not an elected member of the LA, appears to have been attempting to consult parties (including the LA's member of the Opposition and other private Attorneys) relating to the recent Legal Services Bill (which, inter alia, seems to be attempting to grandfather in unlicensed practice of Cayman Islands law by lawyers in foreign jurisdictions) in a manner where it had the awkward appearance that CILPA's President was an unelected member of the LA, which also appeared that he may have done so with the support of the AG, the Premier, the LA, the Cabinet and was given unbridled free reign to carry on as, in an oppressively irrational manner, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) and against the principles of fairness and non-discrimination (contrary to ss.1(2)(a), 16, BoR), where

the AG, the Premier and the Cabinet (and, at least, some of the LA) had knowledge of this action and allowed it to continue (contrary to ss.1, 16, 19, 24, BoR; ss.44, 50, 56, 59, 107, Constitution), which needs to be addressed.

(6) As result of the matters herein, the Petitioners have suffered significant detriment to their marital relationship (or significant others), which has caused harm to their private and family life (contrary to s.1, 9, BoR), as well as to their financial position, their businesses (including good will of their businesses), reputations (contrary to ss.1, 9, 15, BoR), which has been allowed to happen by the AG, the Premier, the Cabinet and the LA, wherein this AMLRs and the purported AML regime has been inflicted upon them as a tool of discriminatory oppression irrationally, disproportionately, procedurally unfairly and unlawfully (contrary to ss.19, 24, BoR, taken together with ss.1(2)(a), 16, BoR).

(7) The Petitioners further aver that the corporate model chose by CILPA/CARA, which has been allowed by the LA, the Cabinet, the AG and the Premier, appears to be (in truth) an anti-competition agenda, wherein the largest (or larger) law firms are being irrationally, disproportionately, procedurally unfairly, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) given power and control over the legal profession, which goes against the principles of independence of the Bar (protected under s.12, BoR) and erosion of LPP and confidentiality obligations (protected under s.9, BoR), which has been allowed to cause damages and detriment to the Petitioners' and other Attorneys' financial stability, businesses (including good will thereof) and licenses to practice law in the Cayman Islands (contrary to s.15, BoR), wherein the the principles of the rule of law, fairness, human dignity and freedom of all been disregarded (contrary to ss.1, BoR; 107, Constitution) and are starting to wonder whether the Cayman Islands is truly a democratic society and whether the BoR is a cornerstone of democracy in the Cayman Islands (contrary to ss.1, BoR).

(8) The Petitioners further aver, *inter alia*, whether the CIG (inclusive of the AG, the Premier, the Cabinet and the LA) are not using the COVID-19 crisis as a shield to hide behind the harm and detriment that have been inflicted upon the Petitioners and other Attorneys, who are all Caymanian sole practitioners and Caymanian Attorneys in small law firms, who have chosen not to be members of CILPA and/or not to register with CARA, because they feel that neither CILPA nor CARA are acting lawfully and constitutionally (contrary to ss.19, 24, BoR), but is rather a runaway freight train that is being allowed to be an irrational, unlawful and unconstitutional (contary to ss.19, 24, BoR) discriminatory tool of oppression (contrary to ss.1, 16, BoR) against the Petitioners and other Attorneys, who only seek to have the rule of law (pursuant to s.1, BoR), which the LA and the Cabinet are constitutionally obligated to uphold (pursuant to s.107, BoR), and Constitutional Supremacy (pursuant to s.59(2), Constitution) respected and preserved.

(9) The Petitioners aver that the Premier has not been carrying out his duties to exercise his functions in the best interests of the Cayman Islands (contrary to s.50, Constitution), the AG has fell short of carrying out his duties as the principal legal advisor to the LA and the Cabinet (contrary to s.56(2), Constitution), the LA has failed in its duties (subject to Constitutional Supremacy, under s.59(2), Constitution) to make laws for the peace, order and good government of the Cayman Islands (contrary to s.59(2), Constitution) and the Cabinet, which (subject to Constitutional Supremacy (pursuant to ss.44(4), 59(2), Constitution) is collectively responsible to the LA (pursuant to s.44(3), Constitution), has by failing to uphold the rule of the law in the Cayman Islands (contrary to s.107, Constitution), which has all been done irrationally, disproportionately, procedurally unfairly, unlawfully and unconstitutionally (contrary to ss.1, 19, 24, BoR) and, as such, it is now (given the failure of the LA and the Cabinet (under s.107, Constitution) to uphold the rule of law) it is now the Constitutional duty of the judicial branch of government to set the record straight and ensure the rule of law is upheld (pursuant to s.107, Constitution) and that Constitutional Supremacy reign free in the Cayman Islands (pursuant to s.59(2), Constitution).

(10) The Petitioners and all other Attorneys, just like to judiciary (under s.107, BoR), enjoy independence of the Bar (protected under s.12, BoR) and freedom from the shackles of the "cab rank rule (pursuant to s.12, BoR), which (along with LPP and confidentiality obligations, under s.9, BoR), stand as fundamental conditions for the administration of justice and are protected in order to uphold Constitutional Supremacy (pursuant to s.59(2), Constitution) and the rule of law (protected under s.1(2)(a), BoR; 107, Constitution), which are enshrined in the BoR, which is the cornerstone of democracy in the Cayman Islands (pursuant to s.1(1), BoR).

251. **Condition Precedent Set by LA in LAMAL for CARA—Private Memorandum, Still Not Binding on Non-Members, Upon Fulfillment:** The Petitioners repeat paragraphs 191 to 193 above, and further (and in the alternative), challenge the legality of CILPA, upon the basis that—aside from neither CILPA and CARA nor CARA being a Supervisory Authority—CILPA did not comply with the Condition Precedent set by the LA in the LAMAL below, the First Petitioner and Second Petitioner were nevertheless issued administrative fines (on 16 March 2019) for failing to register with CARA by 29 November 2019 (pursuant to r.55F, AMLR).

252. This was, in effect, a Condition Precedent (pursuant to s.1(c) of the Schedule to the LAMAL), which the LA set in place before CILPA was (purportedly supposed to be) able to carry out any AMLR-compliance monitoring functions. The Petitioners repeat paragraph 212 above.

253. From in or around 1 August 2019, when demand notices were sent out (via e-mail blast) by CARA to Petitioners (including all Attorneys) and again on 18 November 2019, when CARA sent notice to the First Petitioner demanding that he register with CARA (by 30 August 2019 and by 29 November 2019, respectively), CILPA's Memorandum of Association (amended and restated as of 15th November 2018) stated:

'if so authorized by the Cayman Islands Government to act as "supervisory authority" (as defined in the Anti-Money Laundering (Designated Non-Financial Business and Profession) (No. 1) Regulations 2017) for firms of attorneys-at-law who are also ***members*** *of CILPA, being an authority which CILPA must cause to be a suitably-financed supervisory executive.'* (emphasis added in **underlined** and **bold** text)

254. The Petitioners further aver, *inter alia*, that since CILPA had not fulfilled the Condition Precedent set by the LA, neither CILPA nor CARA had any AMLR-compliance monitoring authority that was then binding on any Attorneys (including the First Petitioner and the Second Petitioner), who had not become CILPA members nor ever registered with CARA including, but have both been unlawfully issued administrative fines by CARA for not registering with CARA (on 29 November 2019).

255. On 22 November 2019, the First Petitioner wrote to Ms. Guile of CARA and explained, *inter alia*, that there was an absence of a legal basis (*sine causa*) upon which CILPA and/or CARA could act with AMLR-compliance monitoring responsibility over non-members of CILPA, because (as a private sector association acting as a self-regulatory body) only members of CILPA (and/or those who voluntarily submitted to CARA) could be bound by CILPA and/or CARA as AML regulator.

256. Later, on 22 November 2019, Ms. Guile (on behalf of CARA) wrote the First Petitioner, thanked him for the correspondence and promised to consider the contents of his letter and revert in the future, which created a "legitimate expectation" to the First Petitioner by CARA, which was never fulfilled (contrary to ss.1(2)(a), 15, 19(2), BoR), which was oppressively irrational and unlawful (contrary to ss.19, 24, BoR), and which breached the First Petitioner's right to receive written reasons that corresponds with CARA's governmental duty as a "public official" (pursuant to s.28, BoR) to provide written reasons (contrary to ss.1(2)(b), 19(2), BoR).

257. Then, CILPA's Memorandum of Association was amended (on 16th December 2019) and clause 4(m) now states that objects for which '*CILPA is established*' is '*to act as a "supervisory authority" as defined in the Anti-Money Laundering Regulations (Revised) (as amended from time-to-time) for firms of attorneys-at-law (including individuals) licensed to practice law in the Cayman Islands*'

258. The Petitioners aver that, given that (even after 16 December 2020) the delegation by CILPA to CARA of CILPA's AMLR-compliance monitoring functions was an *ultra vires* abdication of authority, it was oppressively irrational and unlawful (contrary to ss.19, 24, BoR) and was thus void *ab initio*; and, therefore, should be quashed (pursuant to s.27(1), BoR).

Part L: Confidential and Privileged Information

259. The Petitioners assert that this section may very well be the most important areas to Attorneys, because of the relevance it serves in their independence at the Bar, which is akin to its inextricably intertwined relationship with the judiciary, which too is independent (s.107, Constitution) and which helps with preserving the rule of law and the administration of justice. **Paragraphs 147-165, 194 to 285** above are repeated. The Petitioners repeat **paragraphs 147-165**

260. **Rights to Privacy (s.9, BoR)**: S.9 of the BoR states:

> *'(1) Government shall respect every person's private and family life, his or her home and his or her correspondence.*
>
> *(2) Except with his or her own consent or as permitted under [this Constitution], no person shall be subjected to the search of his or her person or his or her property or the entry of persons on his or her premises.'*

261. Privacy rights are fully-fledged fundamental constitutional protections, which are entitled to be broadly interpreted and to be given effect in their own right (pursuant to s.9, BoR).

262. **Different Privacy Rights (s.9, BoR)**: The Petitioners aver that s.9, BoR protects (and/or protects against) the following:

(1) The Petitioners' clients' LPP, which is a fundamental human right, to private communications of clients with their attorneys and is an absolute right (which is inviolable);

(2) The Petitioners' confidentiality obligations owed to their clients (to which LPP does not attach);

(3) The Petitioners' clients' confidential information, which does not amount to LPP (including trade secrets and personal data—the latter being protected under DPL);

(4) The Petitioners' own confidential information (including trade secrets), which belongs to the Petitioners (and/or to their legal practices);

(5) No unauthorised and/or unlawful search of the Petitioners' person;

(6) No unauthorised and/or unlawful search of the Petitioner's property (wherever its location is whether physically stored and/or electronically and/or otherwise); and

(7) No unauthorised and/or unlawful entry onto the Petitioners' business premises (protected under s.9(2), BoR).

263. The Petitioners aver, *inter alia*, that the right to privacy (under s.9, BoR) provides broad protection, which is extremely important to Attorneys and their clients, that safeguards the integrity of the attorney-client relationship and ensures that access to justice is preserved.

264. **Legal Professional Privilege (s.9(1), BoR)**: The Petitioners aver that LPP is a fundamental human right protected in the Constitution's right to privacy (under s.9(1), BoR) as private communications of clients with their attorneys and is an absolute right (which is almost inviolable, but very close thereto).

265. The Petitioners aver that LPP is a fundamental condition on which the administration of justice as a whole rests, which guarantees that clients are able to consult their attorneys in confidence for the purpose of ensuring that clients can be completely truthful with their attorneys and to be sure that what the clients tell their attorneys in confidence will never be revealed without their consent, except for the crime exception (under s.9, BoR).

266. LPP extends to all communications with attorneys relating to advice, even when not involved in litigation, as everyone is entitled to have legal certainty in all relevant areas to achieve orderly

arrangement of their affairs, because there is a social benefit to be gained from knowledge that a person could speak about their affairs to others without being discussed with the police, the executive, business competitors, busybodies and/or others (pursuant to s.9, BoR).

267. The Petitioners aver, *inter alia*, that there is a legitimate expectation (protected under ss.7, 15, BoR) that professional secrecy/confidentiality inherent in LPP (protected under s.9, BoR) will be free from disclosure or governmental taking or acquisition, unless consent has been given authorising disclosure, a Court has ordered otherwise or it is falls under the crime exception (which the latter two are closely related, if not aligned).

268. On 30 December 2019, the First Petitioner wrote to the AG (copying members of the LA and the Cabinet) stating, *inter alia*, that:

> *'The areas that are most concerning pertain to protection of* ***legal professional privilege*** *(divided into 'legal advice privilege' and 'litigation privilege' is really an integral (or unitary) privilege), which will prevail over a statutory investigator, and the invasive statutory intrusions into confidential-privileged information that overreach, which put at risk the integrity of the legal system and the sacred principles necessary for true access to justice. Legal professional privilege, which is a 'fundamental human right' based on private communication between clients with attorneys, is constitutionally protected (enshrined in our Bill of Rights under s.9, Constitution). Legal professional privilege is inviolable and almost absolute from having to disclose, and lawyers enjoy a higher degree of protected confidentiality at law than applies to accountants.'*

269. Self-regulation of accountants by the Institute was the model, which the Cabinet, the AG and the Premier sought to use as a justification for the choice of CILPA as an AMLR-compliance monitoring responsibilities for Attorneys (including the Petitioners), but lawyers enjoy a higher level of protected confidentiality (specifically LPP) than accountants (pursuant to s.9, BoR), which makes such choice of analogy between accountants and lawyers irrational and disproportionate (pursuant to s.19, BoR), as well as objectively discriminatory to Attorneys (pursuant to ss.1(2)(a), 16, BoR).

270. **Confidentiality and Confidential Information (s.9(1), BoR)**: The Petitioners aver that (both theirs and their clients') confidential information (including trade secrets and personal data) are protected as Constitutional privacy rights (under s.9, BoR).

271. The Petitioners aver that, *inter alia*, Attorneys, who are business owners, have the right to protect their commercially sensitive confidential information (including financial information, which could cause embarrassment, as well as trade secrets), which is protected as a privacy right, where detriment could be caused by disclosure of such information pertaining to adverse effects on commercial interests, which would be difficult to quantify in compensation and must remain private (pursuant to s.9, BoR).

272. On 14 February 2020, the Third Petitioner summarized concerns, which, *inter alia*, included:

> *'Breach of confidentiality is a concern for the following reasons:*
>
> *(a) CARA is a subcommittee of the CILPA board and CILPA board may have access to CARA's inspection records, which may contain confidential information. Client information cannot be share[d] between competing law firms, especially without client consent.*
>
> (b) *the CILPA board that created CARA has at least one law firm that was recently in court proceedings regarding possible breach of confidentiality.'*

The Petitioners further aver that the Third Petitioner was entitled to protect his clients' confidential information from disclosure (even if it did not qualify as LPP), which he did and it is protected as a privacy right (pursuant to s.9, BoR).

273. The Petitioners aver that, *inter alia*, this was a proportionate position for the Third Petitioner to take, because there was no known criminal act of money-laundering extant to require the necessity, and professional secrecy and confidentiality were legitimate expectations for the Third Petitioner to have (under ss.7, 9, 15, BoR), especially in the absence of any contention as to criminality or wrongdoing to prevent against.

274. **Privacy Right Against Entry, Search and Seizure (s.9(2), BoR)**: The Petitioners aver that they are protected by a privacy right that (without prior consent or Constitutional permission, under s.9(3), BoR) they shall not be subject to search of their person or property, or entry on their home or commercial business (or private) premises (under s.9(2), BoR).

275. On 30 December 2019, the First Petitioner wrote to the AG, wherein it was emphasized, *inter alia*, that:

> *"In another jurisdiction, the AML self-regulatory regimes' 'search and seizure' statutory powers were held to be unconstitutional as applied to lawyers for protection of legal professional privilege."*

276. Unless consent was provided or prevention of criminal activity of money-laundering was being prevented, where there was a suspicion of such activity, then the Petitioners aver that entry, search and seizure functions are disproportionate and there is a legitimate expectation (under ss.7, 9, 15, BoR) against such invasive intrusions into Attorneys' home or business premises, provided a warrant is granted (pursuant to s.9(3), BoR; s.199A, PCL).

277. **Right to Peaceful Enjoyment of Property (s.15, BoR)**: Section 15(1) of the BoR states: '*Government shall not interfere in the peaceful enjoyment of any person's property and shall not compulsorily acquire an interest in or right over any person's property of any description*'.

278. The Petitioners aver that the Constitutional property right (under s.15(1), BoR) also protects against:

(1) interference with peaceful enjoyment of property,

(2) compulsorily taking possession of property, and/or

(3) compulsorily acquiring an interest in (or right over) property of any description (whether tangible or intangible, or legal, equitable or statute-based), unless allowed by the Constitution.

279. **Privacy and Property Rights Inextricably Intertwined (ss.9, 15, BoR)**: Thus, the Petitioners aver that, whilst this is a privacy right from entry of premises and search of person or property, section 9 of the BoR incorporates a protective element of privacy protection over enjoyment of property rights and also proprietary (rights *in rem*) protective characteristics built in (pursuant to s.15, BoR).

280. The Petitioners aver, *inter alia*, that the tangible form of documentation, which contains LPP or confidential information (protected under s.9, BoR), creates a legitimate expectation (protected under ss.7, 9, 15, BoR) that the tangible document will remain free from interference with peaceful enjoyment of the property (pursuant to s.15, BoR) upon which the obligations of LPP and/or confidential information are present on or in (pursuant to s.9, BoR).

281. The Petitioners further aver, *inter alia*, that intangible form—such as, where information is stored electronically (*e.g.* on a "cloud" or on a computer or in an e-mail)—provide a legitimate expectation (protected under s.15, BoR) that the intangible information to which the obligation of LPP and/or confidentiality (protected as a privacy right, under s.9, BoR) attach, is itself protected as a property right (pursuant to s.15, BoR).

282. As such, the Petitioners assert that the privacy right obligations (pursuant to s.9, BoR), which attach to LPP and confidentiality, are also protected as property right (pursuant to s.15, BoR) and there is a legitimate expectation (protected under s.15, BoR) that such Constitutional protection will be afforded thereto and therein.

283. The Petitioners contend that, *inter alia*, there is an interesting interplay between privacy and property rights (under ss.9, 15, BoR), which protect the confidential-privileged obligations (under s.9, BoR) and where they are located (under s.15, BoR), as well as legitimate expectations (also protected as a property right, under ss.7, 9, 15, BoR).

284. **Personal Data**: The Petitioner's aver that (under the DPL) personal data is treated both as confidential and as a property right that is constitutionally protected (under ss.9(1), 15(1), BoR).

285. Prior to the DPL being passed, the Data Protection Bill 2016 stated that it:

> *"seeks to introduce in the Cayman Islands legislation on data protection. Data protection is aimed principally at giving effect to the rights to privacy in relation to personal data while ensuring that certain exceptions are allowed. Consideration has been given, among other things, to section 9 of the Constitution of the Cayman Islands relating to private and family life."*

286. The Petitioners aver, *inter alia*, that there is an extreme legitimate expectation with respect to personal data generally, but, even more so, heightened where it relates to confidential information or LPP with respect to Attorneys (pursuant to ss.7, 9, 15, BoR).

287. **CPI: Privacy and Property Rights (ss.9, 15, BoR)**: The Petitioner's aver that personal data, confidential information and LPP, when taken together may be referred to as "confidential-privileged information" ("**CPI**"), and CPI is protected both as a right to privacy and as a property right (under ss.9(1), 15(1), BoR).

288. **Protection Against Entry, Search and Seizure: Privacy and Property Rights (ss.9, 15, BoR)**: No CPI shall be subject to a request to provide information or documentation, or to enter or search the Petitioners' business premises where CPI information is stored and/or filed, or to seize any CPI, unless by consent, court order granting a warrant or Constitutional exception (under ss.7, 9, 15, BoR).

289. **Attorneys' Reputations, Good Will, Confidential Information, Trade Secrets and Intellectual Property (ss.9, 15, BoR)**: The Petitioners aver that their highly sensitive reputations (including personal data under the DPL, confidential information and/or trade secrets) are also protected as a right to privacy (under s.9(1), BoR) and limitation to freedom of expression (under s.11(2)(b), BoR) and the good will of their legal practices (including sensitive commercial information and/or confidential information and/or intellectual property and/or trade secrets) are protected as a property right (under s.15(1), BoR).

290. The Petitioners aver that their reputations and good will ("**ARGW**") are inextricably intertwined and are protected both as a right to privacy and as a right to property in the Constitution (pursuant to ss.9(1), 15(1), BoR). And, the Petitioners further aver, *inter alia*, there are few other rights (or restrictions on rights), which apply here, as follows:

    (1) the freedom of expression may be limited (under s.11(1), BoR), where it is reasonably justifiable in a democratic society to protect the reputations and private lives in the legal proceedings, preventing disclosure of confidential information, as well as maintaining the authority and independence of the courts (pursuant to s.11(2)(b), BoR); and

    (2) limit the open justice principle (under s.7(1)-(9), BoR), where protection of commercial confidence or privacy rights are concerned.

291. And, the Petitioners (as do all Attorneys) have a legitimate expectation for this information to stay private and out of jeopardy from being diluted or damaged, unless with express consent and/or to prevent real criminal activity (pursuant to ss.7, 9, 15, BoR).

Part M: CILPA/CARA's Defective "Chinese Wall": No Real Barrier to Breach of CPI

292. **Defective "Chinese Wall"—Reasonable Anticipation of Breach, Mischief or Prejudice**: was structured with different law firms (and/or a minority of sole practitioners) sitting on its board. From the start, the Petitioners found it unacceptable to have different attorneys (who were still in active practice of law and who had competing commercial interests and competing client interests, as well as the competing fiduciary duties and confidentiality obligation respecting LLP to protect the foundation respecting the attorney-client relationship) serving on CILPA's board and carrying out a public function of responsibility for AMLR-compliance monitoring of Attorneys (who are conducting "*relevant financial business*" and who are not already monitored by CIMA), which is, *ipso facto*, contrary to established legitimate expectations from time immemorial (contrary ss.7, 9, 15, BoR).

293. The Petitioners aver that, where there are inescapable conflicts-of-interests, which cannot be cured or overcome, amongst commercial competitors from different law firms, where a reasonable man—when informed of the facts—would anticipate a danger of risk that CPI would be disclosed (contrary to ss.9, 15, BoR), then this irrationally and unlawfully, *ipso facto*, puts them in an apparent (if not actual) breach of attorney-client privilege and/or breach of fiduciary duties (contrary to ss.7, 9, 15, BoR, pursuant to ss.19, 24, BoR).

294. The Petitioners further aver, *inter alia*, that against reasonable anticipation of danger/risk of disclosure of CPI, the so called "Chinese wall" between CILPA and CARA (because of the inescapable conflicts-of-interest amongst commercial competitors, which are unable to be cured or overcome) as an information barrier cannot eliminate the risk of disclosure, prejudice or mischief (pursuant to ss.7, 9, 15, BoR), which condemns the entire CILPA/CARA AML self-regulatory regime and clearly indicates, *ipso facto*, that it is incompatible with the BoR (pursuant to s.23-24, BoR).

295. The Petitioners contend that Attorneys, who are officers of the Court (under s.5(3), LPL), are regulated by the Court, with disciplinary control vested in the Chief Justice (under s.7, LPL), which is why it is important that the judiciary (pursuant to s.107, Constitution) and the Bar be kept independent and free from conflicts-of-interest. This is a legitimate expectation of both the judiciary and Attorneys from time immemorial (pursuant to s.7, 9, 15, BoR), because Attorneys (as officers of the Court) are to maintain the highest standards of conduct, since either an apparent and/or actual conflict-of-interest exists, that is enough to tip the balance of confidence in the justice system the wrong way.

296. Where a reasonable man would anticipate a risk of mischief or prejudice, regardless of the Court's assurance of the honour and integrity of its officers, this does not cure the reasonable client's apprehension and damage that may be caused to the justice system (pursuant to ss.7, 9, 15, BoR).

297. The Petitioners aver, therefore, that safeguarding the confidence of the public in the attorney-client relationship is paramount, because the ultimate good faith, which is the foundation of the attorney-client relationship and the basis for attendant LPP (protected under ss.9, 15, BoR), respectively, vested in both attorney and client, comes into question when a conflict-of-interest arises (pursuant to ss7, 9, 15, BoR).

298. The Petitioners further assert that, even accountants' commercially sensitive confidential information is protected against disclosure in the public interest (protected under s.9. BoR, which is a historical fact observed in *Ernst & Young Ltd v Department of Immigration*), but Attorneys enjoy an even higher degree of protected confidentiality at law than is applied to accountants. Therefore, *inter alia*, Attorneys require LPP and confidentiality obligations to remain as close to absolute as possible, except where there is consent, to prevent crime or by order of the Court (protected under s.9, BoR).

299. The Petitioners assert, *inter alia*, that because LPP is a foundational condition upon which the administration of justice rests as a whole, safeguarding the confidence of the public in the relationship between attorney and client is of paramount importance (pursuant to s.9, BoR), which includes a freedom not to associate (pursuant to s.12, BoR), especially where there is a reasonable anticipation of breach or disclosure of CPI or, alternatively, mischief or prejudice (pursuant to ss.7, 9, 12, 15, BoR).

300. The so-called "Chinese wall" between CILPA and CARA is merely cosmetic illusion and cannot serve to overcome the reasonable anticipation of disclosure, mischief or prejudice, which is inadequate for maintaining the information barrier, especially for any extended period of time (as was seen to be as a historical fact in *Al Sabah v Maples & Calder*). If there are inescapable and incurable conflict-of-interest amongst commercial competitors, who take a hostile approach to the Petitioners and who are incorrect in law, then, there is no way that the Petitioners should ever put their clients' CPI (and/or their own CPI or ARGW) in jeopardy (contrary to ss.7, 9, 15, BoR). This would be asking for trouble.

301. The Petitioners aver, *inter alia*, that given the multiple array of conflicts-of-interest, having these persons sitting on CILPA's board was fundamentally defective and unworkable for all Attorneys in

the Cayman Islands (contrary to ss.7, 9, 12, 15, BoR). On 30 December 2019, the First Petitioner wrote to the AG stating, *inter alia*, that:

"There has recently been a landmark judgment against a local Offshore Magic Circle law firm this year for breach of trust and confidence (specifically breach of attorney-client privilege) violating a multi-generational client. In the mid-1990s, another local Offshore Magic Circle law firm, while being credited for acting honorably and in good faith, was not allowed to maintain a Chinese wall (created as an information barrier to protect confidential-privileged information where a conflict of interest existed) even where best efforts were made to do so diligently."

302. The Petitioners aver, *inter alia*, that with all of the conflicting pressures faced by such persons, they would not be able to deal with the various AMLR-compliance monitoring matters coming before them in a consistently fair and objective manner without being oppressively tainted by inevitable and inescapable conflicts-of-interest, which cannot be cured, and is, *ipso facto*, irrational, disproportionate and unlawful, as well as reasonably anticipates discriminatory treatment towards certain Attorneys over others (contrary to ss.7, 9, 12, 15, 19, 24, BoR, taken together with ss.1(2)(a), 16, BoR).

303. The Petitioners aver that when CARA was originally created by CILPA, its name implied that CARA was a PAL-compliant "public body" (along the lines of many other statutory authorities with a proper public regulatory function similar to CIMA). However, the Petitioners assert that it soon became manifestly clear that CARA was merely an extension of CILPA (a private sector association) and (at best) could only function as a "self-regulatory body" for its own membership.

304. On 30 December 2019, the First Petitioner wrote to the AG stating, *inter alia*, that:

"The use of a Chinese wall (as an information barrier) between CILPA and CARA is inadequate for protecting confidential-privileged information, which reasonably anticipates—when informed of the relevant facts—the existence of danger of being breached. This reveals the reason why the self-regulatory AML regime is fundamentally flawed and puts an anticipated risk of mischief and/or prejudice of a breach of confidential-privileged information by inescapable conflicts-of-interest among commercial competitors, which applies to CILPA members and non-CILPA members alike and ***this condemns the entire AML regulatory regime****—as now conceived and being implemented with CILPA having a role (as well as CARA having a disputed role) in the 'self-regulatory' scheme—from ever being viable and satisfactory. There is a strong 'public interest' in 'safeguarding the confidence of the public in the relationship between attorney and client', because it is doubted whether (even an impregnable) Chinese wall (created as an information barrier to protect confidential-privileged information from disclosure where a conflict-of-interest exists) can ever be maintained, except only in very special circumstances."*

305. On 21 February 2020, the First Petitioner also wrote to the AG (copying in CILPA, CARA and the Cabinet Secretary on behalf of the Cabinet) stating, *inter alia*, the following:

"There are also concerns by myself (as well as clients) that other partners of law firms sit on CILPA's and CARA's board, who (as commercial competitors) have inescapable conflicts-of-interest, and with respect to the Chinese wall (created as an information barrier)...between CILPA and CARA that is inadequate for protecting confidential-privileged information that reasonably anticipates—when informed of the relevant facts—the existence of a risk of danger of breach, disclosure, mischief and/or prejudice. Thus, dangers to legal professional privilege and Chinese walls concerns are fundamental defects and this condemns the current self-regulatory AML compliance monitoring regime—as now conceived and being implemented with CILPA having a role (and CARA having a disputed role) in this self-regulatory regime—from ever being viable and satisfactory."

306. The Petitioners aver, *inter alia*, that the so-called "Chinese wall" (purportedly to serve as an information barrier between CILPA and CARA to protect CPI) is inadequate and cannot be maintained, as it reasonably anticipates danger/risk of disclosure, breach, mischief and/or prejudice to CPI (contrary to ss.9, 15, BoR) and to it being used as a discriminatory tool of oppression (pursuant to ss.1(2)(a), 16, BoR).

307. The Petitioners aver, *inter alia*, that there is a legitimate expectation (protected under s.15, BoR) that any public official(s) (such as, CILPA and/or CARA, for present purposes) carrying out an oversight function (such as, AMLR-compliance monitoring responsibilities) will be free from disproportionate, oppressively irrational and unlawful (contrary to ss.19, 24, BoR) reasonably anticipated infringement of fundamental human rights and freedoms (which are enshrined in the BoR, such as, ss.9, 15, BoR).

308. The Petitioners aver, *inter alia*, that against this backdrop, any insistence by CILPA/CARA and/or by the AG that the Petitioners are obligated to register with CARA and to submit their CPI to CARA/CILPA would also be a threat and/or breach:

(1) of their right to freedom of association (pursuant to s.12(1), BoR);

(2) of their privacy rights and property rights (pursuant to ss.9, 15, BoR);

(3) in an oppressively irrational, disproportionate and/or unlawful manner (pursuant to ss.19, 24, BoR); and

(4) which carries the heightened risk of the CILPA and/or CARA being used as a discriminatory tool of oppression against the Petitioners and other Attorneys (contrary to ss.1(2)(a), 16, BoR), especially Caymanian Attorneys, who are in the minority of the legal profession and who have chosen to not be members of CILPA and/or not to register with CARA.

309. The Petitioners aver, *inter alia*, that they have a legitimate expectation of non-infringement of their Constitutional rights and freedoms (pursuant to ss.7, 9, 15, BoR), which also includes a reasonable expectation of fairness (in accordance with ss.7, 15, BoR). As such, the Petitioners further aver, *inter alia*, that the CILPA/CARA self-regulatory AMLR-compliance monitoring regime is fundamentally defective and raises more concerns than it allays or provides CILPA/CARA any comfort concerning, which is then the reason why this AML regime is oppressively irrational in bifurcated corporate structure and/or design (contrary to s.19, BoR), which is a ticking time bomb for problems with conflicts-of-interest and breaches of fiduciary duties.

310. The Petitioners assert, *inter alia*, that this is especially so, given the backdrop of the AG (in Finance Committee of the LA on 22 November 2019) expressing that the "Chinese wall" between CILPA and CARA was "*not perfect*", which even provides more reason for concern, because a "Chinese wall" by definition is not perfect; however, when a "Chinese wall" is described by the AG as "*not perfect*" it raises even more reason for concern.

311. The Petitioners have further concerns relating to the so-called "Chinese wall" (as an information barrier) between CILPA and/or CARA for, *inter alia*, the following reasons:

(1) There is also a judgment (*Al Sabah v Maples & Calder*) against a law firm, where (although seeking to act honorably and honestly), a "Chinese wall" was not able to be maintained to protect against breach of CPI against the backdrop of a conflict-of-interest, where there was a conflict between a litigation client and a past trust client and where there remained a reasonably anticipated risk of breach, disclosure, mischief or prejudice.

(2) There is a judgment (*Arnage Holdings Ltd v Walkers (a firm)*) against another major law firm for breach of trust, confidence and loyalty/fidelity, specifically for breach of attorney-client privilege/confidentiality, which was decided by the Grand Court (in 2019).

312. Both of these law firms, which are named parties in these judgments mentioned have equity partners sitting on CILPA's board and (although it is not suggested that they had anything to do with these reported cases) there is reasonable apprehension that history could repeat itself, and this concerns the Petitioners.

313. The Petitioners further aver, *inter alia*, the following:

(1) The "Chinese wall" (acting as an information barrier between CILPA and CARA to protect CPI and/or information pertaining to ARGW collected) shows that the Petitioners' and all other Attorneys' is at risk, because it reasonably anticipates the danger of a risk of disclosure, breach, mischief and/or prejudice, which is professionally unacceptable against the backdrop of the glaring conflicts-of-interests amongst commercial competitors, where Attorneys in active legal practice sit on the CILPA (and/or CARA) boards, who are not independent and have competing fiduciary duties, and this also reasonably anticipates the danger of risk of this AML regime structure being used as a discriminatory tool irrational and unlawful tool of oppression against the Petitioenrs and other Attorneys (contrary to ss.1(2)(a), 16, BoR, taken together with ss.9, 15, 19, 24, BoR) to allow it to stand to stand; and, as such, the Petitioners aver that the CILPA/CARA corporate structure and Chinese wall, should now be quashed and declared to be *ultra vires* and void *ab initio* (pursuant to s.27(1), BoR).

(2) The Petitioners aver that CILPA/CARA AML regime corporate structure appears to favour large (or larger) law firms over Caymanian sole practitioners and Attorneys in small law firms, who (it appears, at least objectively) that CILPA/CARA view as low hanging fruit, who are easiest to go after, in order to show the FATF/CFATF that they are doing their job, because one of the things that CILPA/CARA is trying to show is that prosecutions (inclusive of enforcement action) and/or penal sanctions (inclusive of administrative fines) are being carried out.

(3) On 22 November 2019, AG, when questioned in the Finance Committee of the LA, appeared to potentially have mislead parliamentary members of the LA, wherein he seemed to try to justify (but failed to) properly explain whether or not non-members of CILPA were obligated to register with CARA, particularly when questioned by Mr. Bryan (Elected Member for George Town Central) and, the First Petitioner is concerned about this, because the First Petitioner liaised with Mr. Bryan before Finance Committee commenced on 22 November 2019, and for which the First Petitioner is grateful to Mr. Bryan for trying to look out for Caymanian Attorneys valiantly.

(4) The Petitioner are concerned that the subsidy money (approved by the LA in Finance Committee on or about 22 November 2019) will be used as a tool of oppression against the Petitioners and other Attorneys, where CPI and/or ARGW information to which confidentiality obligations attached (protected under ss.9, 15, BoR) is not sufficiently protected against disclosure, breach, mischief and/or prejudice, which many be irrationally, disproportionately, unlawfully and unconstitutionally used against the Petitioners' and other Attorneys professional and/or personal interests (contrary to ss.19, 24 BoR).

(5) The Chinese wall, which anticipates the danger of a risk of disclosure, breach, mischief and/or prejudice (contrary to ss.9, 15, BoR), is a legal fiction (as an information barrier), because there is, in fact not any real barrier, but is more of a "feel good gesture", instead of a real protection, which is irrational and unlawful (contrary to ss.19, 24, BoR).

314. On account of the Premier and the AG have failed in their Constitutional duties, which are to uphold the rule of law (pursuant to s.1(2)(a), BoR; s.107, Constitution) and Constitutional Supremacy (pursuant to s.59(2), Constitution), and it is for the Courts to correct the Cabinets (including the AG's and the Premier's) irrational, disproportionate and unlawful (contrary to ss.19, 24, BoR) infliction of harm and detriment to their CPI and ARGW, their finances and the businesses, as well as to their licenses to practice law in the Cayman Islands (contrary to s.15, BoR), which have created legitimate expectations that would be protected (pursuant to ss.1, 7, 9, 15, 19, 24, BoR), and the Petitioners seek an order of prohibition and/or injunction to stop the Respondents from inflicting any more oppressively irrational, disproportionate, procedurally unfair, unlawful and unconstitutional harm and detriment (contrary to ss.19, 24, BoR), which appears to have been carried out in a discriminatory to manner towards Caymanian sole practitioners and Attorneys in small law firms, who chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR).

315. CILPA's decision (on or about 29 May 2019) to create CARA with an independent board, purportedly delegating its assigned AMLR-compliance monitoring functions and having a "Chinese wall" (as an information barrier protecting CPI against conflicts-of-interest) should now be quashed (pursuant to s.27(1), BoR) and declared irrational and unlawful (pursuant to ss.7, 9, 12, 15, BoR, pursuant to ss.19, 24, BoR), which reasonably anticipates CILPA/CARA being used as a discriminatory tool of oppression (pursuant to ss.1(2)(a), 16, BoR).

Part N: Requests for CPI and Site Visit Investigatory Functions

316. **Requests for Documentation, Requests to Attend and Site Investigation Functions**: The Petitioners aver that, where a Supervisory Authority may, by notice in writing:

(1) require an Attorney carrying out "relevant financial business" to provide such documents, statements of information, which is reasonably required in connection with the exercise of its functions (pursuant to r.53A(1), AMLR), and/or

(2) to attend before the Supervisory Authority to answer such questions or provide such information as deemed necessary (pursuant to r.53A(3), AMLR),

which may be resisted by the Attorney upon, *inter alia*, grounds of LPP safeguard (pursuant to r.55L(2), AMLR)" (**"LPP Safeguard"**), provides a false sense of security to Attorneys. Whilst litigation privilege is provided for as the LPP Safeguard (under r.55L(2), AMLR), legal advice privilege is also a defence to a notice from a Supervisory Authority seeking production of documents or correspondence, and it extends to the law firms (or attorney's legal protection), subject to the investigation and to their client, to whom the privilege belongs (protected under s.9, BoR).

317. The Petitioners aver that the onsite visit investigatory functions purport to enable Supervisory Authority to give notice and, thereafter, for its officers or employees to carry out entry, search, seizure and investigatory functions on an Attorney's business premises without a warrant (pursuant to r.55M(1), AMLR) (**"Site Visit Functions"**). The Petitioners aver that there is a deficient safeguard to refuse entry such that it should be "reasonably required" for a Supervisory Authority's officer or employee (or functionary) to carry out relevant functions (pursuant to r.55M(2), AMLR) (**"Reasonably Required Safeguard"**).

318. On 30 December 2019, the First Petitioner wrote to the AG (copying in members of the LA and Cabinet) stating, *inter alia*, that:

> *"The site visit investigatory powers (under r.55M, AMLR) go too far, which (if exercised with full power) would breach confidentiality and contravene the Constitutional right to private communications (under s.9, Constitution), and could be declared incompatible with our Constitution's Bill of Rights. There is a comparable inadequacy, in the proper protections that purport to serve as a '**legal professional privilege**' safeguard (under r.55L(2), AMLR) versus deficient protections that purport to have a '**reasonably required**' safeguard (under r.55M(2), AMLR). In another jurisdiction, the AML self-regulatory regime's 'search and seizure' statutory powers were held to be unconstitutional as applied to lawyers for protection of legal professional privilege."*

319. And, the Petitioners aver, *inter alia*, that these concerns highlighted by the First Petitioner (on 30 December 2019 to the AG) have come to pass.

320. On 31 January 2020, CARA wrote to the Third Petitioner notifying him that CARA would be seeking to carry out an onsite inspection on 17 February 2020 and that he was required to produce information before the scheduled site visit was to take place at his business premises. On 31 January 2020, the Third Petitioner wrote back to CARA explaining, *inter alia*, that he had concerns about:

(1) breaches of confidentiality;

(2) conflicts-of-interest owing to partners from competing law firms sitting on CILPA's board; and

(3) concerns about the CILPA/CARA corporate structure.

321. On 6 February 2020, CARA wrote to the Third Petitioner requesting production of documents. And, on 10 February 2020, CARA again wrote the Third Petitioner requesting a response to his e-mail request to produce documents. On 10 February 2020, the Third Petitioner wrote CARA explaining, *inter alia*, that:

    (1) he had concerns about the CILPA/CARA corporate structure, which had Attorneys from different law firms sitting on CILPA and/or CARA boards, who have conflicts-of-interest;

    (2) permission to share personal data had not been given to him; and

    (3) there were concerns about misuse of personal data and breach of confidentiality.

322. On 11 February 2020, the Third Petitioner tendered his resignation to CILPA. On 18 February 2020, CARA wrote to the Third Petitioner providing a Breach Notice for failure to:

    (1) allow an onsite visit at his business premises;

    (2) produce documentation/information; and

    (3) attend before CARA to answer questions and provide information/documentation.

323. On 18 February 2020, the Third Petitioner wrote to CARA explaining that, whilst he was not a member of CILPA, the documents requested by CARA were forwarded to the AG (on 14 February 2020), because of the following:

    (1) glaring conflicts-of-interest between the CILPA and CARA boards;

    (2) risk of breach of client confidentiality; and

    (3) data protection concerns.

324. On 24 March 2020, CARA provided the Third Petitioner with a Fine Notice for CI$15,000. On 24 March 2020, the Third Petitioner wrote to CARA explaining that:

    (1) whilst he was not opposed to AML processes for lawyers (conducting "relevant financial business") by an independent statutory authority (subject to the PAL), he was concerned about the CILPA/CARA corporate structure, which had glaring conflicts-of-interest and that their boards lacked independence; and

    (2) he had concerns about data protection breaches and breaches of confidentiality.

325. When resisting providing information to CARA (requested under r.53A(1), (3), AMLR), CARA's response to the Third Petitioner (on 24 March 2020) was that CARA '*ha[d]**not requested any confidential information that may be covered by legal professional privilege***' and thus CARA contended that the Third Petitioner could not rely upon a LPP safeguard (in accordance with r.55L(2), AMLR), although CARA did admit to (minimally) requesting confidential information (contrary to ss.9, 15, BoR).

326. The Petitioners thus aver that rr.55L, 55M, AMLR do not sufficiently protect confidential information (to which LPP does not attach) and that they also provide a deficient safeguard for the LPP, because if information/documentation was not provided, it could then be obtained through an onsite investigatory visit at business premises, which threatens and/or breaches privacy and property rights (contrary to ss.9, 15, BoR) and it was thus unlawful (contrary to s.24, BoR) as being carried out in a manner which is incompatible with the BoR.

327. The Petitioners further aver that, whilst it is possible to conduct AML monitoring without confidential-privileged information being misused and such obligations breached, *inter alia*, there is a heightened risk of breach and/or misuse of CPI or personal data (protected under s.9, BoR). CARA and CILPA board members, whether intentionally or not, may have the potential to intercept and/or come into possession or potentially leak it (intentionally or accidentally), which could put the Petitioners in

breach of LPP and confidentiality obligations, as well as misuse of personal data, (pursuant to s.9, BoR).

328. Small law firms (or sole practitioners) might not have separate AML departments, where AML information and records are kept (or stored), and there could be reasonable anticipation of disclosure, breach, mischief and/or prejudice, which then could lead to liability of the Petitioners and/or other Attorneys (contrary to ss.9, 15, BoR).

329. The Petitioners further aver that, at the beginning of 2020 (pursuant to the Purchase Agreement, which the Petitioners contend is *ultra vires* and void *ab initio*) CARA immediately started onsite investigations and information (and documentation) requests targeting small Caymanian law firms and sole practitioners, which, the Petitioners wonder, whether the same such requests were sent to CILPA board members and members, which had the appearance (at least objectively) of oppressively irrational discriminatory treatment (contrary to ss.19, 24, BoR, taken together with ss.1(2)(a), 16, BoR), which reasonably anticipates the danger of a risk of breach, disclosure, mischief and/or prejudice relating to CPI (contrary to ss.9, 15, BoR) and ARGW (contrary ss.9, 15, BoR).

330. And, the cumulative effect of CARA's (and/or CILPA's) decisions, actions and/or inactions raise concerns of a reasonable anticipation of oppressively irrational and disproportionate proactive functions (contrary to ss.19, 24, BoR) carried out, which could be used as a discriminatory tool of oppression against those who opposed them and/or by the boards on commercial competitors, who have diverted commercial clients away from the law firms to which they are attached (contrary to ss.1(2)(a), 16, BoR).

331. The Petitioners aver that r.55M, AMLR (which provides for warrantless entry, search, investigation, and seizure functions and deficient safeguards) goes beyond the scope of s.199A, PCL (the primary legislation), which thus *ultra vires* the secondary legislation (r.55M, AMLR), and is thus unlawful and void *ab initio* (contrary to ss.19(1), 24, BoR); and r.55M of the AMLR is incompatible with ss.9, 15 of the BoR (pursuant to s.23, BoR) and was thus unlawful (contrary to s.24, BoR).

332. The Petitioners aver that the Third Petitioner refused to provide information (in accordance with r.53A(1), AMLR) or to attend before CARA (pursuant to r.53A(3), AMLR), as well as resisting allowing CARA to conduct an onsite visit at his business premises (pursuant to r.55M(1), AMLR), because of, *inter alia*, fears of breach of confidentiality and/or misuse of personal data (protected under the DPL).

333. Tthe Petitioners, therefore, assert that it is clear that CARA overlooks that both LPP and confidential information are protected as privacy rights (pursuant to s.9, BoR), as well as the fact that (except with consent or as Constitutionally permitted) the Third Petitioner's business premises are protected from entry by CARA/CILPA and his person or property from being searched (pursuant to s.9(2), BoR) and it is unlawful for such decisions and/or acts to threaten and/or breach the Third Petitioner's right to privacy (contrary to s.24, BoR).

334. The Petitioners aver that CARA's requests to the Third Petitioner (and/or to any other Attorneys) to provide information and/or to produce documentation threatened to breach and/or breached CPI protected as privacy and property rights (contrary to ss.9(1), 15(1), BoR). For CARA (as a "public official") to commit such breaches and/or threaten to do so is not lawful, rational, proportionate and/or procedurally fair (pursuant to ss.19(1), 24, BoR).

335. The Petitioners aver that CARA's requests to the Third Petitioner (and/or any other Attorneys) also unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) threaten and/or breach the Petitioners' fundamental rights and freedoms, as follows:

(1) privacy and property rights (contrary to ss.9, 15, BoR);

(2) freedom of association (contrary to s.12, BoR); and

(3) which have been carried out in a discriminatory manner against a Caymanian sole practitioner, who did not want anything to do with CILPA nor CARA, after realizing the detrimental nature of the CILPA-CARA corporate structure, which was riddled with conflicts-of-interest and jeopardized his legal practice and confidential information (contrary to ss.1(2)(a), 16, BoR).

Part O: Administrative Fines Issued By CARA Against the Petitioners

336. The Petitioners repeat paragraphs 191 to 193, 212 to 238 above, as evidence that neither CILPA nor CARA is a Supervisory Authority and has no power to monitor AMLR-compliance by all Attorneys, much less unlawfully enforce penal sanctions, and the Petitioners challenge CARA's administrative fines (issued on 16 and 24 March 2020, as particularized below).

337. **CARA Issues Administrative Fines (16, 24 March 2020)**: The Petitioners were issued administrative fines, as follows:

(1) On 16 March 2020, the First Petitioner was issued an administrative fine by CARA (pursuant to r.55F, AMLR) for the quantum of CI$58,500 for failing to register with CARA (by 29 November 2019);

(2) On 16 March 2020, the Second Petitioner was issued an administrative fine by CARA (purportedly pursuant to r.55F, AMLR) for the quantum of CI$58,500 for failing to register with CARA (by 29 November 2019); and

(3) On 24 March 2020, the Third Petitioner was issued an administrative fine by CARA (purportedly pursuant to r.55M, AMLR) for the quantum of $5,000 for failing to allow an onsite visit investigation by CARA at his business premises (on 18 February 2020).

338. The Petitioners aver, *inter alia*, that they are not bound by CARA's authority on account of the following:

(1) The Petitioners aver that rr.55R- 55ZG of the AMLR, which provide for administrative fines regime to be inflicted against Attorneys is *ultra vires* for being irrational and unlawful (contrary to s.19, BoR), is incompatible with the s.7 of the BoR (pursuant to s.23, BoR), and issuance of the Fine Notices to the First Petitioner and the Second Petitioner (on 16 March 2020) by CARA (on behalf of CILPA) is unlawful as being an act and/or decision exercised in a manner incompatible with the BoR (pursuant to s.24, BoR) and was discriminatory against Caymanian sole practitioners, who are not members of CILPA and/or register with CARA (pursuant to ss.1(2)(a), 16, BoR), which is thus *ultra vires* and void *ab initio*.

(2) However, neither Orren Merren & Co nor the First Petitioner is a body corporate and thus cannot be fined up to CI$100,000 (in accordance with r.55S(3)(b), AMLR) and the *quantum* of monetary value in the Fine Notice is outside of the scope of the amount to fine an individual as it is higher than $50,000 provided (pursuant to r.55S(3)(a), AMLR), which breached the Constitutional right to not receive a heavier penalty than prescribed by the law (contrary to s.8, BoR) and which is acting in a manner incompatible with the BoRs (pursuant to s.24, BoR), and is disproportionate, oppressively irrational, unlawful and unconstitutional (contrary to ss.19, 24, BoR), as well as discriminatory to the First Petitioner and the Second Petitioner as a Caymanian sole practitioner, who chose not to register with CILPA (contrary to ss.1(2)(a), 16, BoR).

(3) The Petitioners aver that CILPA did not comply with the Condition Precedent set out by the LA in the LAMAL and (as such) did not have any legal authority to issue such Fine Notice against the First Petitioner and the Second Petitioner, which was, therefore, oppressively irrational, disproportionate, procedurally unfair and unlawful (pursuant to ss.19, 24, BoR), as well as discriminatory against Caymanian sole practitioners and Attorneys in small law firms, who chose not to be CILPA members and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR).

(4) The Petitioners aver that, *inter alia*, the Administrative Fine of CI$58,500 to the First Petitioner and the Second Petitioner for failing to register with CARA exceeded the maximum for which an individual could be fined of $50,000 (pursuant to r.55S(2), AMLR and Schedule for a "serious" breach), which breached right not to receive a heavier penalty imposed than prescribed by the law (contrary to s.8, BoR) for being incompatible with the BoRs (pursuant to s.24, BoR), and was disproportionate, oppressively irrational and unlawful (contrary to ss.19, 24, BoR). practitioners (contrary to ss.1(2)(a), 16, BoR).

(5) The Petitioners aver that the administrative fines, as well as the notices and accompanying pressure from CARA (on behalf of CILPA, with the knowledge and support of the Premier, the AG, the Cabinet and the LA) has caused detriment to the Petitioners' finances, their licence to practice law, the good will of their legal practices, their ability to earn a living for themselves and their families and their reputations within the Cayman Islands and worldwide, since they have been issued breach notices and fines, which on the face look worse than they actually are (not to mention the fact that they are innocent and are confident that they will be vindicated at trial) breaches and fines issued under the "Anti-Money Laundering Regulations", which give the optics that the Petitioners have been involved in criminal activity with relating to money-laundering, which they are not and which is by this AML self-regulatory regime amounts to more of a tool of oppression which, whether intended or not, has become a tool of oppression persecuting Caymanian sole practitioners and Attorneys in small law firms, particularly those who (out of well-founded grave concerns and responsible to protect their clients and their professional integrity, have been persecuted by CARA (on behalf of CILPA) acting ultra vires and threatening and/or breaching their fundamental rights and freedoms (contrary to ss.1, 7, 8, 9, 12, 15, 19, BoR, taken together with ss.1(2)(a), 16, BoR, pursuant to ss.19, 24, BoR).

(6) The Petitioners assert that neither CARA (nor CILPA) is a Supervisory Authority and is *ultra vires* and void *ab initio*.

339. The Petitioners further aver that CARA's decision and/or act of issuing a Fine Notice against the First Petitioner and Second Petitioner is also *ultra vires* CARA's terms of reference (as provided for by CILPA in its "Regulations in respect of CARA dated 29th May 2019 as amended on 27th January 2020"), which state, *inter alia*, as follows:

"7. The terms of reference of the CARA Board ("the Board") are:

(1) In relation to Anti-Money Laundering and related fields, in respect of firms of attorneys to exercise educational, monitoring, regulatory, investigative, adjudication, disciplinary, enforcement, supervisory, civil litigation and cost recovery powers and functions vested in CILPA or the Council under regulation 55B(c) of the [AMLR], as amended, in its capacity as designated supervisory authority for AML;

(2) To exercise the following other functions –

(f) consenting on behalf of CILPA in its regulatory capacity, and

*(g) making any application that relates to regulatory functions delegated to the Board or to regulatory arrangements relating to the discharge of those functions and providing the application is **not** –*

*(i) **to regulate persons not presently regulated** or to cease to regulate persons; or*

(ii) to change CILPA's position as an approved regulator." (emphasis added)

340. As such, the Petitioners aver that, *inter alia*, CARA's (and/or on behalf of CILPA's) Fine Notices were *ultra vires* the Constitution and its own regulations, and (since the First Petitioner expressly notified CARA via Ms. Guile on 22 November 2019) CARA was also grossly negligent in its professional capacity in inflicted administrative Fine Notices, which it did not (and was told it did not have) the legal authority to do. The Cabinet, the AG, the Premier and the LA, who have all been expressly notified of this are also liable and have been accessories (and enablers) of CILPA's and/or CARA's unconstitutionality and unlawful wrongdoing (which are statutory and/or Constitutional torts).

341. On 16 March 2020, an administrative fine of CI$58,500 for failing to register with CARA, which was issued to Orren Merren & Co (care of the First Petitioner). However, the First Petitioner is not a partner, employee or functionary of Orren Merren & Co (which his father, who is a sole practitioner, and the principal attorney thereof) and (as such) this was a defective service on Orren Merren & Co and on the First Petitioner.

342. On 16 March 2020, the Second Petitioner was also issued an administrative fine of CI$58,500 for failing to register with CARA.

343. The Petitioners aver that, *inter alia*, the First Petitioner and Second Petitioner, who were sole practitioners (and, for sake of clarity, so is Orren Merren & Co), are individuals (not bodies corporate), which can only be issued up to a maximum of CI$50,000 for a "serious breach" (pursuant to r.55S(2)(a), AMLR). On the other hand, with respect to a body corporate, only up to a maximum of CI$100,000 can be issued for an administrative fine for a "serious breach" (pursuant to r.55S(2)(b), AMLR).

344. The Petitioners, therefore, aver that, *inter alia*, CARA (on behalf of CILPA) issued administrative fines (which are penal in nature) to Orren Merren & Co (addressed to the First Petitioner, which is an error of law and fact) and to the Second Petitioner for a heavier penalty than is found or provided for in r.55S(2)(a) of the AMLR, which breached the Constitutional right to no punishment without law (contrary to s.8, BoR), as well as irrationally and unlawfully threatened and/or breached the property rights (contrary to s.15, BoR).

345. The Petitioners aver that these administrative fines issued to the Second Petitioner and to the First Petitioner (on behalf of Orren Merren & Co) were oppressively irrational, disproportionate and unlawful (contrary to s.19, BoR) and represent a decision and/or act carried out in a way incompatible with s.8 of the BoR and is thus unlawful (pursuant to s.24, BoR), which was done in a discriminatory manner towards and/or targeting Caymanian sole practitioners and Attorneys in small law firms, who chose not to be members of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR).

346. The Petitioners aver that, *inter alia*, they have a *per se* legitimate expectation (protected under ss.7, 15, BoR) to not have a heavier penal sanction imposed (pursuant to s.8, BoR)—leaving aside that they were not guilty of the alleged breach—oppressively irrational, disproportionate and unlawful (contrary to s.19, 24, BoR) threat and/or breach to the First Petitioner's and Second Petitioner's property rights (contrary to s.15, BoR), which was (whether intentionally or not) objectively discriminatory (contrary to ss.1(2)(a), 16, BoR).

347. On 24 March 2020, the Third Petitioner was issued a fine of CI$5,000 for failing to allow CARA (on behalf of CILPA) conduct an onsite investigatory visit at his business premises on 17 February 2020 (alleging breach of r.55M(1), AMLR), which he resisted because of concerns relating to breach of confidentiality and misuse of confidential-privileged or personal data concerns (pursuant to ss.9, 15, BoR), as well as the fact that he resigned from CILPA on 11 February 2020, therefore, complying with CARA was not a legal obligation of his.

348. The Petitioners aver that, *inter alia*, because CARA (on behalf of CILPA) sought to carry out functions irrationally and unlawfully on the Third Petitioner, but had no legal basis to do so (contrary to ss.8, 19, 24, BoR), which was done in a discriminatory manner towards or targeting a Caymanian sole practitioner, who chose to resign and not be a member of CILPA and who had (by resigning and requesting personal data to be disposed of or erased) no registration obligations with CARA (contrary to ss.1(2)(a), 16, BoR).

349. The Petitioners aver that, *inter alia*, the Third Petitioner had a legitimate expectation (protected under s.15, BoR) of Constitutional protection of obligations of LPP and confidentiality (pursuant to s.9, BoR) and CPI against interference (pursuant to s.15, BoR), which legitimate expectation was not fulfilled and/or was threatened and/or breached by CARA (on behalf of CILPA) irrationally and unlawfully

(contrary to ss.19, 24, BoR), which was carried out in a discriminatory manner towards him as a Caymanian sole practitioner (contrary to ss.1(2)(a), 16, BoR).

350. The Petitioners aver that, *inter alia*, (on account of the Breach Notices, Fine Notices and actual issuance of Administrative Fines by CARA on behalf of CILPA) they have all irrationally and unlawfully (contrary to ss.19, 24, BoR) suffered detriment and damage to their ARGW (contrary to s.15, BoR) and finances (contrary to s.15, BoR), which was carried out in a discriminatory manner towards them as Caymanian sole practitioners and/or Attorneys in small law firms, who chose not to be members of CILPA and/or to register with CARA (contrary to ss.1(2)(a), 16, BoR).

351. The First Petitioner and the Second Petitioner aver, *inter alia*, that neither CILPA and/or CARA tried to issue any fresh notice to them after 29 November 2019 nor for the Third Petitioner to allow an onsite investigatory visit or have to submit to documentation/information requests, and it would be impossible to obligate them to comply, for the following reasons:

(1) neither CILPA nor CARA is a Supervisory Authority, because r.55B(c), AMLR (as subordinate legislation) is *ultra vires* for being wider in scope than s.4(9), PCL (as primary legislation), unlawful and irrational (contrary to ss.19, 24, BoR), therefore, void *ab initio*, therefore, CILPA and/or CARA have been carrying out their functions irrationally and unlawfully (contrary to ss.19, 24, BoR) in a discriminatory manner towards the Petitioners, who are Caymanian sole practitioners and Attorneys in small law firms, that chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR);

(2) when the notice to register was provided on 18 November 2019, the Condition Precedent had not been fulfilled (which was set by the LA pursuant to the LAMAL);

(3) the notice to the First Petitioner was defective, unlawful, *ultra vires* and void *ab initio* (contrary to ss.19, 24, BoR), because it tried to serve Orren Merren & Co care of First Petitioner, and Orren Merren & Co is not the First Petitioner's legal practice; and

(4) The nature of the threatened and/or breaches of fundamental rights and freedoms of the First Petitioner and Second Petitioner were as follows:

(a) jeopardized their freedom not to association with CILPA and/or CARA (contrary to s.12, BoR), which they were not obligated to join CILPA or register with CARA;

(b) the threat of the administrative fine, which was actually issued later (on 16 March 2019), posed jeopardy to their finances and the goodwill of their legal practices (contrary to s.15, BoR), as well as time and attention taken away from primary obligations in order to work towards vindicating their rights;

(c) jeopardized their client LPP and confidentiality obligations (contrary to s.9, BoR) and personal data and reputations (contrary to s.9, BoR), including the CPI information it is stored on or in electronically and in tangible form (contrary to ss.9, 15, BoR), which the Third Petitioner was indeed threatened (in early January 2020), which is right after the First Petitioner warned the AG of this (on 30 December 2019) and in January 2020 such threats occurred;

(d) jeopardized their right against unlawful entry, search, seizure and investigation functions on their premises and of their property or person (contrary to s.9(2), BoR) without, inter alia, a warrant (s.199A, PCL), consent or Constitutional permission (pursuant to s.9(3), BoR), which the Third Petitioner was indeed threatened in early January 2020, which is right after the First Petitioner warned the AG that this could happen (on 30 December 2019), and, therefore, it could happen to the First Petitioner or Second Petitioner as well;

(e) breached their right to not be guilty of a criminal offence (penal in nature), which did not amount to crime (contrary to s.8(1), BoR), because neither CILPA nor CARA was a valid Supervisory Authority and CARA and CILPA were both acting *ultra vires*;

(f) not to be penalized heavier than the law allows at the time of the offence (contrary to s.8, BoR), because they were both issued fines for $58,500, (on 16 March 2020), but the highest amount that the AMLRs provided for was CI$50,000, which also jeopardized their finances (contrary to s.15, BoR);

(g) their right to a fair trial was subverted, because the fine was determined before they could go to trial, which they had to file with the Civil Registry Team (contrary to s.7(1), BoR), as well as their finances (contrary to s.15, BoR), which they had to pay for filing fees out of their own pocket; and

(h) these threats and/or breaches mentioned above were done with discriminatory treatment towards the Petitioners, who are Caymanian sole practitioners and Attorneys in small law firms, that chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR).

352. **Appeals to Administrative Fines, *Ipso Facto*, Procedurally Unfair, Irrational, Disproportionate and Unlawful**: The Anti-Money Laundering Steering Group's *Anti-Money Laundering and Counter Terrorist Financing Strategy 2019-2021* (dated September 2019) at page 5 states that the *'[PCL] and the [AMLRs] have been amended to allow for effective and proportionate and dissuasive administrative and criminal sanctions for breaches of AML/CTF laws'*.

353. The Petitioners aver that, *inter alia*, neither CILPA nor CARA are, in fact, a supervisory authority under the law, and (as such) the Petitioners repeat paragraphs 191-193, 211-238 above.

354. The First Petitioner and Second Petitioner submitted applications for leave to appeal the administrative fines imposed against them by CARA (and/or CILPA), wherein the AG (and Cabinet as its representative and, the LA, to whom Cabinet is responsible with collective responsibility to the LA (pursuant to s.54(5), Constitution), which irrationally, disproportionately, procedurally unfairly and unlawfully threatened (and/or breached) their property rights (contrary to ss.15, 19, 24, BoR).

355. The First Petitioner avers (after having gone through the process of preparation for the Appeal) that the Appeal process is *ipso facto* procedurally unfair (pursuant to s.19(1), BoR) in that (instead of giving notice to appeal and/or later submitting grounds as in the regular course practice) the Petitioners (within 30 days after receiving the Fine Notices) had to apply to the Grand Court only where the Petitioners have '*grounds for seeking judicial review of the decision*" or "*the decision was made with a lack of proportionality or was not rational*' (in accordance with r.55ZK(1)-(2), AMLR), which makes that appeals process unduly burdensome in order just to get it to be considered by the Court as the body hearing the appeal. Furthermore, r.55Z, AMLR states:

'(1) The Grand Court Rules, 1995 and the Court's practice directions about judicial review apply to an appeal, with necessary changes, as if the appeal were an application for judicial review.

(2) Notwithstanding paragraph (1), the Court's rules about alternative dispute resolution do not apply to the appeal.'

356. Whilst this does not prevent *ipso facto* threat to (and/or breach of) the right to a fair Appeal (under s.7, BoR), it does make getting to a fair Appeal far more difficult of a task to get an audience and there are many (especially Attorneys who are not litigators and/or might be in the early stages of legal practice) to simply go through the process to try to Appeal an administrative fine, which certainly threatens the right to a fair trial (contrary to s.7, BoR and pursuant to s.26(1), BoR) and is oppressively irrational, unlawful, disproportionate and procedurally unfair (contrary to s.19(1), 24, BoR) and is discriminatory to especially transactional attorneys, who are most likely to be practicing "*relevant financial business*" (in accordance with s.4(9), PCL) and not as likely to be familiar with the judicial review type process, and is thus discriminatory to some of the Petitioners (and/or Attorneys) in the legal profession (pursuant to ss.1(2)(a), 16, BoR).

357. The Petitioners aver that rr.55ZK-55ZS of the AMLR are incompatible with s.7 of the BoR (pursuant to s.23, BoR), and are *ipso facto* disproportionately and unlawfully discriminatory to some portions of Attorneys in the legal profession that are likely to encounter administrative fines (under ss.1(2)(a), 16, BoR), and issuance of the Fines is discriminatory against any Attorneys in small law firms and/or Caymanian sole practitioners and created an oppressively irrational, disproportionate, procedurally unfair and unlawful appeal process (contrary to ss.16, 19, 24, BoR). The Petitioners aver that rr.55ZK-55ZS of the AMLR also stultifies the Constitutional right to a fair trial (contrary to s.7, BoR) and is oppressively irrational and unlawful (contrary to s.19, 24, BoR).

358. The Petitioners assert that this is, *inter alia*, a breach of natural justice for procedural unfairness (pursuant to s.19(1), BoR) and stultifies the Constitution (contrary to s.7, BoR). However, the Petitioners aver that the administrative fines regimes is not procedurally unfair, disproportionate, irrational nor unlawful for the larger law firms, who are also not opposed to AMLR-compliance monitoring by CARA (on behalf of CILPA) and who have partners sitting on CILPA's and/or CARA's boards, as it is reasonably justifiable in a democratic society of the Cayman Islands that the large law firms be subject to this AML regime, which they have helped structure and implement.

359. **Determination of Who is "Fit and Proper" to Conduct "Relevant Financial Business"**: The Petitioners aver that various provisions of the AMLR are draconian, invasive, overreaching and unsafe, among which are r.55G, AMLR (power for a Supervisory Authority to cancel the requisite registration as a DNFBP) and r.55H, AMLR (power for a Supervisory Authority to determine whether a person, who carries on business as a DNFBP, is "a fit and proper person" for purposes of the AMLR).

360. The Petitioners aver, *inter alia*, the following:

    (1) Regulation 2, AMLR defines "DNFBP" (or "designated non-financial business and profession") to mean a natural or legal person designated under r.55A, AMLR.

    (2) Pursuant to r.55A(e), AMLR, firms of Attorneys are so designated. Pursuant to r.55F, AMLR, any person, who carries on business as a DNFBP in or from within the Cayman Islands, is to register with the relevant Supervisory Authority.

    (3) However, the Petitioners aver that, *inter alia*, the Grand Court is empowered to suspend or strike off (disbar) local Attorneys for misconduct (under s.7, LPL), which is the established regulatory statute for lawyers in the Cayman Islands and which gives the Grand Court such power.

361. The Petitioners aver that, *inter alia*, rr.55G-55H, AMLR in effect usurps the disciplinary role of the Grand Court for Attorneys and are, therefore, incompatible with the right to a fair trial (pursuant to s.7, BoR) that is enshrined in the Constitution and the Petitioners seek a declaration of incompatibility (pursuant to s.23, BoR), and that if CILPA and/or CARA were to attempt to carry out such functions, CILPA and/or CARA would be acting unlawful, irrational, disproportionate and/or procedurally unfair (contrary to ss.19, 24, BoR), which is discriminatory to Caymanian sole practitioners and small law firms (contrary to ss.1(2)(a), 16, BoR).

362. The Petitioners seek an order to quash rr.55G-55H of the AMLR (in accordance with s.27(1), BoR), to fight against the appearance of a legal fiction, and a declaration that the regulations are devoid of legal effect as incompatible with s.7 of the BoR (pursuant to s.23, BoR).

363. The Petitioners aver that, *inter alia*, rr.55G-55H of the AMLR allow CILPA (and/or CARA) to be judge, jury and executioner over Attorneys' right to practice law (contrary to s.7, BoR) and is used as a control mechanism over the legal profession, which can be used as a discriminatory tool of oppression (contrary to ss.1(2)(a), 16, BoR), which is both oppressively irrational, disproportionate, procedurally unfair and unlawful (contrary to ss.19, 24, BoR).

364. The Petitioners further aver that CARA (on behalf of CILPA) being able to determine, whether or not an Attorney is fit and proper to practice law (or practice relevant financial business), where it seems

to act as judge, jury and executioner is oppressively irrational, disproportionate, procedurally unfair and unlawful (contrary to ss.19, 24, BoR) powers over the good will of Attorneys' business, their financial stability and other property rights (contrary to s.15, BoR), which appears to be contrary to the *nemo iudex* principle (contrary to ss.7, 19, BoR) and reasonably anticipates prejudice, mischief and/or misuse of such broad and unrestrained power as a discriminatory tool of oppression against Attorneys (contrary to ss.1(2)(a), 16, BoR), rather than by the Chief Justice of the Grand Court for misconduct (pursuant to s.5, LPL), which has become a "legitimate expectation" from time immemorial (pursuant to s.15, BoR).

365. The Petitioners aver that, *inter alia*, there is too much room for the CILPA-CARA self-regulatory AML regime being used to benefit the large firms, through chasing sole practitioners and small law firms away from corporate, property, investment fund, and trust and estate work, which is then something that can be set aside to predominantly larger law firms, that have more market share already and can be used as a tool of oppression to chase other practitioners out of business or away from their desired business (contrary to s.15, BoR), which is oppressively irrational and unlawful (contrary to ss. 19, 24, BoR taken together with ss.1(2)(a), 16, BoR).

366. The Petitioners further aver that members of CILPA, who are registered with CARA, particularly those Attorneys (in active practice of law in the Cayman Islands) that sit on CILPA's board (and/or CARA's board) have the potential to act in their own self-interest, the interest of their clients (or their law firms' clients) and/or self-interest of their own law firms disproportionately and irrationally (contrary to s.19, BoR). And, there is significant likelihood and/or potential that, when it comes to their own law firms (in which they are partners and/or associates) for AMLR-compliance monitoring functions, that they will not be objective or rational with respect to assessment of their own law firms and/or Attorneys in their own law firms by CILPA and/or CARA (contrary to s.19, BoR).

367. There is also concern that Mr. Lodge, who used to be a partner in Maples, might show favoritism and/or leniency with respect to Maples and/or attorneys at Maples, or, alternatively, there is potential that (in an attempt to show his commitment to CARA) he might be too hard or stronghanded against Maples. The Petitioners aver, *inter alia*, that CILPA and/or CARA appear (objectively) to be unable to carryout AMLR-compliance monitoring functions objectively, because of the presence of attorneys on CILPA (and/or CARA) boards, who are in active practice and attached to certain law firms, and have an apparent (if not actual) conflict-of-interest (including such conflicts that often flow naturally out of Attorneys vigorously representing the interests of their clients) .

368. The Petitioners assert that, *inter alia*, giving CILPA-CARA, which is controlled via the voting-block in the large law firms (for example, see how easy it was for CILPA to pass the special resolution to amend its Memorandum and Articles of Association on 16 December 2019), the ability to judge who is fit and proper to practice is oppressively irrational (contrary to ss.19, 24, BoR) putting the power in the hands of predominantly non-Caymanians to dictate legal AML regime issues in the Cayman Islands to the disadvantage of Caymanian Attorneys, who are in the minority percentile of the legal profession in the Cayman Islands (contrary to ss.1(2)(a, 16, BoR).

369. In essence, the Petitioners aver that this self-regulatory AML regime is an indirect way for the larger firms to gain power and control of the legal profession and this is being achieved with the Cabinet's and the LA's (as well as the AG's and the Premier's) approval and assistance, which the net-effect is to the detriment or disadvantage of Caymanian Attorneys, as well as being used in a manner to make much added expense and regulatory red tape that will hurt the smaller law firms and Caymanian sole practitioners in the long run (contrary to s.15, BoR), which appears to be, *ipso facto*, oppressively irrational and unlawful (contrary to ss.19, 24, BoR) and has a discriminatory effect on Caymanian Attorneys in the Cayman Islands (contrary to ss.1(2)(a), 16, BoR).

370. The Petitioners aver that any attempted enforcement action by CARA and/or CILPA under such above-mentioned (and particularized) AMLR provisions (under rr.55G-55H, AMLR), which are

incompatible with the Constitution (pursuant to s.23, BoR, as being contrary to s.7, BoR), would be oppressively irrational and unlawful for CILPA and/or CARA to be able to determine whether or not any of the Petitioners or any other Attorneys are fit and proper to conduct relevant financial business (under ss.19, 24, BoR), which anticipates the danger of a risk of discriminatory treatment towards (or targeting) Caymanian Attorneys, especially sole practitioners and small law firms (contrary to s.16, BoR).

Part P: Efforts by CIG (Particularly the Cabinet and the AG) to Legitimize CILPA/CARA and to "Reverse Engineering" Critiques

371. The Petitioners aver, *inter alia*, that the CIG—particularly Cabinet, but also (at least on the government side of the aisle in) the LA—have sought to legitimize CILPA (and/or CARA) for AMLR-compliance monitoring regulatory functions, which attempted to prop up CILPA's (and/or CARA's) legitimacy by seeking to bind Caymanian Attorneys (particularly sole practitioners and those in small law firms). The Petitioners further repeat **paragraphs 194-209, 230-258**, .

372. The Petitioners contend that, instead of listening to such legitimate concerns and well-reasoned critiques, the Cabinet (particularly with the support and/or efforts of the Premier and the AG) and/or the LA have focused more on providing a form over substance approach to legitimizing CILPA/CARA, but the entire basis upon which CILPA-CARA purports to act is oppressively irrational (pursuant to s.19, BoR) and regulation 55B(c), AMLR is *ultra vires* s.4(9), PCL for being outside the scope of the primary legislation (pursuant to s.19, BoR).

373. The Petitioners will aver that, *inter alia*, this has been done in an oppressively irrational and discriminatory manner targeting Caymanian sole practitioners and small law firms, who are already in the minority of the legal profession and who lack the financial resources (as well as human resources) that the larger law firms have (contrary to s. 19, BoR taken together with ss.1(2)(a), 16, BoR).

374. On 22 October 2019, when ALPA's executive council members met with CIG (particularly the Premier, the AG and Minister Hew on behalf of Cabinet), the AG was hyper-focused and adamant in pointing out that the Court of Appeal of Barbados (specifically in *Nurse, AG and Barbados Bar Association v Nurse*) had ruled on this matter and it conclusively made clear that forcing all Attorneys (including the Petitioners) to be deemed to be members of CILPA for the AML self-regulatory purposes was lawful and did not threaten and/or breach freedom of association (under s.12, BoR).

375. The Petitioners aver that the AG erred in reliance on *Nurse*, not least because it is non-binding in the Cayman Islands and (at best) only persuasive, but also, *inter alia*, for the following reasons:

    (1) The Barbados Bar Association ("**BBA**") was established in 1940 (via the Barbados Bar Association Act), which thus had a substantive statutory underpinning, whereas CILPA is a private sector association (formed as an ordinary (resident) company under the Companies Law) and merely is mentioned in the LAMAL and in the Schedule 3 to the MAL, but only minor statutory mention. Furthermore, the BBA's authority had not been challenged until 2014 (over 60 years from the time of its statutory birth) and it was otherwise not questioned to have authority by members of the legal profession in Barbados, whereas CILPA was privately formed in 2018, but has been challenged vigorously, since 2019.

    (2) The BBA was deemed to be a statutory body corporate, which was held to be a public body, whereas CILPA is a private sector association attempting to operate as a self-regulatory body, and CILPA was not a creature of statute, but has rather been attempted to be given legitimacy to act as such through:

        (a) s.1(c) of the Schedule to LAMAL;

(b) an assignment of AMLR-compliance monitoring responsibility by Order in Cabinet (pursuant to s.4(9), PCL);

(c) subsidization from the CIG via the Purchase Agreement entered into between the CIG (via the AG on behalf of the Cabinet) and CILPA (on 8 November 2019), which was approved by the LA in Finance Committee (in or around 22 November 2019); and

(d) penal sanctions (inclusive of administrative fines), which sought to scare members of the legal profession into cooperation, even where they were not guilty of money laundering crimes (and/or an accessory thereto).

(3) The BBA had disciplinary functions over attorneys-at-law for misconduct in Barbados, whereas, in the Cayman Islands, disciplinary functions for misconduct over Attorneys are for a Judge of the Grand Court (pursuant to s.7, LPL). CILPA does not have the same powers as the BBA, which have been the Grand Court's responsibility from time immemorial (pursuant to the LPL) and is a *per se* "legitimate expectation" of the Petitioners and other Attorneys (protected under s.15, BoR).

(4) Given that the BBA is a public body, which was created by statute and has substantive statutory provisions that set out its structure, duties, powers and functions, it was more acceptable for it to have compulsory membership, which did not contravene freedom of association of lawyers in Barbados. However, CILPA is a self-regulatory body (not a public body, subject to the PAL), which is not created by statute, but rather was created as a private body corporate (under the Companies Law) and is a private sector association (pursuant to s.2, LAMAL amending Schedule 3, MAL), which its Memorandum and Articles of Association can only bind members of CILPA, but compulsory membership thereof would contravene lawyers', who are not CILPA members, freedom of association in the Cayman Islands (pursuant to s.12, BoR).

(5) The Petitioners, therefore, aver that the AG was misguided and incorrect in his assessment of using the *Nurse* case as a basis for an attempting to legitimize CILPA.

376. This aspect of being deemed to be members of CILPA for AML regulatory purposes was the effect of a provision of the LPAB, which had been proposed by Cabinet in response to difficulties encountered in getting all Attorneys to become members of CILPA and/or to voluntarily register with CARA.

377. The Petitioners aver, *inter alia*, that perhaps it may have been incorrectly assumed (by the Cabinet and/or the LA) that parliamentary supremacy obtains in the Cayman Islands, when, in fact, it is Constitutional supremacy which obtains in the Cayman Islands (pursuant to s.59(2), Constitution).

378. The Petitioners aver that there are features from the *Nurse* case, which appears to have been relied upon to make out Cabinet's and, particularly, the AG's contention here. In particular, although the BBA was a private corporate entity, it was funded by the legislature of Barbados and this was a significant factor taken into account by the Court of Appeal of Barbados.

379. The Petitioners aver, *inter alia*, that this is why the Cabinet and the LA were adamant to provide public funding to CILPA, in an attempt to legitimize CILPA and/or CARA, so as to force the Petitioners (who never joined CILPA as members and/or never registered with CARA as AML regulator, as well as those Petitioners, who subsequently resigned from CILPA and/or subsequently resisted registering with CARA) to be registered by CILPA/CARA against their will and better judgment in breach (and/or threatened breach) of freedom of association and/or, perhaps more accurately, freedom not to associate (contrary to s.12, BoR).

380. The Petitioners aver, *inter alia*, that this was why the Cabinet and/or the LA (as well as through the efforts of the AG) entered into the Purchase Agreement between CIG and CILPA for subsidizing CILPA's activities, so as to legitimize CILPA and/or CARA threatening and/or breaching the Petitioners' (and other Attorneys') freedom of association and non-assocaition (contrary to 12, BoR) and doing so in a discriminatory manner towards Caymanian sole practitioners and small firms

(contrary to ss.1(2)(a), 16, BoR), who represent a smaller, minority portion of the legal profession in the Cayman Islands.

381. Although attorneys in Barbados were not forced to participate in activities of the BBA, all attorneys were required to be deemed to be members for, *inter alia*, being able to practice law in Barbados.

    (a) The LPAB was, *ipso facto*, and *prima facie* a threatened and/or breach of the Petitioners freedom of association (contrary to s.12, BoR) and was done so in a discriminatory manner against Caymanian sole practitioners and small law firms (contrary to ss.1(2)(a), 16, BoR).

    (b) Prior to publication in the Gazette (on 10 October 2019), when the LPAB was formally proposed as a Bill by the Cabinet (and/or with the support of the LA), the First Petitioner had just written to the Premier (and copied in the AG) via email (on 7 October 2019), which stated:

> *"I write to you in my personal capacity as a concerned citizen and Caymanian sole practitioner.*
>
> *I (like many other legal practitioners in Cayman) do not want to be regulated (for purposes of [AML] and [CTF]) by [CILPA], including its creation, [CARA]. Instead, I support that all attorneys-at-law who choose not to join CILPA/CARA, and whether or not they choose to join [ALPA], be regulated by the Financial Reporting Authority ("**FRA**").*
>
> *In paragraph 2 of the Schedule to the [LAMAL], CILPA is categorized as a "private [sector] association", but it cannot properly function as a self-regulatory body to regulate the entire legal profession. It can only regulate its own members, not non-members.*
>
> *I continue to pray for you and all elected members of Parliament that God may give you the wisdom, understanding, knowledge, discernment and courage to make the right decisions for the Cayman Islands and for the good of all our people."*

382. Thus, the Petitioners aver, *inter alia*, that (on or about 10 October 2019, when the LPAB was proposed and tabled by the Cabinet) it was recognized (for further reasons, which will be asserted, that their critiques of issues were (rather than being given due consideration) being reverse engineered and/or ignored by the Cabinet, the LA, the AG, the Premier, CILPA and/or CARA.

383. The Petitioners aver, *inter alia*, that the Cabinet's proposal and tabling of the LPAB (on 10 October 2019) was an example of the Cabinet (which is led by the Premier and to which the AG is their principal legal advisor) reverse engineering the Petitioners' (and other Attorneys') criticisms (including the First Petitioner's warning letter on 22 November 2019), so as to attempt to patch holes in a failed attempt at legitimizing the CILPA-CARA AML self-regulatory regime, which was (and still is) deficient and ineffective at obligating to the Petitioners and other Attorneys (save for voluntarily submitting) to be bound.

384. And, the Petitioners assert that LPAB threatened their fundamental rights and freedoms, as follows:

    (1) freedom of association (contrary to s.12, BoR);

    (2) privacy and property rights (contrary to ss.9, 15, BoR);

    (3) right to a fair trial (contrary to s.7, BoR);

    (4) right to no punishment without law (contrary to s.8, BoR);

    (5) right to lawful administrative action (contrary to s.19, BoR); and

    (6) which was done in a discriminatory manner towards Caymanian sole practitioners and Attorneys in small law firms (contrary to ss.1(2)(a), 16, BoR), who chose not to be members of CILPA and/or register with CARA.

385. The Petitioners further aver that:

(1) after receiving ALPA's substantive letter, research memorandum and authorities (dated 2 December 2019), which contended, *inter alia*, that the LPAB would breach the Petitioners' (and other Attorneys') freedom of association (contrary to s.12, BoR); and

(2) the Cabinet's decision (on or about 5 or 6 December 2019) to defer and/or withdraw the LPAB was reverse engineering the Petitioners' and other Attorneys' criticisms (including ALPA's letter on 2 December 2019 and the First Petitioner's letter on 22 November 2019), because the attempt was being made by CILPA amending its Memorandum and Articles of Association via Special Resolution on 16 December 2019.

386. The Petitioners aver that such amendments via Special Resolution (on 16 December 2019) was a manifestation of CILPA's attempt at reverse engineering the Petitioners' and other Attorneys critique of the CILPA-CARA AML self-regulatory regime. However, this does show, *inter alia*, two things:

(1) how much the large firms (with their overwhelmingly large voting block) can effectively control CILPA through members voting, and this is evidenced by the ease through which they were able to pass the Special Resolution on 16 December 2019; and

(2) the close working relationship between the Cabinet, the Premier, the AG, and CILPA/CARA that has been evidenced by their failed coordinated attacks at trying to exercise control over Caymanian sole practitioners and Attorneys in small law firms in a discriminatory manner (pursuant to s.16, BoR) and irrationally and unlawfully (pursuant to s.19, BoR), which threatened and/or breached their:

(a) freedom of association (contrary to s.12, BoR);

(b) privacy and property rights (contrary to ss.9, 15, BoR);

(c) right to a fair trial (contrary to s.7, BoR); and

(d) which led to breach of the First Petitioner's and Second Petitioner's right to no punishment without law (contrary to s.8, BoR).

387. The Petitioners, therefore, aver that they have no trust, faith and confidence either in CILPA or in CARA (including their board members, employees and functionaries), as well as the Cabinet, the AG, the Premier or the LA (at least on the Government side of the aisle), which makes them very unhappy and gravely concerned that they have an active fear of persecution by those in the Cayman Islands, who should be looking out for their best interests.

388. As such, the Petitioners assert that they have now formed a *per se* legitimate expectation (in accordance with ss.7, 15, BoR), which reasonably anticipates the danger of a risk of discriminatory and oppressively irrational, disproportionate, procedurally unfair and unlawful administrative action (contrary to ss.19, 24, BoR taken together with s.16, BoR), as well as unlawful decisions and acts (including failures to act, pursuant to s.28, BoR) that threaten and/or breach their fundamental human rights and freedoms (pursuant to s.24, BoR and contrary to (minimally) ss.5, 7, 8, 9, 12, 15, 19, BoR), including the promulgation of primary legislation and creation of subordinate legislation which is incompatible with the BoR (contrary to s.23, BoR) and which stultifies the Constitution.

389. The Petitioners aver that, at least part of the problem from their perspective is that, the CIG (inclusive of the LA, the Cabinet, the Premier, the AG) seem to be under:

(1) the mistaken belief that it is Parliamentary Supremacy (a.k.a. Parliamentary Sovereignty) that obtains in the Cayman Islands, instead of Constitutional Supremacy (contrary to s.59(2), Constitution); and

(2) a preconceived notion that the Cayman Islands must capitulate to international pressure dictating domestic policy without any rational and proportionate (contrary to s.19, BoR) assessment of what

is required to meet the unique characteristics and jurisdictional needs of the Caymanians and the business community (including the legal profession).

Part Q: Declarations of Incompatibility

390. **Declarations of Incompatibility**: The Petitioners aver that, although there are different areas relevant to declarations of incompatibility in this Petition, that some of these may be best dealt with when grouped together. However, the Petitioners assert that there are some provisions of the AMLRs, which are not necessary to seek declarations of incompatibility (pursuant to s.23(1), 24, BoR), because they are already and have been *ultra vires* and void *ab initio*. The Petitioners will only argue incompatibility of some of these if, by doing so, it would have the effect of legitimizing such *ultra vires* subordinate legislation, which is not valid, but may risk that an order of the Court of a declaration of incompatibility might revive them (pursuant to s.23-(2)-(3), BoR), but will reserve the right to keep this discretion open for trial.

391. **Pyramid of Incompatible Legislation**: The Petitioners aver that a **pyramid** can be **constructed** in which, **at the base**, where (primary or subordinate) legislation is found to be incompatible with the BoR (under ss.23 BoR), becomes the **reason why**, **higher up**, if the compatibility of (primary or subordinate) legislation with the BoR is unclear or ambiguous, and cannot be read and given effect in a way that is compatible with the BoR (under s.25, BoR), which is then the **master reason why**, **higher up still**, the legislation *prima facie* stultifies the Constitution's BoR and the Court **must** make a declaration of incompatibility, specifying where the legislation is incompatible with the relevant section(s) of the BoR and the nature of incompatibility, (pursuant to s.23(1), BoR) and may **quash** incompatible **subordinate legislation** (pursuant to s.27(1), BoR, in accordance with ss.23, 25, BoR), but the **LA** shall decide how to **remedy** incompatible **primary legislation** (pursuant to s.23(2)-(3), BoR).

392. **Declarations of Incompatibility (s.23(1), BoR)**: The AMLR, as subordinate legislation (which is neither unclear nor ambiguous), is incompatible with the BoR. Therefore, the Petitioners aver, *inter alia*, that declarations of incompatibility should be made (pursuant to s.23(1), BoR), as follows:

    (1) Regulations 55R-55ZG of the AMLR are incompatible with s.7 of the BoR (pursuant to s.23, BoR);

    (2) Regulation 55M of the AMLR is incompatible with ss.9, 15 of the BoR (pursuant to s.23, BoR), as well as stultifies s.199A of the PCL for being outside the scope of the primary legislation and thus *ultra vires* and unlawful (under ss.19, 24, BoR);

    (3) Regulations 53A, 55L of the AMLR are incompatible with ss.9, 15 of the BoR (pursuant to s.23, BoR), as well as r.55M of the AMLR is *ultra vires* s.199A of the PCL, as it exceeds the scope of the primary legislation irrationally, disproportionately and unlawfully (contrary to s.19, 24, BoR) and is thus *ultra vires*, null and void *ab initio*;

    (4) Regulations 55G-55H of the AMLR are incompatible with s.7 of the BoR (pursuant to s.23, BoR), as well as stultifies s.7 of the LPL (other primary legislation); and

    (5) Regulations 55ZK-55ZS of the AMLR are that it is incompatible with s.7 of the BoR (pursuant to s.23, BoR), as well as incompatible with ss.19, 24 of the BoR, and is discriminatorily unfair procedurally and unlawful when taken together with ss.7, 16, 19, 24 of the BoR.

393. The Petitioners repeat paragraphs 101-193, 211-238 (?) above.

394. **Quashing Incompatible "Subordinate Legislation" (s.27(1), BoR)**: The Petitioners assert that this pyramid of incompatible legislation accords with the conventional view, but takes it a step further in clarifying that subordinate legislation may certainly be quashed (pursuant to s.27(1), BoR), if declared

incompatible (pursuant to s.23(1), BoR), but that the LA shall (usually, but not in every scenario, be able to) decide how to remedy incompatible primary legislation (pursuant to s.23(2)-(3), BoR).

395. The Petitioners aver that "primary legislation" (defined in s.28, BoR) is expressly mentioned in ss.23, 24, 25 of the BoR, but it is only s.25 of the BoR, where there is an interpretive obligation, that expressly mentions "subordinate legislation". The Petitioners, therefore, further aver that:

    (1) this is because only "primary legislation" is to be subject to parliamentary scrutiny and debate (including, usually, three readings of a Bill) before being passed by the LA, but where, for example, "subordinate legislation" is passed through the Cabinet (without parliamentary scrutiny, debate and approval) it is far weaker than the "primary legislation", which has made its way through the parliamentary filter and has been approved by a majority of the LA; and

    (2) that this is why, where "subordinate legislation" is not compatible with the BoR and where it is not unclear or ambiguous, which cannot be read and given affect to in a way that is compatible with the BoR, such "subordinate legislation" must be quashed for being an unlawful-unconstitutional decision or act of the Cabinet (under s.24, BoR), therefore, being *ultra vires* and void *ab initio*, therefore, the only intelligible solution is a quashing order (pursuant to s.27(1), BoR).

396. The Petitioners aver, therefore, that this accords with the Constitutional principle that the "*Cabinet shall have responsibility for the formulation of policy, including directing implementation of such policy, in so far as it relates to every aspect of government" and that the Cabinet shall be collectively responsible to the [LA] for such policies and their implementation*" (pursuant to s.44(3), Constitution), as well as the other Constitutional principle that, subject to Constitutional Supremacy (pursuant to s.59(2), Constitution), "*the Cabinet shall determine its own procedures for the conduct of its business*" (pursuant to s.44(4), Constitution).

397. The Petitioners, therefore, contend that Cabinet's collective responsibility to the LA (under s.44(3), Constitution), coupled with the Cabinet's ability to determine its own procedures being subject to Constitutional Supremacy (under s.44(4), Constitution, as well as s.59(2), BoR, which Cabinet owes responsibility to the LA), overrides the obligation to allow the LA to remedy incompatible "primary legislation" (pursuant to s.23(1), BoR) and provides the Court with jurisdiction to (not only make a declaration of incompatibility, under s.23(1), BoR) quash incompatible "subordinate legislation" (pursuant to s.27(1), BoR in accordance with ss.24, 25, BoR), especially where such subordinate legislation was already *ultra vires* the primary legislation or where a decision was made or act carried out in a way that was incompatible with the BoR (pursuant to s.24, BoR).

398. The Petitioners, therefore, further aver, *inter alia*, that:

    (1) where there has been a declaration of incompatibility of "subordinate legislation" (pursuant to s.23, BoR) it is incapable of having legal effect, because it is unconstitutional and unlawful (pursuant ss.23, 24, BoR), therefore, being *ultra vires* and void *ab initio*; and

    (2) it would be wrong in principle and pointless for the Court to refrain from making a quashing order, where "subordinate legislation" is declared incompatible (pursuant to s.23, BoR), because it would be devoid of legal effect and incapable of being revised or amended, and, for the Court to decline to quash incompatible "subordinate legislation", it would risk the impression that such "subordinate legislation" remains in force.

399. The Petitioners further assert that:

    (1) the object of an order quashing incompatible "subordinate legislation" is to make it plain that the Court needs to ensure that the appearance of a legal fiction cannot stand, which could cause confusion as to the validity of the law; and

(2) this approach "*affirms the rule of law*" (pursuant to s.1(2)(a), BoR) and ensures that the "*[LA] and the Cabinet uphold the rule of law*" (pursuant to s.106, Constitution), which effect the Constitutional principle that the BoRs "*is a cornerstone of democracy in the Cayman Islands*" (pursuant to s.1(1), BoR), and accords with the Constitutional duty of legality and constitutionality of public officials (pursuant to ss.19, 24, BoR).

Part R: LPAB (10 October 2019): A Legal Fiction (s.12, BoR)

400. The Petitioners aver, *inter alia*, that, given that the First Petitioner wrote (on 7 October 2019) to the Premier (copied in the AG) highlighting that non-members of CILPA were not subject to any AML self-regulatory Supervisory Authority (which was assigned responsibility *sine causa*) of CILPA and/or CARA (as only CILPA-members were bound), a public body regulator (such as, at the time, FRA) was suggested over CILPA-CARA. See paragraphs **4, 18, 25, 70, 77-80, 244-246, 381-386**.

401. However, the First Petitioner, who has not received a response back from the Premier to the date of filing the Petition, avers, *inter alia*, that the Premier's and/or AG's failure to respond breaches their Constitutional obligation to provide written reasons (contrary to s.19(2), BoR).

402. On 10 October 2019 (only three days after the First Petitioner e-mailed the Premier and copied in the AG on 7 October 2019), the Cabinet proposed and tabled the LPAB, which, *inter alia*, sought to deem all Attorneys (specifically non-members of CILPA) to members of CILPA for AMLR monitoring regime purposes (pursuant to s.4, LPAB).

403. The First Petitioner avers, *inter alia*, that this was the exact opposite of what his e-mail to the Premier (copied to the AG) was contending and that the decision to table the LPAB by the Cabinet irrationally, disproportionately and unlawfully threatened to breach the Petitioners' freedom of association (contrary to ss.12, 19, 24, BoR).

404. On 22 October 2019, when ALPA's executive council met with CIG (specifically the Premier, AG and Minister Hew), ALPA explained, *inter alia*, that non-members of CILPA were not caught by the CILPA-CARA self-regulatory AML regime, and that (if passed) the LPAB deeming non-members of CILPA to be members for AML self-regulatory purposes would breach the Petitioners' (and all Attorneys') Constitutional right *in personam* to freedom of association (pursuant to s.12, BoR), which was targeting Caymanian sole practitioners and Attorneys in small law firms, who chose to not be a member of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR).

405. On 22 November 2019, the First Petitioner wrote to CARA (via email to Ms. Guiles) highlighting that, *inter alia*, non-members of CILPA were not subject to any AML regulatory responsibilities, which were not binding on non-members, and that the passage of the LPAB would breach the Petitioners freedom of association (contrary to s.12, BoR), which was targeting Caymanian sole practitioners and Attorneys in small law firms, who chose to not be a member of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR).

406. The Petitioners contend, *inter alia*, that ALPA sent the AG, the Premier the LA and Cabinet a letter (dated 2 December 2019) which highlighted that (if the LPAB was passed by the LA) it would threaten and/or breach the Petitioners' freedom of association (contrary to s.12, BoR); and the Petitioners assert that the First Petitioner (on 30 December 2019) brought this to the attention of the AG, to which he explained, *inter alia*, the following:

> *"If practitioners' freedom of association (or, more accurately, right to not associate, under s.12, Constitution) is contravened, by non-members of CILPA being deemed members for AML regulation monitoring purposes, then this will not assist overcoming the legal profession's AML regulatory regime's defects (above-mentioned) and will more likely result in application for some form of judicial intervention."*

407. Further (and/or alternatively), by Cabinet's decision and/or act of proposing and tabling the LPAB to amend the LPL (on 10 October 2019), the LA and/or Cabinet conceded that:

(1) The Petitioners are not bound by any authority of CILPA and/or CARA as a Supervisory Authority, because r.55B(c), AMLR (as subordinate legislation) is *ultra vires* for being excessively wider in scope than s.4(9), PCL (as primary legislation), unlawful and irrational (contrary to ss.19, 24, BoR), and void *ab initio*, therefore, there can be no obligation for, *inter alia*, the following:

(a) the First Petitioner or Second Petitioner to register with CARA (pursuant to r.55F, AMLR);

(b) nor for the Third Petitioner submit to documentation or information requests (pursuant to r.53A(1), AMLR), requests to attend before them (pursuant to r.53A(3), AMLR) and no obligation to allow onsite investigatory visits (contrary to r.55M, AMLR).

(2) The First Petitioner (as well as all other Attorneys, who were not members of CILPA) was not under a legal obligation to register with CARA, because, *inter alia*, the Condition Precedent was not fulfilled and was thus *ultra vires*, unlawful and oppressively irrational (contrary to ss.12, 15, 19, 24, BoR);

(3) More was required to fulfill the Condition Precedent to have the First Petitioner and the Second Petitioner bound to register with CARA, which was not achieved (on 10 October 2019); and

(4) Tabling the LPAB was an attempted patch work at the LA's and/or Cabinet's (and/or CILPA's and/or CARA's) failure to legally obligate the First Petitioner and the Second Petitioner (as well as other Attorneys, who were not members of CILPA and/or who had not registered with CARA) to register with CARA, which the Petitioners have seen a pattern of the Cabinet, the AG, the Premier, CILPA and CARA "reverse engineering" the Petitioner's critiques;

(5) The Petitioners aver, *inter alia*, that Cabinet's proposal and tabling of the LPAB, threatened and/or breached the First Petitioner's and Second Petitioner' fundamental rights and freedoms, as follows:

(a) freedom of association (contrary to s.12, BoR);

(b) privacy and property rights (contrary to ss.9, 15, BoR);

(c) right to a fair trial (contrary to s.7, BoR);

(d) right to no punishment without law (contrary to s.8, BoR);

(e) was to oppressively irrational and unlawful (contrary to ss.19, 24, BoR); and

(f) was done in a discriminatory manner targeting Caymanian sole practitioners and small law firms, who had chosen not to become a member of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR).

408. The Petitioners further aver that, regulation 7 of the CARA Regulations, makes it *ultra vires* (CARA's Regulations, or constitutional document) for CARA to have any authority of the First Petitioner, who has never registered with CARA (pursuant to r.7(2), CARA Regulations), and nothing in the CARA Regulations (or CILPA's Memorandum and Articles of Association) can override the Second Petitioner's and the Third Petitioner's fundamental freedom of association (pursuant to s.12, BoR) and, any attempt to do so, will be incompatible with the Constitutions BoR (under s.24, BoR).

Part S: <u>Award of Damages (s.27, BoR)</u>

409. **Introduction to Constitutional Damages Jurisdiction (s.27(2), BoR)**: Section 27 of the BoR states as follows:

"(1) In relation to any decision or act of a public official which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate.

(2) No award of damages is to be made unless, taking into account the circumstances of the case, including:

(a) any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court); and

(b) the consequences of any decision (of that or any other court) in respect of that act,

the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made."

410. The Petitioners also seek (taking into account all the circumstances and to afford just satisfaction) an award of damages against the Respondents (pursuant to s.27(2), BoR) for any and all decision or act that was unlawful (or would be unlawful) threatening or breaching of their Constitutional rights, freedoms and governmental responsibilities enshrined in the BoR (particularly ss.7, 9, 12, 15, 16, 19, 23, 24, 26, BoR). The Petitioners aver that, *inter alia*, remedies for threatened and/or breaches of Constitutional rights and freedoms are "Constitutional torts" (which are akin to statutory torts) and such framework provides the best mechanism for analysis of such remedial damages in situations, such as what obtains here pertaining to the Petitioners.

411. **Compensatory Damages**: The Petitioners aver that the decisions and acts (pursuant to ss.19, 24, BoR), including failures to act (pursuant s.28, BoR) of the Respondents, which threatened and/or breached the Petitioners rights and freedoms (contrary to ss.5, 7, 8, 9, 12, 15, 19 BoR when taken together with ss.1(2)(a), 16, BoR (as an aggravating factor for an award of damages, under s.27(2, BoR), pursuant to s.26(1), BoR in accordance with ss.24, BoR) have caused loss and damage as follows:

(1) The Petitioners' ARGW (protected under ss.9, 15, BoR) has been significantly eroded and will be hard to rebuild, regardless of future vindication of their positions. The Petitioners' reputations have been questioned by a portion of their fellow legal practitioner colleagues, which may never be regained or may take quite some time to be regained. This disrupts the Petitioners' ability to work and function with the faith, trust and confidence of the clients (including past and future clients) and the general public at large.

(2) The Petitioners aver that the administrative fines unlawfully issued against them (pursuant to s.19, 24, BoR and contrary to (and incompatible with) ss.7, 8, 19, BoR) , coupled with the community spread of persons knowing that they have been fined (and/or penalized) for non-compliance with the AMLRs, under which they have been detrimentally affected, provides horrible public optics and should never have occurred in the first place.

(3) The Petitioners aver that, *inter alia*, they have had to turn down (and/or forgo) profit earning opportunities (contrary to s.15, BoR), because they have been deterred having to spend a significant amount of time and attention to resisting the CILPA-CARA self-regulatory AMLR-compliance monitoring regime, which the LA set in motion and Cabinet further supported without (pursuant to ss.19, 24, BoR) consulting Caymanian sole practitioners and Attorneys small law firms before doing so (contrary to ss.1(2)(a), 16, BoR).

(4) The First Petitioner has been working on this researching and mounting an action against the self-regulatory AMLR-compliance monitoring regime about three quarters of his time, since the fourth quarter of 2019 to present date. For clarity, the First Petitioner is not a public law practitioner and (as such) has had to delve into this matter in short order. As such, The First Petitioner has forgone predominantly earning any income to focus on this matter, almost exclusively, (contrary to s.15, BoR).

(5) The Petitioners have had to sacrifice much time and attention away from their families (including spouses and/or significant others, as well as their children), which has caused strain on the marital relationship (contrary to s.9, BoR) and some have not been able to attend to their civic duties, which some undertake for the greater good of the Cayman Islands and its people—both Caymanians and residents—(contrary to s.9. BoR). As such, the Petitioners' families (especially)

and other parties connected to them have also suffered along with them the diversion of their time and attention, as well as suffering the strain financially (contrary to ss.9, 15, BoR).

(6) The Petitioners aver that, *inter alia*, they have suffered from uncertainty of what will come of their careers and futures, which is directly owing to the wrongs inflicted against them, as set out herein, (contrary to s.15, BoR). This has caused much emotional distress and strain, including in some instances (and/or at times) leaving them to wonder what they might have to lose their ability to practice law in the Cayman Islands and/or elsewhere (contrary to s.15, BoR) and whether they will be able to earning a living for themselves and their families (contrary to ss.9, 15, BoR).

(7) The Petitioners aver that, *inter alia*, their distrust of the larger law firms has grown stronger than ever before and they feel as if the CIG (particularly the LA, Cabinet, the Premier and the AG) have turned their back on them and disowned them (contrary to ss.19, 24, BoR taken together with ss.1(2)(a), 16, BoR), as well as being left feeling as if their own Island-nation has turned its back on them and that their reputations are either ruined or have been damaged (contrary to s.15, BoR).

(8) The Petitioners aver that, *inter alia*, they have wasted their time, effort and money (including loss of finances via foregoing profit-earning opportunities) having to fight the self-regulatory AMLR-compliance monitoring regime (contrary to s.15, BoR), which they were not consulted on and which they aver has been inflicted on them in a discriminatory manner against them as Caymanian sole practitioners and attorneys in small law firms (contrary to ss.1(2)(a), 16, BoR), which acts as an aggravating factor for aggravated damages herein.

(9) The Petitioners aver, *inter alia*, that this has caused them significant distress and loss of happiness, both professionally and personally contrary to ss.9, 15, BoR).

(10) The Petitioners seek to be compensated (via compensatory damages) to be put back in the position as if their Constitutional rights and freedoms (including breaches of governmental responsibilities, which have a corresponding right (guaranteed under s.1(2)(b), BoR) to the Petitioners) had not occurred (pursuant to s15, BoR).

412. **Vindicatory Damages**: The Petitioners aver that, *inter alia*, their Constitutional rights and freedoms have been threatened and/or breached (specifically contrary to ss.7, 8, 9, 12, 15, 16, 19, BoR pursuant to s.26(1), BoR in accordance with s.24, BoR and s.23, BoR) and thus are entitled to vindicatory damages for the Respondents so doing (pursuant to s.27, BoR).

413. Whilst Petitioners' primary Constitutional rights and freedoms (under ss.7, 8, 9, 12, 15, 16, 19, BoR) were threatened and/or breached, the Respondents' the governmental responsibilities (under ss.19, 24, BoR) are also fundamental corresponding rights enjoyed by the Petitioners (and by all Attorneys) against government and public bodies (pursuant to s.1(2)(b), BoR), which seems to have been previously overlooked in some decided cases.

414. For primary legislation passed (including the PCL, as amended, as well as the LAMAL), which is confirmed to be incompatible with the Constitution (contrary to ss.23, 24, BoR), it is the LA's responsibility for passing it (including the subsidy money appropriation pursuant to the Purchase Agreement in Finance Committee on or about 22 November 2019 in the most recent budget, contrary to ss.5, 7, 8, 9, 12, 15, 19, BoR, taken together with ss.1(2)(a), 16, BoR, pursuant to s.24, BoR) and Cabinet's responsibility for proposing and tabling it—before being passed or voted on, as well as deferred or withdrawn, such as with the LPAB (also contrary to ss.5, 7, 8, 9, 12, 15, 19, BoR, taken together with ss.1(2)(a), BoR, pursuant to s.24, BoR). And, with respect to subordinate legislation (such as the AMLR, as amended), which was passed (via Order in Cabinet) without parliamentary scrutiny by the LA, is primarily the Cabinet's responsibility (pursuant to s.24, BoR and contrary to ss.5, 7, 8, 9, 12, 15, 19, BoR, taken together with ss.1(2)(a), 16, BoR).

415. And, provisions of such subordinate legislation is incompatible with the BoR (pursuant to s.23, BoR) as follows:

(1) rr.53A, 55L, 55M are incompatible with s.9, 15, BoR and which CARA unlawfully threatened against the Third Petitioner (contrary to ss.19, 24, BoR) in a discriminatory manner (pursuant to ss.1(2)(a), 16, BoR); and

(2) rr.55R-55ZG, AMLR is incompatible with s.7, BoR (pursuant to s.23, BoR) and which CARA unlawfully issued breach notices, fined notices and issued administrative fines against the First Petitioner and attempted against the Second Petitioner (contrary to ss.19, 24, BoR) in a discriminatory manner (contrary to ss.1(2)(a), 16, BoR).

416. The Petitioners aver that CARA sought to issue administrative fines against the First Petitioner and attempted against the Second Petitioner for CI$58,500 and which should have been capped at CI$50, 000 against them as individuals (under r.55S(3)(a), AMLR), which was, therefore, an unlawful decision and/or act for being incompatible with ss.7, 8, BoR (pursuant to s.24, BoR).

417. The Petitioners aver that, *inter alia*, the Respondents must now pay vindicatory damages for threatening and/or breaching (pursuant to s.26(1), BoR) fundamental rights and freedoms enshrined in the BoRs (pursuant to s.24, BoR and contrary to ss.5, 7, 8, 9, 12, 15, 19, BoR, taken together with ss.1(2)(a), 16, BoR), so as a preventative measure against such events occurring in the future to anyone else (or to themselves again).

Part T: Review and Conclusions

418. The Petitioners aver, *inter alia*, that the following summarizes some of the core issues and focus points herein, as follows:

(1) The LA passing the LAMAL (on 19 December 2018) has irrationally and unlawfully (contrary to ss.19, 24, BoR) threatened and/or breached the Petitioners':

(a) *in personam* right to freedom of association (contrary to s.12, BoR);

(b) privacy and property rights (contrary to ss.9, 15, BoR);

(c) right to a fair trial (contrary to s.7, BoR); and

(d) which was passed with discriminatory treatment towards a minority of Caymanian sole practitioners and Attorneys in small law firms, who were not consulted in this very important piece of legislation, which was deceptively labeled amending law (contrary to ss.1(2)(a), 16, BoR). See **paragraphs 16, 52, 235, 251-258**.

(2) The scope of the subordinate legislation under rr.2(1), 55B(c), AMLR) is wider than the primary legislation (under ss.2(1), 4(9), PCL), which makes it legally impossible to confer Supervisory Authority status on CILPA (and/or on CARA), which is, therefore, *ultra vires,* irrational, disproportionate and unlawful (contrary to ss.19, 24, BoR), which also did not require the Petitioners to register with CARA (under r.55F, AMLR), because neither CILPA nor CARA is a Supervisory Authority (under r.55B(c), AMLR, which is *ultra vires* s.4(9), PCL) . See **paragraphs 4, 194-209**.

(3) And, so too, the Cabinet's assignment of AMLR-compliance monitoring responsibility to CILPA (on 19 February 2019 and published in the Gazette on 10 April 2019) was unlawful, because the subordinate legislation (r.55B(c), AMLR), which is where a legal basis for being a Supervisory Authority is derived for DNFBPs, exceeds the scope of the primary legislation (s.4(9), PCL), which is where AMLR-compliance monitoring functions are assigned, therefore, it was an *ultra vires* assignment, which is null, unenforceable and void *ab initio* (pursuant to ss.19, 24, BoR), which is further compounded by the fact that it led to the Petitioners' fundamental rights and

freedoms to ultimately being threatened and/or breached (including ss.7, 8, 9, 12, 15, BoR, taken together with ss.1(2)(a), 16, BoR, pursuant to ss.19, 24, BoR) should now be quashed (pursuant to s.27(2), BoR). See **paragraphs 4, 19-27, 194-209**.

(4) The Cabinet's proposal and tabling of the LPAB (on 10 October 2019) irrationally and unlawfully (contrary to ss.19, 24, BoR) threatened and/or breached the Petitioners' fundamental rights and freedoms, as follows:

(a) freedom of association (contrary to s.12, BoR);

(b) privacy and property rights (pursuant to ss.9, 15, BoR);

(c) right to a fair trial (pursuant to s.7, BoR); and

(d) which was a decision and/or act of discriminatory treatment towards Caymanian sole practitioners and Attorneys in small law firms, who chose not to be members of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR). See **paragraphs 4, 400-408**.

(5) The CIG (via the AG on behalf of the Cabinet and thus with the Premier's knowledge and consent) entered into the Purchase Agreement with CILPA (on 8 November 2019), which facilitated CILPA (and/or CARA) being given AML regime functions, which irrationally and unlawfully (contrary to ss.19, 24, BoR) exceeded the scope allowed for in the primary legislation (pursuant to s.4(9), PCL) and, therefore, being an *ultra vires* and void *ab initio* attempted assignment (under s.4(9), PCL), because it was an *ultra vires* exercise of the scope of the power, which ultimately threatened and/or breached the Petitioners' fundamental rights and freedoms, as follows:

(a) freedom of association (pursuant to s.12, BoR);

(b) privacy and property rights (contrary to ss.9, 15, BoR);

(c) rights to a fair trial (contrary to s.7, BoR); and

(d) which was discriminatory towards Caymanian sole practitioners and Attorneys in small law firms in the minority of the legal profession, who chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR),

as well as rendered the Purchase Agreement *ultra vires* and void *ab initio*, where CILPA (and/or CARA, if it has received any such subsidy funds) has been unjustly enriched at the expense of the CIG and there is a remedial right (*in personam* or *in rem*) to make restitution thereof to the public purse. See **paragraphs 4, 72, 211-229**.

(6) On or about 1 August 2019 and 18 November 2019, respectively, CARA tried to require the First Petitioner (who was not member of CILPA) and Second Petitioner, to register with CARA (by 30 August 2019 and 29 November 2019, respectively), but did not fulfill the Condition Precedent set by the LA in the LAMAL (on 19 December 2018) and neither CILPA nor CARA qualify as a Supervisory Authority (pursuant to the subordinate legislation (rr.2(1), 55B(c), AMLR) being *ultra vires* the primary legislation (ss.2(1), 4(9), PCL), where neither CILPA nor CARA is a "Supervisory Authority"), therefore, such request irrationally and unlawfully (contrary to ss.19, 24, BoR) threatened and/or breached the First Petitioner's fundamental rights and freedoms, as follows:

(a) freedom of association (contrary to s.12, BoR);

(b) privacy and property rights (contrary to ss.9, 15, BoR);

(c) right to a fair trial (contrary to s.7, BoR); and

(d) was done so, which directly targeted Caymanian sole practitioners, in a discriminatory manner (contrary to ss.1(2)(a), 16, BoR), who chose not to be a member of CILPA and/or not to register with CARA. See **paragraphs 4, 16, 52, 251-258, 375.**

(7) On or about the 22 November 2019, the LA passed the appropriation for subsidy money pursuant to the Purchase Agreement, which provided CILPA (and/or ultimately CARA) the consideration to carry out purportedly authorized functions in accordance with the Purchase Agreement, which irrationally, disproportionately and unlawfully threatened (contrary to ss.19, 24, BoR) and/or breached fundamental rights and freedoms of the Petitioners (and other Attorneys) (pursuant to ss.7, 9, 12, 15, BoR, taken together with ss.1(2)(a), 16, BoR); however, given that the Purchase Agreement called for outputs, which were being purchased by the Cabinet (on behalf of the CIG via the AG) from CILPA, the said contract exceeded the lawfully authorised scope (under s.4(9), BoR) and was ultra vires subsidization and restitution (*in personam* or *in rem*) must now be made to reverse CILPA's (and/or CARA') unjust enrichment. See **paragraphs 194-229**.

(8) On 10 October 2019, the Cabinet proposed and tabled the LPAB, which, *inter alia*, sought to deem non-members of CILPA as members for AMLR-compliance monitoring purposes, which threatened and/or breached the Petitioners freedom of association (contrary to s.12, BoR), which was done in a discriminatory manner targeting Caymanian sole practitioners and Attorneys in small law firms, who chose not to be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR). See **paragraphs 4, 18, 25, 70, 77-80, 244-246, 381-386, 400-408 above.**

(9) On 11 December 2019, the AG created legitimate expectations to the First Defendant and the Second Defendant (protected under ss.1(2)(a), 15, BoR), which were irrationally and unlawfully never fulfilled (contrary to ss.19, 24, BoR), and did not respond to the First Petitioner's good-faith effort to bring important focus to the AG's attention (as well as stopped drafting an LBA in December 2019 and repackaging it as letter, dated 30 December 2019) and requested clarifications with specificity (in accordance with s.19(2), BoR), but which appear to have been infringed in a discriminatory manner towards a Caymanian sole practitioner, who chose not to be a member of CILPA or register with CARA (contrary to ss.1(2)(a), 16, BoR). **See paragraphs 36-43, 79, 116-117 above.**

(10) CARA (on behalf of CILPA) issued breach notices for failure to register with CILPA by 29 November 2019 for CI$58,500 to the "Orren Merren & Co" care of the First Petitioner (on 23 January 2020) and to the Second Petitioner (on 24 January 2020), which was unlawful and irrational (contrary to s.19, BoR) and was a decision and/or act that is incompatible with sections 7, 8, 9, 12, 15 of the BoR (pursuant to s.24, BoR), where infringements were carried out in a discriminatory manner towards Caymanian sole practitioners and Attorneys in small law firms, who have chosen not to be members of CILPA and/or register with CARA (contrary to ss.1(2)(a), 16, BoR). See **paragraphs 31, 83-84, 336-351**.

(11) On 18 February 2020, the Third Petitioner received a Breach Notice for CI$15,000 for (i) failure to facilitate an onsite visit at his business premises on 17 February 2020 (pursuant to r.55M, AMLR), (ii) failing to provide documentation requested (pursuant to r.53A(1), AMLR), and (iii) failing to attend before CARA (pursuant to r.53A(3), AMLR), which was oppressively irrational, disproportionate and unlawfully threatened and/or breached the Third Petitioner's:

(a) privacy and property rights (contrary to ss.9, 15, BoR);

(b) freedom of association (contrary to s.12, BoR);

(c) right to a fair trial (contrary to s.7, BoR); and

(d) was carried out in a discriminatory manner towards a Caymanian sole practitioner, who chose to resign from CILPA and/de-register with CARA (contrary to ss.1(2)(a), 16, BoR). See **paragraphs 31, 102, 259-335, 336-351**.

(12) On 16 March 2020, the First Petitioner (who was defectively served for "Orren Merren & Co", of which he is neither a partner, associate nor employee) and the Second Petitioner were issued administrative fines of CI$58,500 for failing to register with CARA by 29 November 2019; however, this did not obligate them to register with CARA, for the reasons that following reason:

(a) CILPA had not yet fulfilled the Condition Precedent set by the LA in the LAMAL, wherein clause 4(m) of its Memorandum of Association, which (leaving aside the fact that only members, but not non-members, are bound as such);

(b) the fact that neither CILPA nor CARA are (or currently legally can be) a Supervisory Authority (much less with anything other than, perhaps unknown, only voluntary participation from its members) or than an *ultra vires* Supervisory Authority (as r.55B(c) of the AMLR exceeds the scope of lawful authority provided in s.4(9), PCL and, therefore, was *ultra vires*, unlawful (contrary to s.19, BoR) and void *ab initio*); and

(c) CARA (on behalf of CILPA), although not lawfully authorised to do so, issued administrative fines to both of them, which exceed the purported highest penalization that could have been issued (even if they were guilty and even if CILPA/CARA was not *ultra vires*) and, therefore, breached the fundamental right to no penalty without law (contrary to s.8, BoR). See **paragraphs 194-209, 230-258, 336-370**.

(13) On 24 March 2020, the Third Petitioner was issued an Administrative Fine for CI$5,000 for failure to allow an onsite visit investigation (pursuant to r.55M, ALMR); however, the Third Petitioner had expressly provided concerns raised, then resigned on 11 February 2020, as well as the fact that both CILPA and CARA were *ultra vires* as a Supervisory Authority (as r.55B(c), AMLR exceeds the lawfully authorised scope of s.4(9), PCL and, therefore, *ultra vires*, unlawful (contrary to s.19, BoR) and void *ab initio*). The Petitioners repeat **paragraphs 194-258, 323-324, 336-370**.

(14) The CILPA/CARA corporate structure, which is set against the backdrop of inescapable conflicts-of-interest amongst commercial competitors, who are in active legal practice and attached to different legal practices (in many cases partners in the larger law firms), that populate CILPA's (and/or CARA's) boards, where there is a so-called "Chinese wall" (as an information barrier between CILPA and CARA), which reasonably anticipates the danger of a risk of disclosure, breach, mischief and/or prejudice relating to CPI (and/or ARGW), which, ipso facto, threatens and/or breaches fundamental rights and freesoms (contrary to ss.9, 12, 15, BoR, taken together with ss.1(2)(a), 16, BoR, pursuant to ss.19, 24, BoR). See **paragraphs 259-335**.

(15) The private corporate law principles, which the LA, the Cabinet, the AG, the Premier, CILPA and CARA all seem to be mistaking by incorrectly mismatching private and public law principles, which also goes to show how CILPA has an absence of legal basis upon which to contend that the Petitioners are bound by their authority, and which threatened and/or breached the Petitioners' freedom of association (contrary to s.12, BoR). See **paragraphs 230-258**.

Your Petitioners, therefore, humbly pray that:

1. This Honourable Court make declarations (under s.27, BoR; s.11(2), GCL; GCR O.15, r.16) to the effect that:

a. Subordinate legislation (r.55B(c), AMLR) is *ultra vires* for exceeding the scope of the primary legislation (s.4(9), PCL), which is oppressively irrational, disproportionate, unlawful (ss.19, 24, BoR) and void *ab initio*, as well as the Petitioner's having had their fundamental rights and

freedoms threatened and/or or breached, as follows: freedom of association (under s.12, BoR), privacy and property rights (ss.9, 15, BoR), right to a fair trial (s.7, BoR), right to no punishment without law (s.8, BoR), which was done in a discriminatory manner (pursuant to s.16, BoR) and, as such, neither CILPA nor CARA is a Supervisory Authority (as the primary legislation (r.55B(c), ALMR) exceeded the scope of the primary legislation (s.4(9), PCL) and is *ultra vires*, unlawful, irrational (ss.19, 24, BoR) and void *ab initio*), therefore, all decisions and acts inflicted upon the Petitioners were unlawful for being incompatible with the BoR (ss.19, 24, BoR).

b. The Cabinet's assignment (pursuant to s.4(9), PCL) to CILPA of AMLR-compliance monitoring responsibility for Attorney (on 19 February 2019 and published in the Gazette on 10 April 2019) was an irrational, unlawful and *ultra vires* abdication of authority (ss.19, 24, BoR), which was void *ab initio*, and became a discriminatory tool of oppression against Caymanian sole practitioners and Attorneys in small law firms (contrary to ss.1(2)(a), 16, BoR).

c. CILPA's delegation to CARA (on 29 May 2019) of CILPA's AMLR-compliance monitoring responsibility, which the Cabinet assigned to CILPA (*ultra vires* as well on 19 February 2019 and published in the Gazette on 10 April 2019) was an irrational, unlawful and an *ultra vires* abdication of authority (ss.19, 24, BoR), which was void *ab initio*, which became a discriminatory tool of oppression against Caymanian sole practitioners and small law firms (ss.1(2)(a), 16, BoR).

d. When CARA (on or about 1 August 2019) requested the First Petitioner and the Second Petitioner to register with CARA by 30 August 2019, the First Petitioner and Second Petitioner were not legally obligated to register with CARA, because (since, *inter alia*, CILPA's status as a Supervisory Authority was *ultra vires* and CILPA had not fulfilled the Condition) it was irrational and unlawful for CARA to insist it was required (ss.19, 24, BoR) and such request by CARA threatened and/or breached the Petitioners' freedom of association (s.12, BoR), privacy and property rights, right to a fair trial (s.7, BoR) which was discriminatory to non-CILPA members (ss.1(2)(a), 16, BoR).

e. The Petitioners are under an obligation to register with CARA (under r.55F, AMLR) or be members of CILPA, as neither CILPA nor CARA is a Supervisory Authority (as the secondary legislation (r.55B(c), AMLR) broadly exceeds the scope of the primary legislation (s.4(9), PCL) and, therefore, is thus irrational, unlawful (ss.19, 24, BoR) *ultra vires* and void *ab initio*), and any such request to do so by CARA (on behalf of CILPA) are done *sine causa*;

f. The Institute is not a Supervisory Authority (under r.55(b), AMLR), since the Cabinet has not assigned AMLR-compliance monitoring responsibility (under s.4(9), PCL) via an Order in Cabinet (like it did for the DCI and CILPA) published in the Cayman Islands Gazette, therefore, the only two Supervisory Authorities are CIMA (s.2(1), PCL) and DCI (r.55(a), AMLR);

g. The Objects (particularly object 4(m)) in CILPA's Memorandum and Articles of Association only bind members, but not non-members, (pursuant to s.25(3), Companies Law) and, as such, it is oppressively irrational and unlawful (ss.19, 24, BoR) for CILPA and/or CARA to try to contend that the Petitioners, who are not members of CILPA, are bound to register with CARA, which threatens and/or breaches their freedom of association (s.12, BoR), wherein Caymanian sole practitioners and Attorneys in small law firms had been targeted in a discriminatory manner (ss.1(2)(a), 16, BoR).

h. The Premier and/or AG unlawfully and/or irrationally (s.19(1), BoR) failed to respond to the First Petitioner's e-mail (sent on 7 October 2019), which breached the Constitutional obligation to respond providing written reasons (s.19(2), BoR), which was discriminatory to Caymanian sole practitioners and small law firms, who chose not to be members of CILPA and not to register with CARA (ss.1(2)(a), 16, BoR).

i. On 10 October 2019, when the Cabinet (which is collectively responsible to the LA) proposed and tabled the LPAB, this unlawfully and irrationally (ss.19, 24, BoR) threatened and/or breached the

Petitioners' freedom of association (s.12, BoR), which was discriminatory to Caymanian sole practitioners and small law firms, who chose not to be members of CILPA and/or register with CARA (contrary tos s.1(2)(a), 16, BoR).

j. On 8 November 2019, when the CIG (via the AG on behalf of the Cabinet) and CILPA entered into the Purchase Agreement, this irrationally and unlawfully (ss.19, 24, BoR) threatened and/or breached the Petitioners' freedom of association (s.12, BoR) and privacy and property rights (ss.9, 15, BoR), right to a fair trial (s.7, BoR) and right to no punishment without law (s.8, BoR), which was discriminatory towards Caymanian sole practitioners and Attorneys in small law firms, as well to all Attorneys (ss.1(2)(a), 16, BoR), as the Purchase Agreement was ultra vires .

k. Since the Purchase Agreement between the Cabinet of CIG and CILPA did not cover "outputs" to be delivered by CARA, which "outputs" are, in any event, *ultra vires* s.4(9), PCL and are, therefore, unlawful (ss.19, 24, BoR) and threaten and/or breach the Petitioners' freedom of association (s.12, BoR) and privacy and property rights (ss.9, 15, BoR), CILPA-CARA was unjustly enriched at the expense of the public purse with public funds received by CILPA from CIG (via the AG on behalf of the Cabinet, which is collectively responsible to the LA) and which must forthwith make restitution (*in personam* or *in rem*) in full by CILPA paying back to CIG.

l. Since the Purchase Agreement between the Cabinet of CIG and CILPA did not cover "outputs" to be delivered by CARA (which "outputs" are, in any event, *ultra vires* s.4(9) of the PCL and are, therefore, irrational, disproportionate and unlawful, under s.19, BoR), CILPA/CARA was unjustly enriched with public funds received by CILPA from CIG and which must forthwith make restitution (*in rem* or *in personam*) in full by CILPA back to CIG.

m. When CARA (on 18 November 2019) requested the First Petitioner to register with CARA by 29 November 2019, the First Petitioner was not legally obligated to register with CARA, because (since CILPA had not fulfilled the Condition Precedent) it was irrational and unlawful for CARA to insist registration was required (ss.19, 24, BoR) and such request by CARA threatened and/or breached his freedom of association (s.12, BoR), which was discriminatory towards Caymanian sole practitioners and small law firms (ss.1(2)(a), 16, BoR).

n. When Ms. Guile (on 22 November 2019) confirmed to the First Petitioner that CARA had received his letter (dated 22 November 2019), CARA would carefully consider the contents and respond back in due course, created a legitimate expectation to the First Petitioner (pursuant to s.15, BoR) and CARA's failure to respond with written reasons breached its Constitutional obligation and did not fulfill the legitimate expectation, which was unlawful, oppressively irrational, disproportionate and/or procedurally unfair (ss.19, 24, BoR), and was discriminatory towards Caymanian sole practitioners and small law firms (ss.1(2)(a), 16, BoR). .

o. On or around 22 November 2019, when the LA passed item NSG 89 in Finance Committee, which provided for CILPA's subsidy monies for 2020 and 2021 pursuant to the Purchase Agreement, this unlawfully and irrationally threatened and/or breached the First Petitioner's freedom of association (s.12, BoR) and threatened and/or breached the Petitioners' privacy and property rights (ss.9, 15, BoR), which was discriminatory against Caymanian sole practitioners and small law firms (s.16, BoR).

p. On the 11 December 2019, when the AG wrote to ALPA, the AG created legitimate expectations (s.15, BoR), which were not fulfilled, irrationally and unlawfully (ss.19(1), 24, BoR) breached his Constitutional responsibility (s.19(2), BoR) and which was discriminatory towards Caymanian sole practitioners and small law firms (ss.1(2(a), 16, BoR).

q. On 30 December 2019, when the First Petitioner wrote to the AG highlighting defects in the AMLR-compliance monitoring regime, the AG's failure to respond *sine causa* breached his Constitutional responsibility (contrary to s.19(2), BoR), which was discriminatory to Caymanian

sole practitioners and small law firms (s.16, BoR), where the AG's letter (11 December 2019) created a legitimate expectation to the First Petitioner (under ss.7, 15, 19(2), 28, BoR, pursuant to ss.19(1), 24, BoR).

r. On 23 January 2020, when CARA (on behalf of CILPA) provided a Breach Notice for the First Petitioner failing to register with CARA by 29 November 2019, this was unlawful, irrational, disproportionate and procedurally unfair (ss.19, 24, BoR), as well as threatened and/or breached his freedom of association (s.12, BoR), which was discriminatory to him as a Caymanian sole practitioner (ss.1(2)(a) ,16, BoR).

s. On 24 January 2020, when CARA (on behalf of CILPA) provided a Breach Notice for the Second Petitioner failing to register with CARA by 29 November 2019, the was unlawful, irrational, disproportionate and procedurally unfair (ss.19, 24, BoR), as well as threatened and/or breached his freedom of association (s.12, BoR), which was discriminatory to him as a Caymanian sol practitioner (ss.1(2)(a), 16, BoR).

t. The AG's failure to respond to the First Petitioner's letter (dated 16 February 2020) irrationally and unlawfully failed to provide written reasons in breach of his Constitutional responsibility (ss.15, 19(1)-(2), 24, 28, BoR), which was discriminatory to Caymanian sole practitioners and small law firms (contrary to ss.1(2)(a), 16, BoR).

u. The AG's failure to respond to the First Petitioner's letter (dated 21 February 2020) irrationally and unlawfully failed to provide written reasons in breach of his Constitutional responsibility (ss.15, 19(1)-(2), 24, 28, BoR), which was discriminatory to Caymanian sole practitioners and small law firms (ss.1(2)(a), 16, BoR).

v. On 16 March 2020, when CARA provided a Fine Notice for the First Petitioner's failure to register with CARA by 29 November 2019, this was unlawful, oppressively irrational, disproportionate and/or procedurally unfair (ss.19, 24, BoR), as well as threatened and/or breached the First Petitioner's and Second Petitioner's freedom of association (s.12, BoR), which was discriminatory to him as a Caymanian sole practitioner (in the minority of the legal profession) and who was not legally obligated to register with CARA on 29 November 2019 (ss.1(2)(a), 16, BoR).

w. Regulations 55R-55Z, AMLR are incompatible with s.7 of the BoR (s.23, BoR) and are unlawful, irrational, disproportionate and/or procedurally unfair (ss.19, 24, BoR).

x. The Fine Notices for CI$58,500 issued by CARA (on behalf of CILPA) *sine causa* (acting as a Supervisory Authority *ultra vires*) to the First Petitioner and Second Petitioner (on 16 March 2020) was unlawful, oppressively irrational, disproportionate and/or procedurally unfair (contrary to s.19, BoR), and which was higher than could be issued against an individual (under r.55S, AMLR) and was within the realm of what could be issued against a body corporate (under r.55S, AMLR), which was, therefore, an act in breach of s.8 of the BoR and thus an decision and/or act incompatible with the BoRs (s.24, BoR), as well as threatened and/or breached the First Petitioner's and Second Petitioner's freedom of association (s.12, BoR) and, since rr.55R-55Z, AMLR are incompatible with s.7, BoR (s.23, BoR), CARA's decision to issue the Fine and act of issuing the Fine Notice was unlawful as being exercised in a manner incompatible with the Constitution (contrary to s.24, BoR), which was discriminatory to the First Petitioner and Second Petitioner as a Caymanian sole practitioner (the First Petitioner) and Attorneys in small law firms (the Second Petitioner), who were not legally obligated to register with CARA on 29 November 2019 (ss.1(2)(a), 16, BoR).

y. The Fine Notice for $5,000 issued by CARA (on behalf of CILPA) *sine causa* (acting as a Supervisory Authority *ultra vires*) to the Third Petitioner (on 24 March 2020) was unlawful, oppressively irrational, disproportionate and procedurally unfair (s.19, BoR), wherein the Supervisory Authority, whilst acting *ultra vires* as a Supervisory Authority, issued the fine *sine causa* for refusing to allow CARA to conduct Site Visit Functions at his business premises, which

threatened and/or breached his privacy and property rights (ss.9, 15, BoR), freedom of association (contrary to s.12, BoR), right to fairness (s.7, BoR), which was discriminatory to his as a Caymanian sole practitioner, who chose resign from CILPA and de-register from CARA (ss.1(2)(a), 16, BoR).

z. CILPA's failure to respond to the Petitioners' ALPA LBA (by 25 February 2020) was an unlawful and irrational breach of AG's Constitutional responsibility (ss.15, 19(1)-(2), 24, 28, BoR), which was discriminatory to Caymanian sole practitioners and small law firms (ss.1(2)(a), 16, BoR).

aa. The AG's failure to respond to the Petitioners' ALPA LBA (by 25 February 2020) was an unlawful and irrational breach of the AG's Constitutional responsibility (ss.15, 19(1)-(2), 24, 28, BoR).

bb. Regulations 53A and 55L of the AMLR, which fails to safeguard confidential information (to which LPP does not attach), is incompatible with s.9, BoR (s.23, BoR).

cc. Regulation 55M of the AMLR goes beyond the scope of s.199A, PCL (the primary legislation) and is *ultra vires*, irrational, unlawful, and void *ab initio* (ss.19, 24, BoR).

dd. Regulation 55M, AMLR is incompatible with ss.9, 15, BoR (s.23, BoR), and the secondary legislation (r.55M, AMLR) exceeded the scope of the primary legislation (s.199A, PCL), which irrationally, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) threatened (and/or breached) the Third Petitioner's privacy and property rights (contrary to ss.9, 15, BoR) and freedom of association (contrary to s.12, BoR).

ee. The "Chinese wall" (created as an information barrier protecting CPI) between CILPA and CARA (who have Attorneys, including equity partners, from different law firms sitting on these boards) is unlawfully and irrationally inadequate to be maintained (ss.19, 24, BoR), because of inescapable conflicts-of-interests among commercial competitors (including equity partners and from other law firms populating the boards of CILPA and CARA, which cannot be overcome) and reasonably anticipates danger of risk of breach, disclosure, mischief and/or prejudice concerning CPI (ss.9, 15, BoR), which is discriminatory to the Petitioners, who are Caymanian sole practitioners and Attorneys in small law firms (ss.1(2)(a), 16, BoR), who chose not to be members of CILPA and/or register with CARA.

ff. Regulations 55G-55H of the AMLR unlawfully, irrationally, disproportionately and/or procedurally unfairly (s.19, BoR) usurp the disciplinary role of the Grand Court (s.7, LPL) and are incompatible with s.7, BoR (s.23, BoR).

gg. The AG has failed in his duties as a principal legal advisor to the LA and the Cabinet (contrary to s.56(2), Constitution) to his other duties as a public official (under ss.1(3), 28, BoR) of good lawful administration and legality (contrary to s.19, BoR) and duty of constitutionality (contrary to s.24, BoR), which has been carried out irrationally, disproportionately, procedurally unfairly, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR), which was also carried out in a discriminatory manner against the Petitioners and other Attorneys, who are all Caymanian sole practitioners and Attorneys is small law firms, who have not supported the *ultra vires* AML regime, as well as who are in the most vulnerable sector of the legal profession (contrary to ss.1(2)(a), 16, BoR).

hh. The Premier as failed in his duties to exercise his functions as in the best interest of the Cayman Islands (contrary to s.50, Constitution), as well as his duties of lawful administration and legality (contrary to s.19, BoR) and duty of constitutionality (contrary to s.24, BoR), as well as duty to respect the BoR as the cornerstone of democracy in the Cayman Islands (contrary to s.1(1), BoR) and to respect the rule of law (contrary to ss.1(2)(a), BoR; 107, Constitution) and duty to uphold equality, human dignity and freedoms guaranteed in the BoR (contrary to ss.1(1)-(2), BoR), and all of this has been carried out irrationally, disproportionately, procedurally unfairly, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) and done so in an oppressive and discriminatory manner against the Petitioners (contrary to ss.1(2)(a), 16, BoR).

ii. The Cabinet, which (subject to Constitutional Supremacy, under ss.44(4), 59(2), BoR) is collectively responsible to the LA (contrary to s.44(3), Constitution), has failed in its duties to of lawful administration and duty of legality (contrary to s.19, BoR) and duty of constitutionality (contrary to ss.24, BoR) and to pass subordinate legislation that is not unconstitutional (contrary to s.23, BoR) and to uphold the rule of law (contrary to s.107, Constitution; s.1(2)(a), BoR), which has all been carried out irrationally, disproportionately, procedurally unfairly, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) in a discriminatory manner against the Petitioners and other Attorneys, who are all Caymanian sole practitioners and Attorneys is small law firms, who have not supported the *ultra vires* AML regime, as well as who are in the most vulnerable sector of the legal profession (contrary to ss.1(2)(a), 16, BoR).

jj. The LA has failed in its duty (subject to Constitutional Supremacy) to make laws for the peace, order and good government of the Cayman Islands (contrary to s.59(2), Constitution), its duties to ensure that the Cabinet's collectively responsibility to the LA (pursuant to s.44(3), Constitution) is kept in check, as well as upholding the duties of lawful administration and legality (contrary to s.19, Bor) and duty of constitutionality (contrary to s.24, BoR), which as all be allowed to be inflicted in a discriminatory manner on Caymanian sole practitioners and Caymanian Attorneys in small law firms, who are seeking to ensure that they and their clients are not affected with further detriment on account of CILPA/CARA acting ultra vires (contrary to ss.1(2)(a), 16, BoR).

kk. The Petitioners and all other Attorneys, who feel that the chose AML regime and CARA/CILPA are detrimental to theirs' and/or their clients' position, shall be at liberty to voluntarily not be have CILPA/CARA acting as responsible for AMLR-compliance monitoring functions having control over them.

ll. CILPA and/or CARA have been carrying out AMLR-compliance monitoring functions (as a self-regulatory body) *ultra vires* and never had a legal basis upon which to act as such, but were encouraged by the LA, the Cabinet, the AG and the Premier irrationally, unlawfully and unconstitutionally (contrary to ss.19, 24, BoR) to be encouraged into thinking that they were acting lawfully and/or with authorization, but which was (at best) an error of law or fact, or mistake of law or fact.

mm. CILPA and/or CARA are not to carryout any AML regime functions, as a self-regulatory body that is a private sector association, against the Petitioners and/or other Attorneys, who are not members of CILPA and/or have not registered with CARA, and that voluntary participation is fine in a democratic society by those Attorneys and law firms, who exercise their free will and discretion to do so, but that none of these functions are binding upon any the Petitioners and/or other Attorneys, who are not willing to voluntarily submit.

nn. The Petitioners are not bound to register with CARA (pursuant to r.55F, AMLR) nor to join CILPA as a member (both contrary to s.12, BoR), which would otherwise be irrational, disproportionate, procedurally unfair, unlawful and unconstitutional (contrary to ss.19, 24, BoR), which has been carried out in a discriminatory manner against the Petitioners, who are Caymanian sole practitioners and Attorneys in small law firms, who chose not to be members of CILPA and/or not to registere with CARA (contrary to ss.1(2)(a), 16, BoR).

oo. There is independence of the judiciary (pursuant to s.107, Constitution) and the Bar (pursuant to s.12, BoR), which are required safeguards for the administration of justice (pursuant to s.107, Constitution) and so that the rule of law (s.1(2)(a), BoR; 107, Constitution), which are all protected by the BoR, which the cornerstone of democracy in the Cayman Islands (pursuant to s.1(1), BoR), and are necessary to be respected so as to not dilute the Petitioners' and all other Attorneys' legal practices and businesses (pursuant to ss.9, 15, BoR).

2. The Petitioners are asking this Honourable Court to quash the following decisions and/or acts (pursuant to s.27(1), BoR, in accordance with ss.23, 24, BoR):

   a. The Cabinet's assignment (published in the Gazette on 10 April 2019) of responsibility to CILPA for AMLR-compliance monitoring over Attorneys conducting "relevant financial business", who are not already monitored by CIMA, because CILPA is not a Supervisory Authority (since r.55B(c), AMLR (as subordinate legislation) is wider than the scope of s.4(9), PCL (as primary legislation) and thus such assignment was irrational, unlawful, *ultra vires* and void *ab initio* (contrary to s.19, BoR), which should now be quashed;

   b. CILPA's responsibility of AMLR-compliance monitoring of Attorneys, which CIG assigned to CILPA on 29 May 2019, whereby CILPA's delegation irrational and unlawful (pursuant to s.19, BoR) to CARA, thereby abdicated CILPA's responsibility/authority to CARA and was, therefore, *ultra* vires, irrational, unlawful and void *ab initio* (contrary to s.19, BoR)—and neither CILPA nor CARA is a Supervisory Authority (as r.55B(c), ALMR ultra vires s.4(9), PCL for being broader in scope than the primary legislation);

   c. CARA's and/or CILPA's decision to (and/or acts of) exercising AMLR-monitoring functions and/or enforcement functions (such as threatening and/or) issuing *sine causa* administrative fines and/or penal sanctions against the First Petitioner (on 23 January 2020) and issuing the administrative fine on 16 March 2020), especially owing to the legitimate expectation created by the AG in his letter (dated 11 December 2019) to ALPA (ss.15, 19(2), 28, BoR), neither CILPA (nor CARA) being a Supervisory Authority in relation to the First Petitioner (as subordinate legislation, r.55B(c), AMLR broadly exceeds the scope of primary legislation, ss.2(1), 4(9), PCL), acted irrationally and unlawfully, and, therefore, their decisions and/or actions were *ultra vires* and void *ab initio* (ss.8, 19, 24, BoR);

   d. CARA's and/or CILPA's decision to (and/or acts of) exercising AMLR-monitoring functions and/or enforcement functions (such as threatening and/or issuing *sine causa* administrative fines and/or penal sanctions against the Second Petitioner (on 24 January 2020) and issuing the administrative fine on 16 March 2020), especially owing to the legitimate expectations created by the AB in his letter (dated 11 December 2019) to ALPA (ss.15, 19(2), BoR), neither CILPA (nor CARA) being a Supervisory Authority in relation to the Second Petitioner (as subordinate legislation, r.55B(c), AMLR broadly exceeds scope of primary legislation, ss.2(1), 4(9), PCL), acted irrational and unlawfully, and, therefore, their decisions and/or actions were *ultra vires* and void *ab initio* (ss.8, 19, 24, BoR);

   e. CARA's and/or CILPA's decision to (and/or acts of) exercising AMLR-monitoring functions and/or enforcement functions (such as threatening and/or issuing *sine casua* administrative fines and/or penal sanctions against the Third Petitioner (on 18 February 2020) and issuing the administrative fine on 24 March 2020), especially since neither CILPA nor CARA being a Supervisory Authority in relation to the Third Petitioner (as subordinate legislation r.55B(c), AMLR broadly exceeds the scope of the primary legislation, ss.2(1), 4(9), PCL), acted irrational and unlawfully, and, therefore, their decisions and/or actions were *ultra vires* and void ab initio (ss.19, 24, BoR);

   f. The Cabinet's decision to table the LPAB on 10 October 2019 (although deferring on 5 or 6 December 2019), especially owing to the legitimate expectation (s.15, BoR) created by the AG in his letter (dated 11 December 2019) to ALPA (of which the First Petitioner and Second Petitioner were members of its executive council), which threatened (and/or breached) the First Petitioner's and the Second Petitioner's freedom of association, or, more accurately, freedom of non-association (contrary to s.12, BoR), which was carried out in a discriminatory manner, which targeted Caymanains sole practitioners and Attorneys in small law firms, who chose not be members of CILPA and/or not to register with CARA (contrary to ss.1(2)(a), 16, BoR);

g. The Cabinet's decision irrationally and unlawfully to enter into the Purchase Agreement (dated 8 November 2019) with CILPA and to cause the Finance Committee of the LA to authorise public funds to be paid to CILPA for the purposes of the Purchase Agreement, notwithstanding that the contracted for "outputs" were *ultra vires* section 4(9) of the PCL and were unlawfully used to fund CARA's *ultra vires* regulatory and/or enforcement functions against Attorneys (contrary to s.19, BoR), which was outside the scope of the power (pursuant to s.4(9), PCL), therefore, *ultra vires* and void *ab initio*;

h. Regulation 55M, AMLR, which is *ultra vires* for being wider in scope than contemplated under s.199A, PCL (as the primary legislation) and is, therefore, unlawful and void *ab initio* (ss.19, 24, BoR), is, further and alternatively, incompatible with ss.9, 15, BoR (s.23, BoR), wherein the Third Petitioner had a decision and/or act threatened and/or breached his right against him unlawfully as being incompatible with the BoR (s.24, BoR) and, therefore, should now be quashed (s.27(1), BoR);

i. Regulations 55G-55H, AMLR (which irrationally, disproportionately, procedurally unfairly and unlawfully (s.19, BoR) usurps the disciplinary role of the Grand Court, under s.7, LPL) is incompatible with s.7 of the BoR (pursuant to (s.23, BoR), which is contemplated in the Purchase Agreement is discriminatory (ss.1(2)(a), 16, BoR);

j. Regulations 53A, 55L of the AMLR are incompatible with ss.19, 15, BoR (pursuant to s.23, BoR, BoR), as well as r.55M, AMLR is ultra vires s.199A, PCL, as it exceeds the scope of the primary legislation irrationally, disproportionately and unlawfully (contrary to ss.19, 24, BoR) and is thus *ultra vires* and void *ab initio*, wherein the Third Petitioner had a decision and/or act threatened and/or breached his right against him unlawfully being incompatible with the BoR (s.24, BoR); and, therefore, should now be quashed (s.27(1), BoR);

k. Regulations 55ZK-55ZS of the AMLR are incompatible with s.7 of the BoR (pursuant to s.23, BoR), as well as incompatible with ss.19, 24 of the BoR, and is discriminatorily unfair and unlawful taken together with ss.7, 16, 19, 24, BoR; and

l. Regulations 55R-55ZG of the AMLR are incompatible with s.7 of the BoR (pursuant to s.23, BoR).

3. The Petitioners are also asking this Honourable Court to prohibit and/or enjoin CARA and/or CILPA from exercising any further unlawful enforcement action, including (but not limited to) any and all procedurally unfair, irrational and unlawful warrantless entry, search and seizures functions on Attorneys' premises and property, any and all penal sanctions and/or any and all administrative fines (ss.7, 8, 9, 15, BoR, taken together with ss.1(2)(a), 16, BoR).

4. In addition, the Petitioenrs are asking this Honourable Court to order that (taking into account all the circumstances of this matter and being satisfied that it is necessary to afford just satisfaction) there be an award of compensatory damages and/or vindicatory damages (pursuant to s.27(2), BoR, in accordance with s.27(1), BoR) to compensate the Petitioners for unnecessary and avoidable diversion of their time and attention to work, family life (including with their spouses and/or significant others) and/or civic duties while dealing with such unlawful decisions, acts and/or failures to act, as well as loss of profit (and/or loss of profit-earning opportunities) and/or for damage to reputation and good will and/or for mental and/or emotional distress endured until finally being vindicated.

5. Finally, the Petitioners are asking this Honourable Court:

   a. to order (pursuant to GCR O.65, rr.1 and 5) that personal services on the Respondents be dispensed with and that ordinary service on the parties to this Cause be effected by e-mail with a scanned copy of the relevant documents attached and sent to the e-mail address of the relevant party or of their counsel of record in this Cause and that such documents shall be deemed to have been as of the date when so sent by e-mail;

b. to order (pursuant to s.26(4), BoR; GCR O.3, r.5) for extension of time, on such terms as this Honourable Court thinks just for the Plaintiff's to file and to serve on the Respondents this Constitutional Petition to challenge decisions and/or acts (including failures to act) of the Respondents (as requested in paragraphs 44-49 above and/or as this this Honourable Court otherwise thinks just, fair and appropriate);

c. to order (pursuant to GCR O.4, r.4) that this Cause be consolidated with any and all other appeals of a similar nature against similar decisions of the Second Defendant regarding a discretionary fine notice purportedly issued pursuant to the AMLR and/or any relevant judicial review related to any decisions of the Second Defendant and/or any relevant originating process filed related to one or more of the Respondents pursuant to GCR O.53, rr.4 & 5 (wherein there are some common questions of law and/or fact and/or there are rights and/or relief in respect of and/or arising out of the same transaction and/or the same series of transactions);

d. to make an Order protecting the Petitioners from an award of costs in this Cause, exogenically in light of the manifest constitutional and/or other public interest in this matter;

e. to make an Order that the Petitioners shall not be required to provide any security for costs;

f. to make an Order that the costs of and incidental to this Petition be paid to the Petitioners by the Respondents (they being jointly and severally liable to do so);

g. to grant such other relief or remedy or make such order within its powers as it considers just and appropriate (s.27, BoR and/or the Court's inherent jurisdiction, under s.11, GCL); and

h. to make such further and/or other orders, directions, remedies, declarations, awards and/or relief as the Court deems fit.

Dated the 29th day of May 2020

Filed the 29th day of May 2020

Henry Orren "Orrie" Merren IV
Attorney-at-Law for the Petitioners

THIS PETITION was presented by Henry Orren "Orrie" Merren IV, Attorney-at-Law for and on behalf of all the Petitioners, whose address for service is 15 Simmons Way, George Town, P.O. Box 481, Grand Cayman KY1-1106, Cayman Islands; email orrie@candw.ky.

NOTE: This Petition is intended to be served on:

1. The Honourable Attorney General of the Cayman Islands on behalf of himself, the Premier, the Cabinet and the Legislative Assembly of the Cayman Islands c/o the Attorney General's Chambers, Government Administration Building, George Town, Grand Cayman, Cayman Islands; email: samuel.bulgin@gov.ky and info.pola@gov.ky.

2. The Office of the Premier, Government Administration Building, George Town, Grand Cayman, Cayman Islands; email: alden.mclaughlin@gov.ky.

3. The Cabinet Secretary, Government Administration Building, George Town, Grand Cayman, Cayman Islands; email: samuel.rose@gov.ky;

4. The Clerk of the Legislative Assembly, Legislative Assembly Building, George Town, Grand Cayman, Cayman Islands; email: zena.merren-chin@gov.ky.

5. Cayman Islands Legal Practitioners Association (CILPA) c/o Ogier Global (Cayman) Limited, 89 Nexus Way, Camana Bay, George Town, Grand Cayman, Cayman Islands; email: info@cilpa.ky.

6. Cayman Attorneys Regulation Authority (CARA), 2nd Floor, Century Yard, Cricket Square, George Town, Grand Cayman, Cayman Islands; email: info@cara.ky.

Acknowledgment of service of petition (O.10, r.5)

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF PETITION

The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Respondent or by the Respopndent if acting in person. After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

Notes for Guidance

1. Each respondent (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.

2. If you wish to defend claims made in the petition, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner), you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.

3. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Respondent personally is treated as having been served on the day it was delivered to him.

4. Where the Respondent is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Petition*)".

5. Where the Respondent is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.

6. Where the Respondent is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.

7. Where the Respondent is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.

8. Where the Respondent is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.

9. A Respondent acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

Cause No. of 2020

AND IN THE MATTER OF AN APPLICATION UNDER SECTION 26 OF THE CAYMAN ISLANDS CONSTITUTIONAL ORDER, 2009

IN THE MATTER OF GRAND COURT RULES, ORDER 9, RULES 2 AND 4, ORDER 15, RULES 12 AND 16, ORDER 77A, RULES 1, 3 AND 4

AND IN THE MATTER OF SECTIONS 7, 8, 9, 12, 15, 19, 23, 24 AND 27 OF THE CAYMAN ISLANDS CONSTITUTIONAL ORDER 2009 AND SECTION 11(2) OF THE GRAND COURT LAW (2015 REVISION)

AND IN THE MATTER OF THE PROCEEDS OF CRIME LAW (2020 REVISION) AND THE ANTI-MONEY LAUNDERING REGULATIONS (2020 REVISION)

AND IN THE MATTER OF THE ASSIGNMENT BY THE CABINET OF THE CAYMAN ISLANDS TO THE CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION OF THE FUNCTION OF A SUPERVISORY AUTHORITY FOR THE PURPOSE OF MONITORING COMPLIANCE WITH REGARD TO THE ANTI-MONEY LAUNDERING REGULATIONS RESPECTING ALL ATTORNEYS-AT-LAW IN THE CAYMAN ISLANDS

BETWEEN: (1) **HENRY ORREN MERREN IV**
(2) **HANSON PHILLIP EBANKS**
(3) **ALRIC JEREMY LINDSAY**

PETITIONERS

AND: (1) **THE ATTORNEY GENERAL OF THE CAYMAN ISLANDS**
(2) **THE PREMIER OF THE CAYMAN ISLANDS**
(3) **THE CABINET OF THE CAYMAN ISLANDS**
(4) **THE LEGISLATIVE ASSEMBLY OF THE CAYMAN ISLANDS**
(5) **CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION LTD.**
(6) **CAYMAN ATTORNEYS REGULATION AUTHORITY**

RESPONDENTS

ACKNOWLEDGMENT OF SERVICE OF PETITION

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.
Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

1. State the full name of the Respondent by whom or on whose behalf the service of the Petition is being acknowledged.

2. State whether the Respondent intends to contest the proceedings (*tick appropriate box*)
☐ yes ☐ no

Please complete overleaf

Service of the Petition is acknowledged accordingly

(Signed).....

[Attorney] for

[Respondent in person]

Address for service:

Notes on address for service

Attorney: where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.

Respondent in person: where the Respondent is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered principal office.

Indorsement by Petitioners' Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Henry Orren Merren IV Attorney-at-Law 15 Simmons Way, George Town P. O. Box 481, Grand Cayman KY1-1106 Cayman Islands

Indorsement by Respondent's Attorney (or by Respondent if suing in person) of his name, address and reference, if any, in the box below.
