THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CIVIL CLAIM NO. ANUHCV2023/0376

In the matter of PLH (Barbuda) Limited And in the matter of s.241 of the Antigua and Barbuda Companies Act 1995

BETWEEN:

[1] JOHN PAUL DEJORIA
[2] JPD BARBUDA, LLC

Claimants

-and-

[1] PLH (BARBUDA) LIMITED

First Defendant

[2] JOHN B. TURBIDY

Second Defendant

-and-

MARCUS A. WIDE
In his capacity as Interim Receiver-Manager

Appearances:

Ms. C. Debra Burnett, Ms. Mandi Thomas and Ms. Sage Quinn with her for the Applicant/2nd Defendant
Mr. George Spalton, KC, Ms. Kamilah Roberts, Ms. Safiyah Roberts and Mr. Mark Cullen with him for the Claimants
Mr. Kendrickson Kentish, KC and Mr. Malcolm Arthurs with him for the Interim Receiver Manager

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2026: June 23rd

JUDGMENT

[1] **SMALL, J [Ag.].:** This is the court's decision on the Second Defendant's application to vacate the trial dates fixed for 20th July to 31st July 2026, to revise the case management timetable, and to obtain further directions including specific disclosure. The application is made in circumstances where the court has already, on 26th March 2026, refused an earlier application by the Second Defendant to adjourn the trial (the 'First Adjournment Application'), while varying the timetable for remaining pre-trial steps.

[2] The Second Defendant submits that the July trial date can no longer fairly be maintained because of alleged deficiencies in the Claimants' disclosure, the production of documents in a format said to impede electronic and AI-assisted review, the existence of approximately 3,500 documents not produced in native format, continuing specific disclosure issues, and the risk that late compliance with any specific disclosure order may necessitate additional witness evidence. The concerns raised included, but are not limited to, the degraded conversion of their documents into 1-bit black-and-white unsearchable PDF images with unreliable OCR text layers, some documents being received as TXT files, 50% of the documents including garbled text, and all original metadata being stripped contrary to what was initially proposed by the Claimants, with examples exhibited as "JB5" in the Eleventh Affidavit of John Turbidy filed in support of the application.

[3] The Claimants oppose the application. They contend that there has been no material change of circumstances since the earlier refusal to adjourn, that the case will be ready for trial, that the Claimants have complied with the disclosure timetable and produced documents in readable and searchable form, and that any adjournment would cause substantial prejudice to the Claimants, the Company, and the project with which these proceedings are concerned.

Procedural Background

[4] This is a claim filed by the claimant's on 27th October 2023 seeking relief under Section 241 of the Companies Act, 1995 against the defendants. They concern the affairs of PLH (Barbuda) Limited. On 14th December 2023, the court appointed Marcus Wide as Interim Receiver-Manager ("IRM") of the Company with authority to carry on the business of the Company. The matter has already had an extended procedural history and has been the subject of earlier case management orders directed to bringing it to trial in July 2026.

[5] On 19th September 2025 at a case management conference, the court fixed the original timetable. The timelines set out in the CMC Order are as follows: i) standard disclosure by the parties by 30th January 2026; ii) application to appoint experts by 16th February 2026; iii) bundle of documents agreed and not agreed to be filed by 6th March 2026; iv) witness statements to be filed by 24th April 2026; v) the application to appoint experts to be heard in April 2026; vi) Pre-Trial Review to be held in May 2026; vii) trial window is fixed for July 2026.

[6] The parties exchanged Lists of Documents on 18 February 2026. The volume of disclosure was greater than had initially been anticipated, disclosing between them both over 5,000 documents and the Second Defendant applied on 4th March 2026 to vary the timetable and vacate the July trial window. The application was heard on 26th March 2026 and the application to vacate the trial window was denied. The application to vary the case management directions was granted, extending other pre-trial deadlines. The trial was fixed for 20th to 31st July, 2026 (dates inclusive).

[7] The present application was filed on 5th June 2026. It is therefore a second application to vacate the same trial window, made approximately three weeks before the Pre-Trial Review and shortly before the listed trial.

The Court's Approach

[8] The court's power to manage its own process, vary timetables, and adjourn fixed trial dates must be exercised consistently with the overriding objective. A fixed trial date is not lightly vacated. Where an earlier adjournment application has already been refused, the applicant must ordinarily identify a material change of circumstances or other compelling reason justifying revisiting the earlier case management decision. A party cannot fight over again a battle which has already been fought unless there has been some significant change of circumstances.

[9] Ms Burnette cited the cases of **Multibank FX International Corporation v Von Der Heydt Invest SA**[1], **Antigua Wireless Venture Ltd t/a Digicel v Skepple**[2] and **Elliot Group et al v GECC UK**[3] in aid of her arguments that the proceeding with the trial dates would be unfair to the Second Defendant, given the ongoing disputes regarding the quality, accessibility and completeness of the claimants' disclosure which has materially affected the Second Defendant's ability to be ready for trial. On behalf of the Second Defendant it is said that an adjournment should be granted regardless of the inconvenience caused to the other party or the court because of the irremediable prejudice of proceeding to trial before necessary preparatory steps have been fairly completed. Central to the second defendant's complaint is his averred inability to inspect 3,519 of the documents which the claimants' produced.

[10] I accept that **Multibank FX International Corporation v Von Der Heydt Invest SA**, states an important principle. The court must not preserve a fixed trial date at the cost of trial fairness. The question is whether the existing timetable is reasonable, practicable and workable, and whether proceeding would cause irredeemable prejudice to the party seeking the adjournment.

[11] The relevant balancing exercise is not mechanical. The court must weigh the desirability of maintaining a fixed trial date, efficient use of court resources, the

[1] BVIHCMAP2022/0024, (delivered 29th April 2022)
[2] ANUHLTAP2023/0008, (delivered 19th May 2026)
[3] [2010] EWHC 409 (TCC)

interests of the parties and third parties, and the risk of irredeemable prejudice if the matter proceeds. The question is whether refusal of the adjournment would make the trial unfair, not whether the applicant would prefer more time or a more convenient review methodology. The court is faced with a balancing exercise between the obvious desirability of retaining a fixed trial date and the risk of irredeemable prejudice against a party if the matter proceeds without them having proper or reasonable time to prepare.

[12] However, **Multibank** was an exceptional case. Less than four months before trial, pleadings had not closed, witness statements had not been filed, experts had not been identified, disclosure had not taken place, and six interlocutory appeals remained pending, some of which would directly affect the trial. The Court of Appeal held that a complex fraud trial should not proceed in those circumstances.

[13] The present case is materially different. This is not a case where disclosure has not taken place. Nor is it a case where pleadings remain open, witness evidence has not been exchanged, experts have not been addressed, and multiple pending appeals threaten the trial's foundation. The second defendant's complaint is instead that a substantial part of the claimants' disclosure was not produced in the native format best suited to his preferred AI-assisted review process. That is a case-management complaint of a different order.

[14] I accept that disclosure must be sufficiently usable to permit meaningful inspection and trial preparation. In modern litigation, electronic review tools, including technology-assisted review and AI-assisted review, may be useful and in appropriate cases, reasonable. A party is not to be criticised simply for wishing to use such tools if that is a proportionate means of dealing with substantial disclosure.

[15] I accept that it is not unreasonable for the second defendant to wish to use AI-assisted review. That, however, is not the same as establishing an entitlement to demand that an opponent re-produce all disclosed documents in the precise native

or platform-specific format preferred by the receiving party. The court is concerned with compliance with the rules, the terms of any order or agreed protocol, proportionality, fairness, and practical trial readiness. The second defendant has not identified any order requiring the claimants to produce every document in native format, nor any agreed protocol making native-format production a condition of valid inspection. The fact that a receiving party's preferred AI-assisted workflow would operate more efficiently on native files is relevant to case management, but it does not of itself create a freestanding obligation on the producing party to provide native-format disclosure.

[16] None of the cases establishes that a party's preferred review technology becomes the standard by which trial readiness is judged. The relevant question is whether the second defendant has had a fair opportunity to inspect and prepare. On the evidence before the court, and in particular given production by 7th April 2026, the second defendant has had sufficient time to conduct a reasonable manual or human review of approximately 3,500 documents.

The Disclosure-Format Complaint

[17] The second defendant's principal complaint is that the claimants' production was not sufficiently usable because many documents were produced as image PDFs with OCR text layers, and because approximately 3,519 entries were not produced in native format. He says this has impeded his ability to conduct AI-assisted or technology-assisted review and to prepare for trial. The claimants' documents, with the exception of spreadsheets and multimedia files, were converted to degraded 1-bit black-and-white images with an unreliable OCR text layer and all original metadata was stripped out. Of those 10,566 entries, only 7,047 have been produced with native files across all three productions. The remaining 3,519 entries - approximately one-third of the entire production - have never been produced in native format from any source.

[18] The claimants answer is that they produced all documents in readable and searchable PDF format, that following the second defendant's request they re-produced documents in native format save for categories such as privileged documents and spreadsheets already produced natively, and that the relevant material was provided by 8th April 2026. As to the number of documents not produced in native format, the claimants say that it is 1,724 documents not 3,500 as contended by the second defendant. They also point out that the second defendant has himself resisted producing his documents in the native or Relativity export format requested by the claimants.

[19] I do not accept the second defendant's submission that the absence of native-format production for approximately 3,500 documents (taking the second defendant's number for the purpose of the reasoning), standing alone, justifies vacating a trial date fixed for 20th July 2026. The evidence establishes a dispute about the most efficient and technologically desirable form of review. It does not establish that the documents were wholly unavailable for review or that inspection could not reasonably have proceeded by conventional means. Even though the second defendant identified some documents as garbled and therefore not reviewable even by human eye, the claimants exhibited the same documents clearly legible. This suggests some malfunction or problematic access on the second defendant's side.

[20] Counsel for the second defendant also relied on the English case of **Jake Veasey v Colin Macdougall et al** which speaks to proper electronic disclosure being production in native format preserving metadata. Ms Burnette acknowledged that the case is decided under the UK disclosure regime but submitted that the principles are highly persuasive and should be applied as they are highly relevant to the realities of modern litigation and disclosure.

[21] In the letter to the claimants' Attorneys-at-law, they stated, "The 'normal course' for producing native electronic documents, particularly emails and Word documents, is to produce them in their native format or as PDFs generated directly from the

electronic source, preserving searchable text, formatting, and metadata." I cannot say that this is the normal course within the Eastern Caribbean Supreme Court and there is not yet any practice direction addressing electronic disclosure. The UK Court however, issued a detailed practice direction dealing with disclosure of electronic documents. Reliance on the **Jake Veasey** case is therefore not helpful in the sense that there is no rule order or practice direction establishing the same duty as those litigants. Indeed, it could be said that our Rules currently only contemplates permission to take copies or provision of copies of documents in the list of documents: see CPR 28.11. The Rules do not expressly address electronic inspection or even electronic documents.

[22] As I indicated to the parties during the hearing, this is not a case where the second defendant has stated that he required the metadata or documents in their native format in order to assess authenticity of the documents; it is entirely based on his preference to review the documents with the assistance of AI.

[23] Acceding to the second defendant's position risks elevating his preferred review methodology into a condition precedent to trial readiness. That can not be the correct approach. It may be reasonable for the second defendant to seek to use AI-assisted review. It may also be sensible, in future cases involving significant electronic disclosure, for parties to agree a detailed disclosure protocol addressing native files, metadata and review platforms at an early stage. But on the material before the court, there is no basis to hold that the claimants were under a present obligation to produce every disclosed document in native format merely because the second defendant wished to use AI-assisted review.

[24] Nor do I accept that the second defendant's inability to review the 3,519 documents by AI establishes irredeemable prejudice. On the claimants' case, complete production in the relevant sense had been made by 8th April 2026. From 8th April 2026 to today, 23rd June 2026, a period of 76 days has elapsed. Reviewing 3,500 documents over that period would require review of approximately 45 documents

per day. This does not of itself suggest an impossible or unfair burden, even allowing for the other demands of trial preparation.

[25] This is not a case in which a party was first given access to a substantial body of documents on the eve of trial. The second defendant has had the material complained of for a substantial period before the trial window. His evidence shows that he considers manual review inefficient and inferior to AI-assisted review, but it does not persuade me that a reasonable human review of the approximately 3,500 documents could not have been undertaken between 7th April and the present, still less by the trial date.

[26] The claimants took a point that the second defendant's own position on native-format production has not been symmetrical. The second defendant has resisted the claimants' demand for re-production of his disclosure in a Relativity or native export format, asserting that his production was searchable and sufficient. The contending positions reinforces the need to distinguish between legally sufficient production and the receiving party's preferred technical format. Notably, the second defendant's position on the claimants' request as set out in his Attorneys' letter dated 17th April 2026 was "*There is no requirement under CPR Part 28 that documents be produced in the proprietary format of a specific e-discovery platform. The rules require that documents be produced in a manner that allows meaningful inspection.*"

[27] The second defendant's exhibit JB5 is batch of three documents as a sample of the poor and garbled documents that Mr Turbidy says is the manner in which he has been able to access some of the claimants' electronically produced documents. Mr Paul McNaughton's affidavit in reply rubbishes Mr Turbidy's statement, saying that the documents in JB5 bear no resemblance to the documents that the claimants have produced, and offers a reason for that: that the second defendant is not using the appropriate program to open the documents. For example Entry 100 was produced as a PDF document but the second defendant has exhibited it in a text

format, hence the garbling. Similarly Entry No. 4, which is an Excel spreadsheet, is not being viewed as an Excel document. Mr McNaughton has exhibited clear and legible copies of the three documents.

Supplemental Disclosure and Specific Disclosure

[28] The second defendant also cited the claimants' supplemental disclosure of 276 documents on 11th June 2026 and his application for specific disclosure of categories including documents relating to the claimants' interests in Discovery Land Company and communications involving the Interim Receiver-Manager. Specific disclosure is sought of the following categories of documents from the claimants: (a) all documents showing John Paul DeJoria and/or JPD Barbuda LLC's interests in Discovery Land Company and all its affiliates; (b) all correspondence and communications between the claimants and/or their representatives (including their legal representatives) and the Interim Receiver-Manager before, during and after his appointment, including emails, letters, WhatsApp messages, text messages, telephone records and any other form of communication.

[29] Supplemental disclosure shortly before trial can create real prejudice. It may require further review, amendment of witness evidence, additional witness statements, revised expert instructions, or further applications. However, the late supplemental disclosure does not automatically justify adjournment. The court must consider its volume, subject matter, timing, explanation, importance, and whether any prejudice can be cured by targeted directions short of vacating the trial.

[30] I am not persuaded that the 276 supplemental documents of themselves, justify vacating a two-week trial fixed since March 2026 and contemplated since September 2025. The claimants say that the documents were produced pursuant to their continuing duty and that their production almost six weeks before trial is not a compelling reason to adjourn. I accept that submission in substance.

[31] The more difficult question concerns the disclosure of the classes of documents that have been specifically requested by the second defendant, which is included among the 276 documents disclosed on 11th June 2026. The claimants say that they have fully complied with the request for specific disclosure. See also the Affidavit of Paul McNaughton filed 11th June 2026. If that disclosure generates additional factual issues or require additional witnesses, that would weigh materially in favour of revisiting the timetable. That presents a real risk since late compliance with specific disclosure can in some cases unsettle witness evidence and trial preparation.

[32] However, the proper response is not to vacate the trial date merely because further disclosure might theoretically lead to further witness evidence. That disclosure has been made now for a full work week and the second defendant has at least begun to review the documents. I therefore give limited weight to the possibility that that disclosure may require additional witnesses. It is a proper case-management consideration, but on the evidence before the court it remains contingent and insufficiently particularised. If genuinely important documents are produced that could not reasonably have been addressed earlier and that necessitate further evidence, the court may grant permission for narrowly confined supplemental witness statements or other relief. That possibility can be managed without vacating the trial now.

[33] The second defendant's broader submission is that witness statements, expert reports, bundles, and trial preparation should all await what he describes as a complete and settled documentary record. Ms Burnette submitted that the witness statements should be prepared against a settled documentary record and that the second defendant's expert cannot properly be provided with a complete and settled documentary record as the financial documents and important communications, which make up a large portion of what the expert will have to report and be cross-examined upon, remains outstanding or inaccessible. That submission has force in principle. But civil trial preparation often proceeds while limited disclosure issues are resolved. Further, there was no evidence before the court that the second

defendant's expert has encountered any difficulty so far. Mr Arthurs, speaking for the Interim Receiver Manager, said that the IRM has been cooperating with enquiries from both experts and there have been meetings. The court is not satisfied that the remaining issues are of such magnitude that a fair trial cannot occur in July.

Prejudice and the Balance of Justice

[34] The second defendant says that proceeding to trial would cause real and irreversible prejudice because he has not had a fair opportunity to review the claimants' disclosure, complete evidence, instruct experts, and prepare for trial.

[35] I accept that the second defendant faces a demanding timetable. I also accept that the late stages of trial preparation in document-heavy litigation are burdensome, particularly where a party has a smaller legal team. But litigation must be managed by reference to objective fairness, not by ensuring that each party can deploy its preferred method of document review or has the same level of litigation resource. The claimants are correct that the size of a litigant's team is not, without more, a reason to vacate a trial date.

[36] On the other side of the balance, the claimants identify substantial prejudice if the trial is adjourned. The proceedings have been ongoing since 2023. The project remains affected by litigation uncertainty. The claimants say their affiliated company has provided approximately US$165 million in funding to date, that further delay increases the risk of continuing uncertainty and financial prejudice, and that the matter was commenced on an urgent basis.

[37] I place significant weight on maintaining the July trial date. The decisive points are these:

1. The second defendant has not shown a material change of circumstances sufficient to reopen the earlier refusal to vacate the July trial window.

2. The absence of native-format production for approximately 3,500 documents is not, in the absence of an order or protocol requiring native production, a breach that justifies adjournment.
3. The second defendant's wish to use AI-assisted review is reasonable, but it does not displace the question whether the documents could be reviewed by reasonable manual or human review. On the timing presented, they could.
4. The 276 supplemental documents and any properly confined specific disclosure issues can be addressed by targeted directions.
5. The possible need for additional witnesses arising from late supplemental and specific disclosure is a factor, but at present it is speculative and can be managed by permission for narrowly confined supplemental evidence if necessary.
6. The prejudice to the claimants, the Company, the project, and the administration of justice from losing the July trial date outweighs the prejudice identified by the second defendant.

Disposition

[38] For those reasons, the application to vacate the trial dates fixed for 20 July 2026 to 31 July 2026 is dismissed.

[39] The application to revise the timetable in a manner inconsistent with the July 2026 trial date is dismissed. The court will, however, give directions to ensure that any remaining disclosure issues do not cause unfairness at trial. The parties must cooperate in good faith to complete any outstanding practical steps concerning inspection, trial bundles, and evidential objections.

Order

[40] The court orders as follows:

1. The second defendant's application to vacate the trial dates fixed for 20 July 2026 to 31 July 2026 is dismissed.

2. The second defendant to deliver to the claimant a list of documents which they are requesting to be produced in their native format by 4pm on 24th June 2026.
3. The claimants is to respond to the second defendant's request by 4pm on 26th June 2026, whether agreeing to the request, refusing, or meeting the request in a narrower form.
4. The time for the claimants to file a list of documents agreed and not agreed, countersigned by the second defendant is extended to 29th June 2026. Failing any counter signature on behalf of the second defendant, the claimants are to file the list on 30th June 2026.
5. The parties must continue to cooperate in preparation of the trial bundles. The reason(s) for objection to any document or class of documents, including any evidential objections or objections relating to authenticity must be served by 6th July 2026.
6. The time for the claimants to file the bundle of documents, separated as to agreed and not agreed is extended to 6th July 2026.
7. The claimants shall file a core bundle containing the documents which the trial judge will need to pre-read or to which it will be necessary to refer repeatedly at the trial on or before 6th July 2026.
8. Skeleton arguments for trial are to be filed and exchanged by 16 July 2026.
9. Costs of the application, being conducted in the Pre Trial Review are to be costs in the claim.
10. The second defendant's attorneys-at-law are to prepare and file the Formal Order.

Concluding Observations

[41] The court recognises that electronic disclosure is an increasingly important part of modern civil litigation and that AI-assisted review may, in an appropriate case, be a reasonable and proportionate tool. The lesson of this application is that parties who wish to rely on particular technical formats should agree a disclosure protocol early

and, if agreement is not possible, seek directions promptly, given the lacuna in our Rules regarding electronic disclosure and/or inspection.

[42] For the time being, the court cannot accept that a party's preferred technology, however useful, becomes a basis for vacating a long-fixed trial date where the documents have been available for human review for a substantial period and where there was no order requiring the producing party to provide all documents in the preferred native format. The fair course is to preserve the trial date and manage any remaining disclosure issues by focused directions.

Tana'ania Small, KC
High Court Judge (Ag)

BY THE COURT

Registrar