Case No's:
D01CF620, D01CF561, D01CF636, D01CF635, D01CF843, D01CF666, D01CF947

IN THE COUNTY COURT AT CARDIFF

Cardiff Civil Justice Centre
2 Park Street, Cardiff, CF10 1ET

Date: 21 September 2018

Before :

HIS HONOUR JUDGE ROBERT HARRISON

Between:

EUI LIMITED	**Applicant**
- and -	
CHARLES AND OTHERS	**Respondent**

Jonathan Hough QC (instructed by **Horwich Farrelly**) for the **Applicant**
Benjamin Williams QC (instructed by **Bond Turner**) for the **Respondent**

Hearing dates: 10 August 2018

APPROVED JUDGMENT

His Honour Judge Robert Harrison :

1. This judgment relates to a series of 7 applications brought by EUI Limited (EUI) against a series of individuals with the surnames Charles, Czyrkiewicz, Mirza, Vrincianu, Wilson, Ali and Fellows. In each application the Applicant has sought pre-action disclosure ("PAD") of documentation dealing with the financial status of the individuals, namely, i) bank statements and ii) wage slips, for a period of about 3 months before a relevant period of credit hire. Some of the individual applications also raised requests for some additional documentation such as repair invoices but these have largely been dealt with by agreement and do not require adjudication.

2. The applications have been listed to be heard together because in each case the same issue arises. EUI is a major motor insurer trading under brands including "Admiral", "Diamond" and "Elephant". The Respondents were each involved in road traffic accidents with drivers insured by EUI. Each hired a car or motorcycle after the accident from a credit hire company known as Direct Accident Management Ltd (DAM). They have all intimated claims to EUI claiming significant credit hire charges and have done so via the same firm of solicitors, namely Bond Turner (formerly known as Armstrongs).

3. In each case a request has been made by the Applicants for disclosure of the documents now sought as part of the application. That request has been met either with an assertion that disclosure will be given at the appropriate juncture or with no response.

4. Credit hire claims have become a familiar part of county courts work throughout Wales and England. Mr Benjamin Williams QC, appearing on

behalf of the Respondents, reminds me the Court of Appeal's description of credit hire litigation in *Bent v Highways and Utilities Construction (No 2) [2012] RTR 17* as constituting a saecular war waged by insurers for over 20 years. The war has continued. *Bent* itself was decided some 6 years ago.

5. The credit hire claims asserted in the individual cases can be summarised as follows:-

CHARLES: £8608.08 claimed for 52 days credit hire to replace a Honda PCX 125 motorcycle.

CZYRKIEWICZ: £11,915 claimed for 52 days credit hire to replace a Suzuki GSR 750 motorcycle.

MIRZA: £3145 claimed for 13 days credit hire to replace a Kawasaki Z1000 motorcycle.

VRINCIANU £28,030 claimed for 42 days hire to replace a Mercedes E220.

WILSON £37,819 claimed for 45 days credit hire to replace a Mercedes C63 AMG.

ALI £13,628 for 102 days credit hire to replace a Hyundai I20.

FELLOWS £11,203.20 for 40 days credit hire to replace a Mercedes B180.

6. In addition to these was the case of Zeng. That case was in fact heard by District Judge Marshall Phillips sitting in this court and a decision already made. Nevertheless, these applications before me remained listed under the

name "Zeng and Others". I have altered the title for the purposes of this judgment. I have not been referred to the details of the learned district judge's reasoning in that case.

7. As well as the applications themselves I have been provided with detailed statements from Mr Gary Herring on behalf of the Applicant dated 3rd July 2018 and from Ms Rachel Ann Wong on behalf of the Respondents dated 30th July 2018.

General principles relevant to Credit Hire Claims

8. Credit hire companies operate by hiring vehicles to individuals whose own vehicles have been damaged in road traffic accidents in circumstances where it believed that the other driver is at fault. The credit hire company extends credit to the individual, provides a hire car, and usually enters into an agreement allowing the credit hire company to manage and pursue a claim to recover damages including the hire charges. The agreement places upon the individuals an obligation to comply with the litigation process.

9. Credit hire companies generally charge more than regular hire companies such as Avis, Hertz, Enterprise etc. The additional cost is justified by way of the inclusion of additional services such as the provision of credit and case management.

10. In *Dimond v Lovell [2002] 1 AC 384* the House of Lords considered recoverability of credit hire charges and concluded that the recovery is subject to a limitation. The Claimant is limited in their recovery to the basic hire rate "BHR" which has subsequently been defined in *Stephens v Equity Syndicate*

Management [2015] RTR 24 and *Mcbride v UKI [2017] RTR 27* as "*the lowest reasonable rate quoted by a mainstream supplier*". The House of Lords reached this conclusion on the basis that a Claimant was only able to recover that part of the hire charge that reflected the actual cost of hiring a vehicle and was not entitled to recover that element of the charge represented by the cost of the additional services. These additional costs were not a compensable loss.

11. However, in *Lagden v O'Connor [2004] 1 AC 1067*, the House of Lords created and exception to the rule in *Dimond* if the Claimant was "impecunious". Where a Claimant was unable to afford to hire a car without making unreasonable sacrifices, the limiting rule did not apply. Thus, an impecunious Claimant is entitled to claim the full credit hire charges not limited to the BHR provided those charges are not unreasonably high compared to other providers of credit hire services.

Direct Accident Management Ltd "DAM"

12. DAM and Bond Turner (the Respondent's solicitors) are part of the Anexo Plc Group and have common management. Anexo plc recently floated on the London Stock Exchange AIM market. The publicly available documentation created as part of the flotation was annexed to the witness statement produced by Mr Gary Herring dated 3rd July 2018 made in support of the applications. In the course of argument, I was referred to a number of sections by counsel for the Applicant. The document is a frank statement of the company's business model.

13. In placing 25,000,000 ordinary shares at 100 pence on the AIM market, Anexo Group plc described the overview of the company thus:

"The Group is a specialist integrated credit hire and legal services group focused on providing replacement vehicles and associated legal services to impecunious customers who have been involved in a non-fault accident. These individuals typically do not have the financial means or access to a replacement vehicle which allows the Group to charge credit hire rather than spot hire or GTA rates, recovering these charges from the at-fault insurer at no upfront cost to the individual.

The Group's business is differentiated from the wider RTA credit hire and claims market as follows:

-The Group's model is based on the impecunious customer,

-It provides commercial credit hire services to the customer directly, rather than on behalf of an insurer, sourced through dedicated sales representatives who have relationships with a national network of garages and recovery businesses;

.....

-It is focused on the impecunious customer (motorist, motorcyclist or cyclist) which allows the Group to recover significantly higher rates than the spot hire or GTA rates;

.....(reference Application Bundle (AB) page 26)

14. The same document contains reference to the General Terms of Agreement "GTA" or Credit Hire Protocol that is in place between credit hire companies and insurers for the provision of replacement vehicles to other parties. The document states:

"GTA hire rates and bilateral agreements

The GTA rates are hire rates agreed between the insurance industry and some credit hire firms. These rates were agreed with the intention of setting standardised levels for daily hire charges, with the additional benefit of speeding up settlement of cases by insurers. These rates have subsequently been largely replaced by bilateral agreements. Together these agreements underpin the non-impecunious credit hire market. The Group typically follows a litigated/court process to ensure settlement of credit hire fees and associated claims and the group structure is therefore free from restrictions that could flow from being within the insurance supply train and subject to these arrangements. The GTA rates are a voluntary code as recognised by the CMA and not directly comparable to the commercial credit hire rates as charged by the Group and confirmed as applicable by Clark v Ardington, 2003.

Impecunious rates as adjudicated by the courts

Given the Group's focus on impecunious claimants, and taking into account, the relevant case law, the Group has set its rates to reflect the credit and insurance risk of extending hire to impecunious claimants and their ultimate responsibility for the payment of hire fees should costs not be recovered.

Operating outside the GTA framework and without any formal agreement with insurers allows the Group to recover commercial credit hire rates and associated legal costs, thus driving higher margins."

(reference AB 31-32).

15. In his statement supporting the application Mr Herring says at paragraph 21:

"In our experience as a firm, DAML shows very little, if any, willingness to engage with insurers prior to litigation. Indeed this is notorious within the industry. In our experience, DAML will immediately refer any claim from virtually day one to their panel solicitors, Bond Turner (formerly Armstrongs), without any attempt on the part of DAML to resolve the claim by negotiations with the insurer first. This is most unusual amongst credit hire companies, which typically seek to resolve claims before external lawyers' fees are incurred."

The Framework for Applications for Pre-action Disclosure (PAD)

16. The power of the county court to order pre-action disclosure of documentation arises by virtue of section 52 of the County Courts Act 1984. Section 52 (2) provides;

"On the application, in accordance with rules of court, of a person who appears to the county court to be likely to be a party to subsequent proceedings in that court... the court shall, in such circumstances as may be prescribed, have power to order a person who appears to the court to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to arise out of that claim."

17. Applications under section 52 fall within those applications for interim remedies that are subject to CPR 25.1 (1) (see CPR 25.1 (1) (i).)

18. CPR 25.2 (2) (c) provides thus:

"Unless the court otherwise orders, a defendant may not apply for any of the orders listed in rule 25.1 (1) before he has filed either an acknowledgment of service or a defence."

19. The rules of court anticipated by section 52 are now contained in CPR 31.16. The discretion to make an order for PAD arises when the jurisdictional threshold criteria in CPR 31.16 (3) a) to d) are met. The requirements are:

> *a)* *the respondent is likely to be a party to subsequent proceedings;*
>
> *b)* *the applicant is also likely to be a party to those proceedings;*
>
> *c)* *if proceedings had started, the respondent's duty by way of standard disclosure, set out in rule 31.6, would extend to the documents or classes of documents of which the applicant seeks disclosure; and*
>
> *d)* *disclosure before proceedings have started is desirable in order to –*
>
> *(i)* dispose fairly of the anticipated proceedings;
>
> *(ii) assist the dispute to be resolved without proceedings; or*
>
> *(iii) save costs.*

20. In applying the requirements of CPR 31.16 I remind myself of the two stage process, namely jurisdictional and discretionary. I was referred by Mr Williams to *Black v Sumitomo Corp (2002)1 WLR 1562* and in particular to Rix L.J at 1586 where, whilst referring to the two stages, he said:

> *82. "Of course, since the questions of principle and of detail can merge into one another, it is not easy to keep the two stages of the process separate. Nor is it perhaps vital to do so, provided however that the court is aware of the need for both stages to be carried out. The danger, however, is that a court may be misled by the ease with which the jurisdictional threshold can be passed into thinking that it has thereby decided the question of discretion, when in truth it has not. This is a real danger because first, in very many if not most cases it will be possible to make a case for achieving one or other of the three purposes, and secondly, each of the three possibilities is in itself inherently desirable.*
>
> .....

85. "In effect the judge never stood back, having dealt with the jurisdictional thresholds and asked himself whether this was a case where his discretion should be exercised in favour of disclosure. It cannot be right to think that, whenever proceedings are likely between the parties to such an application and there is a real prospect of one of the purposes under paragraph 3 (d) being met, an order for disclosure should be made of documents which would in due course fall within standard disclosure. Otherwise an order for pre-action disclosure should be made in almost every dispute of any seriousness, irrespective of its context and detail. Whereas, outside the example of medical records or their equivalent (as indicated by pre-action protocols) in certain other kinds of disputes, by and large the concept of disclosure being ordered at other than the normal time is presented as something differing from the normal, at any rate where the parties at the pre-action stage have been acting reasonably."

The Applicant's argument in summary

21. The Applicant contends that pre-action disclosure in these cases is consistent with the guidance given by Lord Nicholls in *Lagden* at para 9 page 1073, namely:

"There remains the difficult point of what is meant by "impecunious" in the context of the present type of case. Lack of financial means is, almost always, a question of priorities. In the present context what it signifies is inability to pay hire charges without making sacrifices the plaintiff could not reasonably be expected to make. I am fully conscious of the open ended nature of this test. But fears that this will lead to increased litigation in small claims courts seem to me to be exaggerated. It is in the interests of all concerned to avoid litigation and its attendant cost and delay. Motor insurers and credit hire companies should be able to agree on standard enquiries, or some other means, which in practice can most readily give effect to the test of impecuniosity."

22. EUI argues that the stance taken by the Respondents in these cases, due perhaps to the fact that the credit hire company and the solicitors are in common ownership, undermines the expectation of Lord Nicholls that there would be a ready exchange of information on impecuniosity at an early (pre-action) stage so as to avoid litigation. In other words, it is in the group's

interests to litigate the claims and there is little incentive to *"avoid litigation and its attendant cost and delay"* as envisaged by Lord Nicholls.

23. Impecuniosity is relevant not only to the applicable rate but also to the period of hire (see *Opuku v Tintas [2013] EWCA Civ 1299, per Beatson L.J.*). Consequently, the Applicant argues, being able to assess if a potential Claimant is impecunious is vital to an insurance company being able to place a value on the claim and to settle it without litigation.

24. If proof were needed of this, EUI point to the passage in *Pattni v First Leicester Buses (2012) RTR 17* in which Aikens LJ summarised the principles that a judge must apply thus:

> *"To summarise, the questions are: i) did the claimant need to hire a replacement car at all; if so, ii) was it reasonable, in all the circumstances, to hire the particular type of car actually hired at the rate agreed; if it was, iii) was the claimant impecunious; if not, iv) has the defendant proved a difference between the credit hire rate actually paid for the car hired and what, in the same geographical area, would have been the BHR for the model of car actually hired and if so what is it; if so, v) what is the difference between the credit hire rate and the BHR."*

25. It is submitted that not only does this section emphasise the importance of the impecuniosity issue, but it places impecuniosity high in the chronology of consideration. The passage invites the court to consider the issue before considering the BHR or spot rate. As a result there is no question of an insurer having to produce evidence of BHR rates as a prerequisite to disclosure of impecuniosity documentation.

26. The Applicant contends that in applying the relevant principles to the requirements of CPR 31.16 I should be driven to the following conclusions.

27. Firstly, by concession, the requirements of 31.16 3 a) and b) are made out. Secondly, that if proceedings are issued, the documents sought would fall to be disclosed as part of standard disclosure. The documents sought are in fact less than one might expect to be ordered on this issue if proceedings were commenced and this can be demonstrated by reference to the proposed standard directions in credit hire claims (AB 199) which require disclosure over a period of 3 months prior to the hire and *3 months after* the cessation of the hire. Thirdly, taking into account the importance of the issue of impecuniously in terms of being able to place a value on the claim, an order for disclosure is plainly desirable for all of the reasons set out in 31.16 (3) d.

28. The jurisdictional threshold having been crossed, the Applicant submits that the court should exercise its discretion in these particular cases to make the order. The reasons for doing so are set out at paragraph 30 of the skeleton argument of Mr Jonathan Hough QC, in summary,

i) The documents sought are directly relevant to a key issue of financial significance in each case.

ii) In so doing the Applicant is following the advice of Lord Nicholls in *Lagden*.

iii) EUI cannot assess the Claimants means at proportionate cost without this limited information.

iv) The task of disclosure of the documents sought is not onerous and they are simple to obtain.

v) Disclosure furthers the overriding objective in allowing informed pre-action offers to be made.

vi) The overriding objective is served in providing disclosure that would allow any defence that needed to be drafted to focus on the issues in the case.

vii) There are good reasons to order disclosure in cases involving DAM whose business model is based upon the impecunious motorist and which has developed a deliberately litigious commercial strategy.

The Respondent's argument in summary

29. Accepting that the rules do permit these applications to be made, the Respondents submit that the circumstances in which an order for pre-action disclosure should be made in favour of a Defendant are vanishingly small. Save for *Wells v OCS Group (2009) 1 WLR 1895* all authorities and commentary assume an application by a Claimant. The provisions of CPR 25 emphasise the unusual nature of what is being sought and, whilst the Respondents do not contend that CPR 25 prevents the application being made, the fact that there is an additional hurdle is said to be indicative of a very unusual application.

30. Furthermore, it is argued, there are very good reasons for restricting such applications. In the same way as the court was not willing to order pre-action disclosure of medical notes in *Wells*, so the court should be slow to order

intrusive disclosure of personal financial information before a claim has been issued.

31. The Respondents warn the court against the Applicant's attempt to "re-engineer or reconfigure" the normal disclosure rules. They warn that the court should not be beguiled by submissions as to the merits of a cards on the table approach. We are not starting with a clean sheet. There are rules and principles that govern disclosure which have been developed over time for good reason. As a matter of principle, a Claimant should not be compelled to assert or maintain any aspect of a proposed claim. Pre-proceedings disclosure is generally governed by protocols and there is nothing in those protocols to require a Claimant to make this disclosure pre-action.

32. A practical objection to this disclosure is demonstrated by the ease with which a Claimant can bring it to an end. If a Claimant issues the claim then, at best, the application is converted to an application for specific disclosure and these documents fall to be disclosed in the ordinary course of proceedings. In other words, they would be disclosed if impecuniosity was asserted.

33. Whilst conceding that the requirements of CPR 31.16 (3) (a) and (b) are met, the Respondent asserts that (c) and (d) are not met and that consequently the applicant fails to meet the jurisdictional threshold. It is submitted that the Applicant cannot establish that these documents would fall within standard disclosure at this stage. The Applicant has not produced any evidence to show that there is a significant difference between the rates charged and BHR rates and there is no specific assertion of impecuniosity in pleadings. Adducing evidence as to rates should be seen as a precursor to a Claimant raising

impecuniosity and the disclosure sought then becomes relevant. The staged approach in *Pattni* should not be read as a statute. A proper reading of *Lagden,* at paragraph 34, it is submitted is instructive:

> *"It is for the defendant who seeks a deduction from the expenditure in mitigation on the ground of betterment to make out his case for doing so. It is not enough that an element of betterment can be identified. It has to be shown that the claimant had a choice, and that he would have been able to mitigate his loss at less cost."* per Lord Hope.

34. Furthermore, disclosure is not desirable. It is not desirable for Claimants to be compelled to disclose potentially sensitive financial information, which engages Convention and Data Protection Rights, when they have not taken the important step of actually issuing a claim form. It is also not desirable to require disclosure before the evidential ground work regarding BHR (rates) has been laid. The Respondents further contend that the Applicant's suggestion that disclosure of this sort is desirable to resolve the dispute without proceedings does not bear scrutiny. In the case of *Zeng* pre-action disclosure has in fact already been given, yet the claim remains unresolved. Defendants tend to fight the issue of impecuniosity.

35. Importantly, even if the jurisdictional threshold is met, the same points are relevant to the exercise of discretion and must be weighed in the balance again. The court should also not ignore the potential unfairness that such applications could have in relation to costs. Many Claimants in these cases have associated personal injury claims. As such they have the benefit of the protection against adverse costs order provided by Qualified One Way Costs Shifting (QOCS). Pre-action Disclosure applications are excluded from QOCS

by CPR 46.2 and consequently a Claimant might lose protection they otherwise might be intended to have.

36. Secondly, since most of these claims will fall within the fast track, the fixed costs regime in CPR 45 will apply. Those provisions make only modest allowance for work done pre-action. The Respondents submit that the absence of any provision as to these costs reflects the reality that these orders are not usually made and is in itself a good reason for the court not to go on to exercise its discretion to make an order even if the jurisdictional conditions are satisfied.

37. In considering the relevance of the fixed costs regime, the Respondents contend that it is no coincidence that applications are only being made after the introduction of those provisions.

Resolution

38. The provisions of CPR 25 (2) serve to underline the unusual nature of these applications. It is however not submitted that its provisions are fatal because permission was not sought at an earlier stage. The court can permit such applications to be made and for the reasons set out below I am persuaded that, in the circumstances of these cases, the Applicant being permitted to make the applications is consistent with the overriding objective to deal justly with the issues at proportionate cost.

The Jurisdictional Test

39. CPR 31.16 (3) (a) and (b) being conceded the first question that the court must consider is whether (c) is established. In my view the Applicant is right to invite my attention to section 52(2) of the County Courts Act 1984;

"any documents which are relevant to an issue arising or likely to arise out of that claim."

In my judgment these words allow the court to look at the reality of this litigation in the context of what is known about the business model of DAM.

40. Having regard to the same, and a claim having been intimated on the basis of charges that include the cost of credit hire, I am driven to the firm conclusion that the documents are relevant to an issue *likely* to arise out of these claims. I am not persuaded by the suggestion that there is an obligation on the Applicant first to disclose BHR (rates) before the issue of impecuniosity becomes relevant. I understand the submission made by the Respondents that the *Pattni* checklist should not be read as a statute, but in my judgment there is a very good reason why it reads as it does and that is that credit hire charges which include additional services are always likely to be higher than the BHR (rate), see for example the section of the Group's prospectus summarised at paragraph 14 above.

41. On the issue of desirability as required by (d), I prefer the submissions made on behalf of the Applicant. In my judgment the issue of impecuniosity goes directly to the basis of the assessment of damages. In my judgment it is desirable that a Defendant who wants to make a realistic offer should know the potential strength of any argument that those damages should be assessed

in accordance with the impecuniosity exception established in *Lagden* rather than ordinary principles of assessment of loss.

Discretion

42. In the context of these applications, it seems to me that this stage assumes particular importance. Granting pre-action disclosure of documents that in the ordinary course of events would remain private, is both unusual and a step that should not be taken lightly. However, in my judgment the documents sought are different in nature to a full set of medical records and their disclosure is significantly less intrusive.

43. In considering whether to exercise its discretion the court must have regard to all the circumstances including the reality of this type of litigation. The Claimants, whilst they remain individuals, have effectively entered into a contractual arrangement that allows DAM to manage their claims as evidenced in the terms and conditions of the agreements annexed to the witness statement of Ms Wong (see clause 5). From the documentation analysed above DAM's aim is to pursue claims on behalf of impecunious Claimants. That is the basis upon which credit facilities are extended and to put it colloquially, that is the whole point of the exercise. It might be said that from the very moment that the accident occurs the financial means of the Claimant are relevant. DAM want impecunious motorists as clients because they fit their business model. Certainly, when a claim is intimated they become relevant to the insurer because their impecunious status is central to the basis of valuation of the claim.

44. In argument I used the word "target" and I don't shy away from it. That is the whole point of the business model. I do not mean it in a pejorative way, it is just fact. Do the individual Claimants know that they are so targeted because they are impecunious? I suspect not, and perhaps it does not matter. However, the reason that they are so targeted is that their impecuniosity unlocks the recoverability of charges not otherwise recoverable. Against that background, to suggest that evidence is needed as a basis for these applications to show that the BHR is lower than the credit hire charge, is, in my view, to suspend reality.

45. In argument Mr Hough QC submitted that it would be inconceivable that some consideration had not been given by DAM to the financial means of the Claimant at the outset and certainly before a claim is intimated. Whether or not such a failure to consider means is inconceivable is perhaps debatable, however, what in my judgment is not debatable is that if the relevance of their financial means is not explained to the individual Claimant's then it should be. In other words, at the very outset of these claims, DAM know that the Claimants that they represent may well have to disclose their financial means if they are to comply with their contractual obligation to cooperate with the litigation process (see clause 5 (iii)). If they do not explain this to their clients, then they should do so.

46. Against that background it is difficult to accede to the submission that to require disclosure is intrusive and premature. Rather it goes to an issue central to valuation and relates to documents that the Claimants should have been told that they may have to disclose at some stage in the process in any event.

47. The submissions made by the Respondents regarding the provisions of CPR 44 and 45 are undoubtedly relevant to the exercise of discretion. Bearing in mind the normal rule that the costs incurred in providing the documents are payable by the Applicant, there is some force in the submission that an injustice could arise. However, I remind myself of the limitation of what is being sought in this case. Obtaining bank statements and wage slips for a 3 month period is generally speaking something that will require little if any input from a solicitor and frankly is not onerous. In my judgment if a more extensive or complicated request was made then there would be more force in this part of the Respondents' argument.

48. Similarly, I do not regard the fact that a potential Claimant might defeat a claim merely by issuing proceedings as a good reason not to make an order. Premature issue of proceedings for this reason alone would run the risk of an adverse costs outcome.

49. If I stand back and look at these applications as a whole, I have concluded, in the exercise of my discretion, that the overriding objective to deal justly with these matters at proportionate cost is best served by allowing informed offers to be made at the earliest stage. In my view this is consistent with avoiding unnecessary litigation and *"its attendant cost and delay"*.

50. In exercising this discretion, I have again reminded myself of the additional hurdle posed by CPR 25 (2).

51. It follows that in relation to the matter of principle upon which I have been invited to rule then I am prepared to make the orders for pre-action disclosure sought.

52. However, one of the cases referred to me as part of this series of cases falls into a separate category. In the case of *Mirza*, proceedings were in fact issued because the proceedings pack was sent to the Court for issuing shortly before the application for PAD was served. In such circumstances an application for pre-action disclosure does not arise. It is submitted on behalf of the Applicant that the application can simply be treated as an application for specific disclosure. I am not persuaded that such an approach is appropriate. On the basis of the evidence available to me, once proceedings are commenced, the Respondents accept that standard disclosure in an impecunious credit hire case will include the type of documents now sought pre-action. They will be provided in the usual course. If it was established that proceedings were issued simply to avoid providing the documentation before issue and allowing an effective offer to be made, then the Applicants may well have a powerful argument in relation to the costs of those proceedings. In the *Mirza* case, however, I do not propose to make the order.

53. Having decided the matters of principle set out above I would invite the parties to draw the consequent orders. If needs be any consequential matters can be dealt with at a further hearing.