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HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

24 JULY 2026

DAY 147

PROCEEDINGS ON 24 JULY 2026

CHAIRPERSON: Good afternoon, Ms Hassim. Good afternoon, Mr Premhid.

ADV PREMHID: Afternoon, Chair. Afternoon, Commissioner.

ADV HASSIM SC: Good afternoon, Chair.

CHAIRPERSON: An important housekeeping matter. I will afford each Counsel one hour to argue, and I will afford you 15 minutes to reply, Mr Premhid. So, organise the flow of your argument in accordance with that and, so, that should mean you, it is up to 15h00. Thank you. You may start.

ADV PREMHID: Chair, I am just putting my timer on so that I am conscious of the time. Good afternoon to you, Chair, and Commissioners. May I say that I do not intend to be as long as one hour? I think it will depend on the level of engagement between the Commissioners and myself as to whether we will need one hour. And can I say the reason I am not going to need one hour is because the Commission has itself now conceded that a postponement is appropriate. The Commission has chosen a date of 14 August 2026, and that means the postponement application, which has been brought by my client in respect of his evidence for the 15th of July, rolled over to the 17th of July, rolled over to the 24th of July, is effectively unopposed.

CHAIRPERSON: But the crucial issue is that the effect of

what we have before us would be that Mr Carrim never, ever testifies. So, that is a serious issue that needs to be dealt with.

ADV PREMHID: I am not sure I agree with that characterization ...[intervenes].

CHAIRPERSON: Yes.

ADV PREMHID: Chair, but I accept the point that you make that the postponement as to whether or not it is by a postponement to a fixed date as opposed to a postponement not to a fixed date but subject to some ...[intervenes].

CHAIRPERSON: But with what we have before us, the doctor's report, the effect as we sit here now is that even on a later date to which we may postpone, we will be told the same thing.

ADV PREMHID: Indeed so.

CHAIRPERSON: So, ultimately, the effect will exactly be what I am saying, which is that Mr Carrim will never, ever testify.

ADV PREMHID: Well, I do not know if I agree with the characterization that you will necessarily be told the same thing, because what you will remember from the treating doctor's report to you, and again, I am not going to go into the specifics of that in light of the ruling on the *in-camera* issue, but what the treating doctor says is that the position of my client is dynamic and it is subject to change, and that

is why one of the things that the treating doctor himself proposes is to account to the Commission under oath once every two weeks to update the Commission regarding the client's position and whether he can or cannot testify. It is also why the doctor's evidence under oath is to suggest that there are alternative means that can be explored.

CHAIRPERSON: Oh, no, continue, continue.

ADV PREMHID: No, no.

CHAIRPERSON: Oh, I wanted to say, based on what we have, an educated guess would lead one to say, even though you have just made the submission that you have made, we cannot hold our breath.

ADV PREMHID: No, fair enough. But I was responding to the characterization that you will necessarily be told the same thing in future.

CHAIRPERSON: Yes, yes.

ADV PREMHID: It was simply to say that that is not entirely correct.

CHAIRPERSON: I guess ...[intervenes].

ADV PREMHID: You may be told the same thing in the future ...[intervenes].

CHAIRPERSON: I guess ...[intervenes].

ADV PREMHID: But you may not be as well.

CHAIRPERSON: I guess I am saying exactly the same thing I said earlier ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: When I say we cannot really hold our breath.

ADV PREMHID: No, indeed so, indeed so.

CHAIRPERSON: Yes.

ADV BALOYI SC: Perhaps can I also just check your characterization of when, how, how we got here. You say the application for the postponement is not opposed. I do not see that that is correct, a correct proposition. You are asking for a postponement to an indefinite date, which is completely subject to what the treating medical person is going to determine whether he ever comes back and on what date he comes back.

But more importantly, you are bringing an application for a deferral of Mr Carrim's evidence to an undetermined date. That is your application, as I understand it, and the Evidence Leaders oppose that. And in their opposition, they say, we want him to come back on a specific date. So there is an opposition to your application.

ADV PREMHID: Yes, it is a limited, that is the word they use in their correspondence of about the 23rd of July, if I am not mistaken, where they say it is a limited opposition. And if I can say this, the difference between my learned friend and myself is the mechanics of the postponement. What is

not opposed is that a postponement is appropriate now. It is just subject to whether, as Commissioner Baloyi correctly says, it is an open-ended date or it is a fixed date, and that is what I was saying to the Chairperson as well. So it is not to say that it is no opposition in the sense that there is no disagreement. There is disagreement, but it is on the mechanics of the postponement rather than the narrower question that I was addressing, which is that the postponement being sought today, in principle, is unopposed between the Commission and ourselves.

ADV BALOYI SC: But if it was being opposed in the wide sense, whatever that means, the consequence would have been that, if it was opposed and opposed successfully, the consequence would have been that he comes and testifies today. He is not going to. He is not here. So the distinction is a technical decision, really, which makes no difference whatsoever. The fact of the matter is you are seeking his evidence to be deferred.

We are here today. You say indefinitely. They say, no, he is not getting the postponement that he wants. We want him to be given a date to come and appear. So I do not understand the technical differences, but at this point I was not engaging on the technicalities of indefinite and simply saying, but this application is opposed. That is the position. Your application, as formulated by you, is being

met with an opposition.

ADV PREMHID: Yes, it is described as a limited opposition in paragraph 1.14 of the attorney's letter on behalf of the Commission of the 23rd of July. So that is where I was going to focus the bulk of my submissions, on the limited nature of the opposition, rather than whether or not a postponement today, *ab initio*, is being opposed. I think that is where I am directing myself, Commissioner Baloyi.

ADV BALOYI SC: Yes, all right. But you accept it is opposed?

ADV PREMHID: Yes, yes, within the confines of what I have said, yes, absolutely so.

ADV BALOYI SC: Thank you.

ADV PREMHID: I am not, it is like in litigation where the parties might ...[intervenes].

CHAIRPERSON: Please, I think, please go ahead.

ADV PREMHID: No, thank you.

CHAIRPERSON: Please continue.

ADV PREMHID: I am indebted. So by means of introduction, that is the first of the 12 points I wanted to make. The question in front of you is actually a narrower question about the mechanics of this postponement and what it ultimately looks like, whether it is to a fixed date or whether it is to an indefinite date. And what I will say to the Commission in that regard is two things. Number one, you

have our submissions on paper justifying why it should be an indefinite date, but obviously the Commission, through the Evidence Leaders, have put up a series of considerations as to why it should be to a limited date, and practically speaking, that is something that, excuse me, practically speaking, that is something the Commissioners will apply their minds to and make a ruling on.

And all I am going to say is that the mechanics of that ruling will be whatever it is. I am not trying to, I am not going to focus my submissions on the harder element, if I can call it that, which is to say it should be to an absolute indefinite date. I am going to focus on my submissions on the appropriateness of the postponement in the circumstances in light of the evidence that you have in front of you. So that is what I am going to focus on. Can I just say that, and the reason for that is because of the limited nature of this opposition, but I am not going to repeat myself.

Can I say on the second point, please, that there are two potential directives that we would ask the Commission to consider granting in respect of the proceedings today and the argument as it unfolds in front of you today and before my learned friend has an opportunity to address you. The first one is that I am not sure what the status of these application papers will be or become once

the Commission makes its decision on the postponement, but the request is that should any part of the record become public, that it is subject to the limitations already imposed by the Chair in the *in-camera* ruling, so that is that the record of papers itself must not reveal or identify the very things that the Chair has said we are not allowed to say in the oral argument because that would effectively render that ruling pointless if the paper record reveals the very things that we are not allowed to refer to in the oral hearing. I do not think that should be controversial. That is actually asking for a logical extension of the Chair's ruling as it applies to the papers.

The second directive, and this might be the more controversial one, is I know my learned friend has given me advance notice that she intends to rely on certain CCTV camera footage. I do not know if that is still the case, but there are other pieces of information that the Commission has subsequently shared with us that may also need to be treated carefully. In particular, there is mobile data geolocation information, which may or may not be projected. I do not know if my learned friend intends to project it on the screen when she makes her submissions, but if she does, the point that I would request the Commission to please consider and make a directive on is some of that information contains highly specific GPS coordinates and

the reason that when it is projected onto the Commission's screen, if the Commission intends on doing that, to prevent the publication of exact GPS coordinates is because it opens the threat that the GPS coordinates, when projected onto the screen, can be used to reverse-engineer exact locations.

Obviously, if the CCTV footage puts my client at a Durbanville mall, I can hardly complain about that, but I am raising a concern in respect of the facility, for example, and geolocation data near the facility. I would also humbly request that in making such a directive, when my learned friend is going to refer to or reference the suburb that the facility is located in, that the name of the suburb is not mentioned explicitly, because it does not take a genius to run a Google search or a Chat GPT search to ask it what medical facilities are in the particular suburb, with the effect that it gets close to the very things that the Chair has said should not be identified.

So, I do not know, practically speaking, when Chair will make those directives or consider them, but I think even in just flighting the fact that those are the directives I am asking for, I am hoping my learned friend will approach it with some degree of sensitivity, even in the absence of a directive. That is not to say my learned friend must not say what she wants to say or use whatever footage she does. I

am just raising the concern about certain of the information which is not necessarily expressly covered by the *in-camera* ruling, might nonetheless be utilized to undermine the very purpose of the *in-camera* ruling, and that is the second request that I make. Chair, I am in your hands as to practically whether you want me to go on.

CHAIRPERSON: I think for now, yes, for now please continue with your argument. I do not want to eat into your time.

ADV PREMHID: Yes.

CHAIRPERSON: What we will do, we will raise this issue before Ms Hassim starts arguing.

ADV PREMHID: I am indebted.

CHAIRPERSON: Yes. I do not think there is an issue with the ...[intervenes].

ADV PREMHID: The first one.

CHAIRPERSON: With the first one really, but we cannot make rulings piecemeal here.

ADV PREMHID: Yes, indeed.

CHAIRPERSON: Yes, yes, yes.

ADV PREMHID: Indeed, Chair. So that is point number two.

CHAIRPERSON: Please continue.

ADV PREMHID: Thank you, Chair. I am indebted. Point number three, now talking about the video footage. With all

due respect, in light of the affidavits that have been exchanged between the respective parties, I am going to respectfully submit that the video footage is unnecessary today, and more than being unnecessary, it is also not appropriate and does not serve a legitimate purpose, and there are three reasons why. The first one is, by and large, the allegations made by the Commission have now been admitted, answered to, and amplified by my client and the people deposing on his behalf. So the footage is not necessary because the footage is not needed to prove admitted facts. You do not need to lead the evidence to deal with admitted facts. That is point number one as to why it is inappropriate.

Point number two is that the footage is an inappropriate form of evidence in light of the fact that, and you will know this because this is dealt with explicitly, by my client's treating doctor, that things like video footage and geolocation footage or geolocation information and so on does not have clinical value.

CHAIRPERSON: Sorry, what noun did you use? It is inappropriate, what? It is inappropriate? After inappropriate, what is the noun you use?

ADV PREMHID: Oh, inappropriate form.

CHAIRPERSON: Okay.

ADV PREMHID: Form of evidence.

CHAIRPERSON: All right, thank you.

ADV PREMHID: Inappropriate form of evidence because ultimately what underlies the Commission's concern and the Commission's complaint regarding my client's postponement is a medical issue. And so this geodata information or CCTV footage or whatever it is, on its own, not being led through a clinician and not being analysed by a clinician or responded to by a clinician is inappropriate secondary evidence which is being used to gainsay the medical opinion expressed about that exact approach.

CHAIRPERSON: Are you talking about Durbanville or ...[intervenes].

ADV PREMHID: Yes, Durbanville.

CHAIRPERSON: Durbanville.

ADV PREMHID: Durbanville.

CHAIRPERSON: Can you please explain your point about it relating to what may have to be attended to by a medical practitioner?

ADV PREMHID: Yes, may I just ask Ms Matlengwane for some assistance.

CHAIRPERSON: Because let me tell you why I am asking you this. I see it as objective material which says he was there.

ADV PREMHID: Yes.

CHAIRPERSON: So I do not see the connection with what

a medical practitioner might have to say on the issue.

ADV PREMHID: May I respond?

CHAIRPERSON: Yes, yes.

ADV PREMHID: May I give two responses.

CHAIRPERSON: Yes.

ADV PREMHID: The first response is that it is also accepted that he was there. So it is unnecessary because it is an admitted fact between the parties. There is no need to lead the evidence. But the secondary line of reasoning, and this is where I need Ms Matlengwane's assistance, but she will hear me in response to you, Commissioner. I will give you the reference after the fact, is this. The medical practitioner says that the Commission relies on a bunch of evidence such as CCTV footage, Apple Pay data regarding payment accounts, movement data gleaned through geolocation data.

And the position of the clinician, for reasons that you know which are recorded on the papers, is all that demonstrates is movement of some kind, but that the movement of some kind, the fact of the existence of the movement of some kind, is of no value in determining the clinical issue as to why the client cannot attend or attend the Commission to give evidence.

So the point as to inappropriate is that it does not deal squarely, with all due respect, with that clinical issue,

and particularly in circumstances where the clinician has raised doubts about why it is being used in the manner in which it is being used.

CHAIRPERSON: I get you on your first point, which is why flight that footage if there is no dispute about his location on the day and at the time. I get your point. I am not sure that, one, you need the second point, and two, I am not, subject to whatever else you may say, I am not convinced by your second point. But please continue. But I stress that you do not, in the face of your first point, I am not altogether sure that you need the second point.

ADV PREMHID: That is where ...[intervenes].

CHAIRPERSON: It is, on this issue, it is a very weak point.

ADV PREMHID: I think we are *ad idem* on the first point and what I would say is that if those facts are not in dispute, then needing to flight the footage so as to prove something that is not in dispute, is unnecessary.

CHAIRPERSON: You see, your second point would make sense if the flighting would be for the purpose of showing that by being there, the medical condition relied on simply does not exist. If that was the purpose, I would understand your point.

ADV PREMHID: Yes.

CHAIRPERSON: I am not necessarily saying that Ms

Hassim is not going to argue that.

ADV PREMHID: Yes.

CHAIRPERSON: I do not know what she is going to argue. But perhaps until she has argued that point, as I say, from where I am sitting, I do not think you need the second point and I repeat, I think it is a weak point for purposes of this should not be flighted.

ADV PREMHID: Well, let me accept the invitation then to simply say, if my learned friend, well, I am caught between a rock and a hard place because during my learned friend's submissions, she may flight the exact footage to make the exact point that Chair is putting to me, which is because he was at X place, that brings into doubt the medical evidence. And in fact, that is the Commission's case because you know in their affidavit, they call my client, with all due respect, gratuitously an inverse outpatient.

So the very attitude of the Commission through the Evidence Leaders is not to say that, oh, this is a benign piece of evidence, the CCTV footage. The entire thesis underlying their opposition to the postponement and why they want to tie down my client to a specific date is to say the fact of these movements, the fact of these payments, the fact that he is not in the hospital all the time brings into doubt the medical diagnosis that the clinician has given him. And that is the further reason as to why we need an

independent medical exam. So – may I just finish on this, please, Chair?

CHAIRPERSON: Yes, by all means.

ADV PREMHID: If my learned friend is not going to push that line of argument today in front of you, then I do not need the second point. But if my learned friend is going to push that point, then I do need the second point, even if Chair says he is not convinced that it is a strong one.

CHAIRPERSON: Ja, you see, just to make sure that I will not be misunderstood, the question whether Mr Carrim's movements show a pattern that is at odds with what we have been told, that is central to the Evidence Leader's case. So what I said earlier did not suggest that Ms Hassim is likely not to argue such a case.

ADV PREMHID: Agreed.

CHAIRPERSON: But I am making a different point. That case can be argued without the need to actually flight the footage.

ADV PREMHID: Agreed.

CHAIRPERSON: Why not exactly because it is agreed that at the time, on the day, Mr Carrim was at a shopping complex in Durbanville.

ADV PREMHID: Agreed.

CHAIRPERSON: So that point can still be made, or that argument can still... But as I said, whether Ms Hassim will

actually want to flight the footage we will hear when she says so.

ADV PREMHID: Indeed.

CHAIRPERSON: Ja, should we not leave it there and move on, please?

ADV PREMHID: Yes, I am happy to. Can I just give you one reference, if I may?

CHAIRPERSON: Yes.

ADV PREMHID: If you look at paginated page 94 of your pleadings bundle in the postponement, paginated page 94, you will see the heading, it is "geolocation data and its clinical significance". The basis for the submission that I was making to you comes from paragraph 45 on that page as to why flighting that is unnecessary over and above the reason that Chair has already identified that it is not in dispute. So I will just leave that, if I may. What Ms Matlengwane is doing is she is looking through the Commission's papers to give me the reference, the exact reference, of where this debate arises from and the way that Chair posits it to me. So Ms Matlengwane will give me that reference shortly.

Can I also just say this, this moves me on to point number four, 23 minutes in. Point number four is this, is that the medical evidence in front of you from Mr Carrim's treating clinician is undisputed on the clinical diagnosis and

the clinical observations that Mr Carrim's treating medical professional makes. There is an expert report, and I am not even going to mention the expert's name, put up by the Commission, which generously does not actually dispute that clinical observation. What it does is it speaks to two collateral issues. The first one, which with the greatest of respect to the expert, is an invention of his own, is he talks about it being inappropriate for Mr Carrim's physician, Mr Carrim's medical practitioner to perform what is called an independent medical exam on Mr Carrim. That is, it is referred to in the document as an IME.

The simple point about that IME and why then it cannot be used as a basis to impugn Mr Carrim's medical doctor's clinical observations is Mr Carrim's medical doctor never performed an IME. An IME is an entirely separate form of medical examination that is performed in a forensic context where there needs to be, understandably, a degree of separation or independence between the medical examiner and the ultimate patient. But in this particular instance ...[intervenes].

CHAIRPERSON: How do you describe forensic in this context?

ADV PREMHID: When you say in this context?

CHAIRPERSON: Or rather, let me leave out in this context. How does ...[intervenes].

ADV PREMHID: Let us say, Chair, this goes back to that discussion you and I had the last time. If we were in Uniform Rule 36 territory, and you will remember you and I had the discussion about Uniform Rule 36 as a parallel mechanism through which examinations occur in instances of medical negligence claims, that is the forensic parallel that I would say the IME concern arises in.

CHAIRPERSON: I would understand the rule to be the vehicle in terms of which you get to the ...[intervenes].

ADV PREMHID: Yes.

CHAIRPERSON: Whatever it is the medical practitioner has to do.

ADV PREMHID: Yes, yes.

CHAIRPERSON: That does not necessarily answer my question, I do not think.

ADV PREMHID: Well, the difficulty in answering the question is that I am trying to distinguish what the Commission's expert report criticizes Mr Carrim's medical practitioner for allegedly doing and why it is inappropriate. And I am responding ...[intervenes].

CHAIRPERSON: Let us take, for example, let us take the context of criminal proceedings where the rule you are referring to would not apply at all. I would imagine that even in that context you can talk forensic when medical practitioners are involved.

ADV PREMHID: Yes yes.

CHAIRPERSON: So it is on that basis that I am saying how would you describe or define forensic in a way that, for example, would exclude what we have been given here? Why is it not forensic here?

ADV PREMHID: And that is the exact criticism that the Commission's expert attempts to make is that the Commission's expert, as we understand it, says that the treatment Mr Carrim is receiving can never be an IME exercise because he is not, in inverted commas, independent enough of Mr Carrim. And the point I am making is that is exactly correct because the treating doctor is not performing an IME for some forensic, independent, objective, evaluative purpose like under Section 79 inquiry or under a Rule 36 type inquiry.

He is the patient's, Mr Carrim's, own treating doctor. So he does not, the point I am simply making is that the basis upon which the Commission's expert, it seems, seems to undermine the clinical evidence in front of you from that doctor is to say he is not entitled to perform an IME and what he is given you is not an IME. And we are agreeing with that because we are saying the treating doctor is doing something fundamentally different. So that is the first point that I was making.

CHAIRPERSON: Please continue.

ADV PREMHID: The second point that I was making, to the extent that that report is relevant in front of you, is that that report itself emphasizes the role to be played by Mr Carrim's own treating doctors before any such directive can be given that he is subject to the medical examination of another, and you can find that at Annexure MT1, MT1, at paragraphs 18 to 19 and it is also referred to in the Evidence Leader's submissions at paragraph 47.

So the very point is to say that the medical evidence of Mr Carrim's doctor is unchallenged directly. To the extent it is challenged, it starts from an incorrect premise. But even if it does start from the correct premise, it emphasizes the very point as to the centrality of Mr Carrim's own treating doctor and Mr Carrim's treating doctor's clinical observations as it influences any future process. And you know Mr Carrim's treating doctor's clinical view speaks to Mr Carrim's non-ability to give evidence. And I am using ability deliberately because that obfuscates what is known to us but not to the world at large.

So even that report ultimately draws a point to say that the medical doctor's observations who is treating Mr Carrim have a central role to play in any determination in how Mr Carrim is treated, and we would say that the evidence speaks for itself and it is unchallenged in front of

you. But there are a few more things I would just like to say in that regard if I may. The first one is our learned friend has provided us a bundle of authorities. A lot of it is foreign authorities.

CHAIRPERSON: Before you go to authorities.

ADV PREMHID: Yes, Chair.

CHAIRPERSON: I think the first point the doctor makes, that is Mr Carrim's, is that, and I am going to an assessment by an independent doctor, so Mr Carrim's doctor says such an assessment, in fact I think the doctor uses the word interpositioning, so if another doctor is interposed that will be deleterious to the treatment that Mr Carrim is undergoing.

ADV PREMHID: Correct.

CHAIRPERSON: So the first point or the first prize is that no other doctor should be interposed. But as I understand it, your expression seems to suggest that I am misunderstanding the situation, but let me continue. You will respond.

ADV PREMHID: You and I have read each other's facial expressions for a long time now, Judge. You will know what I am talking about.

CHAIRPERSON: I know. Then the second point as I understand it is that if despite my opposition as the doctor, as the treating doctor, if despite that the position is that

another doctor should be interposed that should be done in, I am paraphrasing here, I have forgotten the actual wording, that should be done in consultation with me. I should be involved. As to how exactly, I am not altogether sure now, should be done in consultation with me. Now what I wanted to raise is if the doctor does say that as an alternative would Mr Carrim oppose this that is the alternative, would Mr Carrim totally, totally oppose it?

ADV PREMHID: Well I have no instructions on that and as you know the legal team have had to obtain instructions ...[intervenes.

CHAIRPERSON: In the manner, in the manner in which you and I know ...[intervenes].

ADV PREMHID: So I would have to take an instruction but if I may, I do not know if you are done, Chair, and I do not want to interrupt you ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV PREMHID: But having regard to my facial expression earlier, the reason that it was of that kind is if you can go to the paginated pleadings, please, paginated page 49.

CHAIRPERSON: Yes.

ADV PREMHID: If you look at the heading just above just above paragraph 68, the consequence of compelled attendance, so I think how I fairly read, how I understand the treating doctor's position is this, and I think, Chair, this

goes back to the debate you and I had last time and can you draw any inference from a compelled attendance where it is chosen not to attend or a voluntary attendance the position of the doctor is that it is not to say that none should be interposed as a blanket position. It is to say none can be interposed unilaterally or in a compelled sense that the doctor resists and then the doctor's position in respect of what then, so in other words if it is voluntary does it come through me or whatever the case might be, is expressly dealt with in that same affidavit at, I see Ms Matlengwane is marking paginated page 51.

For example, he does not deal with it in express terms but he is talking about in paragraph 71 on page 51 he is talking about less intrusive formats of engagement and his ability to manage the downstream consequences of the format ultimately chosen as a consequence of what the Commission chooses to do or not do. This paragraph admittedly is talking about in part the *in-camera* question, should it be open or should it be closed, but it is an answer to you, Chair, about the extent to which, the doctor's position is not to say, you know, I am the block so to speak and if I say no, it is no.

The doctor's position is to say that I must be consulted and if I can facilitate something which is not clinically detrimental to my client's, my patient's current

position or future position then I would have to give medical advice in that regard. So, it is to say that it is not perhaps as blunt as the way in which the Chair was positing it to me.

CHAIRPERSON: Now, now exactly on what you said last, my question relates exactly to that. If in a sense, even if qualified, the doctor is not altogether rejecting the idea of interposing another doctor, what would Mr Carrim's position be, and I think that is the point on which you already said you have no instructions.

ADV PREMHID: Yes, yes, yes.

CHAIRPERSON: Okay. If we were to say please get instructions, by when would we get a response on that?

ADV PREMHID: I cannot commit because it would have to be relayed to the two individuals who would then have to engage with Mr Carrim when he is available and then have to come back to us as the legal team. As you know, one of the issues are that in present circumstances we do not have direct access.

CHAIRPERSON: But I would imagine on my understanding of the protocol, the existing protocol, surely there must have been a good few interactions following that protocol. I would imagine that should give you an idea of possible time frames.

ADV PREMHID: No, because in as much as I thought advocates were busy and have busy diaries, I have never

dealt with medical professionals whose diaries are even more challenging than ours and that is why you know for example some of our papers reached late because of when we could consult with the medical professional in particular concerned. Can I say this, in principle on what is in front of you and what the doctor himself has said, there should be no objection but that is obviously subject to his ability to speak on behalf of Mr Carrim with or without Mr Carrim's consent.

Whilst maybe my learned friend is on her feet so to speak proverbially, maybe what I can ask is Mr Bismillah who is sitting behind me and from my instructing firm of attorneys can try and get in touch with our other attorneys and the relevant individuals to try and take a specific instruction on what Chair has put to me. That is the best I can offer in the circumstances.

CHAIRPERSON: Yes. I must make the comment that what you have just said now is quite useful which is that there is no in principle objection to the idea.

ADV PREMHID: Because from my reading of what the doctor has said ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV PREMHID: Is his opposition, in inverted commas, was on the unilateral imposition of a third party medical practitioner, but the doctor has himself spoken about less

intrusive means in a multiple, in a multitude of manifestations and if the doctor interposing in respect of a third party to obtain voluntary consent, whether it is given or not given, is within the basket of those less intrusive means as I see it because it is not the compelled examination and so that is why I say in principle I do not understand that that could be an issue but I will ask Mr Bismillah to get the specific instruction.

CHAIRPERSON: Thank you. Thank you. Please continue. Are you moving on to another point ...[intervenes].

ADV PREMHID: Yes, I was ...[indistinct] Commissioner Baloyi.

ADV BALOYI SC: Ja, before you move on let me just clarify, you and the Chair seem to be of a common understanding of what the doctor is saying so it may be I misunderstand. I am looking at, reading from 73.1 up to 73.3, I understand the doctor to say that there must first be engagement with him on these medical issues and if we are not happy, and I am reading now at paragraph 73.2, what is clinically objectionable ...[intervenes].

ADV PREMHID: May I ask for the page, please, Commissioner?

ADV BALOYI SC: Sorry, 52.

ADV PREMHID: Thank you, Commissioner.

ADV BALOYI SC: 73.1 up to 73.3, but the clarification that

I would like to have is because of what he said in 73.3, he says:

> "A properly constituted assessment stands in a different footing. If after engaging me the Commission remains unsatisfied I do not object in principle."

So on the doctor's offer he anticipates, he is given a report, then he must be engaged with about his report by the Commission and if we land at not being satisfied out of our engagement with him arising from his report, then he does not have an objection to the interposition subject to whatever he says there. I understand you and the Chairperson to have formulated it as follows, that as matter stand, the doctor does not have an objection to an interposition provided there is a condition, the conditions in there met. Am I misunderstanding?

CHAIRPERSON: No, no, we were past the original stage which is about the conditionalities. I was on what I referred to as a fallback position as it were and I do not think it differs from what you have just said.

ADV BALOYI SC: I see.

CHAIRPERSON: Ja.

ADV PREMHID: I think we are all *ad idem*, Commissioner Baloyi, you looked at 73 ...[intervenes].

CHAIRPERSON: I think Commissioner Baloyi has just said

yes when I made the, I think you should move on to another point if you are about to.

ADV PREMHID: Okay.

CHAIRPERSON: I do not want you in the end to say that the hour was too short because of our engagement.

ADV PREMHID: Yes, could I, all I will say to Commissioner Baloyi, if I may, is I know, Commissioner, you looked at 73.3, when you probably have looked at it already but the way in which I would look at what he is saying in 73.3 follows on particularly 73.1 and 73.2 on the same page, but as it relates to that earlier statement which is where the Chair and I started about a compelled examination and I think what he is addressing in those circumstances is what the deleterious effect of a compelled imposition of a third party medical practitioner would be for what he is doing, but not to say that that is a total out ruling of less intrusive means, provided that whatever the less intrusive means are, plays a suitably respectful role of him as the treating doctor, which I said at the very beginning even the Commission's own expert accepts that that is the role to be played by his treating doctor.

ADV BALOYI SC: Okay, I understand. Thank you.

ADV PREMHID: Thank you, Commissioner Baloyi. Just so that I was making the point about the authorities and I now see it is 44 minutes, I will be quick.

ADV BALOYI SC: And I took only 3 minutes of that time, please.

ADV PREMHID: Do not worry, I am not going to ask for an accounting exercise between the Commissioners and myself. But very quickly if I may, the point about unchallenged medical evidence and proceeding in the face of unchallenged medical evidence, and you know I say that our, my client's doctor's evidence when properly understood, is unchallenged. That point is made by the same authorities relied on by our learned friends.

So for example, at paragraph 16 of the Hyatt case which can be found at pages 6 and 7 of their authority bundles, that point is made. That point is also made again later on in that paragraph, in that judgment at paragraph 32(b) on page 12, and interestingly it says:

> "It would be wrong for a committee which has the livelihood and reputation of a professional individual in the palms of its hands to go with a hearing where there is unchallenged medical evidence that the individual is simply not able ..."

And I am using the word able to not use the word in the quotation.

> "... to withstand the rigors of the disciplinary process."

And why I emphasize that is because you know the position taken by my client is that this secondary evidence, the CCTV footage, the geolocation data, even their own doctor's report, does not challenge the medical evidence properly in the way that the medical evidence is in front of you.

CHAIRPERSON: Ja, I am not sure that that is a good point because I think at the last appearance you strongly opposed any idea of an assessment by an independent doctor, so on that basis there can be no question of us having a report by a doctor challenging what Mr Carrim's doctor says. So we all understand why there is no opposition ...[intervenes].

ADV PREMHID: No ...[intervenes].

CHAIRPERSON: It is not as if with an opportunity available for another doctor to counter this doctor's report, no counter was furnished. It is on that basis that I feel that is not a strong point at all.

ADV PREMHID: I respectfully disagree with you, Chair, in the following two respects. On the last occasion it was not that I had any objection to an independent exam being performed. It was whether or not it could be compelled and whether or not any inference could be drawn ...[intervenes].

CHAIRPERSON: That is, that boils down basically to the same thing, because in expressing your view that compulsion was not possible. The upshot of that was that

you were opposing. That was opposition and you even, that was the context in which you referred to the rule in the context of civil proceedings, you said, you questioned our power ...[intervenes].

ADV PREMHID: Correct.

CHAIRPERSON: Our legal power to even compel.

ADV PREMHID: Correct.

CHAIRPERSON: That is opposition.

ADV PREMHID: Yes ...[intervenes].

CHAIRPERSON: So I do not understand your point at all.

ADV PREMHID: But then you and I landed on the agreement that no adverse inference could be drawn if it is a voluntary process.

CHAIRPERSON: That is something else.

ADV PREMHID: No, but that is ...[intervenes].

CHAIRPERSON: That is something else.

ADV PREMHID: That is the point I am making. The point I am making is my opposition so to speak at that time in the way in which we understood the Commission's case was on the issue of the compelled examination. What I am saying in response to this issue as a continuation of what just happened between yourself, Chair, Commissioner Baloyi and myself as well is that if the voluntary examination is the mechanism with the interposition of Mr Carrim's own doctor or not, then that would be fine, because that also means

that no adverse inference can be drawn if he declines to not participate in that. That is where we landed the last time.

CHAIRPERSON: No, no, you never, I accept that today you have made the point that in principle there is no objection to this happening but that is subject to instructions being, or rather your instructing attorney finding out what the position will be in terms of an acceptance or otherwise of the assessment. You are saying something like that for the first time now.

On the previous occasion you strongly argued against it, making the point that we simply do not have the power and you distinguished the fact that we do not have the power by making reference to the power that a high court has in civil proceedings in terms of the rules. At no stage did you ever get to a point that said no, no, no, no, no we are amenable to (a), we are voluntarily amenable to an assessment by another doctor. You never got to that point. You ...[intervenes].

ADV PREMHID: Because that is, the debate did not get that far, with due respect. Where we ended and we were having a general conversation is that I ultimately accepted that if it were a voluntary process and that no adverse inference could be drawn as to the participation in that voluntary process, that is where we left it.

CHAIRPERSON: But, Mr Premhid, did you, because more

than one letter, in fact at least two that I remember from reading these papers for this postponement application, more than one letter was written to Mr Carrim's attorneys requesting him to avail himself for an assessment by an independent doctor. Initially there was no response and was there a response the second time around? I am not sure, but here in open session in this Commission what we got was the vehement argument by you against that as a possibility.

That is all that we know. So for you to suggest that however there could have been the possibility of a voluntarily agreed to assessment comes as a complete surprise to me, because the attitude throughout, especially in the face of the two letters that were specifically asking for this assessment, what you say now simply does not accord with that history, that history culminating in your argument before us here.

If Mr Carrim was prepared at all to subject himself to the assessment we should by now have received something from him or his attorneys saying that here I am, I am willing to subject myself to that assessment that the Commission's attorneys have asked for more than once. So I do not understand your argument. In so far as it relates to the possibility of Mr Carrim subjecting himself to the assessment voluntarily, I do not understand that part of

your, not in the face of the history I am referring to.

ADV PREMHID: No, I accept that and I am not going to try and relitigate that history now. I think I am going to go and read the transcript because at this stage I am going to respectfully say recollections may vary and then I can come back to you and reply and clarify that as needed because I am, as I say I remember the debate having happened slightly differently and it was on the characterization issue about voluntary or compelled and it did not go beyond specifics about what if it is voluntary then what is the instruction, in the way that it was put to me today.

And in light of the new evidence that has come about less intrusive means that is why I gave an in principle answer subject to my instructions. But I will read the transcript and I will come back and if I am wrong about that then obviously I will be wrong and I will apologise to the Commission accordingly, but if I can move on.

CHAIRPERSON: Just to protect myself from a full on egg on my face, let me say I am also only human and fallible so my memory may also be inaccurate. Please continue.

ADV PREMHID: Ja, well that is why they have appeal courts, they can correct the lower court Judge's memory but no, Judge, thank you, I accept that. Let me just say this, the other mechanism available is that there could have been in terms of direct challenge to Mr Carrim's doctor's

evidence is that instead of the report that was put up which talks about a subsequent process which I am going to describe as collateral, a rebuttal witness could have been brought and the rebuttal witness like ordinarily happens in civil litigation where there are contesting expert witnesses which does not necessarily involve an inspection *in loco per se* of the incident or the person is possible and that was not done either.

You have already heard me, I was going to take you through the authorities but I do not think that that is necessary for me to do so except to refer to one judgment if I may, which is one that is cited I think by both of us. It is a South African judgment. It is Michael v Linksfield Park 2001(3) SA 1188 (SCA) at paragraph 39 in particular I just gently point out that there the SCA said:

> "The assessment of medical risks and benefits is a matter of clinical judgment which the court would not normally be able to make without expert evidence."

And so that is the point that I am making and so far as there is direct medical expert evidence in front of you is concerned, there is no rebuttal of that, it remains unchallenged and the Commission should be slow to draw any inferences from alternative sources of evidence as to what clinical value it has or it does not have, because that

alternative evidence is not clinical evidence and with all due respect you do not have a duly qualified clinician in front of you who offers an alternative view about Mr Carrim's clinician's view of Mr Carrim.

In fact, the expert report put up by the Commission itself expressly qualifies itself by saying I do not offer an opinion on the underlying medical assessment made by that clinician. So insofar as the clash of evidence and the weight to be attached to the evidence is concerned in the exercise of your discretion as to whether a postponement should be granted, I come back to the point that the stronger evidence is Mr Carrim's clinician's direct evidence and not all these alternative sources of evidence that the Commission may rely upon.

You have already heard me on the issue of the electronic data cannot answer the medical question. I have made that point a few times. I do not think I am going to go there, unless the Commission wants me to. You have got that in front of you. All I would say, and having read the papers this morning again as well as the correspondence, you also know that there is a, I am going to use the word challenge but I am going to say it is inverted commas, there is a challenge to some of the evidence in front of you, how it was obtained, but more than just simply how it was obtained, whether it is reliable because of identified

instances of errors in that evidence.

I do not think that you necessarily have to make a ruling or determination on that today. It is simply to say that in the assessment of the evidence is concerned you have got questions about at least reliability and to the extent that any weight is going to be placed on that you should place less weight on that than you should the direct medical evidence in front of you.

Could I then just make progress in the three minutes I have available. I think we have already foreshadowed the debate about my sixth point which is about the 14th of August versus some open ended date. The Commission heard right up front, I said that would be a judgment made by the Commission as to how it fixes it or does not fix it. Having regard to the medical evidence in front of you I am not going to deal with that further.

May I just say that on this issue of the, on the issue of the independent assessment, I think we have debated that extensively already. It turns on the characterization of whether it is voluntary or not voluntary and it also turns on whether it is facilitated or not facilitated and there is consensus between Mr Carrim's treating doctor, if you read paragraphs 90 to 94 of the paginated pleadings, I do not need you to go there, I will just give you a note, paragraphs 90 to 94 at record pages 53 to 54, and this is also the

sequence that the Commission's own expert agrees with and if you look at paragraphs 18 to 19 of Annexure MT1, I think I have given you that already, you will see that there is a synergy between that. So if any direction is made regarding Mr Carrim and any voluntary medical examination we would ask that the Chair takes into consideration the involvement of Mr Carrim's treating clinician.

We also know that there is a threat of a referral for prosecution if Mr Carrim does not appear again, whether advised or not advised to not appear based on his medical condition. All I will say in that regard is if the Commission feels. and when I say Commission I mean the Evidence Leaders through the Secretary, or is it through the Chairperson through the Secretary, feels that an offence has been committed and that a referral for prosecution must be made, then the Evidence Leaders must do what they deem appropriate, and Mr Carrim will also do what he deems appropriate, including leading evidence, whether at a pre-prosecution decision stage in front of the NDPP or at a post-prosecution decision stage in court that he was medically and legally advised throughout and that any prosecution will fail because there is an absence of wilfulness, and that will be demonstrated on the evidence. But I do not think you have to worry about that so much. That is out of your hands once any such recommendation

would be made.

I would also just point out, and I am trying to sweep now in the 15 seconds I have left, I just want to point out three interrelated propositions, if I may. The first one is that you will know on the last occasion, not when my learned friend Ms Hassim was here, but when my learned friend Mr Chaskalson, who has not in his usual place today, was here, there was some debate between whether or not if Mr Carrim does not appear in front of the Commission again, and Chair, this takes us back to our recollections may vary, because what I seem to remember is after you and I had that discussion about voluntary versus compelled, the discussion then moved to what are the inferences that can be drawn in the ordinary course about the so-called unanswered questions that Mr Carrim would not have answered by the end of this process if he never comes to the Commission again. I see the Chair is nodding, so at least I am remembering that correctly, I think.

But the point that I would make is at that time, and in its letter of the 24th of June, the Commission's Evidence Leaders were emphatic that if Mr Carrim does not come again, they are not going to entertain this business about a postponement or no postponement, they were going to ask the Commission to make conclusions, even on an inferential basis, on the basis of those unanswered pieces of evidence,

and if necessary, to make a recommendation. And all I would point out is that the sudden change in now seeking to compel Mr Carrim here, seems to stand at odds with that, and the Commission must take whatever decision it wants to take regarding how it deals with Mr Carrim in circumstances where it has direct evidence in front of it explaining his non-attendance, as it were.

The last two points I will make, and it is really the last two points, I am one minute over time, is that there are many new allegations that are introduced in the answering affidavit of the Commission, and you know that on the papers and particularly in the correspondence, I am going to use my favourite A word again, there is a statement made about trial ambush in the sense that not the entire case is sought to be answered as made clearly for Mr Carrim and his legal team and the deponents on his behalf to answer, and then they are ambushed after the fact to say that you have failed to answer this or that you are being deliberately misleading or inaccurate, whereas there are innocent explanations for these things, and if the Commission just showed its hand earlier, then it could have been dealt with earlier and we would not need to go 17 rounds in exchanging affidavits and supplementary affidavits because we would know the case to meet.

Chair, you would remember, you said to Mr

Chaskalson on the last time, put it on a piece of paper, those questions you want answered that were supplemented by Commissioner Khumalo, it is the same complaint with all due respect that we should not be drip-fed information, we should know what the Commission has in mind so we can be helpful to the Commission in answering whatever we can, whenever we can.

And lastly, may I just say that on the issue of the relief, the terms of the relief are obviously to be finalised, but on the underlying request for the postponement to a specified date or to some other date is ultimately unopposed, and that is Mr Carrim's submissions in one hour and a bit. Thank you, Chair. One hour and three minutes.

CHAIRPERSON: Thank you very much, Mr Premhid. Let me just take you to page 24.

ADV PREMHID: I am there.

CHAIRPERSON: Yes, please read paragraph 67.2, and after that 67.3.

ADV PREMHID: Yes.

CHAIRPERSON: And also go to 71, read 71. I am not reading these because ...[intervenes].

ADV PREMHID: I understand why.

CHAIRPERSON: Yes.

ADV HASSIM SC: Chair, sorry to interrupt, but what page are you referring to?

CHAIRPERSON: I said 24 initially, and then I, is it 24? Page 24 was the first reference, paragraph 67.2 and then 67.3. And then I was moving on to the next page, 25, paragraph 71. Now, I want to ask a question that relates to the information that has been asked for repeatedly, which is the name or names of the auditors/accountants of Mr Carrim's companies. That is number one.

Number two, the financial statements of those companies. That information was asked for a long time ago, I think in March already. I think initially when Mr Carrim was testifying here on the 8th and 9th of March, I think, and he promised or undertook to furnish that information. In fact, I think in respect of the auditors, he furnished the name of an entity that eventually denied that it was auditing any of his companies.

But subsequent to that, that is the oral undertaking in open session, there has been engagement on that issue, and Mr Chaskalson has repeatedly made the point about this information continuing to be outstanding and not being furnished. So it is something that is been out there in all of our minds. Now, I refer you to these three paragraphs to make the point that one, the person mentioned in 67.2 is Mr Carrim's PA and she is even described as his, quote-unquote, virtual PA.

Quite importantly, here is what is said about her. It

is said that when Mr Carrim's bank account or bank accounts, I am not sure whether it was more than one, was aware in the process of being closed by FNB, this virtual PA played a very crucial role in that process. So it seems to me that this is someone who is closely involved in Mr Carrim's affairs.

Now, the other person mentioned in the other paragraphs is someone very close to Mr Hassim and someone who has in his ...[intervenes].

ADV PREMHID: Mr Carrim, not Mr Hassim.

CHAIRPERSON: Oh, I am so sorry. I am sorry, Ms Hassim. And someone very close to Mr Carrim and someone who has been appointed to run Mr Carrim's businesses in his absence. Now, if you look at, which paragraph is it now? Let me see. Ja, I think it is, I have lost my place now, but you will all know what I am referring to. I just have page 25 now. I doubt that it is there, but maybe it is.

But the point is this. The deponent to Mr Carrim's affidavit, the founding affidavit says, I do not know the auditors of Mr Carrim's affidavits. I think I can mention that it is his wife what the ruling says should not be mentioned are the names, I think, and other identifying features.

ADV PREMHID: He also has two, so.

CHAIRPERSON: One of the wives is the deponent. Thank

you. So that is the wife. She says, I do not know and she says, nobody else knows. So this means the virtual PA, who I assume that as a PA, she must be working very closely with Mr Carrim. And the fact that she even assisted very closely when the bank account or bank accounts were being closed shows the proximity. I do not see the basis on which Mr Carrim, with regard to who the auditors are, would have been cagey about that information, not to the PA. I do not see how he would have been.

Also, I may not be able, because I do not know the historical involvement of the person now running the businesses prior to him doing so, after appointment, I do not know his historical involvement in the companies, but point is, once involved, what would be so difficult in him getting information with regard to these two issues, who the accountants are, and even getting copies of the financial statements. Just what would the difficulty be?

Also, this person who is now running the businesses is not the only person. There are other people who have been in place working in those companies. That information cannot reside in Mr Carrim's head only. I find that very, very difficult to understand. In fact, I want to say this, or suggest this to you, Mr Premhid, you probably are aware of the Gauteng High Court judgment in the case of truth verification. If I am not mistaken, I think it was written

by Eloff, AJ, not the older Eloff, JP, and the principle enunciated in that case was later made or adopted by the Supreme Court of Appeal, but the point is this, and perhaps let me clarify up front, that that principle relates to respondents who make fanciful or patently false statements on affidavit. And that authority, jurisprudential authority, exists because on paper, where you do not test the testimony of witnesses in a witness box, it is very difficult for courts to say that person is not telling the truth.

But the usefulness of this authority is this. It says, if what a witness says is either fanciful or patently false, it should be rejected out of hand and on paper without the need for oral testimony. So even if, as I say, this principle has been used in respect of respondents, I do not see why it cannot apply to applicants as well. Where am I going with this? I feel as I sit here, subject to what you say, that the idea that nobody within these companies, in particular the person now running the businesses and this PA, nobody can furnish this information. Nobody knows anything about this information, subject to what you say, to my mind, this appears to be patently false. Your comment?

ADV PREMHID: Natal Scrap Metal and Oxford University Press also endorsed that proposition ...[intervenes].

CHAIRPERSON: Yes.

ADV PREMHID: On consideration of the Plascon-Evans

test. So I do not know if those were the SCA authorities you had ...[intervenes].

CHAIRPERSON: That would have been a movement or a development on the Plascon-Evans, ja.

ADV PREMHID: No, no, I know the proposition that you are making.

CHAIRPERSON: Yes.

ADV PREMHID: Can I direct your attention to paginated page 74, particularly paragraph 40.1, as it relates to, and I am using this word in inverted commas, an inference that is perhaps being made about the role and level and intensity of the EA, or PA, or whatever she is called, and the extent to which they might have business knowledge. And the starting point was, and Chair quoted it, was her involvement when the banking accounts were being closed and so on.

With all due respect, I would suggest that 40.1 attenuates that because it speaks to the very limited and, I am going to say, rubber stamp, and you will understand why when you see that paragraph, that rubber stamp manner in which she acted. So I am not sure, with all due respect, in terms of what is in front of you on the evidence that she does as intensive a role as perhaps Chair was suggesting. Obviously, Chair will draw his own conclusion.

CHAIRPERSON: She, open quote, managed the replacement, close quote. That is ...[intervenes].

ADV PREMHID: Yes, that ...[intervenes].

CHAIRPERSON: That is an advised or conscious choice of word.

ADV PREMHID: Yes, and then look at line ...[intervenes].

CHAIRPERSON: Managed.

ADV PREMHID: But look at line three, how she managed it and that process. She had access to and used an electronic signature during that process. So the point is that this, her involvement, and I am speaking carefully because I am not giving evidence.

CHAIRPERSON: I am not sure that the third line suggests that all that she did was to sign electronically. I am not sure about that. I believe in context that that is mentioned as part of the things that she did, she signed. It does not suggest on my reading that all that she ever did was merely to sign electronically. That is not how I read this. She managed. Otherwise, managed would be meaningless if all that she did was just to sign.

ADV PREMHID: I accept what you say, but I would also then ask you to go back to 67.2 on page 24, because if you look at who she works for, it is not Mr Carrim himself, it is the wife. That is stated in paragraphs, in that paragraph, in the first sentence. And then you will see what she does is, all she does is she screens my husband's calls and emails, liaises with the banks, including in relation to the closure

and the replacement accounts, facilitates payments ...[intervenes].

CHAIRPERSON: Sorry, sorry, page?

ADV PREMHID: 24.

CHAIRPERSON: 24.

ADV PREMHID: The paragraph 67.2 that you took me to, Chair, at the beginning.

CHAIRPERSON: 67.2?

ADV PREMHID: Yes, point 2. So I was just saying that the first sentence contextualizes who she is actually working for. It is the wife, not Mr Carrim *per se*. And then in the second sentence, you will see what her activities involve. And her activities are described as screening husbands' calls and emails, liaises with banks, including in relation to the account, and we have gone to that page already, facilitates payment of staff, and directs matters requiring attention to the appropriate person.

So I accept Chair reads that in a different way to I do, because Chair says that is indicative of a more central role that perhaps suggests she could provide these answers or whatever the case is.

CHAIRPERSON: Yes ...[intervenes].

ADV PREMHID: I do not read it ...[intervenes].

CHAIRPERSON: I do not see after, towards the end of the paragraph what you have just read. I do not see how her

role can be diminished, not with all of the things that are itemized there as her duties. I do not see how her role can be diminished.

ADV PREMHID: I accept what Chair puts to me. I would say it can be diminished, because it is not a decision-maker qua decision-maker. It is clearly that she plays a supportive role, and so she does not have this as expansive ability as Chair is perhaps suggesting to do the kinds of things that Chair is speaking about. So that is the first thing I would say in respect to that individual.

The other page I would ask Chair to look at, and I had it a second ago if you will bear with me, is paginated page 351, and all I point out is paragraphs 51.1 and 51.2, particularly the last sentence on 51.2 on paginated page 351, because that in part speaks to Mr Carrim and the ability to obtain that information, and why even what has transpired before transpired in the way that it did. Insofar as the other individual which Chair mentioned, which is at, back at page 24, paragraph 67.3 if I am not mistaken.

CHAIRPERSON: I think was it not also 71 of the ...[intervenes].

ADV PREMHID: Yes, 71 as well. That was on page ...[intervenes].

CHAIRPERSON: Yes.

ADV PREMHID: That was on page 25. I would

...[intervenes].

CHAIRPERSON: I meant paragraph, not page.

ADV PREMHID: Oh, yes ...[intervenes].

CHAIRPERSON: Paragraph 71.

ADV PREMHID: Paragraph 71, page 25 speaks to ...[intervenes].

CHAIRPERSON: Oh, okay, okay.

ADV PREMHID: Speaks to the same individual that is mentioned in 67.3.

CHAIRPERSON: Yes. Okay, ja.

ADV PREMHID: Yes. Again, all I would say regarding this expansive role that he is playing or he is not playing, is look at the fifth line in that paragraph 67.3, starting with he does not make, and I would say that that sentence is a direct answer to the Chair regarding what he knows or does not know, or could know, or could not know, in particular that ...[intervenes].

ADV KHUMALO SC: Mr Premhid, providing information has nothing to do with making strategic decisions and new business decisions.

ADV PREMHID: Yes.

ADV KHUMALO SC: It is historical information.

ADV PREMHID: Yes, indeed, which is why the sentence I was going to direct you to, Commissioner Khumalo, reads in terms, given his age, he does not possess the institutional

knowledge of the businesses that resides with my husband. So even if you are interpreting that first sentence against me about providing information not being strategic in decision-making, which I can accept, the second sentence in particular speaks in terms to his ability to provide the information or otherwise.

If you reject the explanation on paper, that is what you will do, but that is the evidence you have in front of you. So, also insofar as the same individual is named at paragraph 71, page 25 is concerned, you have to read those two things consistently with all due respect, which says that the individual concerned is doing nothing other than acting in a holding pattern or in a holding capacity, but does not have the institutional knowledge going backwards and also does not have the strategic insight and knowledge going forwards. But I accept, Commissioner Khumalo, that might be an unsatisfactory explanation.

CHAIRPERSON: You have not answered the second part of my issue, which was how can it be that within these institutions, all of them, there is not a single person who knows something about the accountants or auditors. Just how can that be? How can that be? How is it that this information resides only in Mr Carrim's head?

ADV PREMHID: I want to choose my words carefully because I am not going to give evidence as to why that is or

is not the case, but I think it was Commissioner Baloyi, you will forgive me, on a previous occasion when Mr Carrim was testifying, there was a debate between Commissioner Baloyi and Mr Carrim about how particular decisions are made or not made and are there proper books of account and what is the regularity of what is going on inside this business from a corporate perspective. And Mr Carrim at that time did not say much other than to say how it appears in front of you is what it is.

And without putting words in his mouth, all I will say is that businesses operate how businesses operate. They sometimes operate imperfectly, they sometimes operate less elegantly than they should operate. Whatever inference you want to draw from that, you will obviously draw, but the fact that it is not so elegant and bookkeeping or company board resolutions are not maintained in the way that the Companies Act wants them to be maintained is the very basis that most of us have a job as lawyers because these things happen in the real world in the way that they happen.

So I cannot answer with a positive version as to what the Chair puts to me, which is how is it that it can only be one or should there be others. I have no instructions in that regard, but having regard to what has previously occurred where Mr Carrim was put under some pressure,

and I say that respectfully, put under some pressure to account for his business operations which appeared to be less than perfect, he himself could not address that in any great detail other than to say that the businesses were and are what they are. And that is as far as I can take it, Chair. I mean, ja, I will leave it there.

CHAIRPERSON: Can you please assist me. I wrote only paragraph numbers of the doctor's report. Where does it start? Please assist me. Yes, I want to take you somewhere there.

ADV PREMHID: Sorry, Chair, can I ask for a clarity? Is it one of the doctor's reports or the affidavits?

CHAIRPERSON: The affidavit, the affidavit. The first, the very first one, not the supplementary.

ADV PREMHID: It is paginated page 30, Chair.

CHAIRPERSON: It is 30. Thank you, Mr Premhid. [Indistinct]... could I not have, because I cannot read this again, nor can I describe it because it will go to the wrong terrain. Let me just see. Okay, okay. Oh, gosh. I am sorry, I did not underline this. But I want to, I seriously want to engage you on this. I cannot vocalize, I cannot vocalize the point, otherwise it will, can we take a two, three-minute adjournment, please, I want to vocalize this outside. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: I think an explanation is owed to the public. This was not turning what I ruled would be an open session into an *in-camera* session, no. So, the reason for going out is that everybody will recall that earlier I asked, on a totally different point or issue, I asked Mr Premhid to read certain paragraphs for himself and then I put questions to him. The reason for doing so was to avoid divulging the sort of information that I said in my ruling should not be divulged. So that is why those paragraphs were not read publicly.

Now this time around, I wanted to do the same thing, that is refer Mr Premhid to a paragraph for him to read for himself. The reasons were exactly the same. The problem this time around was that I did not find my correct note which directed me to the paragraph and I was only able to find it once we were outside.

So Mr Premhid, I believe, has now already read the paragraphs. Now, here Is my question, Mr Premhid, and it relates to both paragraphs. Why is it that if Mr Carrim could do what is stated in those paragraphs, why is it that he cannot likewise do what he has been required to do, which is to furnish the information that has been requested repeatedly?

ADV PREMHID: Paginated page 45, paragraph 53.1, I

cannot read it for obvious reasons, but I will ask that ...[intervenes].

CHAIRPERSON: Sorry, sorry, sorry. For the record, let me just mention, because I did refer you to paragraphs by paragraph number.

ADV PREMHID: Yes.

CHAIRPERSON: This time around, for the question of just us, the relevant paragraphs are paragraph 25 and 66.

ADV PREMHID: Chair, I think it was 69 on page 25 and then ...[indistinct].

ADV KHUMALO SC: Page 49, paragraph 66.

ADV PREMHID: Yes.

ADV KHUMALO SC: And page 25, paragraph 69.

ADV PREMHID: Yes.

CHAIRPERSON: Ja, ja. Thank you.

ADV PREMHID: Paragraph 25.

CHAIRPERSON: Thank you, thank you.

ADV PREMHID: Okay. So, that is the first answer, is the one that I gave, is paginated page 45, paragraph 53.1, which adds some colour, perhaps, as to why something that is described as a simple issue or decision or divulgence is not as simple as it is. I would particularly ask the Commissioners to look at the sentence beginning second comma on line three of that paragraph. That is the first part of the answer.

The second part of the answer is paginated page 48.

CHAIRPERSON: Sorry, but what do you make of the word interactions there? Would that be the sort of interaction that the doctor is talking about here?

ADV PREMHID: Yes, that is my submission.

CHAIRPERSON: Okay. All right, please continue.

ADV PREMHID: And on that page, if you look at the sentence beginning third, which is four lines from the bottom, that adds further colour and context. The second answer I will give is paginated page 48, paragraph 65. It is a long paragraph, but the part of it I would want to emphasise is the last sentence starting at the top of page 49, which is just above the paragraph the Chair referred me to, which is 66 on page 49, starting rather, and it is three lines.

So, why I point your attention to those paragraphs is for two reasons. The first one is you have heard me already, I am not going to repeat myself, but Chair views those two other individuals who I am not going to name as having a greater role perhaps in the running of the businesses. I pointed out the fact that according to what the affidavits say, that is perhaps not correct, but obviously Chair will make his own assessment.

And then the second reason I am pointing you to

these particular paragraphs is to say that even if it is as simple, in inverted commas, for an instruction to be given by Mr Carrim to those individuals, those two paragraphs need to be borne in mind in respect of the instruction and the ability to give that instruction.

CHAIRPERSON: How I read this is this. What comes before 66, which is the paragraph I referred you to, what comes before 66 deals with why Mr Carrim would ordinarily not be in a position to be of assistance. But what is in 66 qualifies all of that. It even uses by contrast. So it is contrasting what is stated in 66. So you cannot read what comes before the contrast in isolation, as it were.

ADV PREMHID: Yes, but with all due respect, I think if you look at 67, for example, the next paragraph down from 66 ...[intervenes].

CHAIRPERSON: Yes.

ADV PREMHID: And if you look from the fourth last line from the bottom regarding what the doctor says is his clinical opinion, then what Chair says to me is the qualification in 66 in respect of what comes above in respect of 65, which is the paragraph I relied on, is itself further qualified regarding Mr Carrim and his ability and what the inherent risk is throughout the proceedings.

CHAIRPERSON: May I ask this, and I hope this will be the last question I am going to ask. Why is it that Mr Carrim's

founding affidavit, which is followed by a supplementary affidavit, does not deal with the, no, no, no, no. No, no, no. I will drop that. I will drop that.

ADV PREMHID: Because it deals with the, but it has to go to who the deponent is.

CHAIRPERSON: Yes ...[intervenes].

ADV PREMHID: That is my ...[intervenes].

CHAIRPERSON: I will drop that question. I will drop the question.

ADV PREMHID: But can I just say that my third answer to you, Chair, and this speaks to the context of the instructions that I said I would undertake to give, I am reading from my phone and I am paraphrasing, so this can be dealt with formally after the fact, if needs to be, but I am told as follows. Contact was made by my attorney with the deponent of the founding affidavit, who contacted the treating doctor whilst he was consulting with Mr Carrim.

The purpose of that was to take an instruction on the issue that Chair and I were debating earlier, and we are advised that Mr Carrim has suffered another medical incident and that no instructions can be obtained by him in respect of what Chair has put to me, and this is in the context of this facilitative process that we have been talking about. I am also told that the clinician has expressed his frustration to Mr Carrim's attorneys because in his view, his

client's position is deteriorating as a result of the pressure being put on him by his attorneys in respect of Commission and Commission business. And so, what that relates to is exactly what I pointed out to you in those paragraphs I flagged, and that is the situation we find ourselves in.

CHAIRPERSON: I remember the question I wanted to ask. The mistake I made was to want to relate it to Mr Carrim's wife, the deponent to the affidavit. What I meant to do was to say why is it that Mr Carrim's doctor does not deal specifically with this issue. You will have noticed that ...[intervenes].

ADV PREMHID: About the, sorry, Chair, specifically the issue, the accountant-auditing issue?

CHAIRPERSON: Yes, why I raise it is because that is quite pertinent and the doctor has dealt quite extensively with some matters of detail, even dealing with issues relating to his whereabouts. And if I read his reports correctly, I do not recall that he deals with this aspect at all, and to explain why Mr Carrim cannot furnish the required information. I might be wrong. Maybe it is somewhere there, that it is somewhere in the reports.

ADV PREMHID: Well, and I think this is the best answer I can give you, if you look at paragraph 53 on paginated page 44, that will tell you about the doctor's intervention, so to speak, in Mr Carrim's business affairs, or what he did in

respect of Mr Carrim's business affairs. A similar point is made ...[intervenes].

CHAIRPERSON: But that is about him not running his businesses, which explains why someone else has been appointed.

ADV PREMHID: Correct.

CHAIRPERSON: It does not answer the one issue. Such and such information is required by the Commission, so 53 does not answer that.

ADV PREMHID: Correct.

CHAIRPERSON: Yes.

ADV PREMHID: But I was ...[intervenes].

CHAIRPERSON: That is not running his businesses.

ADV PREMHID: No, correct. The point that I was going to make is 53 and 55 on page 45 give you the context of how the doctor enters the equation, for lack of a better phrase, which is to give the family certain advice regarding what happens to the business. The doctor himself never says that he gets involved in the business *per se*. He has a facilitative role, where it is appropriate to play a facilitative role, and there are instances where sometimes that facilitative role is more restrictive, not less restrictive, and the answer for that is that paragraph I gave you on that same page, paragraph 53.1, page 45.

So the reason it is the best answer I can give you

is because the doctor himself says that whatever matter has to go to Mr Carrim through the doctor is not just simply relaying a telephone message or relaying a question, but that the doctor himself has to make a clinical assessment at that moment in time, for example, about whether the question, if put, would cause a deterioration or not, or whether, even if the question is put, the answer given is a good answer or a bad answer for whatever clinical views the doctor themselves may have.

So I cannot speak to why he did not deal with that specific issue isolated as a line item, but you have also heard me that when instructions, as a real-life example of what has happened when instructions were sought, but that adds context as to why he might not have dealt with it. That is as far as I can take it.

CHAIRPERSON: Thank you, that is my last question. Thank you, Mr Premhid. Yes, Ms Hassim.

ADV HASSIM SC: Thank you, Chair. Is it my time ...[intervenes].

ADV PREMHID: Apologies to Ms Hassim.

CHAIRPERSON: No, no, no ...[intervenes].

ADV PREMHID: You, it was 1 hour and 51 minutes.

CHAIRPERSON: No, no, no, you, it was what, a couple of minutes only. So it was my, oh, it was by 15 minutes. Ms Hassim?

ADV HASSIM SC: Chair, I will be extremely reasonable and I will not ask for an equivalent amount of time as Mr Premhid had.

CHAIRPERSON: Yes, which will end at what, 9 minutes to?

ADV HASSIM SC: It is 9 minutes to 4 now.

CHAIRPERSON: Yes, so 9 minutes to 5, please. Yes?

ADV PREMHID: So, Chair, can I do this. Can I just address the last topic you were debating with my learned friend, just close that off, because I was going to deal with it in any event in the course of my address, but since you are on it ...[intervenes].

CHAIRPERSON: There were the issues, or we will deal with that at the end. Maybe do that at the end, the issues about possible rulings, the two issues Mr Premhid raised right at the beginning.

ADV HASSIM SC: No, no, I am talking about what you were just debating now.

CHAIRPERSON: No, no, I am saying I said I would raise those issues with you when you begin your argument.

ADV HASSIM SC: Yes, yes, yes.

CHAIRPERSON: Should I perhaps address those right at the end.

ADV PREMHID: Those were ...[intervenes].

CHAIRPERSON: Those were ...[intervenes].

ADV HASSIM SC: The issue of the footage.

CHAIRPERSON: Yes.

ADV PREMHID: And the redaction of the record through you, Chair.

ADV HASSIM SC: And the redaction of the record.

CHAIRPERSON: Yes, yes, yes.

ADV HASSIM SC: Can I just deal with this topic that you were debating.

CHAIRPERSON: Okay, all right.

ADV HASSIM SC: And then I will begin with those ...[intervenes].

CHAIRPERSON: All right, all right.

ADV PREMHID: Turn to those rather. So, just on this, because it is fresh in your mind, because you have just been having the debate with my learned friend, a few points I wish to make about it, because I must admit that I find it quite an extraordinary claim that has been continually held since the time the Commission first asked for those documents.

Well, first of all, one is not even a document. It is just the name of the auditor. That is all. It is a very simple request. Why I say that I find it extraordinary is because that request was made as far back as when Mr Carrim appeared in this Commission. That was on 9 and 10 March. On 10 March, it was itemized what the specific, it would

form part of a list of requests that we had. We itemized the requests. In fact, I am sure if we go back to the transcript of the 10th of March, somewhere towards the end of the transcript, it will be there. So, this request is months old. That is the first thing I would like to say.

The second thing is that if we look at paragraph 66 on page 23, the paragraph reads, the first sentence. In fact, let me just read the paragraph.

"Before 13 April 2026, my husband was fully involved in his businesses ..."

And then she explains what that involvement entailed, but there is no explanation to us as the Evidence Leaders or to the questions that have been posed by the Commissioners why these documents and this information could not have been provided between 10 March and 13 April. There is just no answer to that.

Instead, what my learned friend does is he goes to the various paragraphs that have been debated just now. For example, on page 74 of the paginated bundle where the Chair, I think it was the Chair who directed my learned friend to paragraph 40.1 and the PA and the issue of the FNB accounts, and my learned friend tries to say, well, actually it was just a rubber stamping exercise because all she did was place an electronic signature. That is not borne out by the text in that paragraph. That paragraph

does not say that is all she did.

It says that is one of the things she did is that she appended an electronic signature. But that is not all she did. That is not what that paragraph says. What my learned friend is doing is, with respect, taking liberties with the construction of these various paragraphs and he is straining to defend an indefensible proposition that there is nobody in the company or in any of these companies which do business in the amount of hundreds of millions of rands who can say who the auditor is or where to find the financial statements.

And I will just make one last point because I must not, for the sake of completeness, on page 25 on the debate in paragraph 71 that his son has stood in for him. What that paragraph says is that he assumed overall responsibility for overseeing the businesses and ensuring that the operations continue in his absence. He is a central point of contact, attends to matters requiring attention, oversees the payment of expenses and the continued performance of existing obligations.

And then read that with 67.3 which my learned friend went into to explain well, that the role of the son is that he does not make strategic decisions. Well, yes, that is true, 67.3 says he does not make strategic decisions or decisions concerning new business. So we are not making

any queries in relation to new business. We are making a query that falls smack bang in the middle of what Mr Carrim's son is responsible for as articulated in paragraph 71. So those are our submissions on that particular topic. Now I do not need to go there later on in my address.

So Chair, on the question of the redactions, we have no objection to that. On the question of the CCTV footage, what I would like to say is that, and what I would like to make clear at the outset is that the point of the evidence on Mr Carrim's movements is not put up to try to disprove a psychiatric diagnosis. It is not put up to ...[intervenes].

ADV PREMHID: Chair, I must just interject.

ADV HASSIM SC: I apologize. It slipped my, it slipped out.

ADV PREMHID: This is now the second incident where slippage is occurring. It happened the last time as well and I would ask through you, Chair, that the Evidence Leaders please pay extra special careful attention to the choice of words because of the exact reason we asked for an in-camera hearing. This is now the second occasion it is happened.

ADV HASSIM SC: Chair, may I apologize. It is in the course of speaking off the cuff.

CHAIRPERSON: It should not happen. It simply should

not and as Mr Premhid says, this happened at the last hearing. Mr Chaskalson did exactly the same thing. It should not happen.

ADV HASSIM SC: I am aware of that. My profound apologies. It was entirely unintentional.

ADV PREMHID: Chair, may I just say, and I am sorry to do this whilst my learned friend is now on her feet but the fact that I have had to object has itself now drawn attention to something potentially and so my client's rights are now really being prejudiced because, and I make no statement about Ms Hassim who is a consummate professional and I fully accept it might have been an accidental slip, but even the fact that I have had to record the objection now elevates the issue and creates the very damage that we have tried to protect my client from and I am in an invidious position where I am where I am and so I would ask Chair, not that you can control the media or anybody else but just to remind people about their responsibilities in what they say publicly regarding the impact that can have on the dignity and privacy rights of someone who has made an express claim for confidentiality to avoid this exact situation. And I am sorry to interject my learned friend whilst she is on her feet but I have to now place this on record as a matter of principle that we are heading into dangerous territory.

CHAIRPERSON: Thank you, Mr Premhid. For now, let us

leave it at the point that I have made the admonition that I have made and let Ms Hassim continue.

ADV HASSIM SC: Thank you, Chair. And I do reiterate my apologies. It was entirely unintentional. It is difficult to take out from one's head all of the information we have been looking at and reading and dealing with over the last few days. What I wanted to say was that the point of putting up the evidence on the movements is not to disprove any diagnosis, not to use it to challenge the clinical findings of a treating doctor, but it is important because what it does is it bears directly on his, Mr Carrim's demonstrated ability, his day-to-day functioning capacity.

That is what the movements go to and it also goes to something else which is, and I will come to it later, it is about the reliability and completeness of the information that was before the treating doctor at the time when he deposed to the affidavits that we now have in this application. So that is the relevance of the movements.

CHAIRPERSON: Are you saying because the issue as I understand now is about flighting or not flighting.

ADV HASSIM SC: That is right. So ...[intervenes].

CHAIRPERSON: Are you saying you require flighting for purposes of what you have just explained?

ADV HASSIM SC: No, Chair, it was just a preliminary point to explain why we go here at all, that it is not simply for the

purpose of showing that Mr Carrim was in fact in Durbanville on the 14th of July.

CHAIRPERSON: Yes.

ADV HASSIM SC: It is not merely for that fact.

CHAIRPERSON: Yes, yes.

ADV HASSIM SC: It is more than that. But I can continue to make my submissions to the second point that I am raising about day-to-day functioning without flighting the footage.

CHAIRPERSON: That is ...[intervenes].

ADV HASSIM SC: And I will make that ...[intervenes].

CHAIRPERSON: Yes, that is exactly how I understand it. I do not see what stands in your way to make those submissions without flighting.

ADV HASSIM SC: Yes.

CHAIRPERSON: I simply do not understand but as you say, you have just said now you are able to make those submissions, so ...[intervenes].

ADV HASSIM SC: I am perfectly ...[intervenes].

CHAIRPERSON: Yes.

ADV HASSIM SC: I do not need to rely on the footage ...[intervenes].

CHAIRPERSON: Ja.

ADV HASSIM SC: In order to make those submissions.

CHAIRPERSON: Ja, because there is the admission by Mr

Carrim through the deponent, his wife, that he was indeed in Durbanville and at this particular shopping centre, that he went to Woolworths and this other place, I cannot pronounce that name starting with a K with many vowels in it.

ADV HASSIM SC: Kauai. So I am going to talk about that evidence but I do not need to flight the actual CCTV footage.

CHAIRPERSON: Thank you, so that takes care of Mr Premhid', one of Mr Premhid's two points.

ADV HASSIM SC: Yes. I think both, because we also have no objection to the redactions.

CHAIRPERSON: All right, thank you, thank you. There was, what was the third thing?

ADV BALOYI SC: Geolocations.

CHAIRPERSON: Oh ja, there was the issue about the geolocations.

ADV HASSIM SC: Oh, yes. I think in the context of the sensitivity of what we are dealing with and perhaps, Chair, I should just refer to the ruling that you made yesterday because that is the constraints that are governing my ability to make submissions to you candidly. So the ruling, Chair, would you indulge me reading out paragraph 2.

CHAIRPERSON: Please.

ADV HASSIM SC: Because then it might help the public

also understand why we are talking in this coded way.

CHAIRPERSON: Yes.

ADV HASSIM SC: So paragraph 2.1 says:

> "The legal representatives of Mr Carrim and the Evidence Leaders may not, during the hearing of the postponement application, mention Mr Carrim's medical condition, the nature of the treatment he is receiving, the identity and nature of practice the health professionals attending to Mr Carrim in respect of the medical condition and the medical facility where he is admitted."

2.2:

> "Publication or dissemination in any format of the information referred to in paragraph 2.1 is prohibited."

2.3:

> "The legal representatives of Mr Carrim and the Evidence Leaders may not, during the hearing of the postponement application, mention the names and residential and business addresses of Mr Carrim's family members."

That is the relevant part of the ruling. So, Chair, I

am not going to flight the geolocation spreadsheets. They are in our papers. Everyone on Mr Carrim's legal team side has seen it. The Commissioners have it. I do not think it is necessary to do that. I think if we were to do that we would run into trouble. It is not possible to redact every single entry and some entries are relevant to where perhaps Mr Carrim's family members are, so we will not flight that either.

So Chair, and then consistent with this ruling, what I propose to do is, and I am going to try to stick to a script a little bit because when we are in open debate then mistakes happen. With your approval I intend to refer to the two doctors as Dr Initial and Dr Initial to distinguish between the two. Would that be acceptable to the Chair?

CHAIRPERSON: Why not use the first doctor and second doctor?

ADV HASSIM SC: Okay. Okay. Or ...[intervenes].

CHAIRPERSON: And you can simply say for example the first doctor being the one with the substantial reports that we have in front of us and I am not even sure who the second doctor is.

ADV HASSIM SC: Could I say our doctor, our expert and their doctor?

CHAIRPERSON: Good.

ADV HASSIM SC: Something in that – okay.

CHAIRPERSON: Thank you.

ADV HASSIM SC: All right, so I will proceed in that fashion then. I think the next point and it was the first point that was raised, substantive point that was raised by my learned friend was that somehow we are not really opposing, the Evidence Leaders, the postponement application but, and that we have conceded something. I am not sure how that arises. Our, the heart of our opposition as Evidence Leaders is that the Commission should not grant a postponement without requiring an independent medical examination.

That is the heart of the opposition by the Evidence Leaders to a postponement and the reason for that is because we have had a history of postponements where the length of time that we are told that Mr Carrim will be incapacitated has varied and grown each time. So in the beginning it was a few weeks, then it was 8 to 12 weeks, then it was 6 months in the latest round of affidavits.

So it is very important to the Evidence Leaders that we have a fixed date for the postponement, number one. And number two, that that postponement is conditioned on an independent medical examination.

I would remind the Commissioners that this is the fifth postponement that Mr Carrim seeks and we have set out the history of the delay at paragraphs 7 to 24 of our

written submissions. I am just going to turn to those submissions. I do not need to go through the details. All I will point out is that what one sees when one looks through the history of that correspondence and the postponements and the delays is that Mr Carrim's attorneys seem to believe that a postponement is available for the asking.

One example of that is at page 67 of the correspondence bundle, if we could just look at page 67 of the correspondence bundle. And if you look at paragraph 9, this is a letter that was dated 13 May 2026 from Mr Carrim's attorneys. If you look at paragraph 9 it was again an attempt to get a postponement of the next hearing and all we are told in paragraph 9 is we confirm that there is now, that we now received the further medical report.

This report is highly personal, suffice to state that our client has been laid off for at least 8 to 12 weeks, and that was all. No medical certificate or report or note or anything accompanied this. It required requests from the attorneys for the Commission to obtain the necessary medical report to underpin the postponement request that was made. So that is the history that we are dealing with here which is why the Evidence Leaders feel so strongly that getting finality and a specific date is so critical.

We then come to the latest, I would rather go to the most recent history on the postponements. The last

postponement was to 15 July. Up until that point all of the postponements were granted, were permitted on the understanding by the Commission and the Evidence Leaders that Mr Carrim was hospitalized and that his movement was restricted. That is what we were led to believe. It was only when there were the two whistleblower reports on the 14th of July that the issue of Mr Carrim's movements were put into question.

The Evidence Leaders then obtained the CCTV footage to corroborate what we would been told by the whistleblowers. Mr Carrim was then afforded the opportunity to bring a substantive application for the postponement and in that application an opportunity was provided to address the latest information regarding Mr Carrim's movements around the Cape and this is addressed in two affidavits. The one, as we have already been talking about, is by his second wife and the second affidavit is by his doctor.

What we were told in those affidavits is important. Their accounts, and I am not going to go into the detail, it is summarized at paragraphs 39 to 44 of Ms Burger's answering affidavit. What we saw there was a particular picture that was painted by the two deponents and particularly by Mr Carrim's doctor. That picture was one of restrictions on Mr Carrim's movements and interactions. It

was, we were informed that any leave from the hospital would be authorized for specific purposes, that there were passes that were subject to strict conditions, including searches, et cetera, including on the return of the 14 July excursion, which was said to have been a four hour chaperoned excursion that took place between 1:30 in the afternoon and 5 p.m. in the afternoon. That was the account that was provided by their doctor. It was supported by Mr Carrim's wife.

Now it is important, Commissioners, to go to those affidavits. So let us look first at what Mr Carrim's wife says and that is at paragraph 60 of the founding affidavit. If I could ask the Commissioners to read paragraph 60 and its sub-paragraphs where the 14 July incident is explained. I would like to place emphasis on 60.2 where it says we departed the facility at 1:30; then 60.3, and the description of the Kauai engagement; 60.4 and 60.6 specifically where it says we returned to the facility by approximately 5, and then there was a consultation, but they both, I have emphasized the word we in 60.6, attended.

In paragraph 73 of the same affidavit the deponent summarizes all travel since 13 April 2026 and I draw your attention to paragraph 74 where the deponent says:

> "My husband undertook no other travel during this period and did not travel to

Mahikeng or any other location in the North West."

There is a second affidavit which I am going to come to in which this is, a different picture is painted and what the deponent says later is that that trip to the North West took place during the week when Mr Carrim is with his first wife and so, says the deponent, she did not know about the trip and that is why she did not say anything about it.

What my submission on that is, is that that is implausible when we have regard to her own evidence that she communicates regularly with the first wife and we will see that at paragraph 15 of this affidavit, of the founding affidavit.

CHAIRPERSON: But what about the fact that she says this was the first wife's week and that she might have missed this visit to Mafikeng or Mahikeng, because of that fact?

ADV HASSIM SC: Yes, I am saying it is not plausible because they communicate regularly. She explains in paragraph 15 that they communicate, she and the first wife, including about ...[intervenes].

CHAIRPERSON: Does that mean every and anything ...[intervenes].

ADV HASSIM SC: No.

CHAIRPERSON: Of necessity?

ADV HASSIM SC: No, Chair. So let me then go to

paragraph 15. It is because what they communicate about is Mr Carrim's well-being ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV HASSIM SC: And his health.

CHAIRPERSON: Yes.

ADV HASSIM SC: And updates on ...[intervenes].

CHAIRPERSON: Ja, but as I understand it, Mr, it was Mr Carrim who wanted to go there to see ...[intervenes].

ADV HASSIM SC: Yes.

CHAIRPERSON: Was it his daughter? I think to see ...[intervenes].

ADV HASSIM SC: Yes. No, no, I ...[intervenes].

CHAIRPERSON: [Indistinct]... [cross-talking] his daughter.

ADV HASSIM SC: Yes.

CHAIRPERSON: Now, so it was not as if I am, I will be with our husband in Mahikeng but I am concerned about his health because the travel might do this and that to him in which event the first wife might have had to tell the second wife now this is just a visit to the daughter which was quite important to Mr Carrim, because as I understood it he had not seen her for ...[intervenes].

ADV HASSIM SC: Chair, we do not even need to get into that. We do not take issue with his wanting to visit. What ...[intervenes].

CHAIRPERSON: My point is, my point is with nothing that

has been suggested about his health and him going there, I do not see why it would have been necessary for the first wife to tell the second wife about the Mafikeng, the Mahikeng visit.

ADV HASSIM SC: For this reason, Chair, because there was a medical incident.

CHAIRPERSON: Sorry?

ADV HASSIM SC: There was a medical incident.

CHAIRPERSON: Oh, by the way, which resulted in ...[intervenes].

ADV HASSIM SC: In the second wife ...[intervenes].

CHAIRPERSON: In his ...[intervenes].

ADV HASSIM SC: Accompanying ...[intervenes].

ADV BALOYI SC: In his return. In his return.

ADV HASSIM SC: Correct.

ADV BALOYI SC: Okay.

ADV HASSIM SC: Correct.

CHAIRPERSON: Now I get it. I have forgotten about the sudden need for him to return, ja.

ADV HASSIM SC: That is right. And it was the deponent who took Mr Carrim to the doctor and accompanied him and was with him during the consultation and so that is why I say ...[intervenes].

CHAIRPERSON: So your point is it is unlikely that the second wife would have forgotten about this incident.

ADV HASSIM SC: It was specific, specific ...[intervenes].

CHAIRPERSON: Yes.

ADV HASSIM SC: I will tell you why.

CHAIRPERSON: Yes.

ADV HASSIM SC: Because it was not a broad question, tell us about the movements. It was, a specific question was asked about movements to the North West because that was something that became contentious.

CHAIRPERSON: No, I get the point.

ADV HASSIM SC: Then we have the doctor's version on the 14th of July in his first affidavit and we will find that at paragraph 45, and I think it is page 43.

ADV KHUMALO SC: Page 43.

ADV HASSIM SC: 43, thank you. So in paragraph 45 is where the description of the 14th of July incident is and what is important here is the confirmation that it was 4 hours, that it was for the purpose of purchasing toiletries, over the counter flu medication. In 46 the doctor says in terms the facility's records reflect that he departed at approximately 1:30 and returned at approximately 5.

He goes on to say he does not know anything further about the precise movements during the 4 hour period for which it was authorized. And then he says but in any event, these kind of excursions are not unusual. I would also like to take the Commission to paragraph 39 of

the affidavit of the doctor because, and that is at page 41, here too the doctor says:

> "I deal next with the facility's leave regime because I understand that an impression may exist that the facility is a place a patient may enter and leave at will. That impression would be false."

And then he explains there is only one or two ways that a person could leave, on the pass of the treating doctor or, the only other way is if the person discharges himself. What happened next was that the Evidence Leaders obtained geolocation data. That is the data of Mr Carrim's cellphone that tracks the movements of the phone.

We know from the first, we know from the first deponent that Mr Carrim keeps his phone with him. We presented that information to Mr Carrim's legal representatives on the 17th of July. That then prompted two further affidavits.

So if I can just go to the first. It is the supporting founding affidavit, sorry, it is not supporting, it is a supplementary founding. What we see now, it is page 58.

CHAIRPERSON: That is where it starts. You want to take us to which ...[intervenes].

ADV HASSIM SC: To the paragraph, I will do that, Chair.

CHAIRPERSON: Oh, all right.

ADV HASSIM SC: I am just trying to find my own reference. Right, got it. It starts at paragraph 27, page 67, and that is where the account is amended. It is confirmed in paragraph 27 that Mr Carrim was at a shopping centre, that he was at Woolworths, that he was at, she says he then purchased a meal from Kauai, finished his meal at Kauai and thereafter obtained flu medication. He was supervised throughout by his security detail.

CHAIRPERSON: And an important contrast here is that he did not buy a takeaway and go and eat in his car. He actually sat down, had a meal in Kauai, or whatever it is called.

ADV HASSIM SC: Yes. Yes, at Kauai. He ...[intervenes].

CHAIRPERSON: The owners will not be happy with me.

ADV HASSIM SC: I think they will be very happy with the free advertisement that they are getting. But, so, Chair, their discrepancies are, that is the one. The second is that if you look at page 68, paragraph 28.3, I am not going to, I cannot read it out.

CHAIRPERSON: But is the second point you want to make, the fact that this pass was not for, was it four hours, the shorter period mentioned, it was not for that but ...[intervenes].

ADV HASSIM SC: A much longer period of time.

CHAIRPERSON: Ja. Basically the, I may be exaggerating

if I say close to the entire day.

ADV HASSIM SC: It was ...[intervenes].

CHAIRPERSON: 8 Hours or up to 8 ...[intervenes].

ADV HASSIM SC: It was almost 12 hours.

CHAIRPERSON: 12.

ADV HASSIM SC: So, it is confirmed by this deponent who says when he arrived at where she in the morning ...[intervenes].

CHAIRPERSON: Yes, I am doing that, that is going straight to the number of hours to avoid reading.

ADV HASSIM SC: Okay.

CHAIRPERSON: But I am not even sure that is what you wanted to read/

ADV HASSIM SC: No, that is the second point ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV HASSIM SC: Which is the discrepancy of the time

CHAIRPERSON: The hours were much, much longer.

ADV HASSIM SC: Yes ...[intervenes].

CHAIRPERSON: More than ...[intervenes].

ADV HASSIM SC: So it is two, the time of departure and then the time of return ...[intervenes].

CHAIRPERSON: Yes.

ADV HASSIM SC: Which was about ...[intervenes].

ADV KHUMALO SC: And the fact that they did not depart

together, which is what was in the first affidavit.

ADV HASSIM SC: In the first one was the "we" that I had emphasized. They did not depart together. And the second thing is that they did not consult together either with the doctor upon return. And then the final thing is that consultation took place much later at night than just after 5 o'clock. The deponent also corrects the facts on the travel on the 9th and 10th June to the North West and what, yes those really are the main things that I wanted to make clear from the first deponent's affidavit.

The final thing I will say is that she does also confirm, and that is at paragraph 20 of her affidavit, and this is important given the replying affidavit that came later last night. Paragraph 20, yes page 65, where the deponent confirms in the middle of the paragraph:

> "I am unable to identify every such occasion and that is travel and leave excursions from the facility, subject to that qualification."

She says:

> "I accept that the geolocation data generally reflects my husband's movements. I do not dispute the accuracy of the data or seek to explain it away."

We have explained in the answering affidavit the analysis of the maps and the geolocation data and what they show and what they show is that almost every single day Mr Carrim leaves the facility and that on most days he is out of the facility for at least eight hours, sometimes longer. So, the, which is what my learned friend was objecting to the inpatient reference that was made in the answering affidavit was that he spends more time outside of the facility than he does inside the facility is really the point of that.

So what we get now is a materially different picture from what we first had and when I say what we first had, I am saying let us, I am not going to do it now but if you go way back into history from April the picture keeps fluctuating and it fluctuates recently when Mr Carrim's, when the deponents are provided with objective information from the Commission that changes the version that they initially gave. So that information is not information that is in our knowledge. That is within their knowledge.

CHAIRPERSON: Please continue.

ADV HASSIM SC: So what the crux of the point here is, Chair, is that these shifting accounts in the affidavit are important, because they show that each time that the deponents are presented with, confronted with objective evidence concerning Mr Carrim's movements, the

explanation changes. Second, and this is important because of the ruling that we seek from the Commission, it underscores why an independent medical opinion is now imperative and without impugning their doctor's integrity or professionalism it is apparent that he has not been placed in full possession of the facts concerning Mr Carrim's comings and goings from the facility.

So his own medical assessment and the report that was furnished to the Commission appears to have been based on a flawed factual foundation. So, that is another reason we say that the independent medical opinion is required.

CHAIRPERSON: The doctor, you have referred us to 40 and 41 where the doctor states that a patient may only leave, and underline only, in one of two ways which is a pass by the doctor and also if a patient wants to discharge themselves. But in the later, should I call it supplementary affidavit.

ADV HASSIM SC: Yes.

CHAIRPERSON: In that one the doctor now makes a suggestion that other people may, I hope I understood it correctly, other people may, I do not know whether actually issue passes or allow a patient to go out, but other people now are involved, whereas in 40 he said only one of two, only one of two ways, a pass by the doctor or.

ADV HASSIM SC: So now what the doctor says, and it is at paragraph 16 specifically, is that if he is not available then the nurses will authorise.

CHAIRPERSON: That is the point I am making, thank you. Yes.

ADV HASSIM SC: So, which is a very fundamental change from the first affidavit. You do not need to have been presented with this data that we provided him with of the geolocation of the phone and the movements that we obtained independently in order to make an accurate statement from the get-go about how movements take place in the facility.

CHAIRPERSON: It is quite telling that you have these movements in the allegations on Mr Carrim's side, not by one person only. The second wife also moves or changes her allegations once confronted by facts that contradict what she says and unfortunately, this is happening with the doctor as well. A patient may lawfully leave the facility in only one of two ways.

But later, once we have the geolocation and the times when Mr Carrim would be out of the facility and suggestions of much, much longer times than what we were made, or given to understand, the doctor as well, just like the first wife, moves and changes and now tells us about the possibility of nurses also issuing passes.

ADV HASSIM SC: So we did not ask for the specific question of passes to be addressed in the founding affidavit. That was done of the doctor's own volition. So if the doctor is providing an account of how the system works, why was that not part of the account in the first place? Why did it come up only when presented with different evidence?

The second thing is that, and that is why I read it out earlier and he said so in terms that the facility records will show entry and exit. That changes in the second affidavit, and you will find that at paragraph 18 of the supplementary affidavit.

CHAIRPERSON: That is at page?

ADV HASSIM SC: Page 84, I am told. So just paragraph 16 on that page is the nurses, and then paragraph 18 is where the doctor explains that in fact what he said was not correct because the facility protocol is not followed, that in fact the practice of keeping records is that it is just not honoured, that there are not any records.

The doctor also tells us that he himself does not keep records. He does not keep his own notes of when he issues or authorizes pass-outs. But he only tells us that in the second affidavit. Sorry, bear with me here please. I am trying not to make a mistake again so I am going a little more slowly.

So what, the most charitable interpretation of the

doctor, he is relying on what Mr Carrim tells him about his movements. He now knows that he is not being told the truth about the movements. But those, all those facts were the facts that he based his information on when he gave us these reports. Those reports do not hold true anymore. So my learned friends ...[intervenes].

CHAIRPERSON: Although the charitable interpretation would not apply to the categorical statement the doctor makes, which is people go out only, and he specifies in the circumstances under ...[intervenes].

ADV HASSIM SC: In the two.

CHAIRPERSON: Yes, yes, yes.

ADV HASSIM SC: Yes.

CHAIRPERSON: So, ja, your charitable interpretation cannot apply.

ADV HASSIM SC: Maybe I am being too charitable. But the point ...[intervenes].

CHAIRPERSON: I am not suggesting you should not be, but I am just saying it cannot apply to that categorical statement.

ADV HASSIM SC: No, no, it cannot, nor to the, I will leave it there. I agree with the Chair on that. My submissions are more to what it means then for the opinion that he expresses in which he says to the Commission this is the difficulty with, and again, what I wished to say at the outset

was that the point of it is not to challenge the diagnosis. It is to say, is what we are concerned about is functionality, what is Mr Carrim's ability to engage with questions and information and evidence that may need to be provided to the Commission? That is what we are concerned about. We are not concerned with dislodging anything else, although it may become necessary, and I am not going to pre-empt the independent medical assessment that will come. That will give us a better picture, of course.

So we cannot rely on that. So to say that this report by the doctor is definitive, falls on that basis. But the argument that the doctor's report is definitive is also extraordinary for another reason, because it itself is a breach of the professional guidelines that are referred to by our doctor in his affidavit and that, and I am going to ...[intervenes].

CHAIRPERSON: I assume you will obviously address the issue raised by Mr Premhid that that applies in the context of forensic what?

ADV PREMHID: [Indistinct]...

CHAIRPERSON: Ja, which Mr Premhid submits. That is not the instance here.

ADV HASSIM SC: In fact, it is the exact opposite. It is exactly the circumstance here. I am coming to that doctor's report, but it is precisely, those guidelines were prepared

for precisely the scenario that we are facing today. So I will come to that. For now, what I wish to say ...[intervenes].

CHAIRPERSON: I must say I did not quite understand why this is not forensic, and which is why I put the question to Mr Premhid, but we will hear you when you get there.

ADV HASSIM SC: Thanks, Chair. What my learned friend argues is we must accept the opinion of their doctor. That opinion, as we will see when we get to our expert's report, is provided in breach of those guidelines, those professional guidelines, which say that a treating doctor should not be the person to provide an independent assessment, and of this, this is the critical thing, of the individual's, the patient's, capacity, which the Commission is expected to consider, right, the objective determination of the capacity.

So we are not talking about diagnosis, but it is about objective assessment of that person's capacity to participate in these proceedings. The guidelines say that it should not be provided by the treating doctor because the treating doctor is inherently subjective and an advocate for the patient and, and I will come to it because he says more things, and I would rather refer directly to what our expert says.

But so that is the thing. This is the first thing, right. But we must accept it, says my learned friend. And

then what they say is, and again, with the support of their doctor, they say that then the witness must be insulated from any examination by an independent specialist. And no one is able to then assess whether that conflicted, what we say is a conflicted determination of capacity by the treating doctor is in fact reliable, because we have gone through the passages, I am not going to go back there, the paragraph 73 and, 73 of their doctor's affidavit saying that there should not be an independent examination.

I do not know yet where we stand on. I know there was a discussion about interposition of another physician, et cetera. That is not what we are proposing in any event. We are proposing something that is entirely, squarely within the professional guidelines. So they say, and they have been saying to us, and, Chair, let me just say in response to the question you posed to my learned friend about, sorry ...[intervenes].

CHAIRPERSON: I wanted to, do not forget the point you wanted to address now, but I wanted to say, is it not semantics to say the IM, is it E?

ADV HASSIM SC: Yes.

CHAIRPERSON: That the IME issue differs from interposing a different doctor. I do not quite see the difference you appear to be seeking to draw, because you would still be bringing in a doctor that is not the treating

doctor.

ADV HASSIM SC: That is right.

CHAIRPERSON: So why you would say that is not interposing another doctor, I do not quite, ja, it is not a serious issue really. It is ...[intervenes].

ADV HASSIM SC: Maybe not, but it is important because we want to address the concerns that have been raised.

CHAIRPERSON: Yes, yes, okay.

ADV HASSIM SC: And it has been addressed by our expert, who explains that that doctor does not take over the treatment of the individual.

CHAIRPERSON: The suggestion about interposing is not about this doctor that is being interposed, taking over. It is not about that. It is just for purposes of also doing an assessment.

ADV HASSIM SC: Yes.

CHAIRPERSON: With a view to either confirming or not confirming what the treating doctor has said. So I am not quite sure that I get, I still do not get the difference you are seeking.

ADV HASSIM SC: Okay, I, that was my understanding of the difference, but if the interposition goes to what the Chair is now saying to me, which would include that, well then I ...[intervenes].

CHAIRPERSON: That is all I meant when I used the word

interpose. That is all I meant.

ADV HASSIM SC: Well, what the guidelines say is that it is not only permissible, it is required that there is an interposition then, in the sense that there is an independent assessment that is testing for a particular outcome, and that is why it is forensic. So ...[intervenes].

CHAIRPERSON: Back to your point then, the point you wanted to make. I hope you have not forgotten it.

ADV HASSIM SC: Well, Chair, yes. Chair, you posed a question to my learned friend about the lack of a response to the Evidence Leader's request for an independent examination, and we have set it out in the answering affidavit. There was a correspondence from, I think, May, if not earlier, in which that was requested.

CHAIRPERSON: And do not forget that that correspondence was preceded by an undertaking by Mr Carrim sitting in that witness box. So there is that and then the correspondence.

ADV HASSIM SC: And then the correspondence, which went unanswered on that point. We did get answers to other parts of our correspondence, but not to this. It is in our answering affidavit, this history is set out. Until we pressed and pressed for an answer on whether they would agree to an independent medical examination. It culminated in the hearing that took place, I think, on the

25th of June, which was the debate that you were having with Mr Premhid about what exactly was said in that hearing. And I think on that score, I would rather just go back to the transcript and have a look at it.

Our understanding was that there was an objection to an independent medical assessment and it was quite plain in our understanding. But we can go back to the transcript and have a look at that. So ...[intervenes].

CHAIRPERSON: May I request both Counsel to furnish us, say, not later than the end of day tomorrow with the relevant part of the transcript?

ADV HASSIM SC: Certainly, Chair.

CHAIRPERSON: Thank you.

ADV HASSIM SC: So what we are told is, accept our guy, accept what, his say so, no, you cannot have an independent assessment. And then it gets even more absurd, because the next claim is that no one is, because no one is able to assess, the treating doctor's determination is unanswered, as we heard. Well, it is unanswered, it is unchallenged and so it must be accepted. So it is a circular reasoning in which ...[intervenes].

CHAIRPERSON: It is exactly for that reason that I said it cannot lie in Mr Carrim's mouth to say this is unanswered.

ADV HASSIM SC: Yes.

CHAIRPERSON: Not in the face of what I understand to

have gone on, but as I said, I accept that my recollection may be inaccurate.

ADV HASSIM SC: Well, let me say this, I have not heard, and we know because we, apparently there was a need for an instruction, so there was never a response to that in the, at least from my learned friend's perspective, there was never a positive response to this, which is yes or no. So why not? That is the question.

After so many requests, the stonewalling is no independent medical assessment and then it is triumphantly, ah, but you see, our doctor is unchallenged, and therefore you have to, and you, the Commission, must be now bound by that doctor's assessment.

So I think what I should now do, and I would say this, that if their doctor had given a response to our doctor's affidavit, we might have also, perhaps this would have been a shortcut through this, but there is no response. Our expert is unchallenged, in fact, and I would like to go to our expert's report. Page 125 is where the report itself ...[intervenes].

CHAIRPERSON: Please be careful what you read.

ADV HASSIM SC: So I am going to go very slowly and I think what I will do is just refer the Commissioners and my learned friend to paragraphs of the report and try to deal with it in that way. But what I want to begin with saying is

that this expert has attached his CV. He is the former Chair of the professional association that regulates the very field in which their doctor practices. He is extremely experienced, and he is the co-author of the guidelines that he refers to in this report. I would like to go to page 126, paragraph 5.

ADV BALOYI SC: Maybe before you do that, if you could just refer to, without necessarily reading it, paragraph 3, because it sets out the purpose of this report and I think it is important on the back of Mr Premhid saying that this expert has not counted.

ADV HASSIM SC: Well, yes. No, so this expert was not asked to do an assessment on paper of Mr Carrim, nor could he have been able to do so because all that he was provided with was their doctor's affidavit. And their doctor, which is something that I should actually point out, because it does go to the reliability of that report, does not set out the details of things like the treatment protocol, et cetera. And I do not want to say too much more about that, but there is not that kind of detail in any event.

So it would not have even been possible for our expert to give a meaningful opinion based on that affidavit, which was not setting out the full details of the condition. So what he was asked to do instead was to comment on whether the objection, on whether it is clinically appropriate

not to have an independent medical examination. That is what he was asked to comment on, and specifically to comment on the objections that were made by their doctor about the interposition or whatever the interposition is defined as.

So there was no request for it, Commissioner Baloyi, and he would not have been able to do it even if he was requested because of the lack of information. And so what he does at paragraph 5 is consider the affidavit and the objections. And in paragraph 7, you will see that he respectfully disagrees.

CHAIRPERSON: I notice that your time is up.

ADV HASSIM SC: My goodness. Chair, I now have to claim equality of arms.

CHAIRPERSON: By, by, sorry, by how much did you overrun Mr Premhid?

ADV PREMHID: 51 minutes.

CHAIRPERSON: No, no, no, I am not talking, I remember right at the end, after Mr Premhid had said he was done, I am referring to that stage. Not when we then engaged him after he had said he was done. So the overrun relates to before that lengthy ...[intervenes].

ADV PREMHID: Yes, it was three minutes or something like that. The additional 50 minutes comes from the panel's engagement with me.

CHAIRPERSON: No, no, no, I am not even counting it.

ADV PREMHID: Agreed. So equality of arms is three minutes then, not 51.

CHAIRPERSON: Ms, how much longer do you want to be?

ADV HASSIM SC: Let me ...[intervenes].

CHAIRPERSON: In considering fairness to Mr Premhid, I may have to increase the 15 minutes reply. Time for reply.

ADV HASSIM SC: A very charitable approach, Chair.

CHAIRPERSON: But how much ...[intervenes].

ADV PREMHID: I am indebted.

ADV HASSIM SC: But I ...[intervenes].

CHAIRPERSON: How much do you ...[intervenes].

ADV HASSIM SC: What I will try to do is spend less time on the legal principles. They are set out very clearly, I think.

CHAIRPERSON: Take that as read. Take those as read.

ADV HASSIM SC: So may I have 10 minutes, Chair?

CHAIRPERSON: All right, 10 minutes then.

ADV HASSIM SC: And if I can do it in less time, I will. And one way to do it is to refer the Commissioners to the paragraphs, the relevant paragraphs of our expert's affidavit. Ja, the statement, it speaks for itself.

CHAIRPERSON: Yes.

ADV HASSIM SC: The disagreement is in two respects. One is that, disagrees that an independent opinion should

not be obtained. And secondly, disagrees that if there were to be an interposition, that there would be therapeutic harm. In fact, he says not to do so, to require the treating doctor to provide the opinion threatens that therapeutic relationship between the doctor and his patient. So, I am just going to say, paragraph 10.

CHAIRPERSON: At page 127?

ADV HASSIM SC: Page 127. If the Commissioners could just read paragraph 10. I cannot deal with it reliably. It would be too risky. But it explains why the independent medical examination has become part of the, necessary part of the guidelines because you need an objective view. In the context of ...[intervenes].

CHAIRPERSON: Okay, you have made a point that it deals with why. We will just focus our minds on that.

ADV HASSIM SC: Yes.

CHAIRPERSON: You do not need to go through it.

ADV HASSIM SC: And specifically, just one sentence. These challenges, I am not going to say the why of the challenges, but these challenges, if you read in the middle of the paragraph, may hamper the goal of insurers and the courts making sound decisions.

CHAIRPERSON: All right.

ADV HASSIM SC: And then I recommend paragraph 11 at page 128.

CHAIRPERSON: Okay, we see that.

ADV HASSIM SC: And paragraph 14. And then finally paragraph 19, the conclusion.

CHAIRPERSON: Got that.

ADV HASSIM SC: Then, Chair, what I would also commend to the Commission is the actual publication, which is attached to the report. I am not going to go there. It is a minefield. There are just bombs all over it and I do not want to make another mistake, but it is an important report. What I want to say about that report, it is published in a journal of the field, is that it is authored by several highly regarded experts in the field and it is ...[intervenes].

CHAIRPERSON: I saw reference to it saying, international, am I mistaken? Or am I thinking about, I did not see peer-reviewed. I saw ...[intervenes].

ADV HASSIM SC: I believe it is a peer-reviewed journal.

CHAIRPERSON: Okay.

ADV HASSIM SC: But I could be, I will stand to be corrected, and I can double-check whether it is, in fact. It is the journal of the profession. It is accredited, I saw that. I cannot remember if it said peer-reviewed.

CHAIRPERSON: In our field, in the legal field, it would never be accredited if it is not peer-reviewed.

ADV HASSIM SC: Indeed. Indeed so.

CHAIRPERSON: Ja.

ADV HASSIM SC: And the one other thing you might have seen is the reference, because part of the literature, this is not a purely South African approach, these guidelines. So this report, these guidelines that are published in the journal also rely on medical literature from other parts of the world and we referred to one. In fact, we pulled out an abstract of that article for the assistance of the Commission to show that this is not something that is unique to, it is not something that comes out of Mr Expert's head. I am stopping on that now.

CHAIRPERSON: [Indistinct]... [microphone off].

ADV HASSIM SC: Yes. All that remains then for me, all that remains then, this is the most harrowing submission that I have ever had to make given the constraints of the ruling and so I am going to now draw to a close very quickly because all that remains for me to say is that we have set out the authorities. The, you know, the closest analogue is the Qwelane judgment by the Constitutional Court. It is in our heads of argument. That judgment also cites very established principles on postponement, which, the requirements of postponement applications, which I have no doubt the Commissioners can recite in their sleep.

But importantly, what it says is that if there is a request for a second opinion, an independent medical opinion, that should be permitted. And the foreign

authorities support the same. And then, of course, Michael versus Linksfield and so on, that a commission and a tribunal and a court are not bound by an expert opinion. The foreign authorities are useful because they are in a similar field as to the condition with which we are dealing with here and it explains what the standard is for sufficiency of evidence and, importantly, independent expert evidence on the issue, and so I commend to the Commission those judgments, and I ...[intervenes].

ADV KHUMALO SC: [Indistinct]... to clarify your expert's report, because you referred to it in the Evidence Leader's affidavit, you say there is no reply to what you refer to.

ADV HASSIM SC: There is no reply to our expert.

ADV KHUMALO SC: Yes.

ADV HASSIM SC: That is correct. And, I mean, other than what we have heard from Mr Premhid, I mean, their doctor, their so-called, their expert has not challenged the affidavit. So, Chair, we request that a postponement on the never-never must be rejected. We request that the 14th of August be fixed as a date for Mr Carrim to appear and that in the intervening period that there is an appointment of an independent medical examiner who will provide a report and that might affect, then, the date of the 14th of August, but at least it will be on the basis of an independent expert. Thank you, Chair.

CHAIRPERSON: Thank you, Ms Hassim. Can we take a short, short adjournment? I will not indicate a time. We will indicate when we are ready. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIPRERSON: Mr Premhid, 20 minutes.

ADV PREMHID: Chair, very generous.

CHAIRPERSON: Thank you.

ADV PREMHID: Chair, can I start where Ms Hassim ended that there has apparently been no reply to the Commission's expert's report. You will find that reply at paragraph 16 of the replying affidavit, at pages 334 to 335, which I am not going to read for obvious reasons, except to please point your specific attention to what is said at paragraph 335, at, on page 335 at paragraph 17 and paragraph 18, because with all due respect, several inaccuracies have been raised about the quality of the affidavits and the reports presented by the treating doctor, and even though my learned friend says that they are not, the Commission is not impugning the treating doctor, in effect that is exactly what they are doing, both his *bona fides* and his clinical expertise, and in the affidavit that is filed in those paragraphs and pages I referred you to, and that it is confirmed by the doctor himself, that is the full answer.

In fact, what our doctor says in response to their

doctor, if I can use that phraseology, is that it actually confirms our doctor's position, which is if there is going to be any such interposition, that our doctor has to be involved in that process. And in fact, if we read their doctor's report, their doctor says exactly the same thing in terms. If I am not mistaken, at paginated page 129 and paginated page 130, this is of their doctor's report, he actually says the following:

> "The Commission should even advise the independent doctor that the treating doctor is the treating doctor, wishes to be engaged by the independent doctor ..."

And he goes on to say:

> "In my experience I have done something similar."

He goes on to say at page 130:

> "It is my opinion that the engagement between the independent doctor and the treating doctor should occur before the interview by the treating doctor, the independent doctor, so that the independent doctor understands the treatment plan ..."

Et cetera. So the point is, and why, and this, Chair, goes to that IME forensic distinction, is to say the

kind of exercise that the Commission's doctor is speaking to is a different exercise to be performed by an independent clinician. Our doctor has never pretended once to be performing an independent medical assessment inquiry. He is the treating doctor, and he is giving his clinical opinions, and this report does not dislodge that. All it says is that if there is going to be the subsequent process, this is how it must be, it must occur.

And whilst I am there, in response to this question about the instructions and why was it never responded to voluntarily or not voluntarily, when Chair and the Commissioners read the correspondence bundle, you will read the correspondence bundle at page 123, going on to page 124. And at page 123, all I will emphasize is that paragraph 10.1, which says:

> "Before our client takes a final position on the Commission's request for independent examination, the Evidence Leaders are required to identify a series of things."

And then over the page, it goes on to 10.2. I only highlight that because it is not as if it is accurate to say that there has been no response. Consistent, Chair, with the debate that we have had before, can it be voluntary, can it be compulsory, do you have a power to even order a

voluntary one, those are what those questions are directed to, and with all due respect to the Commission and the Evidence Leaders, there has not been a response to that.

So never mind what I put on the record earlier regarding the medical incident of my client when an instruction was to be taken, it is actually the Evidence Leaders who have not responded materially to those questions, which my client expressly says through his attorneys will allow us to take a final position on this question of the medical examination, because of course, Chair, if there are insufficient answers to those questions, particularly the question at 10.2 in bold, which is on page 124, statutory authority, it does not matter whether it is voluntary or compelled, if you do not have the power, you do not have the power. That is an *ultra vires* question, Admin Law 101.

So on the question of whether there is this medical exam or not, that is the fullness of the answer.

CHAIRPERSON: That is exactly the level at which you and I engaged the vires question.

ADV PREMHID: Correct.

CHAIRPERSON: Is there power.

ADV PREMHID: Correct.

CHAIRPERSON: And in a sense, once that issue is raised, you have no power. That would supersede or not the

conditionalities at page 123.

ADV PREMHID: Correct, it would, and, but the point that I would make in that regard is that if the Commission believes it has the power, then it must exercise its power and do so. But we cannot be caught in an endless loop where the question is asked, where is your power? There is no direct answer and then you get accused of not answering the question or giving a position where knowing the source of the power is a fundamental issue that requires clarification.

And obviously, if my client, if the Commission decides it has the power and makes such a directive, and there is a challenge to be raised to that power and the exercise of the power, then the challenge will be raised.

But it is all this indirect inferential reasoning rather than directly dealing with the issues that I am raising here in the context of what I have just flagged with you, Chair. That takes care of a few of my submissions. Let me move on to the next few.

What my learned friend said at the beginning of her address is that it is an extraordinary claim that we have made that our client is unable to give the information that was sought as far back as March. Now, I am not going to argue the point. I am just going to direct your attention to medical opinion, which has not been contradicted. The first

of that medical opinion you will find at page 37 of the record, paragraph 26, and I would emphasize that when you read, look at what it says at lines 2, 3, and 4, starting with "it materially" and ending with the words "identified triggers". That is medical clinical opinion as to what or why the information cannot be given.

ADV KHUMALO SC: Mr Premhid, this doctor only saw your client from when, because the period from March until 13 April, he cannot express an opinion on that. He simply does not know what the position was. He was not there.

ADV PREMHID: I will respond to you in one second, Commissioner Khumalo, if I may. Commissioner Khumalo, I have asked Ms Matlengwane to find a particular reference for me that answers your question, because my understanding of the doctor's position is that the phenomenon the doctor observed, diagnosed, and treated after he came on board as the treating doctor suggests that actually the condition could have arisen and materially impacted Mr Carrim even prior to when it was diagnosed and treated thereafter. So I accept your problem.

ADV KHUMALO SC: Ja, but that is speculation.

ADV PREMHID: Well, it is, and with all due respect, I am not sure if you can say that having regard to what the doctor has himself said, but be that as it may, if it is speculation or if it is not speculation, that can be tested.

And the point of the matter is the doctor's view is that what I have observed from the incident when I came on board onwards suggests to me a long-term medical issue which may have impacted things before. I cannot take it further than that.

So I gave you the first reference to page 37, paragraph 26. The other reference I will give you is on page 96 at paragraph 51, and I would ask you to start reading from about midway in that paragraph, in the eighth line, when, it starts with the word "when". And I would ask you to read after that next sentence in the ninth line that starts "in a state of blank", and then it goes on to speak what a consequence of his giving information in those situations might result insofar as accuracy, reliability, recall, or anything else is concerned.

CHAIRPERSON: At what line do you stop, below when, below the line starting when?

ADV PREMHID: No, no, I ...[intervenes].

CHAIRPERSON: [Indistinct]... [cross-talking] stop.

ADV PREMHID: I am saying the entire paragraph, but I was emphasizing those particular portions.

CHAIRPERSON: Oh, okay.

ADV PREMHID: The one starting "when" ...[intervenes].

CHAIRPERSON: Okay.

ADV PREMHID: The one starting "in a state of blank".

CHAIRPERSON: Okay.

ADV PREMHID: And then the next one that starts with "any information". The last reference, or second-last reference I will give you is at paginated pages 48 and 49. I think we have been here already. We have gone through these paragraphs. I will just give you the places where I would like your attention, please. Just look at what is said in paragraph 65 at the end of paginated page 48 that starts with, "I had raised this concern", and what he says at the end of that page, "interaction", words, words, words, until the full stop.

And then I would say, when you are looking at page 49 at the top, still paragraph 65, look at what is in the third-last line that starts with "rather", and what the conclusion is regarding any information that may have been given, or may have been procured. Whilst you are at page 48, 49, please also look at paragraph 63, and then what follows.

Commissioner Khumalo, I say expressly, I do not think that answers the challenge in the way that you put it to me, but I have asked Ms Matlengwane to find that reference. The pressure is on her now.

ADV KHUMALO SC: From May, from 4 May I get it.

ADV PREMHID: Yes.

ADV KHUMALO SC: But from March, April.

ADV PREMHID: I know, I know. But what he does not say

importantly is that the phenomenon only started on 4 May onwards, because it is an ongoing phenomenon that he is treating. But I take the point, and that is the response to you. You have already heard me on, are we impugning the doctor, or are we not impugning the doctor. Can I, may I just say this. This doctor has made himself available to the Commission in numerous instances, and the peculiarity of what we are dealing with here is if you took one step back from listening to my learned friend's submissions and my submissions about whose expert and whose expert is correct, or whose one's medical opinion is of greater validity, you would almost be in a situation where we were in a trial where you were cross-examining two experts and running two experts' evidence against each other, as in expert against expert, not even expert against expert in respect of Mr Carrim himself.

The only reason I point to that is that if that is the Commission's real concern, then the elephant in the room is they think that the doctor is a liar, and they have the weaponry available to them to test whether he is a liar. And all these inaccuracies, whether they are of a material kind or not a material kind, I see Chairs getting ready, maybe I should stop.

CHAIRPERSON: Please, you overdo this thing of reading what a person does. I mean, should I not lean over, should

I not place my hand on my file? Please, please, Mr Premhid.

ADV PREMHID: Oh, sorry, Chair, I thought you were going to engage me on what I was saying. That is why I pre-emptively stopped. It is the, I also have the other problem when the Judge is trying to intervene and I do not then ...[indistinct] so ...[intervenes].

CHAIRPERSON: I remember at the Constitutional Court you reacted to two of my facial expressions.

ADV PREMHID: Yes, indeed. But I do not mind that because you found for me on that occasion, so that is fine, Chair. Unlike what happened in the interdict yesterday, but that is besides the point. Chair, what I am saying is that if this doctor is so unreliable or his evidence is so open to doubt and to question, why on earth would this doctor under oath volunteer himself to come and give evidence and be cross-examined under oath?

The approach of the Commission, with all due respect, has not been to take a benign or neutral position towards Mr Carrim, the deponents of Mr Carrim's affidavits, and even the treating doctor. It is been that, and I am speaking in forceful language, but I preface what I am about to say with the fact that my learned friend did not put it in these terms, but this is the conclusion, and we must call it out for what it is.

In their view, the Evidence Leader's view, Mr Carrim is avoiding accountability at all costs. He is using the deponents of the affidavits and treating clinicians to aid him in order to do so, and that is why they want to unpick, with all due respect, the most direct medical evidence in front of the Commission in order to go after Mr Carrim.

But the one thing they have not done is they have not called the doctor to be cross-examined by them, and he has volunteered himself to do so. So that is why this weird world in which we exist, with all due respect, is a difficult one for Mr Carrim's legal team to have to engage in, because even when the doctor volunteers himself, instead of bringing a rebuttal witness to directly deal with his clinical views, which is a possibility they could have done, or by calling him through a subpoena to come give evidence *in-camera* and be cross-examined, they want to put up all kinds of geolocation data and CCTV footage to impugn the doctor's medical views through the back door where there is no clinical basis to do so.

ADV BALOYI SC: No. No, Mr Premhid, I think it is grossly unfair that you would formulate the position of the Evidence Leaders to be to impugn the medical opinion. They are laypeople. They are laypeople. They could never pretend to do that, and I have not understood them to be doing that. That is different to speaking to the facts alleged by the

doctor when the doctor says the hospital protocol is that you can only leave in two circumstances. That is not a medical view that he has expressed. He is alleging a fact, and it is relevant information to be brought to the attention of the Commissioners through the Evidence Leaders.

And the geolocation material, as Ms Hassim says, what has always been the impression is that Mr Carrim is in hospital. He is confined to a hospital, right? And once there was information that in fact he does not spend all his hours in a hospital, that is relevant information to be brought to the Commission.

So you have absolutely no basis to criticize the Evidence Leader's position as being to impugn the medical opinions of the, the medical conclusions and opinion of the doctor. I would be shocked if that is what they were doing.

ADV PREMHID: Me too, with all due respect.

ADV BALOYI SC: My first question would have, and that is not what is in the papers. My first question to Ms Hassim would have been, on what basis? In the same way, in fact, that I would like to ask the question, the deponent to the replying affidavit is a layperson, on what basis could she pretend to answer the Commission's expert views, as you have referred us to in your paragraph, right.

ADV PREMHID: Yes.

ADV BALOYI SC: Is that an answer really in response to

the concern raised by Ms Hassim that there is no reply or answer to the Commission's expert? So let us not fudge things for whatever purpose, you know, we are seeking to achieve. As I see it, or as I understand it, the simple position is this, there are certain facts that have been relied upon by the deponent to the affidavits of Mr Carrim, supported by the doctor's affidavit.

All that has happened is to answer those factual or to raise issue with the facts as set out, and none of it speaks to the medical conclusions. I differ with you there and maybe my co-Commissioners agree with you, but I differ with you. I do not see that.

CHAIRPERSON: I actually agree with Commissioner Baloyi. What the Evidence Leaders have done is to say Mr Carrim must be subjected to an assessment by an independent doctor, and that is exactly because they, as Evidence Leaders, cannot purport to contradict Mr Carrim's doctor's opinion.

That is why there is this insistence on let Mr Carrim be subjected to an assessment by, that is, it would be that independent doctor that would counter all of the clinical conclusions reached by Mr Carrim's doctor. So at this stage, at this stage the point you make has not been reached, at least not in my understanding.

ADV PREMHID: Well, but ...[intervenes].

CHAIRPERSON: Yes, yes.

ADV PREMHID: Sorry.

CHAIRPERSON: But of course, but of course a point is made, but on what Commissioner Baloyi refers to as facts. A point has been made that with regard to those facts, even what Mr Carrim's doctor says, there has been a shifting of the goalposts, even by the doctor himself.

ADV PREMHID: Yes.

CHAIRPERSON: That is a factual issue, and the Evidence Leaders are perfectly entitled to challenge the doctor on that.

ADV PREMHID: I accept that, but then I would ask my next question would be to what end and to what purpose, because on the question of factual discrepancies, both of the deponents to the affidavit full square deal with the circumstances under which they were expected to depose to affidavits and the pressurized circumstances that they had to deal with various issues. And that is explained at pages 75, 76 for the one deponent and with the other deponent specifically on the medical records issue, you will find that at 84, 85, and 86.

So if there is an issue about the facts, so to speak, and the conclusions or the inferences that the Commissioners are being invited to make as a result of these so-called inaccuracies, there is actually an

explanation ...[intervenes].

CHAIRPERSON: They are not so-called. They are inaccuracies, and Mr Carrim's case, as we sit here, actually accepts those, that they are, in fact, inaccuracies, hence the shifting of goalposts. So they are not so-called.

ADV PREMHID: I withdraw the word so-called. To the extent that there are inaccuracies on the papers, they are dealt with fully, and the surrounding circumstances around how those inaccuracies arose are fully dealt with. It is not uncommon in urgent applications, for example, that sometimes a deponent does not fully remember what it is they otherwise ought to have remembered. And it is only when they are advised of something in an answering affidavit that then in the reply they give the fuller account and context because of the pressured circumstances in which they were deposing.

So all I am saying is that let us accept the inaccuracies are for what they are. It is, maybe unfair is too strong a word, but it is unfortunate to draw any adverse inference by the mere fact of those inaccuracies in circumstances where there is also an attempt to explain how those inaccuracies arose.

But to the extent, then, those inaccuracies relate to movement and what can be said about Mr Carrim's medical condition as a consequence of the facts of that movement,

it is not a purely factual inquiry, because what the doctor says in terms at paginated page 44 of the papers at paragraphs 49 and 50, is he says that the danger in analysing the facts of those movements would potentially lead you to draw an inaccurate clinical conclusion because the fact of those movements is not necessarily antithetical to the treatment he is receiving.

In fact, in another part of the affidavit he actually says that it might form part of the therapy process. So I accept what Commissioner Baloyi puts to me. Commissioner Baloyi rightfully says that they are not impugning his clinical diagnosis, they are just relying on these factual issues to say there is a problem here and I am being loose in my language.

And so let us accept that there is a problem here and then say what is the clinical opinion in respect of that so-called problem that is on the papers in front of you and not challenged, and that is what the doctor warns the Commission, the Commissioners, from drawing an inappropriate conclusion on, that those mere facts are elevated to considerations that impugn, or not even impugn, that open to doubt the clinical diagnosis even if that is not the direct intention of disputing those facts.

And what the doctor's evidence is regarding those facts is that they are what they are and they might be what

they might be, but you cannot draw it based purely on those facts. You must be very careful in what conclusion you draw and I will put it no higher than that.

So I think that is where Commissioner Baloyi, I was dealing more with the conclusion and the conclusions to be drawn from those facts, whereas I think Commissioner Baloyi, you were focusing on those facts themselves and I hope I have attempted to answer you in both respects why there is a danger in the exercise that we were just going through. I thought Ms Matlengwane had something for me, she does not.

So that is on the issue of are we impugning or are we not impugning and to what extent are we impugning. Just Commissioner Baloyi, one thing that you raised which is correct, you know, the deponent is a layperson, what business does she have engaging with the report? If I am not mistaken, there has or should have been a signed confirmatory affidavit from the treating doctor in respect of the content of the replying affidavit and even if it does not say it in terms, I consulted with the doctor on X, Y and Z and he tells me here is the response, I would ask in a generous reading of that replying affidavit and the fact that it is confirmed by the doctor that the so-called medical responses are medical responses from a non-medical person but confirmed by the medical person themselves.

It is not just the deponent offering her own opinion or thoughts influenced by the legal team or anybody else. So that, Commissioner Baloyi, I hope is a satisfactory response on those particular issues.

Chair, I think I have dealt with everything that I need to. Might I just take an instruction, please? Oh, yes, I am indebted to Ms Matlengwane. Commissioner Khumalo, back to our debate about the timeline and the date and when it started and everything else, the reference I had in mind starts on paginated page 36. It is the heading you will see there under paragraph 18 and then through you, Chair, Commissioner Khumalo, over the next page, well, it starts at the bottom at paragraph 22.

ADV KHUMALO SC: 18 says exactly what I said.

ADV PREMHID: Yes, agreed. And then I am asking you to read 22 at the bottom of that same page, particularly where it says "health conditions appear to predate the Commission". It then talks about his history and over the page on page 37, I would say that I would draw your attention to the last line starting three lines from the bottom on page 37, paragraph 22. It starts with, I emphasize this because the underlying blank, blank, blank. I know that might not be satisfactory to your question. I am just giving you the reference that I had in mind when I answered your question.

ADV KHUMALO SC: It is also factually incorrect.

ADV PREMHID: Thank you, Chair. I am indebted.

CHAIRPERSON: Thank you, Mr Premhid.

ADV PREMHID: Chair, may I ask a clarity, please, before we break up? In passing, you said that we must give, by the close of business tomorrow, the transcripts.

CHAIRPERSON: Just on your and my debates the last time on the power issue.

ADV PREMHID: Yes.

CHAIRPERSON: Or lack of power, as you argued.

ADV PREMHID: Yes.

CHAIRPERSON: Ja.

ADV PREMHID: Is it all right if ...[intervenes].

CHAIRPERSON: Ja, in the context of you talking about there having been no resistance, as I understood you, by Mr Carrim to the possibility of voluntarily agreeing to an assessment. That is the context.

ADV PREMHID: Yes, yes. Is it okay if we mark the transcript?

CHAIRPERSON: Yes, yes, yes.

ADV PREMHID: Okay.

CHAIRPERSON: Please.

ADV PREMHID: Thank you.

CHAIRPERSON: Thank you to both Counsel. Obviously, we cannot make a ruling now and I am loath to give a

deadline by which a ruling will be made. Let me just say, a ruling will be made on a date that will be announced by writing to Mr Carrim's attorneys and also being publicized in the manner in which our spokesperson ordinarily does. We continue on Monday, 9:30?

ADV HASSIM SC: 9:30 on Monday, yes, Chair.

CHAIRPERSON: Yes, let us adjourn and resume at 9:30 on Monday.

INQUIRY POSTPONED TO 27 JULY 2026

INQUIRY ADJOURNS
