

**IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BETWEEN**

(1) CARTER-RUCK SOLICITORS (A FIRM)

(2) MR MOHAMED AMERSI

Claimants

-and-

SOLICITORS REGULATION AUTHORITY LIMITED

Defendant

CASE SUMMARY

1. In September 2023 the Solicitors Regulation Authority Limited (the “SRA”) opened an investigation into Carter-Ruck Solicitors’ (“Carter-Ruck”) conduct whilst acting for Mohamed Amersi (“Mr. Amersi”) in bringing data and defamation claims.
2. The SRA subsequently issued three production notices (“the Notices”) against Carter-Ruck under section 44B of the Solicitors Act 1974 (as amended) (“Section 44B”) requiring production of documents in relation to client files for Mr. Amersi held by Carter-Ruck.
3. Between September 2023 and February 2025, Carter-Ruck and the SRA corresponded regarding the SRA’s power to require production of material from law firms subject to legal professional privilege (“LPP”) where the owner of that privilege (in this case Mr. Amersi) does not consent to the same.
4. Between November 2024 and October 2025, Mr. Amersi submitted his own representations to the SRA regarding his concerns about the use of his files in so far as they were confidential and/or subject to LPP and indicated that he was prepared to assist the SRA subject to appropriate assurances that his documents would not be shared with any third parties. The SRA did not respond substantively to Mr Amersi until November 2025 after proceedings were commenced. At this point, the SRA provided details of its

procedures to safeguard privilege in correspondence, but no agreement was reached in respect of the provision of documents.

5. On 7 October 2025, the SRA withdrew its first Notice but required that Carter-Ruck comply with the second Notice by 14 October 2025. The SRA also issued a third Notice requiring compliance with the same by 21 October 2025.
6. On 10 October 2025, the Claimants indicated to the SRA that they would commence proceedings in the High Court seeking Declaratory Relief if the remaining Notices were not withdrawn or suspended.
7. On 13 October 2025, the SRA declined to suspend the Notices.
8. On 14 October 2025 the Claimants issued a Part 8 Claim against the SRA seeking declaratory relief in the form of a declaration that the SRA is not entitled in law under section 44B to require the production of material subject to LPP.
9. The Claimants assert that:
 - a. LPP is a fundamental right and in order for a statute to override privilege it is well established that the intention to do so requires express wording or necessary implication.
 - b. There are no express words in section 44B and, so far as can be seen, there is no necessary implication.
 - c. The key authorities are *Sports Direct International plc v Financial Reporting Council* [2020] EWCA Civ 177 (which considers *Parry-Jones v Law Society* [1968] 1 All ER 177) and *Scottish Legal Complaints Commission v Murray* [2022] CSIH 46; [2023] SC 1 (decided on a similar Scottish statute).
 - d. Hansard's account of the progress through Parliament of the Legal Services Bill on 6 March 2007 is highly relevant as it involved abandoning proposed Amendment 149B, which would have expressly given the regulator power to override privilege.
10. The Defendant asserts that:

- a. The SRA is responsible for regulating the professional conduct of solicitors and entities conducting the business of solicitors in England and Wales. The SRA has in place a framework of standards and regulations.
- b. A core feature of the SRA's role is to regulate solicitors and firms in order to protect clients and consumers of legal services and to uphold the rule of law and the administration of justice.
- c. The SRA's investigative powers allow it to require individuals and firms to:
 - i. provide it with information or documents (including by way of interview) (section 44B); and/or
 - ii. explain their behaviour (section 44BA).
- d. Given the wording of section 44B as originally enacted (pursuant to section 2 of the Administration of Justice Act 1985), Parliament clearly intended to allow the Law Society (and now the SRA) to investigate cases of alleged misconduct by requiring the production of a solicitor's files, and not just non-privileged material. No subsequent amendment to the legislation alters that clear intention.
- e. Section 44B is not ambiguous or absurd, and no reference to Hansard is required to interpret it. In any event, in so far as such reference is appropriate, the passage from Hansard on which the Claimants rely does not meet the *Pepper v Hart* criteria because it is not clear, is inconsistent with records of other Parliamentary debates and, if interpreted as the Claimants suggest, appears to be premised on a mistake by Parliament as to the effect of the existing law, at least as it was understood at the time.
- f. It is therefore clear that Parliament's intention in enacting section 44B was to allow the Law Society (and now the SRA) to investigate cases of alleged misconduct by requiring the production of a solicitor's files, including privileged material.
- g. The SRA (and its predecessors) have operated on the basis that it has the power to compel the production of LPP materials for many decades, in line with the judgments in *Parry Jones v Law Society* [1968] 1 All ER 177 (and later *R v Special Commissioner ex p. Morgan Grenfell* [2003] 1 AC 563). This long-standing practice has been widely recognised and understood across the profession, on the basis that the proper use of privileged materials by authorities regulating the provision of legal services does not infringe that privilege.

- h. The SRA may not always need to compel production of materials under section 44B. Some clients may waive privilege to permit an investigation into their solicitors; some allegations do not concern privileged matters. However, there are cases where the compulsory production of privileged material is essential to the SRA's functions, such as where a complaint is raised by a party who is not the solicitor or firm's client.
- i. The SRA needs to monitor solicitors' compliance with the rules and standards the SRA has set. It is axiomatic that in order to do this the SRA must be able to view privileged material. If the SRA cannot consider this material, there is a risk that serious wrongdoing on the part of solicitors may be occluded from regulatory oversight.
- j. Where the SRA accesses LPP materials, the clients' privilege is safeguarded. The SRA maintains the confidentiality of such materials and may only use those materials for the purposes of its investigation and enforcement proceedings against the solicitor or firm it regulates. The SRA cannot use the privileged materials in regulatory investigations or proceedings against the client themselves.