

ENGLAND AND WALES / JUDGMENT

# One Unique LLC v Kambiz Babae & Ors

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Neutral Citation Number: [2026] EWHC 717 (Comm) IN THE HIGH COURT OF JUSTICE KING'S BENCH DIVISION BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES LONDON CIRCUIT COMMERCIAL COURT Case No: Case No: LM-2025-000145 Royal Courts of Justice, Rolls Building Fetter Lane, London, EC4A 1NL Date: 01/04/2026 Before : HIS HONOUR JUDGE BIRD SITTING AS A JUDGE OF THE HIGH COURT

- ----- Between : ONE UNIQUE LLC

- and -

(1) KAMBIZ BABAE

(2) K10 DEVELOPMENTS LIMITED

(3) K10 MANAGEMENT ACCOUNT LIMITED

(4) K10 GROUP LIMITED

(5) BHUPEN VARSANI

(6) ALI KIAN SHOKROLLAH BABAE

(7) ANA TOTOC Claimant Defendant

- -----

- ----- Luka Krsljanin (instructed by Mishcon de Reya LLP) for the Claimant Kambiz Babae (Litigant in Person) First Defendant Hearing dates: 17 March 2026

- ----- Approved Judgment This judgment was handed down remotely at 11.00am on 1 April 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives. .... HIS HONOUR JUDGE BIRD SITTING AS A JUDGE OF THE HIGH COURT High Court Approved Judgment: ONE UNIQUE LLC v. BABAE and others His Honour Judge Burd:

## Introduction

1. This judgment deals with 3 applications brought by the First Defendant Mr Kambiz Babae (“KB”). There are two applications for a stay, the first issued on 18 February 2025 seeking an order that this claim be stayed pending the outcome of parallel criminal proceedings and the second seeking an order that the proceedings are stayed pursuant to the discretion set

out at section 285(2) of the Insolvency Act 1986 because KB is a bankrupt. The third is a strike out application seeking an order that the claim be struck out or in the alternative that part of the Particulars of Claim be struck out. The strike out application is based on the assertion that the Claimant has relied upon (and pleaded) without prejudice communications.

2. For the applications I had 4 skeleton arguments from KB including closing submissions filed and served the day before the hearing and 1 from Mr Krsljanin who appeared for the Claimant. I had (in addition to an agreed authorities bundle) a 4-part bundle comprising 2,974 pages. The majority of the bundle was not referred to and the vast majority of it was included at the insistence of KB who acted before me as a litigant in person but who from time to time has (as he accepted) legal advice. Mr Krsljanin told me KB had a habit of “putting a mass of documents before the court often with relatively limited time for a court to review it.” Fortunately, and partly by reason of the sensible and pragmatic approach adopted by the Claimant, this dumping of documents has not hampered the progress of the hearing. 3. I am satisfied that appropriate allowances were made for the fact that KB acted as a litigant in person. Where possible I attempted to summarise the points, he was making and gave him an opportunity to agree or disagree with that summary. He was afforded plenty of time to make his submissions and I was entirely satisfied that he fully understood and was able to deal with the points made by Mr Krsljanin. The claim Page 3 High Court Approved Judgment: ONE UNIQUE LLC v. BABAE and others
4. The claim (which insofar as it relates to a fraud claim is denied) is summarised in this way at paragraph 4 of the Claimant’s skeleton argument: “The claim concerns a fraudulent scheme by which a property manager [KB] misappropriated millions of pounds from [the Claimant], the owner of a high-value London apartment. [KB] and his K10 companies managed the property and collected rent monies paid by the tenants. Over a four-year period, they fraudulently doctored tenancy agreements and other documents to misrepresent to [the Claimant] the amount of rental income derived from letting the property. They skimmed the difference between the monies they collected and the monies which they represented to [the Claimant] as falling due and having been received. Some of those misappropriated assets, which are subject to proprietary claims, were paid at [KB’s] direction to his son and wife (D6, D7).”
5. A spreadsheet prepared by the Claimant in June 2024 (and referred to in the emails below) shows that the apartment was occupied between 28 September 2018 and June 2024 by 4 different tenants (Wennberg, Allana, Kan and Barzilai) who had contracted to pay (and had paid) rents of between £14,500 and £21,000 per week.
6. The present pleaded case is that the Claimant has lost £2,347,234 plus interest. The applications 7. I will deal with the applications in the order of time they took to argue. I will start with the strike out application, then deal with the stay based on the criminal proceedings and end with the stay based on bankruptcy. Strike out

8. The Claimant's pleaded case is that the fraud was discovered on or around 26 June 2024 when the Claimant discovered that a tenant (Mr Kan) had agreed to pay £21,000 per week for the apartment whereas KB had represented to it that the rent payable was £15,000 per week.
9. The Claimant goes on (at paragraphs 75 to 80 of the Particulars of Claim) to plead reference to four emails between Ms Bita Daryabari ("BD") of the Claimant and KB and one voice mail left for BD's husband. The emails and voice mail covered the period from 26 June 2024 to 28 June 2024. If the emails are indeed subject to without prejudice privilege, two choices arise: they should be removed (or reference to them struck out) or the claim struck out. Page 4 High Court Approved Judgment: ONE UNIQUE LLC v. BABAE and others
10. I was referred to a large number of emails and messages. It is not helpful to separate the pleaded emails and communications for particular attention. The question is, did they form part of a without prejudice chain. If they did the privilege in them is joint and cannot be unilaterally waived. It is helpful to set out a brief and summarised chronology of these emails and their contents.
11. Between 9:46am and 10:04am on 26 June there was an exchange of WhatsApp messages between KB and BD. It appears there was a telephone call at 9:47am which lasted 10 minutes, in which BD accused KB of being a conman and thief. KB left a voicemail message for BD's husband which included the following: "... I've really messed up, and unfortunately, I've upset [BD].... Can you please just tell her that I admit I made a mistake. Just let me explain to her.... Just tell her if she can give me until tomorrow afternoon.... I paid a bit less on the rents than should have been paid because we paid some fees and we took some ourselves to clear the mess, the mess of life, which had got worse. Anyway, I'm now devastated. I am begging you if you can tell [BD] to give me a little more time. Because she told me that she wants to have me arrested and send the police today. Just allow me until tomorrow 4-5pm and I will provide her with all the details of what I did, what happened and why I did it and how much I was at fault, how much financially. I would be grateful to you if you do this, to calm her down a little until tomorrow. Thank you."
12. There then followed a series of emails and messages. It is convenient to summarise them in tabular form: date Time from gist 26/6/24 15:2 BD "As you can see in the spreadsheet below you owe me close to £1m. Please wire the amount by 5pm Thursday afternoon London time. If we do not receive the amount, legal actions will be taken." The spreadsheet in fact showed the sum of £988,000 had been taken. Page 5 High Court Approved Judgment: ONE UNIQUE LLC v. BABAE and others 18:2 KB (marked without prejudice): "Thank you for sharing the spreadsheet. I will respond tomorrow afternoon with my response and monies/funds received and distributions of the same to Unique finders' fees and agent's fee and for what K10 have earned from this management. We can then agree a way forward." 21:1 KB (message) "Please read my e-mail. I am sorry I will explain in full and honesty (sic.) by tomorrow evening." 21:3 BD "I am deeply disappointed, hurt, and angry at you for your dishonesty and betrayal how could you steal from me over the course of so many years?..... I am utterly disgusted by your behaviour..... You ruined yourself big time PS you owe me in

addition to the £1,000,000 another £364,000 from .... 2018 rental.” 22:1 KB (marked without prejudice) “I'm very saddened to read your e-mail... and I cannot say it's not deserved to some extend (sic). I will come back to [you with a] line by line breakdown of all funds received over the years and whilst I am not in any way defending my position even the spreadsheet sent to me earlier is not fully correct. Hopefully once I explain in detail you might get some comfort that I did do my best, not hiding the fact that perhaps I should have been more open in what and why I did the rentals in this way. I assure you that a lot of the high rental was paid off to third parties to achieve the very high figure unrealistic rental income.... Please stand by me a few more day's bracket next 24 hours bracket to allow me to respond to see if I can bring some comfort to you. I ask you to allow me to send over an open and honest admission of the whole situations over the rental shortage and explain why and how. We can then agree a Page 6 High Court Approved Judgment: ONE UNIQUE LLC v. BABAE and others way forward repayments made and due.” 27/6/24 05:5 BD (marked without prejudice as a reply to the previous email) “You have till 5:00 PM today to wire me the amount. Save your bullshit explanation and excuses for the court!!!!” 11:1 KB (message) “... I will today send you a very open and frank e-mail with all facts. Hope we can then agree a way forward. I am very sorry. I should have been forthcoming months ago. Please read the e-mail and allow me 30 minutes in next few days to try to resolve this.” 11:1 KB (message) “I am so down, to point of topping myself. (no fault of yours). Please have patience with me till I send you e-mail.” 16:4 BD (message) “You had till 5pm to wire me the money you stole from me. Save your explanation for the judge. You really did me wrong! Shame on you!!!! Shame on you!!!!” 16:4 KB (message) “.... Pls allow me to meet you and/or [BD's husband] when he is back? It is a shame not to... Pls refrain from sending emails or text till I see you or him for 30 minutes. I'm now worried to send you e-mail open and frank as I feel you are acting erratically! Can we pause till we meet for 30 mins in park?” 16:4 KB (message) “If this gets around without us having a chance to resolve it is bad for both of us. Even if you are right in what you alleging that do you want to put the father and grandfather into jail. How is that going to reflect on us. I have answers and solutions” Page 7 High Court Approved Judgment: ONE UNIQUE LLC v. BABAE and others 19:3 BD (message) “I gave you deadline at 5:00 PM. Deal is off.....” 19:3 KB “.... What deal?? I am happy to meet with you or [your husband] Saturday for an open frank conversation and after you decide how this goes. I'm not going to talk any further to heat up your fire that is understandable when you are half guessing. I can bring all papers, and you decide” 19:4 BD (message) “This deal. Pay attention!!! Even in emails I asked you to wire me all the money you stole by 5:00 PM today.” 19:4 KB (message): “I'm done. Goodnight. You decide... I'm not going to insult you or take anymore. Meet me or as you say we meet in court. Great for us both” 28/6/24 06:2 KB (message) “Morning. I really would appreciate a meet for 30 minutes. Today/tomorrow? I will give you all information.” 09:3 KB (marked without prejudice as before and as “private and confidential”) after setting out an apparent explanation “However and sadly there was one part of the rental that I have no excuses for and have utterly done you wrong and even if all above with justifiable comment what I have done in declaring the wrong rental net income is inexcusable!! I am truly sorry. I would urge that you see it in your heart to make time to see me, if too much

pain I can understand, as [BD's husband] is copied in this e- mail perhaps I can meet him to supply him with all papers and propose a way forward for your consideration" (the underlined words appear underlined Page 8 High Court Approved Judgment: ONE UNIQUE LLC v. BABAEE and others in the email. The words in bold appear in capitals and in red letters).

13. The case against KB has moved on. It is said now that he is responsible for fraudulently taking in excess of £2m due to the Claimant.
14. The law on how to identify without prejudice privilege is clear and well settled. Mr Krsljanin sets it out clearly and fairly at paragraphs 34 to 36 of his skeleton argument. I am satisfied that the summary is a full and fair one. I did not understand KB to raise any issue with the summary. I take the following principles which can be stated shortly: i) The public interest broadly favours freedom of expression without state interference. That includes full disclosure of all relevant documents and information in litigation. It must be remembered that the assertion of privilege is a restriction on such freedoms (see Thanki on Privilege 4th ed. Para.7.06). ii) The policy aim of the rule is to prevent reliance on "all negotiations genuinely aimed at settlement whether oral or in writing" (see Rush & Tomkins v GLC [1989] 1 AC 1280). iii) The requirement that negotiations be genuinely aimed at settlement requires there to be a dispute (see St. James Place v Dixon-Nutt [2023] EWHC 1431 (Comm)). iv) Both parties must realise (or should have realised) that the parties were seeking to comprise the dispute "not just the person now praying in aid the without prejudice protection." The intention of the parties must be assessed objectively (see Suh v Mace (UK) [2016] EWCA Civ 4).
15. Applying these principles to the facts before me and in particular considering the totality of the discussions above (on an objective basis) it is in my view important to bear the following points in mind: first, BD was plainly persuaded that KB had stolen from her, let her down and had abused her trust. Whether that view was right or wrong is a matter for trial. It appears very clearly from the correspondence that BD was upset and in no mood to negotiate. She obviously wanted back what had been (in her mind) stolen from her. She wanted what was due to her (or owed to her). Objectively viewed, it does seem clear that she wanted every penny of what was owed (as she put it in a message sent at 19:40 on 27 June 2024: "all the money you Page 9 High Court Approved Judgment: ONE UNIQUE LLC v. BABAEE and others stole") and was in no mood for compromise or negotiation. BD's initial position was that she was owed £988,000 (at 15:28 on 26 June 2024) that sum increased by £364,000 (at 21:36 the same day). At 16:42 on 27 June 2024, BD offered a "deal" which was to accept repayment of (to paraphrase) "all the stolen money". That was the full £1,352,000. In my judgment that is not in truth "a deal," it is a demand for full repayment. There is an argument that BD was demanding the return of that sum and more; a reasonable reading of the email sent at 21:36 on 26 June 2024 was that she wanted payment of £1,364,000.

16. In my judgment, it is clear that the policy on which the privilege is set is not engaged. There was in my judgment no common negotiation. The fact that from time-to-time KB added words suggesting a deal might be made and added the “without prejudice” badge does not alter that

### analysis.

17. For those reasons I am satisfied that no without privilege attaches to the communications so that the Claimant's pleading does not offend any privilege. Had I been persuaded that the communications were subject to privilege, I would have struck out the offending references to them. I would not have struck out the whole of the proceedings (including the claim form). Had I been required to consider the matter, I would have concluded that removing the offending references was proportionate and that striking out the whole claim would have been obviously and clearly disproportionate. It would have been perfectly possible and practical to have an entirely fair trial had I decided to strike out the references alone. Stay because of the criminal proceedings
18. I then turn to consider the application for stay based on the existence of concurrent criminal proceedings brought by way of a private prosecution. The criminal proceedings have now proceeded to an arraignment, and the matter has been referred for trial to the Crown Court. KB says that the civil proceedings should be stayed pending the outcome of the criminal proceedings.
19. Mr Krsljanin sets out the applicable principles at paragraphs 43 to 46 of his skeleton argument. I accept those principles as a fair summary of the law. The following points appear: i) The overarching point is that a stay should only be granted where a stay is in the interests of justice (see *Athena Capital Fund v Secretariat of State of the Holy Sea* [2022] 1 WLR 4570 at paragraph 59 per Males LJ). Page 10 High Court Approved Judgment: *ONE UNIQUE LLC v. BABAE and others* ii) A claimant in civil proceedings normally has a right to have his claim “processed and heard and decided.” Ordering a stay is an interference with those rights. The circumstances of the case must justify an interference with those rights and the burden of establishing that justification lies with the party seeking the stay (most commonly of course, the Defendant but the applicant may be the prosecutor) see *Jefferson v Bhetcha* [1979] 1 WLR 898. iii) Para.9 of PD 23A is dedicated to such applications. It provides that “the evidence in support of the application must contain an estimate of the expected duration of the stay and must identify the respects in which the continuance of the civil proceedings may prejudice the criminal trial.” This mandated information seems to me to set the minimum threshold for the evidence required to allow the court to assess if a stay is required. iv) The power to order a stay “has to be exercised with great care and only where there is a real risk of serious prejudice which may lead to injustice” (*Akine Bendrove Bankas Snoras v Antonov* [2013] EWHC 131 (Comm) citing *R v Panel on Takeovers and Mergers ex p Fayed* [1992] BCC 524). v) It is incumbent on the applicant to point to “a real and not a notional risk of injustice” (*Panton v Financial*

Institutions Services Limited [2003] UKPC 8 also cited in Akcine).

20. KB expressed concern that findings in the civil trial would prejudice a fair outcome in the criminal trial. He felt that adverse findings in the civil trial could prejudice a jury. His concern is heightened because he describes himself as a “high profile individual” and so the civil trial is likely to attract some press interest. He felt that prejudice might arise if he was forced to reveal his defence in the civil proceedings and was concerned about funding both sets of proceedings.
21. I am satisfied that there is nothing in any of these points taken individually or together that would warrant a stay of the civil proceedings: i) I do not accept that even adverse findings in the civil trial (and the outcome plainly cannot be judged at this stage) would prejudice his criminal trial. Taking the worst- case scenario (from KB’s point of view), I am satisfied that a fair criminal trial could in any event take place. Whether evidence of the outcome of civil proceedings would be admissible in the criminal proceedings will be a matter for the Judge in those Page 11 High Court Approved Judgment: ONE UNIQUE LLC v. BABAEE and others proceedings. Given the different standard of proof at play (balance of probability as opposed to “sureness”) it is entirely possible that a negative outcome would be inadmissible. ii) If there is press interest in the civil proceedings and the outcome is reported it is likely that knowledge of the reports will have an effect on jury selection and in any event the jury would be required (and reminded) to try the case only on the basis of the evidence they hear in court. I bear in mind that the civil trial is listed for June 2026 and that the criminal proceedings are likely to take many years to come on. By the time the criminal trial comes on, the civil proceedings are likely to be old news. iii) I am not persuaded there is anything in the revealing his defence point. In truth KB was very happy to talk about his defence in the hearing before me making specific reference to the fact that he was simply recouping business expenses and the extent of the sums due is exaggerated. iv) In my view there is nothing in his funding point. He will be entitled to legal aid for his trial in the Crown Court. It is not clear from the evidence what the difficulty is; is it that he only has the means to fund representation in one set of proceedings at a time or is it that he will run out of money if the civil proceedings go ahead? I accept he is presently bankrupt, but he does seem to have representation from time to time including Leading Counsel in the criminal case.
22. For those reasons I am not persuaded that if the civil proceedings continue there is a real risk of serious prejudice which may lead to injustice. The application to stay the civil proceedings because of the criminal proceedings is therefore refused. Had it been necessary to consider the effect of a stay on the Claimant, I would have concluded that the prejudice to the Claimant that would arise if the stay was ordered would far outweigh the prejudice suffered by KB if the stay was refused. Stay because of the bankruptcy
23. I then turn to the application for a stay on the basis of the bankruptcy. KB expects to be discharged from bankruptcy in May 2026. The stay would (if the bankruptcy is not extended) therefore be short lived. KB suggested that a stay would protect his creditors.

24. The power arises under section 285 of the Insolvency Act 1986. In my judgment there is no realistic prospect that the debt said to be owed could be proved in the bankruptcy. This is a complex fraud claim best determined in legal proceedings. The Trustee in Bankruptcy has Page 12 High Court Approved Judgment: ONE UNIQUE LLC v. BABAEI and others raised no concerns about the proceedings and their impact on the creditors and any judgment based on fraud against KB will survive his bankruptcy. There is nothing in the stay application based on bankruptcy and I dismiss it.

## Conclusion

25. For these reasons each of KB's applications fails. Page 13

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