



[2025] JMSC Civ 151

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

PROBATE AND FAMILY DIVISION

CLAIM NO. SU2024ES00967

**IN THE ESTATE OF GORDON
ARTHUR CYRIL STEWART** also
known as **GORDON ARTHUR
“BUTCH” STEWART** late of 76
Barbican Road, Kingston 6,
Businessman, Testate

AND

IN THE MATTER of Section 9 of the
Trustees, Attorneys and Executors
(Accounts and General) Act.

BETWEEN ADAM STEWART 1ST APPLICANT

AND JAIME STEWART-MCCONNELL 2ND APPLICANT

AND BRIAN JARDIM 3RD APPLICANT

AND HUGH MARTIN VEIRA 1ST CLAIMANT/1ST RESPONDENT

AND ELIZABETH DESNOES 2ND CLAIMANT/ 2ND RESPONDENT

AND TREVOR PATTERSON 1ST DEFENDANT/ 3RD RESPONDENT

AND CHERYL HAMMERSMITH-STEWART 2ND DEFENDANT/ 4TH RESPONDENT

Mr. Ian Wilkinson, K.C., Mr. Conrad George, Mr. Lenroy Stewart, Ms. Anna Gracie, Mr. Andre Shettleford, Ms. Gabrielle Chin, instructed by Hart Muirhead & Fatta, Attorneys-at-Law on behalf of the Applicants

Mrs. Daniella Gentles-Silvera K.C., Ms. Kerri-Ann Morgan and Mr. Stephen Nelson, instructed by Livingston, Alexander & Levy, Attorneys-at-Law on behalf of the Claimants

Ms. Carlene Larmond, K.C. and Ms. Giselle Campbell instructed by Patterson Mair and Hamilton, Attorneys-at-Law on behalf of the 1st Defendant.

Mr. Michael Hylton K.C., Mr. Kevin Powell and Ms. Timera Mason, instructed by Hylton Powell Attorneys-at-Law on behalf of 2nd Defendant.

Symone Mayhew K.C. and Aaliyah Myrie, instructed by MayhewLaw watching proceedings on behalf of Robert Stewart.

HEARD ON: September 19, 2025 and December 12, 2025

IN CHAMBERS (By Zoom)

Probate - Claim by executors to be released - Application by beneficiaries to be added as parties to the claim - Civil Procedure Rules, parts 19.2 (3), 19.3 and 67 - The Trustees, Attorneys and Executors (Accounts and General) Act, S. 9.

REID, ICOLIN J.

THE CLAIM

[1] The late **GORDON ARTHUR CYRIL STEWART** also known as **GORDON ARTHUR "BUTCH" STEWART** died on January 4, 2021, testate. Among the Executors named in his will are Elizabeth Josephine Desnoes and Hugh Martin Veira. Both filed a Fixed Date Claim Form on April 16, 2024, whereby they sought the following orders:

- 1. The First Hearing of the Fixed Date Claim Form be treated as the Trial of this claim.*
- 2. The date for the First Hearing of the Fixed Date Claim Form is hereby abridged.*
- 3. ELIZABETH JOSEPHINE DESNOES also known as Elizabeth ("Betty Joe") Desnoes and HUGH MARTIN VEIRA also known as Martin Veira be released from the office of executor in the Estate of GORDON ARTHUR CYRIL STEWART also known as GORDON ARTHUR BUTCH' STEWART.*
- 4. The Registrar of the Supreme Court - Estate Division is directed to amend the Grant of Probate issued in the Estate of GORDON ARTHUR CYRIL STEWART also known as GORDON ARTHUR BUTCH' STEWART by removing ELIZABETH JOSEPHINE DESNOES also known as Elizabeth ("Betty Joe") Desnoes and HUGH MARTIN VEIRA also known as Martin Veira which said amended Grant shall reflect the remaining Executors as being CHERYL HAMERSMITH STEWART, and TREVOR OWEN PATTERSON.*
- 5. Such further Order as the Court deems fit.*

[2] The grounds on which the orders were sought are as follows:

- 1. Pursuant to Section 9 of the Trustees, Attorneys and Executors (Accounts and General Act hereafter "the Act"), the Court may give leave to any executor to be released from the office or executor upon the passing of his accounts in accordance with the Act, or otherwise as the Court may direct and on such terms as the Court may think fit.*
- 2. This Honourable Court issued a Grant of Probate in the Estate of Gordon Arthur Cyril Stewart also known as Gordon Arthur "Butch" Stewart on 31 October 2023. The Claimants are two of the four Executors named in the said Grant.*
- 3. The time for filing accounts in this Honourable Court pursuant to Section 6 of the Act has not yet expired. The Claimants are, however, each above the age of 74 years and, by reason of their age and other matters set out in their respective affidavits which*

support this Fixed Date Claim Form, wish to be released from the office of executor particularly where matters regarding the due administration of the Estate have increasingly become contentious.

- 4. The Claimants have notified Cheryl Hamersmith Stewart and Trevor Patterson, also Executors in the said Estate, in writing of their desire to be released from the office of executors and have not received any objection from those Executors.*
- 5. The release of the Claimants from the office of executors will not prejudice the due and proper administration of the Estate and the interest of the beneficiaries as there are two other Executors appointed under the Will of the Deceased, Gordon Arthur Cyril Stewart, who are able and willing to carry out these obligations.*
- 6. Rule 67.4 of the Civil Procedure Rules permits an executor to issue a claim for any relief relating to the administration of the estate of a deceased person.*
- 7. Rule 68.37 of the Civil Procedure Rules permits the Registrar to make an order amending a grant.*

THE APPLICATION

[3] The Applicants, Adam Stewart, Brian Jardim and Jaime Stewart- McConnell, are beneficiaries under the will of the deceased. In essence, they are seeking to be added to the Executors' claim as parties. The orders being sought in their joint Notice of Application for Court Orders filed on May 24, 2024, are as follows:

- 1. The Applicants be added as parties herein.*
- 2. The Applicants be served with:*
 - (a) all documents previously filed in this Claim;*
 - (b) all documents filed in this Claim henceforth.*
- 3. The Applicants be heard on the Claim and make submissions.*
- 4. The Applicants have standing to apply for the enforcement of the terms of any order made in this Claim.*
- 5. Elizabeth Josephine Desnoes and Hugh Martin Veira (the "Claimant Executors") disclose to the Applicants within 7 days of this Honourable Court ordering them to do so any and all correspondence:*
 - (i) between and amongst themselves (and their attorneys-at-law) in which the Claimant Executors, personally and/or through their*

attorneys-at-law, express or address concerns regarding the administration of the estate of the late Gordon Arthur Cyril Stewart (the "Estate") and/or the conduct of Trevor Patterson and/or Cheryl Hamersmith-Stewart (the "Other Executors"), and/or a willingness, inclination, decision, or purported decision to no longer act as an executor of the Estate; and

(ii) between or amongst any of the Claimant Executors and the Other Executors (or their attorneys-at-law) in respect of the same, categories 5(i) and 5(ii) together, the "Correspondence".

6. *Costs to be costs of the Estate.*

7. *Such further and/or other relief as this Honourable Court may deem fit.*

[4] The grounds on which the application is being sought are as follows:

Joinder

(1) Pursuant to Rule 19.3 of the Civil Procedure Rules (the "CPR"), Part 67 of the CPR and this Honourable Court's inherent jurisdiction.

(2) The Applicants are beneficiaries under the Will and consequently will be affected directly by the constitution of the Executor body and, by extension, the administration of the Estate. The Applicants therefore wish to be heard by the Court on the issue of whether the Claimant Executors should be discharged and, if so, whether any other directions should be made.

Disclosure

(3) As detailed in the affidavit of Adam Stewart filed in support of this Application, Mr. Veira in May 2023 read a letter to Adam Stewart and Jamie Stewart-McConnell (in the presence of Mrs. Desnoes), which he said he wrote and sent to the Other Executors in or about April 2022, expressing dissatisfaction with the progress of the administration of the Estate. He further indicated that the state of affairs concerning the administration of the Estate led him to wish to cease to be an executor.

(4) in early 2024 Mr. Stewart received a phone call from Mrs. Desnoes, one of the Claimant Executors, from which he understood that she and Mr. Veira (the other Claimant Executor) had "had enough" of the manner in which the administration of the Estate was being conducted, which had led herself and Mr. Veira to decide to "resign" as executors of the Estate.

(5) In a subsequent telephone call between Mr. Stewart and Mr. Veira, Mr. Veira informed Mr. Stewart that he and Mrs. Desnoes were aligned on their views as to the administration of the Estate, that he had written to Mr. Patterson indicating his displeasure with the direction of the administration of the Estate, and that his various proposals for the amicable resolution of

issues had been ignored by the Other Executors. During this telephone call, Mr. Veira further read to Mr. Stewart a letter (which Mr. Stewart believes to have been a letter from Mr. Veira to the Other Executors) that made it clear that Mr. Veira was disaffected by the direction of the administration of the Estate.

(6) The Applicants' attorneys-at-law, Hart Muirhead Fatta ("HMF") wrote to the putative attorneys-at-law for the executors of the Estate, Patterson Mair Hamilton ("PMH"), on 14 March 2024, asking for the facts surrounding the purported resignation of the Claimant Executors, and the reason for the purported resignations. There was no response to this letter.

(7) HMF wrote to Mrs. Desnoes' attorneys-at-law, Livingston, Alexander and Levy ("LIVAL") on 15 April 2024, requesting "any copy correspondence you have between your clients or either of them, or yourselves, with Patterson Mair Hamilton (PMH"), Trevor Patterson or Cheryl Hammersmith, regarding the disaffection of either or both of them with any aspect of the manner in which the estate has been/is being managed, and/or the conduct or approach of any of the Executors or PM, and confirmation that the Applicants will be served with any application by which the Claimant Executors seek to be released.

(8) LIVAL responded on 16 April 2024 indicating that the Claimant Executors had filed this claim, and that LIVAL does not believe that the Applicants, as beneficiaries of the Estate, are entitled to be served with the Claim nor were the Applicants entitled to the Correspondence due to it being governed by legal privilege. LIVAL did not deny the existence of such Correspondence.

(9) The Correspondence is not covered by any legal privilege that can properly be asserted against the Applicants.

(10) Disclosure of the Correspondence would be of material assistance to the Court in deciding whether to grant (i) the relief sought in the Claimant Executors' Claim; and ii) any further and other relief.

(11) Rules 19.3(1) and 19.3(2)(b) of the CPR.

(12) Part 67 of the CPR.

(13) The Honourable Court's inherent jurisdiction

[5] For ease of reference, Mr. Hugh Martin Veira and Mrs Elizabeth Desnoes will hereinafter be described as "the Claimants" and Mr. Trevor Patterson and Ms Cheryl Hammersmith Stewart will be referred to as "the Defendants". The Defendants are the other two executors in the estate and have filed affidavits in the substantive matter supporting the release of the Claimants. The parties to this

application have filed several affidavits. It was agreed that the parties would rest on their affidavit evidence without the need for cross-examination. The parties to the application were allowed to file and exchange written submissions.

- [6] The oral submissions made by counsel in the matter focused on whether or not the parties ought to be joined and the issue of disclosure to be made by the Claimants. I am grateful for the assistance each has provided.

SUBMISSIONS

Applicants' Submissions

- [7] Learned King's Counsel, Mr. Ian Wilkinson, filed written submissions but also made additional oral submissions on behalf of the Applicants. He emphasised that the Applicants are not seeking to challenge any clause of the will but that the sole purpose of their application is to be joined as parties to the proceedings and to secure disclosure of the relevant information/documentation. Counsel submitted that in the original affidavits the Claimants stated that there had been "no sale or distribution of any assets of the estate" and that no assets have come into their hands. He added that in further affidavits filed in response, the Claimants informed the court that not only have three assets come into their hands, but the cash received by the Executors has been exhausted to pay fees to professionals and to an unnamed trust company to facilitate payments to the pecuniary beneficiaries under the Estate. Counsel argued that this was evidence that the Claimants have intermeddled in the estate and are seeking to be released prior to rendering accounts for those acts.
- [8] Counsel added that it is due to the "serious acrimony between some of the beneficiaries of the Estate and (some of) the executors", that the Applicants are seeking permission to be heard on this matter and whether the court ought to make any other directions for the due and proper administration of the estate. Mr. Wilkinson reminded the court that the Applicants, as three of the eight principal beneficiaries, have a direct interest in the administration of the estate, the

constitution of the executor body and the ability of the body to discharge their functions.

- [9] Counsel relied on section 48 of the **Judicature (Supreme Court) Act** which provides that the court is to take notice of all equitable estates, titles, and rights appearing incidentally in the course of any proceedings. Counsel added that based on the nature of the matter, it fell under the definition of administration claims (CPR Part 67) because it is a claim to grant relief relating to the administration of the Applicants father's estate. Counsel referred to Parts 67.2 (1) (c), 67.2 (3) and 67.2 (4) of the CPR, and relied on the case of **Juici Beef Limited v Yenneke Kidd [2021] JMCA Civ 29**.
- [10] It was further argued that since the matter is in relation to the administration of the estate, the court would need to satisfy itself that the release of the Claimants would not prejudice the estate. Counsel stated that the Applicants are named beneficiaries under the will and that the estate is one of the largest estates in Jamaica with a number of beneficiaries and by design four executors were appointed (two lifelong friends of the deceased, his personal attorney and life partner) presumably to ensure that the testator's wishes were carried out in accordance with his will. He contended that since the court has been made aware of the acrimony, and the potential for that acrimony to result in abuse of a fiduciary position, the court should hear arguments from all competing interests with respect to the estate, in order to make a proper determination as to whether the relief sought by the Claimants should be granted.
- [11] Counsel referred to another claim (described as *the Directions Claim filed in suit No. SU2024ES03011*) made by the Applicants which seeks similar relief to the relief sought in the case at bar and argued that it would be fitting for the Applicants to be added as parties to this matter so that the court may be seized of all the relevant considerations. In the alternative, counsel argued that at the very least, should this application be denied, the Applicants should be allowed to intervene as interested parties and to participate in the proceedings.

- [12] Counsel also relied on Part 19 of the CPR. He found support in the case of ***Advantage General Insurance Company Limited v Alessandra Labeach and Anthony Alexander Powell*** [2022] JMCA Civ 20 where the Court of Appeal highlighted the principles to be considered in an application to intervene. It was submitted that, in that case, the court reviewed Part 19 of the CPR and the English equivalent and found that the court will allow intervention where the intervener's legal, property or financial rights will be directly affected.
- [13] Counsel also relied on ***Pelican Securities Limited v Neil Shaw*** [2020] JMCA Civ 11 and ***JMMB Merchant Bank Limited v Universal Leasing and Financial Limited*** [2023] JMCA App 19, as well as ***The Attorney General v BRL Ltd and anor*** [2021] JMCA Civ 14.
- [14] Counsel highlighted that his clients had to make this application because they were not joined as parties and therefore had no voice in the matter. He considered that the release of the Claimants/Executors was of such high importance to his clients considering the toxic nature of the relationship among the other two executors and the several beneficiaries and especially his clients. Counsel mentioned the troubling issue of the Registration of the Share Certificates, the late payment of estate duties in relation to the estate and the issues arising therefrom. Counsel pointed out that there were other matters being pursued in the Commercial Division of the Supreme Court involving all four executors in respect of their administration of the estate. He argued that since the Probate had been granted, all four executors have taken certain actions which have prejudiced the estate and in any event the Court should not release the Claimants because there were several other cases before the Court where they were either Claimants or Defendants. Counsel asserted that to release the Claimants without hearing the Applicants on the issues would be prejudicial to the interests of his clients.
- [15] Counsel emphasised that his clients were not against the release of the Claimants but wanted an opportunity to respond to the Claimants as to whether they should be released. He argued that the several supervening events and cases should

operate in the Applicants favour so that the Court should grant their application. He pointed out that based on all that had taken place, the Claimants really ought not to be resisting the joinder, and it is because of their resistance why the matter is still not yet adjudicated on. He pointed out that even if the Claimants were to be released, the Court may have to make conditional orders regarding the constitution of the executor body.

- [16] Counsel argued that if the application was granted then his clients would be seeking to have other issues dealt with before adjudicating on the claim to have the Claimants retire. He pointed out that the Applicants are seeking disclosure of certain documents from the Claimants which they consider to be directly relevant to the administration of the estate, would directly affect his clients' financial rights and would also give a true picture as to the reasons why the Claimants want to be released. Counsel asserted that if the Application was granted, his clients would be making an application about the future constitution of the Executor body as well as seeking directions from the Court. They would also be asking the Court firstly to hear their application before proceeding to hear and determine whether the Claimants should be released.
- [17] On the issue of disclosure, the Applicants submitted that Mr. Stewart's first affidavit demonstrates that, notwithstanding the death of Gordon "Butch" Stewart on 4 January 2021, little has been done in the administration of the estate. Counsel argued that the lack of progress has led to communications on several issues, which informed the application for disclosure of documents.
- [18] Counsel submitted that Rule 28.6 of the CPR permits an application for specific disclosure, but only in respect of documents that are directly relevant to one or more matters in issue in the proceedings (CPR Rule 28.6(5)). Reference was also made to Rule 28.7. Reliance was placed on the case of ***The Attorney General v BRL Ltd and anor*** (*supra*) which provides guidance on the meaning of "directly relevant" within the meaning of the rule. Counsel further referred to CPR rule

28.1(4) which outlined circumstances under which a document may be considered “directly relevant”.

- [19] It was submitted that Mr. Stewart’s affidavits (paragraphs 19 – 26) established a reasonable basis for believing that the documents sought exist, and that the affidavits in response neither denied their existence nor exhibited any notification of the Claimants’ intention to demit their office. In determining direct relevance, Counsel argued that regard must be had to the nature of the claim, which seeks the release of the Claimants from the office of executor and amendment of the Grant of Probate pursuant to section 9 of the Trustees Attorneys and Executors (Accounts and General) Act, in circumstances where no affidavit in opposition has been filed by the Defendants.
- [20] Counsel submitted that Mr. Stewart’s second affidavit (paragraph 6(b)) details the deterioration of relationships between certain beneficiaries and executors and outlines the ongoing litigation in the estate, including the filing of directions proceedings and an application by Mr. Patterson to have them struck out. It was contended that the directions proceedings were intended to protect the interests of the beneficiaries, particularly in circumstances where two executors have signalled an intention to demit office and who, by virtue of the Will, could otherwise block any unfavourable position taken by the remaining executors.
- [21] Counsel further submitted that the true reasons for the Claimants’ request to be released from office are central to the Court’s determination. The correspondence sought was therefore said to be directly relevant, went directly to the heart of the issue in the claim, and could assist the Court in determining whether any conditions should properly be imposed on the administration of the estate. On that basis, counsel submitted that the application for specific disclosure ought to be granted.

Claimants’ Submissions

- [22] Learned King’s Counsel Mrs. Daniella Gentles Silvera, for the Claimants also filed written submissions and made additional oral submissions. Counsel referred to

section 9 of the Trustees, Attorneys and Executors (Accounts and General) Act as well as Rule 67 and 19 of the CPR. Counsel submitted that neither section 9 of the statute nor Rule 67.2 of the CPR stipulate that a Claimant must join a beneficiary as a Defendant to the claim although the court may so direct. Counsel further submitted that the court ought not to join the Applicants merely because they are beneficiaries with an interest in the estate. She argued that, as they have no say in the Claim before the court, their joinder would not further the overriding objective but would instead increase costs and time without any discernible benefit.

[23] Counsel argued that the Applicants ought not to be added as parties for the following reasons:

- (a) The Claimant's Application is being made under a specific statute which places the discretion as to whether executors of an estate should be permitted to retire or be released from the estate entirely into the hands of the court. Counsel said that the statute does not state that the Application must be served on the beneficiaries. Counsel emphasised that Rule 67 specifically states that an executor need not join any person having a beneficial interest in the estate. Counsel therefore argued that it is for the court alone to determine, based on the evidence, since such an application is not a contested one and deals with a very discrete matter under the non-contentious probate rules.
- (b) The Executors who desired to be released explained in sworn affidavits the reasons they wish the court to make the order. Counsel explained that they wish to retire by reason of their age and health as they do not believe that they can continue to participate in the administration of the Estate which has become contentious. Counsel pointed out the multiplicity of litigation that have arisen since the filing of this claim and the voluminous nature of the many documents to be reviewed by both the executors to properly instruct Counsel, have become increasingly difficult for the Claimants.

(c) The Applicants are not objecting to the retirement of the executors as they have not proffered any evidence for the Court to consider in exercise of the discretion in granting the Applicants' application, save that as beneficiaries they have an interest in the administration of the Estate which includes the constitution of the executor body. Counsel argued that these are different points and have nothing to do with whether or not the Claimant's should be allowed to retire.

[24] In essence, the Applicants contend that if the Claimants are permitted to retire then it would leave the administration of the estate solely in the hands of Trevor Patterson and Miss Cheryl Hammersith-Stewart, both of whom, the Applicants have stated, are not acting in their best interests as the principal beneficiaries of the estate.

[25] Counsel further submitted that the application is also an abuse of process for the following reasons:

(a) The Application seeks the Court's permission to place before it another application, referred to as a "***Draft Application***", which is attached to the First Affidavit of Adam Stewart filed on 24 May 2024. Counsel explained that this draft application seeks orders for the appointment of three new Executors to replace the Claimants, and more importantly, for substantive directions in the administration of the Estate. These include directions regarding the assent and transfer of shares in the ATL Group, an account of the proceeds of sale of shares in the supermarket chain Albert Heijn B.V., and general directions for the administration of the Estate. Counsel added that much of the relief sought in the "***Draft Application***" was now encompassed in a substantive claim filed on 20 November 2024 (Claim No. SU2024ES03011), referred to as "*the Beneficiaries Directions Claim*."

- (b) If the Court were to permit the Applicants to join these proceedings and pursue the draft application, this would effectively allow a counterclaim or ancillary claim to be introduced, something not permissible under proceedings commenced by FDCF. Counsel further submitted that the application does not fall within section 9 of the Trustees, Attorneys and Executors (Accounts and General) Act, which governs the claim filed by Claimants seeking release as Executors. It was further argued that Rule 67.2 of the CPR, on which the Applicants rely, is merely procedural and cannot expand the scope of these proceedings.
- (c) The removal or substitution of an Executor by a beneficiary is generally considered contentious probate proceedings, appropriate only where allegations of fraud, negligence, or abdication of duty are made against the Executors. Counsel noted that these current proceedings were brought under the non-contentious rules. Accordingly, if the beneficiaries have issues with the remaining Executors, Trevor Patterson and Cheryl Hammersmith-Stewart, whose conduct they described as “impugnable” in the draft Notice of Application exhibited to the First Affidavit of Adam Stewart filed on 24 May 2024, they must bring a proper claim under the contentious probate rules rather than seek to join these non-contentious proceedings.

[26] Counsel submitted that it is the Testator, not the beneficiaries, who appoints Executors. The testator in this case provided in the Will for continued administration of the Estate if any Trustee or Executor became incapable of acting (Clauses 2, 4, and 6.4), including empowering the Trustees to appoint new Trustees (Clause 30.2). Counsel argued that the Applicants, who are beneficiaries, have stated their intention, if joined, to apply for the appointment of three new Executors to replace the Claimant Executors. This, Counsel contended, would contravene the testator’s expressed wishes and should not be permitted, especially as it is being advanced by only three of the eighteen beneficiaries, of whom eight are principal beneficiaries. Counsel noted that clause 2 of the Will

further provides that if any Trustee dies, refuses, or is incapable of acting, the remaining Trustees may act with full powers, including those under sub clauses 30.1 - 30.3.

- [27] Counsel further argued that if the Court were to order that the beneficiaries be added and served, it would have to extend a similar opportunity to all eighteen beneficiaries, resulting in an unwieldy, costly process which has already been addressed in the Beneficiaries Directions Claim.
- [28] Counsel urged that, having regard to the wording of the statute under which the Claim is brought and the Will's provisions, the Court could grant the Claimants' orders without involving the Applicants. Counsel emphasised that the gravamen of the Applicants' issue is the constitution of the executor body. Counsel argued that this is a totally different issue and is not related to whether the Claimants should be released but rather seeking to influence what follows their release, a matter already within the Beneficiaries Directions Claim. Counsel asserted that the court should be mindful that the Applicants' ulterior motive is that, once joined, they will seek to remove the two Defendants and replace them with three new executors.
- [29] Counsel drew the Court's attention to the first affidavit of Adam Stewart paragraph 7 where he says "*if the court grants our application to be joined to the claim Brian, Jamie and I will be making an application about the future constitution of the executor body as well as substantive directions in the administration of the estate, a copy of which is exhibited, and that's the draft application. Prior to doing so however, Jamie, Brian and I will be seeking a declaration that the relief sought would not engage in no contest clause in clauses 27 and 28.5 of the will, ... (and he refers to the paragraph below). If, but only if such a declaration be granted, we seek the further relief*". Counsel pointed out that the Court will find that some of the reliefs that the Applicants intend to request, should they be permitted to join in this application, are a mirror of the orders that they are seeking in claim SU2024ES03011. Counsel submitted that this was indeed an abuse of the process of the court.

- [30] Counsel referred to Rule 19.2 of the CPR, which allows joinder only where it is necessary to resolve matters in dispute or where there is an issue involving the Applicant which is connected to “*matters in dispute in the proceedings*”. Counsel argued that the sole issue in this Claim is whether the Claimant Executors should be permitted to retire. Counsel emphasized that the Claimants are both senior citizens, Mrs. Desnoes, 75, and Mr. Veira, 86, who is now suffering memory loss possibly due to early senile dementia and can no longer continue. Counsel argued that the Applicants’ evidence cannot assist the court in resolving that issue and bears no connection to it. She further pointed out that the Applicants have not challenged this evidence.
- [31] Counsel maintained that the future constitution of the Executor body and directions for administration are already before the Court by virtue of the Beneficiaries Directions Claim. The Executors’ continued involvement in litigation arose by necessity, as their release application filed since April 2024 remains undetermined. Counsel argued that they remain legally obliged to protect estate assets, including filing proceedings to register the deceased’s company shares to execute the testator’s instructions regarding the ATL companies which the Executors were charged specifically to do. Counsel argued that the Executors’ conduct is consistent with their duties and does not contradict their claim to retire.
- [32] In concluding counsel noted that dealings with certain estate assets have been disclosed and do not preclude release, as the testator appointed two other Executors who are willing to continue in office.
- [33] Mrs. Gentles Silvera, King’s Counsel, sought to distinguish the cases relied on by the Applicants. She argued that both cases discussed the difference between joinders and allowing parties to intervene in proceedings. Counsel argued that parties are allowed to join where they are being joined to resolve some disputes, which should be distinguished from cases where parties are allowed to intervene in order to protect some legal or financial interest which they have in the case at

hand. Counsel pointed out that there was in this Claim no dispute between the Applicants and the Claimants.

- [34] Counsel argued that in the **Advantage General case** (*supra*), the insurance company had a right to intervene because a claim had been brought under the Motor Vehicle Insurance (Third-Party Risks) Act and they would have been liable on the judgment. Since they would be financially bound by the judgment, the court thought it fit that they be permitted to intervene. Counsel further argued that those cases do not address any specific questions about intervention and joinder by a beneficiary. Counsel also submitted that CPR rule 19.2 does not address the issue of beneficiaries but rather deals with normal civil cases. Counsel emphasized that the joinder being requested will not assist the court in resolving the issue as to whether the claimants ought to be released.
- [35] Regarding the issue of disclosure, counsel relied on Rule 28 of the CPR, which permits disclosure only where documents are directly relevant to matters in issue. A document is directly relevant only if the party intends to rely on it, if it tends to adversely affect that party's case, or if it tends to support another party's case. The Court must also consider whether disclosure is necessary to dispose fairly of the matter or to save costs.
- [36] Counsel submitted that the Applicants have ignored the very rationale given by the Claimants for their request for release. Counsel argued that the Claimants seek release as executors on the grounds of age and health challenges in the context of an estate administration that has become contentious. The claim does not concern the general administration of the estate or executor conduct. Counsel further argued that there is no evidence that the documents sought exist, nor that the Claimants intend to rely on any such documents, nor that they would adversely affect the Claimants' case or support any case advanced by the Applicants, who are not parties and have acknowledged that their purpose is to join the claim and obtain disclosure. Counsel submitted that the disclosure being sought is therefore not necessary to save costs and will not assist the Court in determining whether

the Claimants are physically and mentally capable of continuing as executors nor in determining whether the estate is contentious.

- [37] It was further submitted that the application should be refused not only because the documents are not directly relevant or necessary but because beneficiaries have no right to disclosure of estate documents. Counsel argued that the authorities establish that beneficiaries have no proprietary right to such documents and that disclosure lies within the discretion of the Court. Reliance was placed on ***Schmidt v Rosewood Trust* [2003] 3 All ER 76**, which confirm that there is no proprietary right to obtain documents related to a trust, that disclosure is grounded in the Court's supervisory jurisdiction, and that competing interests, confidentiality, and surrounding circumstances must be considered.
- [38] Counsel submitted that under the **Trusts Act 2019**, executors fall within the definition of trustees. Counsel emphasized that while section 31 imposes a duty to provide information as to the state and amount of trust property, there is no obligation to disclose other documents, and section 37 expressly excludes disclosure of documents revealing a trustee's deliberations as to how he should exercise his functions as trustee.
- [39] Counsel further submitted that the correspondence sought, relating to concerns about administration, conduct of the other executors, or any inclination to demit office, was said to be irrelevant to the relief sought by the Claimants. Counsel argued that the Claimants' sworn evidence sets out their reasons for seeking release, which did not include such concerns, and only the reasons presently operating on their minds were relevant. The application was characterised as a fishing expedition aimed at building allegations regarding the due administration of the estate or circumventing the no-contest clause in the Testator's Will, amounting to an abuse of process.
- [40] Counsel further relied on clauses 27.1 and 28.4 of the Will, which reflect the Testator's intention that executors be free to deliberate and exercise their powers

in good faith without interference by beneficiaries or the Court. Counsel argued that granting disclosure would undermine that intention, expose executors to unwarranted scrutiny, and discourage estate administration.

[41] It was further submitted that only three of eighteen beneficiaries supported the application. Counsel pointed out that the Applicants did not oppose the Claimants' release, and the Will expressly contemplated such release. It was therefore argued that any benefit of disclosure was far outweighed by the trouble and strife that it would cause.

[42] In conclusion, counsel submitted that there is no basis for joining the Applicants as parties or ordering disclosure, and that the Court should refuse the orders sought in the Notice of Application filed on 24 May 2024.

Submissions on behalf of Executor, Ms. Cheryl Hammersmith-Stewart

[43] Mr. B. St. Michael Hylton, Learned King's Counsel, acting on behalf of Ms. Cheryl Hammersmith-Stewart did not file any written submission. He was permitted to make very brief oral submissions. He supported the submissions of learned King's Counsel, Mrs. Gentles-Silvera, and emphasized that the only issue before the court is whether the two executors should be permitted to retire. He noted that the applicants have not indicated any opposition or objection to that substantive question, and it is therefore unclear how adding them as parties would assist the court in resolving the issue.

[44] Counsel submitted that their joinder would instead transform the matter into a "state trial", importing into the claim the various contests in the other matters. He contended that the issues raised by learned King's Counsel, Mr. Wilkinson, in relation to those other disputes, demonstrate why the applicants should not be joined, as their inclusion would unnecessarily expand and complicate what ought to remain a relatively straightforward application.

Submissions on behalf of Executor, Mr. Trevor Patterson

[45] Ms. Carlene Larmond, Learned King's Counsel, on behalf of Mr. Trevor Patterson also did not file written submissions but instead made brief oral submissions. Counsel supported the submissions of learned King's Counsel Mrs. Gentles-Silvera and Learned King's Counsel, Mr. Hylton and added that the court's power to join a party must be exercised within the parameters set out by the Rules. Reliance was placed on Rule 19.2(3). Counsel stressed that the existing parties, the Claimants and Defendants, framed the issues in dispute. Counsel argued that the Defendants from the outset have consented to the Claimants' release, and therefore there is no dispute between the parties that require resolution through joinder.

[46] Counsel further submitted that the second limb of the rule requires the identification of an issue involving the proposed new party that is connected to the matters already in dispute. The Applicants have not identified any such issue. Instead, their position, as indicated by Learned King's Counsel Mr. Wilkinson, is that the issues they intend to raise should only be disclosed after they are joined. Counsel argued that this approach is inconsistent with the rule, which requires the proposed party to identify the issue, so the court can test whether they should be added as parties.

[47] Counsel contended that the Applicants stated purpose for seeking joinder is to advance an application that serves no practical utility, particularly given that they have already filed a separate claim mirroring that application. Counsel concluded that the executors, Mr. Veira and Mrs. Desnoes, ought to be released, and that adding the Applicants would serve no practical purpose and would not assist the court in any way.

ISSUE

[48] The issues to be determined are:

- (i) whether the Applicants ought to be added as parties to the Claimants' application to be released as Executors.

[49] If joined, whether disclosure ought to be granted.

LAW & ANALYSIS

[50] In analysing the issue of the joinder, I will only refer to that portion of the Applicants' and Respondents' evidence which will assist in the resolution of the matter.

[51] The **Civil Procedure Rules, 2002** ("CPR") outlines the circumstances in which a party can be added to a claim. CPR 19.2 (3) states:

The Court may add a new party to proceedings if:

(a) it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings

(b) there is an issue involving the new party which is connected to the matters in dispute in the proceedings and it is desirable to add the new party so that the court can resolve that issue.

[52] The court will have to examine the reasons advanced by the Applicants as to why they ought to be joined to the Claim. An assessment of the Applicants' evidence will help to determine whether they are able to assist the court in deciding whether the Claimants ought to be permitted to retire.

[53] Pursuant to section 9 of the **Trustees, Attorneys and Executors (Accounts and General) Act** ("The Act"), an executor may be released or retire from the office of executor upon the passing of his accounts in accordance with the Act or on terms which the Court sees fit. The Act does not expressly state the specific circumstances under which retirement or release may be granted. It is therefore within the Court's discretion, after consideration of the evidence, to determine the issue. It is to be noted that the major issue in this application is whether the Applicants ought to be added as parties to that claim.

[54] Based on the evidence presented, the Executors, Hugh Martin Veira ("Mr. Veira") and Elizabeth Desnoes ("Mrs. Desnoes") wish to retire from the office of executor due to age and health. Mr. Veira in his evidence indicated that he is retired and is upwards of 84 years old and that he accepted the appointment as executor with

the intention to participate in the “*seamless, non-contentious administration of the estate in accordance with the wishes of the deceased*”. He stated that prior to and since the issue of the Grant of Probate, it has become apparent that there is serious acrimony amongst some of the beneficiaries and the Executors and there is likely to be ongoing litigation before the Estate can be fully administered.

- [55] Mr. Veira detailed the condition of his health including replacement of a heart valve as well as back surgery. He indicated that due to his age and current health, he does not believe he would be able to participate any further in the administration of the Estate which has become contentious. He exhibited medical reports of Dr. Michael Banbury who indicated that Mr. Veira suffers from memory loss which could be due to ageing or early senile dementia. In a more recent medical report, dated August 18, 2025, the doctor indicated that Mr. Veira suffers from frequent lapses in memory which has been getting more frequent, and that this could be due to ageing.
- [56] Mrs. Desnoes in her evidence indicated similar circumstances stating that she is upwards of 74 years old and that prior to and since the issue of the Grant, there is serious acrimony amongst some of the beneficiaries and the executors resulting in ongoing litigation before the estate can be fully administered. She indicated that she has certain health challenges including hypertension and does not believe she is able to participate in the administration of the estate which has become very contentious.
- [57] Both Mr. Veira and Mrs. Desnoes indicated at the time of filing their 1st affidavit that there had been no sale or distribution of the assets of the Estate and that no asset had come into their hands. Further, that they had received no remuneration or commission as Executors. However, given that it is now in excess of 19 months since the claim was filed, the court must consider the current status of the administration of the estate and determine whether the situation concerning the executors have changed. This has become necessary especially in light of the

Applicants' evidence that before considering their release the Applicants must be joined in order for the Court to properly determine whether they can be released.

[58] The Court will now look at the evidence of Mr. Adam Stewart ("Mr. Stewart") to make a determination as to whether it would assist the court in determining the issue of the release of the Claimants.

[59] The relevant aspects of Mr. Stewart's evidence are that the Applicants, Mr. Stewart, Mr. Brian Jardim and Mrs. Jaime Stewart-McConnell, three of the eight principal beneficiaries under the Will of the deceased, have a direct interest in the administration of the estate including the constitution of the executor body. It is on that basis that the parties wish to be heard by the Court as to whether the Claimant should be released and what if any other orders should be made in relation to the executor body of the Estate. Mr. Stewart also refers to an application which he and the other applicants intend to make concerning the future constitution of the Executor body and substantive directions in the administration of the estate. Prior to doing so however, the Applicants also intend to seek a declaration that the relief being sought would not engage the No Contest Clause in the will of the deceased; and will only make the aforementioned application if the said declaration is granted. It is to be noted that the Applicants have also brought the Beneficiaries Directions Claim in suit SU 2024ES03011 on the basis that they have lost all trust and confidence in the Executors (particularly Mr. Trevor Patterson and Cheryl Hammersmith-Stewart).

[60] In my view, section 9 of the Act contemplates that Executors may have had certain dealings with the Estate following the Grant since the section allows the release or retirement of an executor "*upon the passing of his accounts*". Furthermore, the Act does not provide for the inclusion or addition of any beneficiaries as parties to applications for retirement or release of executors.

[61] At this juncture, I note the use of the word "intermeddled" by the Applicants. To suggest that the Claimants have intermeddled, I believe, is a gross misdescription

of the Claimants' dealing in the administration of the estate. The Grant of Probate has been issued in the estate which identifies the Claimants as being among the executors of the estate. Until the Application for release/retirement has been granted, they remain the lawful Executors in the Estate of the Deceased and are entitled to act in that capacity. This is therefore why the passing of accounts will become necessary if the court exercises its discretion in favour of the Claimants in the substantive claim.

[62] I note that the Applicants have indicated that their participation is necessary as they *"wish to be heard by the Court as to whether the Claimant Executors should be discharged and what if any other orders should be made in relation to the executor body of the Estate"*. However, I am not of the view that the issue of who succeeds the retiring executors or the future constitution of the executor body arises in this Claim.

[63] As stated in the Applicants evidence above, if joined, their intention is to make an application to appoint three new Executors to replace the Claimant Executors. This relief, in my view falls outside of the scope of this claim. It is relevant also to note that in the Will, the Testator provided for the continuation of the Administration of the Estate and empowered the Executors/Trustees to appoint new executors in the event of any executors' death, illness or incapacity. Clause 2 of the Will provides that should any trustee die, refuses or is incapable of acting in the office of Executor and Trustee, *"then any three, two or one of them may so act with all the powers conferred upon them or him or her..."*. The court agrees with counsel for the Claimants that the question of whether or not executors ought to be replaced and with whom they should be replaced is not left to the beneficiaries' discretion and the Applicants' intended intervention would alter the substance of the Testator's wishes.

[64] I note counsel for the Applicants' submission that *"Even if executors are going to be released, there might have to be conditional orders made on such release. For example, when you look at the construct of the will, the will contemplated a number*

of different executors. That's why the testator had four". I reject this submission considering the above, since a quorum of four executors is not compulsory under the will.

- [65] Rule 19.2 is not engaged merely because a party has an interest in the outcome of a claim. It requires that the proposed party's involvement is necessary or desirable to resolve the issues in dispute or to address a particular issue involving the proposed party. In my view, the evidence presented by the Applicants does not touch and concern the issue of the Executors' health, age or incapacity or any issue which would assist the court in determining whether they should be released. The Applicants' evidence instead focuses on acrimony between the remaining Executors and certain beneficiaries as well as the future administration of the estate including the constitution of the Executor body, which in my view, is not an issue which arises in the Claim before the court.
- [66] While the court acknowledges the existence of acrimony between the beneficiaries and the remaining Executors, the court is of the view that this does not justify joining the Applicants to this claim. Justification would depend on whether this "acrimony" would affect the outcome of the Executors' application to retire. The court finds that it does not.
- [67] It is noted that the Applicants have not presented any evidence to contradict the reasons given by the Claimants for their application to be released. Counsel for the Applicant was invited to comment on the medical evidence submitted by Mr. Veira, but he declined, stating that, as they were not parties to the suit, they could not do so.
- [68] King's Counsel Mr. Wilkinson referred to several cases including ***Gurtner v Circuit and another* [1968] 2 QB 587** which was considered in the case of ***Advantage General Insurance Company Limited v Alessandra Labeach and Anthony Alexander Powell*** (*supra*). I however do not find these cases to be relevant in dealing with this issue of the release of the Claimant Executors. As stated above,

the release of the Executors would not affect the Applicants' interests as it relates to the will. I also note Counsel's oral submission that the financial status of the Applicants will most likely be affected should the court order the release of the Executors without allowing the Applicants a voice in the hearing of the Claim but offered no evidence to support this assertion.

[69] Where a party seeks to be joined to proceedings by virtue of Part 19 of the CPR, it is incumbent upon that party to place before the court sufficient evidence to justify such joinder. This position advanced by all the executors in their responses to the Application is endorsed by the Court. The court cannot permit the Applicants to be joined and then await their revelation as to how their financial interests will be affected. This in essence is putting the proverbial cart before the horse, and in effect asking the court to determine the Application based on a mirage of circumstances that may never happen.

[70] I find the case of ***Advantage General Insurance Company Limited v Alessandra Labeach et al*** (*supra*) to be distinguishable. The court at paragraph [41] indicated that the appellant was legally exposed at the date final judgment was entered having approved the renewal and issued a certificate of insurance. The court further stated at paragraph [43] that:

[43] Therefore, it is clear, as Lord Denning MR opined in Gurtner v Circuit, the determination of the dispute between Anthony Alexander Powell and the respondent would "directly affect [the appellant] in [its] legal rights or in [its] pocket" (see para. [32] above). Or, as Carey P (Ag) said JCBL v Dyoll, the appellant has some direct interest in the subject of the claim (see para. [36] above)

(Emphasis mine)

[71] I agree with the submissions of counsel for all the Executors that there is no evidence before this court to indicate that the Applicants' legal rights or their financial interests (their pockets) would in any way be affected should the court order the release of the Claimants. Accordingly, this is not a basis upon which the Court would be required to join the Applicants as parties to the proceedings nor to allow them to intervene in order to safeguard any such interests.

- [72] In ***Pelican Securities Ltd v Neil Shaw*** (*supra*), the Court considered an application for joinder in circumstances where the Claimant sought declarations of title by adverse possession over property on which Pelican Securities Limited held a registered mortgage. Although the judge at first instance refused the joinder on the basis that it was unnecessary for the complete and effectual determination of the issues, the Court of Appeal disagreed. The Court of Appeal held that since a title acquired by adverse possession is capable of defeating the interest of a mortgagee, the Appellant's proprietary rights were directly at risk of being extinguished by the proceedings.
- [73] Considering that the mortgage was registered on the property, the Court ruled that adding the appellant, the mortgagee, to the proceedings will allow the court to resolve all matters in dispute. The court held that the learned judge, though setting out the correct principles, erred in failing to appreciate the legal effect of the Claimant's case on the mortgagee's interest and therefore failed to recognize that the Appellant was a necessary party.
- [74] The case at bar is however distinguishable. Unlike ***Pelican Securities*** (*supra*), there is no evidence that the Applicants' interests could be affected or extinguished by the outcome of these proceedings, nor have the Applicants demonstrated that their absence would prevent the Court from determining the issue in the Claim. I find that the cases cited by counsel for the Applicants did not assist. The cases cited dealt with joinder where the proposed party's rights or obligations would be affected by the relief being sought. The court accepts that the Applicants are three of the principal beneficiaries. The court bears in mind that the Applicants' interests in the estate have been identified in great detail in the will of their deceased father. However, the parties' interests as beneficiaries would not be altered should the court allow the Claimants to be released. Therefore, I do not consider this as a basis on which the court could make an order to join the Applicants to the claim.

[75] I will further add that the fact that the Claimant Executors are involved in court proceedings relating to the estate does not prevent the court from ordering that they be released as there are two remaining Executors who are willing to act.

[76] I note that in the several affidavits filed by the Applicants, and on their behalf, they spoke to the various actions taken by the Executors in their administration of the estate. They also gave evidence of what they consider to be several acts that are in conflict with the proper administration of the estate and in breach of the Executors' fiduciary duties. The Applicants have described the conduct of Mr. Patterson and Ms. Hammersmith Stewart as being repugnant to the interests of the estate; however, those issues, I believe, are appropriately dealt with in contentious probate litigations, as pointed out by King's Counsel, Mrs. Gentles Silvera.

[77] I note Counsel for the Applicants' reliance on Part 67.2(1) of the CPR which states that:

(1) An administration claim or a claim under rule 67.4 may be brought by –

(a) ...;

(b) ...; or

(c) any person having or claiming to have a beneficial interest in the estate of a deceased person or under a trust.

[78] It is the court's view, in agreement with the Claimants and Defendants' submissions, that in the case at Bar, this rule must be read in conjunction with CPR rule 19 which is outlined at paragraph 50 above. CPR 67.2 (4) which is also relevant provides that the court may make such person a Defendant. However, by virtue of the reasons set out above, the court is unable to join the Applicants under Part 67. Having regard to the substance of the Applicant's application, which in essence concerns the future constitution of the Executor body, the appropriate course of action is for an application to be made under the *Contentious Probate Rules* for the removal of personal representatives. That issue however is already

the subject of the Beneficiaries Directions Proceedings which seek directions pertaining to the administration of the Estate and the removal of certain Executors.

- [79] I have also noted the importance of the issue of disclosure being requested by the Applicants. They have relied on Rule 28 of the CPR. The court will exercise its discretion to order disclosure only if the information is directly relevant to one or more matters in issue in the proceedings. The Applicants' reliance on ***The Attorney General V BRL Limited and another*** (supra) is not helpful to the determination of the issue before this court.
- [80] The Court relies on the decision in ***Schmidt v Rosewood Trust Limited*** [2003] 3 All ER 76 cited by Counsel for the Claimants. The beneficiaries do not have a proprietary right to disclosure of trust or estate documents. This right to disclosure is related to the administration of the trust/estate and has nothing to do with the Claim for the release of the executors. I agree that the term trustee is wide enough to encompass executors of an estate and further that even within the Trusts Act there is no duty to disclose documents relating to deliberations as to how the trustees exercise their functions. The Court would have to consider issues of confidentiality in dealing with such a request and it does appear to be bordering on breach of privileged communications.
- [81] The Court tends to agree with Mrs. Silvera Gentles K.C. that the testator clearly intended that the Executors would be free to discuss the matters of the estate and their decisions concerning its administration without fear of retaliation and criticism of beneficiaries or the criticism of the court. Counsel drew attention to the No Contest Clause and clause 28.4 of the Will which provides that "*All determinations which my trustees are authorized to make and all powers and discretions which are given to the trustees to exercise, shall be made and exercised by them in what they consider to be in the best interest of the beneficiaries, as a whole. Their good faith decisions are absolute and conclusive and are not to be controlled or reviewed by the beneficiaries or by any court of law or tribunal.*"

- [82] There is no requirement either in law or by the terms of the Will that all the Executors should always agree. In any event, the Claimants have advanced their reasons for seeking to be released, which, on the face of it, bears no relation to the information being requested. It is evident that the testator did not intend for the executors to be accountable to the beneficiaries in a manner that would preclude independent thought in respect to the administration of the estate.
- [83] The court finds that the information being requested is not relevant to the issue of the release of the Claimants but rather is an attempt by the Applicants to fish for information for use to their advantage in the several other suits that they have filed. The Court will not allow the Application to serve as a fishing expedition.

CONCLUSION

- [84] In the circumstances, the Court is not satisfied that the Applicants are necessary or appropriate to be joined in these proceedings or be allowed to intervene. No evidence has been presented to demonstrate that their legal rights, obligations, or financial interests would be negatively affected by the orders sought by the Claimants, nor that their joinder or intervention is necessary for the resolution of the issues presented in the Claim.
- [85] The Court further notes that permitting the joinder would only serve to prolong the resolution of the Claim and increase the costs to the existing litigants and the Estate. Such an outcome would be inconsistent with the overriding objective, which requires the court to ensure that matters are dealt with justly, expeditiously and fairly. The court also considered the magnitude of the reliefs being sought by the Applicants and has determined that based on the evidence presented by them, a joinder would certainly lead to further delays in the disposition of this Claim and would cause the Claimants to be more deeply involved in the several other cases which are currently before the Court. This position would certainly ignore the effect of continued involvement of the Claimants in the administration of the estate and

the fact that they may not be able to properly function to execute their duties because of the very reasons they advanced for their release.

[86] Accordingly, the Court is of the view that granting the application for joinder or to allow the Applicants to intervene would serve no useful purpose and would not advance the determination of the issues currently before the court.

ORDERS

[87] In the circumstances, I make the following orders:

- (1) The orders sought in the Notice of Application for Court Orders filed on the 24th of May 2024 are refused.
- (2) The issue of costs is reserved.
- (3) Written submissions and list of authorities to be filed and exchanged on the issue of costs by December 31, 2025.
- (4) Application for leave to appeal – Applicant are to file and serve submissions by December 31, 2025.
- (5) The Respondents are to file and serve their submissions and lists of authorities by January 5, 2026.

[88] The matter is adjourned to January 22, 2026, commencing at 9:30 am for ½ hour.

[89] The Applicant's Attorneys-at-Law should prepare, file and serve this order.

Icolin Reid
Puisne Judge