COMMONWEALTH OF THE BAHAMAS **2022**

IN THE SUPREME COURT

Common Law & Equity Side **CLE/gen/No. 00988**

BETWEEN

JULIAN ROMER **Plaintiff**

AND

EDITH PEGGY ROMER **Defendant**

Before: The Hon. Madam Justice Carla D. Card-Stubbs

Appearances: Bradley S. Cooper – Defendant

Heard with Leave of The Court Leslie Stuart

Hearing Date: February 21, 2023

Civil – Plaintiff Appearing pro se - Plaintiff granting power of attorney – Effect of said grant –Whether individual granted a power of attorney has a right of audience on Plaintiff's behalf - Whether a person not qualified as an attorney-at-law has a right to represent Plaintiff in Court —Rules of The Supreme Court 1978 as amended –Legal Profession Act -Bahamas Bar Code of Professional Conduct

RULING

INTRODUCTION

1. This is a ruling on a preliminary point as to whether Leslie Stuart, donee of a power of attorney of the Plaintiff, may appear in these Courts, have audience and represent the Plaintiff in the conduct of his legal action.

2. For the following reasons, this Court finds that Leslie Stuart has no standing in the instant matter and is prohibited from representing this Plaintiff in this matter. This Court gave its decision to the parties on October 13, 2023 and indicated that it would reduce it to writing with reasons therefor.

BACKGROUND

3. By Writ of Summons filed June 27, 2020, the Plaintiff, Julian Romer, sued the Defendant for breach fiduciary duty as Executrix of the will of his Grandfather. On September 5, 2022, the Plaintiff filed a Summons, crafted in non-traditional form, seeking "Judgment on Admission pursuant to Order 27, r. 3". The Plaintiff's Pleadings were endorsed as having been filed pro se.

4. On 5 September 2022 Leslie Stuart filed an Affidavit confirming the grant to him of a Power of Attorney to represent the Plaintiff herein.

5. On September 20, 2022, the Defendant filed a Summons to, inter alia, dismiss the Writ of Summons.

6. On the calling of the applications for hearing, a Mr. Leslie Stuart purported to appear for, and to act on behalf of, Julian Romer, the named Plaintiff. Skeleton Arguments had been lodged by "Julian Romer, Pro Se, c/o Mr. Leslie Stuart".

7. On the Court's query of Mr. Stuart's standing and the basis on which he sought to have audience before this Court, Mr. Stuart submitted that he was the donee of a

power of attorney by the named Plaintiff which authorized him to appear before this Court. He went on to indicate that he had appeared before other Judges.

8. Mr. Cooper, for the Defendant, then objected to Mr. Stuart's appearance.

9. This Court indicated that it would revert with a decision in this regard before proceeding to hear the substantive applications.

ISSUE

10. The issue before this Court is whether a grant of a Power of Attorney confers on any individual the right to have an audience before the Court i.e. whether Leslie Stuart, donee of a power of attorney has a right of audience in this Court to appear for, and conduct proceedings on behalf of, Julian Romer, the Plaintiff.

PLAINTIFF'S SUBMISSIONS VIA MR. STUART

11. In order to make a determination on the issues, the Court gave Mr. Stuart leave to make submissions. Mr. Stuart explained that the Plaintiff, Mr. Julian Romer, executed "his Power of Attorney notarized by The Bahamian Consulate in Miami, Florida wherein he appointed Mr. Leslie Stuart as his personal representative under the Power of Attorney Act." Mr. Stuart submitted that the said Power of Attorney authorized him to do anything in the same way as the Plaintiff would do in these proceedings. The substance of his submissions on this point appear in an affidavit sworn by him and dated September 5, 2022. The content of that affidavit is reproduced in Skeleton Arguments lodged with the Court. The first 5 paragraphs of the Affidavit reads:

    1. I, MR. LESLIE STUART, of the Eastern District of New Providence, one of the Islands of The Commonwealth of The Bahamas, was granted a

power of Attorney to represent Mr. Julian Romer the Plaintiff herein. Here now shown to me my Power of Attorney from the Plaintiff and my filed receipt from the Registrar General's office marked Exhibit "**LS-1".**

2. That my Power of Attorney to represent the Plaintiff is consistent with the intentions of The Bahamas Parliament when they enacted the Power of Attorney Act Chapter 81 at Section 5. "*The donee of power of attorney may, if he thinks fit - (a) execute any instrument with his own signature and, where sealing is required, with his own seal; and (b) do any other thing in his own name, by the authority of the donor of the power; and any instrument executed or thing done by a done under such power of attorney in that manner shall be as effective as if executed or done by the donor of the power,"*
3. That the Jurisdiction for me to appear before the Supreme Court in person in this matter as a representative of the Plaintiff, is derived from **Order 5 rule 6(1),** of the rules of the Supreme Court 1978, which dictates; "*any person (whether or not he sues as a trustee or personal representative **or in any other representative capacity**) may begin and carry on proceedings in the Supreme Court by an attorney **or in person.***
4. That my authority to represent the Plaintiff in this matter is further substantiated by The Legal Profession Act Chapter 64 at Section 25; "*Nothing in this Act shall derogate from any enactment empowering an unqualified person to conduct, defend or otherwise act in relation to any legal proceedings."*
5. That my standing to represent any Plaintiff before the Bahamas Supreme Court has already been determined in the case of; **Harrieth Louise Harris v. Branville McCartney (2021) BHS J No. 76,** handed downin the 4th of May 2021, **Held:** *The Donee of a Power of Attorney has locus standi to conduct legal proceedings before the Supreme Court. Section 5 of the Power of Attorney Act grants the Donee of a power of attorney, the authority to do any other thing in his own name by the authority of the Donor of the power. Having regard to that, and unqualified person pursuant to the Legal Professions Act section 2(b) [definition of unqualified person] denotes that any person who falls within the ambit of secton 25 of that Act shall have corresponding meaning as a "qualified person". That means section 25 of the Legal Profession Act has the ability to qualify any person who is not Counsel & Attorney and falls outside the scope of section 20 as a qualified person to conduct legal proceedings before the Supreme Court.*
6. That this ruling is binding on the Bahamas Supreme Court pursuant to the Evidence Act Chapter 65 at Section 118:

   "*Every Judgement is conclusive evidence against all persons of the legal result which it affects."*

THE DEFENDANT'S SUBMISSIONS

12. Mr. Cooper, for the Defendant, informed the Court that Mr. Stuart ought to know that he has no right to appear based on the judgment of Brathwaite, J in *Herman Elisha Francis v NIB* 2021 CLE/GEN/00319 which dealt with the very same issue, i.e. whether Mr. Stuart, pursuant to the power of attorney, had the right to represent a litigant before a Court. Hon. Mr. Justice Braithwaite, decided that Mr. Stuart did not.

13. Subsequent to the hearing, Mr. Cooper furnished the Court with a copy of the judgment. Mr. Stuart confirmed that he possessed a copy of the judgment.

LEGAL DISCUSSION AND ANALYSIS

14. The institution of proceedings is addressed in the Rules of The Supreme Court, 1978, as amended ('RSC') which contemplates a party carrying on proceedings by an attorney or in person.

> **Order 5, r. 6 – Right to sue in person**
> **6.** (1) Subject to paragraph (2) and to Order 70, rule 2, any person (whether or not he sues as a trustee or personal representative or in any other representative capacity) may begin and carry on proceedings in the Supreme Court by an attorney or in person.
> (2) Except as expressly provided by or under any enactment, a body corporate may not begin or carry on any such proceedings otherwise then by an attorney.

15. Mr. Stuart interprets Order 5 rule 6(1) RSC as a rule which allows him to "represent" any litigant in person. He submits that he is acting in a "representative capacity". This is a patent misconstruction of the rule. The rule clearly provides leave to *a person suing in any of those capacities* to begin and carry on proceedings without an attorney. So, for example, a personal representative of an estate may sue in that capacity and carry on the proceedings in person. *Mr. Stuart is not suing in a representative capacity. Mr. Romer is.* The rule has no

application to the donee of a power of attorney in these circumstances. It does not allow a litigant who sues in a representative capacity to *carry on proceedings in the Supreme Court by a non-attorney* or other person. It is not a rule authorizing Mr. Stuart to represent the litigant.

16. Order 5 rule 6(1) RSC not only permits, *but also requires*, that where the proceedings are not conducted by an attorney, then the acts are to be carried out in person by the party. The marginal note to Order 5, rule 6 reads, "Right to sue in person". This is what is meant by that rule which, in my opinion, provides that a party may sue in person ('begin and carry on proceedings') – even if that party is acting in a representative capacity and subject to other rules which govern certain parties, such as suit by a corporate body.

17. The reference in rule 6 to "attorney" refers to an individual retained by another to act on their behalf in legal proceedings i.e. to begin and carry on proceedings in the Supreme Court. This must necessarily refer to an attorney-at-law and not an attorney-in-fact. This will become apparent in considering the question of a right of audience and the right to practice law in the Supreme Court.

18. Mr. Stuart relies on the Assistant Registrar's (Registrar's) ruling in *Harrieth Louise Harris v. Branville McCartney (2021) BHS J No. 76.* His submission is that this Court is bound by that ruling.

19. A Judge is not bound by a decision of a Registrar. In our hierarchical Court system, the doctrine of binding precedent means that a lower Court is bound by the decision of a superior Court and not the other way around. There is good reason for the doctrine of binding precedent. It provides for certainty in the interpretation and application of the law and for legal principles to be developed in an orderly fashion.

20. A Judge appointed pursuant to the Constitution of The Bahamas may, subject to the Supreme Court Act or any other Act and to rules of Court, exercise in Court or in Chambers all or any part of the jurisdiction vested in the Court in a way that a Registrar, an officer of the Court, is not entitled to. A Judge exercises the unlimited jurisdiction of the Court *until and unless that* jurisdiction is restricted by the Supreme Court Act or any other Act and the rules of Court. On the other hand, The Registrar *has only* the jurisdiction, powers and duties as are conferred by the Supreme Court Act or rules of Court or as are imposed upon the Registrar.

21. The Registrar's judgment is not binding on this Court.

22. Mr. Stuart also seeks to bind this Court by reference to Section 118 of the Evidence Act, Chapter 65 which provides:

> "Every Judgement is conclusive evidence against all persons of the legal result which it affects."

23. Again, this is a section that is inapplicable in these circumstances. When this Court issues a judgment, it is binding not only on the parties thereto but on all persons as it concerns the matters dealt with in the judgment – unless that judgment is varied or overturned. If it declares certain rights, then the judgment is conclusive evidence of such rights and a party is able to assert that right against the world – unless that judgment is varied or overturned. That is a different matter from declaring a judgment binding on a Court. For the reasons given above, the Registrar's judgment is not binding on this Court. For the reasons following, this Court disagrees with the decision of the Registrar.

24. In the case of *Harrieth Louise Harris v. Branville McCartney* (2021) BHS J No. 76, the Registrar ruled that Leslie Stuart in his representative capacity as Donee by Power of Attorney, has the authority to conduct legal proceedings on behalf of the Plaintiff, before the Court.

25. In that matter the Registrar stated, *inter alia*,:

> "[14] The common law position with respect to legal standing is that the Court can only exercise jurisdiction over a claim provided the Plaintiff has the requisite locus standi. A fortiori, if a Plaintiff lacks locus standi, the Court will equally lack the competence to entertain the matter notwithstanding that the claim is within the jurisdiction of the Court.
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> [15]. The Court in African Apolostic Mission v Dlamini N.O and Others (3117/10) [2011] SZHC 53 (10 June 2011) considered the term locus standi to denote "legal capacity to institute proceedings in a Court of law... It is the right or competence to institute proceedings in a Court for redress or assertion of a right enforceable at law".
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> [16]. A good starting point to determine the issue before this Court, is to look at section 2 and 25 of the Legal Profession Act respectively, which provides the definition of an unqualified person and the savings clause provision which empowers an unqualified person to conduct legal proceedings before the Court.
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> [17]. Section 2 provides as follows:
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> …
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> [18] Section 25 provides: Nothing in this Act shall derogate from any enactment empowering an unqualified person to conduct, defend or otherwise act in relation to any legal proceedings.
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> [19] Succinctly put, the effect and operation of ss. 2 & 25 when read together enables the Court to exercise its discretion in determining who is a "qualified person" when weighed against corresponding legislation.
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> [20] In fact, the interpretation of "unqualified person" pursuant to s. 2(b) of the Legal Profession Act contains a proviso which qualifies any person to conduct legal proceedings before the Court so long as that person fall within the scope of section 25 as being empowered to act by any other enabling legislation.
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> [21] That being the case, Mr. Stuart asserts that his power to conduct, defend or otherwise act in relation to this matter derives from the Power of Attorney obtained by the Plaintiff. I am of the view that O. 5 r. 6 of the RSC is the enabling legislation which empowers pro se litigants or their representatives, who are not Counsel & Attorney, the right to conduct proceedings before the Supreme Court. To remove the same, would be tantamount to denying a litigant access of justice.

26. I disagree with the learned Registrar's reasoning and conclusions in 2 material particulars. In the first instance, it is the RSC that permits a litigant to act in person but it is also the RSC that requires the litigant to act by an attorney if the litigant does not act in person. There is other category of persons permitted to act. In the second instance, the Legal Profession Act ('LPA') which regulates attorneys-at-law and the practice of law makes provisions for a qualified person and the unqualified person. It prohibits an unqualified person from practising law. It enacts that prohibition subject to any enactment allowing an unqualified person to act. It is my view that the unqualified person referred to in Section 25 of the Legal Profession Act is the named party in a suit who pursues his own cause pursuant to the RSC and without help from another. It is not a reference to a delegate. Where a person is independent of a party, that person does not stand in the shoes of the party for purpose of the RSC. I find that the donor of a power of attorney cannot authorize or vest a donee with power to conduct legal proceedings in the Supreme Court. The donor may authorize the donee to instruct an attorney or to sign certain documents but a donor (1) cannot authorize somoene to do what he himself is required to do in person (via the RSC) nor (2) can he authorize someone to do what statute prohibits (as per the LPA).

27. The Legal Profession Act is the Act that in large part regulates the conduct of attorneys-at-law ('counsel and attorney') and the practice of law in this jurisdiction. The qualifications needed to be admitted to practice are referred to at Section 10 of the Legal Professions Act 1992 Ch.64 :

> 10. (1) No person shall be admitted to practice unless he is qualified in accordance with Part A, B or C of the First Schedule and is not disqualified for admission under subsection (2).

28. Qualifications are listed in the alternative in the First Schedule and are not germane here.

29. Section 20 of the LPA prohibits the practice of law by an unqualified person.

> 20. (1) Save where expressly permitted by this or any other Act, no unqualified person shall act as a counsel and attorney, or as such sue out any writ or process, or commence, carry on or defend any action, suit or other proceeding, in the name of any other person or in his own name, in any Court, or act as counsel and attorney in any case, civil or criminal, to be heard or determined in any Court.
> (2) Any person contravening this section is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months.

30. Those who are not qualified are deemed to be 'unqualified'. An unqualified person is defined in Section 2 as:

> "unqualified person" means either a person whose name does not for the time being appear on the Roll or counsel and attorney whose name is on the Roll but who is for the time being suspended from practice, but does not include —
> (a) a person specially admitted, a registered associate or a legal executive as respects the performance by him of any function falling within his competence under this Act as a person specially admitted or as a registered associate or a legal executive; or
> (b) any person within the benefit of section 25,
> and "qualified person" shall have a corresponding meaning.

31. The Act has a proviso (or savings clause) to give effect to *any enactment* that permits an unqualified person to conduct legal proceedings.

> 25. Nothing in this Act shall derogate from any enactment empowering an unqualified person to conduct, defend or otherwise act in relation to any legal proceedings.

32. Section 25 of the LPA yields to the RSC which permits a litigant to act in person. Save for the provision of the RSC in this instant case, s. 20 LPA prevails. This means that an unqualified person may not carry on proceedings "in the name of any other person …. in any Court, or act as counsel and attorney in any case…" Together, the provisions stipulate that unless a party is acting in person, the party is to act by a qualified person i.e. an attorney-at-law.

33. A donee's right of audience before the Court has been dealt with judicially in the Caribbean jurisdiction. The Courts have considered at length whether a power of attorney can allow another to act on the donor's behalf in proceedings. The

decision of the learned Hon. Mr. Justice Ventose in *Adam Bilzerian et al v Terrance Byron et al Claim No. Skbhcv2017/0072* is instructive. In that case, Ventose J. declared:

> [48]" A litigant in person is an individual party to proceedings before the court who decides to conduct the litigation by himself or herself without the need to be represented by an Attorney-at-Law. That right is granted to that party himself or herself; it cannot be exercised by anyone else. The right of an individual litigant to represent himself or herself in person is a derogation of the right of legal practitioners only to represent parties in proceedings before the court. While I note that Mr. Paul Bilzerian has been purporting to act as a litigant in person for over two years in proceedings before the High Court and the Court of Appeal, that alone does not automatically confer upon him the right to so appear since he does not in fact have a right to appear as a litigant in person to represent his sons in the manner in which he has done for the last two years. No doubt any individual may grant a power of attorney to another to oversee litigation on their behalf and this can include engaging legal representation for the individual or attending proceedings on behalf of that individual and making certain decisions (communicating to the Court through an attorney at law or where applicable directly 26 to the Court) in respect of the manner in which the litigation is conducted. This is exactly what the Court of Appeal stated in its oral judgment dated 13 March 2018 in the consolidated matters of Bilzerian v Weiner et al (SKBHCVAP 2016/0019) and Bilzerian v Weiner (SKBHCVAP 2016/0021) as follows: There is the issue of Paul Bilzerian's role in the trial. He is not a party to the proceedings, he is not a lawyer or witness in the case. His role is advise the lawyer who is to advocate the matter.
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> [49] That power of attorney, however broadly drafted, cannot confer a right on that person to act in person for that party. It defies belief that this was allowed to happen and for so long. A litigant in person means what it says – that the person, who is a litigant, can appear on his on her own behalf, without the need to be represented by an Attorney-at-Law, in civil proceedings. That right does not extend to anyone else other than the individual party to the proceedings. In fact, the forms in the CPR recognize that a litigant may from the commencement of civil proceedings represent himself or herself. The CPR recognizes the right of a party who was previously represented by an Attorney-at-Law to decide to represent himself or herself. In such a case, a notice of acting in person must be filed.
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> …
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> [54]If Mr. Paul Bilzerian is allowed this unrestricted right of audience in the Court in the manner to which he has become accustomed over

> the last two years, it would mean that any party to civil proceedings could simply grant a power of attorney to any another person, even a person who is either: (a) disqualified to practice law in this jurisdiction or elsewhere; or (b) convicted of serious criminal offences in any jurisdiction, thereby allowing that person to appear as a litigant in person for that party without any reference to the legal requirements to be admitted to practice as an Attorney-at-Law in Saint Christopher and Nevis under the Legal Profession Act, No. 33 of 2008."

34. Ventose J thoroughly considered the case of In *the Matter of Applications for Orders in Relation to Costs in Intended Proceedings by Coffey and others [2013] IESC 11 (26 February 2013),* where the Supreme Court of Ireland considered an individual's application, who was neither an Attorney or a party to the proceedings, to represent litigants in the instant proceedings.

35. The Supreme Court of Ireland's exploration of the issue as reproduced by Ventose J is quite useful. The following appears at paragraph 52 of the learned judge's decision.

> 23. The fundamental rule is that the only persons who enjoy a right of audience before our Courts are the parties themselves, when not legally represented, a solicitor duly and properly instructed by a party and counsel duly instructed by a solicitor to appear for a party. That rule does not exist for the purpose of protecting a monopoly of the legal professions. Kennedy C.J. considered an application, In the matter of the Solicitors (Ireland) Act, 1898 and in the matter of an application by Sir James O'Connor [1930] 1 I.R. 623 at page 629, for the readmission to the roll of solicitors of a person who had formerly practised as both a solicitor and a barrister before being appointed to the bench from which he had retired. That issue is not before the Court and I express no view on the issue of readmission of former members of a profession. It is of interest, however, that the Chief Justice explained that one of the points of view of relevance was that "of the public—of the people from whom ultimately are derived and held,……as a privilege the monopoly of the right to practise as solicitors and advocates," The limitation of the right of audience to professionally qualified persons is designed to serve the interests of the administration of justice and thus the public interest.
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> 24. The exclusive right of counsel to audience in the Courts is derived from the common law. In order to extend that right, in the case of the

superior Courts, to solicitors, it was necessary to enact s. 17 of the Courts Act 1971, which provides:
28 “A solicitor who is acting for a party in an action, suit, matter or criminal proceedings in any Court and a solicitor qualified to practise (within the meaning of the Solicitors Act, 1954) who is acting as his assistant shall have a right of audience in that Court.”

25. Thus, the right of audience is regulated by law. It is true that a party to proceedings (other than a corporation) has the right to appear for him or herself and to plead his or her own case. This is a matter of necessity as well as right. Regrettably it is a fact of life especially during the current economic difficulties in our country that many people are unable to afford the often high cost of professional representation and that the availability of legal aid is limited. There are other cases where litigants disagree with their lawyers or are unwilling to accept representation. Whatever the reason, there is an inevitable number of cases before the Courts where litigants are unrepresented. In those cases, they have the right to represent themselves. It has to be accepted that this is sometimes unavoidable, which is not to say that it is desirable. There is no doubt that Courts are better able to administer justice fairly and efficiently when parties are represented.

…

27. Sir John Donaldson M.R. in Abse and Others v Smith [1986] 2 W.L.R. 322 remarked on the benefits for the administration of justice from the competent representation of parties. At pages 326 to 327 of his judgment he referred to the limitation of rights of audience to qualified persons: 29 “These limitations are not introduced in the interests of the lawyers concerned, but in the public interest. The conduct of litigation in terms of presenting the contentions of the parties in a concise and logical form, deploying and testing the evidence and examining the relevant law demands professional skills of a high order. Failure to display these skills will inevitably extend the time needed to reach a decision, thereby adversely affecting other members of the public who need to have their disputes resolved by the Court and adding to the cost of the litigation concerned. It may also, in an extreme case, lead to the Court reaching a wrong decision.”
…

29. It would be inimical to the integrity of the justice system to open to unqualified persons the same rights of audience and representation as are conferred by the law on duly qualified barristers and solicitors. Every member of each of those professions

> undergoes an extended and rigorous period of legal and professional training and sits demanding examinations in the law and legal practice and procedure, including ethical standards. Barristers and solicitors are respectively subject in their practice to and bound by extensive and detailed codes of professional conduct. Each profession has established a complete and active system of profession discipline. Members of the professions are liable to potentially severe penalties if they transgress.
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> 30. There would be little point in subjecting the professions to such rules and requirements if, at the same time, completely unqualified persons had complete, parallel rights of audience in the Courts. That would defeat the purpose of such controls and would tend to undermine the administration of justice and the elaborate system of controls.
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> 37. In conclusion, the general rule is clear. Only a qualified barrister or solicitor has the right, if duly instructed, to represent a litigant before the Courts. The Courts have, on rare occasions, permitted exceptions to the strict application of that rule, where it would work particular injustice. The present case comes nowhere near justifying considering the making of an exception. Mr. Podger seeks nothing less than the general right to appear on behalf of a group of thirteen litigants and to plead their cases to precisely the same extent as if he were a solicitor or counsel, which he accepts that he is not, but without being subject to any of the limitations which would apply to professional persons."

36. I have read the judgment of learned Hon. Mr. Justice Braithwaite in *Herman Elisha Francis v NIB* 2021 CLE/GEN/00319 and find it highly persuasive. There the learned Judge comprehensively reviews case law in this area, including the case of Adam Bilzerian et al v Terrance Byron et al Claim No. Skbhcv2017/0072. It is unnecessary to further revisit the grounds traversed in detail by the learned Judge. I concur with the reasoning of Braithwaite, J therein and agree with his conclusion.

37. In *Herman Elisha Francis v NIB*, Braithwaite, J concluded, at paragraph 16 as follows:

> 16. I also accept that the common law position, as extracted from the authorities cited above, is that generally the only persons who are entitled to rights of audience before the Courts are the parties themselves, when not represented by counsel, or persons who have been duly admitted to the practice of law in this jurisdiction.

38. I am satisfied that this is the correct legal position based on my interpretation of the relevant rules and statutes before me and a review of the case law. This position is supported by the common law rules which afford a right of audience to a trained and qualified attorney-at-law and to a litigant who appears in his own case without the benefit of a lawyer. To the extent that a person has a constitutional right to be heard in his own matter, the Courts have, from ancient times, afforded a litigant a right of audience to be heard in his own cause when he is unrepresented. "Unrepresented" has always been understood to mean "unrepresented by a qualified legal representative". In our jurisdiction, a person qualified to have audience before the Court and to take instructions and to pursue same on behalf of another is regulated by the Legal Profession Act. The Regulation of the profession ensures that one who appears on behalf of another is trained to handle that responsibility and is aware of his obligations not only to the client but to the Court, to his profession and to the public.

39. The regulation of the practice of law is necessary not for the protection of attorneys-at-law but for the protection of those who would access the justice system. It is the litigant whose rights, liberties and assets are at risk. To choose to navigate the justice system on his own behalf is a personal choice for a litigant but it would be folly for the Court to endorse a willy-nilly adhoc approach where any untrained and unqualified person could conduct litigation on behalf of another. To entertain such conduct would be a travesty of justice.

40. Over time, the Court has made several facilitations to assist a litigant to navigate the Court system. However, representation in law by one unlearned in law is not such a facilitation.

CONCLUSIONS AND DECISION

41. I am surprised that Mr. Stuart has, to date, been able to conduct proceedings in this Court on behalf of another. I have taken the time to address his submissions *in seriatim*.

42. I think that Mr. Stuart's contentions are misconceived. A power of attorney cannot bestow an agent with a right of audience before a Court to, effectively, provide legal representation of another in this Court.

43. I find that Mr. Leslie Stuart, donee of a power of attorney of the Plaintiff has no standing to appear in these Courts, to have audience and to represent the Plaintiff in the conduct of his legal action.

44. I find that Mr. Stuart, not being a qualified person who has been admitted to the Bar of the Commonwealth of The Bahamas, has no standing to pursue this matter on behalf of a named party. What he is attempting to do is conduct legal proceedings on behalf of another. That is part and parcel of the practice of law. He is prohibited from doing so in this Court in his current capacity.

COSTS

45. This Court was minded to determine whether it could order wasted costs against Mr. Stuart personally and indicated so to the parties on October 13, 2023. Mr. Stuart has been in possession of the judgment of *Herman Elisha Francis v NIB* from date of delivery. That judgment makes it clear that he has no right of audience in this Court system. On October 13 ,2023 Mr. Stuart submitted, in response to the Court's indication on costs, that he had believed the judgment to apply to the Court of that sitting Judge only since the ruling of the Registrar had not been overturned and since that Judge, prior to the ruling, had allowed him to appear.

46. I do believe that Mr. Stuart is under the misapprehension that that judgment is limited to a particular Court. That misapprehension itself demonstrates the danger of allowing the untrained to purport to represent another in legal proceedings. This ruling should serve to displace that misapprehension.

47. However, I do think that this is a fit case for wasted costs and will make such an order.

ORDER

48. The order and directions of this Court are as follows.

1. Mr. Leslie Stuart has no standing to represent the litigant in proceedings before the Court and is prohibited from doing so.

2. The Plaintiff shall pay the sum of $500 as Wasted Costs to the Defendant.

3. This matter is stayed until the Costs ordered herein have been paid.

4. Subject to the terms at paragraph 3 of this order herein, the Defendant's summons filed September 20, 2022 is set for hearing on June 30, 2024 at 2:00pm. The named Plaintiff may appear in person or by counsel and attorney admitted to practice in the Commonwealth of The Bahamas.

5. For avoidance of doubt, this action is now governed by The Supreme Court, Civil Procedure Rules 2022, as amended.

Dated this 24th day of October, 2023

Carla D. Card-Stubbs, J