

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity Division
2024/CLE/gen/00212

BETWEEN

ALONZO BUTTERFIELD

Claimant

AND

BAHAMAS FIRST GENERAL INSURANCE CO. LTD.

First Defendant

AND

ESSENCE BOWLES

Second Defendant

Before: The Honourable Chief Justice Sir Ian R. Winder

Appearances: Tai Pinder-Mackey for the Claimant
Nadia Wright for the First Defendant
No appearance for the Second Defendant

Hearing date(s): 29 July 2024

RULING

WINDER, CJ

This is the application of the First Defendant (Bahamas First) seeking to be removed as a party to this action on the basis that there is no cause of action available as between it and the Claimant

[1.] The brief facts, which are not seriously in dispute, are that the Claimant was involved in a motor car collision with a vehicle driven by the Second Defendant (Bowles). The vehicle driven by Bowles was owned by Jevon Adderley (Adderley). Adderley's vehicle was insured by Bahamas First, however, there is no evidence that the policy of insurance covered Bowles as a named driver. In fact the evidence is to the contrary.

[2.] Bahamas First has asked to be removed as a defendant in accordance with Rule 19.2 of the Supreme Court (Civil Procedure) Rules 2022 (the CPR). Rule 19.2(5) of the CPR provides that:

(5) The Court may, by order remove any party if it considers that it is not desirable for that person to be a party to the proceedings.

[3.] The simple answer to the issue raised in the application is to be found in the decision of the Judicial Committee of the Privy Council in **Insurance Company of the West Indies v Eric Antonio** 2015 UKPC 47 where the Board stated at paragraph 3 as follows:

3. The solution is not for courts to impose on insurers liabilities which they are not required to bear either under the insurance cover which they have properly issued or under current legislation. Insurance is based on an assessment of the risks undertaken and of the premiums appropriate to cover such risks. Named driver policies are a means by which insureds and insurers identify the cover required and define and limit the premiums payable. They are permissible under current law in The Bahamas. To impose on insurers liability for accidents caused by other drivers not named on the relevant policy is to expand the risks and to undermine the purpose of named driver cover. If such liability is imposed in respect of insurances already issued, insurers will have received no premiums for such risks. In relation to future insurances, higher premiums would have to be charged across the board, and individual motorists will be unable to obtain the benefits of reduced premiums under named driver cover. Some motorists might not be able to afford the resulting increased premiums.

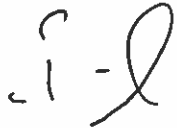
[Emphasis added]

Bowles was not a named driver and as such the court is incapable of imposing liability on Bahamas First, as Adderley's insurers, for Bowles' negligence, even if proven.

[4.] In the circumstances the application of Bahamas First must succeed.

[5.] On the issue of costs, the Claimant says that he ought not be made to bear the costs of the application and the action on the basis that the evidence available to him at the time, namely the traffic accident report, indicated that Bowles was insured by Bahamas First. Additionally, he says that representatives of Bahamas First, although advising that Bowles was not a named driver, did not furnish a signed copy of the policy. Respectfully, I am not satisfied that the reasons proffered by the Claimant warrant a departure from the usual rule that costs follow the event. In the circumstances the Claimant must bear the reasonable costs of the application and the action as against Bahamas First. I shall assess those reasonable costs at \$3,500.

Dated this 14th day of August, 2024

A handwritten signature in black ink, appearing to read 'I-W', written in a cursive style.

Sir Ian Winder
Chief Justice