COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law & Equity Division

2022/CLE/qui/No. 00119

IN THE MATTER of The Quieting Titles Act, 1959

AND

IN THE MATTER of ALL THAT piece or parcel of land situate in the Eastern District of the Island of New Providence and being lot Number Thirty-Eight (38) in Block Number Two (2) in Buttonwood Hills Subdivision bounded NORTHWARDLY by land now or formerly the property of Neptune Lane Limited and running thereon Eighty two and Twenty-nine Hundredths (82.29) feet and EASTWARDLY partly by Lot Number Thirty-seven (37) and partly by road reservation of the said subdivision called and known as Jumbay Lane and running thereon jointly One Hundred and Thirty-eight and Twenty-seven Hundredths (138.27) feet SOUTHWARDLY partly by the said road reservation called and known as Jumbay Lane and running thereon in an arc Thirty-one and Forty-eight Hundredths (31.48) feet and running thereon Sixty-four and Ninety-five Hundredths (64.95) feet and WESTWARDLY by Lot Number Thirty-nine (39) and running thereon One Hundred and Thirty-six and Thirty Hundredths (136.30) feet.

AND

IN THE MATTER of the Petition of SHEILA COX

Before:	The Honourable Justice Darron D. Ellis
Appearances:	Norwood Rolle for the Petitioner
	Craig Butler, Andrew Allan for Kenneth Cartwright, the Proposed Adverse Claimant
Hearing Date:	29 April 2025

Civil — Quieting Titles proceedings — Proposed Adverse Claimant's failure to enter adverse claim — ss. 5, 6 and 7 Quieting Titles Act — Non-compliance with the judge's order — Relief from sanctions — Extension of time to comply with the judge's order.

On 21 November 2024, the Court ordered the Proposed Adverse Claimant to enter his adverse claim before the expiry of two weeks. The Court, at a hearing on 28 January 2025, noted that the adverse claim had not been entered, nor had an application for extension of time been filed.

The trial of the quieting action was then scheduled for 29 April 2025. The Proposed Adverse Claimant, despite not entering an adverse claim, appeared at that trial. At the outset, counsel for the Proposed Adverse Claimant made a without-notice oral application for an extension of time to comply with the Court's order so that the adverse claim could be entered.

Held: The Court dismissed the oral application for an extension of time. Parties must comply with the Court's directions and orders. The Proposed Adverse Claimant, while represented by counsel, had notice of and was served with the Court's order, yet on multiple occasions failed to enter his adverse claim. No formal application for an extension of time or relief from sanctions was made, and no reason was proffered to explain the non-compliance with the Court's order. The spirit and overriding objective of the CPR discourages delay and unnecessary expense and requires compliance with the Court's directions and orders.

1) When an application is made for an extension of time to comply with an order or direction of the Court, the Court must consider the seriousness and significance of the breach, the reasons for it, and all relevant factors—including prejudice, litigation efficiency, costs, and respect for the Court's orders—so as to treat with the matter justly: **Mitchell v News Group Newspapers Ltd** [2013] EWCA Civ 1537; **True Blue Company Ltd v Moss & Others** (No. 3 of 1968) [1965–70] Bahamas Law Reports 250; and s. 7 of the Quieting Titles Act*;* **IN THE MATTER of the Petition of David Charles, Billy Mcklewhite v White v-Florence Sands Felicia Bethel, Albertha Culmer** 2011/CLE/qui/00661 referred to.

2) On the facts and law, the Proposed Adverse Claimant willfully disregarded the Court's order and failed to make a formal application for an extension of time to achieve compliance. Given the numerous opportunities to enter the adverse claim, and having regard to the objective and spirit of the Civil Procedure Rules, the Court refuses the Proposed Adverse Claimant's oral application for an extension of time: **R (Hysaj) v Secretary of State for the Home Department** [2014] EWCA Civ 1633 and **Sayers v Clarke Walker** [2002] EWCA Civ 645. **Denton and Others v TH White Ltd and Another; Decadent Vapours Ltd v Bevan and Others; Utilise TDS Ltd v Davies and Others** [2014] EWCA Civ 906; [2014] 4 Costs LR 752; **Mitchell v News Group Newspapers Ltd** [2013] EWCA Civ 1537; **Part 1 of the CPR; IN THE MATTER of the Petition of David Charles, Billy Mcklewhite v White v-Florence Sands Felicia Bethel, Albertha Culmer** 2011/CLE/qui/00661**; Section 7 of The Quieting Titles Act; True Blue**

Company Limited vs Moss & others, number 3 of 1968, 1965 70 Bahamas Law Reports 250 250; **R (Hysaj) v Secretary of State for the Home Department** 2014 EWCA Civ 1633 relied upon.

JUDGMENT

Ellis J

Introduction and Background

[1.] The Quieting Petition of Sheila Cox was filed on 28 January 2022. By order of the Court dated 30 March 2022, the Petitioner was directed to advertise Notice of the Petition in the usual form at ten (10)-day intervals on three (3) consecutive occasions in the daily newspapers. Under the cover of letter dated 15 July 2022, a copy of the Notice was served on the Office of the Attorney General; the Treasurer; the Ministry of Public Works; the Department of Lands and Surveys; the National Insurance Board; the Ministry of Transport and Housing; the Bahamas Power and Light and the Bahamas Telecommunications Corporation and the Notice was affixed to the property in question.

[2.] The adjoining landowners were also served with a copy of the filed Notice. Avery Lightbourne entered an adverse claim on 30 September 2022. Kenneth Cartwright (the Proposed Adverse Claimant) did not enter an adverse claim at this time.

[3.] On 21 November 2024, at a status hearing before the Court, Avery Lightbourne, appearing pro se, withdrew his adverse claim. In his affidavit, Avery Lightbourne stated that he withdrew his claim based on documentation showing that Kenneth Cartwright was the rightful owner of the property; however, no documentary evidence was attached to that affidavit. At that hearing, the Proposed Adverse Claimant was represented by his nephew, Myron Dean, and by counsel.

[4.] At that same hearing, counsel for the Petitioner advised the Court that he had received a letter from Myron Dean, claiming on behalf of the Proposed Adverse Claimant, an interest in the property in question. As a result of this disclosure, the Court ordered that Myron Dean and or the Proposed Adverse Claimant be served with the filed Notice and accompanying documents and that they have two (2) weeks from the date of service to enter an adverse claim (the Court's Order). The matter was then adjourned to 28 January 2025 for a status hearing, and the hearing of the Petition was fixed for 29 April 2025.

[5.] On 27 November 2024, the Petitioner served Myron Dean with the filed Notice and the Court's Order, advising him of the two-week deadline to enter an adverse claim. As a result of the Court's Order, the adverse claim should have been entered by 11 December 2024.

[6.] At the status hearing on 28 January 2025, counsel for the Proposed Adverse Claimant did not appear. At that hearing, Counsel for the Petitioner pointed out that no adverse claim had been entered. Further, no application for an extension of time to enter the adverse claim was made, nor was any explanation offered for the failure to comply with the Court's order.

[7.] When the matter resumed on 29 April 2025 for the trial of the Petition, the Proposed Adverse Claimant, now represented by different counsel, appeared. However, there was still no adverse claim entered in accordance with the Court's Order, nor had any application for an extension of time been filed before that date.

[8.] Counsel for the Proposed Adverse Claimant then made an oral application for an extension of time for the entry of an adverse claim on behalf of his client. No formal application or affidavit was provided to explain the non-compliance. The application was made without notice to the Court and counsel and was opposed by counsel for the Petitioner.

[9.] After hearing both sides, the Court declined to extend the time to enter an adverse claim. Counsel for the Proposed Adverse Claimant then requested written reasons for the Court's decision. The Court indicated that written reasons would follow. I now set out my reasons below.

[10.] This decision arises in proceedings under the Quieting Titles Act, in which the Petitioner seeks a certificate of title for the land described in the Petition. The matter came before the Court for the determination of the Petition on 29 April 2025. The Petitioner appeared with counsel. The Proposed Adverse Claimant appeared with counsel notwithstanding his failure to enter an adverse claim.

[11.] At the hearing on 29 April 2025, counsel for the Petitioner submitted that there was no adverse claimant and that the Proposed Adverse Claimant was debarred from being heard. Counsel argued that by the Court's Order made on 21 November 2024, the Proposed Adverse Claimant had two weeks to enter his adverse claim. He argued that Counsel for the Proposed Adverse Claimant was present and aware of the Court's Order. In addition, the Proposed Adverse Claimant was served with the Court's Order on 27 November 2024, which meant that any adverse claim should have been entered by 11 December 2024. Counsel further argued that because the Proposed Adverse Claimant failed to comply with the Court's Order, there is no adverse claim. Counsel for the Proposed Adverse Claimant then made an oral application for an extension of time to enter the adverse claim.

The Issue

[12.] The principal issue is whether the Court should grant the Proposed Adverse Claimant an extension of time to enter an adverse claim, notwithstanding his failure to comply with the time limit prescribed by the Court's Order."

[13.] Although the Court's Order contains no express sanction for non-compliance, if an extension is refused, the Proposed Adverse Claimant will be procedurally barred from the quieting petition proceedings, with the potential consequence that any rights he may have to the property are extinguished. In these circumstances, the application for an extension of time should be properly treated as one for relief from sanctions, as confirmed in **R (Hysaj) v Secretary of State for the Home Department** [2014] EWCA Civ 1633 and **Sayers v Clarke Walker** [2002] EWCA Civ 645. **Denton and Others v TH White Ltd and Another; Decadent Vapours Ltd v Bevan and Others; Utilise TDS Ltd v Davies and Others** [2014] EWCA Civ 906; [2014] 4 Costs LR 752

[14.] The Court must therefore consider whether to grant relief to the Proposed Adverse Claimant by applying the three-stage test set out by the Court of Appeal in **Denton** :

- Assessing the seriousness and significance of the breach;
- Considering the reasons for the default; and
- Evaluating all the circumstances of the case, including the need for litigation to be conducted efficiently and at proportionate cost, and the need to enforce compliance with rules and court orders.

Submissions of the Proposed Adverse Claimant

[15.] Counsel for the Proposed Adverse Claimant acknowledged the breach and submitted that, notwithstanding, the Proposed Adverse Claimant should be granted 21 days to remedy the default, with any sanction to be addressed by an order for costs, and that the Court could then proceed to determine the Petition and the parties' claims.

[16.] Counsel emphasised that the Proposed Adverse Claimant is the actual legal and beneficial owner of the land. He submitted that justice would be served by granting an extension of time to enter an adverse claim in the circumstances. However, the Court was not given a reason for the Proposed Adverse Claimant's non-compliance with the Court's Order.

Submissions of Counsel for the Petitioner

[17.] Counsel for the Petitioner submitted that, while these proceedings are investigatory, they are governed by rules. In this regard, s. 7(1) of the Quieting Titles Act, 1959, provides that:

> **"Where it appears that there is or may be any person known or unknown, who may have dower or a right to dower or a claim adverse to or inconsistent with that of the petitioner in to or in respect of the whole or any part of the land mentioned in the petition, the Court shall direct a notice to be sent by registered post to or to be served personally on that person, his attorney or agent or to be published in such newspaper or newspapers published either within or without The Bahamas, or both, or to be served in such manner as the Court may in any particular case decide. Such notice shall be in such form and shall contain such particulars as shall be prescribed by the rules and shall state the time within which any adverse claims must be filed."**

[18.] Counsel argued that, at the hearing on 21 November 2024, the Court determined that, notwithstanding the absence of any adverse claim in the Petition that was filed two years ago, the Proposed Adverse Claimant might have an interest in the property. Accordingly, the Court ordered that notice be given to him and granted him two (2) weeks to enter an adverse claim. That notice was served on 27 November 2024. The deadline for entering an adverse claim was 11 December 2024.

[19.] The Court's Order read as follows:

> "It is ordered and directed that notice pursuant to Section 7(1) of the Quieting Titles Act be served upon Kenneth Leon Cartwright and/or Myron Dean"....."That the said Kenneth Leon Cartwright shall within fourteen days of the service of this order file and serve upon the attorney for the petitioner a statement of his claim. "(2) An affidavit in support of his adverse claim together with an abstract of his title, and copies of all supporting documentation in compliance with rules 5, 6 and 7 inclusive of the Quieting Titles rules and a plan".

[20.] Counsel further submitted that a Notice of Appointment of Counsel was filed on 28 November 2024 on behalf of the Proposed Adverse Claimant.

[21.] Counsel submitted that the Interpretation and General Clauses Act (as amended) provide, in its short title:

> "This Act may be cited as the Interpretation and General Clauses

(Amendment) Act, 2011."

[22.] Counsel for the Petitioner further pointed out that s. 3 of the Interpretation and General Clauses Act was amended by inserting, immediately after s. 2, the following subsection:

> "3) In every written law the word "may" is to be construed as being directory or empowering and the word "shall" or "must" is to be construed as being mandatory or imperative."

[23.] Counsel argued that the Proposed Adverse Claimant was required by law to file an adverse claim in accordance with the Court's Order, but he failed to do so.

[24.] The Court was then referred to the case of **True Blue Company Ltd v Moss & Others** (No. 3 of 1968) [1965–70] Bahamas Law Reports 250, in which the Court of Appeal considered ss. 6 and 7 of the Quieting Titles Act and held that:

> "The appeal will be allowed for the following reasons: The language of Section 7 of the Quieting Titles Act 1959 is plain and is intended to be mandatory so that if an adverse claim is not filed within the time fixed by notice, there was an absolute bar to that claim in proceedings under the Quieting Titles Act 1959..... No rule or even the inherent jurisdiction of the Court can be prayed in aid to extend the time fixed by the notice to enable the claim to be revived."

[25.] Counsel submitted that this ruling was binding on the Court. Counsel for the Petitioner noted that counsel for the Proposed Adverse Claimant filed a Notice of Appointment of Counsel on 28 November 2024. Yet still, no adverse claim was filed within the two weeks stipulated by the Court's Order.

[26.] It was further noted that, even at the hearing on 28 January 2025, no adverse claim had been filed. Counsel emphasised that four (4) months later, at the hearing on 29 April 2025, the Proposed Adverse Claimant had still not complied with the Court's Order, nor had he filed any application for an extension of time to enter an adverse claim. It follows that there is an absolute bar to the Proposed Adverse Claimant entering an adverse claim.

Discussion and Analysis

[27.] CPR 26.1(2)(c) grants the Court the power to extend or abridge time for compliance with the Court's directions. CPR 26.8. governs relief from sanctions applications. 26. 8 states:

> (1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or Court order, the Court will

consider all the circumstances of the case, to enable it to deal justly with the application, including the need —

(a) for litigation to be conducted efficiently and at proportionate cost; and
(b) to enforce compliance with rules, practice directions and orders.

(2) An application for relief must be supported by evidence.

(3) The Court may not order the respondent to pay the applicant's costs in relation to any application for relief unless exceptional circumstances are shown.

[28.] Case law gives further guidance as to how the Court should exercise its power when dealing with applications for extensions of time and relief from sanctions.

[29.] In the Court's view, the Proposed Adverse Claimant's oral application is not only for an extension of time but is, in substance, an application for relief from sanctions. Although the Court's Order did not prescribe an express sanction for non-compliance, the consequence of the failure to comply is that the Proposed Adverse Claimant cannot be heard as an adverse claimant, with the potential extinguishment of any rights he may have to the property in question. In this regard, the Court relies on **R (Hysaj) v Secretary of State for the Home Department** [2014] EWCA Civ 1633, at [35].

> "Mr. Knafler sought to persuade us that the view which the court took of the authorities in the *Altomart* case [2015] 1 WLR 1825 was wrong. He submitted that the *Sayers* case [2002] 1 WLR 3095 had been misunderstood and misapplied, that the dicta in the cases to which I have referred were not binding and that *Baho v Meerza* [2014] Costs LR 620 was decided per incuriam, because the court in that case had overlooked the sentence in parentheses at the end of rule 52.6. Accordingly, he submitted, we were free to hold that applications for extensions of time to file a notice of appeal should not be approached in the same way as applications for relief from sanctions.
>
> **36** I confess to finding that submission attractive but having re-examined the authorities I am not persuaded that that course is open to us. **As the authorities demonstrate, for the past 12 years it has been consistently understood that in the *Sayers* case [2002] 1 WLR 3095 this court deliberately equated applications for extensions of time for filing a notice of appeal with applications for relief from sanctions because in its view the implied sanction of the loss of the right to pursue an appeal meant that the two were analogous. Following the decision in the *Mitchell* case [2014] 1 WLR 795 the courts have continued to proceed on the basis that applications for extensions of time for filing a notice of appeal should be approached in the same way as applications for relief from sanctions under CPR r 3.9 and should attract the same rigorous approach. It might even be said that the decision in the *[2015] 1 WLR 2472 at***

> *2482 Mitchell* **case has provided an independent basis for a similar approach to applications of that kind. The clearest example is perhaps to be found in *Baho v Meerza* [2014] Costs LR 620, to which I have already referred. Whatever one may think of the doctrine of implied sanctions, therefore, particularly in the light of the views expressed by the Privy Council in the *Matthews* case [2011] UKPC 38, I think that the approach to be taken to applications of the kind now under consideration is now too well established to be overturned.** It follows that in my view the principles to be derived from the *Mitchell* case and the *Denton* case [2014] 1 WLR 3926 do apply to these applications."

[30.] I will treat the Proposed Adverse Claimant's application as an application for relief from sanctions. When considering matters involving non-compliance with the Court's orders and applications for an extension of time and relief from sanctions, **Denton** is highly instructive. At paragraph 24, the Court of Appeal stated:

> 24. We consider that the guidance given at paras 40 and 41 of *Mitchell* remains substantially sound. However, in view of how it has been interpreted, we propose to restate the approach that should be applied in a little more detail. A judge should address an application for relief from sanctions in three stages. The first stage is to identify and assess the seriousness and significance of the "failure to comply with any rule, practice direction or court order" which engages rule 3.9(1) *(part 26 8 Bahamas)*. If the breach is neither serious nor significant, the court is unlikely to need to spend much time on the second and third stages. The second stage is to consider why the default occurred. The third stage is to evaluate "all the circumstances of the case, so as to enable [the court] to deal justly with the application including [factors (a) and (b)]". We shall consider each of these stages in turn identifying how they should be applied in practice".

Identifying and Assessing the Seriousness of the Breach

[31.] The Petitioner filed its Petition on 20 January 2022, and Notices were served pursuant to the Court's order on 24 June 2022. Initially, the Proposed Adverse Claimant had ample time to enter an adverse claim but did not do so at the first opportunity. Further, at the hearing on 21 November 2024, counsel for the Petitioner informed the Court that he had received an email from Myron Dean, on behalf of the Proposed Adverse Claimant, indicating that the Proposed Adverse Claimant claimed an interest in the property the subject of the Petition. In the interests of justice, the Court ordered the Petitioner to serve the requisite documents on the Proposed Adverse Claimant and/or Myron Dean, who

appeared with counsel. The Court further ordered that the Proposed Adverse Claimant have two (2) weeks from service to enter an adverse claim.

[32.] The Proposed Adverse Claimant was served on 27 November 2024. In the Court's view, this afforded the Proposed Adverse Claimant a further opportunity to enter his adverse claim. On 28 January 2025, at a status hearing, no adverse claim had yet been entered, nor had any formal application for an extension of time been filed, notwithstanding that counsel was on the record for the Proposed Adverse Claimant. This was another missed opportunity to enter the adverse claim or apply for an extension to do so.

[33.] The hearing of the Petition was set down for 29 April 2025. At that hearing, counsel appeared for the Petitioner, and new counsel appeared for the Proposed Adverse Claimant. Still, no adverse claim had been entered, nor had any formal application for an extension of time to enter an adverse claim been filed. In the Court's view, the failure to enter an adverse claim was a serious breach, given the numerous opportunities the Proposed Adverse Claimant had been afforded. In addition, the breach was compounded by the fact that counsel for the Proposed Adverse Claimant failed to apply for an extension of time and offered no reason for the non-compliance. Such conduct showed a disregard for the authority of the Court.

[34.] The failure either to comply with the Court's Order or to seek an extension of time to do so demonstrates a disregard for the procedural framework established by the Court and reflects a lack of respect for the authority of the Court's directions. Such conduct undermines the orderly administration of justice and is inconsistent with the professional standards expected of parties before the Court. Inaction in the face of a peremptory order of the Court is neither excusable nor consistent with the duty to assist the Court in furthering the overriding objective. It is incumbent upon parties to engage promptly and responsibly with the Court's directions. Failure to do so, without explanation or any application for relief, evidences a troubling disregard for the integrity of the judicial process. In my judgment, the breach is serious.

The Reason for the Breach

[35.] As stated above, no formal reason was proffered to the Court for the Proposed Adverse Claimant's non-compliance with the Court's Order. At the hearing on 29 April 2025, new counsel for the Proposed Adverse Claimant stated explicitly that the former counsel of the Proposed Adverse Claimant had failed to file an adverse claim but offered no explanation for that failure. The Court should not be left to speculate as to the reasons for the non-compliance.

[36.] The Court is required, in accordance with the principles laid down in **Denton**, to consider the seriousness and significance of the breach, the reasons for it, and all the circumstances of the case. At the second stage of that analysis, it is incumbent upon the applicant to provide a clear and cogent explanation for the default. In the present case, no such explanation has been offered. The Court has not been provided with any material to suggest that the failure to comply with the original deadline was the result of an oversight excusable in law, still less one arising from circumstances beyond the applicant's control.

[37.] In the absence of any good reason, the applicant cannot reasonably expect the indulgence of the Court. The procedural rules are not optional, and compliance is not to be treated as a matter of convenience. Where a party simply fails to act and offers no justification, it becomes exceedingly difficult—if not impossible—for the Court to exercise its discretion in that party's favour.

The Circumstances of the Case

[38.] To this stage, the Court in **Denton** wrote at para 33:

> "Our view on this point is reinforced by the fact that Sir Rupert recommended at para 6.7 of Chapter 39 of his report that rule 3.9 should read as follows, including a factor (b) referring specifically to the interests of justice in a particular case:
>
> > "(1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or court order, the court will consider all the circumstances including –
> >
> > (a) the requirements that litigation should be conducted efficiently and at proportionate cost; and
> >
> > (b) the interests of justice in the particular case."
>
> This recommendation was rejected by the Civil Procedure Rule Committee in favour of the current version. In our opinion, it is legitimate to have regard to this significant fact in determining the proper construction of the rule. It follows that, unlike Jackson LJ, we cannot accept the submission of the Bar Council that factors (a) and (b) in the new rule should "have a seat at the table, not the top seats at the table", if by that is meant that the specified factors are not to be given particular weight.
>
> 34. Factor (a) makes it clear that the court must consider the effect of the breach in every case. If the breach has prevented the court or the parties from conducting the litigation (or other litigation) efficiently and at proportionate cost, that will be a factor weighing in favour of refusing relief. Factor (b) emphasises the importance of complying with rules, practice directions and orders. This aspect received insufficient attention in the past. The court must always bear in mind the need for compliance with rules, practice directions and orders, because the old lax culture of non-compliance is no longer tolerated.

> 35. Thus, the court must, in considering all the circumstances of the case so as to enable it to deal with the application justly, give particular weight to these two important factors. In doing so, it will take account of the seriousness and significance of the breach (which has been assessed at the first stage) and any explanation (which has been considered at the second stage). The more serious or significant the breach the less likely it is that relief will be granted unless there is a good reason for it. Where there is a good reason for a serious or significant breach, relief is likely to be granted. Where the breach is not serious or significant, relief is also likely to be granted.
>
> 36. But it is always necessary to have regard to all the circumstances of the case. The factors that are relevant will vary from case to case. As has been pointed out by some of the authorities that have followed *Mitchell,* the promptness of the application will be a relevant circumstance to be weighed in the balance along with all the circumstances. Likewise, other past or current breaches of the rules, practice directions and court orders by the parties may also be taken into account as a relevant circumstance.

[39.] At the third and final stage of the **Denton** analysis, the Court must consider all the circumstances of the case, including the need to conduct litigation efficiently and at proportionate cost, and the need to enforce compliance with the rules, practice directions and Court orders. One of the considerations under this head is promptness. An application made before expiry is more likely to succeed than one made after breach. Delay in applying is itself a negative factor. In this regard, there was a five (5) months delay in making the application. Additionally, the application was informal, lacking a supporting affidavit that addressed a good reason and/or prejudice to the parties.

[40.] In this case, the Proposed Adverse Claimant failed to act within the time expressly ordered by the Court and has offered no satisfactory explanation for that failure. Further, counsel for the Proposed Adverse Claimant failed to act promptly, having waited until the day of the hearing of the Petition to make an oral application for an extension of time.

[41.] The Court prefers the submissions advanced by counsel for the Petitioner. The Court further notes that the Proposed Adverse Claimant had ample time to enter his adverse claim and that a change of counsel did not diminish the urgency of the situation. As counsel for the Petitioner rightly observed, as at the present hearing, there had been no compliance with the Court's Order, which runs counter to the overriding objective of the CPR to deal with cases justly and at proportionate cost. The Court of Appeal 's dictum at paragraph 38 in **Mitchell v News Group Newspapers Ltd** [2013] EWCA Civ 1537 is particularly instructive concerning non-compliance with the Court's orders:

> "The tougher, more robust approach to rule-compliance and relief from sanctions is intended to ensure that justice can be done in the majority of cases. ... Parties can no longer expect indulgence if they fail to comply with their procedural obligations."

[42.] The Court is cognizant of the gravity of its decision; however, having considered all the circumstances, the Court is satisfied that it is correct. Granting an extension at this stage would have required the Court to vacate the hearing date, thereby derailing the case timetable, increasing costs for all parties, and undermining the certainty and finality that Court orders are intended to promote. The other parties—particularly the Petitioner—have complied with their obligations and are entitled to expect that the Court's directions will be upheld and enforced. Allowing a party to circumvent compliance without a compelling reason that would vacate a trial date would set an unfortunate precedent and run counter to the overriding objective of the CPR.

[43.] Having regard to the interests of justice, the prejudice to the other parties, the efficient use of the Court's resources, and the absence of any justifiable reason for the default, I am not satisfied that the Court should exercise its discretion in favour of the Proposed Adverse Claimant.

[44.] The decision in **In the matter of the Petition of David Charles; Billy McKlewhite v White; Florence Sands; Felicia Bethel; Albertha Culmer** (2011/CLE/qui/00661) is also instructive where adverse claimants have failed to comply with the Court's orders. In that case, *Charles J* (as she then was) removed several adverse claimants from the action for non-compliance. The learned judge wrote:

> "[3] This matter first came before me on 18 April 2016 when the Court gave some directions in preparation for trial to commence on 26 April 2016. On that day, the Court heard a Summons by the Petitioner, filed on 25 April 2016, to strike out the adverse claim against William Thompson, Gina Thompson, Patrice Thompson, Alfred Laing, Gary Laing and Wonda Bullard. The Court struck out the adverse claim for non-compliance with Rules 5, 6 and 7 of the QTA."

[45.] The Court must act in accordance with its inherent and inherited jurisdiction to control its process and ensure the efficient administration of justice. The Quieting Titles Act requires adverse claims to be made within the time directed by the Court. Non-compliance without justification will not be countenanced.

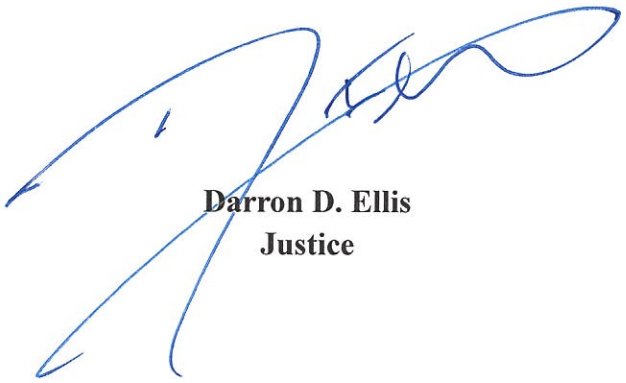
Conclusion

[46.] The jurisprudence in this area—including **Mitchell v News Group Newspapers Ltd.** [2013] EWCA Civ 1537 and **Denton v TH White Ltd.** [2014] EWCA Civ 906—establishes that non-compliance with Court orders must be treated seriously. Relief from sanctions may be granted only where there is a satisfactory explanation and where the interests of justice so require. This is not such a case.

[47.] The application for an extension of time is without merit, and I refuse it. The Proposed Adverse Claimant shall take no further part in these proceedings, having failed to assert his alleged interest by entering an adverse claim within the time directed by the Court.

[48.] The hearing of the Petition shall therefore proceed in the absence of the Proposed Adverse Claimant, and the matter shall continue as an unopposed quieting action.

Dated this 10th day of September, A.D. 2025



Darron D. Ellis
Justice