

IN THE SUPREME COURT

Common Law and Equity Division

2022/CLE/gen/00106

B E T W E E N

KENWOOD KERR

BJORN FERGUSON

Claimants

AND

THE BAHAMAS LAWN TENNIS ASSOCIATION

(Sued by its Officers, Perry Newton, Chilean Burrows, Cameel McDonald and Timothy Dames)

Defendant

Before: The Honorable Madam Justice Carla Card-Stubbs

Appearances: Kahlil D. Parker KC with Lesley Brown of Counsel for
the Claimants
Ramona Farquharson-Seymour with Samuel Taylor of Counsel for
the Defendant

Hearing date: September 12, 2025

Certificate of Urgency - Interlocutory Injunction - American Cyanamid Principles – Claim that judgment of the court is being breached and is likely to be further breached -Considerations for the Court in determining whether to grant interlocutory injunction

RULING

CARD-STUBBS, J

Introduction

[1.] Before this court is the Claimants' application for injunctive relief.

[2.] On the 12th day of September, 2025, this Court heard the Claimants' application as an urgent application. The Claimants sought to restrain the Defendant from proceeding with an election scheduled to take place the following day, i.e. September 13, 2025. At the end of an *inter partes* hearing, this Court delivered a decision acceding to the Claimants' application. This ruling sets out the decision as well as the reasons for the decision.

Background

[3.] The matter has its genesis in a case brought by the Claimants against the Defendant and which was pursued to, and heard by, the appellate court. The Claimants alleged that an AGM held by the Defendant on March 19, 2021 was unconstitutional. The claim alleged several infringements of the Bahamas Lawn Tennis Association's ("BLTA") Constitution by the Defendant. Alleged breaches included the failure to give requisite constitutional notices and to deal with membership applications, including regularizing memberships, in advance of the called AGM.

[4.] In a first instance determination, the Trial Judge determined that the AGM held on March 19, 2021 by the Defendant was invalid and that the proper procedure was not followed in replacing the Defendant's Constitution. The Trial judge made other findings adverse to the Claimants/Appellants, who appealed the decision except for the determination on the validity of the AGM. The Defendant/Respondent appealed that determination. The Judgment of the Appellate Court was delivered by the Honourable Mr. Justice Evans, President of the Court of Appeal. The Appellate Court confirmed the learned judge's determination that the AGM was invalid (paragraph 61 of the judgment of the Court of Appeal) but otherwise allowed the appeal (paragraph 65 of the judgment of the Court of Appeal). The Appellate Court made the declarations sought by the Claimants at paragraph 65 of its judgment:

65. This appeal is allowed in its entirety. The Respondent's Notice is dismissed. The Orders and Declarations sought by the Appellant are granted. The Respondent will pay the costs of this appeal and the proceedings in the Court below, to be taxed if not agreed.

[5.] The Certificate of The Order of The Court reads:

Appeal from the judgment of Honourable Justice Lewis-Johnson in the Supreme Court dated the 30th of January 2024.

This appeal coming on for hearing on the 22nd day of July, 2025 before the Court of Appeal in the presence of Mr. Kahlil L. Parker KC, with Ms. Roberta Quant, Counsel for the Appellants. Mrs. Ramona Farquharson-Seymour with Mr. Samuel Taylor, Counsel for the Respondent.

I HEREBY CERTIFY that an Order was made as follows:

This appeal is allowed in its entirety. The Respondent's Notice is dismissed. The Orders and Declarations sought by the Appellants are granted. The Respondent will pay the costs of this appeal and the proceedings in the Court below, to be taxed if not agreed.

Given under my hand and Seal of the Court this 22nd day of July, 2025.

[6.] In order to ascertain the orders and declarations granted, it is helpful to review the orders and declarations sought by the Claimants as contained in the Amended Notice of Appeal filed on July 16, 2024. On appeal, the Claimants/Appellants had sought the following orders and declarations :

- 1) The said Judgment be set aside in its entirety, save for the findings of Her Ladyship in the Court below that the Respondent's Annual General Meeting (AGM) held on the 19th day of March A.D. 2021 was not valid, and that the proper procedure was not followed by the Respondent in order to replace the Respondent's Constitution.
- 2) A Declaration that any decision(s) taken by the Respondent at its purported AGM held on the 19th day of March A.D. 2021 was taken ultra vires the Respondent's Constitution, and was therefore null, void, and of no legal effect.
- 3) A Declaration that the Appellants are, and were at all material times, members of the Respondent.
- 4) A Declaration that, having failed and/or refused to issue the requisite prior written notice of their alleged arrears and the consequences of non-payment thereof to the Appellants, pursuant to and in accordance with Article 8 of the Respondent's Constitution, the Respondent's purported termination of the Appellants' membership was unconstitutional, null, void, and of no legal effect.
- 5) A Declaration that the Appellants at all material times had locus standi to commence and prosecute the action before the Court below.

- 6) A Declaration that, having accepted 42 applications for membership and payment of first annual subscriptions of \$35.00 from 42 applicants, including the Appellants, on or about the 29th day of December A.D. 2021, the Respondent's continued failure and/or refusal to consider, process, and substantively respond to the said applications is unreasonable, unlawful, and in breach of the Respondent's Constitution.
- 7) The Appellants having at all material times been, and remaining, members of the Respondent, an Order that the Respondent do forthwith apply the Appellants' said payment of \$35.00 to their respective membership accounts, and properly consider, process, and substantively respond to the outstanding 40 membership applications submitted to, and received by, the Respondent, along with the first annual subscriptions of \$35.00, on or about the 29th day of December A.D. 2021.
- 8) A Declaration that, the Respondent having failed and/or refused to issue reasonable or any notice of its purported deadline for new member registration and/or the regularization of existing members' accounts, of the 9th day of December A.D. 2021. the Respondent's refusal to consider and deal with the regularization of the Appellants membership accounts and the outstanding applications for membership, duly submitted and paid for on behalf of the said 40 applicants on or about the 29th day of December A.D. 2021, to the date hereof is unreasonable, unlawful, and unconstitutional.
- 9) An Order that the Respondent's AGM, previously scheduled for the 29th day of January A.D. 2022, shall be rescheduled by the Respondent to a date within ninety (90) days of such Order as may be made by the Court herein and that all constitutional notices and information shall be given by the Respondent to its members, including the Appellants, with respect thereto so as to afford them reasonable and sufficient time to regularize their membership status and otherwise prepare to participate fully in the said AGM and to address any business intended to be conducted at the said AGM.
- 10) An Order that the Respondent, within thirty (30) days of such Order as may be made by the Court herein, shall call a meeting of its Council to consider and deal with all outstanding applications for regularization of existing memberships, affiliation, and membership pursuant to and in accordance with Article 24(g) of its Constitution.
Alternately
- 11) An Order that Her Ladyship's Judgment be set aside in its entirety and this matter returned to the Court below for rehearing before a different Justice of the Supreme Court.
Further
- 12) The Respondent do pay the Appellants' costs of this appeal and before the Court below to be taxed if not agreed.
- 13) Such further or other relief as to the Court may seem just.

[7.] Subsequent to obtaining the certificate of the order of the court, the Claimants filed a Final Judgment consequent on the terms of the Order of the Court of Appeal. The Final

Judgment is dated 22nd day of July A.D. 2025 and was filed on the 11th day of August A.D 2025. The Final Judgment reads:

FINAL JUDGMENT

Pursuant to and in accordance with the Judgment of the Court of Appeal delivered and dated the 22nd day of July AD. 2025 in Supreme Court Civil Appeal No. 36 of 2024, **IT IS THIS DAY ADJUDGED** that, pursuant to and in accordance with the said Judgment of the Court of Appeal, the appeal is allowed in its entirety. The Defendant/Respondent's Notice is dismissed. The Orders and Declarations sought by the Claimants/Appellants are granted as follows:

- i) The Judgment of the Supreme Court shall be and is hereby set aside in its entirety, save for the findings that the Defendant's Annual General Meeting (*AGM*) held on the 19th day of March AD. 2021 was not valid, and that the proper procedure was not followed by the Defendant in order to replace the Defendant's Constitution.
- ii) Any decision taken by the Defendant at its purported AGM held on the 19th day of March AD. 2021 was taken *ultra vires* the Defendant's Constitution, and was therefore null, void, and of no legal effect.
- iii) The Claimants are, and were at all material times, members of the Defendant, Bahamas Lawn Tennis Association.
- iv) Having failed and/or refused to issue the requisite prior written notice of their alleged arrears and the consequences of non-payment thereof to the Claimants, pursuant to and in accordance with Article 8 of the Defendant's Constitution, the Defendant's purported termination of the Appellants' membership was unconstitutional, null, void, and of no legal effect.
- v) The Claimants at all material times had *locus standi* to commence and prosecute this action.
- vi) Having accepted 42 applications for membership and payment of first annual subscriptions of \$35.00 from 42 applicants, including the Claimants, on or about the 29th day of December

A.D. 2021, the Defendant's continued failure and/or refusal to consider, process, and substantively respond to the said applications is unreasonable, unlawful, and in breach of the Defendant's Constitution.

- vii) The Defendant shall forthwith apply the Claimants' payment of \$35.00 to their respective membership accounts, and properly consider, process, and substantively respond to the outstanding 40 membership applications submitted to, and received by, the Defendant, along with the first annual subscriptions of \$35.00, on or about the 29th day of December A.D. 2021.
- viii) The Defendant having failed and/or refused to issue reasonable or any notice of its purported deadline for new member registration and/or the regularization of existing members' accounts, of the 9th day of December A.D. 2021, the Defendant's refusal to consider and deal with the regularization of the Claimants' membership accounts and the outstanding applications for membership, duly submitted and paid for on behalf of the said 40 applicants on or about the 29th day of December A.D. 2021, to the date hereof is unreasonable, unlawful, and unconstitutional.
- ix) The Defendant's AGM, previously scheduled for the 29th day of January A.D. 2022, shall be rescheduled by the Defendant to a date within ninety (90) days of the 22nd day of July A.D. 2025 and all constitutional notices and information shall be given by the Defendant to its members, including the Claimants, with respect thereto so as to afford them reasonable and sufficient time to regularize their membership status and otherwise prepare to participate fully in the said AGM and to address any business intended to be conducted at the said AGM.
- i) The Defendant, within thirty (30) days of the 22nd day of July A.D. 2025, shall call a meeting of its Council to consider and deal with all outstanding applications for regularization of existing memberships, affiliation, and membership pursuant to and in accordance with Article 24(g) of its Constitution.

The Defendant will pay the costs of this action to be taxed if not agreed.

Dated the 22nd day of July A.D. 2025

[8.] The application before me alleges a breach of the Order of the Court of Appeal and of the Final Judgment.

THE APPLICATION

[9.] On the 10th day of September the Claimant filed a Notice of Application for an injunction. It is the Claimants' complaint that the Defendant failed to comply with the Final Judgement and the Order of the Court of Appeal and that the AGM scheduled for September 13, 2025 was in breach of the Defendant's constitution and, if held, would be "in total disregard of the Final Judgment and Judgment of the Court of Appeal".

[10.] The Claimants' application filed on the 10th day of September 2025 is made pursuant to Part 17.1(1)(b) and 17.3(1)(a) of the CPR, 2022, Section 21 of the Supreme Court Act and the Court's inherent jurisdiction.

[11.] The Application states:

1. The Claimants make application for an Order pursuant to and in accordance with Rules 17.1(1)(b) and 17.3(1)(a) SCCPR 2022, section 21 of the Supreme Court Act, and/or under the inherent jurisdiction of the Court, that:
 - i. The Defendant herein be restrained whether by itself or by its servants, agents, officers, or otherwise howsoever from conducting or purporting to conduct an Annual General Meeting (AGM) or Election of Officers of the Defendant's organization, The Bahamas Lawn Tennis Association, on Saturday the 13th day of September A.D. 2025 or otherwise pending further or final order herein.
 - ii. The Defendant issue and publish two weeks' notice, providing details of the date, venue, and time, inviting new member registration and the regularization of existing member accounts and, thereafter, call a meeting of its Council to consider and deal with all outstanding applications for regularization of existing memberships, affiliation, and membership, affording all applicants written notice of the decision taken with respect to their applications.

- iii. The Defendant's AGM, previously scheduled for Saturday the 13th day of September A.D. 2025, shall be rescheduled by the Defendant to Saturday the 18th day of October A.D. 2025, or such other date as may be determined by the Court, and all constitutional notices and information shall be given by the Defendant to its members, including the Claimants, with respect thereto so as to afford them reasonable and sufficient time to regularize their membership status and otherwise prepare to participate fully in the said AGM and to address any business intended to be conducted at the said AGM.
- iv. The Defendant shall pay the Claimants' costs of this application to be assessed if not agreed.
- v. Such further or other relief as to the Court deems fit.

2. The grounds of the application are that:

- a. The Defendant has unreasonably, oppressively, and unlawfully failed and refused to comply with the Final Judgment herein dated the 22nd day of July A.D. 2025 and filed on the 11th day of August A.D. 2025.
- b. The Defendant has unreasonably and unlawfully failed and refused, despite requests by the Claimants, and others, to allow new members to register, existing members to regularize their membership, or to consider such applications reasonably and lawfully prior to the Annual General Meeting Scheduled for the 13th day of September A.D. 2025.
- c. The Court of Appeal declared that the Defendant's previous failure, complained of herein, to provide reasonable or any notice of its purported deadline for new member registration and/or the regularization of existing member accounts, of the 9th day of December A.D. 2021, prior to its notification that an AGM was to be conducted on the 29th day of January A.D. 2022 was unreasonable, unlawful, and unconstitutional. The Defendant conducted a meeting of its Council on the 17th day of August A.D. 2025, which it has since declared to be its last meeting before an AGM scheduled to be conducted on the 13th day of September A.D. 2025, notice of which AGM was only issued on the 20th day of August A.D. 2025. The Defendant has since insisted that it would not accept or process any new memberships or regularize existing member accounts until after the said AGM. The Defendant's conduct in this regard is the same unreasonable and unlawful conduct previously

complained of by the Claimants herein and declared unlawful by the Court of Appeal.

- d. The Claimants would be gravely prejudiced should the Defendant be permitted to conduct its scheduled AGM in total disregard of the Final Judgment and Judgment of the Court of Appeal, effectively depriving them of the fruits of their judgment. Further, the Defendant would not be prejudiced by the Court's insistence on compliance with its Judgments and Orders.
 - e. The relief sought by the Claimants is necessary to preserve the interests of the Claimants and vindicate the process of this Honourable Court.
 - f. The Defendant's arbitrary, oppressive, and unlawful conduct threatens to adversely impact, interfere with, and seriously prejudice the Claimants' ability to protect and preserve their interests and those of their fellow members of The Bahamas Lawn Tennis Association.
3. The following written evidence will be used at the hearing of the application:
 - a. The Affidavit of Rushea Stuart to be filed herein will be used at the hearing of the application.
 - b. The Final Judgment filed herein on the 11th day of August A.D. 2025.
 - c. The Judgment of the Court of Appeal in Supreme Court Civil Appeal No. 36 of 2024 dated the 22nd day of July A.D. 2025.
 4. A draft of the Order that the Claimants seek is attached.

[12.] The Application is supported by the Affidavit of Rushea Stuart filed on the 10th day of September A.D. 2025 and the Third Affidavit of Bjorn Ferguson, the Affidavit of Glenda Roker, the Affidavit of Sherwin Johnson, the Affidavit of Kendria Ferguson, the Affidavit of Kimani Braithwaite and the Affidavit of Tarra Mactaggart all filed on the 11th day of September AD.

[13.] By way of a response, the Defendant filed the Affidavit of Perry Newton on the 11th day of September AD.

ISSUES

- [14.] The issue for determination is whether this Court ought to exercise its discretion to grant the injunction sought.

THE LAW

- [15.] The Claimant makes its application pursuant to Part 17, Rules 17.1(b) and 17.1(3)(a) The Supreme Court Civil Procedure Rules, 2022, as amended ('CPR'), Section 21 of the Supreme Court Act and the inherent jurisdiction of the Court.

- [16.] The Court derives its power to grant an interlocutory injunction from **Section 21 of the Supreme Court Act** which provides:

21. (1) The Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases *in which it appears to the Court to be just and convenient to do so*.

(2) Any such order may be made either unconditionally or on such terms and conditions as the Court thinks fit.

(3) If, whether before, or at, or after the hearing of any cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the Court thinks fit, whether the person against whom the injunction is sought is or is not in possession under claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or either of the parties are legal or equitable.

[Emphasis supplied].

- [17.] **Part 17 of The Supreme Court Civil Procedure Rules, 2022, as amended ('CPR') govern the applicable procedure and practice. Rules 17.1(1)(b) and 17.3(1)(a) provide:**

17.1 Orders for interim remedies: relief which may be granted.

(1) The Court may grant interim remedies including —

(a)

(b) an interim injunction;

...

17.(3). Time when an order for interim remedy may be made

(1) An order for an interim remedy may be made at any time, including

—

(a) after judgment has been given....

- [18.] By section 21 of the Supreme Court Act, a court may grant an interlocutory injunction as an interim remedy if it appears to the court to *be just and convenient to do so*.

This vests a wide discretion in the court. Part 17 CPR makes it clear that a court may grant an interim remedy even after judgment has been given in the instituted suit.

[19.] In the instant matter, the guidelines as set out in the case of **American Cyanamid Co. v Ethicon Limited [1975] AC 396**, govern the exercise of this court's discretion in this case. The process and governing principles are captured by Lord Diplock where he opined at pages 407 – 408 of that judgement:

“The court no doubt must be satisfied that the claim is not frivolous or vexatious, in other words, that there is a serious question to be tried.

It is no part of the court's function at this stage of the litigation to try to resolve conflicts of evidence on affidavit as to facts on which the claims of either party may ultimately depend nor to decide difficult questions of law which call for detailed argument and mature considerations. These are matters to be dealt with at the trial. One of the reasons for the introduction of the practice of requiring an undertaking as to damages upon the grant of an interlocutory injunction was that "it aided the court in doing that which was its great object, viz. abstaining from expressing any opinion upon the merits of the case until the hearing": *Wakefield v. Duke of Buccleugh* (1865) 12 L.T. 628, 629. So unless the material available to the court at the hearing of the application for an interlocutory injunction fails to disclose that the plaintiff has any real prospect of succeeding in his claim for a permanent injunction at the trial, the court should go on to consider whether the balance of convenience lies in favour of granting or refusing the interlocutory relief that is sought.

As to that, the governing principle is that the court should first consider whether, if the plaintiff were to succeed at the trial in establishing his right to a permanent injunction, he would be adequately compensated by an award of damages for the loss he would have sustained as a result of the defendant's continuing to do what was sought to be enjoined between the time of the application and the time of the trial. If damages in the measure recoverable at common law would be adequate remedy and the defendant would be in a financial position to pay them, no interlocutory injunction should normally be granted, however strong the plaintiff's claim appeared to be at that stage. If, on the other hand, damages would not provide an adequate remedy for the plaintiff in the event of his succeeding at the trial, the court should then consider whether, on the contrary hypothesis that the defendant were to succeed at the trial in establishing his right to do that which was sought to be enjoined, he would be adequately compensated under the plaintiff's undertaking as to damages for the loss he would have sustained by being prevented from doing so between the time of the application and the time of the trial. If damages in the measure recoverable under such an undertaking would be an adequate remedy and the plaintiff would be in a financial position to pay them, there would be no reason upon this ground to refuse an interlocutory injunction.

It is where there is doubt as to the adequacy of the respective remedies in damages available to either party or to both, that the question of balance of convenience arises. It would be unwise to attempt even to list all the various matters which may need to be taken into consideration in deciding where the balance lies, let alone to suggest the relative weight to be attached to them. These will vary from case to case.

Where other factors appear to be evenly balanced it is a counsel of prudence to take such measures as are calculated to preserve the status quo. If the defendant is enjoined temporarily from doing something that he has not done before, the only effect of the interlocutory injunction in the event of his succeeding at the trial is to postpone the date at which he is able to embark upon a course of action which he has not previously found it necessary to undertake; whereas to interrupt him in the conduct of an established enterprise would cause much greater inconvenience to him since he would have to start again to establish it in the event of his succeeding at the trial.

Save in the simplest cases, the decision to grant or to refuse an interlocutory injunction will cause to whichever party is unsuccessful on the application some disadvantages which his ultimate success at the trial may show he ought to have been spared and the disadvantages may be such that the recovery of damages to which he would then be entitled either in the action or under the plaintiff's undertaking would not be sufficient to compensate him fully for all of them. *The extent to which the disadvantages to each party would be incapable of being compensated in damages in the event of his succeeding at the trial is always a significant factor in assessing where the balance of convenience lies, and if the extent of the uncompensatable disadvantage to each party would not differ widely, it may not be improper to take into account in tipping the balance the relative strength of each party's case as revealed by the affidavit evidence adduced on the hearing of the application.* This, however, should be done only where it is apparent upon the facts disclosed by evidence as to which there is no credible dispute that the strength of one party's case is disproportionate to that of the other party. The court is not justified in embarking upon anything resembling a trial of the action upon conflicting affidavits in order to evaluate the strength of either party's case.

[Emphasis supplied]

[20.] The guidelines laid down by Lord Diplock are captured in a 4-prong test which may be summarized as follows.

1. Whether there is a serious question to be tried.
2. Whether damages would provide an adequate remedy for the Claimants if the application for interim injunction were to be refused and they were to succeed in their claim at trial and, if not, whether damages would provide an adequate remedy for the Defendant if their actions were to be curtailed by the interim injunction and they were to be found at trial as having a right to carry out the actions complained of by the Claimants.
3. Where there is doubt as to the adequacy of the respective remedies in damages, where does the balance of convenience lie?
4. Where other factors appear to be evenly balanced, it is a counsel of prudence to take such measures as are calculated to preserve the status quo.

[21.] The current matter was brought on an emergency basis. In determining whether an interim injunction should be granted, this court must consider “*whether granting or withholding an injunction is more likely to produce a just result*”: **National Commercial Bank Jamaica Ltd v Olint Corp Ltd. [2009] UKPC 16**

A SERIOUS QUESTION TO BE TRIED

[22.] The Claimants in this case must show that there is a serious question to be tried. The Claimants must show a threatened or continuous breach of its legal right. The claim must not be “frivolous or vexatious”.

[23.] The Claimants submit that there is a serious issue to be tried. The Claimants argue that the various actions alleged to be breaches of the BLTA Constitution and the Claimants’ due process and procedural rights otherwise on the part of the Defendant with respect to its previous decision to call and threat to conduct an AGM, as well as its operation and management of the BLTA were pronounced on by the Court of Appeal and determined to be breaches. The Claimants submit that the Defendant’s decision to call “and threat to conduct an AGM on the 13th day of September A.D. 2025” would likewise be in breach of the Appeal Judgment, the BLTA Constitution and would infringe the Claimants’ and BLTA members’ due process and procedural rights.

[24.] The Defendant submits that there is no serious issue to be tried because the Defendant had complied with the order of the court, and that there is no constitutional breach.

[25.] By affidavit evidence, the Claimants have sought to show breaches and threatened breaches of the order of the Court of Appeal and of the Final Judgment. For these purposes, it is not necessary to examine all of the affidavits laid by the Claimants as the allegations made in some are repeated in others.

[26.] Bjorn Ferguson is one of the named Claimants. By his affidavit filed on the 11th day of September 2025, he avers in part,

I, BJORN FERGUSON, of the Island of New Providence one of the Islands of The Commonwealth of The Bahamas, make oath and say as follows, that:

1. I am a Claimant herein and a member of the Defendant Bahamas Lawn Tennis Association ("BLTA").

2. The Defendant, on or about the 20th day of August A.D. 2025, published notice of an Annual General Meeting (AGM) scheduled to be conducted on Saturday the 13th day of September A.D. 2025 at 3:00pm. However, the Defendant has to the date hereof failed and refused to comply with the letter and spirit of the Final Judgment filed herein on the 11th day of August A.D. 2011, and the Court of Appeal Judgment pursuant to which it was entered herein.

3. Despite repeated attempts by members of the BLTA and the Claimants to secure compliance by the Defendant with the said Final Judgment and Judgment of the Court of Appeal, the Defendant has not done so with respect to its scheduling, planning, or intended execution of its proposed AGM. The Defendant's unlawful and unreasonable conduct in this regard, as is reflected by the several Affidavits filed in support of our application upon the Notice of Application filed herein and dated the 10th day of September A.D. 2025, has necessitated this application to vindicate the Claimants' rights pursuant to the said Judgments as against the Defendant and to ensure that the Defendant calls and conducts an AGM in full compliance therewith, which has not been done.

4. The Defendant, for example, is also in breach of the said Judgments having failed to apply my prior payment of \$35.00 to my membership account, in addition to having failed and refused to properly consider, process, and substantively respond to the outstanding 40 membership applications submitted to, and received by, the Defendant, along with the first annual subscriptions of \$35.00, on or about the 29th day of December A.D. 2021, as is stipulated at paragraph (vii) of the Final Judgment filed herein on the 11th day of August A.D. 2025. Instead, the Defendant has sent me a statement of my account that fails to reflect the said credit to which I am entitled. Exhibited hereto and marked "BF-1" is a copy of the Defendant's email to me dated the 20th day of August A.D. 2025.

5. The Defendant has failed and refused to demonstrate substantive compliance with the Claimants' Judgments and has scheduled an AGM in breach of the terms thereof. The Claimants would be gravely prejudiced and deprived of the fruits of their litigation should the Defendant's scheduled AGM not be postponed to ensure the Defendant's full compliance with the Orders and Declarations of the Court of Appeal and this Honourable Court. I make this Affidavit in support of the Claimants' application for injunctive relief upon the Notice of Application filed herein dated the 10th day of September A.D. 2025. The injunction sought pursuant to the Claimants' application would expose the Defendant to no prejudice whatsoever, nevertheless, I undertake on behalf of the Claimants to comply with whatever Order the Court may make, if any, should it be later determined that the Claimants were not entitled to the injunction sought herein. Should the Defendant be allowed to act in accordance with their stated intention, not only would the Claimants be prejudiced but so too would all members of the BLTA, who would be ineligible to participate fully in the Annual General Meeting or as voters and candidates in the said election in accordance with the Court of Appeal Judgment and their due process rights.

[27.] The Application is supported by the Affidavit of Glenda Roker filed on the 11th day of September 2025. That affiant avers,

[28.]

I, GLENDA ROKER, of the Island of New Providence one of the Islands of The Commonwealth of The Bahamas, make oath and say as follows, that:

1. I am an applicant for membership in the Defendant Bahamas Lawn Tennis Association ("BLTA"), having submitted my application form and paid the requisite fee for membership in the BLTA in December A.D. 2021.

2. The Defendant recently published notice of an Annual General Meeting (AGM) scheduled to be conducted on Saturday the 13th day of September at 3:00pm. However, the Defendant has to the date hereof failed and/or refused to process my outstanding application despite the Judgment of the Court of Appeal on the 22nd day of July A.D. 2025, and the Final Judgment filed herein on the 11th day of August A.D. 2025, ordering the Defendant, within thirty days of the 22nd day of July 2025, to call a meeting of its Council to consider and deal with all outstanding applications for regularization of existing memberships, affiliation, and membership.

3. The Defendant having, in breach of the said orders, failed to deal with my outstanding membership application, within thirty days of the said Judgment or at all, I would be deprived of the right, or opportunity, to attend, participate, or vote in the Defendant's scheduled AGM, as the Defendant states on the said notice of AGM that: "Please be advised that ONLY financial members will be permitted to attend, participate, and vote at the AGM." Exhibited hereto and marked "GR-I" is a copy of the Defendant's said notice of the scheduled AGM.

4. I make this Affidavit in support of the Claimants application for injunctive relief upon the Notice of Application filed herein dated the 10th day of September A.D. 2025.

[29.] The parties are agreed that there were applications other than those of the two Claimants that were considered by the Court of Appeal and that there were some 40 applications contemplated in the Court of Appeal judgment in consideration of whether there had been breaches as alleged by the Claimants. Paragraph 41 of the judgment of the Honourable Mr. Justice Evans, President of the Court of Appeal reads:

In my view, the termination or expulsion of the Appellants' membership must comply strictly with the Constitution of the Respondent and be carried out in good faith and in accordance with the principles of natural justice. The Respondent has failed to demonstrate that the termination of the Appellants' membership was effected in strict conformity with Article 8 of the Constitution. The process lacked the necessary procedural fairness and good faith. It is clear that the termination of membership was not in compliance with the rules mandated by the Respondent Constitution. Accordingly, the termination of the Appellants' membership, and that of the forty others not named in this appeal, is inoperative. In this regard, I adopt the principle expressed in **Hawthorne v Ulster Flying Club and Others** [1985] Lexis Citation 2427 at p. 22, where Murray J observed:

"It is well established that if a member is to be validly expelled from a club then inter alia (a) there must be an expulsion power in the rules (there is no implied power to expel), (b) the expulsion power must be exercised in strict conformity with the relevant rule and in good faith for the benefit of the club (and not for any indirect or improper motive), and (c) the principles of natural justice must be observed in

effecting the expulsion (unless expressly excluded).” [Emphasis Added]

[30.] Declaration 8 of the Final Judgment reads,

viii) The Defendant having failed and/or refused to issue reasonable or any notice of its purported deadline for new member registration and/or the regularization of existing members' accounts, of the 9th day of December A.D. 2021, the Defendant's refusal to consider and deal with the regularization of the Claimants' membership accounts and the outstanding applications for membership, duly submitted and paid for on behalf of the said 40 applicants on or about the 29th day of December A.D. 2021, to the date hereof is unreasonable, unlawful, and unconstitutional.

[31.] The parties are agreed that Glenda Roker is one of the 40 applicants contemplated by the judgment of the Court of Appeal.

[32.] The Claimants' Application is supported by the Affidavit of Tara Mactaggart filed on the 11th day of September 2025. Tara Mactaggart is a Council Member. Her evidence includes the following:

5. Specifically, on the issue of membership as it pertains to voting rights and participation in elections to be held at an Annual General Meeting (AGM), the Court of Appeal determined that the BLTA's failure and/or refusal to issue reasonable or any notice of its purported deadline for new member registration and/or the regularization of existing members accounts prior to calling an AGM and election for 29th January 2022 was "unreasonable, unlawful and unconstitutional" (paragraph viii, Final Judgment). Further, the Court of Appeal ordered the BLTA, within ninety days of 22nd July 2025, to reschedule its AGM, previously scheduled for 29th January 2022, and that "all constitutional notices and information shall be given by the Defendant to its members, including the Claimants, with respect thereto so as to afford them reasonable and sufficient time to regularise their membership status and otherwise prepare to participate fully in the said AGM (paragraph ix, Judgment). The BLTA was further ordered by the Court to call a meeting of its Council within thirty days of 22nd July 2025 to "consider and deal with all outstanding applications for regularisation of existing memberships, affiliation and membership pursuant to and in accordance with Article 24(g) of its Constitution" (paragraph x. Judgment).

6. A meeting of the BLTA Council was held at the National Tennis Centre on Sunday, 17th August 2025. I was traveling out of the country and

unable to attend that meeting. It was not until after that meeting, on Wednesday 20th August 2025, that a notice of the AGM and BLTA election was issued by the BLTA Secretary, Cameel McDonald. That notice gave specific times and dates between the dates of 22nd and 30th August, 2025 during which inquiries, payments and nominations could be made in person, at the National Tennis Centre.

7. In my capacity as a Council Member, I have made multiple written requests for the minutes of the 17th August 2025 Council Meeting and the Defendant's membership list. I have also made multiple written requests for details on the procedures being implemented by the BLTA with regard to membership, given the judgment from the Court of Appeal. I asked specifically "for clarity on the issue of all members, both new and renewing, being afforded the opportunity to become fully ratified, financial, voting members prior to the AGM you have called on Saturday, September 13, 2025" at which the first BLTA elections since 4th July 2020 will purportedly take place. Mr. Newton's response to me was that "the membership list is not customarily circulated to the general body of tennis or council members" and that "the Association's Constitution governs membership procedures, which are publicly available for review", which response I find unsatisfactory. I do not accept that the President can exclude access to the membership list from fellow Council Members, and I do not see a reasonable or lawful basis for denying members access to the membership list. To date I have also not received the minutes or membership list requested. Exhibited hereto and marked "TM-1" is a copy of my email to the Defendant.

8. Since 20th August 2025, when the AGM was announced, Perry Newton and Cameel McDonald have informed people seeking BLTA memberships that the BLTA is not accepting any new memberships prior to the elections. However, they failed to afford an opportunity to existing members, those with pending applications, or interested persons in the Tennis Community, to apply for membership or regularize their accounts otherwise before announcing the AGM or the purported last meeting of the Council before the elections. This decision unfairly deprived those waiting for these proceedings to conclude any opportunity to join the Defendant. Additionally, Perry Newton has "reclassified" a number of members attempting to renew their memberships as "new members", thereby denying them membership and voting rights in the scheduled 13th September 2025 AGM and elections. The stated basis of this denial of memberships is that: 'the Council will not meet to consider and ratify any new memberships prior to the election on 13th September 2025'. I object to this action by the Defendant as I believe it is: (1) contrary to the Judgment of the Court of Appeal; (2) in breach of Article 24 (g) of the BLTA Constitution; and (3) repeating similarly exclusionary treatment of memberships that compromised the BLTA elections in 2022 and ultimately resulted in costly legal proceedings.

....

10. I make this Affidavit in support of the Claimants' application for injunctive relief upon the Notice of Application filed herein dated the 10th day of September A.D. 2025.

[33.] The Claimant's Application is also supported by the Affidavit of Kimani Braithwaite filed on the 11th day of September 2025. The Affidavit of Kimani Braithwaite states:

I, KIMANI BRAITHWAITE, of the Island of New Providence one of the Islands of The Commonwealth of The Bahamas, make oath and say as follows, that:

1. I am an applicant for membership in the Defendant, Bahamas Lawn Tennis Association ("BLTA"), and the parent of a minor child who is an active tennis player having participated in a number of BLTA Tournaments over the past few years.

2. The Defendant, on or about the 20th day of August A.D. 2025, published notice of its scheduled Annual General Meeting ("AGM") and the dates that it would be conducting business of the BLTA at the premises of the National Tennis Center, located in the Ballou Hill Sporting Complex, one of which dates was Saturday the 23rd of August A.D. 2025, between the hours of 10:00am to 12:00pm. The Defendant has no scheduled hours of operation, and these notices alert interested persons as to when and where to conduct business with the Defendant.

3. On the morning of Saturday, the 23rd day of August 2025, during the allotted time, I attended the National Tennis Center and submitted my completed Application Form for membership in the BLTA, as this would have been my first opportunity to do so following the recent Court of Appeal decision. Several persons whom I understood and believed to be BLTA employees or officials were present at that time, one of whom was Mr. Timothy Dames ("Mr. Dames"), who I understand to be the Treasurer of the BLTA, who received my Application Form.

4. While the representatives of the BLTA did accept my membership Application Form from me, when I attempted to pay the requisite membership fee, I was advised by Mr. Dames that the BLTA was unable to accept my application payment as the BLTA was not accepting any new members until after the BLTA's Board had met and that the BLTA's Board would not meet again until after the Defendant's AGM and election, which was scheduled to be held on the 13th day of September A.D. 2025.

5. I am not aware of the Defendant having issued notice for new member registration or publicizing any such deadline for submission of membership Application Forms for participation in the upcoming AGM. I responded to the first notice I observed from the Defendant that it would be conducting membership business as I had decided, and would still like,

to become a member of the BLTA and to participate as a member in the next AGM properly held by the Defendant.

6. On the date in question, it was made unequivocally clear to me by the Defendant that the BLTA would not be accepting any new members on that date or on any date prior to the upcoming AGM and election.

[34.] In summary, the evidence of the affiants that the Defendant have failed to adhere to the stipulations as set out in the Final Judgment and the Judgment of the Court of Appeal, that membership issues have not been addressed as mandated by the Court of Appeal and that the announced AGM was called without due process being observed.

[35.] The Defendant filed an Affidavit in response to Claimant's Notice of Application. Affidavit of Perry Newton filed on the 11th day of September 2025. That affiant avers:

I Perry Newton of the Southern District of the Island of New Providence, one of the Islands in the Commonwealth of The Bahamas make oath and sayeth as follows that:-

1. I am the sitting President of the Defendant Association and duly authorized to swear this Affidavit in support of our objection(s) to the Claimants Application, in particular their quest for an Injunction to halt the Annual General Meeting (AGM) and Elections of Officers scheduled for Saturday, 13th September, A. D., 2025 at 3 o'clock in the afternoon.

2. The Defendant vehemently denies that they have not followed due process with respect to the Claimants and any other person seeking admission to the Association.

3. The major point we gleaned from the Ruling of the Court of Appeal was that the Defendant should follow the Constitution to the letter and that we have done. With respect to the Claimants they were both advised in writing as to their outstanding dues and the same has been paid by them. Hence, they both are in good standing and able to attend the AGM and participate in the elections. (Now produced and shown to me attached are email communications to the Claimants both dated the 20th August, 2025 and the relevant receipts attached hereto and marked as Exhibits "PN 1", "PN2", "PN3" and "PN4").

4. Further neither of the Claimants have made any compliant to the Defendant. It is therefore of concern how and why we are being brought once again before the Court. It is our belief that this matter is vexatious, frivolous and a clear abuse. The Claimants Counsel, threatened the Association to act quickly and have the AGM. We have done so and still they are unhappy.

5. I reiterate that we have strictly complied with the Constitution of the Association. (Now produced and shown to me are copies of the relevant 2017 Constitution, attached hereto and marked as "Exhibit PN5")

6. To better assist the Court, we hereby attach a Report which briefly outlines the actions by the Association with respect to the upcoming AGM (Now produced and shown to me attached is a Report dated the 11th September, 2025 attached hereto and marked as Exhibit "PN 6").

7. As to Mr. Newbold's claims, the Association accepted his Application which was submitted after the meeting of the Counsel and pursuant to the Constitution it will be reviewed at the next meeting of the Counsel.

8. Further the Officers of the Association have worked tirelessly to ensure this AGM can take place, which has been about three (3) years in waiting. We urge the Court to deny the Claimants application and allow our meeting to proceed. To accede to the Claimants will cause severe prejudice to the Defendant.

[36.] The Affidavit exhibits a report. The report is as follows:

REPORT BY BAHAMAS LAWN TENNIS ASSOCIATION

1. Compliance with the Court of Appeal's Judgment The Bahamas Lawn Tennis Association ("the Association") has at all times acted in full compliance with the Judgment of the Court of Appeal dated July 22, 2025.
2. Council August Meeting of 17 2025 Final Judgement paragraph (x):
"The Defendant, within thirty (30) days of the 22nd day of July A.D. 2025, shall call a meeting of its Council to consider and deal with all outstanding applications for regularization of existing memberships, affiliation, and membership pursuant to and in accordance with Article 24(g) of its Constitution."
A meeting of the Council was convened on August 17, 2025. At that meeting:
 - The membership status of Mr. Bjorn Ferguson and Mr. Kenwood Kerr was confirmed.
 - The forty (40) applications referred to in the Judgment were considered and ratified.
 - All membership applications in the Association's possession at the time of the meeting were heard and ratified.
 - The date for the Annual General Meeting ("AGM") was set for September 13, 2025.
3. Regularisation Memberships and Payments of Following the August 17, 2025, Council meeting, Mr. Bjorn Ferguson and Mr. Kenwood Kerr, along with other applicants, were sent written notification of their balances. The membership fees they paid in 2021 were credited to their accounts, and they were given clear dates when payments could be made to make their accounts current in accordance with paragraph vii) of the final ruling. A nine-day period with reasonable hours was communicated for all members to make payments current.
 - Mr. Bjorn Ferguson paid \$100.00 on August 22, 2025, to bring his family membership current.
 - Mr. Kenwood Kerr paid \$60.00 on August 25, 2025, to bring his membership current.
 - The new members likewise received communications indicating that their memberships were ratified.The Bahamas Lawn Tennis Association removed any ambiguity by providing members with clear dates to regularise their accounts. All members had the opportunity to take advantage of that process if they so chose.

4. Notice of the AGM Notice of the AGM was sent to members on August 20, 2025, with all constitutionally required documents (agenda, list of retiring officers, and statement of accounts) (Article 12 BLTA Constitution). Notice of the AGM was also published in the Nassau Guardian on August 21 and 27, 2025 and posted on the Association's website to ensure wider reach. Article 12 of the Bahamas Lawn Tennis Association's Constitution states that notice of an AGM must be given "at least 14 days prior to the date fixed for such meeting, and notice convening every such meeting may be advertised in any paper or papers which the Council may think desirable." The Association's notice was issued 23 days before the AGM, well beyond the constitutionally mandated minimum and within the timeframe required by the Court of Appeal final judgement (paragraph ix).
5. Kenwood Kerr's Nomination for Treasurer Mr. Kenwood Kerr has been duly nominated as a candidate for the position of Treasurer in the upcoming election to be held at the AGM. This underscores that the Claimants have been afforded the full rights and privileges of membership, including eligibility to stand for office. This fulfils the requirements set forth by paragraph (ix) of the final ruling, as the nomination process was open to all members.
6. Constitutional Procedure of the BLTA for Membership Applications Article 6 of the BLTA Constitution provides: "All applications must be completed on the official application form and sent to the Secretary. Applications of new members will be considered by the Council at their next meeting after the of the application." In compliance with Article 6 and the Court of Appeal's Judgment, the Association convened its Council on August 17, 2025, within the constitutionally prescribed and court-ordered timeframe, and at that meeting, it heard and ratified all applications for membership and affiliation that had been received up to that date. receipt
7. No "Last or Meeting" or Cut-Off At no time did the Association declare the August 17, 2025, Council meeting to be its "last meeting" before the AGM or to close off applications as suggested by the Claimants. It is important to note that Article 22 of the BLTA's constitution states, "The Council shall meet at such times and places as it may from time to time decide, but it shall meet once at least every quarter." The association met this obligation in the August 17, 2025, meeting, and there is no court or constitutional requirement for the association to meet again before the AGM scheduled for September 13, 2025. Also, in keeping with Article 6 of the BLTA's Constitution, any application that may be received "will be considered by the Council at their next meeting after the receipt of the application." This obligation was also met at the board meeting of August 17, 2025, where all applications received were considered and ratified, including the 42 applications in the court ruling. The Association has at all times operated in good faith and within its constitution and the ruling of the Court of Appeal as per paragraph (x) of the final judgment, and has fulfilled that requirement with the August 17, 2025, council meeting.
8. Ministry of Sports Letter Dated September 10, 2025
Based on information contained in the affidavit filed by the Claimants' attorney, the Claimants approached the Director of Sports, and it appears that the Ministry's letter dated 10 September 2025 was issued as a result of representations or requests made by the Claimants to the Ministry.
It is important to emphasize that every step taken by the Bahamas Lawn Tennis Association has been in good faith and in strict compliance with the Court of Appeal's judgment and the Association's Constitution. The Association convened its Council within the time frame ordered by the Court, confirmed and regularized memberships, and scheduled the Annual General Meeting and elections in line with the directives of the Court and the Association's Constitution. Prior to this letter, no queries or concerns

regarding the Annual General Meeting were ever expressed to the Association, despite an opportunity to do so during an in-person meeting with Ministry officials on 26 August 2025.

9. Absence of Cause of Action by the Claimants

The Association has complied fully and in good faith with the rulings of the Court of Appeal and its Constitution. The Claimants' membership applications have been heard and ratified, and opportunities to regularize accounts were offered where applicable.

The Claimants have not identified any specific prejudice or disadvantage in their affidavit arising from the Association's actions, nor have they shown that their membership has not been restored. In these circumstances, the Claimants have no cause to pursue this application.

10. Claimants' Current Requests are Unconstitutional and Unreasonable and Outside of the ruling the Court of Appeal The Association respectfully submits that the relief now sought by the Claimants is unconstitutional, inconsistent with the Judgment of the Court of Appeal dated July 22, 2025, and unreasonable. The BLTA Constitution sets out clear procedures for notice of meetings and for the submission and processing of membership applications (Articles 6 and 12). The Association has followed those procedures to the letter.

The Claimants now seek orders which would require the Association to disregard its Constitution and to depart from the procedures and timelines already validated by the Court of Appeal. To compel the Association to do so would subvert both its Constitution and the Court's Judgment and would be unfair to all other members who have complied with the Association's processes and mandates of the court. For these reasons, the Claimants' requests are without merit and ought to be refused.

The Association now seeks the Court's recognition that the Association is in compliance with the judicial directives so that it may proceed with its governance processes without further disruption.

In making this appeal, the Bahamas Lawn Tennis Association respectfully urges the Court to acknowledge the Association's demonstrated commitment to lawful and transparent administration and to permit it to move forward with its constitutional business in the interest of its members, the sport of tennis, and the wider Bahamian community.

Dated the 11th day of September, A. D., 2025

[37.] This court must consider whether the Claimant's claim is frivolous or whether there is a serious issue to be tried. This is not a determination of the substantive issue but instead a determination as to whether this Court ought to grant the remedy sought pending the substantive determination of the issues raised.

[38.] The evidence laid by the Claimants included evidence of a named Claimant, an applicants for membership (including applicants in a class of persons, viz 40 applicants contemplated by the Court of Appeal) and a member of the Council. The evidence laid is that the processes adopted by the Defendant, leading to the calling of the AGM and including the claiming of the September 13, 2025 AGM, is plagued with irregularities. Their case is that these include irregularities addressed by the Court of Appeal and that the Defendant is in breach of the order of the Court of Appeal and the Final Judgment. The Claimants' case is that to allow the AGM to proceed would amount to a further breach.

[39.] The response of the Defendant is that the judgment of the Court of Appeal was complied with, that the constitution was complied with and that any member, such as affiant Glenda Roker, could call the Association on the day before the AGM to see whether their status has been regularized. By the unsworn report of the Defendant, the Defendant indicates that the applications referred to by the Court of Appeal had been dealt with. However, before this court there is no evidence of whose applications are referred to in the unsworn report. The court will not draw inferences at this stage.

[40.] The Defendant has averred, through its president, Mr. Perry Newton, that they have followed the constitution “to the letter”. The submission is that the order has been complied with. That is to be juxtaposed against the evidence of the affiants for the Claimants.

[41.] This Court has before it the evidence of various affiants, including the evidence of an affiant to whom, the parties agree, the order of the Court of Appeal relates, and whose membership application, on her evidence, has not been dealt with in advance of the called AGM. The court also has the evidence of a Council Member whose attempts at securing the member list in advance of the called AGM has proven futile. That evidence is juxtaposed against the bald statement in an exhibit to the affidavit of Mr. Newton that “the forty (40) applications referred to in the Judgment were considered and ratified.” Given the nature of the evidence, taking into account the direct evidence of the affiants of the Claimants and given the conflicting evidence, is my determination that there is a serious issue to be tried.

[42.] This court’s finding is that the claim is not frivolous or vexatious and that the Claimants have provided sufficient evidence of a claim of a ‘threatened breach’ of the rights declared by the Order of the Court of Appeal and by the Final Judgment. It is apparent there is a serious issue to be tried by the court.

THE ADEQUACY OF DAMAGES AS REMEDY

[43.] The second limb of the American Cyanamid test, as per the guidelines, is the consideration of the adequacy of damages as a remedy. In this case, if the Claimants were to be successful at trial, would damages would be an adequate remedy for the Claimants if the interim remedy sought is refused and if the AGM were to be held? If the answer to that, is “no”, I must also consider the following question. If the Defendant were to be successful at trial, could the Defendant be adequately compensated in damages if the AGM were to be postponed?

[44.] The Claimants argue that damages would not be an adequate remedy because of the “harm threatened by the Defendant to the Claimants’ rights pursuant to the Appeal Judgment and their constitutional rights as members of the BLTA.” The Claimants also argue that “... if the Defendant is not restrained from conducting the AGM scheduled for the 13th day of September A.D. 2025, the Claimants face the prospect of being deprived of the fruits of the Appeal Judgment and members of the BLTA face being permanently

deprived of their right to fully participate in the Defendant's AGM and to contest the scheduled Election of Officers pursuant to and in accordance with the Appeal Judgment."

[45.] The Defendant argues that damages would not be an adequate remedy for the Defendant who wished to have the AGM held as the holding of an AGM was long outstanding and "3 years in the waiting". Counsel for the Defendant noted that there was a deadline given for the holding of a Council meeting and of the AGM by the Court of Appeal and submitted that any delay could infringe that order. Counsel also submitted that members could be called to be notified of their status in order to attend the AGM since all members caught by the Court of Appeal judgment had been approved. The Defendant's Counsel also argued that there could be "serious reputational damage" if the AGM were not held by the Defendant.

[46.] One of the orders contained in the Final Judgment is reflected at paragraph (ix) and reads:

(ix) The Defendant's AGM, previously scheduled for the 29th day of January A.D. 2022, shall be rescheduled by the Defendant to a date within ninety (90) days of the 22nd day of July A.D. 2025 and all constitutional notices and information shall be given by the Defendant to its members, including the Claimants, with respect thereto so as to afford them reasonable and sufficient time to regularize their membership status and otherwise prepare to participate fully in the said AGM and to address any business intended to be conducted at the said AGM.

[47.] The essence of the Claimants' complaint is that they would not be able to enjoy the rights and privileges of membership at the scheduled September 13, 2025 AGM, which includes taking part in the election of officers. If the applications of persons have not been processed, this would necessarily mean that they cannot participate, and further, that the Claimants could not rely on the participation of such persons. It seems to me that to allow the Defendant to merely confirm to an applicant on the day before the holding of an AGM, or on the morning of the scheduled AGM, that her application was approved, would not afford the applicant a fair process and an opportunity to exercise the rights and privileges of a member as contemplated in the order of the Court of Appeal and the Final Judgment.

[48.] I note that one of the Claimants' allegations is that the processing of some applications were deferred. The evidence of Kimani Braithwaite is that upon presentation of her application and fee, her application was accepted but her fees were not and "I was advised by Mr. Dames that the BLTA was unable to accept my application payment as the BLTA was not accepting any new members until after the BLTA's Board had met and that the BLTA's Board would not meet again until after the Defendant's AGM and election, which was scheduled to be held on the 13th day of September A.D. 2025 the BLTA's Board would not meet again until after the Defendant's AGM and election, which was scheduled to be held on the 13th day of September A.D. 2025."

[49.] The Defendant's response by an unsworn report exhibited to the affidavit of Perry Newton is that:

No "Last or Meeting" or Cut-Off At no time did the Association declare the August 17, 2025, Council meeting to be its "last meeting" before the AGM or to close off applications as suggested by the Claimants. It is important to note that Article 22 of the BLTA's constitution states, "The Council shall meet at such times and places as it may from time to time decide, but it shall meet once at least every quarter." The association met this obligation in the August 17, 2025, meeting, and there is no court or constitutional requirement for the association to meet again before the AGM scheduled for September 13, 2025. Also, in keeping with Article 6 of the BLTA's Constitution, any application that may be received "will be considered by the Council at their next meeting after the receipt of the application." This obligation was also met at the board meeting of August 17, 2025, where all applications received were considered and ratified, including the 42 applications in the court ruling. The Association has at all times operated in good faith and within its constitution and the ruling of the Court of Appeal as per paragraph (x) of the final judgment, and has fulfilled that requirement with the August 17, 2025, council meeting.

[50.] In summary, the Defendant' position is that they did not declare the Council meeting of August 17, 2025 to be the last meeting before the AGM but that it was in fact the last meeting before the scheduled AGM. The obvious consequence of this is that persons whose applications were not dealt with, would not have a chance to participate in the scheduled September 13, 2025 AGM. This is the very complaint of the Claimants.

[51.] The Claimants, by affidavit of Bjorn Ferguson, has given the requisite undertaking to "comply with whatever Order the Court may make, if any, should it be later determined that the Claimants were not entitled to the injunction sought herein." There is no such undertaking by the Defendant.

[52.] The Claimants seek compliance of a court order leading to the holding of an AGM after certain processes are observed. The allegation is that the preconditions, per the order of the COA, to holding an AGM have not been met. The holding of an AGM in the face of allegations not specifically addressed would render any relief nugatory. If the AGM were to proceed and it were subsequently to be found that the Claimants had been disenfranchised and their constitutional and due process rights violated, it is difficult to see how damages would compensate them. The Defendant submits that that the AGM is long overdue. Counsel for the Defendant submits that damages would not be an adequate remedy for the Defendant because of the reputational damage that could occur. No evidence or explanation for "reputational damage" was given.

[53.] It is my determination that damages would not be an adequate remedy for the Claimants were the application for an interim injunction refused. On the other hand, the granting of injunctive relief would delay, but not prevent, the holding of an AGM. There was no ratio put forward as to why damages would not be an adequate remedy for the Defendant in those circumstances.

THE BALANCE OF CONVENIENCE

[54.] I have already determined that damages would not be an adequate remedy for the Claimants and that it would be an adequate remedy for the Defendant. A consideration of the balance of convenience is not necessary in such an instance. However, I make the observation in this case that the course that “seems likely to cause the least irremediable prejudice to one party or the other ” is to grant the injunction. In this case, the balance of convenience lies with the Claimants. A postponement of the AGM will allow the Claimants an opportunity to have their issues ventilated. If the AGM were to proceed and it were subsequently determined by adjudication that the rights of the Claimants had been breached, the holding of the AGM would have caused substantial prejudice to the Claimants. If the AGM were to proceed and it were subsequently determined by adjudication that the rights of the Claimants were not breached, the postponement of the AGM scheduled for September 13, 2025 would not prevent the Defendant from holding a duly constituted AGM.

[55.] It is my determination that the balance of convenience lies with the Claimants.

STATUS QUO

[56.] This is an unnecessary consideration given the foregoing findings and determination.

CONCLUSION

[57.] The ultimate question for the court is whether the granting or withholding an injunction is more likely to produce a just result. I bear in mind the forgoing factors. I note that there is still an opportunity for the Defendant to hold an AGM and to act within the timeline set by the Court of Appeal. It is my determination that granting the injunction is more likely to produce a just result.

COSTS

[58.] Exercising my discretion pursuant to Part 17, Rule 17.5, this court orders that the costs of this application will be costs in the cause.

ORDER

[59.] The ORDER and directions of this Court are as follows.

1. The Defendant by its servants, agents, officers, or otherwise howsoever is restrained from conducting or purporting to conduct an Annual General Meeting or Election of Officers of the Defendant's organization, viz The Bahamas Lawn Tennis Association, on Saturday the 13th day of September A.O. 2025 or otherwise pending a further or final order of the court.

2. The parties shall appear before this Court on the 15th day of September A.O. 2025 at 2:00 p.m. for case management directions.

3. The costs of this application shall be reserved until such a date.

[60.] The Order is to bear a penal notice.

Dated the 19th day of September, 2025

A handwritten signature in black ink, appearing to read 'Carla D. Card-Stubbs, J.', with a stylized flourish at the end.

Carla D. Card-Stubbs, J
Justice