

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity
Case Numbers: 2024/CLE/gen/FP/00206
2024/CLE/gen/FP/00207**

B E T W E E N

WESTERN AIR LIMITED

Claimant

AND

ASHTON WELLS

1st Defendant

AND

DONALD PINDER

2nd Defendant

Before: The Honourable Justice Andrew Forbes
Appearances: Mr. Harvey Tynes, Q.C., with Tanisha Tynes-Cambridge for the Claimant
Ms. Shavanthi Griffin-Longe for the Defendant
Hearing date(s): 15 July 2025; On the papers.

DECISION

FORBES, J.

INTRODUCTION

[1.] This application is for the consolidation of action No. 2024/CLE/gen /FP/ 00206 and 2024/CLE/gen/FP/00207.

[2.] The relevant filings are discussed below.

[3.] In both actions, the Standard Claim form was filed on 15 November 2024. The Defence and Counterclaim in both were filed on 1 May 2025.

[4.] In action 2024/Cle/Gen/FP/00206, this current Application and its Supporting Affidavit were filed on 28 May 2025.

[5.] Defendant's Counsel and Claimant's Counsel laid over Skeleton Arguments on 18 July 2025 and 27 July 2025, respectively.

[6.] The Court has read the submissions and the content therein. The contents of the submissions, if not explicitly acknowledged, are fully considered.

LAW

[7.] The Court has the power to consolidate actions pursuant to Part 26.1 (2) (b) of the Supreme Court Civil Procedure Rules, 2022, which state:

- (2) Except where these rules provide otherwise, the Court may — ...
 - (b) Consolidate proceedings...

[8.] The Rules do not explicitly lay out statutory considerations of the Court. However, the powers afforded pursuant to Part 26 are discretionary. This discretion is to be viewed through the lens of the overriding objective pursuant to Part 1.1 of the Rules, which state:

1.1 (1) The overriding objective of these Rules is to enable the Court to deal with cases justly and at proportionate cost.

(2) Dealing justly with a case includes, so far as is practicable:

- (a) ensuring that the parties are on an equal footing;
- (b) saving expense;
- (c) dealing with the case in ways which are proportionate to —
 - (i) the amount of money involved;
 - (ii) the importance of the case;
 - (iii) the complexity of the issues; and
 - (iv) the financial position of each party;
- (d) ensuring that it is dealt with expeditiously and fairly;
- (e) allotting to it an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases; and
- (f) enforcing compliance with rules, practice directions, and orders.

[9.] Though the consideration for consolidation is not explicitly stated in the Civil Procedure Rules, 2022, the requirements of joinder were precise in Order 15 Rule 4 of the Supreme Court Rules, 1978, which state:

4. (1) Subject to rule 5(1), two or more persons may be joined together in one action as plaintiffs or as defendants with the leave of the Court or where —

- (a) If separate actions were brought by or against each of them, as the case may be, some common question of law or fact would arise in all the actions; and
- (b) All rights to relief claimed in the action (whether they are joint, several, or alternative) are in respect of or arise out of the same transaction or series of transactions.

DISCUSSION AND ANALYSIS

[10.] Therefore, when applying the overriding objective, the Court must also consider whether there is a common question of law or whether the reliefs claimed arise out of the same transaction or series of transactions.

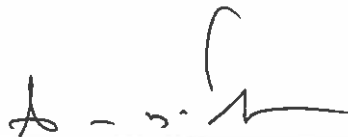
[11.] The Court finds that there is a question of law and fact that makes consolidation desirable. It is evident from the relevant pleadings that the matters arise from a contractual arrangement for a loan to train the pilots. The legal issues related to the Claim and Defence are mirrored in both actions. Furthermore, the Court sees no genuine issue of complexity that would necessitate the trial be conducted separately.

DISPOSITION

[12.] Therefore, when considering the pleadings in each matter placed before the Court, the submissions made by Counsel, and viewing these considerations through the lens of the overriding objective, the Court makes the following order:

- a. The matters in action number **2024/CLE/gen/FP/00206** and **2024/CLE/gen/FP/00207** are to be consolidated for trial.
- b. The matters shall be heard on the same day; however, the Claimants are to prove their individual cases; and
- c. Costs in the cause.

Dated this 3rd day of September, A. D. 2025



Justice Andrew Forbes