

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity Division
2021/CLE/gen/01043**

IN THE MATTER of the trusts of the Declaration of Trust dated 23rd February 2001 and designated as The Coral Ridge Trust and of the trusts of the Declaration of Trust dated 23rd February 2001 and designated as The Hightree Trust

AND IN THE MATTER OF an application under Section 3 of the Judicial Trustees Act and/or under the inherent jurisdiction of the Court

**BETWEEN:
CHERYL HAMMERSMITH-STEWART**

Claimant

**AND
CROMWELL TRUST COMPANY LIMITED**

First Defendant

ADAM STEWART

(acting in his capacity as the Enforcer, a member of the Advisory Board and personal capacity)

Second Defendant

JAIME STEWART-McCONNELL

(acting in her capacity as a member of the Advisory Board and personal capacity)

Third Defendant

BRIAN JARDIM

Fourth Defendant

GORDON STEWART

Fifth Defendant

KELLY STEWART

Sixth Defendant

SABRINA STEWART

Seventh Defendant

ASTON JONATHAN STEWART, SLOANE SARAH STEWART, CAMDEN JAIME STEWART, PENELOPE SKY McCONNELL, ISLA JAMES McCONNELL, FINLEY COLLINS McCONNELL, STELLAN JONATHAN McCONNELL AND THE UNBORN ISSUE OF ADAM STEWART AND JAIME McCONNELL

(acting by JOHANN GORDON EPSTEIN as their Guardian ad litem)

Eighth Defendant

ROBERT STEWART

Ninth Defendant

Before: Hon. Chief Justice Sir Ian R. Winder

Appearances: Simon Taube, KC with John Wilson, KC and Theominique Nottage for the Claimant

Brian Simms, KC with Wilfred Ferguson Jr. for the First Defendant

Richard Wilson, KC with John Minns for the Second, Third and Fourth Defendants

Terry North for the Fifth, Sixth and Seventh Defendants

Lena Bonaby for the Eight Defendant

David Brownbill, KC with Gia Lockhart for the Ninth Defendant

15 December 2025

WINDER, CJ

This is my brief decision on the application of the Claimant (Cheryl) for permission to further amend her Re-Re-Amended Statement of Claim and for consequential or associated orders in the action.

[1.] This action arose upon the death of the late Hon. Gordon Butch Stewart OJ (the Founder), amongst the various factions of his immediate family. The Founder was a successful Jamaican businessman who established the Sandals & Beaches Resorts in addition to many other successful ventures. The Sandals & Beaches Resorts is a hotel and resort chain based in Jamaica, with resorts in many countries in the Caribbean, including The Bahamas. The dispute concerns the operation of the Coral Ridge and Hightree trusts (the Trusts) established by the Founder and over which the First Defendant (Cromwell) is the Trustee.

[2.] I will not repeat the background to the dispute which has been well traversed in the several judgments issued by this Court. Put succinctly, Cheryl's claim is for a determination of the true wishes of the Founder for the Trusts and for the removal of Cromwell as trustee of the Trusts, or for the appointment of a professional independent trustee to act as co-trustee of the Trusts jointly with Cromwell.

[3.] Cheryl's application was made by Notice of Application and is settled in the following terms:

1. The Plaintiff, Cheryl Hamersmith-Stewart, makes an application pursuant to Rules 20.1(2), 26.1(2)(k), 26.1(2)(e), 26.1(2)(v) and 32.6 of the Supreme Court Civil Procedure Rules 2022 (the "CPR") and/or the inherent jurisdiction of the Court for the following relief:

- a. A declaration that the relief claimed in this application for permission to amend the Plaintiff's Amended Writ of Summons and Re-Re-Amended Statement of Claim to plead a claim for relief that the Second Defendant shall surrender the exercise of his power under clause 8.2 of the Declaration of Trust of the Coral Ridge Trust dated 23rd February 2001 to the Court in order for the Court to exercise the power in such manner as it considers just and/or the Court shall make such other order to secure the appointment of wholly independent and qualified individuals to perform the functions of the Advisory Board of the Coral Ridge Trust, and if permission is granted such final relief claimed in this Action, does not engage the 'no contest' clauses at (i) clause 6 of the Declaration of Trust of the Coral Ridge Trust, as amended by Deed of Amendment dated 16th August 2018; and at (ii) clause 6 of the Declaration of Trust of the Hightree Trust dated 23rd February 2001, as amended by Deed of Amendment dated 16th August 2018.
- b. Contingent on the declaration at sub-paragraph 1(a) above, the Plaintiff shall have permission to re-amend her Writ of Summons and re-re-re-amend her Statement of Claim in the form exhibited to the Sixth Affidavit of the Plaintiff dated 30 October 2025.
- c. Permission to adduce expert evidence at the hearing of this application and at the trial of this Action in the fields of: (i) forensic accountancy to opine on whether SRI 2000 had received its contractual entitlements under a written contract known as 'The Worldwide Agency Agreement' dated 30 May 2016; and (ii) Panamanian law to opine on the rights of shareholders in wholly owned Panamanian companies.
- d. The time for the parties to give standard disclosure by list, and produce for inspection such documents, is extended to 4:00pm on 30th January 2026.
- e. Further directions consequential on the relief sought at sub-paragraphs 1(b)-(d) above and such further orders and directions as the court seems fit.

[4.] The application is opposed by the Second Defendant (Adam), the Third Defendant (Jaime), the Fourth Defendant (Brian) and the Eighth Defendant. Cromwell opposes only the amendments which relate to claims being made against it. The remaining defendants support Cheryl's application.

[5.] Cheryl's application is supported by her sixth affidavit which exhibits the proposed Re-re-amended Statement of Claim. She summarizes her grounds for the application as follows:

- a. The existing Action concerns the removal of the First Defendant as trustee of two Bahamian law trusts known as the Coral Ridge Trust and the Hightree Trust (the "Removal Claim"). One of the grounds on which the Removal Claim is advanced is that the Second Defendant is not a suitable or proper person to have control or influence over a body with the duties of the trustee of the Coral Ridge and Hightree Trusts such

that to the extent that the Second Defendant has such control and/or influence, this will have detrimental effect on the administration of the Coral Ridge and Hightree Trusts, and the welfare of the beneficiaries of those Trusts. It is not disputed that the Second Defendant has the power to remove and appoint directors of the First Defendant, as well as the power to set their remuneration.

- b. It has come to the attention of the Plaintiff that the Second Defendant has caused funds to be diverted from the Sandals Group, which is an underlying asset of the Coral Ridge Trust, either for his own benefit, the benefit of the Third Defendant, or to entities related to the Second Defendant. This is to the detriment of the beneficiaries of the Coral Ridge Trust as a whole.
- c. Further, despite being the Enforcer and a member of the Advisory Board of the Coral Ridge Trust, the Second Defendant has failed to investigate or investigate adequately the diversion of funds from the Sandals Group. Nor, despite being on notice of circumstances strongly indicating that the Second Defendant has acted in bad faith in diverting funds from the Sandals Group, has the First Defendant investigated or investigated adequately the diversion of funds from the Sandals Group.
- d. The Second Defendant has further demonstrated his unfitness and unsuitability to have control or influence over a body with the duties of the trustee of the Coral Ridge and Hightree Trusts by improperly obtaining the confidential and privileged information from the Plaintiff's client file at the Jamaican law firm, Myers, Fletcher & Gordon ("MFG"), as well as by personally offering improper financial incentives to the directors and former directors of the First Defendant.
- e. The Plaintiff seeks to rely on the foregoing matters in support of her Removal Claim since it demonstrates the continued detrimental effect of having a trustee controlled or influenced by the Second Defendant on the administration of the Coral Ridge and Hightree Trusts.
- f. Further, the Plaintiff also seeks to rely on the diversion of funds from the Sandals Group to claim that the Second Defendant, in his capacity as Enforcer of the Coral Ridge Trust, has acted in breach of his fiduciary duties by failing to exercise his power under clause 8.2 of the Coral Ridge Declaration of Trust (the "Appointment Power") to appoint suitably qualified independent professionals to the Advisory Board. By reason of Adam's breach of fiduciary duties, but subject to paragraph 2(h) below, it is appropriate for the Court to require the Second Defendant to surrender the Appointment Power to the Court (the "Appointment Power Claim").
- g. No prejudice is caused to the other parties if the Plaintiff is permitted to rely on the foregoing matters at trial.
- h. The application for permission to plead the Appointment Power Claim, and the advancement of the same at trial, is subject to a preliminary declaration sought by the Plaintiff that they do not breach the 'no contest' clauses in the Coral Ridge and Hightree Declarations of Trust. The Plaintiff's position is that neither this application for

permission to amend, nor the advancement of the Appointment Power Claim at trial, breaches the 'no contest' clauses. They are premised on a breach of fiduciary duty by the Second Defendant with the Plaintiff merely seeking to ensure that the Second Defendant's fiduciary obligations are enforced in accordance with the terms of the Coral Ridge Declaration of Trust.

- i. If the Court is satisfied that it should grant permission to amend the Writ of Summons and the Statement of Claim, then expert evidence will be reasonably required in the fields of forensic accountancy to opine, in light of the relevant documentary material, on whether or not there has been a diversion of funds from the Sandals Group, and Panamanian law to opine on the rights of shareholders in wholly owned Panamanian companies. The Plaintiff intends to file expert reports from witnesses in these fields prior to the hearing of this application.

Procedural history of the action

[6.] The brief look at the procedural timeline in the action provides a useful context for the application:

[7.] On 22 September 2021 the Claim commenced by Writ of Summons.

[8.] On 22 April 2022 Privacy Applications to seal the Court's file were heard before Charles J who dismissed the applications in a written judgment dated 27 May 2022. Subsequent appeals to the Court of Appeal were unsuccessful.

[9.] On 19 July 2022 Cheryl amended her Statement of Claim for the first time, without opposition from the defendants. (Amended Statement of Claim)

[10.] On 23 and 24 November 2023 the Court heard the preliminary issue concerning whether the 'no contest' clauses in the Trusts would be engaged by this action. The Court determined that the 'no contest' clause would not be engaged in a written decision dated 22 June 2024. (Re-Amended Statement of Claim)

[11.] On 6 February 2024 Cheryl amended her Statement of Claim for a second time, without opposition from the defendants

[12.] On 27 January 2025, Cheryl amended her Statement of Claim for a third time, without opposition from the defendants. (Re-Re-Amended Statement of Claim)

[13.] On 21 May 2025 the Court convened the Case Management Conference setting trial directions as follows:

- 1) Judicial co-trustee application on 12 August 2025
- 2) Disclosure be completed by 30 October 2025;
- 3) Factual witness statements be exchanged by 4pm on 23 January 2026
- 4) Reply statements exchanged by 4pm on 23 February 2026;
- 5) Further interlocutory applications be set at 15 December 2025 with a hearing date of 14 January 2026 set aside for the determination of such applications; and
- 6) The trial bundle index be circulated by 31 March 2026.
- 7) Pre Trial Review 5 May 2026
- 8) Trial to take place 1-24 June 2026

[14.] On 30 May 25 Robert filed his Additional Claim

[15.] On 12 August 2025 the Court heard an application by Cheryl, on an urgent basis, seeking to appoint a judicial co-trustee. Cheryl alleged that she had come into possession of information and a report (the FTI report) prepared by forensic accountant Edith Wong which she said showed misconduct on the part of Adam in the operation of a Sandals related entity. In a written decision dated 17 October 2025, the Court refused Cheryl's application.

[16.] On 30 October 2025 Cheryl filed her application for a fourth amendment of the Statement of Claim. The 30 October had been the date scheduled for the completion of the disclosure process. The application for the amendment was heard on 15 December 2025.

The Nature of the Proposed Amendments

[17.] Cheryl describes the amendments, which she proposes, into two broad categories. She outlines them in paragraph 81-82 of her submissions as follows:

81. First, Cheryl seeks permission to plead further factual averments relating to misconduct by Adam, which are already described in the Background section above and in Cheryl 6 and Cheryl 7. In summary, these include:

- a. the retention by UTC, over a 64-week period, of commission significantly in excess of the 6% to which it was contractually entitled under the 2016 Contract, in a net sum calculated by Ms Hall of FRP at approximately US\$63.3 million, and the concomitant failure of SRI 2000 to receive monies contractually due to it;
- b. the apparent diversion of approximately US\$3.3 million of SRI 2000's resources to Gorstew/the *Jamaica Observer* over the relevant period, for which there was (at best) minimal advertising placed in the *Jamaica Observer* that could properly be characterised as Sandals advertising under the 2016 Contract;
- c. the use of SRI 2000's funds to purchase luxury furnishings and appliances for the Port Antonio Property, which is held for the benefit of Adam and Jaime alone;

- d. Adam's collusion with Ms McLarty to obtain Cheryl's confidential and privileged information from MFG; and
- e. Adam offering financial incentives to directors or former directors of Cromwell. (Paragraphs 14A; 14B; 16ci; 33Abv; 33Ac; 33Ae; 34Ai.; 34Aia to 34Aig of the proposed amendments)

82. Second, Cheryl seeks permission to plead the Appointment Power Claim. This is the claim that:

- a. properly construed, the Appointment Power is a fiduciary power to be exercised for the benefit of the beneficiaries as a whole;
- b. in the circumstances summarised in Sections B1–B5 (including Cheryl's serious, now well-evidenced concerns about the diversion of SRI 2000's funds, and Adam's conflicts of interest), a fiduciary in Adam's position ought to have considered and acted on the need to appoint suitably qualified independent professionals to the Advisory Board;
- c. Adam's failure to do so constitutes a breach of fiduciary duty; and
- d. the Court should, in exercise of its inherent equitable supervisory jurisdiction over Trusts, ensure the proper exercise of the Appointment Power (for example by requiring the appointment of independent professionals to the Advisory Board, or alternatively by directing that the power be surrendered for the Court's supervision).

(Paragraphs 9A to 9F; 78J to 78K; 93 and 94 of the proposed amendments)

The amendments also include an allegation that the Trustee has breached the alleged Trustee Advisory Board Duty. Cheryl alleges that Cromwell has failed to take steps or reasonable steps to investigate or investigate adequately the 'red flags' in the management of SRI 2000. (Paragraphs 31Aca; 34C; 65; 68ba; and 8a. to 8l of the proposed amendments.)

Law Analysis and Discussion

[18.] Rule 20.1 of the Supreme Court (Civil Procedure) Rules 2022 governs the application for the an amendment to a statement of case. It provides:

20.1 Changes to statement of case.

- (1) A statement of case may be amended once, without the Court's permission, at any time prior to the date fixed by the Court for the first case management conference.
- (2) The Court may give permission to amend a statement of case at a case management conference or at any time on an application to the Court.
- (3) When considering an application to amend a statement of case pursuant to paragraph (2), the factors to which the Court must have regard are —

- (a) how promptly the applicant has applied to the Court after becoming aware that the change was one which he wished to make;
- (b) the prejudice to the applicant if the application was refused;
- (c) the prejudice to the other parties if the change were permitted;
- (d) whether any prejudice to any other party can be compensated by the payment of costs and or interest;
- (e) whether the trial date or any likely trial date can still be met if the application is granted; and
- (f) the administration of justice.

[19.] It is not disputed that the relevant factors for consideration in this application are the promptness of the application, the respective prejudice to the parties and whether any prejudice can be compensated by costs and/or interest and whether the trial date can still be met.

[20.] The law on amendments, however, are no longer that they must be allowed once the amendment is necessary to enable the real controversy in issue between the parties to be determined and it would cause no prejudice to the other party that cannot be compensated in costs. The Supreme Court (Civil Procedure) Rules 2022 (the CPR) has ushered in a new ethos in how the Court must approach amendments. It must weigh all the factors listed in Rule 20.1(3). The learned editors of the **Caribbean Civil Court Practice** (3rd ed) provide a useful discussion on the new approach to amendments under the CPR. At Note 19.15 it states:

In *Property Holdings Limited v CGM (Barbados) Limited* BB 2020 HC 59 (delivered on 30 October 2020) Alleyne J captures the essence of the new approach to amendments of statements of case that is consistent with the overriding objective of the CPR. At paras [46] and [47] of his judgment Alleyne J observed:

“[46] [J]udicial pursuit of the overriding objective of the **CPR** requires a court faced with an application to amend to deal with the case justly. This necessarily involves giving consideration to all relevant factors including, where practicable, those set out in **CPR 1.1(2)**. This approach extends concerns beyond those of the immediate interests of the parties to more general reflections on the administration of justice and that of all litigants.

[47] Hence, there is no room within our current procedural framework for the application of any axiomatic rule which may be derived from *Cropper v Smith* (1884) 26 Ch. D 700. In that case, Bowen LJ suggested in effect, at *pages 710–711*, that an amendment must be allowed once it is necessary to enable the real controversy in issue between the parties to be determined, and it would cause no prejudice to the other party that cannot be compensated for in costs. While that may be a strong factor in favour of the grant of an application, it can be outweighed by other considerations in appropriate cases.

[21.] Cheryl's proposed amendments span 24 pages, extending the current 62-page Re-Re-Amended Statement of Claim to 86 pages. By any objective assessment the proposed amendments are extensive. Adam rightly describes them as enormous. Despite Cheryl's representations I am satisfied that, having regard to the extent of the proposed amendments, the trial date could not be kept if all the proposed amendments are permitted.

[22.] I also agree with Adam's submission that "the Plaintiff's new case would fundamentally transform the present trial from a trustee removal claim to something akin to a complex fraud trial involving a detailed and granular scrutiny of underlying accountancy evidence about the operation of two groups of companies, SRI and Unique, in circumstances where none of the relevant companies are parties to the proceedings." This fundamental transformation, in my view, would be the principal result of permitting:

- (a) Cheryl to pursue the new cause of action, described as "the Appointing Power Claim" against Adam.
- (b) Cheryl to pursue the new claim alleging, as against the Trustee, that it failed to take steps or reasonable steps to investigate the management of SRI 2000 utilizing its standing as sole shareholder.
- (c) Cheryl to pursue a new claim against Adam alleging bad faith against him in his role as Executive Chairman of SRI2000.

Cheryl contends that, save for the Appointing Power Claim, these are not new claims. She says that they are merely new particulars of existing claim. While Cheryl may have sought to place these proposed amendments into the Re-Re-Amended Statement of Claim in positions which suggest that they are not new causes of action, I do not completely accept this submission. Most of the claims are all new and call for considerable responses from the affected defendants.

[23.] In respect of the bad faith claim, which she says is an alternative claim, this is a serious allegation. Cheryl alleges in the Re-Re-Amended claim. At paragraph 34A ie(v) she proposes to amend the Claim to say:

By reason of the above matters, it is inferred and averred that Adam Stewart has acted in bad faith by either intending to benefit himself, Jaimie Stewart and companies related to Adam Stewart at the expense of SRI 2000, Oasis and the beneficiaries of Coral Ridge as a whole, or acting in a manner where an honest person in the position of a director of SRI 2000 and Executive Chairman of the Sandals Group could not have reasonably believed that the foregoing were for the benefit of SRI 2000, Oasis and the beneficiaries of Coral Ridge as a whole.

Again, at paragraph 34Aig, she proposes:

As a member of the Advisory Board, and pursuant to the powers of the Advisory Board provided for under clauses 9.1-9.4 of the Declaration of Trust of Coral Ridge (as particularized at paragraphs 8(g)-(j) above), Adam Stewart has the power to cause the board of SRI 2000, which includes Adam Stewart as Chairman of the board of SRI 2000, to take the steps particularized at paragraph 34A(if)(iii) above. It is inferred and averred that Adam Stewart and the Advisory Board have failed to do so because in bad faith Adam Stewart intends, by reason of the matters particularized at paragraph 34A(ie) above to benefit himself, Jaime Stewart and entities related to Adam Stewart at the expense of the beneficiaries of Coral Ridge as a whole. Alternatively, by failing to cause the board of SRI 2000 to take the steps particularized at paragraph 34A(if)(iii) above, Adam Stewart has acted in bad faith by acting in a manner where an honest person in the position of a member of the Advisory Board could not reasonably have believed that such failures were for the benefit of the beneficiaries of Coral Ridge as a whole.

In my view this bad faith claim, as laid, is indeed akin to fraud whether on an objective or subjective consideration. The allegation is that funds are being diverted to benefit himself and Jaime. The discussion of the learned authors of **Lewin on Trust** (20th ed update), on the components of fraud, makes the point. At paragraph 41.32 it states:

In this context fraud connotes as the minimum an intention on the part of the trustee to pursue a particular course of action, either knowing that it is contrary to the interest of the beneficiaries, or being reckless indifferent as to whether that it is contrary to the interest of their interest or not [...] a trustee's belief that he is acting in the interest of the beneficiaries is not honest if, though actually held is so unreasonable that, by any objective standard, no reasonable trustee in the position of the trustee in question could have thought that what he did or agreed to do was for the benefit of the beneficiaries.

[24.] Another of the proposed grounds or instances of Adam's misconduct, alleged by Cheryl is a complaint that Adam secured unauthorized access to her case file, with her Jamaican Attorneys. These are proposed in paragraphs 34Aia, 34Aib, 34Aic and 34Aid. Adam is alleged to have colluded with Rachel McLarty, a then attorney at the Jamaican law firm of Myers Fletcher Gordon which represented Cheryl. Adam argues that the inclusion of this alleged incident into the amended claim is duplicative and improper. At paragraphs 89 to 91 of his submissions he states:

89. The Plaintiff's position in respect of the McLarty Allegations is (if anything) even weaker. In October 2024, over 13 months ago, the Plaintiff elected to commence proceedings based on these same allegations in the Supreme Court of Judicature of Jamaica (the "Jamaica Supreme Court"), the jurisdiction in which Ms McLarty is resident, seeking

inter alia injunctive relief and damages. The Plaintiff alleges that Ms McLarty has committed “*fundamental breaches of her duties as an Attorney-at-Law*” thereby engaging the Jamaica Supreme Court’s supervisory jurisdiction over officers of its court.

90. Each of Adam and Ms McLarty (who is separately represented) filed defences denying the entirety of the Plaintiff’s claim in December 2024.

91. In circumstances where the Jamaica Supreme Court is already seised of the claim (and has been for over a year) – as a result of proceeding s instituted by the Plaintiff herself – this Court should be particularly reluctant to countenance the prospect of identical issues being litigated as part of these proceedings.

I accept that the common law position, as outlined by the learned authors of **Dicey, Morris and Collins on The Conflict of Laws (16th ed)** are relevant to The Bahamian context. At paragraph 12-052, it states as follows:

“Where the same claimant sues the same defendant on the merits of the same claim in England and abroad it is not likely that the court will allow the continuation of proceedings in two different jurisdictions. The court will put the claimant to an election. If the claimant opts to continue the foreign proceedings, the English proceedings will normally not merely be stayed: the claimant would have to discontinue them.”

Cheryl ought to be allowed to give evidence of the fact of the existence of the proceedings, she however ought not to ask the court to make any findings as to the events which have transpired and are the subject of live proceedings in Jamaica. I therefore accept Adam’s submission that permitting these claims to be presented for adjudication is duplicative and directly contrary to the overriding objective. To allow Cheryl to institute parallel proceedings in respect of the same subject matter in two different jurisdictions risks different courts reaching inconsistent/irreconcilable conclusions in respect of the same issues. The Jamaica Supreme Court is better placed to consider those allegations than this Court. In the circumstances it would be inappropriate to ask the Bahamas court to make findings concurrently with the Jamaican court.

[25.] The application to amend has not been made promptly as these claims have been available to Cheryl for some time now. Adam says at least since April 2025 and in some cases August 2024. Cheryl was certainly fully aware of these new claims prior to the Case Management Conference and prior to her affidavit in support of the Judicial Co-Trustee Application. No meaningful explanation as to why she did not seek permission to further amend the Statement of Claim at that stage has been advanced.

[26.] This is Cheryl’s fourth (4th) effort at amending her Statement of Claim. The trial of this claim is currently scheduled to be heard in a few short months, and it will be heard five (5) years since the commencement of the action. It has already been the subject of several significant

interlocutory applications and determinations in this Court and in the Court of Appeal. Three and a half weeks of the Court's busy schedule has already been allocated for the hearing of the claim in the new year. The application, if allowed, has the potential to significantly increase the costs associated with this already expensive litigation as it will demand additional disclosure, additional witness testimony and additional expert testimony. I remain mindful of the admonition of Lord Woolf, in his Access to Justice Report, 1996, which ushered in the civil procedure reforms in the UK, that:

"two of the major generators of unnecessary cost in civil litigation were uncontrolled discovery and expert evidence".

In this new approach to amendments, the answer cannot be a question of simply compensation in costs to the litigants. In this case we have litigants with considerable capacity to pay. This could result in unlimited applications for amendments. I bear in mind that it is also the court system which is also put to bear the enhanced expenditure, which deprives or delays other litigants in the timely resolution of their matters.

[27.] I am satisfied that, in the interests of the administration of justice, fairness, balancing the respective prejudices to the parties, the failure to act promptly and the effect the amendment will have on the trial date, these specific amendments, at paragraph 22 above, ought to be refused. I will therefore also refuse the leave to call the expert witness on Panamanian Law associated with the claim against the Trustee, alleging that it failed to take steps or reasonable steps to investigate the management of SRI 2000.

[28.] In my view, however, Cheryl could be permitted to raise conduct which demonstrate what she says are *further instances of Adam Stewart's conduct rendering him not a suitable or proper person to have control of a body with the duties of the trustee of the Trusts*. In fact, at paragraph 34Aj of the Re-Re-Amended Statement of Claim she reserved her right to do so. She pleaded:

j. The Plaintiff reserves her right to rely at trial on further instances of Adam Stewart's conduct rendering him not a suitable or proper person to have control of a body with the duties of the trustee of the Trusts as are revealed by further investigation and/or by discovery.

[29.] What is improper, as I have indicated, is to raise new causes of action alleging bad faith in the manner which she has done. This is especially so where, what is before the court, does not raise good prospects of success in such a claim. As Adam points out, Cheryl's expert witness, Hall, notwithstanding her instruction to opine on misuse and misappropriation, makes no reference to either misuse or misappropriation in her conclusions. At best she says that "UTC was retaining money it was not entitled to, and those funds were not for the use of UTC under the terms of the 2016 Agreement".

[30.] I will therefore permit amendments to the Claim which raise the issue of UTC's dealings in the context of Adam's alleged misconduct as already pleaded, but only insofar as it is not in the nature of a new claim of bad faith. In limiting the complaint to the 64-week period (between January 2023 and May 2024), as she has done, Cheryl reduces the scope of the expansion of the claim. As all parties have been investigating the allegations since the Edith Wong report it would not be a significant imposition for Cheryl to add these further particulars to the existing claim. I note that the affidavit of Kaelan McCartney purports to speak decisively to findings already made by the Cromwell and SRI2000 independent investigations. Adam summarizes these findings in paragraph 28 of his submissions as follows:

28.1. Mr Swanson – who expressly approved the contents of the SRI 2000 Letter – conducted a thorough investigation (see 26 above) and is entirely satisfied that there is no evidence of wrongdoing within SRI 2000 that merits further investigation:

- (a) Mr Swanson found that the matters relied upon by Ms Wong on investigation *“revealed no evidence of [1] Irregular financial practices [2] Questionable or suspicious activity or transactions [3] Related parties extracting unearned value from SRI 2000 or its relevant affiliates for their personal benefit to the detriment of the Coral Ridge Trust, SRI 2000 and its ultimate beneficial owners.”*
- (b) To the contrary, in his examination of the operation of SRI 2000 and its relationship with Unique, Mr Swanson observed *“a robust control environment across SRI 2000 and its business operations, financial reporting, and corporate governance.”*
- (c) Mr Swanson concluded that *“there is no evidence supporting Ms. Wong’s allegations and the accompanying accusations of Ms. Hamersmith-Stewart’s counsel regarding purported mismanagement and misappropriation of funds at Sandals Resorts International 2000 Inc.”*

28.2. In response to the particular allegation relating to the cash flows between Unique and SRI 2000, which is one of two principal issues addressed by the much more limited Hall Report, Mr Swanson highlighted a failure to understand the relationship between SRI 2000 and Unique and the role of the weekly cash summaries, which *“are the result and confirmation of explicit direction provided by SRI 2000 regarding how Unique should disburse and direct SRI 2000’s cash.”* Mr Swanson produced a pie chart illustrating how SRI 2000 directed Unique to redirect the cash collections from January 2023 through to May 2024 identified in the relevant weekly summaries, which is reproduced on page 9 of the SRI 2000 Letter, and demonstrates how the disbursements were made for the benefit of SRI 2000.

28.3. As to the payments to the Jamaica Observer (which is the second principal issue addressed in the Hall Report), Mr Swanson's investigation has revealed the proper context and purpose of these payments. SRI Limited, a subsidiary of SRI 2000, has recorded intercompany transfers on its books to Gorstew Limited (“Gorstew”, a company held by

the Founder's estate and which, along with Jamaica Observer Limited and other related entities, forms part of the ATL Group) for weekly amounts since at least 2018 (i.e. before the Founder's death), with the understanding that Gorstew would in turn advance those funds to the Jamaica Observer (this being also in keeping with the directives included in the Founder's Will, that "*other companies within the ATL Group*" such as Gorstew should provide financial assistance to maintain the Jamaica Observer). SRI Limited has booked a receivable from Gorstew for these amounts, which are deemed collectible in full.

28.4. Finally, the Plaintiff continues to assert wrongdoing on the part of Adam in respect of some SRI 2000 invoices covering furnishing and appliances for a property in Port Antonio owned by him and Jaime (the "Port Antonio Property"). Notably, the Hall Report does not provide any support for this allegation, but it is nevertheless maintained in CHS7 at §12. In any event, Mr Swanson has investigated these invoices and confirmed that there are no improprieties associated with them: Adam received approval for SRI 2000 to project manage some overdue maintenance on the property and subsequently reimbursed SRI 2000 for all applicable expenses, including those of which the Plaintiff complains.

Having regard to what is said to be a thorough review, Adam is well placed to defend his position and would suffer no prejudice.

[31.] At paragraph 63 of the court's decision on the judicial co-trustee application it was noted as follows:

[63.] Having regard to the claims raised in the main action, which seeks the removal of Cromwell as Trustee, I agree that the main action is the proper forum for litigating who should be trustee. The trial is set to be heard in the spring of next year. I agree with the assessment that acceding to this application could result in the obtaining of the relief sought in the main action without a proper investigation, at a trial, into the issues which arise for determination in the main action. ...

Having pushed Cheryl's investigation to be considered at the trial it would seem unfair to restrict her from amending the claim to investigate her allegations of misconduct by Adam in relation to UTC, along with the other particulars in paragraph 34A. In this regard, I did not find the claim of estoppel attractive. Cromwell has asserted that Cheryl was estopped by my decision in the judicial co-trustee application from any further pursuit of this issue. While I refused to grant permission to utilize the Wong report and to appoint a judicial co-trustee, in the course of the interlocutory application I made no findings of a final nature which ought to estop Cheryl.

[32.] In the circumstances, as Cheryl has sought a new expert and seemingly cured the technical and other deficiencies which plagued the Edith Wong Report, I also give limited permission for Cheryl to call the expert witness Faye Hall. Adam makes some valid criticisms of the Hall report,

which are critical complaints to be made at the trial and which his preferred expert can exploit. I note that the CMC order contemplated the exchange of expert evidence, albeit on US Tax on 23 March 2025. I will maintain this timeline for the exchange of experts reports of the forensic accountants, as the parties have been investigating the UTC allegations of diverting funds, since the Edith Wong report, it would not be a significant imposition for the other parties to secure expert responses to the Faye Hall report.

Conclusion

[33.] The amendments which I have approved are outlined below. I invite the parties to confirm its accuracy, in accordance with what I have decided above.

2A Approved; 8 Approved; 9A Approved; 9B Approved; 9C Approved; The first two sentences of 9D Approved - the remainder of 9D Refused; 9E Refused; 9F Refused; 14 Approved; 14d Approved; 14A Approved; 14B Approved; 16a Approved; 16a.v Approved; 16c.i Approved; 16d Approved; 19 Approved; 30C Approved; 31Aca Refused; 32 Approved; 33Ab Approved; 33Ac Approved; 33Ae Approved; 34Ai Approved; 34Aia-id Refused; 34A.ie(i)-(iv) Approved; 34Aie(v) Refused; 34A.if Approved; 34Aig Refused; 34C Refused; 37 Approved; 63e Approved; 67B Approved; 67CA Approved; 68.ba Refused; 68Ac Approved; 78J-78L Refused; 79 Approved; 81 Approved; 82 Approved; 83a Refused; 83c Refused; 85 Refused; 93 Refused; 94 Refused; 94(1) Approved; 94(2B) Refused; 94(2C) Refused;

[34.] The parties are to complete disclosure by 9 January 2026. All other case management directions, prior to the exchange of expert reports, are to be extended by 14 days so as to maintain the trial schedule.

[35.] I will hear the parties, by written submissions, as to the appropriate order for costs.

Dated this 22nd day of December 2025



Sir Ian. Winder
Chief Justice