

IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT

Claim No. 2024/CLE/gen/00024

Between

DANIEL LAVAL

Claimant

AND

PAUL CUMMINS

1st Defendant

AND

JAK HANNABY-CUMMINS

2nd Defendant

Before: The Honourable Madam Justice Camille Darville Gomez

Appearances: Miss Myra Russell for the Claimant holding brief for Mr. Philip Hilton
Mr. Dion Smith for the Defendant

Hearing Date: 2nd October, 2025

Restraint Orders – Exceptional Remedy - Threshold Not Met - Application Refused

RULING

Darville Gomez, J

- [1.] The Claimant commenced this action for trespass against the Defendants in relation to land approximately 7.34 acres situated in the western district of the Island of New Providence (the “subject land”). The Defendants applied to strike out the claim on the grounds that it disclosed no reasonable cause of action, was frivolous, vexatious and failed to comply with the Civil Procedure Rules, 2022 (“CPR”). By a ruling dated 29 August, 2025 the Assistant Registrar Mr. Jonathan Deal (the “August Ruling”) ordered that unless the Claimant filed an amended claim by 19 September, 2025 the claim shall stand struck out and the Claimant

shall pay the Defendants costs of the action to be subject to detailed assessment if not agreed.

[2.] The Defendants by a Notice of Application made three applications as follows: (i) an Order for summary judgment pursuant to rule 15.2(a) of the CPR; (ii) an Order that the Claimant's entire claim stands struck out for failure to comply with the Unless Order made by the Assistant Registrar and pursuant to rule 26.3(1)(a) (b) and (c) of the CPR and (iii) an Order restraining the Claimant, whether by himself or through agents from filing any further claim in relation to the subject land without prior leave of the Court.

[3.] The application was heard by me in my capacity as duty judge and I made the following Order on 2 October, 2025 (the "October Hearing") in relation to the first two applications:

1. *The Claimant's action stands struck out for failure to comply with the Unless Order made on 29th August, 2025 by the Assistant Registrar, pursuant to Part 26.3(1)(a) of the Supreme Court Civil Procedure Rules, 2022. The Court notes that the Claimant was afforded a reasonable opportunity to comply with the procedural requirement, and no application for relief from sanction was made. Accordingly, the action is deemed struck out.*
2. *The Defendants' application for summary judgment pursuant to Part 15.2(a) of the Civil Procedure Rules, 2022 is refused.*
3. *The Court makes no further order as to costs at this time, save for the Order for costs already made by the Assistant Registrar on 29th August, 2025 in relation to the Unless Order.*
4. *The Court has reserved its decision for an Order restraining the Claimant whether by himself or through agents, from filing any further claim in relation to the subject land without prior leave of the Court.*

[4.] I reserved on the third application which is the subject of this ruling.

Defendants' submissions

[5.] The Defendants submissions are as follows in relation to the third application:

58. Further litigation on the same cause of action would be frivolous, vexatious, and an abuse of the Court's process as the claim is statute barred. The Claimant has already disregarded the Court's ruling by filing defective and impermissible pleadings.

Absent injunctive relief, the Defendants will be prejudiced by repeated frivolous filings.

59. A frivolous quieting claim Cle/qui/00568/2018 was previously made by Brien Miller (Gregory Miller's son) as an agent of the Claimant, and this was subsequently withdrawn without Mr. Miller satisfying the cost of the adverse parties.
60. The Court's broad case management powers under rule 26.1 (2) (v) of the CPR 2022 to "make any other order for the purpose of managing the case and furthering the overriding objective."
61. The overriding objective which requires that cases be dealt with justly, expeditiously, and in a manner which saves expense and judicial resources. Permitting the Claimant to relitigate baseless claims contrary to previous rulings would undermine that objective.
62. The inherent jurisdiction to restrain vexatious or abusive litigation to protect the Court's process and the Defendants from harassment. Given the baselessness of the claim and the Claimant's disregard of court orders, the Court should grant a civil restraint order requiring leave before any further claim may be filed.
63. This protects judicial resources and prevents harassment of the Defendants. We cite here cite *Barker* and *Michael Wilson*: "The Court has inherent jurisdiction to protect its process and the Defendants from harassment by restraining further frivolous claims."
64. The case of *Attorney-General v Barker* [2000] 1 FLR 759 (CA) is the leading English case on "civil restraint orders" (injunctions preventing further claims without leave). In this case it was established that where a litigant habitually files claims that are "totally without merit," the court may restrict future filings.
65. The case of *Michael Wilson & Partners Ltd v Sinclair* [2017] EWCA Civ reaffirmed courts' powers to restrain litigants from repeated vexatious proceedings.
66. We reiterate that the Supreme Court of The Bahamas, like the English High Court, has an inherent jurisdiction to prevent abuse of process by restraining litigants from bringing further baseless proceedings.

Analysis and Disposition

- [6.] In relation to the third limb of the Defendants' application, the Court is invited to consider whether an order should be made restraining the Claimant, whether personally or through agents, from filing any further claim concerning the subject land without prior leave of the Court. Such relief is exceptional in nature, as it touches upon the fundamental right of access to the courts, and is generally reserved for circumstances where a litigant's conduct demonstrates a pattern of vexatious or abusive proceedings. The Court must therefore assess whether the Claimant's litigation history and present conduct disclose sufficient grounds to warrant the imposition of a restraint order, balancing the need to protect the Defendants and the judicial process from further harassment or abuse against the Claimant's entitlement to pursue legitimate claims.
- [7.] The Court has observed that the Claimant has filed two actions which appear to be in relation to the subject land, one withdrawn and the instant action struck out for non-compliance with an Unless Order. In each of the two actions, reliance was placed on an Affidavit of Lost Deed by Daniel Laval.
- [8.] The initial action was a quieting action Cle/qui/00568/2018 commenced by Brien Philip Andru Miller, as the Petitioner and supported by an affidavit sworn by Daniel Laval who alleged that he had purchased the subject land and referred to a conveyance dated 27 March, 1980 made between himself, Henry Newell Kelly and Clifton Donald Borer which was not recorded and which he subsequently misplaced. He swore an Affidavit of Lost Deed on 20 March, 2018. Mr. Miller claimed to have derived his title to the subject land from Mr. Laval. There are no particulars of the property such that it is identifiable by reference to a plan, however, it purports to relate to property situate on West Bay Street immediately east of Atlantic Drive on the island of New Providence.
- [9.] In the initial action the Honourable Justice Ian R. Winder (as he then was) had similarly made an Unless Order in the following terms:
1. Unless a registered plan of the land, the subject of this matter, is filed in accordance with the Land Surveyors Regulations within 60 days from the date hereof, the Petition filed herein will stand dismissed with costs to the Adverse Claimants; and
 2. If the registered plan is filed, the Court will proceed to issue directions thereof.
 3. The matter is hereby adjourned to the 16th day of November, 2020.

- [10.] However, at the November hearing after the Unless Order had been made, Counsel for the Petitioner/Claimant withdrew the petition subject to the payment of costs of the adverse claimants.
- [11.] Subsequently, Daniel Laval commenced the instant action in 2024 as a Fixed Date Claim seeking inter alia, damages for trespass of his property, viz., the subject land. He relied on an Affidavit of Loss Deed dated 25 October, 2021 which referenced a conveyance dated 27 March, 1980 this time made between himself and Nassauvian Limited and the land was described as comprising of sixty (6) acres situate east of the Caves on the Main Bay Street and east of Blake Road in the western district of the island of New Providence.
- [12.] The Defendants in the instant action had applied to strike out the action and this was dismissed by the Assistant Registrar Deal in the August Ruling where he ordered inter alia:
- (iii) unless the Claimant files and serves an amended claim form by 5pm on Friday 19 September 2025 the claim shall stand struck out and the Claimant shall pay the Defendants costs of the action to be subject to a detailed assessment if not agreed.
- [13.] I determined at the October Hearing that the Claimant had failed to comply with the Unless Order therefore, the action stood dismissed by virtue of the said Order pursuant to Part 26.3 of the CPR and further, there was no application made by the Claimant for relief from sanctions. **Belgravia International Bank & Trust Company Ltd. v Sigma SCCivApp No 75 of 2021**
- [14.] It is obvious to the Court that the two actions bear striking similarities because the Claimant's title to the subject land in both actions appears to be derived from a conveyance dated 27 March, 1980. However, in the initial action the vendors referred to in the document entitled Affidavit of Lost Deed were Henry Newell Kelly and Clifton Donald Borer and in the 2021 action in the document entitled Affidavit of Loss Deed the vendor was Nassauvian Limited.
- [15.] Additionally, the parties commencing the action were different. In the quieting action, the Petitioner was Brien Miller who the Defendants have alleged is the son of Gregory Miller. The Claimant had applied to have Gregory Miller substitute him in the instant action, however, this was refused by the Assistant Registrar in his August Ruling. Notwithstanding these differences between the initial action and the instant action it would appear that both actions relate to the subject land given that the title appears to be derived from a conveyance dated 27 March, 1980. Although it is curious that the vendors in the conveyances differ.

- [16.] While these proceedings have been irregular and onerous to the defendants given the application made, the authorities such as **Attorney General v Barker and Michael Wilson & Co. Ltd.** caution that restraint orders are exceptional and generally require a demonstrated pattern of persistent and habitual litigation. At this juncture, the Court is not satisfied that the Claimant's conduct rises to that threshold.
- [17.] For the reasons set out above, the Court declines to grant the Defendants' application for a restraint order. The Court is not satisfied that the Claimant's conduct, at this stage, establishes the persistent and habitual pattern of vexatious litigation required by the authorities.
- [18.] The Claimant is reminded that the Court may consider a restraint order upon application, if further proceedings on the subject land appear repetitive or abusive.
- [19.] Pursuant to rule 71.6 of the Supreme Court Civil Procedure Rules, the Court retains a discretion to depart from the general principle that costs follow the event. Having considered the prior order of the Assistant Registrar and all the circumstances of the case, I make no further order as to costs.

Dated the 9th day of February, 2026



Camille Darville Gomez
Justice