

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW AND EQUITY DIVISION**

Claim No. 2024/CLE/gen/00093

BETWEEN

HOLMES COMPANY LIMITED

CLAIMANT

AND

ERIC MORLEY

DEFENDANT

RULING

(On Committal Application)

Lockhart Charles J (Acting)

Appearances: Viola Major and Camille Cleare for the Claimant

Lessiah Rolle for the Defendant

Hearing Date: 9th February, 2026

Introduction

1. The Claimant, Holmes Company Limited, and the Defendant, Eric Morley, are embroiled in hostile litigation. The Claimant complains that the Defendant has threatened the Claimant's agents and representatives on various occasions (including threats of shooting and whipping and ominous late night visits). An injunction was obtained by the Claimant and is alleged to have been breached by the Defendant. The Claimant now seeks to have the Defendant committed to prison for contempt.
2. The crux of the dispute concerns ownership of and activities allegedly occurring on certain parcels of land in an area described in the pleadings as "The Cottage", Great Exuma. The parcels in question used to belong to the Defendant's grandfather, the late Freddie Morley. The Claimant claims to have acquired

the land in question, Parcels A, B, C, D, E, F and G totaling 29.822 acres on The Cottage, Great Exuma ("the Property") from the late Freddie Morley by conveyance dated 21 July, 2008 recorded at the Registry of Records in Volume 10650 at pages 021 to 029. The Property includes a dwellinghouse on a portion of parcel E, previously occupied by the Defendant's late grandfather.

3. The Claimant contends that the Defendant has strewn refuse and wreckage, including boat hulls, heavy equipment parts, garbage, debris and other items on the Property (primarily parcel E) without the permission or consent of the Claimant. The Claimant also complains that the Defendant is engaged in constructing a building that encroaches on the Property. The Claimant wants this dumping and construction to stop, and he wants damages for trespass.
4. The Claimant accepts that the Defendant does have some rights of access with respect to the Property, but he contends that those rights are limited to access over and upon the 100 foot wide road reservation running from the Queens Highway through parcel E which serves as an access easement to parcel J which is owned by the Defendant.
5. By Fixed Date Claim filed on 12th February, 2024 the Claimant seeks: (i) a declaration that the Defendant is not entitled to enter, use, block, or otherwise enjoy the easement over the Premises other than for ingress and/or egress to his property; (ii) an injunction restraining the Defendant, his servants, or agents from entering the Premises (other than on the defined easement) and from using the Premises, inclusive of the easement, for parking, storage, or dumping of any items whatsoever, or howsoever preventing the Claimant from using its property; (iii) damages for trespass; (iv) interest on such damages pursuant to the Civil Procedure (Award of Interest) Act at the prime lending rate of 4.25% from the date of filing until adjudication; (v) costs; and (vi) further or other relief.
6. The Defendant disputes the Claim and contends that he has been in exclusive, continuous open peaceful possession and occupation of the entirety of Property as well as parcels H, J, and K from the 22nd July 2008 to the date of the filed amended defense and counterclaim (10th June 2024) except for his grandfather Freddie's house which he claims to have been in continuous possession of since Freddie's death on 21st January 2020.
7. The tension between the parties is at a critical level. The Claimant alleges that the Defendant told its representative "let me know the first night that you are moving into the house so that I can pay you a visit." The Defendant denies this and avers that what he in fact said was: "I hope the Good Lord let me live long enough to see you move into the house. God is going to get all of you one at a time for what you all did to my granddad"
8. The Claimant alleges that when the Defendant happened upon the Claimant's representative Don Jelinek, in George Town, he told him "If I ever catch you on the property, I will whip you. I should have whipped you the day that you showed up with Doug to deliver the letter". This was a reference to a cease and desist letter that was issued by the Claimant on 19 July, 2022 and delivered to the Defendant by Don Jelinek and Douglass Gibson requiring him to remove his belongings from the Property.

9. The Defendant admits that he removed one of his belongings, namely a bucket attachment from a front-end loader that the Claimant says was blocking access to parcel B, but he was quick to add that this was not done in response to the cease and desist letter, but rather because he needed the bucket attachment to take a component from it to use in the repair of another backhoe.

10. On 10th June 2024, Mr. Justice Darron Ellis granted an Interim Injunction Order (filed on 11th June 2024). The injunction granted by Mr. Justice Darron Ellis included the following terms:

“2. Mr. Eric Morley, whether by himself or, his servants or agents or otherwise, be and is hereby restrained from:

a) entering, using, blocking, driving stakes into or otherwise enjoying the 100-foot-wide road easement over the Claimant's property ("the defined easement") other than for ingress and/or egress to his property;

b) entering or using the Claimant's property, inclusive of the defined easement, for parking, storage or dumping of any items whatsoever, erecting signs, rebar, clearing/removing structures and/or vegetation, cordoning off, fencing, quarry mining, constructing or otherwise effecting changes thereto or howsoever preventing the Claimant from using its property;”

11. The Injunction was perfected after some back and forth between counsel for the Defendant and the Claimant. I set out below the language that was proposed by counsel for the Defendant, which was not accepted and therefore did not make its way into the perfected order. I consider that the wording proposed by the Defendant's counsel is important and I set it out in full below as I find that it gives insight into the Defendant's understanding of the Order pronounced, which is important to my assessment of the Defendant's conduct and intentions when he committed the acts for which the Claimant seeks to have him committed.

12. Counsel for the Defendant's proposed draft language for the order and the Claimant's objections to it are set out in paragraph 11 of the Claimant's submissions as follows:

“11. ...as per the 8th Affidavit of Eric Morley, his counsel persisted in providing a highly altered draft wording of the Order for the Court’s consideration that referenced *inter alia status quo* ... (the changes to the Court’s intended draft are in bold):

1. The status Quo remains

2. Upon the undertaking given by the Claimant and accepted by the Court as set out in Schedule A below;

3. **Mr. Eric Morley, the Defendant** whether by himself or, his servants or agents or otherwise be and is hereby restrained from:

a) entering, using, blocking, driving stakes into or otherwise enjoying the 100-foot-wide road easement over the Claimant's property ("the defined easement") other than for ingress and/or egress to his property;

b) any future ~~entering or using the Claimant's property, inclusive of the defined easement for parking,~~ blocking, driving stakes, storing, storage or dumping of any items whatsoever, erecting signs, **placing** rebar, clearing/removing structures ~~and/or removing~~ vegetation, cordoning off, fencing, quarry mining, **constructing or otherwise effecting changes thereto making changes to, on or in, the property the subject of this action until the Court has heard and determined the substantive matter herein, or howsoever preventing the Claimant from using its property;**"

13. The Claimant alleges that the Defendant breached the Injunction order and, on 15 October, 2025, the Claimant was granted permission to make an application to the court for an Order that the Defendant be committed to prison for contempt.
14. Having obtained permission, the Claimant now applies for an order of committal against the Defendant pursuant to Part 51.2 of the Supreme Court Civil Procedure Rules, 2022, alleging willful breaches of paragraph 2(b) of the Interim Injunction Order. The grounds are set out in the Statement pursuant to CPR Part 51.2(3) as follows:

5.6 Since the Interim Injunction Order was pronounced, the Defendant re-entered onto the Claimant's land and removed survey pins, a pile of dirt/quarry, caution rope that was blocking the entrance to the late Freddie Morley's cottage.

5.7 The Defendant has also re-entered on to the Claimant's land specifically at parcels F and G and removed the "private property keep-out" sign and yellow caution tape that he originally placed across where the Claimant was pushing a new bypass access road for Danny Strachan and the Defendant.

5.8 The Defendant also caused a payload to be on the Claimant's property in areas separate and apart from the 100 foot road reservation, which the Defendant is entitled to use by way of easement from his property to the Queen's Highway.

5.9 The Defendant has also taken steps to ready a foundation which encroaches onto the Claimant's land for further construction.

5.10 The Defendant has also renewed a threat on the life of William Bethel that was made prior to the Interim Injunction Order lest Jigger continue to push the aforementioned new bypass access road on the Claimant's property.

5.11 Accordingly, the Defendant is in willful breach of paragraph 2(b) of the Interim Injunction Order of the Honourable Court and should be

committed to prison.

15. The Claimant contends that the acts complained of were deliberate and willful and warrant committal to the Bahamas Department of Corrections.

The Evidence

16. The Claimant relies on the Affidavit of William Bethel a.k.a. Jugger filed on 18th September 2024. Bethel, a heavy equipment operator engaged by the Claimant's representative Don Jelinek to construct a bypass access road across the Premises, states that he was threatened by the Defendant. According to Mr. Bethel, the Defendant told him that if he continued the work, he would shoot him. Mr. Bethel further avers that about two weeks before swearing the affidavit, he received a relayed message from the Defendant via a mutual acquaintance, Hensel Rolle (known as Red Boy), reiterating that the Defendant would kill him if he returned to work on the Defendant's property. Mr. Bethel expresses fear for his life stating in his affidavit "as far as I am aware, the police have not done anything with Erie".
17. Hensel Rolle has filed an affidavit denying the allegation that he relayed a threat from Eric to Bethel. Eric Morley in his Affidavit filed on 15 October, 2024 also denies making threats, he says "...at no time did I have a conversation with 'Jugger' threatening him in any way fashion or form"
18. The Claimant also relies on the Second Affidavit of Lakeisha Hanna. This affidavit refers to several alleged breaches and also refers to drone footage taken by Don Jelinek documenting the state of the Property and activities ongoing thereon. On June 12, 2024, drone footage captured a payload, believed to be operated or hired by the Defendant, entering the Claimant's property without authorization. The affidavit also refers to drone footage on 14th June 2024 which captured footage indicating that a new pile of quarry with no weeds growing in it was on the subject property in the immediate vicinity of a foundation on the Defendant's property that encroaches onto the Claimant's land. The affidavit also states that the footage also shows the foundation to be freshly stripped of green vegetation that was growing on it in earlier photos and that it appears in the later footage to be made ready for the concrete slab to be poured. The affidavit further refers to blocks stockpiled next to the foundation ready to build a sixth building.
19. The Second Hanna affidavit also says that Don Jelinek further advised that the "private property keep-out" sign and yellow caution tape that was placed across where the Claimant was pushing the new bypass road to connect from the corner of Danny Strachan's property through parcels F and G have also been removed and that all of these things have been done since 11th June 2024.
20. The Defendant denies any breach of the Interim Injunction Order. In his 5th Affidavit filed on 22 October, 2026, the Defendant responds to the 2nd Affidavit of Lakeisha Hanna. He admits to removal of rebar placed on the side of the road, a pile of dirt and caution rope blocking access to the late Freddie Morley's house, and a private property sign and yellow caution tape in front of the new bypass road, and asserts that these removals were undertaken in compliance with paragraph 2(b) of the Order. He deposes that, on advice from his attorney Lessiah Rolle, it was his understanding that the phrasing "entering or using" provided an option to either refrain from entry or remove the items.

21. With regard to the fresh quarry, the Defendant avers that this was dumped by Hensel Rolle, whom he had hired in the second week of April 2024, he claims that Rolle cleaned out the foundation at the same time. The Defendant further deposes that in February 2024, the Claimant's agent Jeff Shimberg told him that "whoever has the most money will win this dispute," and he believes the Claimant's applications, including the committal, are intended to prolong proceedings, inflate costs, and deplete his finances.
22. In his 6th Affidavit filed on 29 January, 2025 the Defendant reiterates his denial of breaching paragraph 2(b) of the Injunction Order, deposing that upon returning to Exuma after the 10th June 2024 hearing and on instructions from his attorney, he removed the private property keep-out sign, yellow caution tape, rebar, and pile of dirt specifically to comply with the Injunction Order and address the complaints raised in prior affidavits by Don Jelinek and Lakeisha Hanna. He repeats his response regarding the quarry dumping and foundation cleaning stating that sometime in the 2nd week of April, 2024 he hired Hensel Rolle a.k.a. Red Boy to dump a new pile of quarry on the property and since the quarry was fresh, no vegetation grew on it. He asserts that during that same time, he cleaned out the foundation and that the pile of blocks complained of had been in place before the 2nd week of April.
23. The Defendant avers, on advice from his attorney, that the phrase "entering or using" in the Order is ambiguous and afforded him an election to remove the items, and that his attorney's proposed draft Order on 11th June 2024 (which he says would have clarified or eliminated such ambiguity) was rejected by the Claimant. Copies of the email passing between the attorneys regarding their respective draft orders is attached to the Defendant's 6th Affidavit.
24. The Defendant's position regarding the quarry dumping, foundation clearing and stockpiling of blocks is supported by the 2nd Affidavit of Hensel Rolle (a.k.a. Red Boy) filed on 22 October 2024. Red Boy confirms that in the second week of April 2024, the Defendant hired him to dump a new pile of quarry on the property and he says that during that time he observed the Defendant cleaning out a nearby foundation and noted a pre-existing pile of blocks nearby.
25. Further supporting the Defendant, is the 1st Affidavit of Frederick Morley Jr., the 70-year-old son of the late Freddie Morley, filed on 29 January 2024. Frederick Jr. takes responsibility for the weeding and clearing and he said that he did this without any knowledge of the Injunction Order. Frederick Jr. says on or about the 16 September 2024 he was at the Cottage and at that time he proceeded to weed and clear around certain areas including a building foundation. He claims that he was not aware of the Injunction Order and at no time did he have any conversation with the Defendant Eric Morley about the Injunction Order nor was he acting as Eric Morley's servant at the time that he did the weeding, but he did so on his own, hence not in breach of the injunction.

The Law

23. The principles governing committal for breach of court orders are well established. These principles were helpfully canvassed by the UK Court of Appeal in *Secretary of State for Transport v Cuciurean*

[2021] EWCA Civ 357. See the ruling of the Court of Appeal in *Cuciurean* delivered by Lord Justice Warby commencing at paragraph 10 as follows:

The nature and purposes of the civil contempt jurisdiction

10. As the passage just cited emphasises, the essence of the wrong is disobedience to an order. Disobedience to an order made in civil proceedings is known as “civil contempt”. The contempt proceedings are brought in the civil not the criminal courts.

...

11. Sometimes, it may be possible to secure compliance by procedural means, such as striking out a case; but that will not always be possible. And the court also has an interest in deterring disobedience to its orders and upholding the rule of law. To advance these purposes the court has power in an appropriate case to impose a fine, or a custodial order. Custody in cases of contempt is known as committal. It is not the same as a prison sentence – there are several ways in which those committed for contempt are treated differently from convicted criminals sentenced to a term of imprisonment. But it is probably for this reason that civil contempt is sometimes called *sui generis*. In no other context can proceedings classified as “civil” lead to a custodial sanction or even a fine (punitive damages are not the same thing). It is certainly for this reason that the law has imported some elements of criminal procedure.

Burden and standard of proof

12. The long-established rule is that the essential ingredients of civil contempt must be proved by the applicant to the criminal standard: *Re Bramblevale Ltd* [1970] Ch 128 (CA). The burden also lies on the applicant to satisfy the court to the criminal standard that the applicable procedural requirements have been met.

The ingredients of civil contempt

13. The ingredients of civil contempt are not laid down by statute but established by common law authorities. In this case, both parties have relied on the following summary by Proudman J, DBE in *FW Farnsworth Ltd v Lacy* [2013] EWHC 3487 (Ch) [20], approved by this Court in *Cuadrilla Bowland Ltd v Persons Unknown* [2020] EWCA Civ 9, [2020] 4 WLR 29 [25]:

“A person is guilty of contempt by breach of an order only if all the following factors are proved to the relevant standard: (a) having received notice of the order the contemnor did an act prohibited by the order or failed to do an act required by the order within the time set by the order; (b) he intended to do the act or failed to do the act as the case may be; (c) he had knowledge of all the facts which would make the carrying out of the prohibited act or the omission to do the required act a breach of the order. The act constituting the breach must be deliberate rather than merely inadvertent, but an intention to commit a breach is not necessary, although intention or lack of intention to flout the court’s order is relevant to penalty.”

26. There is a high standard of proof in contempt proceedings. As the Court of Appeal in *Re Bramblevale Ltd* [1970] Ch 128 made clear, an applicant seeking committal must establish the alleged contempt with the same degree of certainty as is required in a criminal prosecution.
27. The claimant in this case bears the burden of proving the alleged contempt to the criminal standard, namely beyond reasonable doubt. It must prove beyond reasonable doubt that that the defendant (a) had notice of the order; (b) deliberately did an act prohibited by the order (or failed to do an act required by it); and (c) had knowledge of the facts which rendered the act a breach of the order.
28. In considering the evidence, particularly with regard to the threats alleged and other contested evidence, I am also guided by the principle that a court should be cautious about making findings of fact on contested affidavit evidence alone, this is especially so in proceedings which carry the risk of a custodial penalty.

Application of Legal Principles

29. Having reviewed the affidavit evidence and submissions, this Court must determine whether the Claimant has established, beyond a reasonable doubt, that the Defendant willfully breached paragraph 2(b) of the Interim Injunction Order.
30. In light of the contested affidavit evidence, I am not satisfied that the Claimant has proved to the criminal standard that the Defendant has committed those acts that he has denied committing. Nor am I convinced that those acts that he has admitted committing were committed after the Injunction Order or in breach of the Injunction Order.
31. Regarding the acts which the Defendant claims occurred in April 2024, they are not proven to constitute a breach of the Interim Injunction Order, which was granted on 10 June 2024 and only took effect from that date. The evidence from the Defendant and Mr. Rolle indicating that these activities occurred in April raises reasonable doubt sufficient to preclude a finding of contempt. While such acts may be relevant to the underlying trespass claim, they do not satisfy the temporal requirement necessary to establish contempt of the Injunction Order.
32. Regarding the removals post-Order, the Defendant admits that after the order was made he entered upon the land and removed rebar placed on the side of the road, a pile of dirt and caution rope blocking the access to Freddie Morley's house, and the private property sign and yellow caution tape in front of where the Claimant was pushing a road. He states that these removals were undertaken on legal advice in order to ensure compliance with paragraph 2(b) of the order which prohibits "erecting signs, rebar... cordoning off... or preventing the Claimant from using its property." He interprets the disjunctive "or" in "entering or using" as permitting entry for the purpose of rectification to avoid ongoing use of the Claimant's property for storage or dumping, or for erecting signs or cordoning off.
33. The Defendant relies upon correspondence exchanged between counsel following the granting of the injunction, including a proposed draft order which sought to clarify the scope of the restraint. That draft language, which was not ultimately adopted, supports the Defendant's assertion that he believed he was

required to remove existing obstructions in order to comply with the order. As set out in paragraph 11 of the Claimant's submissions, that draft sought to delete the phrase "or howsoever preventing the Claimant from using its property..." This proposed wording, which was rejected by the Claimant, would have placed beyond reasonable doubt that the removal of existing signs, tape, and obstructions was not required to avoid breach by continuing obstruction, and that only future acts of placing such items were restrained. I am also cognizant that the previously issued cease and desist letter was thought to include a requirement that the Defendant take action to remove offending items. The Defendant was quick to say that he did not remove the bucket attachment to the front end loader in compliance with the cease and desist order, but he would perhaps have been less willing to resist an order which he regarded as requiring him to cease his unauthorized usage of the land for placement of items listed in the order. The Defendant's reliance on this rejected language supports his assertion that he believed, on legal advice, that he was not only permitted, but perhaps required, to enter the land to remove the offending items to ensure he was not in breach of the Order by allowing them to remain. This belief creates at least reasonable doubt in relation to the Claimant's argument that the Defendant's entry was a deliberate and willful breach.

34. While the Order's language is prohibitory and must be construed strictly, the Defendant's actions, removing his own prior obstructions, can be construed as motivated by a good-faith, albeit possibly mistaken, effort to adhere to the Order. The Claimant has not proven beyond reasonable doubt that these acts were willful breaches rather than attempts at compliance. The ambiguity highlighted by the Defendant's proposed draft, coupled with his reliance on legal advice, creates reasonable doubt. Similarly, Mr. Morley Jr.'s assertion that his independent clearing on 16th September 2024 is not attributable to the Defendant as an agent or servant creates reasonable doubt that these activities were carried out by the Claimant or on his instructions.
35. In contempt proceedings the court must be satisfied beyond reasonable doubt that the Defendant deliberately breached the order. In the present case the Defendant's explanation, that he entered the land in order to remove items which he believed placed him in breach, raises a real doubt as to whether the requisite intention to breach the order has been proved. The Claimant has therefore failed to establish beyond reasonable doubt that these acts constituted contempt.
36. The most serious allegation concerns the threats to Mr. Bethel. Mr. Bethel states that the Defendant threatened to shoot him if he continued working on the access road. The Defendant denies making any such threats. Mr. Hensel Rolle, who was said to have relayed a further threat, also denies that any such communication occurred. The evidence on this issue therefore consists of directly conflicting affidavits. In circumstances where a finding could expose the Defendant to a custodial sanction, the court must exercise caution before resolving such conflicts without the benefit of cross-examination. The court should not determine serious contested factual allegations on affidavit evidence alone where credibility is central. I am therefore not satisfied beyond reasonable doubt that the alleged threats were made.
37. In the circumstances I find that while the Defendant's conduct raises concerns warranting expedition of the substantive hearing, the evidence falls short of the stringent standard required for committal. The pre-Order acts are not relevant; the post-order removals appear compliant in intent, especially given the

context of the Defendant's rejected draft order which informed his understanding; and the alleged threats, though troubling, are not proven beyond reasonable doubt as contemptuous breaches. The application for committal is therefore dismissed. Having regard to the conduct of the Defendant, which I consider to have contributed to the escalation of this dispute, I find that there are special circumstances and I decline to make an order for costs.

Dated this 25 day of February 2026

Gail Lockhart Charles KC
Justice (Acting)