

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2020/CLE/gen/33

BETWEEN

MIRKO KOVATS

First Claimant

LM PROPERTY DEVELOPMENT COMPANY LTD

Second Claimant

AND

W. CHRISTOPHER GOUTHRO

(trading as Gouthro & Co.)

First Defendant

HORIZONS INVESTMENTS LIMITED

Second Defendant

NOEL THOMSON JR.

Third Defendant

Before The Honourable Mr. Justice Franklyn K M Williams KC

Appearances: Mr.Dywan Rodgers holding for Damien Gomez KC for Claimants

Mr.W.Christopher Gouthro pro se

Ms.Camille Cleare for the Third Defendant

Date: 21st April 2026

RULING

WILLIAMS J

This is an application by Counsel Dywan Rodgers and holding for Damien Gomez KC, seeking leave to withdraw the service of both he and Mr. Gomez as counsel for the first claimant, having ceased to act therefor. I refused leave to withdraw, and now put in writing my reasons for so doing.

[1.] On 21st April 2026, the date fixed for trial of this matter, Mr. Rodgers, appeared, holding also for Mr. Damien Gomez KC, for the first claimant. Counsel sought the leave of the court to have the service of both he and Mr. Gomez withdrawn, indicating that having received no instruction from the first claimant, they had ceased to act therefor. Mr. Rodgers indicated that the first claimant had been informed of the intention to withdraw.

[2.] CPR 70.6 governs the procedure to be adopted when an attorney wishes to be removed from the record:

“70.6 Application by attorney to be removed from the record.

- (1) An attorney who wishes to be removed from the record as acting for a party may apply to the court for an order that he be removed from the record.

- (2) Notice of the application must be served on the client or former client and all other parties.
- (3) The application must be supported by evidence on affidavit which must be served on the client but must not be served on any other party to the proceedings.
- (4) Any order made must be served by the applicant on the other parties' attorney and on the former client.

[3.] Counsel states that the reason for the application is that no instructions have been given by the first claimant. On an application to withdraw, the court is not concerned with the grounds, or the merits of any grounds therefor. Here there has been non compliance with the requirements of CPR 70.6 (2) and (3)

[3.] That it appears to have been the practice for counsel to simply ask, and to be allowed to withdraw does not excuse the failure to abide the procedural requirements of the practice on this issue. It must be emphasized that in the normal course of things, the court may not compel counsel to continue to act for a party in the absence of proper instruction, or any instruction at all, and whose retainer he has terminated. Here, the basis for the court's refusal is procedural, that is the necessity for compliance with the CPR.

[4] In the premises, leave to withdraw is refused.

Dated this 29th Day of April 2026


Franklyn K M Williams MB KC

Justice