

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

Claim No. 01096 of 2016

BETWEEN

DAREN CHARLES SEYMOUR

DELRAY SEYMOUR

DERON SEYMOUR

DAHLIA SEYMOUR-HANNA

DELMETA SEYMOUR

Appellants

AND

THE ATTORNEY GENERAL OF THE BAHAMAS

Respondent

Before: The Honourable Madam Justice Camille Darville Gomez

Appearances: Miss Krysta Mason-Smith for the Appellants
Ms. Kenria Smith and Mr. Perry McHardy with her for the Respondents

Hearing Date: Heard on the papers

Civil Procedure — Jurisdiction — Appeal from Registrar — Assessment of damages — Order 58 Rules of the Supreme Court 1978 — Scope and limits — Distinction between interlocutory rulings and final assessment — Binding authority of Uncle Willie Ltd v Lloyds Underwriters [1990] BHS J. No. 27 — Application in Hilda Pratt v Thomas E. Kelly SCCivApp No. 39 of 2020 — Eric Anton Newbold Jr v Island Hotel Companies Ltd — Proper appellate forum — Court of Appeal.

RULING

[1.] This is the Court's ruling on a preliminary issue of jurisdiction raised in relation to the Appellants' appeal from the assessment of damages conducted by Deputy Registrar Carol Misiewicz.

- [2.] The Appellants contend that their appeal was properly filed in this Court, before a judge in chambers, pursuant to Order 58 of the Rules of the Supreme Court 1978. They rely in particular on the wording of Order 58 and the fact that the appeal was filed before the coming into force of the Supreme Court Civil Procedure Rules 2022.
- [3.] The Respondents take the contrary position. They submitted that, notwithstanding the general wording of Order 58, a judge of the Supreme Court sitting in chambers has no jurisdiction to entertain an appeal from a Registrar's final assessment of damages. The Respondents submitted that such an appeal lies directly to the Court of Appeal.
- [4.] For the reasons which follow, I accepted the Respondents' submissions. I found that this Court has no jurisdiction under Order 58 to hear an appeal from the Registrar's assessment of damages where that assessment forms part of, and is integral to, the final judgment. The proper forum is the Court of Appeal.

Background

- [5.] On 29 November 2021, the Appellants filed an appeal in the Supreme Court against the sum awarded by Deputy Registrar Carol Misiewicz on an assessment of damages.
- [6.] The matter subsequently came before this Court. At a hearing on 18 March 2026, I raised the question whether a judge of the Supreme Court has jurisdiction to hear such an appeal, or whether the appeal ought properly to be before the Court of Appeal. I directed Counsel to address the preliminary issue.
- [7.] The Appellants submitted that the appeal was brought under Order 58 of the Rules of the Supreme Court 1978 and that, having complied with the procedural requirements of that Order, the appeal is properly before this Court. They relied also on the decision in **Hilda Pratt v Thomas E. Kelly**, SCCivApp. No. 39 of 2020, in which an appeal was taken from a Deputy Registrar to a judge of the Supreme Court and thereafter to the Court of Appeal.
- [8.] The Respondents submitted that the Appellants' reliance on Order 58 is misplaced. They argued that Order 58 does not apply to a final assessment of damages by a Registrar. They relied principally on **Uncle Willie Ltd v Lloyds Underwriters** [1990] BHS J. No. 27, as considered and applied in **Hilda Pratt v Thomas E. Kelly**, and submitted that an appeal from a Registrar's assessment of damages lies directly to the Court of Appeal.

The Issue

- [9.] The preliminary issue for determination is whether an appeal from the decision of a Registrar on an assessment of damages can, or ought to, be heard by a judge of the Supreme Court in chambers exercising appellate jurisdiction under Order 58 of the Rules of the Supreme Court 1978.

Law, Analysis and Disposition

[10.] Order 58 of the Rules of the Supreme Court 1978 provides, so far as material:

“An appeal shall lie to a judge in chambers from any judgment, order or decision of the Registrar.”

[11.] On its face, the language of Order 58 is broad. It established a general appellate route from judgments, orders or decisions of the Registrar to a judge in chambers. However, the question before the Court is not resolved merely by reading Order 58 in isolation. It must be considered in the context of the rules governing assessments of damages and the binding appellate authority on the status of a Registrar’s assessment.

[12.] In **Uncle Willie Ltd** the Court of Appeal considered whether a decision of the Registrar on an assessment of damages could be appealed to a judge in chambers under Order 58. The Court of Appeal held that it could not. The Court reasoned that an assessment of damages by the Registrar has no status independent of the judgment by virtue of which it is made, or of the final judgment entered as a consequence of it. The certificate of damages is filed as an integral part of the final judgment.

[13.] The Court of Appeal in **Uncle Willie Ltd** concluded that it would be inconsistent for an appeal from the assessment, which is an integral part of the final judgment, to lie to a judge in chambers when an appeal from the final judgment lies to the Court of Appeal. The Court therefore held that Order 58 has no application to assessments of damages by the Registrar and that a judge in chambers has no jurisdiction to entertain such an appeal. I refer to paragraph 9 of the ruling:

“In our view it is apparent from the wording of Order 37 rule 2 that an assessment of damages by the Registrar has no status of its own independent of the judgment by virtue of which it comes to be made or of the final judgment entered as a consequence of it. The rule merely contemplates that the Registrar certify the amount of the damages and that such certificate be filed in the Registry upon entry of an as an integral part of the judgment. There can be no doubt that an appeal from that final judgment lies to the Court of Appeal. It would in our view be entirely anomalous for an appeal from the assessment which is an integral part of that judgment to lie to a judge in chambers. Even if the assessment is regarded as a separate and independent decision by the Registrar it would still in our view be anomalous for an appeal to lie from it to a judge in chambers when an appeal from the judgment to which it relates lies to the Court of Appeal. In our view order 58 has no application to assessments of damages by the Registrar and there was no jurisdiction in a judge in chambers to entertain the appeal.”

[14.] The principle in **Uncle Willie Ltd** was subsequently considered by the Court of Appeal in **Hilda Pratt v Thomas E. Kelly** where the Honourable Chief Justice Sir Brian M. Moree (as he then was) delivering the unanimous decision reiterated that “*it is now established that an appeal from an assessment of damages by a Registrar is directly to this Court*”. In that case at paragraph 30, he expressly distinguished between an appeal from a final order on an assessment of damages and an appeal from an interlocutory ruling made during the course of an assessment. I refer to what he had to say so far as material:

“It is important to note that the matter before the judge was not an appeal from the final order of the Registrar on the assessment of damage. In that case the appeal would have been directly to this court as confirmed in Uncle Willie Ltd. Rather, it was an appeal to Bowe-Darville, J from the decision of the Deputy Registrar made during the course of the hearing of the assessment whereby he did not allow the plaintiff/appellant to adduce evidence of special damages.”

- [15.] The distinction is important. Order 58 may apply to certain decisions of a Registrar, including certain interlocutory or procedural decisions. It does not, however, apply to an appeal from the Registrar’s final assessment of damages where that assessment forms part of the final judgment.
- [16.] This understanding is further supported by **Eric Anton Newbold Jr v Island Hotel Companies Ltd t/a Atlantis** SCCivApp No. 135 of 2020, where the Court of Appeal reiterated that **Uncle Willie Ltd** confirmed that a judge in chambers has no jurisdiction under Order 58 to entertain an appeal from an assessment of damages by the Registrar. The Court again emphasized that an assessment of damages has no independent status apart from the judgment to which it relates.
- [17.] I accept the Respondents’ submission that the present appeal is not properly characterized as an ordinary appeal from a Registrar’s decision within Order 58. It is an appeal against the sum awarded on an assessment of damages. On the authorities, such an assessment is not independent of the judgment by virtue of which it is made. It is the final quantification of the judgment and forms an integral part of it.
- [18.] The Appellants’ reliance on the general words of Order 58 is therefore insufficient. The Court of Appeal has already determined that, notwithstanding the apparent breadth of Order 58, that Order does not apply to assessments of damages by the Registrar. This Court is bound to apply that principle.
- [19.] I also accept the Respondents’ submission that compliance with the procedural steps in Order 58 cannot confer jurisdiction where none exists. Even if the Appellants served the necessary notice and otherwise complied with the time and service requirements of Order 58, such procedural compliance does not answer the preliminary question whether Order 58 applies to this type of appeal at all.
- [20.] I therefore reject the Appellants’ submission that the filing of this appeal before the coming into force of the Supreme Court Civil Procedure Rules 2022 alters the result. The decisive point is not the procedural regime under which the notice was filed, but the jurisdictional rule established by the Court of Appeal in relation to assessments of damages by a Registrar. Under the Rules of the Supreme Court 1978, as interpreted in **Uncle Willie Ltd** and confirmed in **Hilda Pratt v Thomas E. Kelly** a final assessment of damages by a Registrar is not appealable to a judge in chambers under Order 58.

- [21.] The Appellants also submitted, in the alternative, that if this Court is of the view that it has no jurisdiction, the matter ought to be referred to the Court of Appeal for consideration of a point of law alone with no penalty to either side. I do not accept that the present matter is properly approached as a second appeal from this Court to the Court of Appeal requiring certification of a point of law alone. The Respondents' position, which I accept, is that the appeal from the Registrar's assessment lies directly to the Court of Appeal as an appeal from the final judgment or as an appeal from an integral part of the final judgment.
- [22.] Therefore, it follows that this Court should not purport to hear the appeal, nor should it determine the merits of the assessment. The proper course is strike out the appeal for want of jurisdiction without prejudice to any right the Appellants may have to pursue such appellate remedy as may be available before the Court of Appeal.

Conclusion

- [23.] For these reasons, I accept the submissions of the Respondents on the preliminary issue.
- [24.] I thank both Counsel for their helpful submissions.
- [25.] Accordingly, I make the following orders:
- (i) The appeal filed against the Registrar's assessment of damages is struck out for want of jurisdiction.
 - (ii) The Court declares that the proper appellate forum for an appeal from the Registrar's final assessment of damages is the Court of Appeal.
 - (iii) This ruling is without prejudice to any application or appeal which the Appellants may be entitled to pursue in the Court of Appeal.
 - (iv) The Appellants shall pay the Respondents' costs of the preliminary issue, to be assessed summarily on the papers if not agreed.

Dated this 13th day of May, 2026



Camille Darville Gomez

Justice