IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Public Law Division
Claim No.: 2025/PUB/jrv/00012

IN THE MATTER of an application by **ATHENA MARCHE** for leave to apply for Judicial Review.

AND IN THE MATTER of: **(1)** the Decision of the 2nd Respondent, communicated to the Applicant by letter, under the hand of the Permanent Secretary, dated the 21st day of March A.D. 2024, whereby the 2nd Respondent invited the Applicant "*to Show Cause, in writing, within fourteen days of receipt of this letter, why you should not be retired from the Public Service in the public interest*"; **(2)** the Decision of the 3rd Respondent to recommend to the 2nd Respondent, pursuant to Regulation 45 of the Public Service Commission Regulations (PSCR), that the Applicant "*be retired in the public interest*"; and **(3)** the Decision of the 1st and 2nd Respondents to place the Applicant on undefined, ultra vires, **and unlawful Administrative Leave. (the "*Decisions*").**

BETWEEN

ATHENA MARCHE

Applicant

V.

THE ATTORNEY GENERAL OF THE COMMONWEALTH OF THE BAHAMAS
1st Respondent

THE MINISTER OF LABOUR AND THE PUBLIC SERVICE
2nd Respondent

SIMON WILSON
(In his capacity as Financial Secretary)
3rd Respondent

Before:	The Honourable Mr. Justice Leif Farquharson
Appearances:	Kahlil Parker KC and Roberta Quant for the Applicant Kayla Green-Smith and Adele Mangra for the Respondents
Heard on the papers	(Applicant's submissions filed on 5 and 10 August 2026; Respondents' submissions filed on 4 August 2026)

RULING

The application before the Court

1. The Applicant seeks urgent interim relief to effectively preserve the status quo pending the hearing and determination of her claim for judicial review, or until further order.

2. The application is made by Notice of Application filed on 1 July 2026 and is supported by a Certificate of Urgency filed on 2 July 2026. The principal relief sought is:
   (i) an injunction restraining the First and Second Respondents, whether by themselves or by any person acting under their authority, from withdrawing, purporting to withdraw or treating as withdrawn their previous undertaking to suspend proceedings to retire the Applicant in the public interest;
   (ii) an injunction restraining the First and Second Respondents, whether by themselves or by any person acting under their authority, from resuming, continuing or taking any further step in proceedings to retire the Applicant in the public interest, including any step pursuant to regulation 45 of the *Public Service Commission Regulations* (the "***PSCR***"); and
   (iii) alternatively, an order that the Respondents' undertaking to suspend the retirement proceedings remain in force and not be withdrawn except by order of the Court.

3. For the reasons that follow, I am satisfied that a narrowly framed prohibitory injunction should be granted to essentially preserve the Court's ability to effectively determine an outstanding extension of time application and, if that application is granted, the substantive judicial review, both of which are set to be heard in just over two weeks.

Factual and procedural background

4. The Applicant was appointed Deputy Financial Secretary by the Governor-General on 10 March 2020, with effect from 30 July 2018. On 24 April 2023, she attended a meeting with the Third Respondent, the Financial Secretary, Mr. Simon Wilson. Referring to a memorandum prepared by the former Acting Financial Secretary, Mr. Marlon Johnson, Mr. Wilson stated that the Applicant's performance difficulties and insubordinate behaviour described in that memorandum remained unresolved.

5. The Applicant was presented with two options: first, that she vacate the office of Deputy Financial Secretary and transfer to the University of The Bahamas; or, secondly, that she face a recommendation for retirement in the public interest. Those alternatives were subsequently confirmed by letter dated 28 April 2023. The Applicant was invited to respond by close of business on 1 May 2023.

6. The Applicant responded through her counsel, Mr. Parker KC, by letter dated 1 May 2023. Mr. Parker disputed the allegations, challenged the procedure followed and requested particulars of the alleged misconduct. On the same date, counsel wrote to the then Director of Legal Affairs requesting an investigation into the Applicant's treatment.

7. By letter dated 11 May 2023, the Applicant was placed on administrative leave with immediate effect for two weeks, without loss of remuneration. No reason was stated

in the letter. The administrative leave was subsequently extended on successive occasions, and the Applicant remains away from her duties.

8. By letter dated 21 March 2024, under the hand of the Permanent Secretary in the Ministry of Labour and Public Service, the Applicant was informed that a recommendation had been made that she be retired in the public interest under regulation 45 of the PSCR. A six-page report by the Financial Secretary dated 26 February 2024 was enclosed. The Applicant was invited to show cause within 14 days as to why she should not be retired in the public interest.

9. At that time, the parties were engaged in conciliation before the Labour Department. By email dated 9 April 2024, the Applicant's counsel expressed concern that the retirement process was being pursued while conciliation remained ongoing and invited the Respondents to rescind the show cause letter. By email dated 18 April 2024, counsel for the Respondents stated:

> "*Please be advised that our instructions with respect to the subject matter are that we are prepared to continue with the Conciliation with a view to the same being completed within a period of six weeks. It is vital that this matter be addressed without any further delay.*"

10. The parties differ as to the meaning and duration of the resulting standstill. The Applicant says that the show cause process was suspended until completion of conciliation. The Respondents say that the assurance was temporary, connected to conciliation and limited to the anticipated six-week period.

11. On 5 May 2025, the Applicant commenced proceedings seeking judicial review of:
    (i) the Second Respondent's decision to institute proceedings for her retirement in the public interest;
    (ii) the Financial Secretary's recommendation that she be retired in the public interest pursuant to regulation 45; and
    (iii) the decision of the First and Second Respondents to place and maintain her on administrative leave.

12. The grounds include alleged illegality, procedural unfairness, irrationality, improper purpose, abuse of power and absence of lawful authority for the administrative leave. The Applicant also claims damages for alleged breaches of her contractual, statutory and constitutional rights.

13. The application for leave to apply for judicial review was heard on 22 September 2025. The Respondents did not oppose leave, while reserving their rights to contend at the substantive hearing that the dispute was not amenable to judicial review and that the claim had been brought late. Leave was granted and directions were issued. The substantive hearing was initially fixed for 9 February 2026. That hearing was adjourned at the Respondents' request and later fixed for 17 June 2026. By then, both sides had filed evidence and submissions addressing the substantive claim.

14. On 15 June 2026, it was discovered that the Applicant's Originating Application had not been filed within the period directed following the grant of leave, as prescribed by the CPR. The Originating Application was accordingly filed the same day, together with an application for an extension of time. Mr. Parker has candidly stated that the omission was the result of an administrative error in his chambers.

15. On 17 June 2026, the substantive hearing was adjourned to allow the Respondents to consider the extension application, which they had only just received. The parties subsequently agreed that the extension application and the substantive judicial review would be considered at a rolled-up hearing.

16. By letter dated 23 June 2026, the Respondents' attorneys informed the Applicant's counsel that they had been instructed to withdraw the undertaking or assurance suspending the retirement process. The Applicant did not consent. By a further letter dated 24 June 2026, the Respondents stated that the withdrawal would take effect after 30 days.

17. The present application for urgent interim relief was thereafter filed. On 27 July 2026, the parties agreed that it should be determined on the papers. The substantive judicial review and the extension application were also fixed for hearing by agreement on 9 September 2026.

<u>The evidence on interim relief</u>

18. The Applicant relies on her affidavit filed on 1 July 2026. She says that she understood and relied upon the Respondents' assurance as preserving the existing position while the dispute and subsequent judicial review remained pending. She contends that resumption of the retirement process would permit the Respondents to complete the very process whose legality is under review and could materially impair the effectiveness of any eventual relief.

19. The Applicant says that a forced retirement "*in the public interest*" would affect her public office, reputation, pension interests, career and future employability. She contends that those consequences could not adequately be repaired by an award of damages. She has offered an undertaking to comply with any order the Court may make if it is subsequently determined that the injunction should not have been granted.

20. The Respondents principally rely on an affidavit of Jeron O'Brien, counsel and attorney in the Office of the Attorney General, filed on 16 July 2026. Mr. O'Brien addresses the alleged performance issues underlying the retirement recommendation, the Applicant's delay in filing the Originating Application, the conciliation process and the circumstances in which the undertaking was given and later withdrawn. The Respondents' position is that the retirement process has a longstanding factual basis; the undertaking was temporary and was neither given to the Court nor incorporated into an order; the Applicant bears substantial responsibility for delay; and adequate procedures and remedies remain available to her under the applicable constitutional and regulatory framework.

21. In her responding affidavit filed on 23 July 2026, the Applicant disputes the suggestion that she failed to answer the Financial Secretary's letter of 28 April 2023. She points to her counsel's response of 1 May 2023 and repeats that she requested particulars and an investigation. She accepts that the Originating Application was filed late, but says that the default was an inadvertent clerical error by her attorneys, was candidly disclosed and was addressed immediately upon discovery.

The parties' submissions in outline

The Respondents' case

22. The Respondents submit that the assurance was not given to the Court, was not embodied in an order and cannot be treated as an undertaking to the Court. They contend that it was an interim arrangement connected with conciliation and was not intended to suspend the regulation 45 process indefinitely.

23. The Respondents further submit that there is no serious question to be tried with a realistic prospect of success. They say that regulation 45 authorises the proposed process, that the Applicant has been invited to show cause, that no final decision has been made and that there is no evidence that she will be denied procedural fairness. They therefore characterise the judicial review as premature.

24. The Respondents contend that the Applicant has not demonstrated irreparable harm. She continues to receive her salary and benefits, and any financial or reputational loss is said to be compensable in damages or remediable through the statutory and constitutional procedures available to her.

25. Finally, they argue that the balance of convenience and public interest favour allowing the statutory process to continue. In this regard, they rely on the cost to the public purse, the need to maintain discipline and integrity in the public service and the general reluctance of the courts to restrain public authorities from exercising statutory powers in good faith.

The Applicant's case

26. The Applicant advances four principal propositions. First, she contends that the Respondents cannot release themselves unilaterally from the undertaking or assurance given. She says it was given in the course of the dispute, was acted upon for more than two years and was expressed to operate until completion of conciliation rather than for six weeks only. She relies on the authorities of *Chanel Ltd. v. F W Woolworth & Co. Ltd.* [1981] 1 WLR 485 and *Butt v. Butt* [1987] 1 WLR 1351 as supporting the argument that an undertaking given *inter partes* in lieu of an injunction cannot be unilaterally withdrawn, and that the party seeking to resile from the same must apply to the court to do so.

27. Secondly, the Applicant argues that the underlying claim raises serious questions of public law. She submits that allegations of insubordination, poor performance, attendance difficulties and related misconduct are disciplinary in substance and ought, if pursued, to be addressed under regulations 41-44 of the PSCR, with compliance with the procedural requirements contained therein. On her case, regulation 45 is unavailable where the grounds can suitably be dealt with under another regulation. The Applicant also challenges the lawfulness of her prolonged administrative leave and contends that the process has been procedurally unfair. She says that she has remained away from her duties for more than three years without a proper investigation or disciplinary charge.

28. Thirdly, the Applicant says that refusal of interim relief may defeat the judicial review. Relying on the case of *Holmond McDonald v. Public Service Board of Appeal* SCCiv

App No.26 of 2014, she argues that Articles 114(5) and 125(4)(a) of the Constitution may preclude a later court challenge once the Public Service Commission or the Public Service Board of Appeal has exercised its constitutional function. She says that the present claim was brought during the available "*window*" for judicial review and that the window may close if the regulation 45 process is completed before the substantive hearing. This was explained in the judgment of the Court of Appeal in *McDonald* as follows:

> "28. *My conclusion that this appeal is fatally flawed does not shut the door to judicial review altogether in relation to decisions affecting public servants. It is dependent on timing. The appellant was advised by the letter dated 1 April 2010 of the MOE's intention to recommend his dismissal from the Public Service. Thereafter a period of a little over a month elapsed until he received the letter dated 10 May 2010 from the* (sic) *during which time the appellant could have launched judicial review proceedings against the MOE. <u>He had a window of opportunity to challenge the conclusions and proposed course of action by the PS of the MOE. It was during this time, preceding submission of his case to the PSC, that an action for judicial review could be made.</u>*
> *29. <u>However, once the matter has come within the cognizance of the PSC, as in this case, the public officer is precluded from seeking judicial review relief in the courts.</u> The appellant having acquiesced to following the procedure laid down in the PSCR and allowed the PSC to make its decision, could no longer seek recourse in judicial review proceedings.*" [Emphasis supplied]

29. Fourthly, the Applicant submits that the balance of convenience favours preservation of the existing standstill. Retirement in the public interest would alter her legal, professional and practical position in ways that damages might not repair. Conversely, the Respondents would sustain a further short delay in a process they had already held in abeyance since April 2024.

<u>Analysis and discussion</u>

General principles

30. Section 21 of the *Supreme Court Act, 1996* empowers the Court to grant an interlocutory or final injunction whenever it "*appears…to be just and convenient to do so*". Part 17 of the *Supreme Court Civil Procedure Rules, 2022* addresses the procedure for obtaining interim relief.

31. The parties agree that the current application falls to be considered by reference to the principles in *American Cyanamid Co. v. Ethicon Ltd.* [1975] AC 396, appropriately applied in the public law context. This requires the Court to consider:
    (i) whether there is a serious question to be tried;
    (ii) whether damages would be an adequate remedy for either party;
    (iii) where damages may not be adequate, where the balance of convenience lies; and
    (iv) whether any special considerations, including the public interest, affect the exercise of discretion.

32. The Court must consider those principles in their public law setting. There is a strong public interest in allowing a public authority, acting in good faith and pursuant to an apparently valid statutory scheme, to perform its functions. The relative apparent

strength of the parties' cases is therefore a relevant factor in the balance of convenience, although the Court ought to avoid a mini-trial. It is also worth expressly mentioning that in determining this application, the Court is not deciding the substantive judicial review or the outstanding application for an extension of time.

33. In *Belize Alliance v. Department of Environment and Anor.* [2004] 1 LRC 630, at para.39, the Board acknowledged that the court has "*a wide discretion to take the course which seems most likely to produce a just result (or to put the matter less ambitiously, to minimise the risk of an unjust result)*". The more modern formulations of the test for the grant or refusal of interlocutory injunctive relief (whether prohibitory or mandatory) suggest that the overriding consideration is to take the course likely to cause "*the least irremediable prejudice to one party or the other*" (see, for example, *National Commercial Bank of Jamaica v. Olint* [2009] 1 WLR 1405, per Lord Hoffman at para.19).

Serious question to be tried

34. At this stage, the Court must be satisfied that the claim is neither frivolous nor vexatious and raises a question fit for determination at trial (*American Cyanamid*, p.407). It is not generally the Court's function at this stage to conduct a preliminary trial of disputed facts or finally determine difficult propositions of law which call for detailed argument.

35. The prior grant of leave (which, as indicated, was not opposed) reinforces the conclusion that the Applicant's claim is arguable. It does not, however, determine the present application or prevent the Respondents from addressing the strength of the claim where relevant to interim relief.

36. In my judgment, the substantive proceedings do raise a serious question whether regulation 45 is being used lawfully in the circumstances of this case. A number of the allegations made in the Financial Secretary's report attached to the show cause letter seemingly concern insubordination, attendance and alleged breaches of official duties. There is an arguable question whether those matters are disciplinary in substance and, if so, whether the Respondents were required to proceed under regulations 41-44 of the PSCR rather than regulation 45. In this regard, regulation 45(1) provides:

> *"(1) If a Permanent Secretary or Head of Department considers that it is desirable in the public interest that a public officer serving in his department should be required to retire from the public service <u>on grounds which cannot suitably be dealt with under any other regulation</u>, he shall report the matter to the Director of Public Personnel."* [Emphasis supplied]

37. There is also an arguable question whether the Applicant received the degree of procedural fairness required before the retirement process was initiated or resumed. This includes the adequacy of the particulars supplied. The propriety or rationality of relying on certain allegations going back as far as 2012, and prior to the Applicant's elevation to Deputy Financial Secretary in 2020, is also open to question.

38. Finally, the Applicant's contention that completion of the regulation 45 process may impair or extinguish the effectiveness of the present judicial review is sufficiently substantial to require determination. I do not at this time decide the scope or application of *McDonald* in the present fact-situation. The contention is nevertheless not fanciful.

If correct, allowing the retirement process to conclude before the substantive hearing could materially alter the Court's ability to afford effective relief.

39. The actual merits appear to be mixed. The Respondents' submissions that regulation 45 authorises the proposed process, that no final decision has yet been made and that the Applicant has had an opportunity to show cause, and, if an adverse decision is made, to challenge the same on appeal are substantial. The Applicant's challenges to the use of regulation 45, procedural fairness and the lawfulness of the extended administrative leave are also substantial. I do not however regard the Applicant's case as so strong that the merits alone justify restraint, but neither do I regard it as hopeless.

40. The late filing of the Originating Application is significant. On the present material, it is arguable that the error was candidly acknowledged, acted upon promptly once discovered and arose after both sides had prepared evidence and submissions for the substantive hearing. In light of those factors, it would in my view be premature to reach any definitive conclusion on the outcome of the extension application. Moreover, both sides did not address the legal merits of the application in any detail.

41. I am therefore satisfied that the Applicant has established serious questions to be tried.

Adequacy of damages

42. The potential harm to the Applicant is not solely confined to lost remuneration. She identifies the loss of a public office to which she was constitutionally appointed, the stigma associated with retirement "*in the public interest*", pension and career consequences and the practical difference between resisting removal as a serving officer and later seeking restoration as a former officer (by which time additional third party interests may also perhaps be engaged) as losses which may not be compensable by an award of damages. Relatedly, there is also the asserted risk that completion of the retirement process may impair the availability or effectiveness of judicial review.

43. I accept that some of the harm identified by the Applicant might be quantified and compensable in damages. Nevertheless, damages may not provide a wholly adequate remedy for all of the potential consequences if relief were refused and the Applicant ultimately succeeded, especially the stigma and professional consequences she refers to.

44. The Respondents identify the incurring of "*additional time and expense*" as arising from the grant of injunctive relief (see Affidavit of Jeron O'Brien, paras.15 and 19). There is some merit to the Applicant's argument that this is the very type of loss that her undertaking, which the Respondents do not challenge as inadequate or unfortified, is intended to protect against. However, the Court cannot ignore the impact upon the effective management of the public service as a possible consequence of the grant of injunctive relief. The undertaking potentially provides protection against proven financial loss. It cannot fully compensate for non-pecuniary or administrative prejudice arising from delay in the exercise of public functions. I therefore conclude that damages may not readily provide an adequate remedy to the Respondents either.

45. The Court must therefore consider the balance of convenience.

Balance of convenience

46. The factors affecting the balance of convenience vary from case, as does the relative weight to be attached to them (see *American Cyanamid*, p.511a). Public law disputes also raise unique considerations which do not necessarily feature in litigation between private parties. This was discussed by the English Court of Appeal in *British Standards Institution v. R. (RRR Manufacturing Party Ltd.)* 2024 EWCA Civ 530, at para.105:

> "*Public law disputes are of course rather different. Those who exercise public law functions do not do so in their own commercial interests but in the public interest. This is seldom capable of being quantified in money. Two things follow. First, as the Judge recognised, damages will rarely be an adequate remedy in the context of judicial review claims, and (assuming the case meets the threshold at the first stage) the grant or withholding of relief will turn on the balance of convenience. Second, in assessing the balance of convenience the risk of detriment to the public interest is seldom capable of being directly measured against the risk of prejudice to the claimant as the two are essentially incommensurable. These points were well expressed by Cranston J in the Medical Justice case at [12] as follows:*
>
> > *"In judicial review, this consideration [ie the balance of convenience] varies from its application in private law, because generally speaking damages will not be payable in the event of an unlawful administrative act, nor will a public authority suffer financial loss from being prevented from implementing its policy. The public interest is strong in permitting a public authority to continue to apply its policy when ex hypothesi it is acting in the public interest. That wider public interest cannot be measured simply in terms of the financial or individual consequences to the parties..."*

47. The operative position since April 2024 has been that the regulation 45 process has seemingly remained suspended. The relief sought is prohibitory in substance: it would preserve that position for the comparatively short period required to determine the extension application and the substantive judicial review. If relief is refused and the retirement process is completed before the substantive hearing, the Applicant may sustain consequences that cannot readily be reversed. Those include removal from office, reputational and professional consequences and the possible impairment of the Court's ability to grant effective public law relief.

48. If relief is granted and the Respondents ultimately succeed, the principal immediate consequence will be further delay in a process they had already held in abeyance for more than two years. Their statutory powers will not be extinguished. They may be exercised after the Court has determined the legality of the impugned decisions, and of course the extension application.

49. The Respondents place reliance on the Applicant's delay and, in particular, the late filing of the Originating Application. That default is significant and will have to be determined on the extension application. It would be inappropriate, in my view, to prejudge that application. For present purposes, I also take into account that the error in filing the Originating Application was disclosed, an application to regularise the proceedings was made promptly upon its discovery, both sides had prepared for the substantive hearing and a new hearing date was fixed.

50. The public interest seemingly operates in both directions. There is a legitimate public interest in the efficient management and discipline within the public service and in avoiding unnecessary restraint upon lawful executive action. There is also, however, a public interest in ensuring that public powers are exercised lawfully, that constitutionally appointed officers receive fair treatment and that pending judicial review proceedings are not deprived of practical effect before the Court can determine them.

51. The evidence before the Court does not identify a new or urgent operational circumstance requiring the retirement process to be completed before the substantive hearing, which I reiterate is just over two weeks away. The lengthy period during which the Respondents themselves held that process in abeyance also substantially reduces the weight of any contention that a further short suspension would cause undue prejudice.

52. I also take account of the Applicant's undertaking in damages. Although such an undertaking may not answer every form of public or administrative prejudice, it provides some protection for the "*additional time and expense*" apprehended by Mr. O'Brien if it is ultimately determined that the injunction should not have been granted.

53. The Respondents placed significant reliance on the decision of Rigby J. (Ag.) in *Isaacs v. Judicial and Legal Services Commission and Anor.* 2026/PUB/jrv/00014 as supporting the refusal of interim relief. In that case, the Court refused to grant injunctive relief with a view to restoring the Applicant to the post of Acting Senior Magistrate, which she had previously been seconded to. Without in any way opining on the substantive merits, I would merely observe the underlying factual dispute in that case differed substantially from the dispute in the present case. The injunctive relief sought was also deemed to be mandatory, as opposed to prohibitory, in nature, with a view to reversing a decision which had already been taken. Moreover, no leave to apply for judicial review had been obtained; in fact, no application for judicial review had yet been filed. As far as I can tell, there was also no suggestion of the Respondents suffering any form of loss which may, in part at least, have been remediable in damages and no undertaking offered. Additionally, and very importantly, that case did not involve a scenario where the Respondents had provided an undertaking of any sort and refrained from taking administrative action for a period of over two years, and the trial of the substantive claim was a mere two weeks away. That decision does not therefore resolve the present balance.

54. I have also considered the relative strength of the parties' cases. These have to some extent been addressed already. Although the Applicant in my view meets the threshold for obtaining interim relief, I am uncertain as to the ultimate merits of her position. That uncertainty weighs against any order wider or longer than is strictly necessary to preserve the Court's ability to determine the pending extension application and, if an extension is granted, the substantive claim.

55. Taking all of these factors into account, and giving them appropriate weight, I consider that the balance of convenience favours the grant of some form interim relief with a view to preserving the existing position until the Court has determined the extension application and the substantive judicial review, or until further order. This would appear to be the course likely to cause the least irremediable prejudice, or to minimise the risk of injustice. In reaching this conclusion, I have considered the affidavit evidence and submissions of both sides in their entirety. I have also attached considerable weight to

the very exceptional circumstance of the Respondents holding in abeyance the foreshadowed retirement proceedings for a period in excess of two years, coupled with the fact that the extension application and the trial of the substantive judicial review are set to be heard in just over two weeks.

56. It is unnecessary, for this purpose, to decide whether the Respondents' assurance constituted a formal undertaking to the Court or whether it was legally incapable of withdrawal without leave. The injunction is justified by ordinary principles governing interim relief, applied in the public law context.

Disposition

57. In conclusion, I therefore order that until the determination of the Applicant's application for an extension of time and substantive claim for judicial review, or until further order, the First and Second Respondents, whether by themselves, their servants or agents, or any person acting under their authority, are restrained from resuming, continuing or taking any further step to retire the Applicant in the public interest pursuant to regulation 45 of the PSCR.

58. For the avoidance of doubt, this order does not determine: whether the assurance given during conciliation constituted an undertaking to the Court; whether the Respondents were otherwise entitled to withdraw from or depart from that assurance; the merits of the substantive judicial review; the merits of the Applicant's application for an extension of time; the application of *Holmond McDonald v. Public Service Board of Appeal*; or the lawfulness of any future process undertaken after the discharge or expiry of this order.

59. The injunction is conditional upon the Applicant's undertaking in damages, as offered in her evidence. The parties have liberty to apply if further directions are required or in the event of a material change in circumstances. Costs are reserved.

L. Farquharson

Farquharson J.
24 August 2026