COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

2026/PUB/JRV/00014

IN THE MATTER OF Article 96 of the Constitution of the Commonwealth of The Bahamas

AND

IN THE MATTER OF The Judicial and Legal Services Commission Regulations

Acting Senior Magistrate Aniska Isaacs

Applicant

and

Judicial and Legal Services Commission et al

1st Respondent

The Attorney General

2nd Respondent

RULING

Before: The Hon Mr. Justice Leif Farquharson, KC

Mrs. Gia Moxey-Lockhart, Counsel for Applicant
Mr. Robert Adams, KC, with Ms. Bryann Hepburn, Counsel for Respondents

Hearing dates: 20 October 2026 and 29 October 2026

(This transcript was derived from an audio/video recording:)

THE COURT: Introduction: This ruling concerns a second application for interim injunctive relief by the applicant pending determination of her judicial review claim.

On 30 June 2026, Rigby J (Acting) refused her earlier application for pre-action relief in a fully reasoned ruling. She did not appeal. Leave for judicial review has since been granted, but the substantive claim remains undetermined.

The overarching question is whether this application provides a sufficient basis to reopen or revisit Rigby J's earlier refusal and, if so, to grant the interim relief sought.

The applicant says that she now seeks principally to restrain enforcement of the disputed direction to report to the Supreme Court and any adverse consequences of noncompliance rather than immediate restoration to judicial duties as Acting Senior Magistrate.

She relies on the grant of leave, further evidence, the remaining duration of her acting appointment or posting, the offer of an undertaking in damages, and her readiness for an expedited hearing as justifying relief.

The respondents say that the application substantially seeks to relitigate the earlier refusal without

any material change of circumstances.

In her affidavit affirmed on 3 July 2026, the applicant addresses her appointment history, complaints concerning her judicial conduct and her responses, her placement on administrative leave and extensions thereof, the reassignment of her part-heard matters, and the disputed decision to move her from the Magistracy to the Supreme Court.

She alleges that these measures were procedurally unfair and amounted, in substance, to disciplinary sanctions, notwithstanding the Commission's subsequent decision not to recommend disciplinary proceedings.

She also exhibits screenshots of messages which she says support her allegation of a concerted effort by certain practitioners to secure her removal, questions the Registrar of the Supreme Court's overlapping roles as head of department and secretary to the Commission, and describes professional and reputational harm allegedly suffered.

In her supplemental affidavit affirmed on 13 July 2026, the applicant addresses the Registrar's communication of 3 July 2026, which, among other things, directed her to report to the Supreme Court by 9:30 a.m. on 6 July 2026 and referred to the appearance of unauthorised absence in the event of her failure to do so.

She also addresses an alleged continuing conflict of interest arising from the Registrar's overlapping roles.

I begin with the principles governing renewed applications for interim or interlocutory relief, then consider whether the further material or circumstances relied on by the applicant justify reopening or departing from Rigby J's ruling.

Applicable Principles:

In **Chanel Ltd v F W Woolworth & Co Ltd** [1981] 1 All ER 745, a pre-CPR case, the English Court of Appeal explained, at page 751(j), that an interlocutory contest cannot simply be fought again unless there has been a significant change of circumstances or relevant facts have emerged which could not reasonably have been known or discovered before the earlier hearing.

In **Tibbles v SIG plc** (trading as Asphaltic Roofing Supplies) [2012] EWCA Civ 518, another decision of the English Court of Appeal, which was also relied on by the applicant in the present case, the Court considered the circumstances in which the power under CPR 3.1(7) to vary or revoke an earlier order is exercisable.

At paragraph 39, Rix LJ emphasised that finality constrains the exercise of the power and that a renewed application must not be used as a substitute for an appeal.

At paragraph 39(ii), he identified the primary circumstances in which the discretion would normally be exercised, namely:

(1) where there has been a material change of circumstances since the original order was made; or

(2) where the facts upon which the original decision was made were innocently or otherwise materially misstated.

Thevarajah v Riordan [2015] UKSC 78 is particularly instructive. The UK Supreme Court, at paragraph 18 of its judgment, indicated that the general principle as outlined in Chanel and Tibbles applied independently of the specific CPR provision concerning variation or revocation of earlier orders.

Although that case concerned a second application for relief from sanctions, its statement of the general principle is relevant here.

The Court held that, absent a material change or another recognised basis for reopening the earlier interlocutory relief, the lower court judge in that case could not properly have entertained the second application on its merits or reached a different conclusion from that of the previous judge on essentially the same facts.

On this basis, the Court of Appeal's decision restoring the first judge's original order refusing relief was affirmed.

For present purposes, and although the point was not taken by the applicant, it is therefore no answer to the respondents' objection that the present application is not

formally framed as an application to vary the earlier order of Rigby J.

Lastly, I refer to **Neurim Pharmaceuticals (1991) Ltd and another v Teva UK Ltd** [2022] EWHC 1641 (Pat)

That case involved a second application for interim injunctive relief to restrain the defendant from offering for sale or selling any generic version of the claimant's patented hormone drug Circadin.

Following Chanel and Thevarajah, the Court reaffirmed the requirement for a significant and material change in circumstances before reconsidering an earlier injunction decision. See paragraph 18.

Although it examined updated evidence on the second application, which was very extensive and included a large amount of expert evidence, and assessed the merits of interim relief, it refused relief and awarded costs against the claimants on an indemnity basis because the renewed application unreasonably raised substantially the same issue. See paragraph 73.

Against that background, I now turn to the circumstances the applicant suggests justify reconsideration of Rigby J's order and the grant of injunctive relief.

Analysis and Discussion:

1. The grant of leave. Leave permits the claim to proceed. It neither determines unlawfulness nor establishes

entitlement to interim relief.

The conventional permission standard is arguability or a realistic prospect of success. See, e.g., **Sharma v Brown-Antoine** [2006] UKPC 57; [2007] 1 WLR 780.

The respondents did not contest leave but expressly reserved their opposition to interim relief.

Rigby J's refusal of interim relief did not depend solely on the pre-action stage of the proceedings before him or the absence of leave.

On the contrary, at paragraphs 55 to 64, he considered in detail the adequacy of damages, the practical consequences of the grant of relief, the balance of convenience, and the public interest. Even allowing for harm not compensable in damages, he found that the balance tilted, in his own words, "decisively against the grant of interim relief."

The grant of leave to move for judicial review does not displace those independent reasons for refusing relief and is not, by itself, a sufficient material change requiring the question of injunctive relief to be determined entirely afresh.

2. Screenshots of WhatsApp messages purportedly written by members of the Criminal Bar Committee chat group:

The applicant exhibits four apparent screenshots of messages said to have been exchanged by members of the

Criminal Bar Committee chat group. Mrs. Moxey-Lockhart submitted that they reveal a concerted effort to remove the applicant from her posting as Senior Magistrate.

The messages appear to be undated, their source is unidentified, and it is unclear whether the applicant took the screenshots herself or received them from another person.

More importantly, Rigby J considered the underlying complaints made against the applicant by certain criminal practitioners, some of whom appear to have written the messages of which the screenshots were purportedly taken. See page 11 and paragraph 61 of Rigby J's ruling, referring to paragraph 10 of Renaldo Toote's affidavit and the exhibited complaints prompting the Commission's investigations.

This is not new information. The screenshots do not, therefore, alter the evidential basis on which the earlier application was determined.

3. The Registrar's e-mail communication of 3 July 2026. In this e-mail, the Registrar of the Supreme Court confirms the Commission's earlier determination, as conveyed in its letter of 27 May 2026, that the applicant be moved from the post of Acting Senior Magistrate to the post of Deputy Registrar of the Supreme Court within the Office of the Judiciary; that neither her secondment to the "Office of the Judiciary Supreme and Magistrate Court" nor her substantive post of Deputy Registrar of the Court of Appeal have been

rescinded; that the salary and benefits attached to her substantive post in the Court of Appeal continue unchanged during the period of her secondment to the Office of the Judiciary; that she has not been demoted; and that she is required to report to the Registrar of the Supreme Court without further delay to be allocated office space and assigned files.

The Registrar further states in the e-mail that the applicant is asked to report to work no later than Monday, 6 July 2026, at 9:30 a.m., and that her refusal to do so "gives the appearance" of her having taken unauthorised leave of absence.

The applicant says that she did not see the e-mail until 8 July 2026, and that it was sent by the Registrar at approximately 6:10 p.m. on Friday, 3 July 2026, with a reporting deadline of 9:30 a.m. on Monday, 6 July 2026.

I do not determine whether any absence by the applicant was unauthorised. The question is whether this e-mail constitutes a material and significant development to warrant reopening Rigby J's refusal of interim relief.

I am not satisfied that it does.

The applicant's posting to the position of Deputy Registrar of the Supreme Court was squarely before Rigby J. See ruling, paragraphs 52 to 54.

The reporting instruction implements the arrangement

already challenged, which was not enjoined. The Commission is not seeking to impose a new placement from that considered by Rigby J.

On the material advanced, neither the reporting deadline nor the reference to the possible appearance of unauthorised absence establishes a sufficient material change to justify reopening the issue of injunctive relief afresh.

I also note that the Commission's letter of 27 May 2026 contained a reporting instruction.

The e-mail also serves to confirm that the applicant's salary and benefits remain unchanged. This was likewise before Rigby J. See paragraph 56 of his ruling, and reduces the risk of financial prejudice.

It does not, by itself, answer alleged professional or other non-financial harm. However, Rigby J expressly considered this issue, concluding that any reputational harm could be mitigated by an award of damages. See ruling, paragraph 57.

Mrs. Moxey-Lockhart also made reference to alleged overlapping roles performed by the Registrar insofar as he serves both as Secretary to the Commission and Head of Department.

This point is not new. It is noted on pages 7 and 8 of Rigby J's ruling.

A renewed argument as to the permissibility of the

Registrar serving in these dual roles is not a subsequent change in material circumstances.

The lawfulness of this remains a matter for the substantive hearing.

4. Materially different relief sought.

As I understood Mrs. Moxey-Lockhart, the relief now sought differs materially from that sought before Rigby J.

First, she submits that the interim relief is now sought in aid of pending proceedings, whereas the interim relief sought previously was pre-action and applied for under circumstances of urgency.

Secondly, she argues that the relief sought previously was mandatory in effect because it required that the applicant be permitted to continue functioning in her role as Acting Senior Magistrate.

By contrast, she says the relief now sought would restrain the respondents from implementing the decision to require her to serve in the post of Deputy Registrar of the Supreme Court and is prohibitory in nature.

I have already discussed the implications of the grant of leave. I do not regard this, of itself, as a material change in circumstances sufficient to justify reopening Rigby J's previous refusal of interim injunctive relief.

Similarly, the stated urgency of the first

application does not justify this Court, a first instance court of coordinate jurisdiction to Rigby J, revisiting the earlier order. No authority has been drawn to my attention to suggest otherwise.

Taken to its logical conclusion, this would entitle an unsuccessful applicant for interim or interlocutory relief to immediately bring a second application for the same relief simply because the first application was made under circumstances of urgency, despite there being no other material change in circumstances.

In my respectful view, this cannot be right.

As an aside, I also note that Rigby J did not actually accept that the previous application was sufficiently urgent to engage CPR 17.3(3), and he went on to assess the application for interim relief according to the Cyanamid guidelines, appropriately modified in light of the public law context. See ruling, paragraphs 42 to 46.

The distinction in the formulation of relief as "mandatory" or "prohibitory" is not decisive.

The basic facts surrounding the dispute between the applicant and the Commission remain the same. The decisions under challenge essentially remain the same. See ruling, paragraph 19, and Notice of Application for Leave, paragraph 2(b)

The immediate question remains whether the

respondents should be prevented, pending judicial review, from implementing the disputed reassignment or posting from the Magistracy to the Supreme Court, as outlined in the Commission's letter of 27 May 2026.

I am not satisfied that the manner of formulation of the interim relief now sought raises a materially different interlocutory issue. The applicant must still establish a sufficient basis for reconsideration or departure from Rigby J's order.

I have separately considered the request in the applicant's submissions for protection against disciplinary consequences.

Such relief, if granted, would, in substance, suspend enforcement of the very same reporting arrangement considered and addressed on the earlier application before Rigby J.

I, therefore, find no sufficient basis for treating it as a significant and material change in circumstances.

This conclusion does not determine the lawfulness of any disciplinary action which may be instituted, nor does it preclude an application founded on a genuinely new development.

5. Remaining factors. I have considered the finite duration of the applicant's secondment to the "Office of the

Judiciary, Supreme and Magistrate Court." This was before Rigby J.

The passage of time and the continued operation of the disputed decision do not, without more, constitute a material change.

I have also considered the offered undertaking in damages and the proposed shorter duration of the proposed injunction.

An undertaking addresses the risk of compensable loss if an injunction proves to have been wrongly granted. Its offer does not, without more, answer the practical and public interest factors identified in the earlier ruling of Rigby J. See ruling, paragraphs 55 to 64.

Similarly, a shorter proposed period of restraint may reduce the duration of interference arising from the grant of an injunction. However, it does not remove the practical and public interest objections identified by Rigby J.

Whether considered separately or cumulatively, those matters do not establish a sufficiently material change in circumstances to warrant revisiting the earlier refusal of interim relief.

The authorities of **Bimini Blue Coalition Ltd v The Prime Minister of The Bahamas and others** [2014] UKPC 23 and **Athena Marche v Attorney General and others** 2025/PUB/jrv/00012, both of which were relied on by the

applicant, do not assist.

As Mrs. Moxey-Lockhart acknowledged, both cases involved differing facts.

More importantly, neither authority supports the proposition that an unsuccessful applicant for interim injunctive relief may relitigate the matter in the absence of a material change of circumstances or another sufficient basis for reconsideration.

6. The respondents' reliance on Mr. Toote's affidavit. In her post-hearing submissions, the applicant complained of lack of advance notice that the respondents intended to rely on Renaldo Toote's affidavit from the first application.

When Mr. Adams confirmed that the respondents intended to rely on that affidavit at the hearing, counsel for the applicant did not object, subject to the affidavit being re-filed if required by the Court.

Mr. Adams likewise offered to re-file the affidavit if required by the Court, although he deemed this unnecessary. I did not require re-filing.

The affidavit was obviously very familiar to both sides and had already been placed before the Court at the pre-action stage.

Upon inquiry by the Court, both counsel also confirmed their preparedness to proceed and thereafter made

their oral arguments.

After the hearing, with the leave of the Court, the respondents laid over very brief submissions addressing two authorities the applicant relied on at the hearing, which had not been provided.

The applicant, without leave of the Court, but with no objection being taken by the respondents, laid over a full set of written submissions described as "consolidated supplementary submissions", which I duly considered.

In those circumstances, I see no procedural unfairness in the approach taken by the Court.

Conclusion and Disposition. Having considered the affidavit evidence, the other filings, and the submissions of both sides in their entirety, and the ruling of Rigby J, I accept the substance of the respondents' objection.

The applicant has not demonstrated a significant and material change; a material misstatement of the original facts; a manifest mistake in formulating the earlier order; or any other sufficient basis for reopening or departing from the earlier ruling.

This conclusion concerns the proper exercise of discretion. It does not preclude the Court from entertaining renewed relief in an appropriate case.

Having found that this application raises substantially the same interlocutory issue and that no

sufficient basis for reconsideration has been established, I decline to undertake a fresh assessment of the merits of interim relief.

Thevarajah, paragraphs 18 to 19 and 23 to 24, makes that exercise unnecessary.

The application for interim relief is accordingly dismissed. The substantive judicial review remains for determination.

The applicant shall pay the respondents' costs of this application, to be summarily assessed unless agreed.

(Court adjourned)

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