IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2026/CLE/GEN/00555

B E T W E E N

IN THE MATTER OF YVETTE PRINCE

Claimant

AND

NASSAU CRUISE PORT LIMITED

Defendant

Before: **The Honorable Madam Justice Carla Card-Stubbs**

Appearances: Donna Dorsett-Major, **Counsel for the Claimant**

Trevor Lightbourn & O. Swain, **Counsel for the Defendant**

Hearing Date: September 16, 2026; October 22, 2026 and on the papers by written submissions

Application for Interim injunction restraining eviction - Landlord and tenant- Commercial lease - Alleged assurance permitting installation of toilet - Proprietary estoppel and implied licence - Serious issue to be tried - Adequacy of damages - Existing status quo order.

Rule 17.1(1)(b) The Supreme Court Civil Procedure Rules, 2022, as amended ('CPR').

The Claimant sought interim protection against eviction from leased retail premises at Nassau Cruise Port. She relied on an alleged assurance permitting the installation of a toilet, the provision of plumbing infrastructure, proprietary estoppel and implied licence. The Defendant relied on the express lease provisions, including requirements for written approval, legal compliance and avoidance of nuisance. An existing status quo order preserved possession, prohibited use of the toilet and permitted compliance inspections.

Held: *Application for an interim injunction refused; status quo order discharged; costs reserved.*

The Claimant had established a serious issue to be tried. The Defendant's substantial contractual defence did not dispose of the entirety of the pleaded equitable case. The alleged assurance, its scope and authority, and the asserted reliance and detriment remained matters for proof at trial.

Damages would adequately compensate the Claimant if she succeeded at trial after interim protection was refused. Pleading damages was not conclusive of their adequacy, but the principal losses asserted were financial and susceptible to assessment. The evidence did not establish that the particular location or the hardship of displacement made those losses inadequately compensable. There was no identified reason to doubt NCPL's ability to satisfy an award.

RULING

CARD-STUBBS, J

INTRODUCTION & BACKGROUND

[1.] The substantive proceedings arise out of a dispute between a commercial landlord and its tenant concerning the tenant's installation and use of a toilet within leased retail premises.

[2.] The Claimant, Yvette Prince, carries on business as Treasures by the Sea International. The Defendant, Nassau Cruise Port Limited ("NCPL"), is her landlord in respect of Unit 40 at the Nassau Cruise Port, Prince George Wharf, Nassau, occupied for the operation of a retail boutique. NCPL relies upon a Lease Agreement dated 15 May 2023 (the "Lease"), as amended by an Addendum (the "Addendum"), dated 29 July 2024, as governing that relationship. Although the tenancy is admitted, the parties disagree about the effect of their dealings before formal execution of the lease and whether the Claimant was entitled to connect a toilet to plumbing infrastructure provided within the premises.

[3.] By her claim filed on 17 July 2026, the Claimant challenges NCPL's asserted entitlement to recover possession of Unit 40 following alleged breaches of the lease. She seeks declarations founded upon proprietary estoppel and implied licence, an injunction restraining eviction, rescission of the seven-day notice to vacate dated 13 July 2026, damages and ancillary relief.

THE APPLICATION

[4.] The Claimant's Standard Claim Form expressly seeks interim relief at paragraph 6: a stay of NCPL's seven-day notice to vacate dated 13 July 2026 until further direction or determination of the substantive matter. In conjunction with that stay, the Claimant sought an injunction restraining NCPL and those acting on its behalf from evicting or removing her or her employee.

[5.] By a Certificate of Urgency dated 16 July and filed on 17 July 2026, the Claimant sought an immediate hearing in light of the requirement to vacate within seven days. She stated that she was 62, had operated at the port for approximately 23 years and faced removal of merchandise which she valued at approximately $70,000, with attendant transport and storage difficulties. She referred to recent bereavement, her physical and emotional difficulties, the business as her only source of income, and responsibility for her adult dependent son. She alleged that eviction would cause business collapse, loss of income, impairment of contractual rights and reputational and financial harm not adequately compensable in damages.

[6.] The application for an interim injunction was advanced on the basis that connecting the toilet to infrastructure supplied by NCPL did not breach clauses 15, 16 or 18, and that her pleaded rights founded on the alleged assurance, proprietary estoppel and implied licence required protection pending determination.

[7.] NCPL relies on what it submits are express lease obligations requiring compliance with law, prior written approval for improvements and avoidance of nuisance. It also relies on the entire-agreement clause and the contractual mechanism for termination following an uncured breach after thirty days' written notice. It says that no written request for approval of the toilet, or of any plumbing modification to the Leased Premises, was ever submitted by or on behalf of the Claimant, and no such approval was ever granted.

THE STATUS QUO ORDER

[8.] A status quo order dated 23 July 2026 was made upon the Claimant's urgent application for interim relief. That order preserved possession, prohibited toilet use and permitted compliance inspections while providing for a timetable for evidence, skeleton arguments and a further hearing. Specifically, the order provided at paragraphs 6 to 9:

> 6. The Claimant is allowed to remain in possession of the said premises pending the determination of the Injunction, or until further Ordered.

7. The Claimant is not allowed to use the toilet facilities forming the subject of this dispute pending the determination of the Interim Injunction or further order of the Honourable Court.
8. The Claimant shall allow the Defendant periodic access to the premises for the purpose of compliance inspection to determine whether or not the toilet is being used.
9. Either party is at liberty to apply to vary or set aside the said order within 7 days from today's date.

[9.] While the present determination concerns the Claimant's application for an injunction, I must bear in mind the existing status quo order and consider whether to continue or discharge that order in light of the parties' evidence and submissions.

THE ISSUES

[10.] The issues arising for determination are:

1. Whether the Claimant has demonstrated a serious issue to be tried;
2. Whether damages would constitute an adequate remedy for either party;
3. Whether an undertaking in damages provides sufficient protection; and
4. Where any doubt remains, where the balance of convenience lies.

THE EVIDENCE / SUBMISSIONS OF THE PARTIES

The Claimant's Submissions

[11.] The Claimant submits that her claim raises serious questions concerning the alleged oral assurance, the intended use of the infrastructure supplied by NCPL, and her asserted proprietary estoppel and implied licence. She says that installation of plumbing points within the booths represented that tenants could connect sanitary fixtures at their own expense, that she relied upon that representation, and that NCPL should not now be permitted to resile from it. The Claimant contends that these disputed matters require determination at trial rather than final resolution on the interim application.

[12.] On the contractual allegations, the Claimant submits that the toilet was installed before formal execution of the lease. Alternatively, she distinguishes connection of a fixture to a landlord-provided stub-out from the installation of new plumbing mains and submits that her work does not constitute the breach alleged.

[13.] On damages and the balance of convenience, the Claimant submits that eviction would threaten a longstanding business, her sole income and her ability to support her dependent son. She relies also upon her medical needs and the asserted inadequacy or limited availability of communal toilet facilities as explaining the installation. Although damages are claimed, she submits that a later award would not adequately restore the business and continuity of trade lost through eviction.

[14.] The Claimant also contends that NCPL would suffer no comparable loss if an injunction were granted and that preservation of occupation is the course carrying the lesser risk of irremediable prejudice. Her Certificate of Urgency also identifies the burden of removing and storing stock at short notice.

The Defendant's Submissions

[15.] NCPL contends that the rights that the Claimant seeks to enforce are contrary to the parties' contractual bargain. It contends that there is no serious issue to be tried and argues that the claim lacks prospects possessing substance because the Claimant's asserted entitlement is inconsistent with express terms of the lease. It relies upon clauses 15, 16 and 18 concerning legal compliance, written approval for improvements and nuisance, together with clause 30's entire-agreement provision. It says written approval for the toilet was neither sought nor given. NCPL also denies that its former director ever advised the Claimant, whether orally or otherwise, that she was permitted to install a toilet.

[16.] NCPL further submits that the Tenant has failed to comply with any of the remedial steps required by the Notice of Breach, a material non-disclosure going directly to the good faith of her application and to the balance of convenience.

[17.] Concerning damages, NCPL submits that the Claimant's alleged losses are principally business interruption and lost profits, capable of measurement and compensation. On comparative prejudice, it submits that injunctive restraint would interfere with its contractual and proprietary rights while exposing it to regulatory, reputational and other-tenant risks not readily compensable in money. It characterizes continued occupation as effectively mandatory relief conferring substantially the remedy sought at trial. NCPL submits that the risk of injustice is greater if the injunction is granted than if it is refused.

THE LEGAL FRAMEWORK

[18.] The Court derives its power to grant an interlocutory injunction from **Section 21 of the Supreme Court Act** which provides:

> 21. (1) The Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in all cases *in which it appears to the Court to be just and convenient to do so.*
>
> (2) Any such order may be made either unconditionally or on such terms and conditions as the Court thinks fit.
>
> (3) If, whether before, or at, or after the hearing of any cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the Court thinks fit, whether the person against whom the injunction is sought is or is not in possession under claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or either of the parties are legal or equitable.
>
> [Emphasis supplied].

[19.] By section 21 of the Supreme Court Act, a court may grant an interlocutory injunction as an interim remedy if it appears to the court to *be just and convenient to do so*. This vests a wide discretion in the court. **Part 17 of The Supreme Court Civil Procedure Rules, 2022, as amended ('CPR') governs** the applicable procedure and practice.

[20.] **Rule 17.1(1)(b) of The Supreme Court Civil Procedure Rules, 2022, as amended ('CPR')** provides:

> 17.1 Orders for interim remedies: relief which may be granted.
>
> (1) The Court may grant interim remedies including —
>
> (a) ….
>
> (b) an interim injunction;

[21.] In the instant matter, the applicable principles governing interlocutory injunctive relief are those established in **American Cyanamid Co v Ethicon Ltd** [1975] AC 396. The Court must consider:

a) whether there is a serious issue to be tried;
b) whether damages constitute an adequate remedy for either party;
c) the significance and value of any undertaking in damages; and
d) where necessary, the balance of convenience.

[22.] The stages referred to in **American Cyanamid Co v Ethicon Ltd** [1975] AC 396 have distinct functions. The serious-issue inquiry excludes a claim without a real foundation but it does not require a forecast that the claimant will win. Once that threshold is crossed, damages must be considered practically and reciprocally. If the claimant could be adequately compensated in damages and the defendant could pay, an interim injunction

would not normally be warranted merely because the claimant has a strong case. If damages would not adequately protect the claimant, the court considers whether the defendant would be adequately protected under the claimant's undertaking, including its practical value. Where neither assessment supplies a sufficient answer, the court compares the risks associated with granting, withholding or tailoring protection.

[23.] **American Cyanamid Co v Ethicon Ltd** [1975] AC 396 also cautions against resolving disputed evidence and difficult legal questions as though conducting the trial. The purpose of the jurisdiction is not to determine finally disputed issues of fact or law but to avoid injustice pending trial.

[24.] The authorities relied upon by the parties include **Re Colin Wright BS 2018 SC 20, Mothercare Ltd v Robson Books Ltd** [1979] FSR 466, **Walsh v Lonsdale** [1882] 21 Ch D 9, and **Ali v Petroleum Company of Trinidad and Tobago** [2017] UKPC 2. Those authorities assist in defining the threshold for a serious issue to be tried, the effect of agreements capable of specific performance, and the limits of implied contractual terms where such terms would contradict express provisions.

Issue 1: Serious Issue to be Tried

[25.] In **Re Colin Wright BS 2018 SC 20,** in considering the threshold test of "is there a serious issue to be tried", Justice Charles, as she then was, opined at paragraph 29:

> This question is the threshold requirement. Lord Diplock in American Cyanamid said that it is sufficient if the Court asks itself: is the applicant's action "not frivolous or vexatious?"; is there "a serious question to be tried"?; is there "a real prospect that he will succeed in his claim for a permanent injunction at the trial"? These may appear to be three subtly different questions but they are intended to state the same test: *Smith v. Inner London Education Authority* [1978] 1 All E.R. 411 at 419, C.A. per Browne, L.J. See also *Seaconsar v. Bank Markazi* [1994] A.C. 438, H.L. and *Canada Trust v. Stolzenberg (No. 2)* [1998] 1 WLR 547.

[26.] Justice Charles, at paragraph 46, considered the guidance in the case of **Mothercare Ltd. v. Robson Books Ltd :**

> In *Mothercare Ltd. v. Robson Books Ltd* [1979] FSR 466 at 474, Sir Robert Megarry VC examined how serious is "serious" of the issue to be tried. He stated:
>
> > "The prospects of the Plaintiffs success are to be investigated to a limited extent, but they are not to be weighed against his prospects of failure. All that has to be seen is whether the Plaintiff has prospects of success which, in substance and reality, exist. Odds against success

> no longer defeat the Plaintiff, unless they are so long that the Plaintiff can have no expectation of success, but only a hope. If his prospects of success are so small that they lack substance and reality, then the Plaintiff fails, for he can point to no question to be tried which can be called "serious" and no prospect of success which can be called "real."

[27.] That passage from **Mothercare Ltd v Robson Books Ltd** [1979] FSR 466, 474, relied upon by NCPL, requires prospects possessing substance and reality rather than mere hope. It does not require the claimant to demonstrate that success is more probable than failure. This Court must consider the actual pleaded case.

[28.] NCPL relies on the express lease provisions as a substantial obstacle to the Claimant's case and this must be addressed at the serious-issue stage. The lease provisions concerning written approval, compliance obligations, and nuisance are plainly relevant. On the face of it, the Claimant faces significant difficulty in establishing an unrestricted entitlement to install and operate a toilet notwithstanding those provisions.

[29.] I am satisfied that NCPL has advanced a substantial contractual defence founded on the express terms of the lease. However, the question is whether those provisions answer the whole claim before the Court. In my opinion, the Defendant's contractual case does not dispose of the entirety of the Claimant's claim.

[30.] First, there is an issue as to the contractual setting when the installation occurred. The Claimant alleges that the toilet was connected before formal signature. Secondly, the pleaded case is not confined to implication of a contractual term. The Claimant expressly invokes proprietary estoppel and implied licence, identifies an alleged assurance by a named former director of NCPL that the infrastructure permitted tenants to install toilets or sinks at their own expense, and relies on the provision of plumbing points as conduct consistent with that assurance. She says that she acted upon that understanding in taking or remaining in the tenancy and installing the fixture.

[31.] The Claimant's case is more specific than an unsupported assertion that permission must have existed because a pipe was present. Reliance and detriment are not established merely by describing an existing pipe or invoking the label of estoppel. In this instance, the alleged speaker, subject matter and physical context are identified. Whether the assurance was made, its precise scope, the speaker's authority, what reliance occurred and what expenditure or other detriment followed remain matters requiring proof.

[32.] In this case, the Court will have to determine whether there is a sufficiently clear assurance assessed in its context; action or forbearance attributable to that assurance; a material detrimental change of position; and whether, considering the dealings as a whole, repudiation would be unconscionable.

[33.] NCPL submits that the Claimant is prohibited from implying a term inconsistent with the express wording of the lease. I accept that the legal principles in **Ali v Petroleum Company of Trinidad and Tobago** [2017] UKPC 2 are good law in that regard. However, **Ali v Petroleum Company of Trinidad and Tobago** concerns implied terms. That case does not answer the pleaded equitable cause of action in this case.

[34.] I therefore find that there is a serious issue joined between the parties notwithstanding the express provisions of the contract. The Claimant has identified a particular factual and legal basis for disputing the right to possession which is not shown, in my opinion, to be merely fanciful. It is not part of the Court's function at this stage to resolve conflicts of evidence nor to decide difficult questions of law. At this interlocutory stage, it would be inappropriate to resolve the disputed matters conclusively.

[35.] Taking the case as a whole, I am satisfied for interim purposes that there is a serious issue to be tried.

Issue 2: Adequacy of Damages

[36.] The enquiry into the adequacy of damages as required by **American Cyanamid** is a practical one. In **American Cyanamid Co. v Ethicon Limited [1975] AC 396**, 407 – 408, Lord Diplock explained the court's function in considering the adequacy of damages:

> *As to that, the governing principle is that the court should first consider whether, if the plaintiff were to succeed at the trial in establishing his right to a permanent injunction, he would be adequately compensated by an award of damages for the loss he would have sustained as a result of the defendant's continuing to do what was sought to be enjoined between the time of the application and the time of the trial. If damages in the measure recoverable at common law would be adequate remedy and the defendant would be in a financial position to pay them, no interlocutory injunction should normally be granted, however strong the plaintiff's claim appeared to be at that stage. If, on the other hand, damages would not provide an adequate remedy for the plaintiff in the event of his succeeding at the trial, the court should then consider whether, on the contrary hypothesis that the defendant were to succeed at the trial in establishing his right to do that which was sought to be enjoined, he would be adequately compensated under the plaintiff's undertaking as to damages for the loss he would have sustained by being prevented from doing so between the time of the application and the time of the trial. If damages in the measure recoverable under such an undertaking would be an adequate remedy and the plaintiff would be in a financial position to pay them, there would be no reason upon this ground to refuse an interlocutory injunction.*

[37.] NCPL submits that the Claimant's business losses are measurable and that her claim for damages demonstrates their adequacy. Its submissions invoke **Leslie McKenzie v Dwayne Gardiner**, **Richard Johnson v Michael Pintard and Duane Sands** and **Morazan Zuniga Jackson v Minister of Agriculture and Marine Resources**.

[38.] **In Leslie McKenzie et al v Dwayne Gardiner et al** [2025] 2 BHS J No 78**,** the court at paragraph 48 directs attention to the question of whether damages would adequately compensate claimants who succeed at trial after sustaining losses pending trial without an injunction. In other words, a court must consider whether damages would be an adequate remedy for the Claimants if the Claimants were to succeed at trial without the protection of an interim injunction. Applied here, I must assess the nature of the asserted loss and the evidential basis for any asserted inability to compensate it.

[39.] NCPL relies on the case of **Richard Johnson v Hon Michael Pintard MP and Dr Duane Sands [**2023] 1 BHS J No 107. NCPL invokes paragraph 54, from an application to set aside an injunction, concluding that damages were adequate, particularly because damages had been pleaded. In my view, that submission represents an oversimplification of the court's determination in that case and it does not account for all the factual considerations underlying the court's conclusion.

[40.] I have considered the authorities as advanced by NCPL. An award of damages is a major and common form of relief in civil litigation. A prayer for damages may address losses already incurred, compensable elements of a larger injury, or an alternative remedy. It is often combined with other forms of relief, as is the case here. It seems to me that the fact that damages are pleaded is not conclusive as to their adequacy for these purposes. It is but one factor to take into account. The question under **American Cyanamid** is whether compensation would adequately repair the actual consequences of withholding protection by injunction for the Claimant, not simply whether monetary relief has been requested.

[41.] Accordingly, this Court does not infer adequacy merely because damages are sought. The Claimant is entitled to plead monetary relief without conceding that money would adequately compensate every consequence of eviction. The converse is equally important: a mere assertion by a Claimant that damages are inadequate is no more decisive than the mere fact that they are claimed.

[42.] In considering the adequacy of damages, this Court must identify the likely injury/loss on the pleaded case and decide whether an award would adequately compensate it. Under **American Cyanamid**, if damages would be adequate and the Defendant would be able to pay them, an interim injunction should normally be refused, notwithstanding the existence of a serious issue to be tried.

[43.] I take into account what is said to be the Claimant's loss. On the pleaded case and by her evidence, it seems to me that the principal loss is financial: interruption of sales, loss of profits, moving and storage expenses, loss of goodwill and the financial consequences of re-establishing the business. These are losses ordinarily susceptible to assessment. Trading records can provide a basis for estimating net profits during an interruption; reasonable relocation and fitting-out expenditure can be identified; and a continuing

reduction in profitability may be assessed against the position which would have obtained without wrongful displacement.

[44.] I consider the particular location of the Claimant's business. If the Claimant contends that access to this location makes compensation inadequate, there must be an evidential foundation for that contention. For example, the evidence must explain why the business depends upon the particular premises. The Court recognises that a port location may have commercial advantages but cannot infer from the nature of the location alone that relocation would destroy the business or produce loss incapable of reasonable valuation.

[45.] Expenses related to a relocation would also be capable of calculation. I make no finding that suitable replacement premises are immediately available and there is no evidence that the Claimant is unable to relocate or that all future trading would cease. Even if alternative premises were less profitable, that is a financial differential capable of assessment.

[46.] This Court does not minimize the hardship which displacement would cause this Claimant. The Claimant's case is that she has spent many years building the business, that it is her only income and supports her dependent son. Removal entails disruption, anxiety and the practical burden of moving stock and finding another place to trade. Those consequences are serious, and I have considered them. Their seriousness, however, must be distinguished from the question of whether the resulting loss can adequately be compensated. The personal importance of the business and the Claimant's preference for this location do not, without more, make the commercial loss irreparable.

[47.] Considering the nature of the business, the injury asserted and the evidence advanced, I am satisfied that damages would be an adequate remedy if the Claimant succeeds after interim protection is refused. The Court has recognised and reviewed the hardship displacement may occasion, but is not satisfied that the hardship demonstrates an injury for which an eventual award of damages would be inadequate.

[48.] While the foregoing is sufficient to dispose of this application, I also record my determination that NCPL's prejudice is not confined to delayed possession or lost revenue. Its evidence raises concerns regarding sanitation, public health, nuisance, and potential exposure affecting neighbouring occupiers and visitors to the port facility. It is my view that such prejudice may not be adequately answered by money. Although there is a status quo order in place, I do not consider that such continued restraint necessarily causes NCPL no material harm. The concerns raised by NCPL have not been conclusively resolved by that order.

[49.] I also take into consideration that there is nothing in the material before this Court to suggest that the Defendant, NCPL, would be unable to compensate the Claimant in damages. No such assertion has been made and no challenge to the Defendant's ability to satisfy an eventual award is before me.

Issues 3 and 4: Undertaking in Damages and Balance of Convenience

[50.] The foregoing determinations are dispositive of the application. It is therefore unnecessary for this Court to determine whether an undertaking in damages provides sufficient protection or where the balance of convenience lies.

CONCLUSION

[51.] The Court therefore refuses the Claimant's application for an interim injunction and hereby discharges the status quo order. The Claimant has established a serious issue to be tried. However, damages constitute an adequate remedy for the Claimant, within the meaning of **American Cyanamid**. There is no identified reason to doubt the Defendant's ability to meet an award.

[52.] The application for an interim injunction is refused and the status quo order dated 23 July 2026 is discharged.

[53.] Costs are reserved.

ORDER

[54.] The ORDER and directions of this Court are therefore as follows:

1. The Claimant's application for an interim injunction restraining eviction is refused.
2. The interim order dated 23 July 2026 is discharged.
3. Costs are reserved.

Dated this 4th day of November 2026.

Hon. Madam Justice Carla Card-Stubbs