

**COMMONWEALTH OF THE BAHAMAS  
IN THE SUPREME COURT**

**COMMON LAW AND EQUITY DIVISION**

**2010/CLE/GEN/1137**

**BETWEEN**

- (1) RICHARD ANTHONY HAYWARD**
- (2) SUSAN JANE HEATH**
- (3) GILES EDWARD HAYWARD**
- (4) RUPERT CHARLES HAYWARD**
- (5) FRANCESCA ROSE CHELSOM**
- (6) EMMA LOUISE CAMERON**
- (7) ALEXANDER JAMES WROUGHTON HEATH**
- (8) NICHOLAS CHARLES EDWARDS HEATH**

**Claimants**

**AND**

- (1) STRIKER TRUSTEES LIMITED**
- (2) PROMETHEUS SERVICES LIMITED**
- (3) RICHARD W DEVRIES**
- (4) KEITH GRIFFITHS**
- (5) SIR JACK ARNOLD HAYWARD (died 13 January 2015)**
- (6) LADY JEAN MARY HAYWARD (died 12 May 2015)**
- (7) FREDERICK ARTHUR LEBLANC CAMERON (a minor) by PRESTON RABL his Guardian ad Litem**
- (8) IAN BARRY**
- (9) PATRICIA RUTH BLOOM**
- (10) AMY BLOOM CLOUGH**
- (11) TREVOR BETHEL**
- (12) JONATHAN MICHAEL HAYWARD**

**Defendants**

**Before: Her Ladyship The Honourable Madam Senior Justice  
Deborah Fraser**

**Appearances:**                    **Mr. Ramonne D. Gardiner for the Judicial Trustees,  
Mr. Paul Winder and Mr. Mark Richford**

**Mr. John F. Wilson K.C. with Mrs. Michelle I.  
Deveaux for McKinney Bancroft and Hughes**

**Mrs. Gail Lockhart-Charles K.C. for Mr. Robert Ham  
K.C.**

**Judgment Date:**                **13 October 2023**

**Preliminary Objection – Wasted Costs Application – Court’s Jurisdiction –  
Rule 2.2 (2) (b) of the Supreme Court Civil Procedure Rules, 2022 –  
Exceptional Circumstances**

**RULING**

1. This is a preliminary objection brought by Messrs. McKinney Bancroft and Hughes regarding this Court’s jurisdiction to hear a Wasted Costs Application (filed herein on 21 February 2023) brought by Mr. Paul Winder and Mr. Mark Richard, the Judicial Trustees for the 1993 Sir Jack Hayward Discretionary Settlement.
2. There was also an objection or suggestion relating to this Court not being given full and frank disclosure regarding a jurisdictional point prior to granting the Judicial Trustees leave to serve the Wasted Costs Application on Mr. Robert Ham K.C. out of the jurisdiction.
3. I agree with Mr. Gardiner that the earlier ex-parte application (heard by this Court) dealt solely with granting leave to serve Mr. Robert Ham K.C. outside of the jurisdiction with the Wasted Costs Application. Thus, the Court’s jurisdiction to hear the Wasted Costs Application was inconsequential to granting the aforementioned leave.
4. After having consulted His Lordship, the Honourable Chief Justice Sir Ian Winder, reviewing the relevant law presented by Counsel and considering the facts/circumstances of this case (which I need not go into as they are quite extensive and all Parties are familiar with them), I rule that this Court does have jurisdiction to hear the Wasted Costs Application.
5. The matter has been transferred to this Court by the Chief Justice himself. For the avoidance of doubt and in reliance on **Rule 2.2 (2) (b) of the Civil**

**Procedure Rules, 2022**, His Lordship and I have come to the consensus that it is appropriate for me to preside over this matter. It is also to be noted that, though it is typical for the judge who made the wasted costs order to hear the Wasted Costs Application, exceptional circumstances exist in this matter, which prevent such from occurring – being that His Lordship has recused himself based on certain information he became privy to during the course of the proceedings when the matter was before him.

6. The Court is now prepared to provide directions on the continuation of these proceedings.

**Senior Justice Deborah Fraser**

**13 October 2023**