IN THE SUPREME COURT OF BERMUDA

CIVIL JURISDICTION

2024: No. 222

BETWEEN:

ANDREW LUNDIN CRISSON

Plaintiff

-and-

H.S. & J.E. CRISSON LIMITED, INCLUDING ITS DIRECTORS

Defendants

JUDGMENT

Date of Hearing: **27 July 2026**

Date of Judgment: **10 August 2026**

Appearances: **Plaintiff in person**

Mr Trevor Goulet and Mr David Williams, Walkers (Bermuda) Limited, for the Defendants

JUDGMENT of Elkinson JP AJ

Introduction

1. This is my judgment following the trial of a claim brought by Andrew Lundin Crisson ("the Plaintiff") against his former employer, H.S. & J.E. Crisson Limited ("the Company"), a family-owned Bermuda retailer of jewellery and watches which was founded over a hundred years ago.

2. The Plaintiff's claim, as pleaded, sought $1,049,626.54, comprising unpaid salary and wages, statutory severance, and repayment of an alleged loan of $50,000. By the time of trial, the claim had been substantially reduced: the severance claim was abandoned, and the balance was advanced as damages in lieu of reasonable notice, unpaid wages, and repayment of the $50,000.

3. The Plaintiff's case, in essence, was that his employment with the Company was terminated by the Company on 30 January 2022, that the resignation letters he signed that day do not reflect a genuine and voluntary decision on his part to relinquish his employment, and that he was not paid his wages during the period from December 2019 to January 2022.

4. The Company's position was that the Plaintiff voluntarily resigned, in writing, from both his directorship and his employment at a board meeting on 30 January 2022, and that no further sums are due to him. In the alternative, the Company contended that if it be found the Plaintiff did not resign, it had just cause to terminate his employment in any event.

5. Having heard the evidence and considered the documentary record, I have concluded that the Plaintiff's claim fails in its entirety. My reasons follow.

Procedural History

6. The action was commenced by Specially Indorsed Writ of Summons issued on 30 July 2024. The Defendants entered an Appearance and filed their Statement of Defence on 22 August 2024.

7. The interlocutory history is protracted, in substantial part because of applications brought by the Plaintiff, including an application to join the Trustees of the SIRN Trust, which is the subject of a separate action, and an application for summary judgment in the sum of $2,626,097.98, a figure considerably in excess of the sum claimed in the Statement of Claim itself.

8. By Order dated 8 May 2026, the Plaintiff's summary judgment application was dismissed, his Reply to Defence dated 11 October 2024 was struck out, and directions were given for an expedited trial. That trial was fixed, at the Plaintiff's request for expedition, for one day to be heard on 27 July 2026.

9. On the morning of the trial as it began, the Plaintiff applied for an adjournment on the grounds that Ms. Sharon Wilson, who had previously assisted him as a McKenzie Friend, was unwell. She was also to be a witness, having made a substantive witness statement.

10. Counsel for the Defendants opposed the application, noting that the Defendants' witnesses were present and ready, one had disrupted their holiday to be there and that some observers had travelled to Bermuda for the trial. Mr Goulet also confirmed that he was not going to cross-examine Ms. Wilson in any event and that her Witness Statement could be read in. I considered both submissions on this application for an adjournment. I was satisfied that the Plaintiff was capable of presenting his case without the assistance of a McKenzie friend and took into account that he had wanted an expedited trial and that the Defendants would incur additional costs if an adjournment was allowed. I indicated to the Plaintiff that I was prepared to grant an adjournment on the terms that he would pay for the costs thrown away, such costs to be paid forthwith and in any event before the matter could be heard at some future date. The Plaintiff elected to proceed with the trial.

11. I should note that in respect of the issue of a McKenzie friend, someone who has a direct involvement in the proceedings, which Ms. Wilson had as a key witness for the Plaintiff, would generally be ineligible to be a McKenzie friend. If it had been requested for Ms. Wilson to be the McKenzie friend, it would likely have been refused. Bermuda does not have a codified rule or Practice Direction specifically governing McKenzie friends. The position has been developed through case law which largely imports the English common

law approach. The leading local authority is *Jahquille Stowe v The Queen* [2016] SC Bda 40 App (Kawaley CJ). He held that the Supreme Court possesses a broad discretion to permit persons who are not legally qualified to assist litigants in person as a so-called McKenzie friend. This is not a 'right'. It is a discretionary indulgence granted by the court and in *Stowe* Kawaley CJ noted the underlying principles had never seemingly been formally articulated in published local case law before that judgment. *Stowe* effectively imports English principles wholesale. The ordinary McKenzie friend function is that of sitting with the litigant, taking notes, quietly advising and suggesting questions. This is close to automatic, in accordance with the old authority, *Collier v Hicks [1831] 2 B & Ad.663.* Lord Tenterden CJ in that case said (at p.669), (cited with approval in *Stowe*), *'Any person, whether he be a professional man or not, may attend as a friend of either party, may take notes, may quietly make suggestions, and give advice; but no-one can demand to take part in the proceedings as an advocate, contrary to the regulations of the Court as settled by the discretion of the Justices.'*… The McKenzie friend cannot seek a payment and should not have any personal interest in the case. Further, no one can demand to take part in the proceedings as an advocate. It remains at the court's discretion whether to permit it or not. The primary basis for the rule, with particular regard to Bermuda, is that anyone who acts as an attorney, without express permission of the court, which permission is granted at its discretion and that would be the exceptional case, and who is not in possession of a Bermuda practicing certificate, commits a criminal offence. Section 26 of the Bermuda Bar Act 1974 states: -

> "Save where expressly permitted by this or any other Act no disqualified or unqualified person shall act as a barrister and attorney, or as such sue out any writ or process, or as such commence, carry on or defend any action, suit or other proceeding in any court, or act as a barrister in any case civil or criminal to be heard or determined in any court."

The Witnesses

12. The Plaintiff gave evidence in support of his own case in a witness statement which was, as he set out in paragraph 2, *"…an incomplete working draft and that it was intended to provide the structure and principal themes of his evidence, to be supplemented and refined as further documents and witness materials are reviewed."* This is an unacceptable attempt to create some form of conditionality on the evidence which Mr Crisson was required to give to support his case.

He was cross-examined at the trial.

13. He also relied on 4 other witness statements from Anthony Butterfield, Maria Arruda, Sharon Wilson, and Almir Waldron. Mr Waldron's statement was unsigned and, the Court was informed, had been drafted by Ms. Wilson. Mr Waldron had never seen it. Further, there was a letter from David Cox, and an unsigned record of a discussion with Luciano Alcardi. That evidence was directed principally to whether the Plaintiff continued to perform work for the Company, or for family trust properties, during the period between December 2019 and January 2022. It is unnecessary for me finally to resolve the extent of that work, since, for the reasons which follow, the central question in this action is not how much work the Plaintiff did, but whether the resignation he signed on 30 January 2022 was voluntary.

14. For the Company, I heard from Helen Crisson, a director and the Plaintiff's daughter, and from Grace Rego-Raposo, formerly the Company's Vice President of Finance and Administration. Peter Crisson, the Plaintiff's brother and the third director present at the family meeting on Sunday morning, 30 January 2022, when the two resignation letters were signed by the Plaintiff, died on 15 April 2026. Peter Crisson's contemporaneous correspondence, including his email of 11 February 2022, nonetheless forms part of the record.

15. Central to this action is not, in the end, a contest between rival accounts of the meeting of 30 January 2022, but the contents of an agreed transcript of an audio recording of it, whose making and provenance is not challenged. I have tested the oral evidence against that

contemporaneous record, and have preferred it, where it speaks for itself, over any characterization offered after the fact.

<u>The Issues</u>

16. The central issues are:

(1) whether the Plaintiff voluntarily and effectively resigned on 30 January 2022;

(2) if not, whether the Company had just cause to terminate him regardless;

(3) unpaid wages as Plaintiff claims for the period December 2019 to January 2022;

(4) the character of the $50,000 payment – a loan from the Plaintiff or repayment of part of his debt to the Company;

(5) the credit card charges made by the Company on the Plaintiff's credit card;

(6) health insurance premiums which were unpaid by the Plaintiff;

(7) the use and retention of the Company vehicle by the Plaintiff;

<u>Findings of Fact</u>

A. The Meeting of 30 January 2022 and the Resignation

17. By December 2019 the Company's banking relationship with its bankers had come under serious strain. This was as a direct result of the Plaintiff's own financial position. He was, at that time, substantially indebted, directly, through a Loan Account and a Charge Account, and indirectly, through guarantees given by trusts he had himself settled, on which defaults had occurred. The bank, treating the Plaintiff as a party related to the Company, threatened to close the Company's accounts. Absent resolution, the Company faced a real prospect of being unable to meet payroll. This is corroborated by the Company's own contemporaneous financial correspondence.

18. It was against this background that the Company's three directors met at Peter Crisson's home on Sunday, 30 January 2022. An agenda and appendix, provided to the Plaintiff at

the outset, recorded that the Company required his resignation as a director in reliance on the Company's byelaws, in particular byelaw 77(d), which provides that a director's office is vacated if he *"...becomes bankrupt or compounds with his creditors"* and that his *"...personal conduct precludes [him] from being in an executive role with the company and being a salaried employee."*

19. The meeting was recorded with the Plaintiff's knowledge, and an agreed transcript is before me. It shows that the Plaintiff was told at the outset his resignation as director was required; when he asked, *"any particular reason?"*, he was shown byelaw 77 and told that *"compounds"* meant he had *"had to renegotiate debts outside of their original terms,"* which had occurred *"when all the accounts got locked, and your debts got added to the store."* He said, *"Let me just think about it a sec, okay?"*, and signed a letter of resignation as director. He was then told that the Company also required his resignation as an employee. His only response was to ask why they wished to *"push forward with this"* and was told the Company was legally obliged to act. Health insurance was raised and addressed, and he signed a second letter, resigning *"from my role at H.S. & J.E. Crisson Limited with immediate effect."* Helen Crisson then recorded receipt of *"both the resignation letters... as an employee, and as a director"* and the meeting was adjourned.

20. The two letters of resignation, both signed by the Plaintiff, are before me: one resigning as "Director & Officer," the other resigning "from my role" at the Company, both dated 30 January 2022.

21. In *Kwik-Fit (G.B.) Ltd v Lineham* [1992] ICR 183, Wood J held that *"where words or actions are prima facie unambiguous an employer is entitled to accept the repudiation at its face value at once, unless special circumstances exist."* That principle applies in Bermuda: *V.I.P. Auto Service Ltd v Warner* [2018] SC Bda 48 Civ.

22. Applying it, I find the Plaintiff's resignation, as both director and employee, was clear, unambiguous, and effective. This is, if anything, a stronger case for the Company than *Kwik-Fit* itself, where the resignation was oral, given in a moment of anger, with no written record at all. Here the Plaintiff was given an agenda, taken through the relevant byelaw with an explanation of its application, asked pertinent questions before signing anything,

said he wished "to think about it," and then signed two separate written letters addressed, in materially different terms, to his directorship and to "my role" respectively. That two distinct documents were prepared and signed is itself evidence of the distinction between directorship and employment. This is the very distinction on which the Plaintiff's claim now depends. However, it was understood by everyone in the room, including the Plaintiff, at the time.

23. The Plaintiff does not allege he was defrauded as to the nature of the documents, or that anyone misrepresented what he was signing. He does not plead, and did not seek to establish at trial, duress or undue influence. No such case appears in his Statement of Claim or witness statement. What he says, at its highest, is that the meeting was called at short notice, took place at a private home on a Sunday, that he had no opportunity for independent advice, and that he acted in haste.

24. None of this is capable of undoing an otherwise clear and voluntary resignation. The informal setting is unremarkable in a small, family-owned company where family and business affairs were routinely intermingled. Nor do the Company byelaws require any longer notice period for a board meeting: byelaw 92 requires only that notice be given by some legible means; the fourteen-day notice period in byelaw 76 applies only to removal of a director at a Special General Meeting, a different procedure from that adopted here. This was never engaged since disqualification arose automatically under byelaw 77(d).

25. Further, even though there is no pleaded case of duress or undue influence, the facts would not support such a finding had that been alleged. The pressure the Plaintiff says he was under was the ordinary and legitimate consequence of the Company's directors responding to a real commercial threat. That was the bank's threat to close the Company's accounts, which came about because of the Plaintiff's own financial conduct, not any illegitimate design by Helen or Peter Crisson.

26. The subsequent correspondence confirms this conclusion. On 10 February 2022, the Plaintiff asked the Company to *"look at the organizational structure and try to find a job for me"* acknowledging this might require reducing staff, and stating *"I am 58, and will find it difficult to find any other work."* That request is impossible to reconcile with his

claim and present belief that he remained an employee. On 13 February 2022, he asked *"to rescind the resignation"*, itself an acknowledgment that a resignation had occurred, not a denial of it. Further, the late Peter Crisson's email of 11 February 2022 records, within twelve days of the meeting: *"Just to be clear, you were not fired... your fellow two directors... requested your resignation from all positions. You agreed to do this and it was duly executed."* I accept that as an accurate contemporaneous record.

27. For these reasons, I find the Plaintiff voluntarily and effectively resigned, as both director and employee, on 30 January 2022. His claim, insofar as founded on wrongful termination, fails.

B. Just Cause (In the Alternative)

28. Given my finding on resignation, it is unnecessary to decide whether the Company would, in any event, have had just cause to terminate the Plaintiff. I record my alternative finding for completeness. Had the Plaintiff not resigned, I am satisfied, on the evidence of Grace Rego-Raposo, supported by the evidence of Helen Crisson, the evidence of both witnesses I fully accept, and the documentary record, that the Company would have had just cause. Grace Rego-Raposo took on various roles within the organization. She began as a salesperson and then a cashier at the 71 Front Street store and, over time, assumed roles in the main office at 16 Queen in inventory control, human resources, and accounting. She ultimately became the Financial Controller and then Vice President of Finance and Administration. She held that role for many years and was responsible for payroll, accounting records, and the Company's financial administration generally. She took on human resource tasks as and when required.

29. Applying *Thomas v Fort Knox Bermuda Ltd* [2010] CA (Bda) 5 Civ, and the principles enunciated by Evans JA in that Judgment of the Court of Appeal, the Plaintiff's substantial and admitted indebtedness on his Loan and Charge Accounts, his use of Company inventory to satisfy personal creditors, his conduct regarding the Company's vehicle (further set out below), and the entanglement of his personal finances with the Company's own to the point of threatening its solvency, would have furnished just cause, precisely the situation contemplated by byelaw 77(d). Her evidence covered the fact, as did the evidence

of Helen Crisson, that he was not always to be found when needed at the store or to carry out store business, ran up personal debt at local stores, was poor at managing the debt owed to the store and local vendors and as regards the company van, retained that despite being asked to return it after he resigned and drove it without insurance and without the company's permission. The Plaintiff's position as regards the van was that the fact that he took it to the Transport Control Department for its annual testing was sufficient proof that he was still working for the company and hadn't resigned. I reject that given that he had the van without permission and ignored the Company's requests to return it.

C. Unpaid Wages, December 2019 to January 2022

30. I find, on Grace Rego-Raposo's evidence and the documentary record, that the Plaintiff was paid throughout this period. His net wages were subject to deductions applied at his own instruction, and that from March 2020 his wages, reduced to $500 per week, in common with other senior staff, in light of the pandemic, were paid into his mother's account at his own request.

31. The reason for this payment to his mother's account is not in doubt. Ms. Rego-Reposa was a witness who under cross-examination gave her evidence in a clear and very direct manner. I have no hesitation in finding her totally credible on the issues on which she gave her evidence. The Plaintiff's own HSBC bank account was, at the relevant time, subject to a court order obtained by Marshall Diel & Myers, a creditor in his divorce proceedings, which prevented him from withdrawing money. It was that court order, not any default by the Company, which gave rise to the payment into his mother's account, an arrangement he requested and from which account he made regular withdrawals.

32. I find the Plaintiff was, in substance, paid throughout the relevant period for which he claims he was not. His claim for unpaid wages fails.

D. The $50,000 Payment

33. I find this payment, made by the Plaintiff's partner Ms. Sharon Wilson, on his behalf on 30 December 2021, was a part-payment of the Plaintiff's own indebtedness to the Company. This was clearly not a loan from him to it. The transfer itself records the

beneficiary reference as “Andrew Debt and Rent” and the user reference as “Crisson Store Debt”; Sharon Wilson’s email of 3 January 2022 refers expressly to *“managing the debt that Andrew has to the store”* and the Plaintiff’s own email of 11 December 2021 proceeds on the footing of debts owed by him. There were also confirmation letters dated 1 July 2021, signed by the Plaintiff addressed to the Auditors, Arthur Morris & Company, confirming the debts on the accounts receivable and in respect of Director’s loans. This claim fails.

E. Credit Cards

34. I find, on Grace Rego-Raposo’s evidence, that the Company’s use of the Plaintiff’s personal credit cards, with reimbursement, was an established practice from which the Plaintiff derived personal benefit through points and travel rewards, and that he provided his login details freely. No sum is owed to him in this respect.

F. Health Insurance

35. Continued health insurance coverage after resignation was extended to the Plaintiff on the clear understanding that he would reimburse the Company. He did not. No claim arises in his favour.

G. The Company Vehicle

36. I find that, following his resignation, the Plaintiff drove the Company vehicle for several months without permission and without insurance, for his own benefit and not on Company business.

Conclusion and Disposition

37. For these reasons, I find that the Plaintiff voluntarily and effectively resigned from both his directorship and his employment on 30 January 2022; that no duress or undue influence was pleaded or established; that he was, in substance, paid throughout the relevant period; that the $50,000 payment was for the repayment of his own debt. No sums are owed to

him for credit card charges or health insurance. Had he not resigned, I would in any event have found just cause for termination.

38. The Plaintiff's claim is dismissed in its entirety. It is unnecessary to determine the Defendant's set-off claim, which was pleaded only in the alternative, on the contingency that the Plaintiff had not resigned and had been terminated. In the circumstances, this is a contingency which does not even arise.

39. This action illustrates a difficulty not infrequently faced by litigants in person. A sincere sense of grievance is not, without more, capable of being translated into a cause of action recognized by law. Still less can it justify a court action if the evidence available does not support the position contended for. The Plaintiff assembled a substantial body of material addressed to the extent of his ongoing work, his personal finances, and his contribution to the family enterprise over many decades. This material, however sincerely advanced, did not engage the central legal question which this case required him to answer. That was whether the resignation letters he signed, two separate letters, on 30 January 2022, were done voluntary. Having reviewed the whole of the evidence, I am satisfied they were and no claim for wrongful dismissal arises.

40. I am further satisfied that in relation to this matter that the Defendants should have their costs but I am prepared to hear any application which either party may wish to make in respect of costs. If no application is made within 14 days of the date of this Judgment, then my Order is that the costs of this action and all other outstanding cost orders are in favour of the Defendants.

Dated this 10th day of August 2026

JEFFREY ELKINSON

ASSISTANT JUSTICE OF

THE SUPREME COURT OF BERMUDA