



In The Supreme Court of Bermuda

CIVIL JURISDICTION

2023: No. 347

BETWEEN:

GAYLE ANN VENTURES

Plaintiff

- and -

CLARIEN BANK LIMITED

First Defendant

**ALEXANDRA WHEATLEY
REGISTRAR OF THE SUPREME COURT**

Second Defendant

JUSTICE OF APPEAL GEOFFREY BELL

Third Defendant

RULING (SPECIFIC DISCOVERY)

Date of Hearing and Ruling: 18 February 2026

Date of Ruling: 19 February 2026

Appearances: Plaintiff Gayle Ventures in Person (by Zoom) with her McKenzie Friend Ms. LeYoni Junos

James Sellick, Walkers (Bermuda) Limited for the First Defendant

Conor Doyle, Conyers Dill & Pearman Limited, for Second and Third Defendants

RULING of Mussenden CJ

1. This matter came before me on the Plaintiff's Summons dated 8 February 2024 for specific discovery (the "**Specific Discovery Application**"). The Summons listed 4 areas of discovery that Ms. Ventures requested, the first three being satisfied by voluntary disclosure by the Second and Third Defendants (the "**Judicial Defendants**"). The fourth area of disclosure is as follows:
 - a. Full disclosure and inspection from the Second and Third Defendants of all correspondence between the Second and Third Defendants and Mr. Audley Quallo between 29 April 2021 and 10 May 2021, when Mr. Quallo finally sent the documents in question to all the parties.
2. There are two other Summonses that have been issued in this case, which stand adjourned until after the determination of the Specific Discovery Application:
 - a. The First Defendant's Summons dated 8 January 2024 and the Second and Third Defendants' Summons dated 18 December 2023 for an application to strike-out the matter (the "**Strike-Out Applications**").
3. In respect of the Specific Discovery Application, the Plaintiff relies on her affidavit sworn 8 February 2024 ("**Ventures1**") and the affidavit of her McKenzie Friend Ms. Junos sworn on 23 October 2025 ("**Junos1**") along with its exhibit LJ-1.
4. Counsel for the First Defendant attended on a watching brief.

Background to Civil Appeal No 3 of 2021

5. It will be useful to set out the background to Civil Appeal No 3 of 2021 (the "**Appeal**") in order to set the context of the present matter and present application. The Appeal has already been determined by the Court of Appeal.
6. On 22 January 2021, Hargun CJ (as he then was) gave judgment against Ms. Ventures and in favor of Clarien Bank Limited ("**Clarien**") by way of enforcement of a loan and

mortgage. On 2 March 2021, Ms. Ventures appealed against that judgment to the Court of Appeal.

7. On 24 March 2021, the Registrar gave directions for the settlement of the record and the prosecution of the appeal. Ms. Ventures failed to comply with various of those directions. On 30 April 2021, Bell JA (sitting as a single judge of the Court of Appeal) administratively dismissed the appeal under Order 2, rule 17 of the Rules of the Court of Appeal (the “**Dismissal Order**”), having received from the Registrar the certificates of non-compliance specified thereunder, signed by her on 29 April 2021 (the “**Non-Compliance Certificate**”).
8. Copies of the perfected Dismissal Order and the Non-Compliance Certificate were circulated to the parties by e-mail from Mr. Audley Quallo, the then Clerk to the Court of Appeal, on 10 May 2021. Ms. Ventures’ position is that her lawyer at the time, Mr. Cameron Hill, had indicated that he did not receive the documents. I note that he was included on the email as sent by Mr. Quallo.
9. Ms. Ventures thereafter sought to restore her appeal to the full Court of Appeal. The full Court declined to restore the appeal by a judgment dated 3 September 2021. Ms. Ventures renewed that application on different grounds. The full Court declined that further application on the papers by a judgment given on 26 November 2021.

Background to this Application

10. Ms. Ventures, by way of Originating Summons dated 16 October 2023, claims against the Defendants in respect of the circumstances of the Appeal, the Certificate of Non-Compliance and the actions of the Defendants in relation to the Appeal. She seeks various declarations in respect of her claim that her constitutional right to the protection of the law, in particular her right to a fair and impartial hearing and her right to appeal as of right, is being contravened by the Defendants.
11. This Specific Discovery Application was initiated by the Plaintiff in response to the Judicial Defendants’ Strike-Out Application. In support of that Strike-Out Application, an

affidavit was filed by Ms. Amani-Cane Mary (“**Ms. Mary**”) wherein she exhibited various categories of documents including emails, the Certificate of Non-Compliance signed by the Registrar, an Order of the Court of Appeal and the two judgments of the Court of Appeal in relation to the Appeal. Ventures1 takes issue with the statement by Ms. Mary at paragraph 4(d) that there was an email from the Registrar to Mr. Quallo dated 29 April 2021 providing Mr. Quallo with pdf copies of the Certificate of Non-Compliance and an Order for transmission to the parties. Ms. Ventures’ point is that that could not be true because the Order signed by Bell JA was signed on 30 April 2021, so it could not be attached to the Registrar’s email of 29 April 2021.

12. Thus, the Specific Discovery Application sought four areas of disclosure. There was some communication between the parties. In a letter from Conyers to the Plaintiff, various issues were raised about the pending applications and in relation to the Strike-Out Applications, the letter enclosed an affidavit of Mr. Audly Quallo sworn on 28 March 2024 (“**Quallo1**”). In that affidavit, Mr. Quallo explained generally the Court of Appeal’s administrative practices at the time of the dismissal of Ms. Venture’s appeal. He referred to the well know fact that in early 2021, Bermuda was in the midst of the Covid-19 pandemic, which had from March 2020 for nearly two years severely disrupted court operations, necessitating the adoption of new ways of working. One innovation was the electronic sealing of judgments and orders as during extended periods of working remotely it was not practical for judicial officers to sign hard copies of documents in the usual way. Thus, a practice was developed to add judicial signatures and a stamp to a word version of a judgment or order. He explained that this would have been done at the direction and complete knowledge of the Judge or Registrar responsible for the order or judgment. The document would then be converted into a pdf which would then be emailed to the parties as the judgment or order of the Court. There would be no wet-ink original as such and the original would be the pdf saved on the Court’s computer system and distributed to the parties.

13. In an affidavit of Christopher Roper of Conyers sworn 9 October 2025 he exhibited a letter sent by Conyers to Mrs. Ventures stating that the Specific Discovery Application was misconceived and procedurally irregular. However, they explained that they were

instructed to respond to the Specific Discovery Application by voluntarily providing some information, which they did for the four areas, such that the Specific Discovery application should be withdrawn. In reply in Junos1, she asserted that a false document was exhibited by Mrs. Mary and that the Judicial Defendants have admitted filing false evidence. She exhibited email correspondence stating that the Plaintiff accepted the disclosure for the first three areas but did not accept the explanation for disclosure for the fourth area, which stated *“Our clients have conducted a search of their records for all emails passing between one or other of them on the one hand and Mr. Quallo on the other between 29 April and 10 May 2021 in relation to Civil Appeal No 3 of 2021. We enclose copies of all emails that have been identified by our clients to date as belonging to that category.”*

14. Junos1 exhibited email correspondence as follows:

- a. An email from Mr. Quallo to Benjamin McCosker of Walkers dated 29 April 2021 at 11:46am where Mr. Quallo stated *“All noted and received with thanks.”* The Registrar was copied in that email. Mr. McCosker had provided a draft dismissal order with a signature block for the Registrar.
- b. An email from the Registrar to Mr. Quallo dated 29 April 2021 at 12:02pm where she stated *“Dear AQ, Please see attached.”* Upon my review of the evidence, the Registrar included as attachments the Certificate of Non-Compliance as signed by herself and a dismissal order dated 29 April 2021 as signed by herself.
- c. An email from Mr. Quallo to the Registrar dated 29 April 2021 at 12:07pm stating *“Problem: you cannot dismiss the appeal. Your power is only limited to, upon being satisfied that there is non compliance, to certify that to a judge of the court of appeal. Only a judge of the court can dismiss. I now have to refer your signed certificate to a judge and it will have to be that judge who dismisses.”*
- d. An email from the Registrar to Mr. Quallo dated 29 April 2021 at 12:15pm where she states *“Right. Correct. So the Order would be signed by Judge of the COA if satisfied.”*

15. Junos1 email explained to Conyers that they were seeking the email correspondence that must have taken place between Mr. Quallo and/or the Registrar and Bell JA referencing

the documents and seeking his approval to affix his signature stamp/electronic signature to the Order. Junos1 stated that the Plaintiff did not accept that the Judicial Defendants had made full disclosure and stood by Ms. Ventures' request to have the disclosure and to inspect the emails/documents. They now seek specific discovery of any such communication between the dates of 29 April 2021 and 10 May 2021.

The Plaintiff's Submissions

16. Ms. Ventures, by way of Ms. Junos, submitted in her skeleton argument and in Court, arguments as follows:
 - a. Someone amended the date and signature lines of the original word document submitted by Walkers for Clarien, altering the order that had been signed by the Registrar on 29 April 2021 to accommodate the signature stamp of Bell JA, for which permission would have had to have been sought and obtained during a period when all parties were operating and corresponding remotely.
 - b. The Judicial Defendants have not provided disclosure as to how and when Bell JA received the documentation from either the Registrar and/or Mr. Quallo to dismiss the Appeal; and when and how his consent and direction to affix his signature stamp to the disputed order was given.
 - c. It is concerning that, having produced the voluntary disclosure, the Judicial Defendants are either unable or unwilling to produce the evidence disclosing how Bell JA's signature stamp became affixed to the Order that was originally signed by the Second Defendant herself.
 - d. Ms. Ventures is unsure of the terms of the search and therefore a further search with varying terms is necessary.
 - e. The disclosure of the correspondence is related to and important to the issues in the Strike-Out Applications. Ms. Junos referred to Court Practice Directions during the Covid-19 pandemic, asserted that attorney Mr. Hill had been trying to make payment to the Registry but was not allowed to do so due to restrictions on accessing the Registry and asserted that Ms. Ventures was trying to comply with the direction for the Appeal.

- f. Whilst Ms. Mary may not know the circumstances of the events in respect of the Dismissal Order, the Judicial Defendants and Mr. Quallo do know and should be made to provide disclosure as requested.

The Judicial Defendants' Submissions

- 17. Mr. Doyle made a number of submissions as set out below.

- 18. The Judicial Defendants' Strike-Out Application, which was filed before the Specific Discovery Application, raises numerous threshold problems affecting Ms. Ventures claim, including:
 - a. that the action is an abusive collateral attack on a final judgment of a superior Court;
 - b. that Ms. Ventures has adequate alternative means of relief under subsection 15(2) of schedule 2 to the Constitution and that, in any event, the Judicial Defendants are not proper defendants to a constitutional action; and
 - c. that the Judicial Defendants have an absolute immunity from suit with respect to anything done in connection with their judicial roles.

- 19. The discovery sought by Ms. Ventures is not on any view relevant to the Judicial Defendants' Strike-Out Application. He relied on *AB v Mount Saint Agnes Academy* [2023] SC (Bda) 27 Civ for the principle that specific discovery is ordered only sparingly in connection with interlocutory applications, and then only when the documents requested can be shown to be necessary for the fair disposal of the action. Thus, the documents sought, which relate to the execution of the Non-Compliance Certificate and the Dismissal Order, are not relevant to the fundamental defects in Ms. Ventures' claim, which is the basis of the Judicial Defendants' Strike-Out Application.

- 20. The Specific Discovery Application is moot because the Judicial Defendants have already answered it: (i) providing the original message files for the 28 April 2021 and 10 May 2021 emails and (ii) the Judicial Defendants conducted a search of their records for all emails passing between them on the one hand and Mr. Quallo on the other, between 29 April 2021 and 10 May 2021 in relation to the Appeal.

The Law

21. In *AB v Mount Saint Agnes Academy* [2023] Sc (Bda) 27 Civ, in respect of specific discovery in an interlocutory matter, I stated as follows:

“18. Third, the Rules of the Supreme Court 1985 (“RSC”) Order 24, rule 1 anticipate that discovery of documents is limited to after pleadings have closed. Therefore, discovery in interlocutory proceedings is not the norm. Matthews & Malek, Disclosure, 5th Edition [at 2.39] sets out that in relation to interlocutory proceedings, discovery “... would be ordered sparingly and only such documents as could be shown to be necessary for the fair disposal of the application.” In respect of specific discovery per RSC Order 24, rule 7, the White Book [at 24/7/2] confirms that the affidavit in support must show a “prima facie” case that (i) the documents exist; (ii) are in possession, custody or power of the defendant; and (iii) are relevant to the issues in dispute. Thus, the order sought by the Plaintiff for discovery must be precise and the documents readily identifiable by the Defendant. Further, RSC Order 24, rule 8 provides the Court with a discretion to refuse an application for specific discovery on the basis that, at the time, it is not necessary.”

Analysis

22. In my view the Specific Discovery Application should be refused for several reasons.

23. First, upon review of the evidence, I understand the events to be as follows:

- a. Mr. McCosker emailed Mr. Quallo with a draft dismissal order with a signature block for the Registrar, who was included in the email. Mr. Quallo replied to him thanking him for the documents.
- b. The Registrar acted upon the email from Mr. McCosker. She signed or affixed her signature stamp to the draft dismissal order which included a paragraph 2 which stated *“The Costs of the Appeal and of he Application be paid by the Appellant.”* She emailed the Certificate of Non-Compliance and the dismissal order that she signed to Mr. Quallo. I note here that that dismissal order was never issued by Mr. Quallo for the reasons as set out in the following paragraphs.
- c. Mr. Quallo reviewed the documents and replied to the Registrar that she did not have the authority to sign the dismissal order and that it would have to be sent to a judge of the Court of Appeal. He stated that he will have to send the Certificate of Non-Compliance to a judge and it will be for that judge to dismiss the matter.

- d. The Registrar acknowledged his views as being correct, noting that the dismissal order would have to be signed by a judge of the Court of Appeal if satisfied.
 - e. Mr. Quallo sent the Certificate of Non-Compliance and the Dismissal Order with the signature stamp of Bell JA to the parties, including Mr. Hill, on 10 May 2021. The Dismissal Order dated 30 April 2021 had the stamp signature of Bell JA affixed to it. Paragraph 2 had been changed to “*Liberty to apply in respect of cost is granted.*”.
 - f. Once litigation commenced, Ms. Mary, a paralegal employed at Conyers, swore her affidavit which exhibited copies of documents. In paragraph 4(d), she referred to the exhibit pages 15-24, stating that it contained an email dated 29 April 2021 from the Registrar to Mr. Quallo with pdf copies of the Non-Compliance Certificate and Order for transmission to the parties. Upon examination of the exhibited documents, at page 23, there is the actual Dismissal Order with the affixed signature stamp of Bell JA. To my mind, this was not the correct dismissal order that should have been at page 23. The correct one should have been the one as signed by the Registrar, but which was never issued. I find support for this because Mr. Quallo pointed out to the Registrar that she could not sign the dismissal order. The same actual Dismissal Order is referred to by Ms. Mary in paragraph 4(e) which corresponds to exhibit page 33 showing the actual Dismissal Order. I make this point because Ms. Ventures makes much complaint about this in Ventures1 where she questions the truthfulness of the Judicial Defendants in making disclosure because the wrong dismissal order is at page 23.
24. Second, I agree with Mr. Doyle that the disclosure sought is not relevant to the Judicial Defendants Strike-Out Application and the fundamental defects of Ms. Ventures’ claim. That Strike-Out application is based on the followings grounds: (i) that the action discloses no reasonable cause of action and/or is frivolous or vexatious; (ii) the claims are *res judicata*, vexatious and a collateral attack on the judgments of the Court of Appeal, which dismissed Ms. Ventures’ applications to restore the Appeal; (iii) Ms. Ventures has adequate alternative means of redress by way of appeal to the Privy Council; (iv) the Judicial Defendants are not the correct defendants; and (v) the Judicial Defendants have full

immunity at common law for all actions in their judicial capacities and in the execution of their offices.

25. To my mind, the disclosure requested, related to the execution of the Non-Compliance Certificate and the Dismissal Order, has no connection to the strike-out grounds advanced by the Judicial Defendants. In my view, there is nothing that could be revealed in the requested disclosure of correspondence between Mr. Quallo and the Judicial Defendants that could be used to resist the strike-out application. In applying the principles that I set out in *AB v Mount Saint Agnes Academy*, with reference to *Matthews & Malek, Disclosure, 5th Edition* [at 2.39] discovery in interlocutory matters, such as this application, is not the norm and should only be ordered sparingly and only for such documents necessary for the fair disposal of the application.

26. I refer to *AB v Mount Saint Agnes Academy* where I referred to RSC Order 24, rule 7 and that the White Book at [24/7/2] confirms that the affidavit must show a *prima facie* case that (i) the documents exist; (ii) are in possession, custody or power of the defendant; and (iii) are relevant to the issues in dispute. In my view, Ms. Ventures' affidavit and submissions, whilst making assertions about the disclosure provided and that the requested disclosure must exist, has failed to show that such disclosure exists, is in the possession, custody or power of the Judicial Defendants and is relevant to the issues in dispute. Thus, in my view, guided by the principles of relevance and using such discovery orders sparingly, I am not satisfied that I should grant the Specific Discovery Application.

27. Third, the Judicial Defendants have already provided voluntary disclosure, which covered a number of areas including the original message files for the 28 April 2021 and 10 May 2021. Additionally, the Judicial Defendants have explained that they conducted a search of their records for all emails passing between them and Mr. Quallo for the period between 29 April 2021 and 10 May 2021 in relation to the Appeal. Further, I reject Ms. Junos' submissions that as she did not know the search terms that were used by the Judicial Defendants, other search terms should be used. To that point, I refer again to *AB v Mount Saint Agnes Academy* where I referred to RSC Order 24, rule 7 and that the White Book at

[24/7/2] confirms that the affidavit must show a *prima facie* case that the documents exist. In my view, the Judicial Defendants having set out that the correspondence does not exist, Ms. Ventures has failed to show a *prima facie* case that they do exist.

28. For the reasons set out above, I refuse Ms. Ventures' Specific Discovery Application.

29. Unless either party files a Form 31TC within 7 days of the date of this Ruling to be heard on the subject of costs, I direct that costs shall follow the event in favour of the Judicial Defendants against the Plaintiff on a standard basis, to be taxed by the Registrar if not agreed.

Dated 19 February 2026



THE HON. LARRY MUSSENDEN
CHIEF JUSTICE