



# In The Supreme Court of Bermuda

## CIVIL JURISDICTION

2015: 473

### IN THE MATTER OF THE BCD TRUST

#### EX TEMPORE RULING

#### (CONFIDENTIALITY ORDERS)

(in Chambers)

Date of hearing: November 30, 2015

Mr. Ben Adamson, Conyers Dill & Pearman Limited, for the Plaintiff

Louise Charleson, MJM Ltd, for the 1<sup>st</sup> and 4<sup>th</sup> Defendants

Mr Sam Riihiluoma, Cox Hallett Wilkinson Limited, for the Minor Beneficiaries

1. I should just say briefly that the application [for a confidentiality order sealing the file and anonymising the proceedings] seems to me to be well-grounded.
2. I bear in mind that the history of what is essentially Chambers hearings is that they were traditionally private hearings. The notion of a more open approach to Chambers hearings has developed in the public interest within a constitutional framework which specifically blesses the idea of the Court departing from the public hearing principle in the interests of privacy and other countervailing public interests<sup>1</sup>.

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<sup>1</sup> Section 6 of the Bermuda Constitution provides, so far as is material, as follows:

*“(9) All proceedings instituted in any court for the determination of the existence or extent of any civil right or obligation, including the announcement of the decision of the court, shall be held in public.*

*(10) Nothing in subsection (9) of this section shall prevent the court from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court— (a) may be empowered by law so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings...”*

3. It seems to me that in this type of case it is inherently consistent with the public interest and the administration of justice generally that applications such as these should be anonymised and dealt with as private applications, where there is no obvious public interest in knowing about an internal trust administration matter.

Dated this 30<sup>th</sup> day of November, 2015 \_\_\_\_\_  
IAN RC KAWALEY CJ