

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Side

Cle/gen/0713/2014

SCOTIABANK (BAHAMAS) LIMITED

Plaintiff

AND

RICARDO N. GIBSON

1st Defendant

AND

BEVERLEY B. GIBSON

2nd Defendant

Before: The Honourable Mr. Justice Gregory Hilton

**Appearances: Michaella Barnett - Ellis for the Plaintiff
Kenneth WallaceWhitfield for the Defendant**

**Hearing Date: 5th November 2015; 3rd December 2015,
23rd February 2016 and 16th June 2016**

RULING

1. The Plaintiff in this matter has filed a Notice to discontinue this action. The court granted leave to the Plaintiff to discontinue the Action.
2. The Defendants, prior to the Plaintiff filing its Notice of Discontinuance, filed a Defence and counter claim in the action Amended on 18th February 2015.
3. On 5th March 2015 the Plaintiff filed a summons pursuant to Order 18 Rule 19 Rules of The Supreme Court (RSC) to have the 2nd Defendant's counter claim struck out.
4. The Court has determined in the Action 2009/cl/gen/01820 – which was an action between the same parties – that the Order of Turner, J made on 17th May 2010 would remain in place and not be corrected and as a consequence that matter is at an end. That essence of the counter – claim in the present action deals with issues that could and should have been dealt with in the 2009 action and are in my view Res Judicata.
5. The result is that the counter claim in this matter is hereby struck out.

Dated the 28th December 2018

The Hon. Justice Gregory Hilton