

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
COMMON LAW AND EQUITY DIVISION

2020/CLE/GEN/01105

BETWEEN

CHARLES BUTLER

Plaintiff

AND

CLARICE MURIEL BUTLER

AND

DENISE LORETTA BUTLER DOCEMO

AND

CRAIG FRANKLYN MILO BUTLER

Defendants

Appearances: Ms Hope Strachan and Sharanna Bodie for the Plaintiff
Miss Al-leecia Delancy and Mark Flowers for the First Defendant
Mrs Simone Morgan-Gomez and Philisea Bethel for the Second and Third Defendants

Hearing Date: 8th April, 2022

DECISION

DARVILLE GOMEZ, J

1. The First Defendant applied by Summons filed on February 18, 2022 for legal costs. It was supported by an Affidavit of the First Defendant filed on March 21, 2022 and April 5, 2022.
2. The Court ordered that a retainer of \$100,000 and the First Defendant's legal fees incurred be paid out of the Trust Fund to Golden Gates Legal. However, there was an objection by the Second and Third Defendants to the payment of legal fees prior to the execution of the Retainer Agreement dated January 11, 2022. The Court adjourned to consider the issue.
3. The First Defendant relied upon the case of **Petrona Russell and another v Anthony Thompson and another [2021] 1 BHS J. No. 1** as authority for an implied retainer. If

the Court accepted the existence of the implied retainer it would permit the First Defendant to claim the legal fees incurred prior to the execution of the written Retainer Agreement.

4. However, the court found that the **Petrona Russell** case was distinguishable because there was no written Retainer Agreement at all and the court had to examine the behaviour of the parties to determine whether there was an implied retainer.
5. In the instant case, the First Defendant was represented by Murrio Ducille at the hearings on November 2, 2021 and December 6, 2021. However, at the adjourned date on January 25, 2022 the First Defendant had changed counsel to Golden Gates Legal.
6. Therefore, I do not accept that the fees incurred prior to the execution of the Retainer Agreement are recoverable from the Trust Fund and the First Defendant and I order that they be excluded.

Dated the 2nd day of May, 2022



Camille Darville Gomez
Justice