

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CIVIL DIVISION)

CLAIM NO. ANUHCV2025/0551

BETWEEN:

NICOLETE LEWIS

Claimant

and

GLOBAL BANK OF COMMERCE
(IN ADMINISTRATION)

Defendant

Appearances:

Ms. Kivinee Knight Edwards and Ms. Dericia Browne, Counsel for the
Claimant

Dr. David Dorsett, Counsel for the Defendant

2026: February 25th, 26th.

DECISION

- [1] **MICHEL, M.:** The Claimant at all material times was an employee of the Defendant. She commenced the present proceedings against the Defendant by claim form and statement of claim filed on 12th November, 2025 seeking to recover her pension entitlement from the Defendant.
- [2] On 19th November, 2025 the Defendant applied to strike out the Claimant's claim on the ground that on 10th November, 2025 the Defendant was placed into administration by the Financial Services Regulatory Commission and an Official Administrator was appointed. Further, that section 117(3)(a) of the **International Banking Act 2016** ("the Act")¹ provides that on or during the appointment of an Official Administrator, no person shall commence an action against the Defendant. The Defendant's further grounds of its application are that on 12th November, 2025 the Claimant initiated the instant proceedings against the Defendant contrary to **section 117(3) of the Act** and that commencing proceedings that are prohibited by law is an abuse of the process of the Court.

¹ Act No. 6 of 2016.

- [3] The Defendant subsequently filed a “Notice of Official Administration” indicating that the Defendant was placed into Official Administration by the Financial Services Regulatory Commission. The notice further advised that by virtue of **section 117 of the Act**, all claims and enforcement of claims against the Defendant are stayed.
- [4] Attached to the notice was an instrument of appointment dated 10th November, 2025 by the Financial Services Regulatory Commission appointing Kathy David of Grant Thornton as Official Administrator of all the undertaking, property and assets of Global Bank of Commerce Limited.
- [5] **Section 117 of the Act** as amended by section 2 of the **Law (Miscellaneous Amendments) Act 2018²** provides:-

17. Moratorium and effect of official administration on proceedings

(1) The Commission may impose a moratorium suspending some or all payments by a licensed financial institution in official administration, except payments to central clearing counterparties and to payment, settlement and clearing systems.

(2) On and during the appointment of an official administrator, no creditor, shareholder, depositor or any other person shall have any remedy against the licensed financial institution in respect of any claim

(3) Without prejudice to the generality of subsection (2), no creditor, shareholder, depositor or any other person shall:

(a) commence or continue any action, execution or other proceedings;
or

(b) seek to enforce in any way any judgment or order obtained against the licensed financial institution or licensed financial holding company or its successor or the transferee of the whole or any part of any property, assets or undertaking of the licensed financial institution for the recovery of any claim or in respect of any other liability,

Until the termination of official administration in relation to the licensed financial institution or without the prior leave of the court, unless the court directs otherwise.

...

² No. 26 of 2018.

(10) A stay pursuant to subsection (2) shall only operate as a temporary stay of a claim against the licensed financial institution and shall not have or be taken to have the effect of extinguishing such a claim.

(11) Where a claim is stayed pursuant to this section, for the purposes of the computation of time limits under any applicable law on limitation of actions, the period of time commencing with the date of appointment of the official administrator and ending with the date of termination of appointment of the official administrator shall be excluded.

(12) For the purposes of this section, "claim" means any claim whatsoever, including claims which are secured or unsecured, present or future, actual, prospective or contingent, or arising out of contract, tort, bailment, restitution, breach of trust or any other cause of action and whether or not made by a creditor, shareholder, depositor or any other person.

- [6] Having considered the relevant provisions of the **Act**, it is clear that the moratorium on proceedings against the Defendant is all encompassing and applies to any person, bringing any claim whatsoever against a licensed financial institution such as the Defendant under Official Administration. By virtue of **section 117(3) of the Act** as amended, the Claimant was required to seek prior leave of the Court before commencing these proceedings against the Defendant.
- [7] I agree with the submissions of learned Counsel for the Defendant that the effect of the Claimant filing the present claim against the Defendant without the prior leave of the Court renders the claim a nullity, or at best, liable to be struck out.
- [8] The Claimant filed a belated application on 24th February, 2026 for leave pursuant to **section 117(3) of the Act** as amended to continue legal proceedings against the Defendant for the recovery of her pension contributions said to be held in trust by the Defendant on her behalf. I gave careful consideration as to whether I should disapply the general principle of hearing applications in the order they are filed and hear the Claimant's subsequent application for leave. I have decided against this approach for two reasons.
- [9] Firstly, by her leave application, the Claimant is seeking permission to continue legal proceedings, however, by virtue of **section 117(3) of the Act** as

amended, the Claimant was barred from commencing any claim against the Defendant until the termination of official administration in relation to the licensed financial institution or with the prior leave of the Court, unless the Court directed otherwise.

[10] The Claimant having commenced the proceedings without the leave of the Court, I hold some reservations as to whether I could give permission to continue proceedings which are effectively a nullity. Secondly, I considered that there would be little prejudice to the Parties if the Claimant were to make a fresh application for leave to commence proceedings against the Defendant pursuant to **section 117(3) of the Act** as amended. In my view, doing so would avoid any unnecessary further litigation in connection with the present impugned proceedings.

[11] In light of the foregoing, I am of the view that the Claimant's claim should be struck out and her application for leave to continue proceedings against the Defendant should be dismissed without prejudice.

[12] As it relates to the issue of costs, having heard the parties on the issue, I would make a modest costs order to the Defendant on its application to reflect the circumstances of the case.

[13] For the reasons outlined above, I make the following orders:-

1. The claim form and statement of claim filed by the Claimant on 12th November, 2025 is struck out.
2. The Claimant's application filed on 24th February, 2026 for leave to bring a claim against the Defendant is dismissed without prejudice.
3. The Claimant shall pay costs to the Defendant in the sum of \$350.00 on or before 13th March, 2026.
4. The Defendant shall have carriage of this Order.

[14] I wish to thank learned Counsel on both sides for their assistance to the Court.

Carlos Cameron Michel
High Court Master

By the Court

Registrar