

THE EASTERN CARIBBEAN SUPREME COURT

ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

CLAIM NO. ANUHCV 2017/0585

BETWEEN:

ANTIGUA AND BARBUDA FISHERMEN CO-OPERATIVE SOCIETY

Claimant/Applicant

and

[1] PHILLIP ATHANAZE

[2] GARRY GORE

[3] COLIN FRANCIS

[4] JOHN BROWNE

[5] JOHN TOMLINSON

Defendants/Respondents

Appearances:

Dr. David Dorsett for the Applicant

Mr. Justin Simon KC for the Respondents

2026: February 19th,
March 3rd

RULING

[1] **WILLIAMS, J.:** The Applicant, the Antigua and Barbuda Fishermen Co-Operative Society Ltd. by Notice of Application filed on 13th February 2026, seeks interim injunctive relief pursuant to Part 17 of the **Civil Procedure Rules (Revised Edition) 2023** and **section 24** of the **Eastern Caribbean Supreme Court Act.**¹

¹ Cap. 143, Revised Laws of Antigua and Barbuda

- [2] The application follows this court's judgment of 24th December 2025 declaring that the Board elected at the Annual General Meeting of 20th July 2014 remains the lawful Board of Directors of the Antigua and Barbuda Fishermen Co-Operative Society.² The court also declared that the purported election of a Board of Directors, "the 2017 Board" at the Special General Meeting of 12th November 2017 was null, void, and of no legal effect. The court also ruled that decisions made by the 2017 Board were saved from invalidity by virtue of **section 75** of the **Co-Operative Societies Act**.³ That aspect of the decision is under appeal.
- [3] The Applicant now seeks mandatory injunctions restraining the Respondents from acting as the lawful Board and compelling delivery of keys, passwords, financial records and operational control of the society's premises and bank accounts.

Evidence in Support

- [4] Mr. Leonard Mussington swore an affidavit on 13th February 2026 in support of the application. He states that he was elected President in July 2014 and relies on the judgment of 24th December 2025 declaring that the 2014 Board remains the lawfully constituted Board of the organization. He exhibits correspondence from the Supervisor of Co-operatives dated 19th January 2026 confirming that the Financial Services Regulatory Commission (FSRC) recognises the 2014 Board and no longer recognises the purported 2017 Board.
- [5] Mr. Mussington deposes that notwithstanding the judgment, the Respondents have not yielded control of the society. He states that a Special General Meeting held on 12th February 2026 could not properly entertain resolutions to remove the 2014 Board or elect a new

² ANUHCv2017/0585 judgment dated 24th December, 2025 (unreported)

³ Co-operative Societies Act, No.9 of 2010

Board because the procedural requirements of the By-Laws, including written notice of charges under By-Law 35(i) were not satisfied. He further asserts that the Respondents retain possession of the society's accounts, thereby impeding preparation for an Annual General Meeting scheduled for March 2026. He further contends that damages would not be an adequate remedy for the Respondent's interference with the 2014 Board's management of the society.

Evidence in Opposition

- [6] The Second Respondent Mr. Garry Gore swore an affidavit on 18th February 2026 opposing the application. He states that the first three Respondents are members of the Supervisory and Compliance Committee elected at the society's last Annual General Meeting. He denies that Mr. Mussington is President of the society, asserting that Mr. Mussington and Mr. Lyndon Greene were expelled from membership in April 2015 after joining the Antigua Fisheries Board. Mr. Gore further contends that the society has not held an Annual General Meeting since 2014 and that the 2014 Board failed to provide financial reports.
- [7] Mr. Gore exhibits legal advice and correspondence concerning a Membership Petition alleging that the 2014 Directors breached section 42(1) of the Co-Operative Societies Act by failing to hold Annual General Meetings since 2015. He states that a Special General Meeting on 12th February 2026 removed the 2014 Board pursuant to **section 90 of the Co-Operative Societies Act** and elected a new Board. It should be noted that only the Second Respondent Mr. Garry Gore is a member of this purported new Board.
- [8] Thus, Mr. Gore denies that any of the Respondents are in possession of the society's property as alleged in the application and maintains that

the society's current operations are being conducted lawfully. He accordingly prays that the application for injunctive relief be refused.

Discussion

[9] The applicable principles are those set out in **American Cyanamid v. Ethicon Ltd.**⁴ and refined by the Privy Council in **National Commercial Bank Jamaica Ltd v. Olint Corp Ltd.**⁵ The Court must therefore consider:

1. Whether there is a serious issue to be tried?
2. Whether damages would be adequate? and
3. Where does the balance of convenience lie?

Serious Issue to be tried

[10] In light of the prior declaratory judgment, it is arguable that there is a serious issue to be tried. Dr. Dorsett on behalf of the Applicant relies on the case of **Watt v. Prime Minister**⁶ where the Court of Appeal confirmed that interim relief may be obtained at any time even after judgment. The Court of Appeal stated at paragraph 15 of the judgment as follows:

“Where a person has succeeded in litigation, including a judicial review matter, and has obtained an order for the fruits of his litigation, he can in the same action take steps to secure and retain those fruits from an illegal action designed to frustrate the judgment of the court.”

[11] CPR Rule 17.2(1) confirms that an order for an interim remedy may be made at any time including after judgment has been given. Therefore, this court has the jurisdiction to grant interim relief to give effect to the

⁴ [1975] AC 396

⁵ [2009] UKPC 16

⁶ (2013) 85 WIR 289

judgment of 24th December 2025. Thus, there is a serious issue to be tried.

Adequacy of Damages

- [12] This dispute concerns governance, control of premises and access to financial records. Damages would not provide an adequate remedy to either side pending trial.

Balance of Convenience

- [13] In **National Commercial Bank v. Olint** the Privy Council stated as follows:

“Likewise, if there is a serious issue to be tried and the plaintiff could be prejudiced by the acts or omissions of the defendant pending trial and the cross-undertaking in damages would provide the defendant with an adequate remedy if it turns out that his freedom of action should not have been restrained, then an injunction should ordinarily be granted.”⁷

- [14] A central difficulty concerns the identity and authority of the named Respondents. Dr. Dorsett conceded that the named Respondents except for Mr. Gore are not members of either the 2017 Board of Directors or the Board that was purportedly elected on 12th February 2026. Dr. Dorsett proposes that an injunction could therefore be granted against Mr. Gore. Third parties would then be liable if they interfere with the injunction.

- [15] Paragraph 7 of the affidavit of Mr. Leonard Mussington in support of the application states as follows:

“Notwithstanding the judgment of the High Court dated 24th December 2025, the 2017 Board (led by Mr. Garry Gore) have not yielded over control and management of the Antigua and Barbuda Fishermen Co-Operative Society to the 2014 Board, notwithstanding representation by the 2014 Board’s counsel (Dr. David Dorsett) to counsel for the 2017 Board (Mr. Justin Simon, KC) that there be a handover.”

⁷ [2009] UKPC 16 at paragraph 16

[16] It is clear from the above that a group of persons and not only Mr. Gore are allegedly preventing the 2014 Board from carrying out its mandate. Further, based on Mr. Gore's affidavit it appears that a new group of persons elected on 12th February 2026 may be in actual control of the society. In these circumstances the court would be in effect granting an injunction against persons who have no notice of the application.

[17] In **National Commercial Bank v. Olin** the Privy Council notes:
"Although the matter is in the end one for the discretion of the judge, *audi alterem partem* is a salutary and important principle. Their Lordships therefore consider that a judge should not entertain an application of which no notice has been given unless *either* giving notice would enable the defendant to take steps to defeat the purpose of the injunction (as in the case of a *Mareva* or *Anton Piller* order) *or* there has been literally no time to give notice before the injunction is required to prevent the threatened wrongful act."⁸

[18] Further, it appears that events may have overtaken the judgment of 24th December 2025 in that a new board of directors seems to have been elected on 12th February 2026. Based on Mr. Mussington's affidavit I have no doubt that the Applicant does not accept the results of that election. However, this would probably have to be the subject of a new claim as these persons (except for Mr. Gore) are not parties to this claim. Accordingly, in the exercise of my discretion, I would decline to make mandatory orders against persons who have not had an opportunity to be heard before the court. The application for an interim injunction is therefore dismissed.

Order

[19] The court therefore orders as follows:

⁸ Ibid para.13

1. The application for an interim injunction filed herein on 13th February 2026 is dismissed.
2. The Applicant shall pay costs to the Respondents in the sum of \$3,000.00 within fourteen (14) days of this order.

Rene Williams

High Court Judge

By The Court

Registrar