

**EASTERN CARIBBEAN SUPREME COURT
ANGUILLA**

IN THE HIGH COURT OF JUSTICE

CLAIM NO. AXAHCV 2022/0001

BETWEEN:

**THOMAS ALBANY JUSTIN HODGE
JULIE HODGE
THEO ALTERGRACIA ROGERS**

Claimants

-and-

**ROSEMARY DAWNE HODGE-ADAMS
Administratrix of the Estate of James Withington Hodge (deceased)
CHERYL L. HODGE**

Defendants

BEFORE: His Lordship The Honourable Justice Ermin Moise

Appearances:

Ms. Merline Barrett for the Claimants
Mr. Brian Barnes of Counsel for the 1st Defendant
2nd Defendant self-represented

2023: February 8; 9;
May 11.

JUDGMENT

[1] **Moise, J.:** This is a claim for an order revoking the Grant of Letters of Administration and the appointment of the 1st claimant as Administrator in the Estate of the late James Withington Hodge. It is claimed that there were irregularities in the process by which the Grant was made. It is also claimed that the 1st defendant made certain misstatements and omissions in the documents filed in support of her application for the Grant. The claim also states that the 1st defendant is not a fit and proper person to be appointed as Administrator of the Estate. The 1st claimant therefore seeks an order appointing him as Administrator in the said Estate. The claim is defended on the basis that the Letters of Administration was properly granted and that there was no basis for it to be set aside.

- [2] For reasons which I will explain in the subsequent paragraphs of this judgment, I have determined that the Letters of Administration granted to the 1st defendant on 22nd November, 2021 ought to be revoked on account of the irregularities in the process of obtaining the Grant. I have determined that the 1st claimant and 1st defendant should be jointly appointed as Administrators with further directions from the court. However, I would stay that appointment for a period of 14 days in order to give the parties an opportunity to determine whether an alternative arrangement may be more agreeable to all involved.

The Facts

- [3] The facts of this case concern the appointment of an Administrator in the Estate of the late James Withington Hodge, who died on 28th February, 2021. The 1st claimant, Mr. Thomas Hodge (Mr. Hodge), the 1st defendant, Mrs. Rosemary Dawn Hodge-Adams (Mrs. Adams) and the 2nd defendant, Ms. Cheryl Hodge (Ms. Hodge) are three children born to Mr. James Withington Hodge and his wife Ruth Naomi Lanns-Hodge. Mrs. Ruth Hodge pre-deceased Mr. James Hodge. However, Mr. and Mrs. Hodge had divorced by the time of her death. Mrs. Adams resides in Los Angeles and Ms. Hodge resides in Canada. Mr. Thomas Hodge resides in Anguilla.
- [4] In the witness statements and oral testimony at trial, it became apparent to the court that the three children of this marriage had held on to some emotional strain as a result of events which transpired over the years. Much evidence was led of the family struggles with cancer, separation and divorce, and personal differences which emerged over time. The testimony took the court into issues of who was “daddy’s favourite child”, for example, and the nature of the relationship between the parents after they had been divorced, whilst both struggling with old age, illness and death.
- [5] As challenging as some of these facts may be, I would state from the onset that none of these rose to such levels so as to satisfy the court that either party was unscrupulous and unfit to serve as Administrator in their father’s Estate. In fact, a lot of the issues raised in the evidence may very well be described as the vicissitudes which unfortunately trouble our lives at one point or another. People’s reactions to some of these are often diverse as we process grief, death and illness in different ways. I may therefore not go into detail in some of these facts because I do not believe that they ought to be properly placed in a published judgment, and also because I am not of the view that they have

influenced the decision I have come to. It would suffice to say that I have considered the facts as a whole.

- [6] In addition to some of those challenges, however, are events which intrude on some of what we grow to know about ourselves and our families over the course of our lives. They are emotionally challenging issues, but issues we must nonetheless confront. The 2nd claimant, Julie Hodge (Ms. J. Hodge), was unknown to the children of Mr. James Hodge's marriage for many years. She however emerged as one of his children. Although Mr. Thomas Hodge had informed Mrs. Adams about her in 2010, Mrs. Adams insists that her father had not acknowledged Ms. J. Hodge as his daughter at the time. She claims that it was not until the time of her father's burial did she first formally encounter Ms. J. Hodge. There was a former encounter via social media in which Mrs. Adams initially denied having a sister. However, they all now appear to have accepted Ms. J. Hodge as a sibling in one way or another.
- [7] Ms. J. Hodge had presented a birth certificate from the Commonwealth of Dominica with Mr. James Hodge's name recorded on it as her father. She also presented a sworn Affidavit of Kin in which Mr. James Hodge had acknowledged paternity. Despite some of the issues raised about it at trial, I am prepared to accept that Mr. James Hodge did in fact acknowledge Ms. J. Hodge as his daughter during his lifetime. In fact, in her own application for the Grant of Letters of Administration Mrs. Adams included Ms. J. Hodge as one of the beneficiaries entitled to the proceeds of the Estate.
- [8] Insofar as the 3rd claimant, Theo Rogers (Ms. Rogers), is concerned, there has been no acknowledgement on the part of the defendants as to whether she is a child of the late James Withington Hodge. She however claims to be his daughter. She provided evidence during the course of the trial to prove that she had been acknowledged by James Hodge as a daughter during his lifetime. However, before addressing my mind to the question of Ms. Rogers' entitlement, it is important to outline the facts leading up to the Grant of Letters of Administration and the events which transpired subsequent to that. It is on these facts my decision relating to the appointment of an Administrator will subsequently hinge.
- [9] Before addressing these facts I make just one further observation. It will be readily apparent to anyone that most of the issues relating to the applications made for the Grant of Letters of Administration took place within a matter of mere days and weeks after the burial services for

Mr. James Hodge. It is not that there is anything wrong with this in law. However, as I have already indicated, this is a family where emotions appear to have already run rather deep on a number of issues and this was in the middle of a Covid-19 pandemic with numerous restrictions in place. Mr. Thomas Hodge and Mrs. Adams appear to have almost immediately plunged themselves into a dispute as to who should become the Administrator of an Estate at a time when any family would be in grief and questions were being posed as to precisely who the heirs of this Estate are. In that circumstance, the court office was also plunged into the middle of a family dispute at that point in time.

- [10] I apprehend that the manner in which these issues were handled, though coloured by emotion, had caused significant challenges which this Court is now called upon to revisit in a bid to protect its own process from being abused in the future. One must always bear in mind that justice normally requires openness and transparency and it is always better to seek amicable resolutions to conflicts rather than be plunged into unnecessary litigation.

The Applications for the Grant of Letters of Administration

- [11] It is Mr. Hodge's claim that on 8th June, 2021 he applied for a Grant of Letters of Administration in his father's Estate. Mr. Hodge states that prior to making the necessary application he had obtained the consent of Ms. J. Hodge and Ms. Rogers and had served the Notice of Intention, in the P15 Form as prescribed in the Probate Rules, on the defendants. The Notice of Intention was dated 8th April, 2021 and was forwarded to the defendants by way of WhatsApp messages on the same date. In addition to that, the defendants were in receipt of an email from counsel acting on behalf of Mr. Hodge to which the Notice of Intention was attached. Mr. Hodge states that the Notice of Intention was served in that manner as the process server was unable to personally serve Mrs. Adams because she had left the jurisdiction on the date she had agreed to meet with him.
- [12] Mr. Hodge also states that, prior to making his application, a search was conducted in which the court office indicated that there was no Grant issued or pending in the said Estate. A certificate was lodged from his attorney's office outlining that the search was in fact done and his application for the Grant of Letters of Administration was filed on the court's e-litigation portal on 16th June, 2021. However, on 19th June, 2021, Mrs. Adams issued a Caveat seeking to prohibit the Grant of Letters of

Administration to Mr. Hodge. The Caveat indicated on its face that a similar application for such a Grant had in fact already been filed. However, as I will indicate later in this judgment, this was not exactly accurate as the application had not yet been lodged on the portal.

- [13] On 25th June, 2021, Mr. Hodge issued a Warning to Caveator against Mrs. Adams. He states in his pleadings and evidence that Mrs. Adams, having been served with the warning, failed to show any cause as to why the Grant should not be made, within the 14-day requisite period. Mr. Hodge alleges that on 13th July, 2021 his solicitors enquired as to whether his application would be proceeding as normal, given that the 14-day period had elapsed. Despite affirmation from the Registry, he was subsequently informed that the Caveat was in fact lodged by an attorney on behalf of Mrs. Adams and therefore had to be served on the chambers and not Mrs. Adams personally. Despite his own reservations, Mr. Hodge complied with the court's instructions and duly served the notice on Chambers. Mr. Hodge also states that he was informed by the court office that his application had been placed before the judge for consideration.
- [14] Despite this and repeated follow-ups, Mr. Hodge states that his application was never listed before the judge. However, on 22nd November, 2021, Mrs. Adams was in fact granted Letters of Administration in her own name. Mr. Hodge therefore claims that there were irregularities in the Grant awarded to Mrs. Adams. Before addressing some of Mr. Hodge's complaints in more detail, I turn to the circumstances under which Mrs. Adams' own application was processed.
- [15] As it relates to the Grant of Letters of Administration to Mrs. Adams, the facts here take a completely different turn. The evidence suggests that on 9th August, 2021, an application for the Grant of Letters of Administration was lodged on the court's e-litigation portal on behalf of Mrs. Adams. However, a Notice of Intention to Apply for the Grant was not filed and allegedly served until 26th August, 2021. That was after the application was lodged.
- [16] Despite the date on which this application was lodged on the court's e-litigation portal, the application itself is dated and signed 8th April, 2021. That would have been on or around the same date on which Mrs. Adams had received Mr. Hodge's Notice of Intention; albeit via WhatsApp and subsequent email from his attorneys. I make the point here that as at 8th April, 2021, although there had been an exchange of WhatsApp and email messages, the evidence does not suggest that a formal Notice of

Intention in the P15 Form had in fact been served by Mrs. Adams on Mr. Hodge or Ms. J. Hodge. No evidence of this had been presented in this case. Mrs. Adams states that she had taken Ms. J. Hodge to the Registry to sign an Affidavit of Consent, during her stay in Anguilla. However she was unable to do so and did not return to the office to sign this document. It would have therefore been apparent that there was no consensus for either Mrs. Adams or Mr. Hodge to become the Administrator of this Estate. There was, to my mind, a clear contention here in relation to that issue.

[17] The evidence suggests that in fact, Mrs. Adams, who was self-represented at the time, was engaged with the court office in an attempt to prepare and physically lodge her application with the Registry in April, 2021. The application was however not uploaded to the court's e-litigation portal by the Service Bureau until 9th August, 2021. The argument is that although Mr. Hodge's application for a Grant appears to have been first in time, this was only on account of the delay in uploading Mrs. Adams' application to the portal by the Service Bureau. That, it is argued, is the fault of the court's officers who are assigned to perform that duty. It is worth repeating, however, that the evidence presented to me suggests that at that point there had been no P15 Form served on anyone by Mrs. Adams; or at least I can find no evidence of such service.

[18] In light of this state of affairs, it appears that the court office did not proceed to process either application for a Grant until an order from the judge after the hearing of an application for judicial review filed by Mrs. Adams. The facts leading up to that order only adds to the state of affairs which was a direct effect of administrative errors in the processing of these applications and the approach taken, by Mrs. Adams in particular, in resolving those issues.

The Judicial Review Proceedings

[19] Mrs. Adams had instructed her attorneys to bring an action for judicial review against the Registrar of the High Court; that was notwithstanding the fact that she had lodged a Caveat against a Grant being issued, which she never appeared to have tried to litigate. Given that the application for leave to apply for judicial review was filed against the Registrar of the High Court, Mr. Hodge and any of the other claimants were not parties to those proceedings, and there is no evidence that notice of these proceedings were ever provided to them. In addition to that, counsel appearing from the Attorney General's Chambers did not contest the application for leave and it is unclear to me as to whether there was even an affidavit filed explaining how matters had come to the point in which they

did. In fact, counsel from the Attorney General's office conceded the very basis of the judicial review proceedings altogether and the court proceeded to hear a rolled-up judicial review in substance on the day on which the application for leave was heard. That was 21st July, 2021. The matter was adjourned to 23rd July, 2021 and then again to 29th July, 2021, during which time the Judicial Review application was heard. Again, there is no evidence that notice had ever been provided to Mr. Hodge, who at the time also had an application before the court, against which a caveat had been lodged. The learned judge issued his ruling on 4th August, 2021 and I think it is important to highlight the various findings of fact which had been made in that ruling. I state however, that there is no evidence to suggest that even that order had been served on Mr. Hodge, who was told that his own application was before the judge for consideration.

- [20] As was relayed to the court then, Mrs. Adams had approached the court office as early as 22nd March, 2021 with a view to applying for the Grant of Letters of Administration. Between that date and 1st April, 2021, she allegedly obtained the various documents which she was advised by the court office were required to proceed with her application. By 8th April, 2021 she returned to the court office to sign the relevant documents and pay the fees which were required in order to process the application.
- [21] I must again pause here to place those dates into context. From my understanding of the facts, Mr. James Hodge died on 28th February, 2021 in St. Thomas, USVI. He was returned to Anguilla and his funeral services were held on 2nd and 3rd April, 2021. Mr. Hodge asserts that Mrs. Adams herself, having travelled from Los Angeles to Anguilla for the funeral service, did not get out of the Covid-19 quarantine restrictions until 24th March, 2021. Yet, she states in her evidence that she approached the Registry about becoming the Administrator of her father's Estate as early as 22nd March, 2021 and had provided all the documentation to the Registry in less than a week of his burial. Her evidence also suggests that it was at the family house at the time prior to the burial that she first formally encountered Julie Hodge and Theo Rogers who both made claims to being children of Mr. James Hodge. Around that time, there had been WhatsApp exchanges among the siblings which clearly showed a disagreement about who ought to become the Administrator.
- [22] On 17th June, 2021 Mrs. Adams was contacted by the court office, who informed her that her application had not yet been filed and that in fact, the day before this communication Mr. Hodge had filed his own application for a Grant of Letters of Administration in the same Estate. She was informed

by the court's Office Manager that the matter was now contentious and that the court office could no longer assist her. It was stated that she would be refunded the sums of monies she had paid to the court in anticipation of the processing of her own application. Though she had lodged a Caveat against Mr. Hodge's application, she did nothing to further the prosecution of her objections to the application he had made. She however prosecuted a claim for judicial review against the Registrar of the High Court instead with no notice provided to Mr. Hodge.

- [23] The arguments which were then placed before the learned judge during this Judicial Review hearing were centered primarily on sections 2(1) and 2(3) of **Letters of Administration and Probates Act**¹ of Anguilla. The sections state as follows:

2. (1) In any case where a person dies intestate, an application may be made to the Registrar by the husband, wife, issue, father, mother, or issue of the father or mother of the deceased person for grant of letters of administration in respect of the deceased's estate.

(3) It shall be the duty of the Registrar to whom application is made in any non-contentious matter at the request of the applicant to fill up such papers as may be necessary to lead to the grant of letters of administration or of probate, as the case may be, and, for the purpose, he may require the applicant to furnish him with such particulars and proof as he may consider necessary; and if after investigation of the application the Registrar is satisfied that the application ought to be granted, he shall direct accordingly.

- [24] I make just one point at this stage. I do not necessarily share the view that this section compels the Registrar to assist with the filling up of the paperwork leading to the filing of an application. The section refers to the paperwork necessary to lead to the grant of letters of administration when an application has in fact been made to the Registrar. Whilst the entire process may encompass a review of the documents already filed, there may very well be an important distinction between the two and I will return to that issue later on in this judgment.

¹ R.S.A. c. L45

[25] The learned judge also went on to consider the relevant provisions of the **Eastern Caribbean Supreme Court (Non-contentious Probate and Administration of Estate Rules)** as are applicable to Anguilla, as well as the provisions for the filing of matters on the court's e-litigation portal; especially as it relates to *pro se* litigants. I would not wish to repeat the details of these provisions in full. However, for the purpose of this judgment it is important to specifically highlight the provisions of section 23 of the Rules, which states as follows:

- (1) Subject to paragraph (2), a grant of letters of administration may be made to a person entitled to it without the consent of any other person entitled in the same degree.*
- (2) Where, a person equally entitled to a grant of letters of administration, has not consented to the grant being made to the person equally entitled thereto, the applicant for the grant shall give not less than 14 days' notice to each other person entitled in the same degree before applying for the grant unless the court dispenses with the need for such notice.*
- (3) The notice required to be given by an applicant under paragraph (2) shall be in Form P15.*
- (4) In making an application for a grant of letters of administration:*
 - (a) the court shall require the applicant to file an affidavit of service of the notice or notices under paragraph (2);*
 - (b) any person challenging the right of a person in the same degree to a grant of letters of administration may apply to the court for directions or file a caveat, and;*
 - (c) no grant of letters of administration may be issued until the application referred to in paragraph (b) is finally disposed of.*

[26] I will return to the specific provisions of section 23 later on in this judgment. However it is also important to note that in accordance with the rules and practice directions governing filing on the e-litigation portal, a document is not deemed to be filed until it is actually uploaded to the portal during business hours on a particular working day. In my view, there is a potential danger to the management of the system as a whole if the court is to ignore this rule. There may be challenges which emerge with filing matters on a particular day. But to determine that an application or a document was filed any time prior to its uploading onto the portal can create significant uncertainty in the process.

[27] Insofar as it relates to the decision in the judicial review claim, having considered the facts which were presented to him, the learned judge then went on to make the following findings at paragraphs 30 and 31 of his judgment:

“(30) ... given the relevant facts, there seems to be no or no reasonable explanation why the applicant’s application was not uploaded to the E-litigation Portal at the time she signed the relevant documents to lead to the grant and the payment of the appropriate court fees and filing fees.

(31) The fact that there was another party interested in obtaining a grant in the same estate was of no business of the court or that of the Registrar. Had the appropriate action been taken by the court office and the Registrar in accordance with the Act, the rules and the guidelines, the question of there being the likelihood of the matter being contentious would not have arisen. Notwithstanding the alleged apprehension of the court officer or officers concerning the party’s interest in the estate, it becomes inexplicable why the interested party’s attorney at law filed an application for a grant of letters of administration in the same estate while the court office had notice of the preceding application which was in their possession.”

[28] I do not generally disagree with the sentiments expressed by the learned judge regarding the fact that administrative errors took place in the processing of the application filed by Mrs. Adams. However, I do make just two observations regarding the state of affairs at that point. Firstly, it would

seem that counsel on behalf of the Registrar merely conceded the case without offering a full explanation on the record for what had transpired. I agree that the Registrar is ultimately responsible for the management of the affairs of the Registry, but it is unclear to me as to whether she had any involvement in Mrs. Adams' application at that point; given that it was never uploaded to the portal in the first place. The Office Manager had been assisting Mrs. Adams with the processing of her application and the most which can be said at this point is that she had not uploaded these documents to the portal by the time Mr. Hodge came around to filing his own application. There are certain facts which emerged in this case which raises serious doubt in my mind as to whether this application was even ready to be processed at the time Mrs. Adams signed "*the relevant documents to lead to the grant and the payment of the appropriate court fees and filing fees.*" Again, one must draw a distinction between the stage at which an application is being processed for filing and one at which the Registrar's powers under section 2(3) of the Act come into effect.

[29] Secondly, I note that there has since been a Practice Direction which explains at precisely what point such applications are to be placed before the Registrar. In accordance with section 5 of Practice Direction No 1 of 2022, it is only after certain steps have been taken and the application is fully lodged on the portal and ready for consideration that the matter is to be placed before the Registrar by the Court Office. In fact the practice direction states that even the Court Office's duty to inspect the documents only becomes applicable after the document is uploaded to the portal. Once that is done, the Registrar is then entitled to exercise her discretion in the consideration of the application as contained in section 2(3) of the Act. There is no general entitlement to the Grant merely because there is an application in process.

[30] I am of the view that this would have been the approach to take even prior to promulgation of the Practice Direction. Where section 2(3) speaks to the Registrar's role in filling up the paper work and seeking information and investigating issues relating to the Grant, that is only after the application has already been filed and placed before her. That would be the proper approach as the Registrar's role in processing such a Grant is not merely administrative. It is a quasi-judicial function and she must be able to bring her independent judgment to bear. I am unable to find anything in section 2(3) of the Act which empowers the judge to compel the Registrar to exercise this discretion one way or another, as the section clearly states that if after investigation of the application the Registrar is

satisfied that the application ought to be granted, she shall direct accordingly. This is a decision for her to make and her independence in making such a decision ought not to be fettered without good reason. In this case, there are important facts which underscore the reasons for the proper and transparent exercise of those powers to which I will return.

[31] Additionally, I note that the judge at that hearing did not have the full benefit of arguments in favour of the other party who would have been most affected by the decision; that included Mr. Hodge who also had an application pending before the court and who was informed that his application was in fact first in time. The Judicial Review application went unopposed and in the absence of Mr. Hodge who had filed his own application in circumstances where the court office again fell into error. There are therefore factors which I believe ought to be considered in the present case and arguments which my brother judge did not have fully ventilated before him when he came to the decision he made. It is my view that Mr. Hodge would not be estopped from raising these issues in his own right within the provisions of part 68 of the CPR.

[32] I now consider these facts in light of the findings which were previously made and the evidence lead in the case before me, as I believe that the court in the judicial review proceedings had not been given a clear picture of the facts in this case.

[33] Even prior to either party filing an application for a Grant of Letters of Administration, it would appear that the siblings had exchanged WhatsApp messages among themselves regarding the issue. It would have been readily apparent that there was no general consensus as to who the Administrator of this Estate ought to have been. In fact, as I have said before, I can find nowhere in the evidence that a P15 Form had ever been served on Mr. Hodge prior to Mrs. Adams' engagement with the Registry and the payment of the relevant fees in April of 2021. No formal notice of an intention to file such an application appears to have been made. One must bear in mind that, according to the Rules, a P15 Form must first be served on all heirs of the same degree at least 14 days prior, unless there is consent to the party filing the application. The rules require that the Registrar proof of service of this form by way of affidavit evidence.

[34] If it is Mrs. Adams' argument that the application had in fact been signed on 8th April, 2021, then in order for it to be ready for processing in any way she would have had to have served a P15 Form on

Mr. Hodge, at least on or before 27th March, 2021. That is a duty which rests with the intended applicant and not the court office. It is apparent that Mrs. Adams did not do so, and I am not of the view that the court office bears responsibility for this. In addition to that, the evidence also suggests that the court office was not in receipt of Cheryl Hodge's affidavit of consent until 20th April, 2021. That evidence is presented on behalf of the defendants. It therefore cannot be entirely correct to say that there was *no or no reasonable explanation why [Mrs. Adams'] application was not uploaded to the E-litigation Portal at the time she signed the relevant documents to lead to the grant (my emphasis) and the payment of the appropriate court fees and filing fees.* Whilst she had signed certain documents, by some of what was even presented in evidence before me, all of the relevant documents to lead to the grant were not signed and this application was certainly not ready for processing as at that date.

[35] On the other hand, Mr. Hodge had in fact presented a P15 Form to his siblings via the same WhatsApp conversation on 8th April, 2021. I have my doubts as to whether this would constitute proper service of such a notice. However, on 8th April, 2021 his attorney also emailed a copy of the form to Mrs. Adams and his sister Cheryl Hodge. This email was acknowledged by Cheryl Hodge. She replied to counsel's email indicating that her sister had already made an application of her own. She attempted to attach this application to her emailed response. However, it could not have been the case that this application by Mrs. Adams had been filed as Ms. Hodge had herself not submitted her own consent form to the Registry and no P15 Form had been served. Ms. Hodge herself indicated in this email that knowledge of Mrs. Adams' desire to file her application was via WhatsApp message to Mr. Hodge on 11th March, 2021 and orally on 13th March, 2021. The WhatsApp message was exhibited and does not contain a P15 Form. In addition to this, oral notice is not what the rules require. The documents were in fact not yet uploaded to the e-litigation portal. In email correspondence between court staff and Ms. Hodge, the court office only acknowledged receipt of the Affidavit of Consent sent via courier on 20th April, 2021. As such, when Ms. Hodge responded to Mr. Hodge's attorney this application had not been filed and Mrs. Adams had herself not yet fully complied with the requirements.

[36] Putting aside the pedantics of whether any of the emails or WhatsApp messages constituted proper service of a P15 Form, it would have nonetheless been clear to anyone with full knowledge of those facts that there was a genuine contention between those siblings as to who ought to be appointed as

administrator of this estate. It would seem to me that in all of the engagement which Mrs. Adams had with the Registry she would have been well aware that she would not have had the support of Mr. Hodge in the lodging of an application. I repeat that at that point emotions were beginning to run rather high in this family. Mrs. Adams, even prior to becoming Administrator, had opened a vault allegedly belonging to Mr. James Hodge, much to Mr. Hodge's protestations. She had allegedly changed the locks to the doors of Mr. James Hodge's house and had been in contention as to whether the 2nd and 3rd claimants should even have their names placed on the leaflets and announcements for funeral services. This escalated to the point where Mr. Hodge consulted attorneys to write a letter to Mrs. Adams. It is unclear to me as to whether this letter was ever served. However, these are important facts as it relates to the court's own direct involvement in the processing of this application in light of the specific provisions of section 2(3) of the Act and the fact that there was conflicting information on both applications which, to my mind, the Registrar would have been duty bound to investigate, if it is that she was exercising her powers pursuant to section 2(3) of the Act.

- [37] The evidence suggests that when Mr. Hodge made a search of the Registry he was informed that there was no Grant of Letters of Administration applied for. Whilst the certificate of search was not issued by the Registry, I find on a balance of probabilities that the search was done and did indicate that no application had been filed. In those circumstances he filed his own application, after having already attempted to provide the requisite notice by way of Form P15. I do note, however, that Mr. Hodge himself would have also been aware of the contentions which existed in relation to the possibility of his own application.
- [38] The evidence also suggests that everything else which took place in relation to the judicial review proceedings and the Grant issued to Mrs. Adams took place without notice provided to Mr. Hodge. He was never even informed that his own application was not first in time, to the extent that his application had never been formally rejected by the Registrar. Regardless of whether one argues that the detailed provisions of every aspect of the legislation and rules had not been complied with, it is inescapable that at that point the court's records would reflect that this matter had become contentious one way or another, and it is my view that the handling of the matter from thereon was improper.

- [39] Mr. Hodge exhibited a series of email exchanges between his attorneys and the Registrar. Whilst one can appreciate the delicate balance which had to be observed by the Registrar at that point in time, given that she was now a litigant in this very dispute, an examination of the content of those emails highlights what I view as the lack of transparency in a matter which ultimately involved the appointment of the trustee over estate property where clear contentions by then had arisen and clear discrepancies existed regarding the substance and content of the two competing applications. I am not casting blame on anyone, but the events which transpired are sufficient for the court to effectively review the circumstances under which its previous orders were made. I will now assess the content of these emails in some detail, as I believe it is necessary to do so.
- [40] On 13th July, 2021, counsel for Mr. Hodge emailed the Registrar enquiring as to whether his application for the Grant would proceed as normal, given that the 14-day period since the filing of the Warning to Caveator had now elapsed. The Registrar responded via email on 15th July, 2021 simply acknowledging the email. It was not until 21st July, 2021 did the Registrar email counsel for Mr. Hodge and enquired as to whether the Warning to Caveator had been served on Mrs. Adams' counsel's chambers. In that email the Registrar also indicated that she had recused herself from dealing with the matter. She offered no explanation for her recusal. It must be observed, however, that that was the very day on which the judicial review application was being heard by my brother judge.
- [41] Counsel for Mr. Hodge responded on the very date, that is 21st July, 2021, and stated that she was lost as to the enquiry. As far as counsel was concerned, the Warning to Caveator was lodged on the portal and, given the rules of lodgment of matters on the portal, she understood that to have constituted sufficient service. As to why a caveat was lodged on behalf of Mrs. Adams without her or her counsel having the access code to the portal was confusing to counsel.
- [42] The Registrar responded to counsel on the very day indicating that the Caveat was brought to the court office to be lodged on the portal. I take that to mean that it was lodged by the Service Bureau. As such, counsel for Mrs. Adams would not have had the access code. I pause here to note that it is not customary for documents emanating from counsel's chambers to be brought in to be lodged by the Service Bureau. While these services are available even to counsel in circumstances where they may be experiencing challenges of their own, counsel is normally capable of accessing and uploading documents from their own offices, once the access code is provided. Up until that point Mrs. Adams

had been using the Service Bureau on her own as she did not appear to have an attorney. It must therefore be noted that litigants in person do not generally have unrestricted access to the portal; especially in relation to an application which would have been made by Mr. Hodge for an LA in his own right.

[43] In addition to that, I am not of the view that the mere fact that the document bore the name of chambers is enough to state that chambers should be served. It all depends on the circumstances. It can be argued that if indeed Mrs. Adams was to have had an attorney in the matter then the attorneys ought to have formally placed themselves on the record. Equally so, a point can also be raised as to why Mr. Hodge's counsel was not informed of the need to serve this document on chambers much earlier, rather than on the very day of the judicial review to which he had not been made a party. All of this adds to a state of confusion in a matter that on the very day was being considered by a judge with no formal notice to Mr. Hodge. This was not right one way or another.

[44] Counsel for Mr. Hodge responded to the Registrar's email on the same day and stated the following:

"Dear Madame Registrar,

Your email below is received, but it takes the matter no further in my view. It is clear to me that the court office in filing a matter on behalf of ... Chambers must have assumed the responsibility to bring anything filed in response to their attention. As a result of this, we have lost almost a month. Therefore it should be the court office that brings this matter to the attention of ... Chambers.

Also, we note that you have recused yourself but you have not said who will be handling the matter in your stead. Please advise."

[45] It is important to note here that counsel's query as to who would be handling the matter was very relevant as the Act gives authority to no other person to deal with such an application but the Registrar. In circumstances where there is no Deputy Registrar, then counsel was certainly entitled to an explanation as to how this application would be processed from hereon if the Registrar were to recuse herself. In addition to that it would be wrong for the matter to be referred to a judge in the circumstances of this case and have it dealt with without any notice to Mr. Hodge whilst Mrs. Adams

was given full access to prosecute her Judicial Review. But that was precisely what was taking place at the very time these emails were being exchanged.

[46] The Registrar responded on 22nd July, 2022 by stating that the court clerk would “send it shortly” and advised that the matter had been placed before the judge for his consideration. It is unclear as to what the clerk was to send to counsel. However, it is worth repeating that at the time this series of emails were being exchanged the Registrar was the respondent in a judicial review hearing which was taking place before the judge in relation to the same Estate. Mr. Hodge’s attorney appears to be completely unaware of this development in the email exchange. What is said in the email is that the matter has been referred to the judge. However, on the day before the judge had already begun hearing the judicial review application in substance.

[47] The next email exchanged in this matter was on 19th November, 2021 when counsel for Mr. Hodge stated the following:

“Dear Madam Registrar,

We continue to act for Mr. Thomas Hodge and write in relation to the captioned matter. We have still not received any word from the court office on the captioned matter since your email of 22nd July, 2021 below. Please advise on the status of same as it has been more than 6 months since our client filed this application.”

[48] It is difficult to ignore the fact that by then the judge had given a ruling in the judicial review application dated 4th August, 2021. That would have been three months prior to counsel for Mr. Hodge’s latest enquiry and four months had now elapsed since she had been informed that the Registrar had recused herself from dealing with the matter and that the application had been placed before the very judge. I also observe that Mrs. Adams’ application was lodged on the portal following the court’s Order on 9th August, 2021. The Notice of Intention to make such an application was however not allegedly served until 26th August, 2021. That was after the filing of the application and therefore not in keeping with section 23 of the Rules. In addition to that, the notice was served on Mr. Hodge by way of Registered Post, despite him actually residing in Anguilla at the time. He states in his evidence that he never received the notice. Ms. J. Hodge also makes a similar complaint. Theo Rogers would

obviously not have received a notice as she was not deemed by Mrs. Adams to be a child of Mr. James Hodge at the time.

- [49] Although there was an acknowledgement of receipt of this email dated 19th November, 2021 by the Registrar, there appears to have been no further communication on the status of Mr. Hodge's application until this claim was filed. What is perhaps more challenging however, is that on that very day, that is 19th November, 2021, the judge made a further Order directing that the Grant of Letters of Administration be issued to Mrs. Adams. The judge stated in his Order that he was satisfied that Mrs. Adams' application was brought to Mr. Hodge's attention. It is worth repeating that not only did Mr. Hodge have his own application before the court, but he too was informed by the Registrar that his application was being considered by the very judge. I have been provided with no evidence to suggest that the full breadth of these facts were ever placed before the judge for his consideration.

The Court's Assessment of the facts relating to the Grant of Letters of Administration

- [50] Having examined these facts, one cannot help but make some general comments on the manner in which these particular applications have been handled by all the players involved.
- [51] Firstly, I make the observation that where an application for a Grant of Letters of Administration is filed, the non-contentious nature of the application does not leave the other beneficiaries in the Estate without a voice in the matter. The procedure is that all heirs of equal degree should either consent to the Grant or be given proper notice of it. Where notice is given in proper form, it is open to any beneficiary to lodge a caveat against the Grant or to seek directions from the court. In accordance with Rule 23, once a caveat or an application for directions is lodged, the court must dispose of it prior to the Grant of Letters of Administration being issued. It is my view that the matter ought not to be disposed of until all parties affected by it are given an opportunity to be heard.
- [52] It is also important to place section 2(3) of the **Letters of Administration and Probates Act** into context. There the Registrar is somehow placed under an obligation to make certain inquiries and perform certain investigations and to fill up the paperwork leading to the grant upon the request of the applicant. She is also given a broad discretion to make certain inquiries of the applicant herself. As I indicated earlier, I am of the view that insofar as this section is concerned, a distinction must be

drawn between the obligations of the Registrar as contained in this section and the obligations of the Court Office in assisting a *pro se* litigant in the making of her application in the first place. The two are different. On the one hand the Registrar's role here does not come into effect until such time as an application is filed. The section clearly places a duty on her to perform a quasi-judicial function, which is separate and distinct from the administrative function of filing an application. It is only when the application is made, both in form and in substance, is she entitled to exercise the discretion afforded to her under this section.

[53] It is also critical to give due consideration to the fact that this section can only be invoked if the ***application is made in any non-contentious matter***. The Act itself does not define what is meant by "non-contentious matter". However, I am not of the view that this is to be given a narrow meaning. It is not merely whether a non-contentious probate application has been filed, but whether the matter is non-contentious in fact. Even though a claim under Part 68 for example has not been filed, a matter may still be contentious to the extent that the Registrar ought to be cautious about the manner in which her powers are exercised before the resolution of whatever the issue may be. I would add that even a judge, in judicial review proceedings ought to ensure that those powers are properly exercised and the Registrar's discretion not taken away from her in a manner which lacks transparency to all who will be affected by it. This section must therefore be interpreted in light of the provisions of section 62 of the **Supreme Court Act** which prohibits the giving of advice by the Registrar. I will return to this issue later on.

[54] Having given due considering to those issues, I am of the firm view that the legislative and procedural regime relating to the Grant of Letters of Administration in non-contentious probate matters are designed to ensure that the application and processing of a Grant takes place in an open and transparent manner with a thorough and proper investigation carried out by the Registrar. This is not an inherently adversarial process and form should never elevate itself over the overriding principles within which this regime is designed to operate. This is especially the case because an Administrator will ultimately find herself in the position of a trustee over assets with a duty towards the very beneficiaries as a whole, who would naturally demand such transparency. That duty encompasses a duty to account, even for the various representations made to the court at the time of the filing of an application.

- [55] In my view, despite best efforts to avoid doing so, it is inevitable that the court office may make errors in the administrative processing of non-contentious applications for the Grant of Letters of Administration. Through inadvertence there may not always have been strict adherence to the procedure. However, given the nature of such applications and the equity which naturally arises in relation of the Grant, the manner in which such issues are resolved can either affirm the sanctity of the court's process or bring it into disrepute. After all, an appointed Administrator becomes a trustee over the assets of an Estate. It is not a claim to ownership of personal property. In light of that, the court has always been clothed with the inherent jurisdiction to take steps to protect its process and correct any irregularity which may undermine its integrity. In the case of ***Deidre Pigot Edgecomb et al v. Antigua Flight Training Center***², Pereira CJ underscored the fact that a strict application of procedural rules “***does not take away from the Court, its inherent jurisdiction, which it has always had and maintains for the purpose of protecting its process.***”
- [56] Therefore, where such administrative errors occur, it is a matter of putting things right within the context of the openness and transparency which is required in such applications. An interested party also has the ability to apply for a revocation of the grant pursuant to part 68 of the CPR. Therefore even at this stage, after the Judicial Review proceedings, and with all of the affected parties before it, the court is empowered to protect its process by evaluating the procedure adopted leading to the grant and putting things right if the justice of the situation so warrants it.
- [57] In addition to this, officers of the court must always be reminded of the provisions of section 62 of the **Supreme Court (Anguilla) Act** which prohibits the giving of advice to members of the public. Whilst it is the duty of the Service Bureau to assist in the lodging and filing of documents, there is a thin line between the provision of that service and the giving of advice, which ought not to be crossed. There is a difference drawn between a small succession where the legislation appreciates the impecuniosity involved in processing such an Estate and assistance is therefore provided to an applicant. However, for what is allegedly an Estate possibly valued at over \$1,000,000.00, it is difficult to appreciate the extent to which the court office is alleged to have offered advice and services to Mrs. Adams in the filing of her application in light of the express provision that section 2(3) can only be invoked if the matter is not contentious.

² ANUHCVP2015/0005

[58] It is also my view, that the court office's duty to review the documents also only comes into focus once the application is filed. When one examines the Practice Direction, which, although passed after the judicial review claim, it puts into focus the proper procedure which ought to have been followed. When one is called to examine documents such as Affidavits of Kin and the Declaration and Account of the Estate, such information must at least initially be independently provided by the applicant. Bearing in mind that it is the applicant who is to ultimately be held responsible for providing information to the court, as much as is possible, and to be accountable for the information she has provided. Once she has done this and the documents are referred to the Registrar, it is then the duty or discretion of the Registrar arises to investigate the content of that information and seek proof and/or clarity from the applicant. To do this any other way would be to make the court office accountable for the accuracy of information provided by the applicant and may in some ways allow the applicant, as has been done in this case, to cast blame on the court office or the Registrar for the inaccuracies which may be contained in the application.

[59] Even in her own evidence Mrs. Adams appears to have relied heavily on the advice allegedly given to her by the court office regarding key issues in her application, when it appears to me that she knew full well that there was no consensus on her being appointed as Administrator in this Estate in the first place. She also knew at that point that there were questions about who the heirs are regarding the claims to paternity of the 3rd defendant. Mrs. Adams, during cross examination took little to no responsibility even for the affidavits and oaths which she swore to. As far as she was concerned, everything she signed was done on account of what she alleges the Registrar to have given her to sign. In the end, the Registrar became a litigant before the court in a matter in which there were clear contentions between the members of the family in relation to the administration of the Estate and on balance the information contained in Mrs. Adams' application is either incomplete or inaccurate. This was also taking place at a time where emotions appear to have been running high in this family. It is difficult to see how the court's own process was not undermined by this state of affairs. In light of this, it is important to highlight some of the facts which emerged in the cross-examination of Mrs. Adams.

[60] In cross-examination, Mrs. Adams was questioned on two important aspects of the application for the Grant of Letters of Administration. That is the Administrator's Bond and the Declaration and Account of the Estate. In the account the section indicating the amount of cash in the bank was left

blank. Mrs. Adams responded in cross-examination to questions relating to the content of those documents by stating:

“That is the declaration filed with the court when I made my application. That was provided to me by the registrar and I signed that document. I signed this document on a date which is on the other page. 16th September, 2021. Yes I see the section cash at bank. That section is blank. That was prepared by the registrar. I asked them to investigate the account at NCBA.”

- [61] Further into the cross-examination, Mrs. Adams noted that *“everything that was filed was done by the registrar’s office. Whatever was done was in their control. The registry was not making the application on my behalf but I used the office to assist me in making the application.”* When asked to clarify those issues in re-examination, Mrs. Adams stated the following in summary:

“Yes I recall that counsel said that I said my father had millions of dollars. The section marked cash is blank because when I had submitted all the documents to the court in April of 2021, the registrar’s office provided letters from 2 banks in Anguilla. I was provided a letter from NCBA indicating 2 accounts with pittances. One had \$3000 with my brother and father’s name and the other \$10,000.00US with my father and Uncle Cleo’s name. I provided the registry with the other account numbers which my father had and the balances at that time. I had the balances at the time. I copied the CEO. Ms. Francois transferred the matter to the manager to give the letter in March, 2021.

Ms. Webster responded to my email that those were the only 2 accounts my father had at the bank. She said she could not discuss anything about accounts with my father’s name on it unless I had the LA.”

- [62] Whilst it is unclear to me as to who Mrs. Adams refers to as Ms. Webster, I note that there is in fact a Ms. Webster who works in the court office who had provided assistance and had been in communication with Mrs. Adams during this process. If Mrs. Adams’ evidence is to be believed then she is suggesting that she gave instructions to the court office to investigate the value of the cash which was in the bank. She states that the letters which were obtained from the NCBA were in fact presented to her by the Registrar and that she signed those documents based on what was presented

to her by the court office. Again, she suggested that this process began in March 2021 even before her father had been buried and alleges that she supplied information to the Registry in that regard.

[63] However, when one examines that form and the very oath which Mrs. Adams is duty-bound to provide it is somewhat troubling. On the very form itself the applicant is to indicate a value of the household goods, furniture and the likes. None of this was included in the form, despite Mrs. Adams actually residing in that very house at the time when she visited for the funeral service. The form is to also indicate what the funeral and burial expenses were, yet she claims to have provided sufficient information to the Registry even before the burial took place or a mere five days later. It is not that one cannot be granted Letters of Administration without such information, but I fail to see the rush to file such an application before taking the time to attempt to clarify this information in circumstances where Mr. James Hodge was only recently buried. There are implications for not doing so as the very fees which are charged by the same Registrar upon completion of the application are contingent upon the estimated value. That may very well have been affected by the cost of funeral and burial expenses, which would clearly not have been available in March, 2021 when she allegedly first approached the court office.

[64] On the other hand, however, when one examines the same document sworn to and filed by Mr. Hodge in his own application of 16th June, 2021, the funeral and other expenses of the Estate are outlined therein. He too leaves the cash in hand section blank but provides further information regarding the value of the Estate. His document places the value of this Estate at over \$300,000.00 when Mrs. Adam's value is in excess of \$1,000,000.00. It is difficult to see how fairness would not have dictated that this discrepancy should have been given some form of consideration. After all, this was among the very paperwork which the Registrar was allegedly supposed to have been duty bound to fill out under section 2(3) of the Act.

[65] On balance I do not find evidence to suggest that the Registrar was as deeply involved in the preparation of those documents filed by Mrs. Adams in April 2021 as has been alleged. However, even the very nature of that evidence is troubling. Despite the provisions of 2(3) of the Act, I am not of the view that it is the duty of the court office to provide assistance in determining the value of an Estate in this way if it is clear that the matter is contentious. The duties of the Registrar to make further inquiries and conduct various investigations only arises after an application has been filed and

placed before her for consideration. In fact, as one seeking to become an Administrator in what she considered to be a potentially multimillion dollar estate, that duty fell on Mrs. Adams and not the other way around. This is taking place within the context of Mrs. Adams' knowledge that at least one of the heirs did not agree to her becoming the Administrator and there had in fact been another application filed. This application had never come up before the court for consideration, but in substance there was important information contained therein which was ignored in the process.

[66] In addition to that, even if the Registrar is to conduct any investigation on the instruction of Mrs. Adams, as she insisted in her evidence, that investigation should be open and transparent. After all, the Registrar is a senior officer of the court. The difficulty with this evidence is that on the court's own record is Mr. Hodge's application which states that the Estate is valued at less than half of what Mrs. Adams has attested to. Mr. Hodge's own documents contain some of the very information which may very well have been available to assist with the very investigation which Mrs. Adams had allegedly instructed of the Registry insofar as it relates to enquiries of the assets of the Estate. Yet, the Registrar had by then recused herself from dealing with that application and, though somewhat understandably at that point, neglected the information contained therein altogether. When one adds this to the dispute regarding the heirs of the estate, Mr. Hodge is correct in saying that the content of much of what has been sworn to by Mrs. Adams in her own application appears to be either inadequate or incorrect.

[67] Given the date this document by Mrs. Adams was signed and the information contained in it, it also adds to my own suspicion as to whether Mrs. Adams' application was even ready for consideration back in April 2021 as she led the court to believe in the claim for judicial review. Even in September 2021 she was still relying heavily on the court office to provide important information necessary to complete the process; a role which the court has no obligation to perform and is in fact duty-bound not to because the matter was by then clearly contentious. In addition to that, the information left blank on the form indicates that insufficient investigation was done regarding the assets and liabilities of the Estate even at that point. Yet, by way of judicial review, it would appear that the Registrar's discretion was taken away from her by way of court order in circumstances that were less than transparent. The focus appeared to have been so heavily on the issue of whose application was first in time, that little thought appeared to have been given to the accuracy and authenticity of what was contained in the documents. This is ultimately about the proper administration of an estate and where

there are disputes as to the heirs and clear discrepancies regarding the assets and liabilities of the estate. Such matters could not be ignored, despite what may have been the procedural errors of the court office in processing these applications.

- [68] I am of the view therefore, that what transpired in this case defies the openness and transparency which is necessary to ensure that the court's own process is adequately protected against even the semblance of unfairness; especially in light of the accusations which were subsequently made against the Registrar, despite there being no proof that she was even initially aware of the issues relating to Mrs. Adams' application. I am also satisfied that if the court had been given a clearer picture of all of those fact, the orders previously made would not have been made. Whilst the court exists to assist in resolving disputes, it ought not to have become unwittingly embroiled in a personal family struggle in this way. In light of this, I agree entirely with the submission of counsel for the claimants when she makes the following comment:

"The Court Office was aware, or ought to have been aware, that there was a prior application for a Grant in the same Estate by someone equally entitled to the Grant. It was also aware of the judgment issued in favour of the First Defendant and the circumstances that gave rise to same. It owed a duty to all parties and the administration of justice to ensure that the Court was fully apprised of these facts. Absent Wednesbury unreasonableness, the Court armed with such information ought not to have Granted the First Defendant's application without first giving the First Claimant an opportunity to be heard."

- [69] Whilst I agree with that sentiment, it is important to also give consideration to some of the submissions made by counsel for Mrs. Adams on that issue. Counsel states, for example, that:

"... the Claimants and their lawyers were aware that the 1st Defendant who filed a Caveat against the 1st Claimant's application also filed an application for judicial review in respect of the Registrar accepting the 1st Claimant's application and failing to file her application. While the process was pending the 1st Claimant's lawyers made enquiries and were told the matter was before the Court for consideration. Further, that the warning was not served on the lawyer noted on the Caveat. This was on the same 21st July 2021 when Claim No. AXAHCV

2021/0027 commenced. It is submitted that the Claimants were aware of the Court proceedings as admitted in paragraph 11 of the Statement of Claim.”

[70] I make a few points here. Firstly, paragraph 11 of the statement of claim makes no such admissions as counsel has submitted. Secondly, the Registrar did not accept Mr. Hodge’s application and fail to file Mrs. Adams’ application. That is not the duty of the Registrar in either case. What occurred was that Mr. Hodge’s application was lodged on the e-litigation portal by his attorneys. What the court office did afterwards was to deal with neither application until this discrepancy was sorted out.

[71] After submitting that the claimants were somehow aware of the judicial review proceedings, counsel for Mrs. Adams then went on to make the following argument at paragraph 27 of his submissions:

It is further submitted that paragraphs 13 and 14 would seem to create the view that the Judgment of the Court handed down on the 4th of August 2021 in Claim No. AXAHCV 2021/0027 and the proceedings leading thereto were a secret or that the Registrar failed to disclose the proceedings. This it is submitted is most improbable and ought to be rejected. Nowhere in the Claimant’s pleadings filed on the 4th of January 2022 have they said that they were unaware of the Judicial Review proceedings, or the Judgment issued therefrom.

[72] In addition to this, counsel then goes on to argue that “*the Court heard and determined the 1st Claimant’s application for Letters of Administration which was objected to by way of Caveat. The 1st Claimant on cross examination admitted that he was aware of the Judicial Review matter and that he takes issue with the decision. The 1st Claimant is therefore barred from raising the issue of first in time with the same Court that already heard and ruled on that matter as the matter is now res judicata.*” Counsel goes on to argue that the claimants ought to have intervened in the judicial review proceedings and challenged the court’s order by way of appeal. Counsel cites various authorities to argue that even if the matter is not barred by the doctrine of *res judicata*, the claim should be dismissed on the ground that a court of concurrent jurisdiction has already ruled on the matter.

[73] For my part, I find the arguments put forward by counsel for Mrs. Adams to be untenable. First of all there is not one iota of evidence to suggest that these judicial review proceedings were ever served

on Mr. Hodge or brought to his attention in any way. He was simply not made a party to those proceedings and his response to cross examination on his knowledge of the claim does not establish that fact. Where counsel argues that it is improbable that the Registrar would not have brought the proceedings to Mr. Hodge's attention, it would seem on balance that the evidence establishes just that fact. The Registrar was now a litigant before the court and in fact recused herself from any further dealings with Mr. Hodge's application without providing an explanation for the recusal. There were clear email exchanges taking place between the Registrar and counsel for Mr. Hodge on the same day of the commencement of the judicial review proceedings and in none of those emails was he informed that the judicial review proceedings were taking place.

[74] It must be observed that the judicial review went unopposed and the court heard a rolled-up application for leave together with the substantive judicial review between 21st and 29th July, 2021. That was the very period in which Mr. Hodge was being informed that his matter was before the judge for consideration in circumstances where no notice had been provided to him about that hearing and no opportunity provided for him to be heard. In fact, if the court is to take Mr. Barnes' submission at face value, it means that on 21st July, 2021 issues were raised regarding the Warning to Caveator. The matter was adjourned for information to be presented to the judge about that warning and the matter was reconvened on 23rd July, 2021. Evidence of this was not presented to this Court, but if true it means that when the Registrar was demanding that the Warning to Caveator be served on counsel via email to Mr. Hodge's attorneys, the court had already raised that issue in the judicial review proceedings in the absence of Mr. Hodge. This is simply unacceptable and I would only hope that it is not what transpired. However I simply do not accept counsel's submissions on that issue.

[75] If, as Mr. Barnes argues, the judicial review proceeding was the process in which the court heard the various applications along with the Caveat and gave consideration to the issues involved in this matter, then it can be viewed as nothing other than a serious breach of natural justice for Mr. Hodge to have not been invited to make representations in those proceedings when Mrs. Adams was allowed to. Contrary to Mr. Barnes' submissions, it seems to me that the issue was in fact being dealt with in secret. To state that Mr. Hodge ought to have intervened in the process when he was never informed of the hearing in the first place is completely wrong. Further, an examination of the exchange between Mr. Hodge's attorney and the Registrar clearly shows that enquiries were being made about the matter and no information regarding the judicial review hearing was ever communicated to his

attorneys in these emails. For there to be an argument being made now that Mr. Hodge should have intervened in proceedings, notice of which was never served on him, is an argument I am not prepared to accept. I have been furnished with no evidence to suggest that even the judge's order at the end of the Judicial Review hearing was served on Mr. Hodge to the extent that his attorney was still making enquiries about his application over 3 months later. That is not the manner in which justice is done in our courts.

[76] I conclude therefore, that having heard from Mr. Hodge, a privilege which my brother justice did not have, I am satisfied that the manner in which this Grant was obtained should be adequately revisited. A party in Mr. Hodge's position is entitled, under part 68 of the CPR, to file an action for the revocation of the Grant. In accordance with Part 68.3 every person who is entitled to apply for such a grant must be added as a party to the claim. It is for this reason Ms. Cheryl Hodge is properly added. In fact, it is my view that had Mrs. Adams' own issues been dealt with in an open and transparent manner, everyone with an interest in the outcome ought to have had an opportunity to be heard before the court made a decision.

[77] I wish to state that this judgment is not designed to cast aspersions on anyone but to provide guidance as to the best way to avoid such issues in the future. The position which the Registrar found herself in was unfortunate and one can understand how all parties, including the Registrar, might have sought to address the matter in the way it was done. But I am concerned that an officious third party would not assess this situation as one in which the court's process was anything other than undermined. This is precisely what section 2(3) of the Act in conjunction with section 62 of the **Supreme Court Act** is designed to prevent. In my view it may very well be the case that the executive and legislative branches of government should make adequate provision for a legal aid clinic to assist people who cannot afford attorneys prior to making such applications. What happened in this case highlights the significant potential for abuse of the court's process if there is not an effective bifurcation between the filing of an application through the Service Bureau and the exercise of the Registrar's powers once the application is properly filed.

[78] As I indicated before, the processing of an application for the non-contentious Grant of Letters of Administration ought not to be viewed as an inherently adversarial process. Where the court office had made an error in relation to Mrs. Adams' application in the first instance was not making it clear

as to the limited role and scope that it can play in the processing of such an application before filing. Whilst it is open to provide Mrs. Adams with a general checklist of what was needed to file an application, there may have been too great an involvement here in seeking certain information and performing certain tasks which Mrs. Adams needed to provide herself. I certainly hope that no one from the court office was engaged in seeking information directly from the bank regarding Mr. James Hodge's accounts until such time as it was proper to invoke the provisions of section 2(3) of the Act; although I now doubt that that time had ever arrived given that the matter was clearly a contentious one.

- [79] A potential applicant for such a Grant ought to be informed that the court office is not in the business of offering advice or legal services to persons in this way. Given the nature of this application she would have been best advised to seek the services of an attorney to assist with this process and provide independent advice to her. Whilst it is not compulsory for someone to have an attorney in such a process, the court office does not operate as a substitute for one seeking and obtaining proper legal advice; especially in the circumstances of what Mrs. Adams alleges to be a relatively valuable Estate where all of her siblings did not consent in fact to her obtaining this Grant and there were clear contentions on matters which she apparently did not disclose to the court office or the Registrar.
- [80] The learned judge in the judicial review claim stated that the court office fell into error when it failed to upload the documents to the portal when Mrs. Adams had paid the requisite fee and signed off on all documents. I do not necessarily disagree with that, especially since the requisite fees were paid. However, I do express some doubt that this was an application which was ready for processing at that point; given all the information that has been provided to me. However, to err is human, and despite the errors of the court office I find that the circumstances were such that a proper and more transparent approach to resolving this issue, even at that point, was more than possible. It is, however, what transpired afterwards which is the cause for concern.
- [81] The Office Manager was right when she informed Mrs. Adams that the court office could no longer advise her on the processing of her application now that Mr. Hodge had filed his own. In fact, it may very well be that a line was crossed in terms of the advice given to Mrs. Adams in the processing of her application. However, I do not disagree with my brother justice when he stated that her application ought still to have been uploaded to the portal, at the very least. Once that was done then all it would

have meant was that there would have been two competing applications, given the procedural errors which had already occurred. Given that Mrs. Adams had filed a Caveat in the matter, then it was open to her to litigate the substance of this Caveat in the usual manner. In doing so, Mr. Hodge would have had an opportunity to be heard in a hearing before the judge where all parties with an interest in the Estate would have also possibly been in attendance.

[82] Even after the expiration of the Caveat there was one other option available at that point; that was to refer both applications to a judge or master in keeping with the provisions of section 6 of the Non-contentious Probate Rules. The judge or master would have then been in a position to give directions on the matter after having heard both sides. That would have allowed the court to address the issues with the level of openness and transparency which would be required in such applications. Despite the submissions of counsel for Mrs. Adams, that process never actually took place. If indeed there was to be any adversarial litigation on the matter, it ought not to have taken place without transparency in relation to all parties affected by it and the court office ought not to have become the center of this family dispute with no proper notice being provided to those who would have been most affected by the outcome of that hearing. If the court office fell into error in a manner which affected both sides, I see no reason for a resolution to have been arrived at in the absence of either party. What was at stake here is not personal property of either side, but ultimately the proper administration of an estate.

[83] What actually transpired was that after lodging a Caveat Mrs. Adams sought to litigate the matter by way of judicial review in circumstances where Mr. Hodge was given no opportunity to be heard on a matter in which he had a vested interest. In addition to that, Mr. Hodge was being informed that the Registrar had recused herself from dealing with the matter but was provided no reasons as to the basis of the recusal. Despite enquiries from counsel, it was not clear as to who was to deal with the matter after the Registrar had recused herself. Mr. Hodge's counsel was informed that the matter had been referred to the judge on the very days in which the judge was engaged in the judicial review hearing and when he made orders in contradiction to Mr. Hodge's position on the matter. All of this took place in relation to an application for the Grant made by Mrs. Adams in circumstances where a P15 Form had potentially never been served on Mr. Hodge or Ms. J. Hodge prior to the making of the application as she alleged in April of 2021.

- [84] Having filed his own application and been informed that the matter was referred to the judge, to this day the matter never came for hearing or decision made by the judge or the Registrar in relation to Mr. Hodge's application in circumstances where any notice was provided to him. All the while, Mrs. Adams is indicating that much of the information provided for the processing of her own application was directly obtained by the Registry staff on her behalf. That is not the way a system of justice is to operate in circumstances where what is being applied for was a Grant for Mrs. Adams to become a trustee over estate property. In my view, this significantly defies the rules of natural justice and was highly irregular.
- [85] When counsel appears on behalf of the Registrar in court proceedings, the court is to assume that the position put forward in defense of the matter is that of the Registrar. Think then of Mr. Hodge's position. On the one hand, the Registrar, at least on the face of the record in the judicial review proceedings, is conceding a point which is adverse to his view on the administration of his father's Estate, whilst on the other is keeping Mr. Hodge at bay by recusing herself and not providing any clarity as to the status of his own application. In the meantime she is allegedly seeking information from banks regarding assets of the Estate on behalf of Mrs. Adams when even one of the bank accounts is partially in Mr. Hodge's own name. I doubt that this was what actually obtained, but if Mrs. Adams' assertions are to be believed it would certainly be interpreted that way by an officious third party.
- [86] Nothing about this satisfies me that this entire process was not irregular and improper and I am deeply concerned with this; not merely because of the position of the parties, but because I am of the view that this undermines the court process which I have a duty to protect. The purpose of section 2(3), when also taken in light of section 62 of the Supreme Court Act, is to ensure that if a matter is contentious in any way, the independence and impartiality of the court and its officers is maintained. I am fully satisfied that the grant of letters of administration made in this way ought to be set aside for its lack of transparency and its undermining of the sanctity of the court's process. That was certainly irregular and on that basis alone I am minded to revoke the grant.
- [87] That is in addition however, to the glaring discrepancies between the content of the two competing applications, which, to my mind, were not adequately investigated prior to the issuing of the Grant. It is difficult to see how a proper investigation, as is required by section 2(3) of the Act, can be carried

out by ignoring the fact that Mr. Hodge's own application, which was on the court's record, had such glaring differences in substance to that which was being attested to by Mrs. Adams. These differences are not minor as they touch and concern the actual heirs to the estate as well as the net value of the estate for which the Registrar is entitled to charge a fee. Mrs. Adams now seeks to blame the Registrar for any inaccuracies which she swore to. There are too many broad implications for ignoring such discrepancies.

Fitness to Be Appointed as Administrator

[88] As I indicated earlier in this judgment, I do not find either party to be unfit to act as Administrator in Mr. James Hodge's Estate. I also indicated that I was not inclined to outline all of the evidence led in this regard during the trial. However, I would wish to highlight just a few facts upon which the parties rely in their arguments concerning the fitness of Mrs. Adams and Mr. Hodge to act as Administrator in the Estate.

[89] Mr. Hodge complains that on 29th March, 2021 Mrs. Adams took a decision to break open a vault in which items belonging to Mr. James Hodge's Estate were kept. His evidence is that his father kept items at his home in a vault. During the period of Mrs. Adams' quarantine, prior to the funeral services, she made reference to the opening of the vault. Mr. Hodge indicated that he protested against such an action but that Mrs. Hodge proceeded to open the vault anyway, without the full consent of all of Mr. James Hodge's children. It was his views that one should wait to be appointed administrator before beginning to interfere with the assets of the estate.

[90] Mrs. Adams admits to opening the vault but states that the vault contained items which also belonged to her. She states that her father had in fact given her the combination and keys to the vault but she had left the keys in Los Angeles when she travelled. She states that she wanted to enquire as to whether her father had in fact left a Will and also wanted access to documents which she too may have had in the vault. She indicates in her evidence that she provided notice to all siblings that the safe was being opened. She consulted Mr. Michael Fleming, a former police officer who often does process serving for the court office, and provided a zoom link to all her siblings before opening the vault. In cross-examination, however, she admitted that it did not occur to her that the land documents she alleged to have been contained in the vault could have been acquired from the Land Registry.

- [91] In addition to issues relating to the opening of the vault, Mr. Hodge complains that during the time she remained at the home prior to the funeral service, Mrs. Adams changed all of the locks to the doors of the house. He states that on the date she was to be released from quarantine he proceeded to the house to bring food for Mrs. Adams. On arrival he noticed that all of the locks to the house were changed and that she did not provide copies of the new keys to him. He states that upon enquiry Mrs. Adams responded to him by stating that she did not have to consult him on that issue. After considering the evidence I believe that Mr. Hodge's account of the changes to the locks were true.
- [92] Apart from those issues, Mr. Hodge also relies on the fact that Mrs. Adams objected to referring to Ms. J. Hodge and Ms. Rogers as children of Mr. James Hodge on the death announcements and funeral leaflets. He states that she therefore misrepresented the heirs of the Estate when she filed an Affidavit of Kin in not referring to Ms. Rogers when she applied for the Grant. For her part, Mrs. Adams responds by saying that she added Ms. J. Hodge to the Affidavit of Kin because she was aware that she had a birth certificate. Although it appears that she had not seen the certificate herself. She also states that she did not add Ms. Rogers because there was no proof that she was a child of Mr. James Hodge. She and her sister Cheryl Hodge, also referred to previous family funerals in which the names of Julie Hodge and Theo Rogers were not mentioned as children of James Hodge.
- [93] In my view, I do agree with Mr. Hodge in stating that Mrs. Adams perhaps ought not to have proceeded to open this vault if there was a disagreement about it. She had not then become Administrator of the Estate and I do not accept that the vault was jointly owned by herself and her father. In addition to that, it was not proper to have changed the locks on the house at the time. It is worth repeating that these events took place even prior to Mr. James Hodge's burial. I fail to see the urgency in addressing those issues if to do so would have only added to the disputes which were arising within that family.
- [94] Mrs. Adams insisted on saying that she had always handled her father's affairs and that he would have wanted her to do so after his death. However, in my view, if that were the case then Mr. James Hodge would have made a will and given her clear instructions as to what to do. He had battled illness for a while and spent the last days of his life with his brother in St. Thomas. The bank accounts supposedly discovered by the Registrar were joint accounts with his son and his brother. There was ample time for James Hodge to have made that preparation if it was his intention to have Mrs. Adams

administer his estate. Upon his death however, all heirs to the same degree have similar interests and Mrs. Adams must appreciate the reality that she has no greater rights in dealing with the property than any of the other siblings prior to being appointed as administratrix.

[95] In addition to that, it appears to me from the evidence that at the time leading up to or at the burial, there would have been some reason to suggest that more of Mr. James Hodge's relatives apart from Mr. Hodge had noted the possibility of Ms. Rogers being his child. The manner in which this entire application was made, including the judicial review process, gave no consideration to this issue at all. As was put to Mrs. Adams in cross examination, there are other ways to prove paternity apart from a birth certificate. However, applications for letters of administration were being filed so close in time to Mr. James Hodge's burial, that I fear that much time wasn't given to consider all of those issues.

[96] Notwithstanding these concerns, however, I do not find that these rise to the level of making Mrs. Adams ill-suited to perform the duties of an Administratrix. There can be no doubt that there are contentions raised in this family, but such actions, as wrong as they may have been, do not show any impropriety on her part or are not so negative that with the proper warning she would be unable to perform the task. However, I am more concerned with the processing of the application and the lack of transparency, as it is the ground upon which I am prepared to set this Grant aside. But I do agree that the approach taken to all of those issues may not have been the best way of addressing them.

[97] There has however been a counter-argument put before the court regarding Mr. Hodge's own suitability to act as Administrator. It is stated that Mr. Hodge and his sister Cheryl Hodge are joint administrators of their mother's Estate in Saint Kitts. Ms. Hodge alleges that upon being appointed administrators there was a disbursement of funds which were left in the Estate among the siblings. In that disbursement, after obtaining legal advice, Mr. Hodge insisted on deducting the sum of US\$20,000.00 from Mrs. Adams' share of the proceeds. That was on account of the fact that Mrs. Adams had been given that sum of money by her mother for the purpose of assisting with the purchase of a car in the United States. Unfortunately, Mrs. Hodge died nine months later and the car was never purchased. It was Mr. Hodge's view that Mrs. Adams could not retain those funds and that it had to be deducted from her share of the monies which were left in the Estate.

- [98] Ms. Hodge, who is a co-administrator, accepted her own disbursement in light of this view. She later had a change of heart and thought that it was unfair and promised to pay Mrs. Adams the difference in the share she would have obtained. She states that Mr. Hodge was wrong and in that regard ought not to be trusted in administering his father's Estate.
- [99] In addition to that, there appears to be some contention between the parties regarding a building which forms part of their mother's Estate in Saint Kitts. From what can be gleaned in the evidence, the building is being rented and the money is being placed in an account which Mr. Hodge controls. He stated in cross examination that the money from the rent goes into an account with only his name on it. He insists however that he is not personally collecting rent and that the monies are accounted for. There has not been any separation of the proceeds of those funds. Ms. Hodge insists that Mr. Hodge controls the funds and refuses to account. This further raises her own suspicion as to his suitability to act as Administrator in his father's Estate.
- [100] Insofar as those issues are concerned, I state firstly that Ms. Hodge is a co-administrator in that Estate. If she has concerns about the administration of that Estate she is perfectly entitled to take the necessary steps to deal with it in Saint Kitts. She has however appeared to take a hands-off approach.
- [101] As it relates to the US\$20,000.00 deducted from Mrs. Adams' share of the proceeds from that Estate, I state that the court has not been furnished with sufficient information to adequately address this issue. It would have been best for the parties to settle their issues in Saint Kitts where the court is better capable of dealing with the issues. However, there are two observations I wish to make regarding Ms. Hodge's evidence insofar as I am capable of doing so.
- [102] Firstly, Ms. Hodge's evidence suggests that legal advice had been sought on how best to address the fact that those sums of money had been paid to Mrs. Adams nine months prior to Mrs. Hodge's death. On balance, it does not appear to me to be a situation in which Mr. Hodge acted unilaterally. Ms. Hodge was a co-administrator herself and went along with the transaction after legal advice was obtained. Secondly, based on the limited information provided to this Court, I do not believe that it is entirely inappropriate to have raised concerns regarding the status of those funds. An argument may very well be made that if US\$20,000.00 was given to Mrs. Adams for a specific purpose then that

money was to be held on trust for that purpose. If it was not put to use for the purpose for which it was wired in the first place, then an argument can be made that she had to account for it. The fact that Mrs. Adams had died prior to the purchase of the vehicle doesn't mean that her Estate would not be entitled to enquire as to the status of the money. That does not appear to me to have been an illegitimate concern.

[103] Having said that, I am of the view that this was not an issue which the siblings were incapable of resolving. There was some reason to believe in the evidence that Mrs. Adams and her husband had assisted in providing access to healthcare for her mother and other expenses relating to her death. Her mother had lived with her in Los Angeles for a time. Whether that may have provided an argument for the retention of the funds and an offset in those circumstances was another issue. However, I am not of the view that those issues are such to be enough to deem either party unfit to perform the function of administrator of an estate.

[104] The issues relating to the rent of the building, however, are perhaps worth some deeper consideration. It seems to me that the building had to date remained in the name of the Estate of Mrs. Hodge. Rent is being collected and placed into an account. Mr. Hodge states that Ms. Hodge is not a co-signatory to the account but that he accounts for the money. She states that she is unaware of this and has received no update. I therefore make some observations of my own in relation to the state of affairs of the estate, with the one caveat that I make those observations only on the basis of the limited information which has been presented to me.

[105] Firstly, Ms. Hodge is a joint administrator to that estate and cannot absolve herself from her responsibilities. It is open to her to make the necessary inquiries in Saint Kitts as to the status of the estate and take steps to ensure that this estate is fully and finally administered. The parties seem to have been somewhat comfortable with the estate partially administered in this way. However, that may very well be the source of the problem. It is perhaps beyond time to make a decision as to how to deal with the property in Saint Kitts in a way which brings the administration of that estate to an end. It is for the parties to decide on this in consultation with each other. These are not insurmountable issues. This court will say no more on that issue except to say that I do not find it to be sufficient evidence to prove that Mr. Hodge is not suited to be the Administrator of his father's estate.

Theo Rogers' Status as an heir

- [106] The law in relation to succession is clear. In accordance with section 3(1) of the **Intestates Estates Act**, where a person dies with no spouse, the residue of his estate shall be held on statutory trust for his children. The legislation also provides that the residue of the estate shall be held on trust in equal shares for all of the children. It is not disputed that the law as it relates to children in Anguilla makes no distinction between those born in wedlock and those who are not. Therefore, if Theo Rogers is a child of Mr. James Withington Hodge, then she is equally entitled to a share in his estate as any of the other children.
- [107] The law as it relates to deciding questions of paternity is as outlined in the **Status of Children and Parentage Testing Act, 2019**. In that Act, the court would be empowered to make a declaration of paternity upon application, if it is satisfied that the applicant had been acknowledged as a child by the conduct, whether implicitly and consistently, of the alleged father. I laboured for a moment on the question of paternity as the claim filed did not seek such a declaration in the prayer. However, having reviewed the pleadings, evidence and submissions in the claim, I am satisfied that the question of paternity was made an issue in the trial and I am entitled to consider it in order to make such a finding of fact.
- [108] The evidence presented is that Mr. Walwyn Hodge and Ms. Evelyn Hodge testified to their knowledge of Ms. Rogers being a child of James Hodge. These two witnesses are James Hodge's siblings. They both state that they were aware that Mr. James Hodge had fathered a child with Shirley Hodge before he left Anguilla to live in Saint Kitts in the 1960s. They were aware that the child's name was Theo Hodge. Ms. Evelyn Hodge in particular stated that she was very close to Shirley Hodge at the time. The families were close. After Shirley Hodge became pregnant, however, her family was not quite happy about the pregnancy. However, Mr. James Hodge's family accepted the child and it was well known in Anguilla that he had fathered this child with Shirley Hodge.
- [109] During cross-examination, Ms. Evelyn Hodge stated that Shirley Hodge had another child named Sylvester. She stated that Sylvester's father was in fact her brother Walwyn. It was put to her that Walwyn was in fact also Theo's father. She answered in the affirmative. However, in re-examination

she stuck to her witness statement and insisted that James Hodge was Theo's father and he acknowledged her as his child to the extent that the family in Anguilla was aware of this.

- [110] Ms. Rogers has insisted that she always knew James Hodge to be her father. It does appear that their relationship over the years may have had some strain to it. Mrs. Adams, who met her at the funeral service, indicated that she at one point mentioned the fact that her father had not been around to take care of her and hoped that he is in a better place. However, Ms. Rogers also exhibited WhatsApp communication with Mr. James Hodge which indicated that he acknowledged her as his child prior to his death and that they had been in touch with each other.
- [111] Both Mrs. Adams and Ms. Hodge indicate that their father never mentioned Theo Rogers to them during his lifetime. They never knew about her and as such raised doubts about him being her father. However, it appears that in the case of Julie Rogers as well, he never mentioned the existence of these children to them either. It is unfortunate, and one can understand the concern which would be expressed in such a circumstance. However, this would not be definitive on the question of whether Ms. Rogers is in fact a child of Mr. James Hodge. I would however state, that in this state of affairs Mrs. Adams cannot be deemed to have made deliberate misrepresentations or omissions in her application in failing to name Ms. Rogers as a beneficiary of the Estate.
- [112] However, I do continue to express the concern, that had both applications been considered, it would have been apparent that this discrepancy existed and in an open and transparent process the parties may very well have been able to come to a point where an amicable resolution could have been arrived at. This was an application being made very close to Mr. James Hodge's death and perhaps some time may have been needed to address this issue more thoroughly. Even in his own cross examination Mr. Hodge indicated that his main concern was that all of the children benefit from the proceeds of the estate. He said that he had made an offer to withdraw his own objections provided that Mrs. Adams recognize Julie Hodge and Theo Rogers as children. She nonetheless proceeded to deal with this matter in a manner which was less than transparent in my view.
- [113] It is my view, this is precisely why section 2(3) of the Act is worded in the way it is. Where there are contentions of this nature, the matter may not necessarily become a contentious probate within Rule 68 of the CPR, but some time can be taken to bring the parties together to attempt to resolve an issue of this nature prior to filling out the paperwork to lead to the grant. It may be that time could

have been taken to allow for Theo Rogers to seek a declaration of paternity for example; as Mr. Hodge was not the only one raising the prospect of her being a child of Mr. James Hodge. The whole purpose of the process is not to disenfranchise anyone. No matter how painful this issue may have become for Mrs. Adams and Ms. Hodge, if Theo Rogers is indeed a child, then she ought not to have been left out of the process. To view and treat the competing applications of Mrs. Adams and Mr. Hodge in a purely tactical and adversarial way, meant that much of the very content which was necessary to accurately fill out the paperwork leading to the grant may have been ignored.

[114] I find, on balance therefore, that the evidence establishes that Mr. James Hodge did acknowledge Ms. Rogers as his child during his lifetime. The standard in making that determination is on a balance of probabilities but the cases also indicate that the court must be cautious in such circumstances to ensure that it is safe in all the circumstances to act on this evidence. The court is satisfied that the evidence establishes the assertion that Theo Rogers is a child of James Hodge and therefore equally entitled to a share in his Estate.

Disposal

[115] Having come to these conclusions, I make the following orders:

- (a) The Grant of Letters of Administration issued to Mrs. Adams on 22nd November, 2021 is hereby revoked;
- (b) The court is minded to order the issue of a Grant of Letters of Administration jointly to Mr. Thomas Hodge and Mrs. Rosemarie Adams with further directions. However, the court will hold back from making this Order for a period of 14 days from the date of delivery of this judgment for the parties to come together and discuss whether a proposal more acceptable to them may be made to the court. For the benefit of any doubt, this is to include the interest of Theo Rogers who I have determined to be an heir in Mr. James Hodge's Estate.

- (c) The court will hear the parties on submissions on costs after the discussions which are to take place within 14 days.

Ermin Moise
High Court Judge

By the Court

Registrar