



THE MB&H CIRCULAR

News & Views from McKinney, Bancroft & Hughes

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MB&H was proud to sponsor and participate in the STEP Bahamas Conference 2025.

STEP Bahamas 2025 in Photos

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McKINNEY, BANCROFT & HUGHES PROUDLY SPONSORS STEP BAHAMAS CONFERENCE 2025

McKinney, Bancroft & Hughes (MB&H) was proud to serve as a corporate sponsor of the STEP Bahamas Conference 2025, held from March 12-14, 2025. Themed *"The Art of the Possible: Re-imagining Private Client & Wealth Management (Through the Power of You),"* this prestigious event brought together industry leaders to discuss emerging trends in trust and estate planning, wealth management, and international regulations.

As a leading law firm in The Bahamas, MB&H was well represented at the conference, with three of our distinguished attorneys sharing their expertise:

- Partner **Sean N.C. Moree, KC** delivered insights on the topic: *"Decisions, Decisions, Decisions: International Case Updates."*
- Consultant **Sir Brian Moree, KT, KC** participated in an engaging panel discussion entitled *"Litigation Station: The Gloves are Off!"*
- Senior Associate **Erin M. Hill** also joined a fireside chat on *"Legal and Regulatory Outlook,"* alongside Attorney-General Ryan Pinder, KC.

In addition to thought leadership, MB&H proudly supported the STEP/Eugene Dupuch Law School Moot Competition, where Partner **Sean N.C. Moree, KC**, Partner **Vanessa L. Smith**, and Associate **Floidira M. Collie** coached a talented team of students to victory. We extend our congratulations to Team MB&H and the students from Eugene Dupuch Law School on their impressive performance!

MB&H was also pleased to host a table at the conference, providing attendees with valuable insights into our services and distributing marketing materials. A special congratulations goes to Associate **Berchel K.L. Wilson**, who was awarded the prestigious Dianne Bingham Trust Scholarship to pursue the STEP Diploma in International Trust Management.

Our firm remains committed to supporting the professional development of the trust and estate industry, and we look forward to continuing our partnership with STEP Bahamas in the years to come.



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Client Focused. World View.

MCKINNEY, BANCROFT & HUGHES is one of the largest and oldest firms in The Bahamas and conducts an extensive international and domestic practice from its offices in the cities of Nassau and Freeport.

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Erin M. Hill alongside Attorney-General Ryan Pinder, KC.



Berchel K.L. Wilson awarded the Dianne Bingham Trust Scholarship.



Sean N.C. Moree, KC featured in panel discussion.



Sir Brian Moree, KT, KC featured in panel discussion.



Team MB&H at STEP Bahamas Conference 2025



STEP/Eugene Dupuch Law School Moot Competition

STEP (BAHAMAS) AND THE JOURNEY TO TEP (“TRUST AND ESTATE PRACTITIONER”)

By Senior Associate Erin M. Hill



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As a member of the Trust & Private Client practice group at MB&H, I was encouraged very early on in my legal career to join STEP Bahamas and begin the journey to obtaining the ‘Trust and Estate Practitioner’ designation (“TEP”). Ms. Beatrice Miranda was the first attorney who I met who had the TEP designation.

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The Society of Trust and Estate Practitioners (“STEP”) is a worldwide professional association for practitioners specializing in trust and estate planning, aimed to enhance expertise and uphold high standards in the field.

STEP has a branch in The Bahamas, known as the STEP (Bahamas) branch, where members discuss topical issues relating to trusts, estates and financial services matters here at home.

TEP is a designation given to full members of STEP, which signifies that they have specialist qualifications and experience in areas like planning, creating, managing and accounting for trusts and estates, as well as executorship administration and related taxes.

TEPs can help clients with drafting wills and trusts, administering inheritance, acting as trustees and advising families on how to organize and structure their assets to ensure tax and legal compliance, while preserving wealth for future generations.

You do not have to be an attorney to be a TEP, in fact, many TEPs are not attorneys. Many of MB&H’s institutional trustee clients employ trust administrators, many of whom hold the TEP designation. Private client attorneys holding the TEP designation have the advantage of receiving the same professional training as many of their clients.

STEP Bahamas can assist those working in the trust and private client fields, or the financial services sector generally, who wish to obtain the TEP designation through CLT International. Most candidates typically follow the **STEP Diploma Route**, which involves completing coursework and four assessments focused on trusts, estates, tax, and related topics.

Alternatively, professionals with extensive experience may qualify through the **Expert Route** or **Essay Route** instead of the diploma program.

STEP Bahamas recently held its annual STEP (Bahamas) Conference. Some of the highlights from the conference of course included the sessions led by Sir Brian Moree KT, KC and Sean Moree KC. Sir Brian’s session provided litigation strategies and tactics when dealing with trust litigation.

Sean’s session was a case study where Sean dove into the facts and legal principles of the well-known ‘Butch Stewart’ case. I had the honor of sitting down with the Attorney-General for a fireside chat to discuss the many legal and regulatory updates in the field.

Throughout the year, STEP Bahamas also hosts various seminars, webinars and “lunch and learns” where industry practitioners come together to continue learning about the field and share ideas and innovative ways for growth. If anyone is interested in joining or learning more about STEP (whether it’s STEP worldwide or STEP Bahamas), I would be happy to assist.



Client Focused. World View.



ATTORNEY HIGHLIGHT

Associate **Theominique D. Nottage, MCIArb** recently participated in the Eugene Dupuch Law School's (EDLS) Legal Education Week 2025, held under the theme: *"Beyond the Bar: Building Mind, Skill, and Character for the Modern Advocate."*

The EDLS Student Association hosted a Mentor/Mentee mixer that brought together EDLS Alumni as mentors and current EDLS students as mentees. The event provided the opportunity to connect with the next generation of attorneys through meaningful conversations and networking in an informal environment.

Theominique said although she completed her EDLS studies a decade ago, she still remembers the challenges of law school and how much the mentorship of EDLS Alumni benefitted her as she began her legal career, and even now, as an MB&H Associate.

"It's personally important to me to 'pay it forward' to the next generation of attorneys and give to others as others gave to me," she said. "I am always happy to support the law school with its initiatives and the EDLS students were very engaged throughout the event."



Theominique D. Nottage



REBALANCING THE SCALES:

THE BAHAMIAN COURTS' EVOLVING APPROACH TO CONFIDENTIALITY AND OPEN JUSTICE



BY SEAN N.C. MOREE, K.C.

The Bahamian courts have recently put the legal and financial services industry on notice that, the historically permissive approach to granting confidentiality orders has changed.

For years, Bahamian litigation involving trust matters and bank accounts were heard in camera, with the court file being sealed and all rulings and judgments anonymized.

Despite the principles of open justice persisting since the landmark decision of **Scott v Scott** [1913] AC 417, Bahamian courts had regularly derogated from these principles in the interest of protecting minors and confidential customer information, even in circumstances where it was not necessary in the interest of justice did not require it.

The decisions of **Hamersmith-Stewart v. Cromwell Trust Company** 2021/CLE/gen/1043 & SCCivApp No. 108 & 132 of 2022 and **Hot Pancakes Limited et al v Amber Louise Murphy et al** SCCiv App. 95 of 2020 has put Bahamian law in this area back on a secure footing, reasserting the primacy of the open justice principle in hostile litigation.

The recent Hamersmith decision clarified the scope of Section 77(3) of the Banks and Trust Companies Regulation Act 2020, which was often relied upon when applying for privacy orders.

While this provision affords the Court a discretion to hear an action in private or seal a court file, that discretion must be canvassed against the constitutional principle of open justice, which although not an absolute right, is difficult to displace.

The question of whether open justice should be departed from is a question of principle, turning not on convenience, but on necessity – see **Al Rawi v Security Service** [2011] UKSC 34.

The Court must undertake a fact-specific balancing exercise when considering the potential value of the information in question in advancing the open justice principle and any risk of harm that its disclosure might cause to the maintenance of an effective judicial process or to the legitimate interests of others. The Court of Appeal also confirmed that this provision is restricted to actions which relate to a customer's bank account information, and does not apply to

disputes dealing exclusively with trust-related matters.

In the event the Court determines that the case before it does warrant confidentiality, it must assess how best to safeguard the information (or documentation) requiring protection, while maintaining the principles of open justice. It will only be in the rarest of cases where the entire proceedings are heard in camera, the file sealed and all rulings are anonymized.

The Courts are encouraged to curtail any privacy orders made to address the specific information or documentation which requires confidentiality. For example, a Court can order that only certain applications or portions of a trial are heard in camera, and that only certain documents are sealed.

Open justice is a fundamental constitutional principle of The Bahamas - Article 20(9) of the Constitution of The Bahamas – and while the statutes and common law principles on the subject have not changed, it is clear that the Court’s application of these principles has evolved.



“The importance of this shift is not purely jurisprudential, as it does affect the Bahamian financial services industry. Many within the financial services industry have taken note of the recent decisions coming from the Bahamian Courts and questioned what if any effect they will have on the competitiveness of the jurisdiction moving forward.”

This remains to be seen, but in both the Hamersmith and Hot Pancakes judgments, the Courts acknowledged that public policy considerations relating to the financial services industry ought properly be taken into account when determining issues of confidentiality in commercial litigation.

Notwithstanding these public policy considerations, open justice will always be the default position, and the Courts propensity to deviate from these long standing principles will be more stringent than in years past.

