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THE IRCULAR

News & Views from McKinney, Bancroft & Hughes

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MB&H Supports Breast Cancer Awareness Month

Throughout October, the firm proudly wore pink every Friday to help raise awareness in support of breast cancer.

MB&H Observes National Heroes Day

The firm joined the nation in observing National Heroes Day, paying tribute to the Bahamian men and women whose vision, courage, and service have helped shape and strengthen our country.

Gabriele Volpi and Delanson Services Limited, Matteo Volpi et al Claim No. 2025/CLE/gen/00668

Senior Associate Berchel K.L Wilson discusses the recent Volpi decision.

McKINNEY, BANCROFT & HUGHES STANDS IN SOLIDARITY THIS BREAST CANCER AWARENESS MONTH

McKinney, Bancroft & Hughes stands in solidarity with those whose lives have been touched by cancer. This month, we honour their strength and resilience while raising awareness about the importance of early detection, education, and support.

Throughout October, the firm showed its support by wearing pink every Friday, transforming the office into a sea of solidarity and compassion. Each pink outfit and accessory, from shirts and pants, to pins and ribbons, represented a shared commitment to raising awareness and standing with those who continue to fight.

McKinney, Bancroft & Hughes remains dedicated to fostering a culture of care both within and beyond the workplace. By continuing to promote education, wellness, and community outreach, the firm reaffirms its belief that awareness saves lives and that together, we can make a meaningful difference in the fight against cancer.



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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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MB&H

Pink Fridays

From the boardroom to the break room, Fridays were all about pink at McKinney, Bancroft & Hughes. Throughout October, we proudly joined the global movement to raise awareness and show support during **Breast Cancer Awareness Month**. We stand in solidarity with survivors, fighters, and their families and remain committed to supporting the fight to find a cure.

MB&H *celebrates* NATIONAL HEROES DAY



On October 13th, 2025, McKinney, Bancroft & Hughes joined the nation in celebrating **National Heroes Day**, a time to honour the Bahamian men and women whose courage, vision, and service have shaped our country's history and continue to inspire its future.

GABRIELE VOLPI AND DELANSON SERVICES LIMITED, MATTEO VOLPI ET AL CLAIM NO. 2025/CLE/GEN/00668



This judgement is the latest in a series of disputes between the beneficiaries of three Bahamian family trust namely, the Winter, Spring and Summer Trusts (“the Trusts”) of which the Claimant, Gabriele Volpi was the economic settlor.

History


The crux of the dispute concerns the 2016 distribution of the entirety of the corpus of the Trusts by the Trustee, Delanson Services Limited. In accordance with Trusts all disputes were subject to arbitration and in late 2018 Matteo Volpi commenced arbitration proceedings against Gabriele and Delanson claiming breach of trust and fraud on a power. The Arbitral panel was consisted consisting of Dr. Georg von Segesser (Presiding Arbitrator), the Rt. Hon. Lord Neuberger of Abbotsbury and Professor Avv. Alberto Malatesta. The Arbitration was split into two phases: Phase One dealing with the substantive claim and Phase Two dealing with quantum and the remedies. The Tribunal issued its Partial Award in respect of phase one on 13 June, 2020. By a majority (Dr. Georg von Segesser and the Rt. Hon. Lord Neuberger of Abbotsbury), the Tribunal declared that the distributions made by Delanson were in breach of trust and for an improper purpose, constituted a fraud on the power and were therefore void.



Senior Associate
Berchel K.L. Wilson



Dissatisfied with the Partial Award, Gabriele and Delanson commenced Action No. 2020/APP/sts/00013 and 2020/APP/sts/00018 against Matteo in the Supreme Court of the Commonwealth of the Bahamas challenging the Partial Award and seeking a stay of the arbitration until the determination of their challenges. Despite staunch opposition by Matteo in respect of staying the arbitration, the Court ultimately granted an interim stay of the arbitration in 2021. The Court heard the parties on the substantive appeal over a period 13 days in April, May and June in 2021. After a lengthy delay, the Court issued its judgement on 28th December 2023 (“the Ruling”) by which it wholly dismissed the challenges and appeal of Gabriele and Delanson and confirmed the Partial Award. The Ruling has since been a subject to multiple unsuccessful appeals to the Court of Appeal on the part of Gabriele and Delanson and the parties are currently awaiting a determination of the Privy Council as to whether Gabriele and Delanson should be granted Special Leave to Appeal to the Privy Council.



John F. Wilson KC of McKinney, Bancroft and Hughes acted on behalf of Matteo in this action and was led by English KC Mr. Adrian Beltrami. It should be noted that this Ruling represents a landmark judgment for the Bahamas as it is the first to challenge an arbitration ruling under the Arbitration Act 2009. Mr. Wilson KC continues to act on behalf of Matteo in the Action which is the subject of this article and he is assisted by Berchel K.L. Wilson and Theominique D. Nottage.

Relevant Facts

Since the Ruling, Phase Two of the Arbitration has commenced, and a two-week trial was fixed for October 2025. By Amended Originating Application Claim Form filed 11th August 2025 Gabriele commenced the subject Action No. 2025/CLE/gen/00668 (“the Action”) before the Supreme Court seeking the removal of the Tribunal on the grounds that there is doubt to the Tribunal impartiality and that the Tribunal has failed to conduct the proceedings fairly. Gabriele also filed an urgent interlocutory application seeking a stay of the Arbitration pending the determination of the Action. The urgency of this application was compounded by the approaching fixture before the Tribunal for the hearing of Phase Two. As a result, the Court moved swiftly to fix a hearing of the application prior to Phase Two of the Arbitration before the Learned Chief Justice Mr. Ian Winder.



Arguments Before the Court

Gabriele grounded its application for stay around five (5) complaints of the Tribunal's management of the Arbitration: i) the Tribunal's denial of Gabriele request for recusal; ii) the Tribunal ordering disclosure of documents which Gabriele states are not in his possession; iii) the Tribunal has not made orders against Matteo in relation to his alleged breach in confidentiality; iv) the dismissal of applications by Matteo's daughters; and v) the non-dismissal of Matteo's application to replace Delanson as Trustee of the Trust. In addressing the legal requirements for a stay Gabriele stated any prejudice to Matteo caused by the stay is outweighed by the prejudice to Gabriele if the Arbitration continued. Gabriele argued that there was no financial loss to Matteo as he was seeking a reconstitution of the Trust for which Matteo has no entitlement but only a hope that a Trustee would exercise its power in its favor. Gabriele further postulated that the strength of the Action had no bearing on the Court's decision to grant a stay. The remaining parties to the Action, namely, Delanson, Isabella and Simone Volpi, supported a stay of Arbitration.

In defense of the stay Matteo argued that application for stay and the Action itself was an attempt to further delay the completion of Phase two of the Arbitration. In support of this position Matteo pointed out the extensive delays which have befallen the Arbitration and the ongoing challenges to the Ruling by Gabriele and Delanson which have prevented Matteo from receiving any costs which have been awarded. Matteo relied on the Ruling which Klein J gave in the previous action where he set out the principles governing a stay pending arbitration:

- “(i) A stay pending appeal is not automatic; it has to be justified, and it is often said to be the exception rather than the rule;
- (ii) The court, however, has a wide if not unfettered discretion to grant a stay, and must take into account all the circumstances of the case;
- (iii) A party contending that his appeal will be rendered nugatory failing a stay must produce cogent evidence of the reasons why a stay should be given;
- (iv) A hopeless or weak appeal will never justify a stay, and a party seeking a stay should adduce strong grounds of appeal, as the prospect of the appeal succeeding may be a determining factor where the balance of harm appears to be even;
- (v) Fifthly, and perhaps most importantly, the court should conduct a balancing exercise to determine which party would be irretrievably harmed by the grant or refusal of a stay; and
- (vi) Sixthly, in the application of the above principles, the court has to take into consideration the specific features of international arbitration.”





In applying these principles the Court found that both Gabriele and Matteo could demonstrate potential prejudice or harm if the application for stay was not decided in their favor. The Learned Chief Justice rested on subparagraph four above and looked at the prospect of the appeal succeeding as the determining factor. The Court disagreed with Gabriele's position that the strength of Gabriele's removal claim had no bearing on the decision to grant a stay. There had to be good ground to support the Action.

In the end the Court found that Gabriele's claim for removal of the Tribunal to be a "weak one". The decisions of the Tribunal did not show any bias or lack of impartiality but rather they show fair reasoning by Tribunal. The fact that the complained decisions went against Gabriele did not make those decisions unfair and could not justify a stay. The evidence showed that the Tribunal had also ruled against Matteo such as on the issue of costs of Phase One which continue to be withheld from Matteo. The Court also noted that while the reconstitution of the Trusts would not guarantee payment out to Matteo, the restoration of his right to be considered benefit is an important factor given Matteo's financial difficulties.

The Court wholly dismissed Gabriele's application for a stay with the issue of costs to be determined by written submissions.