

BARABDOS

**IN THE SUPREME COURT OF BARBADOS
IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

Claim No. CV 284 of 2023

BETWEEN:

LAMBCHOP PROPERTIES, LLC

FIRST CLAIMANT

RMJE PROPERTIES, LLC

SECOND CLAIMANT

AND

APES HILL CLUB HOMEOWNERS ASSOCIATION INC.

FIRST DEFENDANT

CHRISTOPHER ANTHONY AUDAIN

SECOND DEFENDANT

SUNIL CHATRANI

THIRD DEFENDANT

RODDY JAMES CARR

FOURTH DEFENDANT

APES HILL (BARBADOS) INC.

FIFTH DEFENDANT

GARDEN WALL VILLA ASSOCIATION INC.

SIXTH DEFENDANT

Before the Honourable Mr. Justice Bryan L. Weekes, Judge of the High Court

Date of Decision: May 18, 2026

Date of Hearing: May 8, 2026

**Appearances: Mr. Garth Patterson SC in association with Mr. Akeem Rowe of Lex Caribbean
for the Claimants**

**Mr. Roger Forde SC in association with Ms. Trish Bryan for the First, Second,
Third Defendants**

**Mr. Malcolm Deane in association with Ms. Ruanne Martinez for the Fifth
Defendant**

JUDGMENT

INTRODUCTION

- [1] This is the Court's judgment on the amended application by the First, Second, Third and Fifth Defendants for my recusal from the further hearing and determination of these proceedings.
- [2] The substantive claim is brought pursuant to section 228 of the Companies Act, Chapter 308, and concerns the affairs of Apes Hill Club Homeowners Association Inc. The present application does not concern the merits of that claim. It concerns whether, by reason of matters alleged by the applicant Defendants, I should cease to sit in this matter on the basis of actual bias or apparent bias.
- [3] The application was advanced by reference to events said to have occurred during the trial in October 2025, during and after the hearing of an adjournment application on 4 March 2026, and by reference to my disclosure that, before judicial appointment, I had professional dealings with C.O. Williams Construction Ltd. and/or Sir Charles O. Williams.
- [4] The Claimants oppose the application. They submit that the application is, in substance, an attempt to convert dissatisfaction with case management decisions, courtroom administration, and judicial remarks into a recusal application. They further submit that the application was brought late, rests substantially on paraphrase and impression, and does not satisfy the objective test for apparent bias.
- [5] For the reasons set out below, the amended application is dismissed.

THE APPLICATION

- [6] The amended application seeks an order that I recuse myself from hearing and determining

the claim contained in the fixed date claim form filed on 12 April 2023, and that the matter be listed before another judge.

[7] The principal matters relied upon may be summarised as follows:

- a) that in October 2025 the Court greeted and accommodated Mr. Paul Lamb, a representative associated with the Claimants, including by permitting him to sit at or near the Bar table and by making remarks said to acknowledge his experience in development matters;
- b) that during the hearing on 4 March 2026 the Court dealt with the First and Second Defendants' adjournment application in a manner said to favour the Claimants, including by considering prejudice to Mr. Lamb, commenting on his travel arrangements, and refusing the adjournment;
- c) that the Court refused leave to appeal and indicated that there would be no stay, and used expressions such as "good luck" and "stealing your thunder" in exchanges with counsel;
- d) that the Court made observations concerning the Second Defendant's medical position, his ability to withstand cross-examination, and whether the First Defendant ought to have had an alternative representative or director available;
- e) that the Court has made remarks concerning investments made by lot owners within the Apes Hill development;
- f) that the Court previously acted for or had professional dealings with C.O. Williams Construction Ltd. and/or Sir Charles O. Williams, and that, because of the alleged historical relationship between C.O. Williams-related entities, AH Development SRL, the First Defendant, and the Apes Hill development, a fair-minded observer would apprehend bias.

[8] The applicant Defendants submit that these matters establish actual bias, or alternatively apparent bias, whether considered individually or cumulatively.

[9] The Claimants submit that the application fails at every stage. They contend that the alleged facts do not disclose bias; that adverse or robust judicial rulings are matters for appeal and not recusal; that a fair-minded and informed observer would understand the context of a

small courtroom, active case management, the need to progress a part-heard trial, and the Court's duty to balance prejudice; and that the delay in bringing complaints based on October 2025 events undermines the application.

ISSUES

[10] The issues for determination are:

- a) what legal test governs an application for recusal based on apparent bias;
- b) whether the applicant Defendants have established actual bias;
- c) whether the facts relied upon, taken individually or cumulatively, would lead a fair-minded and informed observer to conclude that there is a real possibility that the Court is biased;
- d) whether delay or waiver affects the application; and
- e) what order should be made.

APPLICABLE LEGAL PRINCIPLES

[11] The governing test is not in dispute in its essentials. In **Walsh v Ward** [2025] CCJ 14, the Caribbean Court of Justice stated that the reviewing court must place itself in the position of an objective and fair-minded lay observer, fully informed of the facts, and ask whether that observer would conclude that there was a real possibility of bias. The CCJ emphasised that what matters is not so much the reality of bias as its appearance, and that the test is directed to preserving public confidence in the administration of justice, not to censuring the judge: **Timothy Walsh v Stephen Ward** [2025] CCJ 14.

[12] The same formulation derives from **Porter v Magill** [2002] 2 AC 357, in which the question was stated as whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased. That test has been repeatedly applied in this jurisdiction and across the Commonwealth.

[13] The fair-minded and informed observer is not complacent, but neither is that observer unduly sensitive or suspicious. The observer is informed of all relevant circumstances, appreciates the realities of litigation and judicial case management, and considers context before reaching a conclusion.

- [14] The local decision in **John Paul McManus v His Worship Mr. Graveney Bannister** BB 2022 HC 54, confirms the same approach. Griffith J stated that the Court must first ascertain the relevant circumstances said to give rise to the allegation of bias and then consider whether those circumstances would lead the fair-minded and informed observer to apprehend a real possibility of bias. Bias, in this context, concerns a predisposition or state of mind that prevents the decision-maker from approaching the case with an open mind: **John Paul McManus v His Worship Mr. Graveney Bannister**. BB 2022 HC 54.
- [15] Several further principles are material:
- a) there is a presumption of judicial impartiality, although it is rebuttable;
 - b) judicial rulings, including case management and discretionary decisions, even if arguable on appeal, will ordinarily not justify recusal;
 - c) robust language, impatience, or courtroom remarks will not ordinarily establish apparent bias unless they cross the line into hostility, prejudice, or the appearance of a closed mind;
 - d) the Court must consider the actual circumstances, not speculation;
 - e) the relevant circumstances must be considered cumulatively, but weak allegations do not become strong merely by aggregation;
 - f) a judge has a duty to sit where there is no proper basis for recusal, just as there is a duty to withdraw where the legal test is met.
- [16] In **Locabail (UK) Ltd v Bayfield Properties Ltd**, [2002] QB 451, the English Court of Appeal stressed that everything depends on the facts. Previous professional background, service history, or receipt of instructions to act for or against a party will not ordinarily ground a sustainable objection. A real danger may arise where there is a close personal friendship or animosity, a direct interest in the outcome, an extreme and unbalanced expression of views on an issue to be decided, or some other real ground for doubting that the judge can bring an objective judicial mind to the issues.

- [17] **Locabail** also recognises that delay is relevant. The greater the passage of time between the event relied upon and the objection, the weaker, other things being equal, the objection becomes. A party who knows the material facts and proceeds without objection may be taken to have waived the objection, especially where the objection is only raised after an adverse ruling.
- [18] In **JSC BTA Bank v Ablyazov**, [2013] 1 WLR 1845, the Court of Appeal considered recusal in the context of extensive prior findings and held that the question remains whether the fair-minded and informed observer would see a real possibility of bias. The case also confirms that objections may be waived where a party, with knowledge of the relevant facts, fails to object at the appropriate time and continues with the proceedings.
- [19] Finally, **Re Medicaments and Related Classes of Goods (No 2)** [2001] 1WLR 700, illustrates that the focus is the appearance of impartiality assessed objectively, not the subjective confidence of the judge.

ACTUAL BIAS

- [20] The allegation of actual bias is serious. It requires cogent evidence that the judge is in fact predisposed for or against a party, or has a closed mind, such that the case will not be decided on the evidence and the law.
- [21] No such evidence has been produced. The matters relied upon are, in substance, courtroom interactions, case management rulings, remarks made in the course of a live hearing, and a disclosed past professional association. None demonstrates that I have prejudged the substantive issues, that I have a personal interest in the outcome, or that I harbour hostility to any party or counsel.
- [22] The application for recusal on the ground of actual bias is therefore dismissed.

APPARENT BIAS: FACTUAL FOUNDATION

- [23] The first stage of the analysis is to identify the relevant circumstances. The Court must be careful not to proceed on conjecture or incomplete impression. The burden rests on the applicant to establish the facts relied upon with sufficient clarity.
- [24] A significant part of the application rests on paraphrased recollections of remarks and impressions of tone. The applicant Defendants did not place before the Court a full transcript of the proceedings, a comprehensive agreed note, or the audio record of the relevant hearings. In circumstances where tone, sequence, context, and the precise words used matter, that omission is significant.
- [25] That does not mean that a recusal application can never be founded on affidavit evidence or counsel's recollection. It does mean that where the allegations concern alleged nuances in courtroom language, judicial tone, and the flow of a hearing, the Court must be cautious before drawing the grave conclusion that the appearance of impartiality has been compromised.
- [26] I approach the application on the basis most favourable to the applicant Defendants where the alleged remarks are not materially disputed, but I do so within the wider context of an ongoing part-heard trial, active case management, a small courtroom, and the Court's responsibility to balance the interests of all parties.

ALLEGATIONS CONCERNING MR. PAUL LAMB IN OCTOBER 2025

- [27] The applicant Defendants complain that Mr. Paul Lamb was greeted by the Court, acknowledged by reference to his professional experience, invited or permitted to sit at or near the Bar table, and assisted with seating or documents.
- [28] These allegations, even if accepted at their highest, do not establish apparent bias. They describe matters of courtroom management and ordinary courtesy. The fair-minded and

informed observer would know that courtrooms vary in size and configuration, that complex company proceedings may involve voluminous documents, and that a judge may make practical accommodations to facilitate the efficient conduct of a hearing.

[29] There is no allegation that Mr. Lamb was permitted to act as counsel, to give evidence outside the proper procedures, to communicate improperly with the Court, or to obtain an evidential or procedural advantage. Nor is there evidence that any substantive issue was decided because of the seating arrangements or the Court's courtesy to him.

[30] The alleged acknowledgement of Mr. Lamb's experience in development matters also does not amount to an endorsement of his evidence or the Claimants' case. Judges may make remarks during the course of proceedings that recognise a person's background or apparent familiarity with a subject. Such a remark is not a finding of fact, not a credibility determination, and not a conclusion on the merits.

[31] The fair-minded observer would distinguish between courtesy and partiality. The observer would also understand that the judicial oath requires the Court to decide the case on admissible evidence and legal submissions, not on social or professional courtesies.

[32] I therefore reject the submission that the October 2025 incidents concerning Mr. Lamb, taken individually, give rise to a real possibility of bias.

DELAY IN COMPLAINTS ABOUT OCTOBER 2025 EVENTS

[33] The October 2025 events were not the subject of a prompt recusal application. The first formal application was brought only after the hearing and outcome of the March 2026 adjournment application.

[34] If the October events genuinely created an objective appearance of bias at the time, one would have expected a prompt objection. The failure to object contemporaneously is not

necessarily conclusive, but it is highly relevant. It indicates that the incidents were not understood, when they occurred, to require the judge's withdrawal.

- [35] The timing supports the Claimants' submission that these earlier matters have been revived only after an adverse case management ruling. That chronology weakens, rather than strengthens, the application.

THE ADJOURNMENT APPLICATION OF 4 MARCH 2026

- [36] The applicant Defendants' principal complaints arise from the Court's handling of the application to adjourn the trial because of the Second Defendant's illness.

- [37] An adjournment application necessarily requires the Court to consider competing prejudice, the reason for the adjournment, the history of the proceedings, the effect on the parties and witnesses, the efficient use of court resources, and the overriding objective of dealing with cases justly.

- [38] The Court was entitled to consider the impact of an adjournment on the Claimants, including the availability, travel arrangements, and inconvenience to witnesses or representatives. The fact that one party has not filed affidavit evidence on every element of prejudice does not mean the Court must ignore practical matters apparent from the conduct of the trial or from matters raised during the hearing.

- [39] The Court was also entitled to analyse the adjournment application for itself. A judge does not become an advocate merely by identifying issues relevant to the exercise of a discretion. The judicial function includes testing submissions, identifying the real issues, and determining whether relief should be granted.

- [40] The application for adjournment was not treated as a matter of indifference to the Second Defendant's position. On the contrary, the Court considered that the Second Defendant was sued in his personal capacity and that his ability to give evidence and face cross-

examination required careful consideration. The Court considered possible mitigation of prejudice, including the admission of evidence under the Evidence Act where appropriate.

[41] The fact that the applicant Defendants disagree with the result of the adjournment application does not establish bias. The authorities make clear that rulings capable of appeal do not ordinarily found a recusal application. If a party contends that a judge took into account irrelevant considerations, failed to consider relevant matters, or reached a wrong discretionary conclusion, the ordinary remedy is appeal, not recusal.

[42] I therefore reject the submission that the refusal of the adjournment, or the reasoning deployed in determining it, would lead the fair-minded and informed observer to conclude that there is a real possibility of bias.

REFUSAL OF LEAVE TO APPEAL AND COMMENTS ABOUT A STAY

[43] The applicant Defendants also complain that the Court refused leave to appeal and indicated that there would be no stay.

[44] Decisions on leave to appeal and on whether proceedings should be stayed are judicial decisions made in the ordinary course of litigation. A judge who has refused an adjournment may, consistently with the judicial function, consider whether leave to appeal should be granted and whether the trial should continue.

[45] If any procedural step should have been taken differently, that is again a matter for appellate review. It is not, without more, evidence of partiality.

[46] The expression “good luck”, relied upon by the applicant Defendants, does not objectively establish bias. Judges sometimes use colloquial language during hearings. The relevant question is not whether the phrase was ideal, but whether a fair-minded and informed observer would regard it as showing a closed mind, hostility, or predisposition. I am satisfied that the observer would not.

THE “STEALING YOUR THUNDER” REMARK

- [47] The applicant Defendants rely on an exchange in which the Court is said to have stated to counsel for the Claimants, Mr. Patterson, S.C., that the Court was “sorry for stealing your thunder”, to which counsel responded, “steal away”.
- [48] The fair-minded and informed observer would view that exchange in context. It was a colloquial acknowledgment that the Court had addressed matters that counsel might otherwise have developed in submissions. It was not a private communication, not an expression of alignment with the Claimants, and not a substantive ruling on the merits of the claim.
- [49] The Court accepts that judicial language must be measured. However, the authorities do not require judges to conduct hearings in language stripped of all ordinary expression. The question remains whether the words used would cause an informed observer to apprehend a real possibility of bias. They would not.
- [50] The Defendants’ reliance on **Dorman v Clinton Devon Farms Partnership** [2019] EWHC 2988 (QB) is misplaced. That case concerned materially different circumstances involving unjustified, intemperate, and threatening comments regarding future costs and case management. The present exchange does not approach that level. It does not evidence hostility to the applicant Defendants or predisposition in favour of the Claimants.

OBSERVATIONS CONCERNING THE SECOND DEFENDANT’S HEALTH

- [51] The Defendants criticise the Court’s remarks concerning the Second Defendant’s health, including the observation that a return to work would not necessarily mean fitness to withstand cross-examination by eminent counsel.

- [52] Those remarks were directed to the very issue before the Court: whether the Second Defendant's medical position justified an adjournment and, if not, how potential prejudice might be mitigated. They reflected concern for the Second Defendant's position, not hostility to it.
- [53] A judge considering an adjournment based on illness is entitled to scrutinise the medical evidence and to ask whether the evidence addresses the functional demands of giving evidence and undergoing cross-examination. That is not bias. It is the performance of the judicial function.
- [54] The reference to counsel's eminence did not confer an improper advantage on the Claimants. It acknowledged the practical reality that cross-examination in High Court litigation can be demanding. The fair-minded observer would understand the remark in that way.

OBSERVATIONS CONCERNING REPLACEMENT OF THE FIRST DEFENDANT'S REPRESENTATIVE

- [55] The applicant Defendants complain that the Court suggested that the First Defendant ought to have appointed someone else to act if the Second Defendant was unavailable, notwithstanding that the authority to appoint directors or representatives is itself disputed in the substantive proceedings.
- [56] The fair-minded and informed observer would understand that remark as a practical observation about corporate continuity in litigation. A corporate defendant can act only through natural persons. Where a person acting on behalf of a company becomes seriously unwell, the Court is entitled to raise, at least as a matter of practical case management, how the company proposes to continue participating in the proceedings.

[57] The remark did not determine the “Turnover Date”, did not decide who lawfully controls the First Defendant, and did not resolve any substantive governance issue. At most, it was a practical observation made in the context of an adjournment application. It does not demonstrate prejudice.

REMARKS CONCERNING INVESTMENTS IN THE APES HILL DEVELOPMENT

[58] The applicant Defendants also contend that the Court has made comments concerning monies invested by persons who purchased lots in the Apes Hill development, including the Claimants, while not similarly acknowledging investments by the Fifth Defendant or others.

[59] The substantive proceedings concern a homeowners’ association and alleged rights and obligations connected to a development. It is unsurprising that the Court may, in managing and understanding the case, refer to the practical and financial context of the dispute.

[60] Such references do not amount to findings that the Claimants are right, that other owners’ interests are identical to theirs, or that the Fifth Defendant’s position lacks merit. The trial remains to be determined on the evidence and the law.

[61] The fair-minded observer would not infer bias from contextual remarks about the commercial and practical setting of the dispute.

PRIOR PROFESSIONAL DEALINGS WITH C.O. WILLIAMS-RELATED PERSONS OR ENTITIES

[62] The Defendants rely on my disclosure that, before judicial appointment, I had acted for or had professional dealings with C.O. Williams Construction Ltd. and/or Sir Charles O. Williams. They submit that this creates a real possibility of bias because C.O. Williams-related persons or entities are said to be historically connected to the Apes Hill development, to AH Development SRL, and to issues concerning the “Turnover Date”.

- [63] The starting point is that there is no suggestion that I have any current financial, proprietary, professional, personal, or other interest in the outcome of these proceedings. Nor is it suggested that C.O. Williams Construction Ltd., Sir Charles O. Williams, or AH Development SRL is a party before the Court.
- [64] There is also no evidence that any former professional relationship is current, close, personal, or of such a character that the outcome of this claim could realistically affect any interest of mine. The application therefore does not engage the doctrine of automatic disqualification.
- [65] The issue is whether, applying the objective apparent-bias test, a fair-minded and informed observer would conclude that there is a real possibility that I might be biased because of those past professional dealings.
- [66] In my judgment, the answer is no. Prior professional instructions or dealings, without more, do not ordinarily require recusal. **Locabail** makes this clear. The legal system could not function if every judge were disqualified from hearing any matter in which a former client, or a person or entity with some historical commercial connection to a former client, appeared in the background of a dispute.
- [67] The asserted connection here is indirect and attenuated. It depends on historical links said to exist between C.O. Williams-related persons or entities, the Apes Hill development, and entities whose obligations may be affected by findings in this case. That is not a direct personal interest, not a current relationship, and not a circumstance from which the fair-minded observer would infer a real possibility of bias.
- [68] The fair-minded observer would also understand the distinction between a judge's past professional life and the judicial duty to decide a case impartially. Judges are commonly appointed after professional careers in which they acted for many individuals and entities.

The mere fact of such prior representation does not displace the presumption of impartiality.

- [69] I have considered whether there is any real ground for doubt such that, prudently, I should withdraw notwithstanding the strict application of the test. Having done so, I am satisfied that this is not such a case. Recusal on this basis would extend the doctrine of apparent bias beyond its principled limits.

CUMULATIVE ASSESSMENT

- [70] I have considered the matters relied upon both individually and cumulatively.
- [71] The cumulative case does not alter the result. The allegations concerning Mr. Lamb amount to courtroom courtesy and administration. The complaints concerning the adjournment application concern judicial rulings and case management. The remarks relied upon, considered in context, do not show hostility, prejudgment, or alignment with the Claimants. The observations about the Second Defendant's health and the First Defendant's representation were germane to the adjournment application. The past professional dealings with C.O. Williams-related persons or entities are too remote and indirect to found apparent bias.
- [72] A fair-minded and informed observer, fully apprised of the facts and context, would not conclude that there is a real possibility that the Court is biased.
- [73] It is necessary to add that recusal applications occupy an important place in protecting public confidence in the administration of justice. But they must not be used as a substitute for appeal or as a response to adverse rulings. The administration of justice requires judges to withdraw when the legal test is met; it also requires them to remain seized of matters when the test is not met.

DELAY AND WAIVER

[74] The application is further weakened by delay.

[75] The complaints concerning Mr. Lamb relate to October 2025. They were known to the applicant Defendants and their counsel at the time. No prompt application was made. The parties continued with the proceedings. The recusal application was only pursued after the March 2026 adjournment ruling.

[76] In accordance with the principles reflected in **Locabail** and **Ablyazov**, a party who is aware of the facts said to found an objection should raise that objection promptly. A party may not hold the objection in reserve and deploy it only after receiving an unfavourable ruling.

[77] I do not rest my decision solely on waiver. The application fails on its merits. But the delay reinforces the conclusion that the fair-minded and informed observer would not regard the October 2025 events as giving rise to a real possibility of bias.

DISPOSITION

[78] The amended application for recusal is dismissed.

[79] The Court will continue to hear and determine the substantive proceedings unless and until otherwise ordered by an appellate court.

[80] The Claimants are entitled to their costs of the amended recusal application, to be assessed if not agreed, unless the parties are heard and the Court orders otherwise.

ORDER

1. The amended application by the First, Second, Third and Fifth Defendants for the recusal of the trial judge is dismissed.
2. The matter shall remain before this Court for further case management and continuation of the trial.

3. The First, Second, Third and Fifth Defendants shall pay the Claimants' costs of the amended recusal application, to be assessed if not agreed.
4. Liberty to apply.

A handwritten signature in black ink, appearing to read "Bryan L. Weekes". The signature is written in a cursive, flowing style.

Bryan L. Weekes
Judge of the High Court