

IN THE SUPREME COURT OF BELIZE, A.D. 2022

CLAIM No. 618 of 2021

BETWEEN

DONALD SAMUELS

CLAIMANT

AND

INDIRA BROOKS

DEFENDANT

DECISION OF The Honourable Madam Justice Patricia Farnese

HEARING DATE: November 14, 2022

APPEARANCES

Mr. Edwin L Flowers, S.C. for the Claimant

Ms. Stevanni Duncan Ferrera for the Defendant

**DECISION ON APPLICATIONS FOR STRIKE-OUT AND TO APPOINT A
REPRESENTATIVE PARTY**

[1] Mr. Samuels seeks to set aside the Grant of Letters of Administration Ms. Brooks obtained over her father's estate. Ms. Brooks' father, Mr. Raymond Brooks, was married to Mr. Samuel's sister, Mrs. Margaret Brooks. Mr. Brooks predeceased his wife. Mr. Samuel asserts that he is his sister's only living relative. Mr. Samuel purports to have a copy of Mr. Brooks'

will whereby Mrs. Margaret Brooks was named the sole beneficiary. Although not explicitly pleaded, Mr. Samuels' assertion that he is the sole living relative of his sister suggests that he believes he is entitled to the property that comprises Mr. Brook's estate.

[3] In my decision to deny the application to appoint a representative party, I agree with the defendant's submission that Rule 21.7 is not applicable in the circumstances of this case. Mr. Samuels filed this claim on behalf of the estate of Mrs. Margaret Brooks before obtaining the court's permission to act on behalf of the estate. He now relies on CPR Rule 21.7 to be named a representative party. Rule 21.7 is designed to address circumstances where there are multiple parties in a claim with similar interests. For expediency, the court can appoint one party to act as the representative for the entire class. Mr. Samuels cannot avoid the procedures to be appointed an administrator of an estate by relying on Rule 21.7. Where expediency is required, parties are able to apply to be appointed an administrator *ad litem*.

[4] I also find that I am bound by the Young J.'s decision in *Parham and Anor v Dennison*¹ and must grant the application to strike out the claim. These proceedings are a nullity because Mr. Samuels is not yet able to initiate a claim on behalf of the estate of Mrs. Margaret Brooks. Mr. Samuels has no *locus standi*.

Disposition

It is ordered that:

1. The application to appoint Mr. Samuels as a representative party is denied.
2. The claim is a nullity and is struck out.
3. The defendant is entitled to her costs as agreed or assessed.

Dated November 16, 2022

Patricia Farnese
Justice of the Supreme Court of Belize

¹ Claim No. 300 of 2015.