



Cause No: ATT2024-0026

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

IN THE MATTER OF THE LEGAL PRACTITIONERS ACT (2022 REVISION)
AND IN THE MATTER OF AN APPLICATION FOR LIMITED ADMISSION OF
ALEXANDER JAMES KENNETH POTTS KC

Appearances: **Mr Erick Bodden of Conyers Dill & Pearman for the Applicant**

Before: **The Honourable Justice Jalil Asif KC**

Heard: **6 March 2024**

Judgment: **6 March 2024**

CASE SUMMARY

(not part of judgment)

Application for limited admission pursuant to section 4 of the Legal Practitioners Act (2022 Revision) and Practice Direction 4 of 2012—Requirement for evidence to address any departure from requirements of section 4 or the Practice Direction—Undertaking to sign Register of Attorneys when applicant is not present in jurisdiction.

JUDGMENT



1. This is my judgment in cause number ATT2024-0026, an application for the limited admission of Mr Alexander James Kenneth Potts KC to appear as leading counsel in a matter currently proceeding in the Financial Services Division, FSD2024-0056 (JAJ). The application was ably made by Mr Erik Bodden of Conyers. This judgment addresses certain points of general importance in relation to applications for limited admission of attorneys at law.
2. Mr Bodden referred me to s.4 of the Legal Practitioners Act (2022 Revision), Practice Direction No.4 of 2012 and the judgment of Justice Doyle in Re the Limited Admission of Jeremy Edward Goldring QC (unreported, 8 August 2022, ATT2022-0121) in support of the application.
3. Other useful statements regarding the approach to be adopted when making applications for limited admission are set out in the judgment of Acting Justice Foster in Re Certain Applications for Limited Admission as an Attorney-at-Law [2009 CILR 41] and the judgment of Justice Segal in Palladyne International Asset Management BV v Upper Brook (unreported, 26 September 2016, FSD2016-0068). Furthermore, in my view, it is more useful to consider the judgment of Justice Doyle in Re Mumford QC (unreported, 14 March 2022, ATT2022-0030-33) than his judgment in Re Goldring QC.
4. It is important in any application for limited admission that the requirements of s.4 of the Legal Practitioners Act and the Practice Direction are complied with. It has been said on many occasions by different judges that an application for limited admission is not a rubberstamping exercise. The court has to make a positive decision to exercise its discretion to grant the application for limited admission. In order to do so, the court must be presented with sufficient appropriate evidence that addresses all of the applicable requirements of the Act and the Practice Direction.
5. In addition to the points which other judges have already raised in their helpful and detailed judgments on this topic, I add the following.



6. First, in any matter in which there is someone who has been served with the underlying proceedings or is otherwise actively involved in the cause or matter, it is important that the application for limited admission and supporting materials are served on them in good time before the hearing. This is so that they can consider whether they wish to oppose the application. This requirement underpins the importance of complying with the timetable set out in the Practice Direction in order to give such a person sufficient time to consider their position and to act, if so advised.

7. Secondly, where there is an obstacle to swearing the applicant's affidavit in good time and that hold-up impinges on the timetable set out in the Practice Direction, I remind applicants that the Practice Direction indicates that the papers should be provided to the court with an approved unsworn version of the applicant's affidavit, with the sworn affidavit to follow. Similarly, service of the application on any other person should not be delayed because the applicant has not yet sworn their affidavit – again, the approved unsworn draft should be provided in good time with the sworn version to follow.

8. It has been suggested in some cases (but not in this one) that a reason for applicants not being able to comply with the timetable in the Practice Direction is that the applicant has been waiting for a temporary work permit to be issued, and that the application for the temporary work permit cannot be submitted until the Registry has allocated a cause number for the underlying proceedings. There may be some attorneys who believe that the provision of a cause number cannot happen until a date for the hearing has been fixed. This is not correct and is not a good reason for delaying in finalising and filing the application for limited admission. The electronic filing system now in use at court means that the Registry will allocate a cause number as soon as papers in the underlying proceedings are filed and processed. That cause number should be immediately visible to counsel for the applicant, which should allow the application for a temporary work permit to be submitted and determined promptly. If for any reason the cause number is not immediately visible, it can be provided by the Registry.



9. The judgment of Justice Segal in *Palladyne International Asset Management v Upper Brook* draws attention to the requirement in paragraph 9 of the Practice Direction that the applicant must sign the Register of Admitted Attorneys “...before he makes any appearance in the specified suit or matter in which it is proposed the Applicant should appear.” This is obviously of great importance where the application is made with the applicant appearing by videolink and the substantive hearing is also intended to proceed by videolink – often immediately after the conclusion of the limited admission application.
10. In any matter where the timetable and the other requirements of the Practice Direction have not been complied with, the affidavit in support of the application must address this and explain why, and why the court should grant the application nonetheless. As mentioned above, this is essential so that the court has the necessary evidence properly before it to enable it to exercise its discretion.
11. Similarly, in cases where it is intended that the applicant should be allowed to appear in the substantive suit or matter before they sign the Register of Attorneys, it is essential that the evidence in support of the application addresses why an exception to paragraph 9 of the Practice Direction is sought. In particular, the evidence must explain why it is not reasonably practicable for counsel to travel to the Islands for the substantive hearing and provide the date when the applicant intends to travel to the Islands to sign the Register. The applicant must undertake to sign the Register, which should be done within weeks rather than months following the hearing, and with a long stop date specified in the Order granting limited admission. The applicant should also formally undertake to abide by their professional duties and obligations, and that they will be subject to the professional discipline requirements applicable to an attorney who has been granted general admission as an attorney at law and officer of the Court. It is helpful if the applicant confirms that they have read and are familiar with the CILPA Code of Conduct.
12. Turning to this particular case, I am satisfied from the materials I have seen that there is an urgent application to appoint provisional liquidators in the cause for which Mr Potts KC’s admission is sought.



13. The timetable in the Practice Direction was not complied with in this case. Although there is scant material in the affidavits to explain this, I have seen the correspondence between the applicant and the court regarding the listing of the underlying proceedings and also the listing of this application. It does appear to me that Mr Potts and his attorneys have done their best to move matters forward as quickly as they can in the unusual circumstances of the underlying case. I am satisfied that there is good reason for the failure to adhere to the requirements of the Practice Direction.
14. I am also indeed satisfied that it is Conyers' client's wish that Mr Potts KC is instructed to come to the Cayman Islands to appear in the underlying matter and that he is in possession of the appropriate qualifications and expertise in matters of this sort, so that it is appropriate for me to grant his limited admission.
15. As I indicated in the course of argument, notwithstanding the content of this short judgment, I do not intend to criticise Conyers in their conduct of this particular application, but it is important to reinforce that the requirements of the Practice Direction need to be observed and, where it is not possible to observe them, to ensure that those failures are addressed in the evidence, so that the Court has material on which it can properly exercise its discretion.

Dated 6 March 2024

A handwritten signature in blue ink, appearing to read "Asif", written over the printed name of the judge.

**THE HONOURABLE JUSTICE ASIF KC
JUDGE OF THE GRAND COURT**