

VIDEOCONFERENCE
COMMONWEALTH OF DOMINICA
Friday, 29th July 2011

APPLICATIONS AND APPEALS

- Case Name:** **Ambrose George v Hector Spags John et al**
[High Court Civil Appeal Nos. 14 and 15 of 2011]
- Coram:** **The Hon. Mde. Ola Mae Edwards, Justice of Appeal**
The Hon. Mde. Janice Pereira, Justice of Appeal
The Hon. Mr. Davidson Baptiste, Justice of Appeal
- Appearances:**
- Appellant:** **Mr. Anthony Astaphan, Senior Counsel**
- Respondent:** **Mr. Gildon Richards (for the 1st Respondent, Hector Spags John)**
Mr. Levi Peter, Attorney General of the Commonwealth of Dominica (for the 2nd Respondent, The Attorney General)
- Issues:** **Leave to apply for judicial review – Whether the learned judge erred in law by applying the wrong test in deciding whether to grant the appellant leave to apply for judicial review – Whether the learned judge erred in refusing the appellant leave to apply for judicial review on the additional grounds sought by the appellant.**
- Result / Order:** **[Oral delivery]**
- 1. The appeal is allowed, and the order of the learned trial judge in relation to s. 4(3) of the Integrity in Public Office Act 2003 is set aside.**
 - 2. The appellant has leave to amend the fixed date claim to include additional grounds: (i) in relation to s. 4(3) of the Act and (ii) the common law / rule of law ground in relation to bias and impartiality of individual appointees and members of the third respondent.**
 - 3. The injunction made in terms of paragraph 8 of the**

order of this Court made on 26th May 2011 shall continue until the determination of the Judicial Review claim before a different judge.

4. The amendment of the fixed date claim is to be made within 14 days of the date of this order.
5. No order is made as to costs, in keeping with the general rule.

Reason:

The Court was satisfied, having taken into consideration the judgment of the learned trial judge as well as the application that was before him, that arguable grounds were made out in relation to s. 4(3) of the Integrity in Public Office Act 2003, Laws of Dominica, Act No. 6 of 2003 (“the Act”) and also in relation to the question of impartiality and bias. The Court was also satisfied that there is a realistic prospect of success in relation to arguments concerning s. 4(3) of the Act and the common law principles of impartiality and bias. The Court was of the view that the application (of the appellant) that was before the learned judge concerning s. 4(3) of the Act is fit for consideration at a substantive Judicial Review hearing.