

ECSC E-NEWSLETTER



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GREETINGS FROM THE CHIEF JUSTICE

March was an exciting month. I was pleased that the team from Ottawa consisting of Justice James Chadwick, Master Robert Beaudoin, and Attorney Peter Cronyn were able to participate in the Case-Management seminars held in the region from the 3rd to the 17th March, 2001. I really enjoyed the interaction with them. I thought that they were excellent presenters and their contribution was most informative.

I was privileged and honoured to be invited by the International Bar Association to join a fact-finding mission to Zimbabwe to enquire into rule of law abuses. It was my first visit. After the long trip I was intrigued to find a Caribbean community there. From my home country St. Kitts, I met Mrs. Venetta Endebele nee Ross. I should also mention the Hon. Justice Vernadah Ziambi nee Durrant of Dominica. I also met others from Antigua and Jamaica.

During the month the Court Headquarters also renewed contact with an old friend Mr. Robert Lipscher who did another brief consultancy funded by USAID.

EASTERN CARIBBEAN SUPREME COURT NEWS

Visit to the Norman Manley Law School

Justice Saunders visited the Norman Manley Law School during the latter half of March to deliver two lectures to the students there. The visit, at the request of the Principal of the School, was intended to cater specifically to OECS students studying at that institution. The students have in the past expressed the view that they felt somewhat cut off from the OECS judiciary.

On Thursday March 15th Justice Saunders delivered a lecture to the students on the workings of the OECS Court, the principle of judicial independence and the reform process currently underway in the OECS Justice System. On Friday March 15th he did a Power Point Presentation on the new Civil Procedure Rules. A very lively discussion, that had to be cut short, followed both presentations.

During the course of his visit to the School Justice Saunders met with the OECS students as a group. The students were delighted that one of their judges was able to meet with them. They expressed tremendous interest in the reform process and sought more details on how the various programmes would affect them as future young practitioners. They also pointed out some of the peculiar problems that they faced at the School.

During his visit to Jamaica Justice Saunders also held discussions with members of the Jamaica Continuing Legal Education Committee. They are very involved in the drafting and adoption of Jamaica's new Civil Procedure Rules and they thought that there may be some areas where it might be possible for our judiciary to lend some assistance to the process currently underway in Jamaica. Justice Saunders also visited the Legal Aid Clinic attached to the School.

Principal of the Law School, Mr. Keith Sobion, was pleased with the success of the visit of Justice Saunders and has expressed the view that such visits should be institutionalized.

The New Rules Work!

"A fast paced thriller" is how a reviewer probably would describe the story line in *Admiralty Action 4 of 2000, Bas Spuybroek v The Motor Yacht "Diamanthe"*. The action shifts from Spain to Gibraltar, The Netherlands, England, Martinique and finally St. Lucia, as the plaintiff tracked down vessel and defendant, "kidnapped" him in Martinique and finally managed to arrest the vessel in St. Lucia.

The thriller now becomes Court room drama and the preparation for trial begins. Enter "the New Rules" more formally known as the *Civil Procedure Rules 2000*. Counsel were able to obtain a combined case management and pretrial review order in February 2001. Provision was made for disclosure, the delivering of witness statements,

identification of agreed facts and issues in dispute, skeleton arguments and for a trial date in early March.

It is a tribute to the industry and competence of Messrs. Anthony McNamara and Peter Foster, counsel for the respective parties, that by the weekend before the trial everything was laid out before opposing counsel and before the Court. The entire case for each party was completely comprehensible.

The earlier preparation combined with skilful cross-examination, and the (also new) electronic Court reporting system installed in the High Court, served to achieve dispatch. The testimony of six witnesses, in this heavily factual-dispute litigation, was completed in the course of a single day. Skeleton arguments having been furnished in advance, the addresses of counsel were also completed on that day.

Three days later judgment was delivered.

The foundation of it was “the New Rules”. The forensic talent was always there; so too was a legal system able to do justice between parties. What was new was a procedure that had as its overriding objective the enabling of the Court to deal with cases justly.

The rules ensured that the parties litigated on an equal footing, they saved expense and allowed the case to be dealt with in a way which was proportionate to the amount of money involved, the importance of the case, the complexity of the issue and the financial position of both parties. By virtue of the new rules an appropriate share of the Court’s resources was allotted to this case and the case was dealt with expeditiously.

The new rules worked.

Draft Guidelines for Disclosure in Criminal Cases

A meeting to finalise the Draft Guidelines for Disclosure in Criminal Cases was convened on Thursday, 29th March 2001 at 10.00a.m at the Eastern Caribbean Supreme Court.

The Committee chaired by His Lordship, the Honourable Justice Albert N.J. Matthew, Director of Judicial Studies comprised of the following persons:

His Lordship the Honourable Chief Justice, Sir Dennis Byron
Her Ladyship, Miss Suzie d’ Auvergne
Director of Public Prosecutions, Mr. Norton Jack
Deputy Director of Public Prosecutions, Miss Victoria Charles
Mr. Andy George
Mrs. Ellaine French

A committee comprising of Mr. Andy George as Chairman, Ms Victoria Charles, Assistant Director of Public Prosecutions and Mrs. Ellaine French, Legal Intern, was set up to consider the status of guidelines and to report by Friday, April 6th, 2001.

A new date of Thursday, April 17th 2001 was set to finalize the guidelines after which they will be circulated to the various Attorneys General and Bar Associations for their comments.

Annual Meeting of the Commonwealth Judicial Education Institute

The Annual Meeting of the Commonwealth Judicial Education Institute was held on Monday, March 12, 2001. The Chief Justice joined the Annual Meeting via video conferencing facilities from London on his way to Zimbabwe. Justice Telford Georges joined the video conference from Barbados.

Judge Sandra Oxner was re-elected as the President of the Commonwealth Judicial Education Institute and Sir Dennis Byron was elected to the post of Vice-President.

Chief Justice Byron Returns From Iba Mission To Zimbabwe

The Hon. Chief Justice, Sir Dennis Byron, was part of an international delegation of jurists, who recently returned from a one-week fact-finding mission to Zimbabwe. The delegation had been charged with reviewing the current state of the country's judiciary and the legal profession on behalf of worldwide legal organisation, the International Bar Association (IBA).

During its visit, the seven-member delegation – which included judges and lawyers drawn from jurisdictions across the globe – held lengthy meetings with representatives of the Zimbabwean Government, including a three-and-a-half hour discussion with President Mugabe and separate meetings with the country's Attorney General and Minister of Justice.

The mission, which sought the views of both governmental and professional representatives, also met with Chief Justice Anthony Gubbay and Zimbabwe's Acting Chief Justice, Justice Godfrey Chidyausiku, as well as judges of the country's Supreme and High Courts. Meetings also took place between the delegation and senior officials of the Law Society of Zimbabwe and the Zimbabwe Bar Association, along with representatives of the legal profession, the Law Faculty of the University of Zimbabwe and various non-governmental organisations. The delegation also travelled to Bulawayo and met judges of the High Court of Bulawayo and legal practitioners.

The mission, which was jointly funded by the IBA's Human Rights Institute (HRI) and the Open Society Institute (OSI), considered questions relating to the rule of law and the independence of Zimbabwe's judiciary and legal profession.

The full delegation was comprised as follows:

- Lord Goldsmith QC (HRI Co-Chair and former Chair of the General Council of the Bar of England and Wales),
- Honourable Chief Justice Sir Dennis Byron (Chief Justice of the Eastern Caribbean Supreme Court),
- Judge Andre Davis (United States District Judge, District of Maryland),
- Justice A M Ahmadi (former Chief Justice of India)
- George Bizos (Senior Counsel, Constitutional Litigation Unit, Legal Resources Centre (Johannesburg) and a member of South Africa's Judicial Services Commission),
- Ashwin Trikamjee (former President of the Association of Law Societies of South Africa),
- and Ezer Hosea Tala Angula (a partner with Namibian law firm Lorentz & Bone).

Mark Ellis, the Executive Director of the International Bar Association[IBA], who also accompanied the mission had this to say:

“To carry out their work, lawyers and judges in every country in the world must be able to act independently and without interference from the Government. The International Bar Association is a non-political, international and professional association and for this reason it is ideally placed to provide an objective analysis of events affecting the judiciary and legal profession worldwide, and to ensure that attention is directed at those countries where the rule of law appears to be in jeopardy.”

A full report of the delegation's findings is expected to be released in mid-April.

Background Information on the International Bar Association and the IBA's Human Rights Institute

The IBA

Formed in 1947, the International Bar Association, through its member Bar Associations and Law Societies, represents over 2.5 million lawyers across the world. Its aim is to defend the rule of law and lawyers' rights to practise without interference and to provide an international forum for legal developments.

The IBA's Human Rights Institute (HRI)

The Human Rights Institute was established in 1995 to promote and protect the rule of law and human rights. It does so through trial observations, interventions and fact-finding investigations of legal systems by legal experts. The HRI also, using the richness of the IBA's resources of experienced lawyers worldwide, helps educate and offers practical assistance to build or reinforce the structures which support the rule of law.

Visitors to the Court



From left to right: Mr. Robert Lipsher, USAID Consultant, Ms Caroline Campbell, USAID Consultant, Sir Dennis Byron, Chief Justice, Mrs. Ianthea Leigertwood-Octave, Chief Registrar, Mr. Gregory Girard, IT Manager, and Mr. Tracey Owenbey, Professional Computer Services Software Inc.

NEW DEVELOPMENTS IN THE COURT

JEMS Case Management Software

For some time now, the Eastern Caribbean Supreme Court has been planning the implementation of the JEMS Case Management Software in all the court offices in the member states. In November 2000, the British Virgin Islands paid the necessary software license fees while in February 2001, the St. Lucia High Court and the Court of Appeal offices paid their license fees. At the end of March 2001, license fees were also paid for the Anguilla High Court to implement the JEMS package. This brings the total to four courts having paid their license fees in full for the JEMS software.

During the month of March, the JEMS software was implemented at the St. Lucia High Court and the Court of Appeal offices. Mr. Tracy Ownbey from Professional Computer Software Services Inc. visited St. Lucia in order to assist with the implementation of the software package.

Following the installation of JEMS, the two court offices embarked upon a process of entering information for those cases which were already filed for the year 2001. One of the functions of the new software package will be to automatically number cases once

they are filed. The new number system for cases filed at the High Court will be as follows:

SLUHCV2001/0234

This number provides the following information:

SLU	the case was filed in St. Lucia
H	the case is a High Court matter
CV	the case is in the area of civil law
2001	the case was filed in the 2001
0234	the case was the 234 th case filed for the year

Plans are currently being made to implement the software package in the High Court offices throughout the Eastern Caribbean Supreme Court jurisdiction during the period April to June 2001. The success of this schedule will depend on the necessary license fees being paid to Professional Computer Software Services Inc. to facilitate the installation.

The JEMS package will provide tremendous assistance for the management of cases filed in the High Court, particularly with the implementation of the new *Civil Procedure Rules 2000*, which came into effect on December 31, 2000, with the transition period ending June 30, 2001. Extensive training in the use of the software has already been provided for staff from each court office forming part of the Eastern Caribbean Supreme Court.

JUDICIAL AND LEGAL SERVICES COMMISSION

Legal Appointments

Antigua and Barbuda

- [1] Renewal of Contract of Mrs. Sanyu Richards as Registrar, Registrar's Division for a period of one [1] year with effect from 11th February, 2001.

Commonwealth of Dominica

- [1] Mr. Anthony Commodore, State Attorney to act in the office of Senior State Attorney for the period 23rd March to 14th June, 2001 vice Ms. Heather Felix-Evans due to proceed on maternity leave.

St. Vincent and The Grenadines

- [1] Renewal of Contract of Mr. Donald Browne, as Solicitor-General for period of one [1] year with effect from 1st February, 2001.
- [2] Renewal of Contract of Ms Bridget Nurse as Chief Magistrate/President Family Court for a further period of two [2] years on completion of her current contract and at the expiration of all leave due and granted to her.

Saint Lucia

- [1] Renewal of Contract of Ms Cheryl Mathurin as Senior Crown Counsel for a further period of two [2] years with effect from 14th August, 2001.

CONFERENCES, SEMINARS AND WORKSHOPS



From left to right: Justice Gerard St. C. Farara (Ag.), Master Charmaine Pemberton, Justice Brian Alleyne and Master Robert Beaudoin during the Case Management Seminar held in Grenada on March 14, 2001 at Marryshow House, St. Georges Grenada.

Ontario Team conducts Case Management Seminars for Eastern Caribbean Supreme Court

At the invitation of Sir Dennis Byron, Chief Justice of the Eastern Caribbean Supreme Court, a team from Ottawa, Ontario, comprising of the Honourable Mr. Justice James Chadwick and Master Robert Beaudoin of the Superior Court of Justice, along with Mr. Peter Cronyn, of the Ontario Bar were in the Eastern Caribbean for 10 days in March. They came to conduct seminars for members of the Bar on case management and to report on their own successful experiences with both case management and court-annexed mediation. Master Beaudoin and other Canadian visitors had previously conducted workshops in St. Lucia and Antigua in 1999. These seminars were conducted by all, or some of the team members along with representatives of the Eastern Caribbean judiciary, in Antigua, Tortola, St. Kitts, St. Lucia, St. Vincent, Grenada and Dominica. A separate session, for members of the judiciary, was held in St. Lucia on Saturday, March 10th, 2001.

The seminars also provided an overview of the New Rules of Civil Procedure with particular emphasis on the case management provisions found at Parts 25, 26 and 27. The Ontario team was able to draw many significant comparisons between the new rules and their own rules of civil procedure. Mr. Justice Chadwick spoke of Ottawa's problems with backlog and delay and recounted how his court was able to tackle these problems. His remarks also covered the relationship between the Bench and the Bar and the role of the Master. He identified the critical factors in Ontario's success. Master Beaudoin provided a broad overview of their case management regime and also prepared a concordance between the Ontario and Eastern Caribbean rules. Mr. Cronyn discussed the benefits of case management from the point of view of the Bar.

The Canadian connection was strong, in that the seminars were sponsored by a grant from CIDA (The Canadian International Development Agency). The Ontario group enjoyed their brief respite from snow, but were most impressed by the warmth of their welcome and the interest and enthusiasm demonstrated by the members of the judiciary and bar. Their only regret is that they were unable to travel to Anguilla/Monserrat. Nevertheless, many lawyers from that jurisdiction travelled to Antigua or to Tortola for the seminars held in those locations.

Summary of the Report on the Case Management Seminars held during March 2001

The introduction to the **Civil Procedure Rules, 2000** marked the culmination of the reform process initiated by The Honourable Chief Justice Sir Dennis Byron in or around 1997. The process was motivated by a desire to promote fair, efficient and effective delivery of justice by an independent and competent judiciary. In addition the process sought to find the means to provide a more efficient, speedy and economic system for dealing with civil litigation. One of the bases of this desire was to provide a succor to the many members of the public who had been complaining over the years of the length of

time their matters took to move through the litigation process and the complexity and confusion surrounding the disposal of their matters through the court system.

The **Civil Procedure Rules, 2000** provide the platform for furthering the aims of the reform process and addressing the concerns alluded to above. The Rules are therefore designed to achieve the following results:

- To enhance public access to the court by simplifying procedures;
- To reduce the delay of the passage of litigation from inception to disposition; and
- To address issues relating to professionalism at the Bar.

More particularly, the **Civil Procedure Rules, 2000** introduces two new concepts into the litigation landscape, Case Management and Mediation, and these will buttress the entire system.

In pursuance of the above objectives, The Judicial and Education Institute continued its training programme and held Case Management Seminars in Antigua and Barbuda, Tortola, BVI, St. Kitts and Nevis, St. Lucia, St. Vincent and The Grenadines, Grenada and Dominica during the period 3rd – 17th March 2001 for the Bar Associations. A Seminar was also held for Judges on 10th March 2001.

These Seminars were facilitated by the Honourable Chief Justice, Sir Dennis Byron, Justices of Appeal, High Court Judges and the two Masters and were partnered by a team comprising Justice James Chadwick of the Ottawa Provincial Court, Master Robert Beaudoin, Case Management Master of Ottawa and a senior litigation private practitioner Mr. Peter Cronyn. Canada is one of the jurisdictions in this hemisphere, which has Civil Procedure Rules similar to our **Civil Procedure Rules, 2000**.

The Canadian team gave their perspectives based on their experiences as a Judge, Master and senior litigation Attorney under the new system, whilst our local team focused on the practical aspects of law and procedures, which should be adhered to in the Civil Procedure Rules 2000.

To optimise the presence of Justice Chadwick, members of the Judiciary were exposed to Justice Chadwick's perspective, experience and knowledge of the role of the Bench under the Case Management system.

Report On Case Management Seminar Conducted At Basseterre, St. Kitts On Wednesday, March 07, 2001

The Case Management Seminar scheduled for Basseterre, St. Kitts was held at the Conference Room of the Ocean Terrace Inn on Wednesday 7th March, 2001. It was very well organized by the Bar Association of the Federation of St. Kitts and Nevis under the able leadership of the President Mr. Tapley Seaton and the Secretary Ms Elizabeth Kelsick.

The seminar was attended by a very large group (well over 50 in number) of lawyers and other persons from the Federation. Practically all of the lawyers in private practice were present along with the Registrar and other staff from the Court Offices of the two islands, professional staff members from the Attorney General's Department and in house attorneys from the Caribbean Development Bank's legal Department.

The seminar was chaired by the resident Judge of St. Kitts and Nevis, the Hon. Mr. Justice Frederick Bruce-Lyle. The first Address was delivered by Justice Adrian Saunders who placed the implementation of the new Civil Procedure Rules in the context of the overall reform programme being undertaken by the Eastern Caribbean Supreme Court at this time. Justice Saunders also thanked CIDA for the assistance rendered in the staging of the series of seminars on Case Management.

Master Hugh Rawlins then gave an overview of the new rules following which there was a video presentation of an address given by Master Robert Beaudoin.

Visiting Canadian Judge, Justice James Chadwick then addressed the gathering. Justice Chadwick's presentation was listened to with particular attention as he was able to provide a first hand account of how case management operates in Ottawa. Drawing on his practical experience, he was able to anticipate and answer many of the concerns of the legal practitioners present.

Following the presentations it was decided to work through the lunch hour and entertain a lively question and answer session.

The seminar must be considered a great success. The very large turn-out was indicative of the keen interest of the legal practitioners in the subject matter. The President of the Bar in giving the Vote of Thanks underscored the view that the participants all left satisfied with the information provided and better equipped to meet the challenges ahead.

COURT OF APPEAL SITTING MARCH 2001

Dominica Court of Appeal Sitting – 12th to 16th March 2001

Coram: **Hon. Albert Redhead, Justice of Appeal**
 Hon. Albert Matthew, Justice of Appeal
 Hon. Suzie d' Auvergne, Justice of Appeal

Monday, March 12th, 2001

1. **Toussaint v The Police**
 Crim. App. 2/01
Appearances: Mr. R. Amour for the Appellant and Miss Ola May Edwards for the Respondent.
Result: Fine reduced from \$10,000 to \$8,000. Appellant is ordered to pay \$500 per month to commence at 30th March, 2001 and in default serve 6 months in prison.

2. **Wiltshire v The State**
 Crim. App. No. 1/00
Issue: Appeal against sentence.
Result: Leave to withdraw granted. Appeal was dismissed. Conviction and sentence affirmed.

3. **George v The State**
 Crim. App. No. 2/00
Appearances: Mrs. S. Bloomquist-Williams for the Appellant and Miss Ola May Edwards for the Respondent.
Issue: Appeal against conviction.
Result: Appeal was dismissed. Conviction and sentence affirmed.

4. **Vidal v The State**
 Crim. App. No. 10/00
Appearances: Mrs. Dyer for the Appellant and Miss Ola May Edwards for Respondent.
Issue: Appeal against conviction. Appellant's lawyer complained that the trial Judge gave further directions to the jury which are not included in the record. D.P.P confirmed this.
Result: Case is sent back for a new trial on a fresh indictment. Appellant granted bail in the sum of \$10,000 with one surety.

5. **Francis v The State**
 Crim. App. No. 11/01
Appearances: Appellant appeared unrepresented.
Issue: Appeal against conviction for murder.

- Result:** Case adjourned to next sitting. Lawyer to be assigned to the accused.
6. **Langford et al v The State**
Crim. App. Nos. 8/00 and 9/00
Appearances: Mr. Lawrence for No. 1 Appellant and Miss Yearwood with him.
Mr. M. Foster for No. 2 Appellant.
Issue: Appeal against conviction.
Result: Judgment reserved.
7. **Public Service Commission et al v Elwin**
Civ. App. No. 6/00
Appearances: Mr. Anthony Commodore for the Appellants and Mr. A. Lawrence for the Respondent.
Issue: Application for leave to withdraw.
Result: Application for leave to withdraw granted. Appeal is therefore dismissed. Order of Trial affirmed. Costs to the Respondent to be taxed, if not agreed.
8. **Celestine v Aird**
Civ. App. No. 11/00
Appearances: Mr. D. Christopher for the Appellant and Mrs. Z Dyer for the Respondent and Miss G. Dyer with him.
Issue: Appeal concerned the removal of a caveat by the caveator by the respondent. The caveat was placed on the title by the Appellant who filed a caveat in respect of the land. The caveat was filed without any supporting action to challenge the Respondents' title.
Result: Appeal was dismissed as to costs to the Respondent to be taxed, if not agreed.
9. **Anslem v Aird**
Civ. App. No. 12/00
Appearances: Mr. D. Christopher for the Appellant and Mrs. Z. Dyer for the Respondent and Miss G. Dyer with her.
Result: Case was remitted to the High Court for the completion of the records.
10. **Westerlund v Andvik**
Civ. App. No. 13/00
Appearances: Miss F. Baron for the Appellant and Mrs. S. Bloomquist Williams for the Respondent.
Issue: Leave to withdraw.
Result: Leave to withdraw granted. Appeal is therefore dismissed. Judgment of the learned trial judge was affirmed. Costs to the Respondents to be taxed, if not agreed.

11. **Johnson v Johnson**
Civ. App. No.
Appearances: Mrs. Z. Dyer for the Applicant/Appellant and Mrs. S. Bloomquist-Williams for the Respondent.
Issue: Application for a stay of execution and to file record of appeal out of time.
Result: By consent extension of time granted to serve and file record of appeal by 30th April, 2001. Application for a stay is granted until the determination of the appeal.
12. **Toussaint et al v National Commercial Bank**
Civ. App. No. 7/00
Appearances: Mr. Dyer for the Appellant, Mrs. Z. Dyer with him and Mrs. S. Bloomquist-Williams for the Appellant.
Issue: Application for a Stay of Execution and to file record of appeal out of time.
Result: By consent extension of time was granted to file and serve record of appeal by 30th April, 2001. No order as to costs.
13. **Antoine v Antoine**
Civ. App. No. 1/01
Appearances: Mrs. S. Bloomquist-Williams for the Appellant, Mr. M. Bruney for the Respondent.
Issue: Appeal against judge decision on division of property.
Result: By consent adjourned to September Sitting.
14. **Simmon v James**
Civ. App. No. 14/00
Appearances: Miss F. Baron holding papers for Mr. Defreitas and Mrs. S. Bloomquist-Williams for the Respondent.
Issue: Application for leave to withdraw.
Result: Application for leave to withdraw granted. Appeal dismissed. Decision of learned trial judge affirmed. Costs to the Respondents to be taxed, if not agreed.
15. **Burton v Christopher**
Civ. App. No. 9 of 2000
Appearances: Dr. Riviere for the Appellant and Mr. D. Baptiste for the Respondent.
Issue: Application to set aside judge's ruling.
Result: Judgment as per Justice d'Auvergne judgment.

Montserrat Court of Appeal Sitting – 26th to 30th March 2001

Coram: **Hon. Albert Redhead, Justice of Appeal**
 Hon. Albert Matthew, Justice of Appeal
 Hon. Suzie d' Auvergne, Justice of Appeal

1. **Lynch v Lynch**

Civ. App. No. 1/00

Appearances: Mr. Kenneth Allen, QC for the Appellant and Mr. G. Kirnon for the Respondent.

Result: Judgment of the High Court is varied. Respondent to get 1/3 interest in the property standing in the name of the Appellant and known as Registration Section Bechettes, Block 1, Parcel 387. The house is to be valued by an independent estate valuer. The Appellant to pay the Respondent 1/3 of the value of on or by 30th June, 2001. Failing which the property be sold public auction and the Respondent be paid 1/3 of the proceeds of sale after all expenses of the sale are met. Costs in this Court to the Respondent to be taxed if not agreed.

2. **Brade v West**

Industrial App. No. T1/00

Appearances: Mr. J. Kelsick for the Appellant and Mr. K. Allen, Q.C. for the Respondent.

Result: Judgment Reserved.

3. **Mowry v Payne et al**

Civ. App. No. 2/00

Appearances: Mr. J. Kelsick for the Appellant and Mr. C. Markham for the Respondent.

Result: Judgment Reserved.

4. **Estwick v Martin**

Civ. App. No. 1/00

Appearances: Mr. H. Sergeant for the Appellant. Respondent unrepresented and did not appear. Proof of service.

Result: Judgment of the Magistrate varied. Judgment to the Respondent in the sum of \$624.32. No order as to costs.

WRITTEN JUDGMENTS

Court of Appeal Judgments

The following are written Court of Appeal judgments available for the month of March 2001:

British Virgin Islands

Harriet Dailey v Franklyn Dailey

British Virgin Islands
Civ. App. No. 4/00
Delivered: 26/03/01
Matthew JA

Nam Tai Electronics Inc. v David Haque et al

British Virgin Islands
Civ. App. No. 21/00
Delivered: 26/03/01
Matthew JA

High Court Judgments

The following are written High Court judgments received during the month of March 2001:

Antigua and Barbuda

Ian Ferguson et al v Caribbean Development (Antigua) Limited Trading as Jolly Harbour Marina

Antigua and Barbuda
Civ. Suit No. 23/00
Delivered: 23/02/01
Pemberton, Master

British Virgin Islands

Landlord and tenant – validity of service of notice to quit – sale of land to tenant – dispute over purchase price – agreement not completed – finding that defendant had refused to complete contract – defendant ordered to give up possession.

Sydney Flax v Natalie Creque

British Virgin Islands
Civ. Suit No. 150/93
Delivered: 02/03/01
Benjamin J

Grenada

Land dispute – limitation defence – finding of fact in favour of plaintiff.

Margaret Jones v Winston Frank et al

Grenada

Civ. Suit No. 86/96

Delivered: 01/06/00

St. Paul J

Alister Joseph v Marketing and National Importing Board et al

Grenada

Civ. Suit No. 238/99

Delivered: 16/06/00

St. Paul J

Land dispute – limitation defence – finding of fact in favour of plaintiff.

Lynthia Bonaparte v Shirley Francis

Grenada

Civ. Suit No. 60/94

Delivered: 06/07/00

St. Paul J

Joseph Lett v Nathaniel Davis et al

Grenada

Civ. Suit No. 403/94

Delivered: 27/09/00

Alleyne J

Morne Rouge Holiday Apartment Limited v The National Commercial Bank of Grenada Limited

Grenada

Civ. Suit No. 561/99

Delivered: 05/10/00

Alleyne J

Judgments and orders – authority of counsel to bind client - general authority of court over justice between parties – counsel seeking instructions to settle – instructions given to counsel to settle on certain conditions arriving late - counsel causing consent order to be entered outside clients instructions – client not satisfied with settlement – application to set aside consent judgment – claim of want of authority - finding that authority of counsel to settle subject to any limitation imposed by client - finding that no inconvenience or injustice in setting aside judgment – judgment set aside.

Dipcon Engineering Services Limited v Gregory Bowen et al

Grenada

Civ. Suit No. 452/99

Delivered: 05/10/00

Alleyne J

Criminal procedure – signing of indictments – Criminal Procedure Code – indictments to be preferred by DPP – person signing indictment subsequently appointed DPP – finding that indictment a nullity – jury discharged.

Regina v Matthew Edwards

Grenada

Crim. Case No. 79/00

Delivered: 31/10/00

Alleyne J

Constitution of Grenada – case stated from magistrates court – freedom of speech – Criminal Code of Grenada – offence of criminal libel – whether reasonably required for purpose of protecting reputations, rights and freedom of others – whether reasonably required in a democratic society – finding that no clear and pressing need existing to circumscribe and inhibit freedom of expression – finding that criminal provision unconstitutional.

The Commissioner of Police v George Worme et al

Grenada

Civ. Suit No. 219A/00

Delivered: 09/11/00

Alleyne J

Judgments and orders – interpretation – judgments in foreign currency – contract made in Canadian dollars – judgment expressed in Canadian dollars – finding that judgment unimpeachable – rate of exchange to be the transaction or due date.

Alvin Dabreo et al v Hugh Dolland

Grenada

Civ. Suit No. 81/95

Delivered: 10/11/00

Alleyne J

John Thomas v Ruth Thomas

Grenada

Civ. Suit No. 51/99

Delivered: 17/11/00

Alleyne J

Land dispute – pleadings – plaintiff holding earlier deed – plaintiff claiming subsequent fraudulent deed held by defendant – bare defence filed – defendant at close of case submitting defences of fraud and non est factum – such defences not pleaded – finding in favour of plaintiff.

Garfield Patterson v Maureen Knight et al

Grenada

Civ. Suit No. 29/00

Delivered: 16/01/01

Alleyne J

Allina Pierre v Rodney Jerome et al

Grenada

Civ. Suit No. 506/96

Delivered: 06/03/01

Alleyne J

Constitution of Grenada – right to fair trial – preliminary enquiry heard by magistrate in absence of defendant’s lawyer – counsel had applied for an adjournment to sit as a senator in parliament – magistrate refusing adjournment – counsel’s primary duty to client – importance of expeditious disposal of cases – court’s duty to manage caseload – discretion in granting adjournments – existence of alternative remedy of certiorari.

Constitution of Grenada – right to personal liberty – refusal of magistrate to grant bail at preliminary enquiry – failure to disclose several previous bail applications to judge had been denied – finding that judicial denial of bail not a breach of right of personal freedom.

Constitution of Grenada – right to fair trial likelihood of bias by magistrate – finding than to reasonable person could suppose a possibility of bias existed in the circumstances.

Benjamin Matthews v Patricia Mark

Grenada

Civ. Suit No. 544/00

Delivered: 08/03/01

Alleyne J

Divorce – ancillary relief – undesirability of attorney swearing affidavit on behalf of client – finding on facts.

Beryl Edwards v Cecil Edwards

Grenada

Civ. Suit No. 10/98 (D)

Delivered: 09/03/01

Alleyne J

Contract – interpretation of documents – meaning of phrase – best efforts – notice attached – respondent living on land since 1979 – respondent renovating house on land in 2000 – application to convict respondent for breach of 1986 injunction – strict compliance with proper procedure required – difference between civil and criminal contempt – respondent not charged with criminal contempt – finding of insufficient particulars in notice for respondent to be able to defend himself – motion dismissed.

Joseph Severin v Garry Milosevich / Interstar Management Ltd. et al v Mounties Investments Ltd.

Grenada

Civ. Suit Nos. 59/&76/01

Delivered: 16/03/01

Alleyne J

Allan Khan v Trans-Nemwil Insurance (Grenada) Limited

Grenada

Civ. Suit No. 85/00

Delivered: 23/03/01

Alleyne J

Bernadette Niles v Edward Niles

Grenada

Civ. Suit No. 8/96 (D)

Delivered: 23/03/01

Alleyne J

Saint Lucia

In the matter of an application for an injunction and In the matter of Articles 841 and 850 (17) of the Code of Civil Procedure Chapter 243 of the Laws of Saint Lucia

Saint Lucia

Civ. Suit 530/00

Delivered: 27/02/01

Probate and administration – application to set aside grant – application dismissed – of proof – ruling on preliminary point – liberty to apply.

Savitar Enterprising v The Administrator-General

Saint Lucia

Civ. Suits No. 431/99

Delivered: 08/03/01

d’Auvergne J

Judgment by default - summons to set aside judgment - regular judgment - reasons for delay - conduct of the defendants - justice of the case - guidelines laid down in **Evans v Bartlam** and the **Saudi Eagle** followed.

David Ferguson et al v Willie Volney et al

Saint Lucia

Civ. Suits No. 140/99

Delivered: 28/03/01

Hariprashad-Charles J

Saint Vincent and The Grenadines

Order 73 r. 2 – contempt of court – notice of motion in committal proceedings – must set out charge against respondent – strict compliance with procedural requirements - standard of proof.

Judgments and orders – enforcement – contempt of court – respondent not a party to original suit – copy of 1986 injunction mailed to respondent – no penal notice attached – respondent living on land since 1979 – respondent renovating house on land in 2000 – application to convict respondent for breach of 1986 injunction – strict compliance with proper procedure required – difference between civil and criminal contempt – actus reus and mens rea of criminal contempt.

Janice Lyttle v Val Little et al

Saint Vincent and The Grenadines

Civ. Suit No. 88/85

Delivered: 01/03/01

Webster J

Adolphus Grant v Cynthia Williams

Saint Vincent and The Grenadines

Civ. Suit No. 209/99

Delivered: 02/03/01

Webster J

Dexter John v Lincoln James

Saint Vincent and The Grenadines

Civ. Suit No. 340/00

Delivered: 14/03/01

Webster J

Interlocutory injunction – application of **American Cyanamid v Ethicon** principles to public authorities – serious questions to be tried – balance of convenience – **International Banks Act, 1996.**

Nano and Sons 1146 Private Bankers Ltd. and v The Saint Vincent and the Grenadines Offshore Finance Authority

Saint Vincent and The Grenadines

Civ. Suit Nos. 57 & 58/01

Delivered: 19/03/01

Webster J



EASTERN CARIBBEAN SUPREME COURT

As at 31st March 2001

Court of Appeal

The Chief Justice

His Lordship, the Hon. Chief Justice, Sir Dennis Byron - Saint Lucia

Justices of Appeal

His Lordship, the Hon. Justice Satrohan Singh - Saint Christopher & Nevis

His Lordship, the Hon. Justice Albert Redhead - Saint Lucia

His Lordship, the Hon. Justice Albert Matthew - Saint Lucia

High Court

Her Ladyship, the Hon. Justice Suzie d' Auvergne - Saint Lucia

His Lordship, the Hon. Justice Ephraim Georges [Ag.] - Antigua & Barbuda

His Lordship, the Hon. Justice Dunbar Cenac - Dominica

His Lordship, the Hon. Justice Kenneth Benjamin - Tortola, British Virgin Islands

His Lordship, the Hon. Neville Smith - Tortola, British Virgin Islands

His Lordship, the Hon. Justice Brian Alleyne, SC - Grenada

His Lordship, the Hon. Justice Adrian Saunders - Anguilla/Montserrat

His Lordship, the Hon. Justice Henry Moe [Ag.] - Antigua & Barbuda

His Lordship, the Hon. Justice Don Mitchell, QC - Saint Vincent & The Grenadines

Her Ladyship, the Hon. Justice Indra Hariprashad-Charles - Saint Lucia

His Lordship, the Hon. Justice Frederick Bruce-Lyle - Saint Christopher & Nevis

Her Lordship, the Hon. Justice Denys Barrow [Ag.] - Saint Lucia

His Lordship, the Hon. Justice John Lawrence O'Meally [Ag.] - Antigua & Barbuda

His Lordship, the Hon. Justice Paul Webster [Ag.] - Saint Vincent & The Grenadines

His Lordship, the Hon. Justice Gerard St. C. Farara, QC [Ag.] - Grenada

Master Charmaine Pemberton

Master Hugh Rawlins

Mrs. Ianthea Leigertwood-Octave, Chief Registrar - Saint Lucia