

ECSC E-NEWSLETTER



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EASTERN CARIBBEAN SUPREME COURT NEWS

During the month of October, the JEMS software was installed in the High Court Registries in the islands of Montserrat and St. Vincent & the Grenadines.

This basically concludes the first phase of the computerization process involving the implementation of the JEMS software at all of the Eastern Caribbean Supreme Court Registries, including the Court of Appeal.

All of the Court Offices can now enter all of the cases filed with them along with additional information related to those cases. Presently, the Eastern Caribbean Supreme Court Headquarters is in the process of identifying special reports which could be generated from the system in order to facilitate improvements in the management of the court offices. Also, work will be done on the identification of special areas where the software could assist in the operations of the Court Offices resulting in efficiencies.

The software suppliers have also advised that they will soon be releasing a new version of their software which we hope to have installed in the near future.

HIGH COURT

Dominica

Dominica Pilot Project for Court Reporting

The Court Office of the Commonwealth of Dominica has been identified as the site for a Pilot Project using Computer Aided Transcription equipment which was recently supplied by USAID. There are two trained reporters already in the Commonwealth of Dominica who received their training in 1999 from the Academy of Court Reporters in Tortola, British Virgin Islands.

It is anticipated that these reporters will be provided with the necessary refresher training to effectively utilize the equipment. This is scheduled to take place during the month of November 2001 and this activity is also being funded by the USAID.

Once the training has been completed, the trained reporters will be responsible for the preparation of the transcripts of the court proceedings eliminating the need for the presiding judge to take long hand notes and speed up the trial process. In addition, the preparation of the court transcripts will be quicker thereby shortening the time between the completion of the trial and the hearing of any resulting appeals.

Saint Lucia

The October Criminal Assizes commenced in Saint Lucia on Tuesday 2nd October, 2001, with Justice Indra Hariprashad-Charles presiding.

Twenty-three (23) cases including two (2) murders, seven (7) cases of sexual offences and two (2) robberies with violence are listed down for hearing.

NEW DEVELOPMENTS IN THE COURT

IT Projects Steering Committee

As part of the justice reform exercises which has been taking place in the ECSC, it has been necessary to establish a number of different committees to assist with and manage specific tasks. Some of these projects have already been completed in addition to some projects which are about to commence where the work of a Steering Committee could be extremely beneficial.

During the month of October, the Chief Justice created the "Information Technology Projects Steering Committee" which is charged with the responsibility of overseeing the

different Information Technology related projects developed by the ECSC and implemented in the different member states. Some of the projects which have started or are being developed include the JEMS Implementation in the High Courts, the JEMS / Magistrates Court Pilot Project, and the Statistics / Data Collection Project.

The Committee comprises of a number of stakeholders in the justice system as well as special resource members who will be invited to specific meetings to provide guidance of a technical nature which might be necessary.

JUDICIAL AND LEGAL SERVICES COMMISSION

Judicial Appointments

- [1] Assignment of His Lordship, the Hon. Chief Justice Sir Dennis Byron to Antigua and Barbuda for the period 15th to 19th October, 2001 vice the Hon. Justice Ephraim Georges who is proceeding on vacation leave for the period 16th to 22nd October, 2001 to attend an important Meeting in Yucatan, Mexico.
- [2] Appointment of His Lordship, the Hon. Justice Adrian Saunders to act as a Justice of Appeal for the purpose of the Sitting of the Court of Appeal in St. Lucia for the period 23rd to 24th October, 2001.
- [3] Appointment of His Lordship, the Hon. Justice Frederick Bruce-Lyle to act as a Justice of Appeal for the purpose of the Sitting of the Court of Appeal in St. Kitts and Nevis for the period 1st October, 2001 to 5th October, 2001.
- [4] Appointment of Mr. Tyrone Donovan Chong to act as a High Court Judge of the Eastern Caribbean Supreme Court assigned to Dominica for the period 29th October, 2001 to 31st December, 2001.
- [5] Appointment of His Lordship, the Hon. Justice Odel Adams, retired High Court Judge, to act as a High Court Judge of the Eastern Caribbean Supreme Court, assigned to Antigua and Barbuda for the period 15th October to 31st December, 2001.

Legal Appointments

Antigua & Barbuda

- [1] Mr. Lebrecht Hesse has been re-appointed to act as Solicitor-General, Ministry of Justice and Legal Affairs for a further period of three [3] years with effect from 1st May, 2001.
- [2] Mrs. Jo-Anne Wyre-Walsh has been transferred as Crown Counsel 11, in the office of the Director of Public Prosecutions with effect from 1st September, 2001.

Commonwealth of Dominica

- [1] Miss Helen Anita Ali has been appointed to continue to act in the office of Chief Magistrate for the period 1st to 31st October, 2001.
- [2] Mrs. Hazel Johnson has been appointed to continue to act in the office of Senior State Attorney for the period 25th September to 15th October, 2001

Saint Christopher and Nevis

Mr. Vincent Warner has been appointed to be employed as Crown Counsel in the Legal Department with effect from 5th November, 2001.

Saint Lucia

- [1] Mrs. Gerard Williams has been re-appointed to the post of Magistrate 1, First District Court with effect from 2nd August, 2001.
- [2] Ms. Victoria Charles, has been re-appointed to the post of Deputy Director of Public prosecutions with effect from 4th January, 2002.

CONFERENCES, SEMINARS AND WORKSHOPS

Family Law and Domestic Violence Judicial and Legislative Reform in the Eastern Caribbean

Phase 1 of the project has been completed. This phase consisted of research, setting up of the National Steering Committees in the participating countries and convening of one Regional Advisory Committee Meeting.

Research has been completed in the following areas:

1. Present status review on issues related to domestic violence and family law
2. Family law reform: The social service implications
3. Domestic violence
4. Adoption
5. Affiliation
6. Maintenance
7. Marriage and Divorce
8. Custody and Access
9. Family Court
10. Unions other than marriage
11. Matrimonial property and financial provision on breakdown

The Turks and Caicos Islands have also joined the project in this critical reform process. They have completed their social service research and are now ready to begin the Family Law research. There was a meeting held on October 19, 2001 to discuss and plan the national consultations, and also to finalize the implementation plan. Mr. Leighton Jackson, the Dean of the Bahamas Law School was identified as the person to prepare a synthesis report of all the above research documents. It is expected that the report would have a philosophical framework. He will be looking at the trends of family law in the Eastern Caribbean and in the Caribbean region as a whole. In addition to the recommendations made by the researchers, he will also be making his own recommendations. His report will be used as a framework for policy development.

Not many decisions were taken at the October meeting. It is expected that the group will continue its communications to confirm the plans for the National Consultations which will be a major activity in phase 2 of the project.

WRITTEN JUDGMENTS

Court of Appeal Judgments

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

Antigua and Barbuda

Malcom Alphonso Edwards v Antigua Public Utilities Authority

Antigua and Barbuda

Civ. App. No. 17/00

Delivered: 01/10/01

Archibald JA [Ag.]

John F. A. Clarke et al v The Attorney General et al

Saint Christopher and Nevis

Civ. App. No. 07/01

Delivered: 04/10/01

Singh JA

High Court Judgments

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

Anguilla

Amendment to Criminal Procedure Act - abolition of accused right to remain in dock and make unsworn statement - applicant challenges amendment - whether violation of fundamental right to the protection of the law and to a fair hearing - whether unconstitutional, null and void - applicability of Privy Council's decision in **Haw Tua Tua v Public Prosecutor** [1981] 3 W.L.R. to instant case - whether abolition of right to make unsworn statement from dock undermines the presumption of innocence and compel accused to give evidence at their trial in violation of their fundamental rights.

Daniel Mussington et v The Attorney General of Anguilla.

Anguilla

Civil Suits Nos 0044 & 0045/01

Delivered: 13/10/01

Hariprashad-Charles J

British Virgin Islands

Timothy Stonich v Tamara Stonich

British Virgin Islands

Civ. Suit No. 23/01

Delivered: 12/10/01

Matthew J

Denley Ellison Vanterpool v Roseane Ambrosine Vanterpool

British Virgin Islands

Civ. Suit No. 29/99

Delivered: 31/10/01

Matthew J

Chelsworth Investments Ltd. v Amesby Limited

British Virgin Islands

Civ. Suit No. 165/94

Delivered: 31/10/01

Matthew J

Henry Ralph Peters v Roger Mathavious

British Virgin Islands

Civ. Suit No. 219A/96

Delivered: 31/10/01

Matthew J

Mastec Inc.v Neduc Corporation (Formerly known as Sintel International Corporation)

British Virgin Islands

Claim No. 19/01

Delivered: 02/10/01

Benjamin J

The Queen v Von Alphonso

British Virgin Islands

Crim. Case No. 15/01

Delivered: 08/10/01

Benjamin J

George Claudius Smith

British Virgin Islands

Civ. Suit No. 42/99

Delivered: 09/02/01

Benjamin J

Dominica

Norman Lee et al v Scott Brett et al

Dominica

Civ. Suit No. 480/00

Delivered: 05/10/01

Pemberton M

Grenada

Point Salines Air Services Limited v Grenada Airports Authority

Grenada

Civ. Suit No. 119/00

Delivered: 08/10/01

Alleyne J

Saint Christopher and Nevis

Matrimonial property – Resulting trust – Beneficial interest, if any, in property –
Unquantified contributions – **Redhead v Redhead** and **Stoutte v Stoutte** applied.

Estella Myers v Albert Myers

Saint Christopher and Nevis

Div. Suit No. 13/01

Delivered: 11/07/01

Hariprashad-Charles J

James Duporte v Avon Lapsey et al

Saint Christopher and Nevis

Civ. Suit No. 67/97

Delivered: 30/10/01

Bruce-Lyle J

Robert Spencer et al v Arthur Leaman

Saint Christopher and Nevis

Civ. Suit No. 10/96

Delivered: 19/10/01

Bruce-Lyle J

Avon Frederick v Elzera Morris et al

Saint Christopher and Nevis

Civ. Suit No. 99/95

Delivered: 15/10/01

Bruce-Lyle J

Analdo Bailey v St. Kitts Nevis Cable Communication Ltd.

Saint Christopher and Nevis

Civ. Suit No. 122/99

Delivered: 27/07/01

Bruce-Lyle J

Saint Lucia

Claim for price of goods sold and delivered - International sale - Sale confirmed by UK agents of buyers - Confirming house paid by buyers but becoming insolvent before paying sellers - Unpaid Sellers suing Buyers directly - Role and function of confirming house - Whether privity exists between confirming house and sellers - Whether sellers estopped from claiming against buyers.

Phillips A. Minson Limited v J.Q. Charles Limited

Saint Lucia

Civ. Suit No. 790/93

Delivered: 08/10/01

Saunders J

Claim for damages for breach of contract - Large cracks appearing in house bought by purchasers - Experts agree that cracks caused by faulty workmanship - Whether vendors liable - Whether builders and designers were independent contractors - Whether vendors responsible for latent defects - Measure of damages - Articles 1432, 1434 and 1436 of Saint Lucia Civil Code.

Charles Sayers et al v William Francois et al

Saint Lucia

Civ. Suit No. 1061/94

Delivered: 04/10/01

Saunders J

Employee injured in industrial accident – Claim by employee for negligence – Whether machinery in employer’s factory properly fenced – Whether working conditions safe.

Thani Mathurin v Caribbean’s Art Supply Limited

Saint Lucia

Civ. Suit No. 661/96

Delivered: 17/10/01

Saunders J

Saint Vincent and The Grenadines

J. H. Bayliss Frederick v Ransraj Matadial aka Ransraj Ramsaran

Saint Vincent and The Grenadines

Civ. Suit No. 73/99

Delivered: 16/10/01

D’Auvergne J & Alleyne J.

Anelta Shallow v Hilary Delpesche

Saint Vincent and The Grenadines

Civ. Suit No. 59/98

Delivered: 29/10/01

Alleyne J

P. Daphne Belmar nee Dopwell v Owen C. Belmar

Saint Vincent and The Grenadines

Civ. Suit No. 345/97

Delivered: 26/10/01

Alleyne J

Carl L. Joseph, Attorney General of St. Vincent & The Grenadines v Samuel E. Commissiong

Saint Vincent and The Grenadines

Civ. Suit No. 84/00

Delivered: 09/10/01

Alleyne J

Dennis O. Poseley et al v Mariner International Bank Limited

Saint Vincent and The Grenadines

Civ. Suit No. 300/01

Delivered: 05/10/01

Alleyne J



EASTERN CARIBBEAN SUPREME COURT

As at 31st October 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 Joseph Archibald [Ag.] - Tortola

High Court

Her Ladyship, the Hon. Justice Suzie d’Auvergne – Saint Vincent & The Grenadines; Anguilla

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. Justice Brian Alleyne, SC – Grenada

His Lordship, the Hon. Justice Adrian Saunders – Saint Lucia

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

His Lordship, the Hon. Justice Othneil Sylvester , QC [Ag.] – Grenada

His Lordship, the Hon. Justice Albert Matthew [Ag.] – Tortola; Montserrat

His Lordship, the Hon. Justice Odel Adams [Ag.] – Antigua & Barbuda

His Lordship, the Hon. Justice Tyrone Chong [Ag.] – Dominica

Master Charmaine Pemberton

Master Hugh Rawlins

Ms. Evelina E-M. Baptiste, Chief Registrar [Ag.] - Saint Lucia