



GREETINGS FROM THE CHIEF JUSTICE

Dear Readers:

It has been less than two years since the Eastern Caribbean Supreme Court began the implementation of a programme of Mediation. This programme was an important aspect of reform, which we considered crucial to the functioning and effectiveness of the civil justice system.

The programme, as many of you know, started in St. Lucia as a pilot project, with the intention of it being replicated in the other islands, should it prove successful.

To say that the St. Lucia project has been successful would be an under-statement. The fact that within two short years we are taking it to the other islands in the jurisdiction says it all. The requisite training of Mediators has been carried out in Grenada, Montserrat, the British Virgin Islands, Antigua and Barbuda and Dominica. Our Regional Coordinator, Mr. Francis Compton, accompanied by Consultant Ms. Deborah Mendez-Bowen, is currently touring the remaining islands of St. Kitts and Nevis, Anguilla and St. Vincent and the Grenadines, to further the process of consultation prior to the commencement of training.

I am most pleased with the strides that have been made thus far in using Mediation, not to replace, but rather to complement the litigation process in the OECS. To date, in St. Lucia, more than 60 percent of the cases handled via the Mediation process have been completely resolved, saving the Court time, and the litigants considerable sums of money that they would have had to spend if the cases had gone through the traditional process.

It is appropriate at this time to publicly express the Court's deep appreciation for the dedication and professionalism of Mrs. Deborah Mendez-Bowen, Consultant; Ms. Lenore St. Croix, Coordinator for the Pilot Project in St. Lucia and Mr. Francis Compton, Mediation Coordinator for the entire sub region. They have truly been in the vanguard of revolutionizing the judicial system in the OECS, by progressively whittling away at the backlog of cases that has been a burden on the Court for so long, while at the same time institutionalizing a system that resolves disputes in a timely, cost-effective and appropriate manner.

In the end, it is my sincere belief that Mediation will go a long way in improving the overall quality of justice in the Eastern Caribbean, and we will forever be grateful to the pioneering work of all those who made this possible.

Please send comments, suggestions and contributions to the newsletter at appeal@candw.lc

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EASTERN CARIBBEAN SUPREME COURT NEWS

Chief Justice's Visits

During the month of October the Hon. Chief Justice [Ag.] Adrian Saunders participated in the following activities:

Ceremony for the Presentation of Graduates, Norman Manley Law School, Kingston, Jamaica on Saturday, October 2, 2004. He delivered the presentation address.

Death Penalty Procedure Conference, Kingston, Jamaica on Saturday, October 23, 2004. He made a presentation on "Sentencing For Murder".

[Complete texts of above-named may be viewed on the Court's website:

www.ecsupremecourts.org]

Mediation

"Mediation is one way for people to settle disputes and lawsuits outside of the formal litigation process. In Mediation, a neutral third party or Mediator helps the disputing parties look for a resolution that works for them. One of the basic tenets of Mediation is that it can be conducted without the presence of a lawyer; and cases that can be resolved without a Judge's intervention, are dealt with in a more timely and cost-effective manner", Francis Compton, Regional Mediation Coordinator.

The Eastern Caribbean Supreme Court is continuing to expand its Mediation Programme in the sub region. Mediation has been in operation in St. Lucia for

the past 18 months, where it started as a Pilot Project. This activity forms part of the major reforms, inspired by the Right Hon. Sir Dennis Byron, underway in our judiciary. The reform process makes provision for the Court to actively manage cases by encouraging disputing parties to use any appropriate form of dispute resolution, including, in particular Mediation, if the Court considers it appropriate.

As of 31st August 2004, 176 cases were mediated, with 107 cases reaching full settlement. Types of cases successfully mediated in St. Lucia include land disputes, landlord/tenant matters, separation of property, employment, insurance claims, defamation, wills and estates, commercial estates, personal injury and nuisance.

Earlier this year, Mediation Training Programmes were conducted in Grenada, Antigua & Barbuda, the British Virgin Islands and Montserrat, prior to the launching of their programmes. From November 2004, Regional Mediation Coordinator, Mr. Francis Compton will continue to establish programmes in the Commonwealth of Dominica, St. Kitts & Nevis, St. Vincent & the Grenadines and Anguilla.

Mr. Compton, accompanied by Mediation Consultant Ms. Deborah Mendez-Bowen, will visit The Commonwealth of Dominica on 1st and 2nd November, 2004 to conduct consultations before beginning actual training of Mediators from 8th to 12th November, 2004. The team will next visit St. Kitts & Nevis in December 2004 for the same purpose, followed by St. Vincent & the Grenadines and Anguilla.

Earlier this year, the Court brought Mediation Coordinators from the OECS to St. Lucia for a special 2-day training, to equip them with the necessary knowledge

and skills required to effectively manage Mediation programmes in their territories.

Judicial Exchange

A United States Judge will visit St. Lucia during the month of November under a Judicial Exchange Programme with the Eastern Caribbean Supreme Court.

Judge Janet Bond-Arterton, who serves in the District of Connecticut, will be in St. Lucia from 11th to 17th November 2004, during which she will observe the Court at work and hold discussions with members of the local Judiciary and Bar.

She is also due to pay courtesy calls on Governor General, Her Excellency Dame Pearlette Louisy; the Honourable Prime Minister, Dr. Kenny Anthony and the Director General of the Organisation of Eastern Caribbean States (OECS), Dr. Len Ishmael.

Meetings are planned with local Magistrates, the Executive of the St. Lucia Bar Association, members of the newly-established Criminal Division of the High Court and officials of the Mediation programme currently being promoted by the Court.

In addition, Judge Bond-Arterton will meet the officials of the Court's Judicial Education Institute's Management Committee.

Judge Bond-Arterton is particularly interested in Mediation, Case Management, Court Administration and Judicial Governance as well as the Judicial Role Relative to Public Security and Human Rights in an era of threatened terrorism. She is hoping to discuss these issues with members of the judiciary during her

visit, and observe various processes of the Supreme Court, both criminal and civil, in action.

Help For Grenada

Acting Chief Justice the Honourable Adrian Saunders, Court of Appeal Judges and staff of the Eastern Caribbean Supreme Court Headquarters in St. Lucia have sent a shipment of supplies to their colleagues in hurricane-stricken Grenada.

Some EC\$7,000 worth of foodstuffs, toiletries and hardware was shipped to Grenada, on board a motor vessel captained by Mr. Francis Compton. The items were purchased from donations made by Court of Appeal judges and Court Staff. The Right Honourable Sir Dennis Byron who is currently serving with the International Tribunal for Rwanda, also contributed to the effort.

The supplies will go towards helping Court and Registry staff in Grenada, and their families, who were affected by the destruction of Hurricane Ivan on 7th September 2004.

Meanwhile, an account has been opened at the Bank of St. Lucia, and at sister National Banks in other Member States of the Eastern Caribbean Supreme Court, so that donations can continue to be made in aid of Grenada.

The Court has specifically been targeting members of the judiciary, magistracy and lawyers to assist the Grenada cause.

The Acting Chief Justice has expressed the Court's heartfelt thanks to all those who contributed to the fund-raising effort.

Justice Suzie d’Auvergne



St. Lucia-born Judge Suzie d’Auvergne who has chalked up a series of “firsts” during a 25-year career in the administration of justice in the Eastern Caribbean, has done it again.

Justice d’Auvergne was recently named to act as a Judge of the Court of Appeal of the Eastern Caribbean Supreme Court, following her retirement from the High Court. The four-month appointment will end on 31st December 2004. Justice d’Auvergne also becomes the second St. Lucian to be appointed to the Court of Appeal this year. The first was Mr. Michael Gordon who was first appointed in an acting capacity and later confirmed in the position.

Justice d’Auvergne was called to the Bar in 1975 after completing law studies at Holborn College, an external College of London University in England. In

September 1979 she became the first female St. Lucian Magistrate, and three years later the first female Director of Public Prosecutions.

In 1988 she assumed the position as St. Lucia's first Solicitor General, a post which she held for two years before being appointed a Judge of the Eastern Caribbean Supreme Court in September 1990.

Earlier this year, Justice d'Auvergne was honoured by her native land with the St. Lucia Medal of Honour (Gold) for her contribution and long service to the judicial and legal profession.

On October 21, the Court convened a plenary session to pay double tribute to Justice d'Auvergne on her retirement from the Bench of the High Court and her elevation to the Court of Appeal. It was a historic occasion with Governor General Dame Pearlette Louisy among the specially invited guests.

Also present were former Chief Justice the Right Hon. Sir Vincent Floissac, Speaker of the House of Assembly Joe Baden Allain and Minister of Home Affairs and Internal Security Senator Calixte George.

Speaker after speaker paid tribute to Justice d'Auvergne in glowing terms, many of them relating various anecdotes to underline some of the qualities that had made Justice d'Auvergne's career the success it has been.



Governor General Dame Pearlette Louisy and former Chief Justice the Right Hon. Sir Vincent Floissac [front row]

Queen's Counsel Kenneth Monplaisir, one of the three representatives of the Inner Bar who spoke, said her achievements in the legal service had been impressive.

Said Mr. Monplaisir: "She blazed the trail for female lawyers in St. Lucia, for when she entered the legal profession, I recall only one female lawyer, the late Miss Beryl Edwards. Today the female contingent is overwhelming and no doubt, Justice d'Auvergne's achievements should serve as a catalyst to the many females who have entered the profession".

Acting Director of Public Prosecutions Victoria Charles-Clarke said that despite Justice d'Auvergne's achievements she had remained humble and never became arrogant or high handed. "Your contribution to the public Bar and the development of the jurisprudence of this jurisdiction and in the region as a whole is indeed exemplary", Mrs. Charles-Clarke said.

Mrs. Charles-Clarke recalled, "You are well known for your zero tolerance of crime, especially violent crimes against women. This gave rise to many local phrases and calypsos about you, all very complimentary and witty."

She said Justice d’Auvergne’s elevation to the Court of Appeal came as no surprise to anyone. “Your career path was well structured, as you aimed for the top”, Mrs. Charles-Clarke went on. “That you are now at the pinnacle is indeed fitting at this juncture and is an accomplishment of great feat for yourself and the women of this country.”

Newly-elected President of the St. Lucia Bar Association, Ms. Jennifer Remy, speaking on behalf of the Utter Bar said Justice d’Auvergne had “enhanced the judicial landscape of this country” and the force of her decisions, particularly in the criminal field, had underscored the point that in her Court, transgressions were dealt with firmly and judiciously.

To have reached the pinnacle of her success was no accident, Ms. Remy added, but the fruit and reward for her dedication, hard work and integrity. She noted that Justice d’Auvergne, in the face of her achievements, had retained the virtue of true humility, “a rare virtue, for it is easy to become proud of the fact that one is humble.” Her “overwhelming optimism” that not only will the Appeal Court be greatly enhanced by Justice d’Auvergne’s presence, but that she will pave the way for the appointment of more female judges to the Appellate Court was strongly voiced.

Acting Chief Justice Adrian Saunders made the point that the presence of so many local dignitaries at the ceremony spoke of the “high esteem” in which Justice d’Auvergne was held in St. Lucia. He said it was “a most comforting feeling” having Justice d’Auvergne on the Appellate Bench, and referred to her as one of the most generous and kind-hearted persons that he has known. “She is more than a colleague. She is also a sister, friend and model to us”, Justice Saunders said.

He added: "She has blazed a trail for other St. Lucian women to follow. The many 'firsts' that she had recorded, would remain forever etched in the history of St. Lucia, the acting Chief Justice said.

Other speakers at the ceremony were: Mr. Hilford Deterville, Q.C. and Mr. Anthony McNamara, Q.C. representing the Inner Bar; Mr. Raulston Glasgow, representing the Attorney General and the St. Lucia Government; Mrs. Shirley Lewis, Vice President of the St. Lucia Bar Association; Mr. Alberton Richelieu and Ms. Cynthia Combie, representing the Utter Bar; Justice of Appeal Michael Gordon and Head of the Criminal Division of the Court, Justice Albert Redhead.

In response, Justice d'Auvergne said she was flattered by the kind and generous sentiments and words of appreciation of her years of service on the bench. She said that from the time she was a young girl, she had been setting goals for herself, and at every turn she had endeavoured to attain them.

She recalled that when she joined the public service in 1979 as a Magistrate many colleagues told her that she had taken the wrong turn, for the Magistracy in those days was regarded as a "legal cemetery" and that persons who became Magistrates were doomed to end their lives as Magistrates.

"It was this view that spurred me on, and immediately I set myself the goal of becoming a High Court Judge, if only to disprove this notion", Justice d'Auvergne related.

She also sought to set the record straight, announcing that the first St. Lucian woman to become a judge was in fact one Lady Marshall now residing in Barbados who left St. Lucia after the 1927 fire. "It is my understanding that she

visited her homeland almost five years ago”, Justice d’Auvergne said.



A part of the audience, paying close attention to Justice Suzie d’Auvergne as she responded to the many accolades

She recalled attaining her goal of becoming a judge in September 1990. “There is no doubt that I was happy”, Justice d’Auvergne said, adding, “I was a little saddened, however, that my father was not alive to witness the realization of his dream, for he had died several months earlier.”

Her next goal was to become an Appellate Judge of the OECS. Justice d’Auvergne said this turned out to be “the most difficult goal of all”. She added that although her appointment was for four months “I am happy to note that it will be recorded in the annals of St. Lucia’s history, however short the period.”

She urged female attorneys, particularly the St. Lucians to remember that in the late 1920s, Ms. Marie Grace Augustin was refused admittance to the St. Lucia Bar because of her gender.

“Today, we have many female attorneys in St. Lucia. We have certainly come a long way”, Justice d’Auvergne said.

[The complete text of Justice d’Auvergne’s response may be viewed on the Court’s website: www.ecsupremecourts.org]

**Judicial Appointments for the period
October 31, 2004**

Antigua and Barbuda

- [1] **Mr. Asquith Riviere**, Acting Senior Magistrate, has been appointed Chief Magistrate, Magistrate's Division, with effect from 29th July, vice Mrs. Maureen Hyman who proceeds on vacation leave.
- [2] **Mr. Keith Thomas**, Magistrate, has been appointed Senior Magistrate, with effect from 29th July, vice Mr. Asquith Riviere.

Commonwealth of Dominica

- [3] **Mr. Reginald Winston** has been appointed Registrar General and Provost Marshal, Office of Registrar, with effect from 1st October, 2004 in a vacant post.
- [4] **Ms. Rose-Ann Charles** has been appointed State Attorney with effect from 1st October, 2004.
- [5] **Miss Gloria Augustus** has been appointed Magistrate [Ag.], Commonwealth of Dominica for the period 1st September to 31st December, 2004.

Saint Lucia

- [6] **Ms. Ellaine French** has been appointed Deputy Registrar of Companies and Intellectual Property on contract for a period of two [2] years from 11th October, 2004.
- [7] The following persons have been appointed to serve as Temporary Magistrates with effect from 15th October, 2004 until further notice.

- [1] **Ms. Jennifer Remy**
- [2] **Mr. Vern Gill**

- [8] **Mrs. Kimberly Cenac- Phulgence** has been appointed Registrar, High Court of Justice on contract for a period of two [2] years with effect from 23rd November, 2004.
- [9] **Ms. Agnes Actie** has been appointed Registrar of Lands, Ministry of Physical Department with effect from 5th October, 2004.
- [10] **Ms. Gillian Vidal-Jules** has been appointed Legislative Drafter III on contract for a period of two [2] years with effect from 1st February, 2005.

WRITTEN JUDGMENTS

The following are written judgments available for the month of **October 2004**:

COURT OF APPEAL JUDGMENTS

DOMINICA

Dexter Ducreay v Dominica Water & Sewerage Co Ltd

Dominica

Civil Appeal No. 20/2004

Gordon, J.A.

Delivered: 14/10/04

ST. LUCIA

Samuel Felicien v Stanislaus Modeste

St. Lucia

Civil Appeal No 08/2003

Alleyne, J.A.

Delivered: 29/10/04

HIGH COURT JUDGMENTS

ANGUILLA

Vernol Carlisle Gumbs v Avenella Karen Gumbs

Anguilla

Suit No. AXAHMT 2003/0015

George-Creque, J.

Delivered: 18/10/04

Judith Franklin v Restormel Franklin

Anguilla

Suit No. AXAHMT 2001/0019

George-Creque, J.

Delivered: 18/10/04

Globe-X Canadiana Ltd

Anguilla

Suit No. AXAHCV 2003/0022

George-Creque, J.

Delivered: 25/10/04

Charles Hickox v Leeward Isles Resorts Ltd

Anguilla

Suit No. AXAHCV 1998/0097

Mathurin, Master

Delivered: 25/10/04

ANTIGUA & BARBUDA

Ordinance Land Co Ltd et al v Attorney General of Antigua & Barbuda

Antigua & Barbuda

Claim No ANUHCV2003/0394

Joseph-Olivetti, J.

Delivered: 08/10/04

BVI

Sheldon Dabreo v Stevens Yacht Inc et al

BVI

Claim No BVIHCV2002/0013

Rawlins, J.

Delivered: 18/10/04

ST. CHRISTOPHER & NEVIS

Capital Resources Ltd et al v Bank of Nevis International Ltd

St. Christopher & Nevis

Claim No SKBHCV2003/0110

Mathurin, Master

Delivered: 14/10/04

ST. LUCIA

Castries Car Park Facility Ltd v Gladys Taylor

St. Lucia

Claim No SLUHCV2004/0133

Hariprashad-Charles, J

Delivered: 15/10/04

Francisca Jules Wattley v Attorney General

St. Lucia

Claim No SLUHCV2004/0052

Hariprashad-Charles, J

Delivered: 26/10/04

Antonio Flavius et al v Ignatius Flavius et al

St. Lucia

Claim No SLUHCV2002/0537

Edwards, J

Delivered: 12/10/04

ST. VINCENT & THE GRENADINES

Courts (St. Vincent) Ltd v Ivan Roberts et al

St. Vincent & the Grenadines

High Court Claim No 47/2001

Bruce-Lyle, J

Delivered: 11/10/04

EASTERN CARIBBEAN SUPREME COURT

As at 31st October 2004

The Chief Justice

His Lordship, the Hon. Chief Justice [Ag.], Adrian Saunders – Saint Lucia

Justices of Appeal

His Lordship, the Hon. Justice Brian Alleyne, SC – Saint Lucia

His Lordship, the Hon. Justice Michael Gordon, QC – Saint Lucia

Her Ladyship, the Hon. Justice Suzie d’Auvergne [Ag.] – Saint Lucia

High Court

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

His Lordship, the Hon. Justice Kenneth Benjamin – Grenada

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

His Lordship, the Hon. Justice Frederick Bruce-Lyle – Saint Vincent & The Grenadines

His Lordship, the Hon. Justice Hugh Rawlins – British Virgin Islands

Her Ladyship, the Hon. Justice Charmaine Pemberton – Saint Christopher & Nevis

His Lordship, the Hon. Justice Davidson Baptiste – Saint Christopher & Nevis

Her Ladyship, the Hon. Justice Ola Mae Edwards – Saint Lucia

Her Ladyship, the Hon. Justice Rita Joseph-Olivetti – Antigua & Barbuda

His Lordship, the Hon. Justice Errol Thomas – Antigua & Barbuda

His Lordship, the Hon. Justice Janice George-Creque – Anguilla/Montserrat

His Lordship, the Hon. Justice Louise Blenman – St. Vincent & the Grenadines

His Lordship, the Hon. Justice Clare Henry-Wason – Commonwealth of Dominica

His Lordship, the Hon. Justice Francis Belle - Antigua & Barbuda

His Lordship, the Hon. Denys Barrow [Ag.] - British Virgin Islands

Master Brian Cottle – Saint Lucia

Master Cheryl Mathurin – Antigua & Barbuda

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