



EASTERN CARIBBEAN SUPREME COURT ECSC E-NEWSLETTER



MESSAGE FROM THE CHIEF JUSTICE

Dear Readers:

The month of November has brought some significant changes in our establishment at the Eastern Caribbean Supreme Court. This month we effectively bade farewell to our acting Chief Registrar Heather Franklyn, who had served the Court so well over a period exceeding 3 years, first in the substantive position of Deputy Chief Registrar, and for the past 2 years as acting Chief Registrar. Most significant is the fact that for most of the period during which she acted as Chief Registrar she was without the support of a Deputy Chief Registrar, despite which she, with the support of a dedicated, capable and hard-working Registry staff, was able to maintain and even improve the high standards of the ECSC Court of Appeal Registry.

Miss Franklyn has been a great asset to the Court and a valued adviser and associate to me personally. Her leadership of the Court of Appeal registry has been outstanding. She will be greatly missed by all, and her shoes will be hard to fill. We all at the ECSC headquarters wish her well in her future endeavours, and I express my personal confidence that she will continue to enjoy great success in both her personal and professional life in the years ahead. I believe the Registrars at the constituent Courts of the ECSC would like me to express their farewell and best wishes to Miss Franklyn through this medium.

Miss Franklyn will be succeeded in the office of Chief Registrar by Mrs. Kimberley Cenac-Pulgence, currently Registrar of the St. Lucia High Court, and as Deputy Chief Registrar by Ms. Agnes Actie, Registrar of Lands, St. Lucia. We have high hopes and expectations in respect of these new senior members of staff.

Also due to leave us later this year is our Deputy Court Administrator, Mr. DeLara MacClure Taylor, who has been an invaluable asset, focusing primarily on our reform project. MacClure too will be sorely missed. He will be replaced by Mr. Francis Letang, a native of the Commonwealth of Dominica. We welcome Francis to the establishment of the ECSC. He is not a stranger, having worked closely with us under the CIDA Judicial and Legal Reform programme in its early stages.

A new addition to the extended family of the ECSC is the baby son born to our senior Judicial Assistant Michelle John Theobalds. We congratulate Michelle and husband Adrian on this great and joyful event and look forward to welcoming Michelle back after her maternity leave and to meeting her new 'bundle of joy'.

I take this opportunity to wish all a blessed and merry Christmas and a prosperous New Year.

Please send comments, suggestions and contributions to the newsletter at offices@eccourts.org

INSIDE THIS ISSUE

Message from the Chief Justice
p. 1

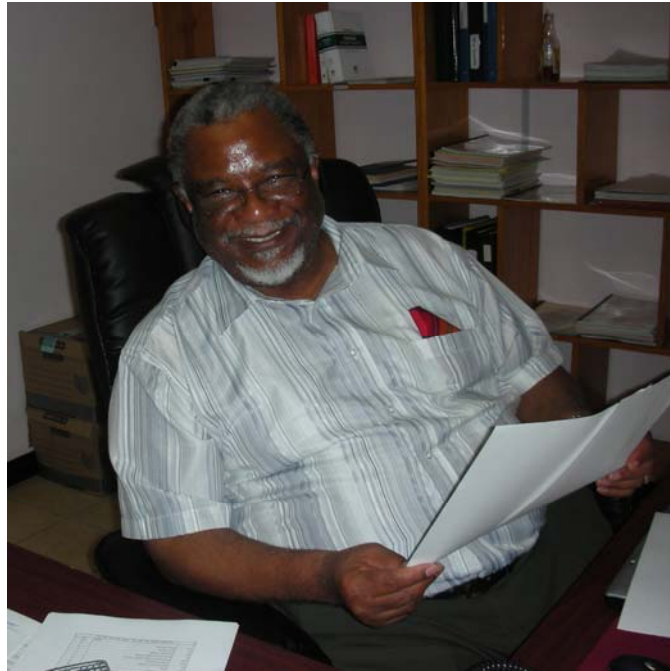
Eastern Caribbean Supreme
Court News
p. 2

Conferences, Seminars
& Workshops
p. 8

JLSC Appointments
p.9

Written Judgments
p. 11

EASTERN CARIBBEAN SUPREME COURT NEWS



Interview with Justice Anthony Ross

The Eastern Caribbean Supreme Court recently appointed a Managing Judge, in the person of E. Anthony Ross.

Justice Ross took up the position at the beginning of October, and will operate from the Court's headquarters in Castries, Saint Lucia. A Kittitian, he lived and worked in Canada from 1961, before taking up his new posting.

The position of Managing Judge is a new one in the Eastern Caribbean and is also a fairly new concept in wider judicial circles. The role of Managing Judge is to assist with the amalgamation of the various judicial regimes in the Member States, which should ultimately result in unified a criminal court as well as family, civil and commercial courts.

Justice Ross previously worked as a consulting engineer, with emphasis on structures, highways, water supply and treatment and environmental engineering. He was admitted to the Bar in Nova Scotia, Canada in 1973. His practice initially included construction law and contract administration, environmental law, personal injury law and insurance law. He was called to the

Eastern Caribbean Supreme Court in 1984. For six years he taught engineering law and contracts at the Technical University of Nova Scotia (now DalTech).

In June 1997, Justice Ross was called to the Bar in Ontario. He retains membership in a number of professional bodies in Canada and has been granted the status of life member of the Association of Professional Engineers of Nova Scotia.

Justice Ross told the Newsletter that if the concept of Managing Judge that he has in mind works, it should set in motion a process designed to ensure an efficient use of resources relating to the administration of justice in both the criminal and civil aspects.

He said: "As far as the criminal aspect is concerned, the guiding principles include bringing all matters to a conclusion quite promptly. Individuals charged with criminal conduct have a human and Constitutional right to be either cleared early or to have their trial concluded within a reasonable period of time."

Justice Ross noted that since his appointment he has visited three States to speak with persons who worked in the administration of justice specifically to get a grasp of the problems they faced.

Preliminary indications suggest that some of the problems, he said, include: the physical plant in which these people have to work, the optimization of technology available, the level of public satisfaction with the administration of justice and professionalism of the Bar.

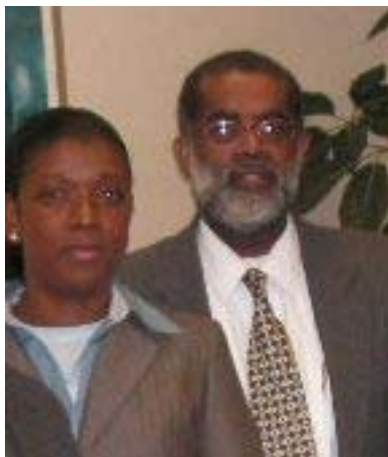
Justice Ross said that just using these four parameters, the general views of staff and others with whom he met things are currently worse than they were five years ago.



The Eastern Caribbean Supreme Court celebrates 40 years of existence on February 27, 2007. Member States have begun staging various activities in recognition of this milestone. Activities include: essay competitions, lectures, exhibitions, and local banquets among others.

A special sitting will convene in Saint Lucia on February 26, coinciding with the scheduled Court of Appeal sitting. This will be transmitted via simulcast to all the other Member States.

Farewell



Ms Heather Franklyn & Mr Delara Mac Clure Taylor

The Eastern Caribbean Supreme Court bids farewell to Ms Heather Franklyn, Acting Chief Registrar and Mr Delara Mac Clure Taylor, Deputy Court Administrator.

Justices of Appeal and members of staff at the Court's Headquarters celebrated the contribution of Ms Franklyn and Mr Taylor to the Court's mission with a boat ride. Commendations were given by the Acting Chief Justice Brian Alleyne, SC, the Justices of Appeal and members of staff, after which tokens of appreciation were presented. The celebration included dancing to the strains of local music and enjoying good food.

Their indomitable spirit and invaluable contribution will forever be imbedded in the hearts and minds of those that they have left behind. We wish them God's speed as they continue to pursue their dreams.



Members of the Court of Appeal Registry serenade Heather



Heather and Mac Clure holding gift bags



Mac Clure hugging Geraldine in exchange for his gift, while Heather (far left) and others look on.



Aloysia Gabriel, HR Manager and Martin Jn Louis, Orderly, on the dance floor, while members of staff and judges look on.

CONFERENCES, SEMINARS & WORKSHOPS

The Judicial Council of Barbados held its annual retreat for the judiciary on the 10th and 11th November 2006 at the Barbados Hilton Hotel, Needham's Point, St. Michael. The Eastern Caribbean Supreme Court was represented by the Hon. Justice Sandra Mason, QC.

Among the main topics for discussion were:

The new "Sunset Legislation" which will govern the special arrangements for World Cup Cricket 2007 and which every territory hosting matches is expected to enact. The senior legal adviser to Cricket World Cup, Mr. Derek Jones of the law firm, Myers Fletcher & Gordon in Jamaica made a presentation on the legislation.

A lecture on "Forensic Evidence", with particular regard to DNA, was presented by Ms Cheryl Corbin of the Forensic Sciences Centre.

"Summations - Getting them Right" was delivered by Mr. Justice Mustapha Ibrahim, retired Court of Appeal Judge of Trinidad and Tobago and the Bahamas.

JUDICIAL APPOINTMENTS FOR THE PERIOD NOVEMBER 1 – DECEMBER 31, 2006

The Judicial and Legal Services Commission approved the following appointments:

Eastern Caribbean Supreme Court

- [1] **His Lordship, the Hon. Justice Michael Gordon, QC** to act as Chief Justice, Eastern Caribbean Supreme Court for a period of three [3] weeks with effect from 18th December to 4th January, 2007.
- [2] **His Lordship, the Hon. Justice Albert Matthew**, Retired Judge to act as Justice of Appeal, Eastern Caribbean Supreme Court, for the period 3rd to 9th December, 2006 for the purpose of the sitting of the Court of Appeal in Grenada.
- [3] **Mrs. Kimberly Cenac-Phulgence** to the post of Chief Registrar, Eastern Caribbean Supreme Court on contract for a period of three (3) years with effect from 18th December, 2006.

Antigua & Barbuda

- [4] **Mr. Asquith Riviere**, to the post of Senior Magistrate, on contract for a period of three (3) years with effect from 1st January, 2007.

Commonwealth of Dominica

- [5] **Mr. Geoffrey Letang**, to the post of State Attorney, (Temporary) Ministry of Legal Affairs and Immigration, for the period 16th October to 31st December, 2006, in a vacant post.
- [6] **Ms. Priscilla Pacquette**, Statistical Officer III to the post of State Attorney with effect 24th November, 2006.
- [7] **Ms. Gloria Augustus**, State Attorney, Ministry of Legal Affairs and Immigration, to the post of Magistrate with effect 1st November, 2006.

Grenada

- [8] **Mr. Jerry Seales** to act as Magistrate with effect from 27th December, 2006 to 2nd March, 2007 vice Ms. Oforiwa Augustine, Magistrate who proceeded on leave during the said period.

Saint Lucia

- [9] **Mrs. Brender Portland-Reynolds** to the post of Senior Crown Counsel, Attorney General's Chambers with effect from 15th December, 2006 for a period of two (2) years.
- [10] **Ms. Gillian Vidal-Jules** to the post of Deputy Director of Legislative Drafting, Attorney General's Chambers with effect from 16th October, 2006 for a period of two (2) years.
- [11] **Mrs. Victoria Charles-Clarke**, to the post of Deputy Director of Public Prosecution for a period of two [2] years with effect from 4th January, 2007; and continue to act as Director of Public Prosecutions, Crime Prosecution Service Unit until further notice.
- [12] **Ms. Aisha Jn. Baptiste**, Deputy Registrar, High Court of Justice to act as Registrar, High Court with effect from 23rd November, 2006 until further notice.

St Vincent & the Grenadines

- [13] Approval of the appointment of **Ms. Annela Marella James** as Crown Counsel I, Attorney General's Chambers with effect from 1st December, 2006

WRITTEN JUDGMENTS

The following are written judgments delivered in the months of **November & December 2006**:

COURT OF APPEAL JUDGMENTS

ANTIGUA & BARBUDA

Jewellers Warehouse v Cecile Norde

Antigua & Barbuda
Civil Appeal No 29/2004
Rawlins, J.A.
Delivered: 27/11/06

Oliver Davis v Rona Henry et al

Antigua & Barbuda
Civil Appeal No 37/2004
Alleyne, C.J. [Ag.]
Delivered: 04/12/06

BRITISH VIRGIN ISLANDS

Bettito Frett v Allen Wheatley et al

BVI
Civil Appeal No 02/2006
Barrow, J.A.
Delivered: 13/11/06

GRENADA

Radhay Noel v The Attorney General et al

Grenada
Civil Appeal No. 11/2006
Barrow, J.A.
Delivered: 13/11/06

Roland Charles v The Queen

Grenada

Criminal Appeal No. 9/2003

Gordon, J.A.

Delivered: 13/11/06

ST. CHRISTOPHER & NEVIS

Charles Greene v Helena Henry

St. Christopher & Nevis

Magisterial Civil Appeal No 3/2006

Gordon, J.A.

Delivered: 27/11/06

Joseph Hazel v The Queen

St. Christopher & Nevis

Criminal Appeal No 6/2004

Rawlins, J.A.

Delivered: 13/11/06

ST. LUCIA

Leonard Ogilvy v The Attorney General et al

St. Lucia

Civil Appeal No 17/2006

Barrow, J.A.

Delivered: 13/11/06

ST VINCENT & THE GRENADINES

Cecil Boatswain v The Superintendent of Prisons et al

St. Vincent & the Grenadines

Civil Appeal No. 6/2006

Gordon, J.A.

Delivered: 13/11/06

HIGH COURT JUDGMENTS

ANTIGUA & BARBUDA

The Attorney General v The Permanent Secretary in the Office of the Prime Minister

Antigua & Barbuda
Claim No 2005 of 0226
Blenman, J.
Delivered: 08/11/06

Cecile Hill, Registrar of Lands v RBC Royal Bank of Canada

Antigua & Barbuda
Claim No 2006/0138
Blenman, J.
Delivered: 08/11/06

Olson Hector et al v Attorney General et al

Antigua & Barbuda
Claim No 2005/0226
Blenman, J.
Delivered: 08/11/06

Kelvin Dalso v Jerome Elvin

Antigua & Barbuda
Claim No ANUHCV2005/0634
Mathurin, M.
Delivered: 23/11/06

Hilroy Humphreys v AG of Antigua & Barbuda

Antigua & Barbuda
Claim No ANUHCV2005/0628
Thomas, J.
Delivered: 21/12/06

BRITISH VIRGIN ISLANDS

Akai Holdings Limited v Brinlow Investments Limited et al

B.V.I

Claim No. BVIHCV2006/0134

Hariprashad-Charles, J

Delivered: 01/11/06

Zhu Jiang Finance Limited v American Drean in Guangzhou Limited et al

B.V.I

Claim No. BVIHCV2003/0121

Hariprashad-Charles, J

Delivered: 13/11/06

Andrey Lych et al v Coffee Commodities Limited et al

B.V.I

Claim No. BVIHCV2004/008

Hariprashad-Charles, J

Delivered: 28/11/06

Vijay Kirtilal Mehta v Rajesh Kishor Mehta et al

B.V.I

Claim Nos. BVIHCV2006/0176, 0177 & 0178

Joseph-Olivetti, J

Delivered: 10/11/06

Raishauna Wheatley v Lawrence Wheatley

B.V.I

BVIHMT2006/0014

Joseph-Olivetti, J

Delivered: 17/11/06

Marble Point Energy Ltd v Multiperils International INC

B.V.I

Claim No. BVIHCV238/2006

Joseph-Olivetti, J

Delivered: 21/11/06

Iva Freeman v Ina Freeman et al

B.V.I

Claim No. BVIHCV2004/0151

Joseph-Olivetti, J

Delivered: 28/11/06

The Queen v Philimon Miller et al

B.V.I

Case No. 26 of 2006

Hariprashad-Charles, J

Delivered: 01/12/06

IPOC International Growth Fund Ltd v LV Finance Group Ltd et al

B.V.I

Claim No. BVIHCV2003/0140

Mathurin, M

Delivered: 01/12/06

Peter Maxymych v Global convertible Megatrend Ltd

B.V.I

Claim No. BVIHCV246/2006

Joseph-Olivetti, J

Delivered: 05/12/06

William "Bing" Malone v Jerome Michael

B.V.I

Claim No. BVIHCV2004/0058

Joseph-Olivetti, J

Delivered: 15/12/06

DOMINICA

Havis Francois et al v Cardinal Airlines et al

Dominica

Claim No DOMHCV2005/0310, 311, 312, 313

Cottle, M.

Delivered: 24/11/06

Mc Intyre Paull v Commissioner of Police et al

Dominica

Claim No DOMHCV2004/0167

Cottle, M.

Delivered: 24/11/06

GRENADA

Lawrence Renaud et al v BBC Ltd et al

Grenada

Claim No. 2006/0403

Benjamin, J

Delivered: 10/11/06

ST CHRISTOPHER & NEVIS

Lexia Worrell v Tyrone Nisbett et al

St. Christopher & Nevis

Claim No. SKBHCV2004/0155

Mathurin, M

Delivered: 14/11/06

ST. LUCIA

Victoria Clifford v Protus Auguste et al

St. Lucia

Claim No. SLUHCV 2005/0201

Edwards, J.

Delivered: 13/11/06

Conrad James et al v Solange Jn Baptiste et al

St. Lucia

Claim No. SLUHCV 2002/0169

Edwards, J.

Delivered: 28/11/06

Michael Aimable et al v Prospere Collins et al

St. Lucia

Claim No. 0443/2004

Mason, J.

Delivered: 01/11/06

Annette Phyllis Sewell v Joseph Allain et al

St. Lucia

Claim No. SLUHCV528/2005

Mason, J.

Delivered: 27/11/06

Cora Urelina Smith v Martha Adolta Henry

St. Lucia

Claim No. SLUHCV2004/0783

Mason, J.

Delivered: 29/11/06

Veronique Ismael v Justin Albert et al

St. Lucia

Claim No. SLUHCV 0717 of 2002

Edwards, J.

Delivered: 08/12/06

Caribbean Ventures International Ltd v Carosello Establishment et al

St. Lucia

Claim No. SLUHCV 2006/0293

Edwards, J.

Delivered: 20/12/06

ST VINCENT & THE GRENADINES

George Leopold Crichton v Lena Holder

St. Vincent & the Grenadines

High Court Civil Claim No. 18/2004

Thom, J.

Delivered: 28/11/06

Keziah Baptiste v Donald McTair

St. Vincent & the Grenadines

High Court Civil Claim No. 100/2004

Thom, J.

Delivered: 28/11/06

Maurice Jones v Louella Mitchell et al

St. Vincent & the Grenadines

High Court Claim No. 137/2003

Thom, J.

Delivered: 28/11/06

EASTERN CARIBBEAN SUPREME COURT

As at 31st December 2006

The Chief Justice

His Lordship, the Hon. Chief Justice [Ag.], Brian Alleyne, SC – Saint Lucia

Justices of Appeal

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

His Lordship, the Hon. Justice Denys Barrow, SC – Saint Lucia

His Lordship, the Hon. Justice Hugh Rawlins – Saint Lucia

High Court

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

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

His Lordship, the Hon. Justice Kenneth Benjamin – Grenada

Her Ladyship, the Hon. Justice Indra Hariprashad-Charles – British Virgin Islands

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

His Lordship, the Hon. Justice Davidson Baptiste – Commonwealth of Dominica

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

Her Ladyship, the Hon. Justice Rita Joseph-Olivetti – British Virgin Islands

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

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

His Lordship, the Hon. Justice Louise Blenman – Antigua & Barbuda

His Lordship, the Hon. Justice Clare Henry – Grenada

His Lordship, the Hon. Justice Francis Belle - Saint Christopher & Nevis

Her Ladyship, the Hon. Justice Gertel Thom - Saint Vincent & the Grenadines

Her Ladyship, the Hon. Justice Sandra Mason, QC - Saint Lucia

Her Ladyship, the Hon. Justice Ianthea Leigertwood-Octave – Saint Christopher & Nevis/
Commonwealth of Dominica/Montserrat

His Lordship, the Hon. Justice Anthony Ross [Ag] – Saint Lucia

Master Brian Cottle – Saint Vincent & the Grenadines

Master Cheryl Mathurin – Antigua & Barbuda

Mrs. Kimberley Cenac- Phulgence, Chief Registrar - Saint Lucia