



EASTERN CARIBBEAN SUPREME COURT
ECSC E-NEWSLETTER



MESSAGE FROM THE CHIEF JUSTICE [AG]

Dear Readers:

March has been another eventful month for us at Headquarters. The Court of Appeal sat in St. Lucia, Antigua and Grenada, at each of which sittings the Court and the Bar took the opportunity to bid farewell to Justice of Appeal Michael Gordon Q.C., whose extended term of service on the Court came to an end on 4th April. Justice Gordon had agreed to an extension of one year on his service at my request and with the approval of the Heads of Government. The Court and the entire jurisdiction benefited greatly from that additional year, and thankfully we will not be severing relations with Justice Gordon, who we expect to continue to assist us by leading the process for the establishment of the Commercial Division of the Court in the British Virgin Islands. Justice Gordon has been an outstanding contributor to all the activities and work of the Court. We are sorry to see him go, and as we bid him farewell, we want to say a sincere thank you, not only on our own behalf, but on behalf of all the citizens of the OECS States, who will in one way or another benefit from his work, although most will not be conscious of it.

Also in March the Judicial and Legal Services Commission appointed Justice OlaMae Edwards and Mrs. Dancia Penn Q.C. as acting Justices of Appeal, and Master Brian Cottle, Mr. David Harris of Trinidad and Mr. Francis Cumberbatch of the Bahamas and Guyana as judges of the High Court. Justices of Appeal (Ag.) Edwards and Penn and Justice Cottle have all been sworn in and have taken up their offices, while Messrs Harris and Cumberbatch will assume office later in the year. We have also appointed Ms. Pearlletta Lanns, Registrar of the High Court of St. Kitts and Nevis, as a Master of the High Court.

The 40th Anniversary celebrations have been very successful thus far, and have had a positive impact on the image of the Court, and on public awareness of our work, throughout the jurisdiction. We hope that the events that have already taken place, but more, the future events, will even more significantly impact, especially, our younger citizens, including students at our regional universities. Apart from the special sittings, the exhibitions, the debates, the moot courts, and the public lectures, perhaps the project which will have the greatest long term impact is the publication of the book tracing the history, development and jurisprudential impact that the Court has had on the OECS in its 40 years of existence. This book is being written by Dr. Francis Alexis, and will be issued later in the year.

One of our concerns in recent times has been the need to review the Civil Procedure Rules 2000, which have been the governing rules for the past 6 years. With the recent recruitment of Mrs. Michelle John Theobalds as Executive Legal Assistant to the Chief Justice and with the collaboration of the Chief Registrar Mrs. Kimberly Cenac Phulgence, we have prepared and will soon issue 2 Practice Directions, and are working towards drafting others. [continued on page 2]

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

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MESSAGE FROM THE CHIEF JUSTICE [AG]

We also intend to re-activate the Rules Committee to continue to review the Rules in response to issues that have become apparent over the life of the CPR, and also to establish a Bench/Bar Committee to keep under review relations between the Bench and the Bar, and to address the issues which the Bar will from time to time identify.

We take the opportunity to wish all our readers a Happy and Holy Easter Season.

EASTERN CARIBBEAN SUPREME COURT NEWS

GOODBYE JUSTICE GORDON



Justice Michael Gordon, Q.C

The Court, joined by members of the legal fraternity and friends and well wishers said goodbye to Justice Michael Gordon, Q.C. at a special sitting held in his honour at the High Court of Justice in Castries, Saint Lucia on Friday, 23rd March 2007.

The event presided over by the Acting Chief Justice the Hon Brian Alleyne, SC. was marked by speeches from the Attorney General of Antigua and Barbuda, the Solicitor General of Saint Lucia, and members of the Bar and Bench. [Text of the presentations may be viewed on the Court's website.]



Acting Chief Justice Brian Alleyne, SC



L - R: Justices of Appeal Hugh Rawlins and Michael Gordon, QC and Acting Chief Justice Brian Alleyne, SC



L - R: Justices of Appeal Hugh Rawlins and Michael Gordon, QC



Special Sitting in session



Justice Suzie d' Auvergne, retired High Court Judge, in pink outfit, was in attendance

Condolences



The Court is deeply saddened to learn of the passing of Justice Horace Mitchell, retired Judge of the Eastern Caribbean Supreme Court.

Justice Mitchell served the Court with distinction and dedication during his term of office.

The Acting Chief Justice, Brian Alleyne, SC, judges, and administrative and support staff of the Court offer sincere condolences to Mrs. Lucille Mitchell, wife of Justice Mitchell; children; other family and friends.

May his soul rest in peace!

Update on the Court Structures Project

Since the last report, moderate progress was reported in the major areas of work under the Court Structures Project. One major consultation was held in Antigua in February 2007, bringing together the key stakeholders in the legal sector to chart a course for the implementation of the Criminal Division in Antigua. During that consultation a committee was appointed to oversee the work, and details of the implementation work was left to that committee and the ECSC. A similar consultation is planned for Dominica for April 23, 2007 and St. Vincent and the Grenadines in May 2007. At that consultation, Antigua also registered their interest in the merger of the crown prosecution service with the police prosecution in similar fashion as per the Saint Lucia model. Work on this plan has entered into an advanced stage with the training for the police prosecutors in Antigua due by May 2007.

Work on the Canadian Cooperation Fund (CCF) technical assistance programme to continue with the development of the appropriate legislative framework to support the Court Structures Project which seeks to integrate the Magistracies into the structural and juridical framework of the ECSC, and thereby strengthen the judicial branch of government of the Eastern Caribbean, has entered a promising phase. The consultancy for the two phases of that project has been awarded to the firm of Dennis Darby in Jamaica and work is expected to begin May 1, 2007. The overall objective of the consultancy is to formulate and prepare legislation that will:

- Promote greater accountability of the magistracy within the judicial and administrative chain of command
- Restructure the judiciary in the Eastern Caribbean with magistrates being integrated fully into the judicial branch
- And eventually achieve a strengthened judicial branch of government by promoting an efficient, fair, impartial and independent justice system.

There are two distinct though inter-related phases in the consultancy. Phase 1, the research and consultative stage, proposes the development of a strategic policy approach for the restructuring of the judiciary; phase 11 will see the drafting of model legislative documents that will lead to the implementation of the policies developed in Phase 1.

Meanwhile, through an initiative with the JEI a training/orientation programme for the bailiffs in Grenada was mounted. This came on the heels of a study which was conducted in 2003 which chronicled the major difficulties of that system and identified 'training' as one of the key remedies in addressing the problems encountered in relation to the bailiff system. Following the training a

manual will be prepared for future orientation of the bailiffs on the island. This activity, once successful will be replicated in the other OECS territories with similar problems. The training will run from May 19-20, 2007.

Court Statistics

Introduction

This report provides statistical information on St. Lucia and St. Vincent and the Grenadines High and Magistrates Courts respectively for January 2007 with comparative information for January 2006. These are the only two Courts for which complete information is available for January 2007.

ST.LUCIA HIGH COURT

Table 1

Cases Filed	Jan-07	Jan-06	% Change
Civil	62	84	-26.19
Matrimonial	14	18	-22.22
Probate	32	44	-27.27
Criminal	6	0	0.00
Adoption	1	1	0.00
Admiralty	0	1	-100.00
Total	115	148	-22.30

Table 2

Cases Disposed	Jan-07	Jan-06	% Change
Civil	37	110	-66.36
Matrimonial	14	14	0.00
Probate	14	19	-26.32
Criminal	2	7	-71.43
Adoption	0	1	-100.00
Admiralty	0	0	0.00
Total	67	151	-55.63

Tables 1 and 2 provide data on the number of cases filed and disposed in St. Lucia High Court for January 2007 with comparative data for January 2006. The number of cases filed in St. Lucia High Court for January 2007 declined by 22.3% in comparison to the volume of cases filed for a similar period in 2006. The most significant decline in cases filed was reflected in probate matters. The number of probate cases filed declined by approximately 27.3% in comparison to 2006. Corresponding to the volume of filings in January 2007, the volume of cases disposed in the similar period showed a decline of 55.6% in comparison to 2006. The largest decline in dispositions was reflected in criminal matters, 71.4%. However this may be related to the fact that all the data have not been captured on dispositions. The High Court of St. Lucia attained a clearance rate of 58% in January 2007 in comparison to a clearance rate of 102% in January 2006.

ST.VINCENT AND THE GRENADINES MAGISTRATES COURTS

Table 3

Cases Filed	Jan-07	Jan-06	% Change
Criminal	324	302	7.28
Traffic	10	178	-94.38
Civil	8	90	-91.11
Total	342	570	-40.00

Table 4

Cases Disposed	Jan-06	Jan-05	% Change
Criminal	272	299	-9.03
Traffic	10	72	-86.11
Civil	12	58	-79.31
Total	294	429	-31.47

Tables 3 and 4 provide information on the number of cases filed and disposed in St. Vincent and the Grenadines Magistrates Courts for January 2007 with comparative date for January 2006. The total number of cases filed in January

2007 declined by 40% in comparison to January 2006. The largest volume in decline in the number of cases filed was reflected in traffic matters. The number of traffic matters filed in January 2007 declined significantly by 94.4%. This perhaps is a situation where the data on filings of traffic matters is incomplete. The total number of cases disposed, declined by 31.5%, which corresponds to the situation with the number of cases filed. Traffic matters also reflected the largest volume in decline in the number of cases disposed, 86.1%. The data pattern reflects that a similar situation of incomplete information exists with the number of traffic matters disposed. St. Vincent and the Grenadines Magistrates Courts attained a clearance rate of 86% in January 2007 in comparison to 75% in January 2006.

**Judicial Appointments for the period
March 1 - 31, 2007**

[1] Eastern Caribbean Supreme Court

Court of Appeal

- [1] **Her Ladyship, the Hon. Justice Ola Mae Edwards** to act as Justice of Appeal, Eastern Caribbean Supreme Court for a period of three [3] months with effect from 5th April, 2007.
- [2] **Ms. Dancia Penn, OBE, QC** to act as Justice of Appeal, Eastern Caribbean Supreme Court for a period of three [3] months with effect from 1st April, 2007.

High Court Judges

- [1] **Mr. Brian Cottle**, Master, as High Court Judge of the Eastern Caribbean Supreme Court with effect from 5th April, 2007.
- [2] **Mr. Francis Cumberbatch** as High Court Judge of the Eastern Caribbean Supreme Court with effect from 1st August, 2007.
- [3] **Mr. David Harris** as High Court Judge of the Eastern Caribbean Supreme Court with effect from 19th June, 2007.

[2] Antigua and Barbuda

- [1] **Ms. Nina Corrine Joseph** as Crown Counsel II, Legal Aid and Advice Centre, on contract for a period of one (1) year with effect from 1st March, 2007.
- [3] Approval of the following appointments:
 - i. The revocation of appointment of **Mr. Charlesworth Tabor** to continue to act as Registrar of Intellectual Property and Commerce with effect from 3rd February, 2007 pending the filling of the position.
 - ii. The continued acting appointment of **Mr. Charlesworth Tabor** as Registrar, Registrar's Division, with effect from 3rd February, 2007 vice Sandra Julien at the end of her contractual period.

iii. The continued acting appointment of *Ms. Mitzie Buckley* as Registrar, Intellectual Property and Commerce with effect from 3rd February, 2007.

[3] *Ms. Sharon Simmons* as Deputy Registrar of Lands, Land Registry Division with effect from 1st June, 2007.

[4] The following persons to serve as Members of the Industrial Court, Antigua and Barbuda for a term of three (3) years with effect from 7th March, 2007.

a. *Dr. Hayden Thomas*

b. *Ms. Genevieve Benjamin*

c. *Mr. Samuel Aymer*

d. *Mr. Oscar Frederick*

e. *Mrs. Glendina McKay*

f. *Mr. Edward T. Henry, O.B.E*

[3] **Commonwealth of Dominica**

[1] *Mr. Geoffrey Letang* as State Attorney for the period 21st February to 21st May, 2007.

[2] *Mr. Clifford O. Lewis* as Magistrate on contract for a period of two (2) years with effect from 21st February, 2007.

[3] **Ms. Evelina Baptiste** as Chief Magistrate on contract for a period of two (2) years with effect from 15th March, 2007.

[4] *Mr. Glenworth Osmond Norris Emmanuel* as Magistrate Pro Bono for the period 5th February to 4th May, 2007.

[4] **Grenada**

[1] *Mr. Jerry Seales* to continue to act as Magistrate with effect from 3rd March, 2007.

[2] *Ms. Annette Henry* as Registrar, Commerce and Intellectual Property with effect from 1st March, 2007.

[5] Saint Lucia

- [1] *Mr. James Wood* as Crown Counsel III, Crown Prosecution Service on contract for a period of one (1) year with effect from 3rd April, 2007.

[6] St. Vincent and The Grenadines

- [1] *Mr. Stephen Huggins*, as temporary Magistrate to perform the duties of Coroner for nine months commencing 1st April, 2007.

WRITTEN JUDGMENTS

The following are written judgments delivered in the month of **March 2007**:

COURT OF APPEAL JUDGMENTS

ANTIGUA & BARBUDA

Maxwell Francis v Timothy De Garve

Antigua & Barbuda
Civil Appeal No. 26/2003
Barrow, J.A.

Delivered: 23/03/07

Glentis W. Goodwin v Hon. Winston B. Spencer et al

Antigua & Barbuda
Civil Appeal No. 25/2005
Gordon, J.A.

Delivered: 14/03/07

Henry Weekes et al v The Queen

Antigua & Barbuda
Criminal Appeal Nos. 13, 14, 15, 16, 17, 18/2003
Rawlins, J.A.

Delivered: 23/03/07

BRITISH VIRGIN ISLANDS

David Simms et al v Audubon Holdings Ltd et al

BVI
Civil Appeal Nos. 14 & 15/2006
Barrow, J.A.

Delivered: 12/03/07

Pentium (BVI) Ltd v The Bank of Bermuda Ltd

BVI
Civil Appeal No. 31/2006
Barrow, J.A.

Delivered: 23/03/07

GRENADA

Nelson Lewis et al v Dirk Burkhardt et al

Grenada

Civil Appeal No. 07/2006

Gordon, J.A.

Delivered: 28/03/07

ST. LUCIA

Emmanuela Jn Phillip et al v Martha Jn Phillip

St. Lucia

Civil Appeal No. 36/2005

Barrow, J.A.

Delivered: 08/03/07

David Shimeld et al v Doubloon Beach Club Ltd

St. Lucia

Civil Appeal No. 33/2006

Rawlins, J.A.

Delivered: 23/03/07

HIGH COURT JUDGMENTS

ANTIGUA & BARBUDA

Nolder Martin v Attorney General of Antigua & Barbuda

Antigua & Barbuda

Claim No. ANUHCV 2003/474

Thomas, J.

Delivered: 22/03/07

Llewellyn Smith v Antigua Port Authority

Antigua & Barbuda

Claim No. ANUHCV 2005/0105

Thomas, J.

Delivered: 28/03/07

GRENADA

Ernest Palmer et al v Attorney General of Grenada

Grenada

Claim No. GDAHCV2003/0138

Benjamin, J.

Delivered: 01/03/07

ST. LUCIA

Gregory Edward et al v Tennyson Gajadhar et al

St. Lucia

Claim No. SLUHCV0722/2000

Edwards, J.

Delivered: 02/03/07

Edward Slim Francis v New India Assurance Co Ltd

St. Lucia

Claim No. SLUHCV1998/0913

Edwards, J.

Delivered: 13/03/07

Felicita Thomas v Henrietta Taylam

St. Lucia

Claim No. SLUHCV2003/0871

Edwards, J.

Delivered: 23/03/07

Cariaccess Communications (St. Lucia) Ltd v Cable and Wireless (West Indies) Ltd

St. Lucia

Claim No. SLUHCV2006/0996

Mason, J.

Delivered: 05/03/07

Giovanni James v Ministry of Education, Human Resource Development, Youth and Sports et al

St. Lucia

Claim No. SLUHCV2005/0862

Mason, J.

Delivered: 19/03/07

Clotide Harry v Vercillia Kangal

St. Lucia

Claim No. SLUHCV2005/462

Mason, J.

Delivered: 27/03/07

James Sydney Green v Lambert Nathaniel

St. Lucia

Claim No. SLUHCV2006/0467

Mathurin, M.

Delivered: 12/03/07

Evelyn Mathurin v Consolidated Foods Ltd.

St. Lucia

Claim No. SLUHCV2006/0763

Mathurin, M.

Delivered: 16/03/07

ST. VINCENT & THE GRENADINES

Hansraj Matadial v Cecelia John and Grace Matadial v Cecelia John

St. Vincent & the Grenadines
Claim Suit Nos. 554A of 2002 & 555 of 2001
Blenman, J.

Delivered: 26/03/07

Elizabeth Cordice Mapp v Cammie Matthews

St. Vincent & the Grenadines
Claim Suit No. 560 of 2002
Blenman, J.

Delivered: 26/03/07

Heather Grant v Augustus King Mitchell

St. Vincent & the Grenadines
High Court Civil Claim No. 183 of 2005
Bruce-Lyle, J.

Delivered: 01/03/07

Arlene Wyllie v RBTT Bank Caribbean Ltd

St. Vincent & the Grenadines
High Court Civil Claim No. 505 of 2003
Bruce-Lyle, J.

Delivered: 22/03/07

Olin Dennie v Phyllis Dennie

St. Vincent & the Grenadines
High Court Claim No. 42 of 2002
Cottle, M.

Delivered: 16/03/07

Andre McInniss v Emily Roberts

St. Vincent & the Grenadines
High Court Civil Claim No. 76 of 2004
Matthew, J. [Ag.]

Delivered: 19/03/07

Selwyn Olliverre v Rose-Clare Marcella Lewis Dunbar

St. Vincent & the Grenadines
High Court Claim No. 363 of 2002
Matthew, J. [Ag.]

Delivered: 23/03/07

Ersie John et al v Maria Cupid
St. Vincent & the Grenadines
High Court Claim No. 215 of 2004
Thom, J.
Delivered: 19/03/07

RBTT Bank Caribbean Ltd v Olson Robertson et al
St. Vincent & the Grenadines
High Court Civil Claim No. 17 of 2003
Thom, J.
Delivered: 29/03/07

EASTERN CARIBBEAN SUPREME COURT

As at 31st March 2007

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 – Grenada

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 – Commonwealth of Dominica

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 [Ag.] – Saint Christopher & Nevis/
Commonwealth of Dominica/Montserrat

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

Master Brian Cottle – Saint Vincent & the Grenadines

Master Cheryl Mathurin – Antigua & Barbuda

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

