



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 4<sup>th</sup> 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 40<sup>th</sup> 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](mailto:offices@eccourts.org)

**INSIDE THIS ISSUE**

Message from the Chief Justice [Ag.]  
p. 1

Eastern Caribbean Supreme Court News  
p. 3

Court Statistics  
p. 9

JLSC Appointments  
P. 12

Written Judgments  
p. 15

## **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, 23<sup>rd</sup> 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
<b>Total</b>	<b>115</b>	<b>148</b>	<b>-22.30</b>

**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
<b>Total</b>	<b>67</b>	<b>151</b>	<b>-55.63</b>

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**

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

**Table 4**

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

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 5<sup>th</sup> 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 1<sup>st</sup> April, 2007.

**High Court Judges**

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

[3] *Ms. Sharon Simmons* as Deputy Registrar of Lands, Land Registry Division with effect from 1<sup>st</sup> 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 7<sup>th</sup> 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 21<sup>st</sup> February to 21<sup>st</sup> May, 2007.

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

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

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

### [4] **Grenada**

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

[2] *Ms. Annette Henry* as Registrar, Commerce and Intellectual Property with effect from 1<sup>st</sup> 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 3<sup>rd</sup> 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 1<sup>st</sup> 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 31<sup>st</sup> 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

