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USING THE GAZETTE

The Virgin Islands Official Gazette is the official newspaper of the Government of the Virgin Islands. It is published weekly on Thursdays. Extraordinary editions are published as and when required.

Closing time for lodging notices is 12 noon on Monday in the week prior to publication. Early deadlines apply in cases of public holidays. Please refer to the schedule of deadlines at the back of the Gazette for specific deadlines. Late notices are accepted at the publisher's discretion only.

Notices must be accompanied by payment and written instructions. All dates, proper names, and signatures must be shown clearly, and contact details for the person responsible for the notice must be included.

Notices will be returned unpublished if not submitted in accordance with these requirements.

The *Official Gazette* reserves the right to apply its in-house style, and to reject notices which do not meet its requirements.

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GOVERNMENT

Court Notices

**IN THE EASTERN CARIBBEAN SUPREME COURT
TERRITORY OF THE VIRGIN ISLANDS
(2009)**

PRACTICE DIRECTION 69A

**No. 1 of 2009
(Re-Issue)**

COMMERCIAL DIVISION

15155 This Practice Direction is made pursuant to Part 4.2(2) of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 and supplements Part 69A of the Rules.

In this Practice Direction references to Rules are references to the Civil Procedure Rules 2000.

1. INTRODUCTION

This Practice Direction provides for the promotion of efficiency of procedures in the Commercial Division and the creation of predictability and certainty for practitioners.

2. SITTINGS

The Commercial Division will ordinarily begin its daily sittings at 10 a.m.

3. ORDINARY APPLICATIONS

- (a) Short applications (applications estimated to require a hearing of less than two hours) will ordinarily be heard on Thursdays, but may be heard on other days. Applications estimated to require a hearing of more than two hours are classed as special applications and will be listed separately.
- (b) An application bundle must be lodged with the Judicial Assistant to the Commercial Court Judge ('the Judicial Assistant') not later than 1 p.m. one clear day before the hearing of a short application and not later than 1 p.m. two clear days before the hearing of a special application.
- (c) The application bundle for the hearing of an ordinary application should contain the following copy documents, in the following order:
 - (i) the application;

- (ii.) any witness statement or affidavit relied upon in support of the application, together with their exhibits;
- (iii.) a draft of the order sought on the application;
- (iv.) the originating process;
- (v.) statements of case, if any;
- (vi.) all orders made to date in the proceedings, unless irrelevant to the application;
- (vii.) witness statements or affidavits relied upon by the respondents, together with their exhibits; and
- (viii.) any other documents upon which the applicant or the respondent wishes to rely at the hearing of the application.

The above categories of document should be separated by dividers and paginated sequentially through the bundle. Copies of application bundles should be provided as a matter of course to other parties on their undertaking to meet the reasonable costs of providing them.

- (d) Practitioners should be aware that the practice whereby the Registry supplies the court file to the Judge hearing an ordinary application no longer applies to applications made in commercial matters. For the hearing of ordinary applications the Court will therefore be supplied with no materials other than the application bundles directed to be lodged pursuant to sub-paragraph 3(b) above and the case summaries or skeleton arguments directed to be lodged pursuant to paragraph 3(f) below. It is the responsibility of the applicant to ensure that the application bundles are lodged pursuant to this direction. The court may refuse to entertain an application where the applicant has not complied with this obligation and in those circumstances the court may consider whether a wasted costs order is appropriate.
- (e) The application bundle is required for the exclusive use of the court and will be retained by the court.
- (f) Except in very short and simple applications (e.g. for an extension of time) the applicant in a short application must lodge with the Judicial Assistant not later than 1 p.m. on the business day before the hearing a case summary or skeleton argument together with copies of any authorities intended to be relied upon. Respondents should not provide case summaries but, if appropriate, should lodge a skeleton argument together with copies of any authorities intended to be relied upon by the same time. Sub-paragraph 3(g) of this Practice Direction deals with case summaries and skeleton arguments.
- (g) A case summary is intended to do no more than enable the court to assimilate the facts of the case and the issues raised on the application. It may be as little as half a side long. Where a short application is more complex and issues of law are likely to be contested, then a skeleton argument should be lodged, summarizing the facts and issues as for a case summary, but in addition setting out the party's position

on the legal points arising. Skeleton arguments should always be lodged for the hearing of a special application.

- (h) Each party to a special application must lodge with the Judicial Assistant not later than 1 p.m. one clear day before the hearing, a skeleton argument together with copies of any authorities intended to be relied upon. The skeleton supplied by the applicant should include an estimate of time needed for pre-reading.

4. CASE MANAGEMENT CONFERENCES ('CMC'S')

- (a) Where a CMC has been fixed in a commercial matter, it is for the claimant (or applicant) to prepare and lodge with the Judicial Assistant a case management bundle. The case management bundle should contain, with such modifications as the circumstances of the case require:
- (i.) an uncontroversial short summary of the genesis and nature of the litigation ('the case summary'). No part of the case summary (whether amounting to an admission or otherwise) may be relied upon by any party at trial;
 - (ii.) a list of the principal issues requiring to be decided at trial;
 - (iii.) a chronology of the main incidents giving rise to the litigation and of the steps taken in the case to date;
 - (iv.) the pleadings to date and any applications and orders made to date in the proceedings, other than any order for an interim payment, which must not be included in the case management bundle;
 - (v.) copies of all applications intended by any party to be made at the case management conference together with supporting evidence. As a rule, applications for, for example, permission to change a statement of case, for disclosure and for information should be made at the case management conference;
 - (vi.) a list prepared by each party of the identity of the witnesses of fact which that party presently intends to call at trial and a short statement of the gist of the evidence which is intended that the witness should give. A party is not bound to call witnesses so identified by him and may (subject to complying with any direction given by or timetable set by the Court) choose to call witnesses not so identified, but it is the duty of all parties so far as possible to identify the witnesses they intend to call at trial and the gist of their evidence at the case management conference;
 - (vii.) a list prepared by each party of issues requiring expert evidence, with a short statement of the nature of the expert evidence required, the identity of the expert in question and the nature of his or her expertise;
 - (viii.) if an advocate considers that a particular issue is suitable to be tried as a preliminary issue, a statement signed by him to that effect identifying the issue with precision;

- (ix.) the present provisional estimate of each party's advocate of the minimum and maximum length of trial. This estimate should be agreed if at all possible;
- (x.) the present provisional estimates of the parties' advocates of the earliest date by which his client can be ready for trial; and
- (xi.) a statement by each advocate whether in his opinion a pre trial review is likely to be useful. If at this stage it is an advocate's opinion that a pre-trial review would not be useful, he is not precluded at a later stage if that opinion changes from applying for a direction under Rule 38.2(2).

The above categories of document should be separated by dividers and paginated sequentially through the bundle. Case management bundles in proceedings begun by way of originating application should follow the guidance given in this paragraph with such adaptations as are necessary or appropriate in the circumstances of the case.

- (b) The case summary, list of issues for decision, chronology and estimated length of trial should be agreed if possible and it is for the claimant to initiate the process of achieving agreement. If agreement cannot be reached, a party who disagrees should summarize his disagreement in a short note ('a note of disagreement') for the court, which must be included in the case management bundle.
- (c) Parties other than the claimant (or applicant) must provide the claimant (or applicant) with any notes of disagreement and with their versions of the lists, estimates and statements required under sub-paragraphs (vi) to (xi) of sub-paragraph 4(a) of this Practice Direction not later than seven clear days before the date set for the case management conference. Failure to meet this time limit may incur cost sanctions.
- (d) The court will generally attempt to limit disclosure so far as is consistent with the interests of justice, but parties must be ready at the case management conference to assist the court by directing the court's attention to any specific fact or issue upon which it contends that standard disclosure should be given and should be in a position to say whether such disclosure should include any particular specific document.
- (e) At the case management conference the court will aim to fix the entire pre-trial timetable together with a 'not before' date for the commencement of the trial. Minor variations to that timetable, once fixed, may be agreed in writing between the parties provided that the variation is certain not to jeopardize the trial date. If any proposed variation in the pre-trial timetable may jeopardize the trial date, the parties may not agree to vary the pre-trial timetable between themselves. Instead, the party or parties seeking the variation must apply to the Registry's Commercial Division Case Management Unit ('the Unit') to have the case management conference re-convened.

- (f) At the case management conference the court will specify a date before which the parties must attend on the Unit to fix a date for trial, the trial date to be the first available date falling after the 'not before' date fixed under sub-paragraph 4(e).

5. PRE TRIAL REVIEWS ('PTR'S')

- (a) If a PTR is held, the trial timetable for use at the pre trial review must allow for pre-trial reading, opening oral submissions, the examination, cross examination and re-examination of each witness of fact and of each expert witness (taking into account any time needed for interpretation), for the preparation of any final written submissions and for closing oral submissions.
- (b) It shall be the duty of all other parties to supply to the claimant not less than 7 clear days before the hearing date for the pre-trial review such material as that party considers should be included in the updated case management bundle for use at the pre-trial review.

6. TRIAL BUNDLES IN CASES PROCEEDING BY WAY OF CLAIM FORM

- (a) Ordinarily, the trial bundles in matters proceeding by way of claim form will be arranged as follows:
- (i.) a separate bundle separately indexed containing the pleadings, answers to requests for information, orders (other than any order for an interim payment) and directions made or given in the case, lists of documents supplied in the course of disclosure and notices served under rule 28.18(2). The categories of documents should be separated by dividers and the bundle should be internally paginated;
 - (ii.) a separate bundle separately indexed containing the witness statements or witness summaries or, if appropriate, affidavits, such documents to be separated by dividers and the bundle to be internally paginated. If witness statements, witness summaries or affidavits have attached to them, exhibit, or contain reference to other documents, those other documents should not be incorporated in the same bundle. Instead, the margin of the statement, summary or affidavit should cross-refer to the document by reference to its position in the other trial bundles. It is the responsibility of the party putting in the statement, summary or affidavit to do this;
 - (iii.) a separate bundle separately indexed and internally paginated containing the experts reports (or the report of the single expert);
 - (iv.) one or (as necessary) more chronological bundles containing all other documents which any party wishes to have included for the purposes of trial. Such chronological bundles should be numbered consecutively from the earliest in time to the most recent and if there is more than one such bundle the pagination should continue sequentially through them all;
 - (v.) one or more separate bundles containing documents of a particular category which may conveniently be grouped together (e.g. contractual documents, drawings, plans, photographs). Such bundles should be internally paginated and the documents they contain separated by

dividers where that is helpful. Where a document included in such a bundle is part of the contemporaneous sequence of documents in the case, it should not be included a second time in the chronological bundles. Instead, a blank page must be inserted at the correct place in the chronological bundles indicating the nature of the document, its date, and at what page in which other bundle it is to be found;

- (vi.) documents obtained on disclosure should be marked at the top right hand corner identifying the party from whose disclosure it came and the sequential number of the document in that party's list of documents;
- (vii.) documents which are faint or otherwise difficult to decipher should be followed immediately in the bundle by an agreed transcription. If no transcription can be agreed, then the parties should include their own transcriptions, clearly indicating which party puts it forward; and
- (viii.) documents in any language other than English should be followed immediately in the bundle by an agreed translation or if the translation cannot be agreed, then each party should include its own translation, clearly indicating which party puts the translation forward.

Copies of trial bundles should be provided as a matter of course to other parties on their undertaking to meet the reasonable costs of providing them.

- (b) A core bundle should not be prepared unless the parties consider that a preliminary reading of the critical documents in the case would be unduly burdensome to the court unless those documents are separated into a core bundle. If a core bundle is nevertheless prepared, any document which it contains and which would otherwise have been contained in any other bundle (other than the bundle of pleadings and orders referred to at paragraph 6(a)(i)) should not be repeated in that other bundle. Instead, a blank page should be inserted in the bundle identifying the nature of the document and its date and indicating at what page in the core bundle it is to be found.

7. TRIAL BUNDLES FOR THE HEARING OF ORIGINATING APPLICATIONS

Trial bundles for the hearing of contested originating applications should follow the guidance given in paragraph 6, with such adaptations as are necessary or appropriate in the circumstances of the case.

8. READING LISTS, SKELETON ARGUMENTS AND BUNDLES OF AUTHORITIES FOR TRIAL

- (a) Not later than 1 p.m. two clear days before the date fixed for trial (which includes the hearing of a contested originating application) the parties must lodge with the Judicial Assistant an agreed reading list, together with an agreed estimate of the time needed for reading.
- (b) Not later than 1 p.m. two clear days before the date fixed for trial each party must serve on the other parties and lodge with the Judicial Assistant its skeleton argument and a non-tendentious chronology summarizing the key dates (and only the key dates) in the case.

- (c) An agreed bundle of authorities must be lodged with the Judicial Assistant not later than 4 p.m. one clear day before the day fixed for trial

9. EVIDENCE AT TRIAL

Advocates should bear in mind that the mere inclusion of a document in the court bundles does not mean that the document is in evidence. To adduce the document in evidence, an advocate needs to draw the attention of the court to it as part of his case.

10. PROCEEDINGS AT TRIAL

- (a) At trial, counsel for the party opening will ordinarily be invited to make an opening statement. Such statements should be kept as short as possible and unless an advocate is of the view that the trial will proceed more efficiently if he makes submissions on law in opening, all legal argument should be reserved for closing submissions. Following the statement of the opening party, counsel for the other parties will be invited to make a short opening statement. Counsel are encouraged to decline this invitation unless they consider that a statement is required from them in order to put their own case upon any legal submissions made by counsel for the claimant in opening or to correct a misunderstanding or ambiguity or to draw attention to some matter which will assist the judge in his assimilation of the evidence.
- (b) The court will usually require closing submissions in writing and will ordinarily give advocates a short opportunity to prepare such submissions. The court will invariably require oral closing submissions, whether or not written closing submissions have been put in. The normal order of speeches will be for the claimant to go first, followed by each of the defendants in the order in which they appear on the claim form, with the claimant having a right of reply.

11. ORDERS

- (a) The attention of practitioners is drawn to the provisions of rule 69A.8. After a contested hearing attended by Counsel on both sides, it will be for Counsel to agree and draw up a signed draft order reflecting the decision of the Court. The Commercial Court Judge will not ordinarily consider or countersign orders drawn up by Counsel in this way. Such draft order should be presented by Counsel directly to the Registry for perfection.
- (b) If Counsel are unable to agree the terms of a draft order pursuant to paragraph 11(a) of this Practice Direction, they should apply to the Commercial Court Judge for him to settle the order.
- (c) Where an application is made without notice or an application or trial proceeds in the absence of any other party, the party appearing shall sign a draft order in accordance with the order made or judgment

given in the application or at trial and submit it for approval and signature by the Commercial Court Judge, following which it should be delivered by the party in question to the Registry for perfection.

- (d) Where parties have come to terms and wish the Court to make an order by consent, they must (unless the parties are already before the Court) make an application to the Commercial Court Judge for his approval under rule 69A.8(2), submitting a signed draft order for consideration. Such applications will ordinarily be dealt with on paper.

12. ELECTRONIC COMMUNICATION

- (a) Skeleton arguments, case summaries, chronologies and lists of issues may be lodged by sending them via e-mail to the Judicial Assistant. The address for this purpose of the Judicial Assistant may be obtained from the Registry. No other documents may be lodged at Court electronically.
- (b) Draft judgments will be sent to the parties' advocates via e-mail by the secretary to the Commercial Court Judge and corrections should be submitted via the same medium.

13. EFFECTIVE DATE

This Practice Direction will come into effect on the 29th day of December 2009.

Dated 15th December 2009

(Sgd.) Hugh Anthony Rawlins
Chief Justice

Land Notices

**NOTICE OF APPLICATION FOR REGISTRATION BY PRESCRIPTION
SECTION 135 OF THE REGISTERED LAND ACT, CHAPTER 229**

REGISTRATION SECTION	West Central
BLOCK	2438B
PARCEL	168

15156 Pursuant to Section 135 of the Registered Land Act, Cap. 229 of the Laws of the Virgin Islands 1991 Edition, the Chief Registrar of Lands hereby gives **NOTICE** that **Stanley Hodge and Melvin Hodge** have applied to have a portion of the above mentioned Parcel 168 shown as Lots 1, 2 & 3 on Plan No. CA-2438B-101-T Registered in their names as Joint Registered Proprietors by Prescription and have filed Affidavits in support of their application.

Presently, the said Parcel 168 is Registered in the names of **Alban Antonio Hodge (3/51 share), Alan Lorenzo Hodge (3/51 share), Maude Teresita Hodge (3/51 share), Blanche Harrigan (3/51 share), Estate of William Hodge, deceased (3/51 share), Mary Edwards (3/51 share) Estate of Emely Hodge, deceased (6/51 share), Rachel Lewis (6/51 share), Eloise Hodge (12/51 share), Melvin Evelyn Hodge and Edith Hodge Rhymer (3/51 share) and Harold Hodge and Earl Lucien Hodge as Personal Representatives of the Estate of David Clarkson Hodge, deceased (6/51 share).**

Anyone who wishes to object to the said Stanley Hodge and Melvin Hodge being Registered as Joint Registered Proprietors by Prescription for a portion of the above Parcel 168 shown as Lots 1, 2 & 3 on Plan No. CA-2438B-101-T should apply in writing to the Chief Registrar of Lands no later than **one (1) month** from the date of this notice.

Dated 2nd December, 2009

Ingrid A. Moses-Scatliffe
Chief Registrar of Lands

**NOTICE OF APPLICATION FOR REGISTRATION BY PRESCRIPTION
SECTION 135 OF THE REGISTERED LAND ACT, CHAPTER 229**

REGISTRATION SECTION	Virgin Gorda South
BLOCK	4939B
PARCEL	3

15157 Pursuant to Section 135 of the Registered Land Act, Cap. 229 of the Laws of the Virgin Islands 1991 Edition, the Chief Registrar of Lands hereby gives **NOTICE** that **Elton Sprauve, lawful Attorney for Milford Sprauve** has applied to be Registered as Proprietor by Prescription for the land comprised in the above-mentioned Parcel measuring approximately 1 acre and has filed Affidavits in support of his application.

Presently, the said Parcel 3 is registered in the names of **Edward J. Provost and Carole S. Provost.**

Anyone who wishes to object to the said Elton Sprauve, lawful Attorney for Milford Sprauve being Registered as Proprietor by Prescription for the above Parcel 3 should apply in writing to the Chief Registrar of Lands no later than **one (1) month** from the date of this notice.

Dated 2nd December, 2009

Ingrid A. Moses-Scatliffe
Chief Registrar of Lands

Corrections

15158 TAKE NOTICE that there was an error in Notice No. 11990 in Gazette No. 58 of 2009 dated 15th October, 2009. The name of the Company **LINDEMAN MANAGEMENT CORP.** was misspelled. The corrected notice follows:

**LINDEMAN MANAGEMENT CORP.
(BBC NO. 359751)**

NOTICE is hereby given pursuant to Section 208(3) of the BVI Business Companies Act, 2004 that the winding up and dissolution of the above mentioned Company has been completed and the name struck off the Register of Companies.

Dated 16th September, 2009

**Ezequiel Ruiz R.
Liquidator**

**COMMERCIAL
Liquidation Notices
Appointment of Liquidator**

**MEDICAL BUSINESS INVESTMENT INC.
(In Voluntary Liquidation)
(BBC NO. 396429)**

15159 NOTICE is hereby given pursuant to Section 203, subsection (3) of the BVI Business Companies Act, 2004 that the Company is in voluntary liquidation. The voluntary liquidation Commenced on the 7th December, 2009 and **Miguel Santos Gutierrez at 50 and 74 Streets San Francisco P.H. 909, 15th Floor, Panama City, Republic of Panama** has been appointed liquidator of the Company.

Dated 7th December, 2009

**Miguel Santos Gutierrez
Voluntary Liquidator**

**PIEDMONT FINANCE GROUP INC.
(In Voluntary Liquidation)
(BBC NO. 632707)**

15160 NOTICE is hereby given pursuant to Section 203(3) of the BVI Business Act, 2004 that **Alan Peter Harrison of P.O. Box 781, 8 Church Street, St. Helier, Jersey JE4 OSG, Channel Islands** has been appointed as the voluntary Liquidator of the Company pursuant to a resolution of the members dated 18th November, 2009.

Dated 7th December 2009

**Alan Peter Harrison
Voluntary Liquidator**