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SUPREME COURT  
ORDER CH. 2:01

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SECTION 8  
TRIBUNAL

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Instruments of Appointment  
7 December 2012

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**DIRECTIONS HEARING**

**27 FEBRUARY 2013**

**TRIBUNAL, SECTION 8, SUPREME COURT ORDER, CHAP. 2:01:**

**JUSTICE HUMPHREY STOLLMEYER – Chairman**

**JUSTICE KARL HARRISON**

**JUSTICE NORMA WADE-MILLER**

**COUNSEL TO THE TRIBUNAL:**

**MR. REGINALD ARMOUR, S.C.**

**IN RE:**

**JUSTICE IANTHEA LEIGERTWOOD-OCTAVE**

**COUNSEL FOR OCTAVE J:**

**MISS NICOLE SYLVESTER (Absent)**

**JUSTICE IANTHEA LEIGERTWOOD-OCTAVE (In Person)**

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**P-R-O-C-E-E-D-I-N-G-S**

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(Hearing convenes)

**THE ORDERLY:** Oyez, oyez, oyez, the  
Sitting in this Tribunal now stands open. All persons having business in this Tribunal  
draw nigh and they will be heard. God Save the Queen and this Honourable Tribunal

**JUSTICE STOLLMEYER:** Before we begin, can I just  
as a matter of getting matters correct, can you help me with the correct pronunciation of  
your name?

**JUSTICE LEIGERTWOOD- OCTAVE:** Ianthea Leigertwood-  
Octave.

**JUSTICE STOLLMEYER:** Leigertwood-Octave, very  
good, it is just that three different jurisdictions, I think, we came up with three different  
pronunciations, but all wanted to get it correct.

This morning's hearing is for the purpose of giving directions for the conduct of  
the proceedings, but I understand that there are certain matters that Counsel to the  
Tribunal wishes to bring to our attention. However, before we get there, I thought that it  
would be worthwhile making a few introductory remarks, so that we all know why we are  
here.

By Instruments of Appointment dated the seventh of December, twenty-twelve,  
the Chief Justice of the Eastern Caribbean Supreme Court, Her Ladyship, the  
Honourable Janice M. Pereira acting under the provisions of section 8 of the *Supreme  
Court Order*, Chapter 2:01, appointed a Tribunal to investigate whether Her Ladyship ,  
the Honourable Justice Ianthea Leigertwood-Octave ought to be removed from office for

1 inability to discharge the functions of the Office of High Court Judge of the Eastern  
2 Caribbean Supreme Court or for misbehaviour. Having conducted its investigation, the  
3 Tribunal is then to report to the Honourable Chief Justice and recommend whether the  
4 removal of the Honourable Justice Leigertwood-Octave should be referred by Her  
5 Majesty to the Judicial Committee.

6 The particulars of the alleged inability and/or misbehavior are set out in the terms  
7 of reference contained in the Instruments of Appointment.

8 By way of introduction the members of the Tribunal are myself, Humphrey  
9 Stollmeyer, a retired Justice of Appeal of the Supreme Court of Trinidad and Tobago; on  
10 my right, Mr. Justice Karl Harrison, who is a retired Justice of Appeal of the Appeal  
11 Court of Jamaica, and on my left, the Honourable Mrs. Justice Norma Wade-Miller,  
12 Senior Puisne Judge of the Supreme Court of Bermuda. Counsel to the Tribunal is Mr.  
13 Reginald Armour, Senior Counsel of the Trinidad and Tobago Bar and also of the Saint  
14 Lucia Bar.

15 Having completed the introductions, I am going to ask Mr. Armour if he will be so  
16 good as to bring to our attention whatever it is he wishes to do.

17 **MR. ARMOUR, S.C.:** Thank you very much,  
18 Chairman. I received, in the first instance, through the Secretary to the Tribunal, Mrs.  
19 Glasgow-Cox and faxed documentation yesterday evening from the offices of the  
20 Caribbean International Law Firm, Miss Nicole Sylvester and that was followed in due  
21 course by a telephone conversation with me this morning by Miss Nicole Sylvester,  
22 Attorney-at-Law, who has confirmed to me that she represents Justice Leigertwood-  
23 Octave before this Tribunal. Unfortunately, Counsel Miss Sylvester is unable to be here  
24 this morning and she has explained to me that the circumstances were entirely beyond  
25 her control. Her son who is a fourteen year-old boy has contracted quite a severe

1 illness and was airlifted out of St. Vincent yesterday to Trinidad, where Miss Nicole  
2 Sylvester now is and against that background she was unable to either be here or  
3 having regard, she says to me in today's conversation, to the sensitivity of the  
4 representation of her client's best interest she was unable at such short notice to make  
5 any alternative arrangements to have anyone hold the papers to make the application,  
6 which she made to me this morning on the telephone and which I relay to the Tribunal  
7 today, and that application by Miss Nicole Sylvester on behalf of the Judge is for an  
8 adjournment by this Tribunal of this morning's directions hearing. By reason of the fact  
9 that the Judge is therefore before the Tribunal this morning without the benefit of a  
10 representation or advice of her Counsel and against that background, the application is  
11 made. So I put that before the Tribunal this morning subject to anything that, of course,  
12 the Judge may wish to say for the Tribunal's consideration.

13 **JUSTICE LEIGERTWOOD-OCTAVE:** I know the position as  
14 Mr. Armour has indicated it to be. I did speak with Miss Sylvester earlier this morning,  
15 maybe around 6:30 and she indicated she would be getting in touch with Mr. Armour. I  
16 wasn't sure that she had, but he indicated to me before we came in that they had  
17 communicated. So, exactly what he says is the position as I know it to be and exactly  
18 as he says, I understand the position to be that we will be seeking an adjournment for  
19 the reasons that he has given. I do not think I can add to much more to that.

20 **JUSTICE STOLLMEYER:** Thank you very much. Mr.  
21 Armour, did Miss Sylvester give any indication as to a suggested length of  
22 adjournment?

23 **MR. ARMOUR, S.C.:** She said she would be  
24 available, Mr. Chairman and Members of Tribunal, she would estimate three weeks-  
25 time, allowing two weeks for the hospitalization of her son and the time that she would

1 therefore be spending with him in Trinidad and a week to return to the job, so to speak,  
2 and to be in touch with her client. So she said three weeks, she could be ready in three  
3 weeks, that was the timeframe she gave me. She also said to me, and I omitted to say  
4 this in my introductory remarks in her communication with me this morning, that one of  
5 the reasons why she is making the application through me and through her client, the  
6 Judge for the adjournment is, because before the Tribunal embarks even on its  
7 procedural directions there are certain requests that she Miss Sylvester wishes to put  
8 before the Tribunal, she did not divulge what those requests were, but it would appear  
9 to me from my conversation with her that there are certain preliminary things that she is  
10 in the process of advising her client on and may wish to communicate to the Tribunal.

11 **JUSTICE STOLLMEYER:** I rather imagine that all  
12 manner of logistics having been satisfied for everyone to be here this morning, it is  
13 rather a disappointment that Miss Sylvester faces herself or finds herself faced with this  
14 situation. You indicated that her son's illness is a fairly serious one and he was airlifted  
15 to Trinidad yesterday, which means that it's, to use the expression, fairly early days in  
16 diagnosis and treatment and prognosis. I wonder, therefore, if it might not be prudent to  
17 allow, if we are going to adjourn, if it would not be prudent to allow a little more than just  
18 three weeks. If she, as I understand it, expects her son and herself to return to St.  
19 Vincent in two weeks-time, would it not be better to err on the side of caution, just in  
20 case anything might arise?

21 **MR. ARMOUR, S.C.:** Yes, I certainly would  
22 agree with that, Chairman. I think that, if I might put this before the Tribunal, the  
23 Tribunal would have to weigh in the balance in the decision that it arrives at this  
24 morning, the fact that (a) the matter which it has been mandated to enquire into is a

1 matter of significant public interest and carries very serious implications for the efficient  
2 administration of justice, so that would be one consideration.

3 **JUSTICE STOLLMEYER:** It is also a very serious  
4 matter for Justice Leigertwood-Octave.

5 **MR. ARMOUR, S.C.:** It is equally a serious  
6 matter for the Judge and against that background given the serious nature of the illness  
7 of Counsel's son I think that it would be prudent to permit her, to allow for the fact that  
8 she may be underestimating even her state of readiness to return to the job. So that  
9 against that background, I think that allowing some more time beyond the three weeks  
10 would be the prudent course; (a) to permit Miss Sylvester to return to the job and indeed  
11 even, and one hopes that it would reach to that stage, but indeed even to permit Justice  
12 Leigertwood-Octave to consider if Miss Sylvester were not available in the timeframe  
13 that she indicated that she is, the possibility of considering alternative Counsel to Miss  
14 Sylvester and making the appropriate arrangements.

15 **JUSTICE STOLLMEYER:** I don't have myself any  
16 doubt Justice Leigertwood-Octave, that you perhaps more than anyone else would  
17 prefer to have this matter over and done with, with as much expedition as can possibly  
18 be managed. It cannot possibly be a pleasant experience to have it just sort of hanging  
19 there. You say, Mr. Armour, that you don't have any idea of what these requests are:  
20 the ones that Miss Sylvester referred to?

21 **MR. ARMOUR, S.C.:** No, I expressly asked her,  
22 if she was prepared to give me an indication on the phone this morning. She declined  
23 in the circumstances that she was under a lot of emotional pressure, and she did not  
24 feel that it was in her interest or her client's interest to engage in a conversation of that  
25 nature on the phone with me this morning.

1                   **JUSTICE STOLLMEYER:**                   Well, that is fair enough.  
2 I am asking these questions, Justice Leigertwood-Octave, having prefaced it by saying  
3 that, more on your part than perhaps any of us, you would prefer to have the matter  
4 over and completed as soon as is possible. I am asking these questions in an effort to  
5 try and work out how we might achieve that. Can I just for a moment just take a break  
6 and have a word with the Members of the Tribunal. We shall not rise, we will just, as  
7 they say in the United States, side bar, we say caucus or whatever.

8                   (Side Bar)

9                   (Hearing Resumes)

10                  **JUSTICE STOLLMEYER:**                   As I remarked earlier, it is  
11 a disappointment, but it is unavoidable and if that is the position in which Counsel finds  
12 herself, then really I do not see that we can, so to speak, say 'no'. Additionally,  
13 however, we think it prudent to extend that three-week period of adjournment that has  
14 been suggested by her to allow for whatever may arise in the meantime. We were  
15 thinking of making it four weeks, Justice Leigertwood-Octave, but that takes us to the  
16 Wednesday before Easter weekend, which of itself may create logistical difficulties,  
17 because it seems that in today's world everybody is moving hither, thither and yon in the  
18 two or three days before the long Easter weekend.

19                  We are inclined to suggest that we go to, I think, and Justice Harrison will help  
20 me with the calendar here, I think it is Wednesday the third of April. Now that  
21 represents more like five weeks and we would like to think that five weeks would be  
22 more than adequate. There are two requests, which the Tribunal would like to make.  
23 The first is that, we do not know what requests it is that Miss Sylvester wishes to make,  
24 so that in an effort to avoid any undue delay or any delay at all, if it is possible, what  
25 were are thinking is that we might have those requests in hand well in advance of the

1 adjourned date. It wouldn't be my preference for us to receive them on Holy Thursday,  
2 particularly if they are lengthy, because that then has an effect on the Easter weekend  
3 for a lot of people.

4           Perhaps that might be accomplished by the Monday before Easter, which will  
5 then give us ten days to have looked at the requests and prepare ourselves, if  
6 necessary for Monday the- - do you think Justice Leigertwood-Octave that we could, I  
7 am leaving up to you this morning really, to have those, to ensure that Counsel have  
8 those with the Secretariat by that Monday; Monday the twenty-fifth of March. Also in an  
9 effort to maintain momentum, it would be very, very helpful if those requests were  
10 accompanied with some detailed note as to the basis on which the requests are made.  
11 That will enable all concerned to address them as fully as is possible before we resume.  
12 The other aspect is one which I don't imagine has much appeal to you Justice  
13 Leigertwood-Octave any more that it does us, but it's this, if it is that Miss Sylvester's  
14 difficulty is a continuing one, do you think you are going to be able to put into place  
15 alternative representation in time for the requests assuming if there is new Counsel, that  
16 new Counsel wishes to maintain those requests, but in any event for us to resume on  
17 the third of April and having the requests and the supporting note by the twenty-fifth of  
18 March?

19                   **JUSTICE LEIGERTWOOD-OCTAVE:**           I think that is possible; I  
20 think. I was not aware of the time periods that Mr. Armour indicated for Miss Sylvester,  
21 because I did not know about the three weeks, because I haven't had an opportunity to  
22 speak to her. What I do think in relation to the twenty-fifth of March, even if Miss  
23 Sylvester is not fully available, I will surely undertake to ensure that either through her or  
24 through other Counsel that the requests and the basis for the requests are put in by that  
25 date. I do think that, that should not be a difficulty.

1                   **JUSTICE STOLLMEYER:**                    Thank you, that is very  
2 comforting to us, I think. The one further comment I will make in relation to that  
3 particular aspect is this, first, to resume on the morning of the third, it means that we are  
4 going to at the very latest all have to be here, the Tribunal and Counsel on the afternoon  
5 of Tuesday the second. We have already, unfortunately encroached upon people's long  
6 weekends. We do not want to do that again, unless it is absolutely unavoidable. If it is  
7 that we find having receiving the requests that we need to discuss the requests as  
8 between ourselves and that can only be done on, let us say, Wednesday the third, we  
9 will arrange to let you and Counsel know, as far in advance as is possible that we will  
10 push the hearing back from Wednesday third to Thursday fourth. Is there anything  
11 else? Counsel is there anything else you think we might deal with this morning?

12                   **MR. ARMOUR, S.C.:**                    Yes, Chairman, I throw  
13 this out for the Tribunal's consideration, in the interest of proceeding with appropriate  
14 expedition, but at the same time, of course, appreciating the predicament that the Judge  
15 and her Counsel find themselves in. I wonder whether the Tribunal might consider  
16 purely by way of unofficial dissemination, letting the Judge have sight of the draft  
17 procedural directions which the Tribunal had in mind to discuss with her Counsel this  
18 morning, so that she, the Judge would have the opportunity on the return date to have  
19 had her Counsel's informed comment and input on what is no more than a draft and,  
20 therefore, when we do reconvene we might find that the directions herein could be dealt  
21 with that more expeditiously, with input from Counsel.

22                   **JUSTICE STOLLMEYER:**                    I think that sounds like a  
23 good idea, as they would say.

1                   **JUSTICE LEIGERTWOOD-OCTAVE:**                   I think so also, if that is  
2 going to be the position and the decision taken, would I be, perhaps going a little far to  
3 ask that it be provided in an electronic copy so that I can get it.

4                   **MR. ARMOUR, S.C.:**   We have hard copies if I  
5 may just respond to that directly. We have hard copies and it can also be e-mailed. I  
6 certainly can undertake to have that done, yes

7                   **JUSTICE LEIGERTWOOD-OCTAVE:**                   Thank you, because I am  
8 in Nevis and Miss Sylvester is either in St. Vincent or Trinidad presently. So it is just  
9 perhaps - -

10                  **JUSTICE STOLLMEYER:**                                 Well, she is in Port of  
11 Spain. On that particular subject what I might be minded to suggest is that when the  
12 requests are being formulated, perhaps if there are any comments or matters in that  
13 draft to be taken up, that they can also be addressed. Really I think what we are looking  
14 at is making certain that we don't find ourselves spending too much time in this room or  
15 wherever . It isn't really necessary.

16                  **MR. ARMOUR, S.C.:**   In that case, if that meets  
17 with your approval, Mr. Chairman, Members of Tribunal, I would ask the Secretariat to  
18 make a hard copy available to the Judge after the break, after we take the adjournment  
19 and I undertake certainly as Counsel to e-mail that to both the Judge, if she would  
20 provide use with her e-mail address, and to Miss Sylvester and the clear understanding  
21 is that it is a draft and might I just for the avoidance of any doubt indicate to Justice  
22 Leigertwood-Octave, there is a date in the very first couple paragraphs of the draft  
23 directions that is already in there, which is the eighth of July, that the Tribunal had been  
24 minded to suggest as the start of the substantive hearings. Of course, that date now is  
25 not necessarily written in concrete so to speak.

1                   **JUSTICE STOLLMEYER:**                   It is more perhaps likely  
2 to being written on the sand on the beach with the waves coming in. For all we know,  
3 we may yet be able to meet that date. Now is there anything else you care to raise  
4 Justice Leigertwood-Octave before we do any form of formal order or any direction?

5                   **JUSTICE LEIGERTWOOD-OCTAVE:**                   I do have one question, I  
6 guess, just for my clarification. In the relation to, the Tribunal is it considered as a public  
7 hearing?

8                   **JUSTICE STOLLMEYER:**                   The short answer to  
9 your question is yes. That has certainly been both the practice and coming from the  
10 authorities over the years. It may not help any of us whatever, but yes, the short  
11 answer is yes.

12                   **JUSTICE LEIGERTWOOD-OCTAVE:**                   I just wanted to clarify it in  
13 relation to my observations.

14                   **JUSTICE STOLLMEYER:**                   Fair enough. All right, well  
15 then let us deal with it point by point. Shall we first then formally adjourn to the third of  
16 April; so that Directions Hearing is adjourned to the third of April, two thousand and  
17 thirteen. Can we, Justice Leigertwood-Octave, say at this stage, at a place to be  
18 determined and notified in the event that it is not here?

19                   **JUSTICE LEIGERTWOOD-OCTAVE:**                   Yes.

20                   **JUSTICE STOLLMEYER:**                   Place to be determined by  
21 the Tribunal and notified and would it be permissible, purely for the proceedings, just to  
22 refer to you as, the Judge.

23                   **JUSTICE LEIGERTWOOD-OCTAVE:**                   I think it would make it  
24 easier surely for the Tribunal.

1                   **JUSTICE STOLLMEYER:**                    Yes, that way we avoid  
2 mispronunciations.

3                   **JUSTICE LEIGERTWOOD-OCTAVE:**                    Mr. Armour is still having  
4 difficulty, I noted.

5                   **JUSTICE STOLLMEYER:**                    To be notified to the Judge  
6 and you will then obviously undertake to pass it on to Counsel. We will, of course, if  
7 there is Counsel there, ask the Secretariat to inform Counsel as well, but for the  
8 purpose of the record, it is yourself. Second, from your telephone conversation with  
9 Miss Sylvester, Mr. Armour, would it be appropriate to word the next direction, 'all  
10 requests by or on behalf of the Judge to which are to be dealt with prior to the  
11 commencement of the directions hearing are to be notified or set out in writing together  
12 with a fully detailed supporting note and lodged with the Secretariat by twenty-fifth,  
13 March, two thousand and thirteen.'

14                   **MR. ARMOUR, S.C.:**                    That would be appropriate,  
15 sir.

16                   **JUSTICE STOLLMEYER:**                    All requests by or on  
17 behalf of the Judge are to be set out in writing and to be dealt with prior to the  
18 commencement of the Directions Hearing together with a fully detailed supporting note  
19 and lodged with the Secretariat by twenty-fifth, March, two thousand, thirteen. A copy of  
20 the, shall I refer to them as the proposed practice directions, a copy of the proposed...

21                   **MR. ARMOUR, S.C.:**                    Let me just give you the  
22 heading, section 8, 'Tribunal Directions.'

23                   **JUSTICE STOLLMEYER:**                    All right. Of the proposed  
24 procedural note, of the - -



1 that, that transcript once approved would be delivered to the Judge and any relevant  
2 parties.

3                   **JUSTICE STOLLMEYER:**                   So that Justice  
4 Leigertwood-Octave, there will, as soon as resources permit, be a copy of the transcript  
5 available and if it's not ready before you depart this afternoon then we can arrange for  
6 that to be e-mailed to you, so that it is all there, all right. Is there anything else we might  
7 - -

8                   **MR. ARMOUR, S.C.:**                   I have nothing further, Mr.  
9 Chairman, Members of Tribunal.

10                   **JUSTICE STOLLMEYER:**                   Nothing further; Justice  
11 Leigertwood-Octave, anything? Thank you very much for being here with us this  
12 morning and if not sooner then we will reassemble on the third of April.

13                   **MR. ARMOUR, S.C.:**                   Did you indicate a time,  
14 Mr. Chairman? I am sorry or is that to be notified.

15                   **JUSTICE STOLLMEYER:**                   I did not indicate a time,  
16 9:30, that seems, appears to be the time. So it will be the, the Directions Hearing is  
17 adjourned to the third, April, two thousand, thirteen, at 9:30 a.m. at a place to be  
18 determined by the Tribunal and notified to the Judge. I am sorry, my omitting the 9:30 is  
19 purely as a consequence of my years on the Bench where it was taken as a given that it  
20 would be 9 o'clock unless otherwise. Very well, is that it then?

21                   **MR. ARMOUR, S.C.:**                   That's it. Thank you very  
22 much Tribunal.

23                   **JUSTICE STOLLMEYER:**                   We will rise now.

24                   **(THEREUPON, hearing adjourned)**  
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