



ANNUAL REPORT

2019/2020

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MESSAGE

FROM THE HON. CHIEF JUSTICE

The Court was generally successful at managing its case load at both the High Court and Court of Appeal levels through leveraging the use of technology.

Welcome to another edition of the Annual Report of the Eastern Caribbean Supreme Court. The Annual Report gives the public an overview of the work of the Court during the period 2019/2020. This brief message provides a snapshot of the significant developments at the Court over the last year. I therefore encourage you to read this report for a more comprehensive understanding of the

Court's work.

Like many institutions across the region, the Court has been forced to grapple with the effects of the COVID-19 pandemic. The pandemic has forced the Court to see and engage in the virtual world in ways that have become our new normal – pushing the Court into survival mode and requiring the Court to transform its operations at an even faster pace. I take this opportunity to highlight some of those developments against this backdrop.

First, the task of linking all

the Member States and Territories to the E - Litigation Portal continued during the period, with the Portal now being launched in 6 of the 9 Member States and Territories. It is my hope that the remaining Member States of Grenada, Saint Vincent and the Grenadines and the Commonwealth of Dominica will be linked to the Portal in the upcoming months so that electronic filing will become the standard operating practice of the Court.

The second development concerns the implementation of a number of add-

ed measures to keep the wheels of justice turning amidst the COVID-19 pandemic. These range from the use of virtual platforms such as Zoom to conduct remote hearings, along with a protocol guiding the conduct of such hearings, to the introduction of several practice directions. Notably, the COVID-19 Emergency Measures Practice Direction (now in its 3rd re-issue) has provided for the continued filing of court documents in the Member States not yet linked to the Portal as well as in matters for which e-filing of court documents is not yet available by making provision for the filing and service of court documents by e-mail. For those Member States and Territories linked to the Portal, a Practice Guide was published which allows for those matters which are still being managed utilising manual filings to be brought onto the Portal. We have also modernised our court-connected me-

diation process through a re-issued Practice Direction, which now provides for the conduct of virtual mediations – a useful tool in the current COVID-19 climate.

The third development which I wish to highlight relates to the work of a number of the Court's review committees during the period under review. Like last year, the Sentencing Advisory Committee continued apace with its work. To date, we have now rolled out the first and second tranches of Sentencing Guidelines. They cover, some drugs offences, sexual

offences, dishonesty offences and firearm offences, with more in the pipeline. I wish to thank the members of the Sentencing Advisory Committee for their diligent work in crafting these very important guidelines.

The Civil Procedure Rules Review Committee has also made significant strides, completing their report on the proposed amendments to the rules of court. After a round of post drafting consultations, we are hoping that the amendments will come into effect later this year. I am exceedingly grateful to the Committee



for their dedication to seeing this task through the formative stages.

The Code of Ethics Review Committee has also worked tirelessly to produce a comprehensive draft revised Code of Judicial Conduct, which will replace the existing 17-year old Code. The draft revised Code has gone for consultation among judicial officers, including Magistrates and Registrars and the Committee is now in the process of reviewing the feedback with a view to finalising the new Code. I express my deep appreciation to the Members of the Committee for undertaking this comprehensive review. We look forward to the new Code of Judicial Conduct coming on stream in the upcoming months.

As I indicated earlier, these are merely a few of the tasks the Court has been undertaking over the last year. As you thumb through the pages of this Report, it is

my hope that you will gain a deeper appreciation for the reforms undertaken by the Court.

While our operations were severely constrained due to the various health and safety measures implemented across the 9 Member States and Territories to curb the spread of COVID-19, the Court was generally successful at managing its case load at both the High Court and Court of Appeal levels through leveraging the use of technology. Despite our new and perhaps unfamiliar way of delivering court services, technology has truly allowed the Court to continue to serve the people of the Eastern Caribbean. I encourage you to have a look at the statistics provided in this report, as these give a better picture of the work the Court has undertaken.

On behalf of the Judges, Management and Staff, of the Eastern Caribbean Su-

preme Court Headquarters and the various High Court Offices, and on my own behalf, I thank you for your support. Our commitment and pledge is to continue to serve you the people of the Eastern Caribbean to the best of our ability. I hope that we will continue to have your support, as we endeavour to provide access to a system of justice that is fair, efficient and accountable.

**Dame Janice M. Pereira,
DBE, LL.D.**



MESSAGE

FROM THE COURT ADMINISTRATOR

The COVID-19 pandemic brought along its challenges but also allowed the court to introduce some of our future plans earlier than intended.

The year under review has not been without its challenges for the Court; like every other year, the earlier part of 2020 posed its own challenges and opportunities for the Eastern Caribbean Supreme Court (ECSC). In ways in which we planned and in ways driven by circumstances, we had to change and adapt - as we do continually - in providing both the level of access to justice demanded

by the law and the public together with the efficiency of public service expected in today's world. This report offers many insights into the ECSC's strategic response, forward planning and solutions that were used to bridge the gap and keep the wheels of Justice turning.

The COVID-19 pandemic brought along its challenges but also allowed the court to introduce some of our future plans earlier than intended.

The introduction of these new plans has seen the

ECSC begin a decade of strategic change of processes and procedure, from paper to digital and from physical to virtual hearings. The ECSC responded rapidly and flexibly to COVID-19 and as a Court we have been able to showcase what a truly resilient and progressive Court we have become over the past 50 years. In March 2020, in response to the COVID-19 pandemic, the Court modified its practices in order to minimise in-person attendance on Court premises, with the Court's priority being the health and safety of the community, includ-

ing litigants, practitioners, judges, staff, and the families of all of these groups.

These developments will, of course, always be considered against the measure that they must improve and not impair the fair, timely and cost-effective administration of justice to the people of the OECS region. As such, the Chief Justice issued five special measures Practice Directions that would guide our operations as the Court transitioned to the new normal. It must be noted that during this period, the Human Resource Department work-

ing with the local Registrars and Ministries of Health in each of the Member States and Territories developed COVID-19 protocols to allow for the smooth operation of the justice system. The protocols were for the most part implemented and measures were undertaken to ensure that the appropriate and required social distancing protocols were in place to mitigate the risk of infection to staff and the public.

Additionally, investment in IT security was increased as various measures were implemented to enhance the

protection of the Court's information assets by reducing IT security risks and improving generally our IT security levels. The opportunity over the next 12 months will be to capitalise on the digital practice and cultural initiatives that have been implemented to address COVID-19. The ECSC will continue to build a culture of innovation and technological transformation to support the timely delivery of justice to the people of the OECS region.

The Court's E-litigation project team continued the implementation and roll out of the ECSC E-litigation portal. We are encouraged by the roll out schedule to date as there are currently six Member States and Territories using the portal and the only reason implementation was not completed in the other three Member States is due to the COVID-19 pandemic with its inherent travel restrictions along with oth-



er logistical arrangement challenges. The stakeholders in the Member States and Territories where the portal has already been implemented have reported that the portal is providing them with an increase in operational efficiency, saving significant time and cost to clients and to law firms. The resilient component of the portal also assists the ECSC and law firms in continuing their operations remotely when in-person attendance was impossible or minimized. The ECSC continued its Court-Connected Mediation Public Awareness Campaign in each Member State and Territory with the kind support from the Canadian-funded Judicial Reform and Institutional Strengthening (JURIST) Project. It is the ECSC's position that for the mediation process to be fully utilized, it is necessary for the public to become more informed of the mediation process and of the many benefits.



It is the hope of the ECSC that when citizens and residents become more aware of the benefits of mediation, they will use it as the first step towards resolving disputes, and members of the Bar will also encourage their clients to mediate their disputes once mediation is as an option.

Additionally, the ECSC also reissued a new Practice Direction that will guide the practice of Mediation across the Member States and Territories. The Court-Connected Mediation Practice Direction (Re-Issue) rep-

resents a complete overhaul of the 17-year old Practice Direction No. 1 of 2003. It adopts a multifaceted approach ensuring that all aspects of the mediation process are considered and addressed. These revisions are intended to vastly improve the mediation process and facilitate improved access to justice, especially for unrepresented parties and litigants. You can click on the following link to access and read the Reissued Practice Direction

During the year under review, the Judicial Education Institute (JEI) continued to play a vital role in keeping the judiciary in touch with the issues and trends of the society by fostering the dialogue between internal and external stakeholders. Key activities of the JEI during the year under review included: the Joint Symposium of the OECS Bar Association which was done remotely; training workshop for Judges and Magistrates of the OECS Member States and Territories; and the continued training of High Court Staff members. All the activities were held with a view to providing judicial officers and court staff with high level training that will assist them to perform in a manner that upholds the judiciary's independence and integrity and ensures public trust and confidence in the administration of justice. You can peruse the JEI section of this report for more in-depth information



on the JEI programmes undertaken during the year under review.

In closing, I want to express my sincerest appreciation to the Hon. Chief Justice, Judicial Officers, Registrars and Magistrates, as well as the staff of the Court's Headquarters and the court offices in each Member State and Territory, for their continuous support and dedicated efforts throughout the past year. You have persevered even as your work routines and personal lives have been heavily disrupted by the COVID-19 pandemic. None of these

achievements would have been possible without your hard work and successful adjustment in working remotely during this pandemic. I am deeply grateful for your dedication and flexibility, especially amid these difficult circumstances and look forward to you continuing in this regard in the upcoming year.

Gregory Girard



APPELLATE JURISDICTION

CASEFLOW MANAGEMENT

It has been the department's distinct pleasure to play our role in assisting in the dispensation of justice.

INTRODUCTION

Over the period under review, the Registry of the Court of Appeal performed its function of managing appeals from decisions of the Magistrates' Courts and High Courts in all the Eastern Caribbean Supreme Court's nine Member States and Territories and from decisions of the Labour Tribunals in Montserrat and Antigua and Barbuda.

As in years gone by, the department worked assiduously to ensure the timely processing of appeals from the above mentioned courts and tribunals. During the last 6 months of the period under review, the department also had to deal with the COVID-19 pandemic which significantly changed how the department had to operate to ensure that the Court of Appeal could continue to function effectively and efficiently. This resulted in the Department processing a greater number of electronic documents to facilitate virtual court sittings.

STAFF COMPLEMENT

During the period under review, there were several changes to the staffing of the Court of Appeal Registry.

RESIGNATIONS / CHANGE IN POSITION

In November 2019, we bade farewell to Ms. Desma Charles who had served the Court in the capacity of Deputy Chief Registrar for over 3 years.

The period under review also saw the department bidding farewell to Judicial

Research Assistants **Ms. Liz Joseph** and **Mr. Jayde Jean**. Towards the end of the period under review, **Mr. Stephen Corrington** was elevated from the post of Judicial Research Assistant to the post of Executive Legal Assistant to the Chief Justice.

We continue to remain grateful to these dedicated individuals for the service they provided to the Court, in particular the Registry department. We wish them every success in their future endeavours.

APPOINTMENTS

In January 2020, we were pleased to welcome **Mr. Carlos Cameron Michel** in the position of Deputy Chief Registrar. Prior to his appointment, Mr. Michel held the post of Executive Legal Assistant to the Chief Justice.

During this period, the department was strengthened with the addition

of three new Judicial Research Assistants in the persons of **Mrs. Jodi-Ann Masters-Singh** and **Ms. Desiree Valentine**, both of whom joined in January 2020 and **Mr. Peter Marshall** who joined in March, 2020.

Currently the total staff complement of the department is thirteen (13) broken down as follows:

Chief Registrar
Deputy Chief Registrar
5 Case Managers
6 Judicial Research Assistants

WORKLOAD FOR THE CALENDAR YEAR 2019

There were 481 appeals filed in total in the High Courts and Magistrate's Courts during the calendar year 2019. This figure represents a decrease from the 518 cases which were filed in 2018.

The number of civil appeals filed in 2019 decreased by

27 from the previous year, making a total of 220 civil appeals filed. There was however a slight increase in the number of criminal appeals filed in 2019 from the previous year - a total of 223 criminal appeals filed in 2019 compared to 199 criminal appeals filed in 2018. In 2019 there was a decrease in the number of commercial appeals filed, bringing the number down from 54 in 2018 to 26 in 2019. There was also a slight decrease in the number of appeals filed in the Industrial Court from 13 in 2018 to 12 in 2019.

A detailed analysis of the case load for 2019 can be found in the section on court performance in this Report.

COURT SITTINGS FOR THE CALENDAR YEAR 2019

A total of 1255 appeal matters were heard via Full Court sittings, Chamber

Hearings, Status Hearings and Video/Teleconferences:

- **Full Court Sittings:**

These are Sittings where a panel of three judges sit to hear appeals and in some cases applications. There were twenty-one (21) scheduled Full Court sittings for the year 2019, a slight decrease from the twenty-two (22) held in 2018. Antigua and Barbuda, the Territory of the Virgin Islands, Grenada, Saint Lucia and St. Kitts and Nevis each had three (3) sittings; St. Vincent and the Grenadines, Anguilla, and Dominica had two (2) sittings each; Montserrat had one (1) sitting. From April 2020 all sittings of the Court were held virtually via Zoom. This allowed the Court to ensure that despite the COVID-19 pandemic and its effects, we were able to continue to provide service to the Member

States and Territories.

- **Chamber Hearings:**

There were eleven (11) Chamber Hearings conducted, which on average is about once per month, for the purpose of case management and dealing with interlocutory applications. This led to a hearing of 456 matters, 20 more than the year before. The matters scheduled for consideration at the Chamber Hearings were dealt with on paper. There continues to be an increase in the num-

ber of matters listed for Chamber Hearings, with cause lists containing an average of 40 matters per month.

- **Video/Teleconferences:**

There were 10 Video/Teleconference Hearings in 2019, which was an increase from 7 in the previous year, demonstrating the Court's increasing use of technology to assist in the dispensation of justice. A total of 13 matters were heard during Video/Teleconference Hearings in 2019.



- **Status Hearings:**

These hearings are held to determine the status of appeals which have been filed but have not yet progressed to hearing, for one reason or another. From January 2019, Status Hearings were conducted by the Chief Registrar. In most cases, these hearings were conducted for each Member State and Territory, the week before the Court of Appeal Sitting. A total of 21 Status Hearings were conducted in 2019.

DELIVERY OF JUDGMENTS FOR THE CALENDAR YEAR 2019

The total number of written judgments delivered for 2019 was 48. The judgments of the Court continue to be published on the Court's website once delivered, unless the Court specifically orders otherwise.

Included in the number of judgments delivered were judgments containing the written reasons for an oral decision of the Court handed down at an earlier date.

In 2019 the Court also delivered 348 oral decisions. These oral decisions are captured in the digests of decisions produced by the Court. The digests are summaries of all matters heard at sittings of the Court and written judgments which were delivered. In addition to the oral decisions given, the digests provide information on the issues dealt with, the order made and the reasons given for the order.

All digests, once approved, can also be found on the website and prove useful to practitioners especially where there are no written decisions.

HIGHLIGHTS

CASE MANAGEMENT

The Court continued to

conduct the case management of matters listed on the preliminary cause lists for Full Court sitting at least three to four weeks prior to the scheduled sitting. This allows for the weeding out of matters which are not ready to be heard and in which the parties agree to an adjournment due to lack of readiness or some other reason. This exercise allows the Court to concentrate on matters that are ready for hearing and to structure the sitting allotting specific hearing days to each matter. It must be noted that there is still much progress which can be made in this area, however it requires the cooperation of counsel and the parties. There are still far too many matters which, although during case management are presented as being ready, are still not ready for hearing when the sitting commences. In the coming year we will endeavor to work with counsel and the parties to resolve this issue.

LEGAL INTERNSHIP

For a number of years now, the Court has partnered with the Law Schools in the Caribbean to offer placements for two students on its 10-week Legal Internship Programme over the period June to August.

In 2019, the Court hosted Ms. Andrena Athill and Mr. Zachary Phillips from the Norman Manley Law School. Ms. Athill and Mr. Phillips are both nationals of Antigua and Barbuda. Unfortunately, due to the COVID-19 pandemic, the Court was unable to offer the usual placements to the selected students for 2020. It is our hope that when the global health situation returns to some level of normalcy, we will be in a position to resume our partnership with the Law Schools in the Caribbean to offer the Legal internship Programme.

SIGNIFICANT JUDGMENTS DELIVERED IN 2019

The following judgments delivered in 2019 are worthy of mention:

KEITHLEY LAKE ET AL V RICHARD VENTO ET AL AXAHCVAP2016/0012

Delivered: 20th June 2019

Civil Appeal – Judgments Act – Registered Land Act – Part 55 of the Civil Procedure Rules 2000 – Order for sale of property by a judgment creditor – Whether the Master erred by failing to make inquiries into an alleged unregistered interest in land – Joint proprietorship – Proprietors in common – Whether the Master erred in ordering the sale of property which a judgment debtor owned in common with non-debtors – Whether the Master erred in ordering the sale of jointly owned properties without the consent of all joint proprietors or sever-

ance of the joint tenancy – Severance of a joint proprietorship – Operation of a judgment as a charge on property – Whether the operation of a judgment as a charge on property severs a joint tenancy – Whether an order for sale of property in satisfaction of one joint proprietor's debt severs a joint proprietorship.

On 23rd September 2013 the respondents obtained a final arbitration award against the appellants for US\$7,419,000.00 which was duly registered as a judgment of the High Court of Anguilla. As a means of enforcing the arbitration award, the respondents applied for the sale of four properties in Anguilla in which the first appellant, Mr. Keithley Lake, has an interest. The properties that were the subject of the application were: parcel 52 which is owned by Mr. Lake absolutely; parcel 127 which is owned by Mr. Lake, and in which his sister,

Marilyn Harewood, claims to have an unregistered interest; parcel 129 which is owned by Mr. Lake and his sisters, Marilyn Harewood and Jean Hooks, as proprietors in common in one-third shares; and parcel 209 which is owned by Mr Lake and his wife as joint proprietors.

On 5th December 2016 the learned Master heard the application for the sale and ordered that the four properties be sold by public auction and directed that the proceeds of sale be divided in accordance with an order of priority set out in the order.

Mr. Lake, being dissatisfied with the Master's orders, appealed. The issues arising for determination before the Court of Appeal were:

- i. Whether the Master was required to and/or did make an order in respect of Marilyn Harewood's unregistered interest in parcel 127;

- ii. Whether the Master erred by ordering the sale of the entirety of parcel 189 in which Mr. Lake owns only a one-third interest as a proprietor in common;
- iii. Whether the Master erred by ordering the sale of the entirety of parcel 209 in which Mr. Lake owns an interest as a joint proprietor with his wife; and
- iv. Whether the Master erred in his identification and application of the legal principles relating to lands owned by joint proprietors and proprietors in common.

Held: allowing the appeal, setting aside the order of the learned Master, and making the orders set out in paragraph 39, that:

1. Rule 55.5 of the Civil Procedure Rules empowers the court to give directions to facilitate the sale of property, including directions that

an inquiry be made into the interests of any interested persons in the land, and the extent of such interests in the net proceeds of sale. While the Master's order recognises both Ms. Harewood and her alleged interest in parcel 127, there was no specific finding in relation to the nature and extent of her interest in the property. In the face of unresolved claims that Ms. Harewood held an interest in the land, which would necessarily have to be accounted for in the substantive order, the Master was required to make a specific finding regarding the interest, and if necessary, give directions for an enquiry into the existence or otherwise of Ms. Harewood's interest. Rule 55.5 of the **Civil Procedure Rules 2000** considered.

2. The court's power to sell

the lands of a judgment debtor is limited to selling only the debtor's interest in the land. Such a sale cannot include the interest of any other person in the land being sold, such as a proprietor in common. The order for the sale of the entirety of parcel 189, which necessarily included the interests of the other proprietors in common, was in excess of the court's jurisdiction under the **Judgments Act**. Accordingly, the order for the sale of parcel 189 must be set aside. Sections 2, 3, 4 and 8 of the **Judgments Act** R.S.A. c. J10 considered.

3. Where a joint proprietorship subsists, the court will only have the power to make an order for the sale of one proprietor's interest to the exclusion of the other proprietors' interests, where the joint tenancy

has first been severed. There is no evidence that the joint proprietorship in parcel 208 was severed by voluntary acts of the joint proprietors. Neither did the fact that the judgment debt operated as a charge on the land under the **Judgments Act** operate to sever the joint proprietorship, as the four unities of time, title, interest and possession that are essential for a joint tenancy remained unaffected by the charge. It follows that the Master did not have the power to or-

der the sale of the joint property. The order for the sale of parcel 209 was therefore irregular and must be set aside. Sections 2, 3, 4 and 8 of the **Judgments Act** R.S.A. c. J10 considered; section 107 of the **Registered Land Act** R.S.A. Cap. R30 considered; **Williams v Hensman** (1861) 70 ER 862 considered; **Mums Incorporated and another v Cayman Capital Trust Company and others** 2000 CILR 132 considered; **Eunice Edwards v Keith Edwards** and another Antigua and



Barbuda Civil Appeal No. 15 of 2005 considered; **Sheila Miller-Weston v Paul Miller and Leithia Miller** Supreme Court of Jamaica, Claim No. CL 2002 MO94 (delivered 22nd June 2007, unreported) considered; **First Global Bank Limited v Rohan Rose** Supreme Court of Jamaica, Claim No. 2012CD00029 (delivered 29th July 2016, unreported) distinguished; **James F. Walker v Susan Lundborg** [2008] UKPC 17 distinguished.

**SONIA JOHNNY V THE ATTORNEY GENERAL
SLUHCVAP2017/0036**

Delivered 13th December, 2019

Civil appeal – Employment law – Entitlement to payment in lieu of vacation leave accumulated over successive contracts

– Contracts silent on forfeiture of leave not taken during contractual term or payment in lieu thereof – Implied terms – Whether term of good faith should be implied into the contract – Nature of contract – Performance of contract – Should untaken vacation leave be converted to money absent a contractual or statutory provision.

Ms. Sonia Johnny (“Ms. Johnny”) was employed as Saint Lucia’s permanent representative to the Organisation of American States and Ambassador Extraordinary and Plenipotentiary to the United States of America. Her first contract of employment entitled her to 33 working days’ vacation leave annually to be normally taken at the completion of the tour of duty. Her two subsequent contracts maintained her entitlement to 33 working days leave but required that the leave be taken during the tour of service.

On 9th January 2007, ten months before the expiration of her last contract, Ms. Johnny wrote to the Permanent Secretary, for permission to take a portion of her accumulated leave but was not favoured with a response. This was followed by several unanswered enquiries. By letter dated 30th June 2010, Ms. Johnny was advised that her application for payment in lieu of leave had been denied. No reason was furnished for the decision.

Ms. Johnny issued a claim for breach of contract against the Government of Saint Lucia claiming payment in lieu of 7 ½ months leave, interest and costs. She stated that at the end of each contract, her leave form included a statement that her leave was rolled over to the next contractual period and that the practice of rolling over accumulated leave from contract to contract implied a term into the contract that if she

were unable to take her leave, it would not be forfeited; hence, she was entitled to be paid for it. She further stated that she was unable to take her stipulated leave due to the exigencies of the post.

The respondent, asserted in the defence, that there is no right to receive payment in lieu of leave and receipt of any payment in lieu thereof is at the sole discretion of the Crown. Any accumulation of leave outside the scope of a contract must be with the expressed approval of the relevant department head and in accordance with the established procedure. Ms. Johnny was obligated to take leave during the currency of the contract and her failure to do so rendered the leave liable to forfeiture.

The learned judge dismissed the claim, holding that Ms. Johnny did not establish a right to accumulate leave based on the

express terms of the contract and that there was no contractual right to payment in lieu of leave, either on the express terms of the contract or by implication, based on the practice identified by Ms. Johnny of rolling over leave, which, on the evidence had not been proven.

The appellant, being dissatisfied with the decision, appealed on several grounds including that the judge erred in the approach with respect to implying terms; the judge erred in not considering issues of good faith, reasonableness and abuse of contractual rights and the judge erred in not having a holistic appreciation of performance of the contract and that the nature of the contract.

Held: Allowing the appeal; awarding to the appellant payment in lieu of vacation leave in the sum of \$220,395.60 together with pre-judgment inter-

est thereon at the rate of 6% per annum and awarding to the appellant prescribed costs in the sum of \$30,049.45 in the court below and 2/3 of that amount on appeal, that:

1. The term to be implied into a contract depends upon the context of the particular contract involved. The context of this contract is an employment contract which is of a different character than an ordinary commercial contract. In an employment contract there is often a significant imbalance of power between the contracting parties. In this case, a conflict existed between the State and Ms. Johnny with respect to the payment of accumulated annual leave. The resolution of that conflict was in the hands of the State. As pleaded by the State, it was a matter of discretion. As the party

exercising the discretion, the State has a clear conflict of interest, heightened by the significant power imbalance between Ms. Johnny and itself. In seeking to ensure that power is not abused, the court will imply a term of good faith as to how it should be exercised. Accordingly, in deciding whether Ms. Johnny should be paid in lieu of vacation leave, the learned judge failed to appreciate that the State had an implied duty to act in good faith. The judge

ought to have implied a term that the decision should be exercised in a reasonable manner, in good faith and in a manner that would not lead to an abuse of contractual rights.

Braganza v BP Shipping Limited [2015] UKSC 17 applied; **Johnson v Unisys Limited** [2003] 1 AC 518 applied.

2. Ms. Johnny's contracts contained no provision for forfeiting leave not taken during their currency. Forfeiture is penal in nature and

ought to be expressly provided for. It should not arise by implication or intendment. Given the imbalance of power between the State and Ms. Johnny, if it were the intention of the respondent that leave not taken during the contractual period would be liable to forfeiture, this ought to have been expressed.

Young v Bess (1995) 46 WIR 165 considered.

3. Ms. Johnny was contractually entitled to 33 working days annual paid leave. The Government of Saint Lucia, as the employer, was liable to make payment in respect of the annual leave. This is the ordinary liability to pay wages to an employee in respect of the period of employment. Not only was it pleaded that payment in lieu of leave is a discretionary matter



for the Crown, the judge found that the evidence clearly supports the fact that payment in lieu of leave was an exercise of discretion by an employer. The evidence established that Ms. Johnny was the beneficiary of the favourable exercise of that discretion in 2000. Based on the factual circumstances and the pleaded defence, Ms. Johnny is entitled to payment for leave not taken.

4. The respondent's pleading that the untaken leave was "liable to forfeiture" denotes that forfeiture is not automatic and is a matter of discretion. A discretion must not be exercised arbitrarily, capriciously or unreasonably. There is nothing to show what factors informed the exercise of that discretion against Ms. Johnny. What transpired in effect was an

automatic forfeiture of Ms. Johnny's leave, not taken during the term of the contract, in circumstances where the contract contained no provision for forfeiture. Accordingly, there was a wrongful exercise of discretion. Further, there was no proper basis for the forfeiture.

Ministry of The Public Service Information and Broadcasting et al v Vincent Marcel
SLUHCVAP2017/0006 (delivered 14th March 2019, unreported) distinguished; *Ormond Shotte v The Attorney General* MNIH-CV2000/0005 (delivered 30th May 2001, unreported) distinguished.

ECONO PARTS LTD V THE COMPTROLLER OF CUSTOMS & EXCISE
CONSOLIDATED WITH

MR PARTS LTD. V THE COMPTROLLER OF CUSTOMS & EXCISE

SLUHCVAP2017/0019

Delivered: 30th July 2019

Civil appeal - Customs (Control and Management) Act - Power of Comptroller of Customs and Excise to seize goods under section 130 of the Act - Failure to institute condemnation proceedings - Unlawful seizure - Section 6 of the Constitution of Saint Lucia - Protection from deprivation of property - Statutory immunity conferred on Comptroller under section 133(2) of the Act - Whether learned judge erred in granting immunity in circumstances where there had been a most deplorable abuse of power - Whether appellants entitled to damages by way of vindication of constitutional rights based on abuse of power by customs officers - Special damages not proven - Whether appellants enti-

tled to nominal damages.

By notices of seizure dated 4th October and 10th December 2013, the Comptroller of Customs (“the Comptroller”) seized three containers of automotive parts belonging to the appellants. The notices alleged statutory violations of improper importation, making untrue declarations, submitting counterfeit documents and attempting to evade the payment of chargeable duties on the items in the consignments.

Following the issuance of the notices of seizure, and as required by section 3 of schedule 4 (the “schedule”) of the Customs (Control and Management) Act (the “Customs Act”), the appellants gave notice to the Comptroller of their intention to make a claim against the seizure. Under section 6 of the schedule, the Comptroller is mandated to take condemnation proceedings in respect of

anything seized where notice of a claim is given. No condemnation proceedings were brought by the Comptroller.

The appellants instituted judicial review proceedings and challenged, amongst other things, the lawfulness of the decision to issue the notices of seizure. The learned judge found the custom officers’ actions to be a most deplorable abuse of power by the Comptroller. He granted orders of certiorari quashing the notices of seizure on the ground that the notices were unlawfully issued. The learned judge, however, declined to award costs and damages on the basis that damages were not a relief claimed, special damages were not proven and on the basis of the statutory protection afforded by virtue of section 133(2) of the Customs Act as he was satisfied that the Comptroller had reasonable grounds for detaining the containers.

The main issue on appeal was whether the immunity conferred on the Comptroller in section 133(2) applies where, as the judge found, there had been a most deplorable abuse of power.

Held: allowing the appeal, awarding nominal damages in the sum of \$20,000.00 and vindictory damages in the sum of \$75,000.00 to the appellant plus costs in the court below to be assessed if not agreed within 21 days, and on appeal, at two thirds of the assessed costs in the court below, that:

1. Section 133(2) of the Customs Act prescribes two instances in which the Comptroller and his officers are afforded immunity from payment of damages and costs where judgment is given against the Government or the Comptroller in any proceedings brought on account of a seizure or detention.

Firstly, where a certificate relating to the seizure has been granted after condemnation proceedings have been instituted, and secondly, where the court is satisfied that there were reasonable grounds for either seizure or detention. The powers of seizure and detention are distinct in nature and purpose. Seizure is a more drastic option leading to forfeiture. It puts in train the procedural provisions of schedule 3 which are wholly concerned with condemnation of property as forfeited. There is no corresponding statutory procedure relating to detention.

R (on the Application of Eastenders Cash and Carry plc and others) v The Commissioners for Her Majesty's Revenue and Customs; R (on the application of First Stop Whole-

sale Limited) v The Commissioners of Her Majesty's Revenue and Customs [2014] UKSC 34 applied.

2. This case involved a seizure and not detention. The judicial review proceedings did not concern whether the Comptroller had reasonable grounds for detaining the containers but concerned the failure of the Comptroller to bring condemnation proceedings, subsequent to the issuance of the notices of seizure. Therefore, to engage the immunity in section 133(2) (b), the learned judge ought to have been satisfied that there were reasonable grounds for the seizure. The finding that there were reasonable grounds for detention of the containers was not one which was open to him as detention was not in issue. Moreover, the

learned judge, having found this was a most deplorable abuse of power, could not have found that the conduct of the Comptroller and his officers was based on reasonable grounds. This amounted to an error of law. **Sheikh Adbullah Ali Alhamrani v Sheikh Mohamed Ali Alhamrani** BVIHCVAP2013/0005 (delivered 18th September 2013, unreported) followed.

3. Where loss is undoubtedly suffered but unquantified, it is the duty of the court to recognise the loss by an award that is not out of scale. Though no lease was presented, it is common ground that the containers were stored at a warehouse that did not belong to the Customs Department. The commercial reality is that either rent would have accrued or some incon-

venience would have been suffered because of the unavailability of the warehouse due to the goods being stored there. Additionally, auto parts purchased for resale and kept from the appellants for three and a half years would be substantially devalued. In the absence of proof of damages, this Court is justified in awarding nominal damages for loss undoubtedly suffered over the period of seizure.

Charlton Greer v Alstons Engineering Sales and Services Limited [2003] UKPC 46 applied.

4. Section 6(6)(a)(vii) of the Constitution of Saint Lucia contemplates enactments such as the Customs Act, and allows for taking possession of or acquisition of property for 'as long as may be necessary for

the purposes of examination, investigation, trial or enquiry'. In the instant case, there is no evidence of any investigation, trial or inquiry. The inaction by the Comptroller following the unlawful seizure for a period of three and a half years constituted a violation of the appellants' constitutional right to protection from deprivation of property for which an award of vindictory damages ought to be made.

Attorney General of Trinidad and Tobago v Ramanoop 2005 UKPC 15 applied.

CONCLUSION

It is our hope that our readers and users now have a greater appreciation of the work of the department and a closer insight into the

activities and highlights of the past year.

It has been the department's distinct pleasure to play our role in assisting the dispensation of justice. The COVID-19 pandemic saw the court having to revise the manner in which our operations continued, so as to ensure that we were able to meet the department's demands.

The pandemic has created an environment whereby the department has had to focus more heavily, sometimes exclusively, on the use of technology to dispense with matters. It is a new mode of doing business, one from which there can be no turning back. We are truly grateful to counsel and litigants for taking this journey with us, with very minimal resistance to allow us to re-invent ourselves in an effort to remain efficient and effective.



COURT-CONNECTED MEDIATION

Toward the last quarter of 2020 and in the coming year, effective monitoring and evaluation methodologies and strategies will be adopted to advance mediation service delivery

Since the advent of court-connected mediation in the nine (9) Member States and Territories (MSTs) under the jurisdiction of the Eastern Caribbean Supreme Court some 17 years ago, the Regional Mediation Programme has seen its share of accomplishments and challenges. The mediation pilot project as it once was, has successfully evolved into a formal mediation programme,

which supports the Court's objective of dealing with cases justly, by affording litigants an alternative to the adversarial system of resolving disputes. Mediation has been well established as a viable option which is cost-effective, less time consuming and empowers the parties to have their 'day in court' without the attendant limitations the Court process places on litigants.

To ensure that Mediation remains an area of core focus, the Eastern Caribbean Supreme Court with the assistance of the Judi-

cial Reform and Institutional Strengthening (JURIST) Project, conducted public awareness campaigns highlighting the tenets of mediation, in Grenada, St. Kitts and Nevis and the Commonwealth of Dominica. Additionally, work continued on the revision of Practice Direction No. 1 of 2003 - Court Connected Mediation. Recognizing the need for increased numbers of mediators in several of the MSTs, discussions were held with Mrs. Ann Diaz, Trainer/Facilitator from the University of the West Indies - St. Augustine Campus, for the training of

new mediators in Montserrat, Saint Lucia and Saint Kitts and Nevis. By the time training is completed in these jurisdictions, the number of Organisation of Eastern Caribbean States (OECS) Mediators will increase to over 230.

During the first quarter of 2020 the Eastern Caribbean along with the rest of the world, was beset by the Novel Coronavirus (COVID-19) Pandemic. Government regulations designed to curb the spread of the coronavirus meant that mediations could not be held at Court Offices in the usual manner. In an effort to preserve the progress made in the area of mediation, Her Ladyship, the Hon. Dame Janice Pereira, DBE, Chief Justice of the Eastern Caribbean Supreme Court, swiftly called for the institution of virtual mediations throughout the Court's jurisdiction. Within the months which followed, referrals to mediation resumed with

MSTs hosting online mediation sessions via the Zoom videoconferencing platform or by Skype. This was a learning process for all stakeholders who adapted appropriately, dealt with issues as they evolved and rose to overcome the challenges presented. The pandemic also necessitated the restructuring of the Mediation Training Workshop which was adapted from a 5-day in-house programme to a hybrid of 10-half day sessions, with trainees and coaches in-house and the trainer delivering the course and evaluating participants virtually, with the able assistance of the in-house coaches.

Toward the last quarter of 2020 and in the coming year, effective monitoring and evaluation methodologies and strategies will be adopted to advance mediation service delivery, the number of cases referred to mediation, rates of successful outcomes from the

mediation process, general buy-in for the benefits of mediation from litigants and legal practitioners and overall improvements to the Regional Mediation Programme.

REPORTS FROM MEMBER STATES AND TERRITORIES

Statistical data received from the Mediation Coordinators/Assistants have been captured in the table below to provide a brief synopsis of mediation activities for 2019-2020:

Criteria	Ang.	Saint Lucia	Ant. & Bar.	Gren.	Dom.	Mont.	Nevis	St. Kitts	SVG	TVI
No. of matters referred to mediation	5	156	90	115	50	3	9	47	40	25
No. of mediations held	5	92	125	112	43	3	8	40	22	16
No. of cases settled before mediation		0	0	0	0	1		1	0	1
Outcome: number of mediations settled	2	25	27	50	9	0	3	18	6	7
Outcome: number of mediations partially settled (some issues settled)		0	0	1	4	0		2	1	2
Outcome: number of mediations not settled	3	12	30	19	15	2	5	22	12	8
No. of further mediations to be held	1	55	57	22	8	0	1	4	3	0
No. of mediations (lawyer)	5	64	29	37	6	3		40	10	10
No. of mediations (non-lawyer)	0	92	3	75	1	0		0	12	6
No. of settled cases which were settled within 30 days	2	0	0	12		1			0	0
No. of settled cases which were settled within 60 days	0	25	0	39	6	0			6	7

PROGRAMME EVALUATION

Comparative data relating to mediations in the Eastern Caribbean during 2018 and 2019 depict small increases in the number of

mediations held in 6 of the 9 MSTs in 2019. However, the number of successful outcomes to mediation, that is the number of cases fully settled at mediation increased in 5 MSTs during 2019 compared to

that of 2018. It should be reiterated that a targeted approach will be adopted aimed at overarching improvements to the Regional Mediation Programme during the next reporting period.



COURT PROJECTS

Equal access to justice is ingrained in the mission of the Eastern Caribbean Supreme Court.

INTRODUCTION

Access to justice is central to the rule of law and integral to the enjoyment of basic human rights. It is an essential precondition to social inclusion and a critical element of a well-functioning democracy. A traditional view is that courts are the central 'suppliers' of justice. To some extent that remains true. Courts are ultimately the arbiters of legal issues, able to declare what the law is, what the rights and obligations of parties are and enforce those declarations. To us access to justice

is about ensuring citizens in the Eastern Caribbean receive appropriate advice and assistance, no matter how they enter our justice system. Equal access to justice is ingrained in the mission of the Eastern Caribbean Supreme Court; and it is in this regard that the following activities were engaged in during the year under review.

FAMILY DIVISION PILOT PROJECT

One of the main activities under this project, the Family Proceedings Rules is now

complete. This work has been in progress now for some time and it was important that we bring this to a close as so many other activities depended on the completion of those rules. The Rules Committee in presenting the document to the Hon. Chief Justice identified several areas of Law reform that would be necessary to compliment the provisions of the rules, these areas would need to be addressed by the legislature and steps are already being taken to bring this to the attention of the relevant authorities. Some of the areas of legislation include:

1. Development of legislation for the enforcement of local judgments overseas and overseas judgments in the ECSC jurisdiction. Although Part 41 of the Family Proceedings Rules was introduced to deal with enforcement of orders of the court in other jurisdictions, the committee was of the view that this Part did not go far enough, especially as it related to extra-regional (non-OCES States and territories) enforcement of maintenance and custody orders. There also must be consideration for the need for reciprocity so that if the ECSC jurisdiction recognizes an order from another jurisdiction there should also be provisions in place for ECSC orders to be recognized in that other jurisdiction.
2. Merging of maintenance and access orders. The committee identified a need for a procedure that would allow for the merging of a maintenance and access order with any other order which is subsequently made in the High Court on the hearing of a petition for divorce (once the judge is satisfied that the order made by the magistrate is adequate) and for the enforcement of that order in the High Court jurisdiction. At present many persons (including attorneys) are confused as to which court has the jurisdiction to enforce a maintenance order made in the Magistrate's Court after an order for divorce has been granted in the High Court.
3. The rights of unmarried fathers under the provisions of the Guardianship of Infants Act.
4. To allow for penalties other than imprisonment for breach of an access order. At present the only penalty is imprisonment.
5. Amendments to the Evidence Act as it relates



to the provisions to facilitate remote hearings for children and other vulnerable witnesses in court proceedings.

6. The amendment of the Divorce Act to include treating with matrimonial property as part of the divorce proceedings.
7. Repealing of provisions for child marriages.
8. Legislation that clarifies what are the rights and responsibilities of the biological parent versus that of the spouse regarding children in Marriages.

MEDIATION IN FAMILY MATTERS

In preparation for the Family Division Pilot Project, the ECSC with support from UNICEF, in late 2020, ran its first Family Mediation Training in Antigua where twenty-five (25) trained and practicing mediators were given specialized training in family mediation. The newly completed Family Proceedings Rules embraces mediation as a tool to assist with resolving family disputes and consequently, a separate regime of practice guides and directions

would be necessary to support that activity as the current Practice Directions for Mediation in Civil matters (PD) being finalised are not applicable to family proceedings. This will be the next major activity for the Project steering committee; meanwhile the Government of Antigua and Barbuda has approved several of the key administrative positions for the Family Division which includes a Court Administrator for that Division who is currently assisting with some of the set up work for that Division.

HALLS OF JUSTICE

The Hon. Chief Justice has established committees in the Territory of the Virgin Islands (BVI), Dominica, and Grenada to assist the Governments there with finalizing the plans and executing the Halls of Justice Project. These committees have met several times and are working with the local Authorities to implement the



plans. In the BVI the plans have been revised and the Government is moving steadily to begin work on that project. In the case of Dominica, the government announced the cooperation of an overseas friendly government which has committed to funding the project as part of a grant arrangement for the Hurricane Maria Relief Fund, and the local committee is working with them to finalise the needs assessments and move to the next stages of the project. Although a committee has not yet been finalised for St. Vincent and the Grenadines, the Government there has approved the borrowing of funds from local financial institutions for the purposes of building the Halls of Justice. In all the three Member States and Territories mentioned above, the Government has decided to proceed with the sites selected by the ECSC and for which the necessary feasibility studies were



done as a part of the ECSC HOJ Study in 2011.

In Saint Lucia, the Government is moving ahead with plans for the construction of a building to accommodate the Police Headquarters and the Criminal Courts. The ECSC had been engaged during the early stages of this process and we await the opportunity to review the plans which have been developed since then. In the meantime, the ECSC has completed a full needs assessment and design brief for a developer who has been identified

by the government of Saint Lucia to prepare new facilities to accommodate the Headquarters of the ECSC.



JUDICIAL EDUCATION INSTITUTE

The Judicial Education Institute (JEI) of the Eastern Caribbean Supreme Court (ECSC) is responsible for the capacity strengthening of the Court's Judiciary and during the period under review, the JEI was unable to host its signature event, the Annual Judicial Conference. Plans were well in train to

THE JUDICIAL EDUCATION INSTITUTE

In 2020, despite the COVID-19 pandemic, the JEI completed the High Court staff training series.

host the conference in April of 2020, however due to the COVID-19 pandemic, plans had to be aborted. Despite the challenges posed by the pandemic, the JEI continued its objective of providing training for jurists and staff of the ECSC.

JOINT SYMPOSIUM

On 14th September 2019, the Joint Symposium was held at the St. James Club and Villas in Antigua. The Joint Symposium is an annual activity co-sponsored by the Judicial Education Institute (JEI) and the OECS Bar Association. The Joint Symposium is a fixture of

the annual OECS Bar Association Regional Law Conference. The Joint Symposium focused on the following topics:

- 'The Art of Effective Appellate Advocacy', facilitated by The Hon. Mr. Justice Paul Webster, Justice of Appeal of the ECSC, Mr. Douglas Mendes, SC, Attorney-at-Law from Trinidad and Tobago and Mrs. Tana'ania Small-Davis, Attorney-at-Law from Jamaica;
- 'Legal Ethics in the Digital Age', facilitated by

The Hon. Courtney Abel, Judge of the Supreme Court of Belize; and

- 'The Importance of Mediation in the Court Process' facilitated by Ms. Ann Diaz, Programme Coordinator of the UWI's Mediation Unit in Trinidad and Tobago.



Staff of the Dominica High Court with facilitators Hon. Hon. Justice Kimberly Cenac-Phulgence and Hon. Justice Birnie Stephenson

The Joint Symposium continues to be a particularly important session as it is one of the few occasions where the bench meets the bar to discuss important issues which affect the jurisprudence of the OECS. By all accounts, the Joint Symposium was a successful and informative event.

TRAINING FOR HIGH COURT STAFF OF SAINT KITTS AND NEVIS, ANTIGUA AND BARBUDA, GRENADA, SAINT VINCENT AND THE GRENADINES AND DOMINICA

The Eastern Caribbean Supreme Court (ECSC) through the Judicial Education Institute (JEI) continued its capacity building



Court staff of St. Kitts and Nevis during the training session.

programme with a series of training workshops for High Court Staff in both 2019 and 2020. In 2019 the JEI conducted in person train-

ing in the islands of Antigua and Barbuda, Grenada, Saint Vincent and the Grenadines, and the Commonwealth of Dominica. In



Grenada High Court Staff with facilitators Hon. Justice Paula Gilford (far right) and Hon. Justice Agnes Actie

2020, despite the COVID-19 pandemic, the JEI completed the High Court staff training series in the islands of Montserrat and the British Virgin Islands. The training in the three islands were conducted virtually and were a great success.

The workshops brought together judges' secretaries, court clerks, filing clerks, case managers, court administrators and bailiffs. The objectives of the workshops were to: improve the quality of service delivered to the general public and legal fraternity; increase occupational skills and knowledge; and enhance the overall function of the court office staff. The areas

of focus at the workshops included:

- Building relationships with the public through effective customer service;
- Managing High Court procedures such as probate and the administration of estates;
- The civil case process including the appeals process and the criminal trial process;
- Training in the use of video and web conferencing applications as well as audio recording and filing.

The workshops were facilitated by an experienced team of Judicial Officers

and staff of the Court's Headquarters who delivered their presentations through practical exercises, hands-on demonstrations and role playing. The training programme will assist in improving and enhancing the administrative systems of the courts. One of the goals coming out of the training programme is the development of manuals which will outline the various procedures to be followed by Court Office staff in discharging their functions. These manuals or user guides will be invaluable to the increased efficiency and accountability in the Court Offices. It is our hope that the Registry manual will be completed by the end of 2021.

The JEI would like to thank the JURIST Project, a project coordinated by the Caribbean Court of Justice for its financial support towards the hosting of these vital training workshops.



HEADS OF DEPARTMENT LEADERSHIP DEVELOPMENT TRAINING FOR THE COURT'S HEADQUARTERS

This program had commenced in December 2018 with an assessment of the needs of the program as well as 360 reviews on all managers. This helped us shape the program to ensure the needs of the participants and the organization were met.

The first cohort of leaders

SUPPORTING THE COURT

OUR HUMAN RESOURCES

was provided with Leadership development training, which culminated with a presentation of their achievements to the Chief Justice and their colleagues. The second cohort was due to commence in 2020, but due to the Coronavirus pandemic, these activities were halted indefinitely.

CHANGING TO SUIT THE NEW NORMAL

The global pandemic forced the Eastern Caribbean Supreme Court to reevaluate the way we work. The threat of the Coronavirus affecting the region caused the management team to hold emergency meetings. The HR Department developed a Telecommuting policy which enabled us to continue operations throughout the pandemic.

The IT Department partnered with the HR Department and ensured that the infrastructure was set up allowing employees to work remotely and therefore ensure productivity was not severely affected by the shutdowns that took place across the Member States and Territories.

37% Think their Organisations are prepared for future changes

80% Believe it could take up to 3 years to strengthen their company culture due to COVID-19



THE FUTURE OF HR IN THE FACE OF COVID-19

The HR department hosted online sessions for members of staff on how to cope with the new normal as well as providing counseling for those most severely affected. The restrictions which the Coronavirus has placed on us has forced the ECSC to halt some of our annual training and development activities for the year 2019-2020, but we have been using alternative means to

ensure that the needs of all employees are met.

HR INTRANET PORTAL

The HR Department is currently working in collaboration with the Website Administrator to develop an HR Portal for all staff members. This will provide all employees with a central location where they can access all relevant HR Information, updates and guidelines.

OUR FINANCIAL RESOURCES



The Eastern Caribbean Supreme Court (ECSC) is financed by contributions from nine members of the Organization of Eastern Caribbean States (OECS) in accordance with an agreed percentage. This percentage of the approved annual budget is set by the Judicial & Legal Services Commission in concurrence with the OECS Heads of Government (or the Authority). Factors influencing the percentage contribution made by each Member State are the number of resident judges and number of Court sittings

in each Member territory. The Member State contributions presently agreed to are as follows:

MEMBER STATES CONTRIBUTIONS (%)



■	Anguilla	8
■	Antigua	13
■	BVI	13
■	Dominica	11
■	Grenada	13
■	Montserrat	5
■	St. Kitts & Nevis	11
■	Saint Lucia	13
■	SVG	13

BUDGET PREPARATION

The Court's Financial Year runs from September 1st to August 31st. As part of its normal functions, the Accounts Department prepares the annual budget of the ECSC and it is submitted by the Chief Justice to the Heads of Government of the OECS (or the Authority) for their approval.

Before the annual budget of the ECSC is approved by the Authority, it goes through three stages of analysis and review.

- In its first stage, under the direction of the Chief Justice and the Court Administrator, the budget is prepared by the Accountant utilizing historical data and information provided by the Department Heads at the ECSC Headquarters based on their respective departmental work plans. Upon completion, the draft budget is discussed at the

ECSC level and signed off by the Chief Justice.

- In the second stage, the budget is presented to the Budget Committee (comprising of budget officers and/or financial secretaries from each of the Member States and Territories) for their review and discussion. Once reviewed, they may make recommendations and suggest possible changes for the Court to consider prior to moving to the next stage.
- In its final stage, the budget is presented to the Authority by the Chief Justice. The budget is again reviewed, and critical aspects may be discussed and adjusted as agreed before the final approval is given by the Authority. It is a requirement that the decision to approve the budget must be unanimous.

Once the Budget is approved by the Authority, it becomes a treaty obligation of each Member State to pay the contributions in accordance with the preset percentages highlighted earlier.

Cost Centre	Approved Budget 2018/19	Presented Budget 2019/2020	Percentage Increase / (Decrease)
Personal Emoluments	11,511,382	12,917,285	12.21%
Administrative Expenses	4,186,685	4,171,344	-0.37%
Capital Expenditure	370,400	130,050	-64.89%
Judicial Education	637,095	526,728	-17.32%
Judicial and Legal Services Commission	150,858	129,267	-14.31%
Total	16,856,420	17,874,674	6.04%

These contributions are due on September 01 of each calendar year. The Court has been flexible in accepting contributions and the option is available for Member States to pay monthly,

quarterly or annually, in advance.

The approved budgets for the financial year under review and the prior financial year are as follows:

The ECSC presented a budget with an overall increase of 6.04% for the period 2019/2020. This was primarily the result of the salary increases approved for Judicial Officers and Staff

and the funding of a few additional positions at the ECSC Headquarters.

TIMELY FUNDING

We have continued to face the untimely receipt of cash contributions from some Member States and Territories (MSTs) and the situation with the COVID-19 pandemic has made the ability for some Member States and Territories to make timely payment of contributions that much worse.

We continue to work with and urge the different MSTs to put a plan in place to address the arrears of contributions. We hope that as we move into the next financial year we witness an improvement in the situation so that the Court can continue to provide the desired level of service to the users of the justice system.

During the year under review, we received very valuable contributions from the following donor agencies



to assist the court with its judicial education training programmes and justice reform initiatives: The British High Commission, the Bureau of International Narcotics and Law, UNDP, IMPACT Justice Project and the JURIST Project. Through these agencies, the JEI was able to stage the following programmes; the hosting of country by country High Court Staff training, Confiscation training for Judges and regional and international representation of our Judicial Officers at Caribbean and International Judicial Forums. The

funding from UNICEF and UN-Women allowed the ECSC to continue its work with the implementation of the Family Division of the High Court in Antigua amongst other activities.

OUR INFORMATION RESOURCES



LAW LIBRARY

During the reporting period the ECSC library continued its support of the work and information needs of the judicial officers and staff as

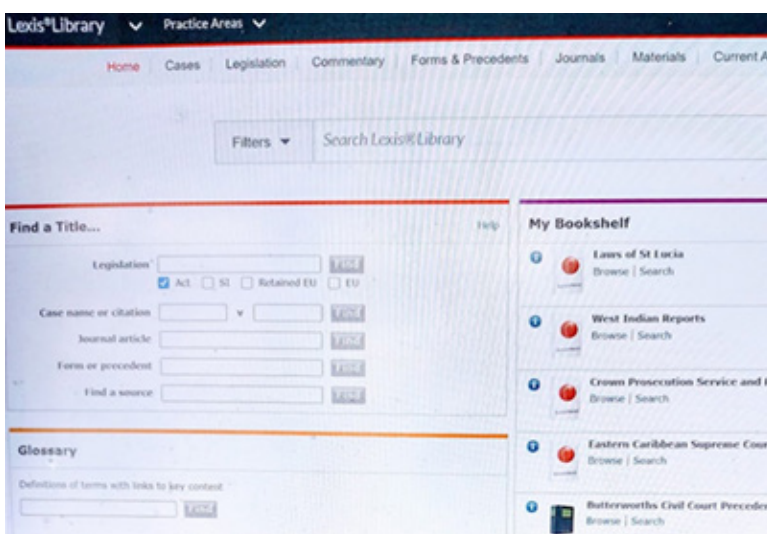
well as practicing attorneys who turned to the court's library for assistance in locating authorities. Library resources include subscriptions to a range of online

databases, core journals, law reports and legislation in addition to legal text books.

The Library significantly extended its existing online resources in 2019 and continued to maintain and expand the library hardcopy collection and digitizing same where appropriate.

ICT plays a huge part in the efficiency of the library, particularly in 2020 with the restrictions implemented as a result of COVID-19. Requests for electronic copies of legislation and cases increased significantly while in-office visits were suspended.

We continue to expand our digital collection thus allowing our judicial officers access to legal materials from the safety of their homes. We also maintain the physical collection by periodic weeding and through the generosity of partner agencies such as



IMPACT Justice Project who donated books; we were able to keep the collection up-to-date and relevant.

The library is also responsible for the preservation and digitization of judgments rendered from the ECSC. This is one of the more pressing activities of the library as we aim to keep pace with judgments delivered and clear an existing backlog.



The Information Services Manager and the Information Services Officer also availed themselves of continuing professional development and training to keep abreast of trends and best practices, and contributed to the profession by involvement in professional bodies.



Mr. Dwaymian Brissette- Information Services Manager and Ms. Anselma Fadlin- Information Services Officer in attendance at the Caribbean Association of Law Libraries Conference in St. Johns, Antigua.

RECORDS MANAGEMENT UNIT

Records are the informational assets of an organization and are critical to its operations. They are the organization's corporate memory and help protect its interests as well as those of its employees and the public. It is the organization's responsibility to manage its records and information effectively thus enabling accountability, transparency, and access. Effective records management ensures that the organization can document its decisions and activities and that the information needed is retrievable, authentic, and accurate.

The Records Management Unit (RMU) is responsible for the court's records management programme. This is a continuous process, and the state of the programme changes depending upon reorganization, technology improvements, changes in personnel, resources, and



other factors. For example, the ECSC E-filing project which commenced in 2018 has changed the way the court does business and has impacted on the creation and maintenance of court documents which are now fully digital. This means that a transition to a fully electronic environment is inevitable and that the RMU must ensure the preservation of, and access to permanent electronic records of the Eastern Caribbean Supreme Court.

This reporting period August 1, 2019 to July 31,

2020, was particularly challenging due to COVID-19, as many of us abruptly transitioned to extensive telework. As a result, we have implemented new systems and processes to improve virtual collaboration to accomplish our mission, and it is important to continue to identify and manage records created during this crisis. This situation has reinforced the vital importance of ensuring the management of electronic records in electronic format. It is therefore imperative that we devise a plan to address full transition to electronic

recordkeeping. This will ensure access to current and accurate information in a timely manner, from any location, at any time.

To this end, the RMU has identified the following key goals for transition to full electronic recordkeeping.

- A fully digitized Vital Records Management Programme. Some of the vital records are still in paper format, but the RMU has been working on a project for the digitization of all vital records, which should be completed by June 30, 2021.
- The management of all permanent records in electronic format (regardless of original format) with appropriate-metadata by December 31, 2023.
- The management of all temporary records in electronic format by

December 31, 2022.

- The digitization of the permanent inactive records created in hard copy or other analog formats (e.g. microfiche, microfilm, analog video, and analog audio) by December 31, 2023
- The development and implementation of a migration plan for long-term preservation of electronic records.
- The implementation of standard naming conventions for electronic documents. The naming conventions have been completed. However, there is need to include a section for court documents, and the assistance of the Case Manager II has been solicited.

While most records are now being created and stored electronically, there are challenges to maintaining all records in elec-

tronic format. These challenges include technology issues, legal or regulatory requirements that require paper, dependency on paper by some staff members, non-compliance to records management procedures, as well as an overall lack of resources. There is also the issue of the use of a variety of electronic information systems, cloud solutions, electronic messages including text messages, chat/instant messages, voice messages, and messages created in social media tools or applications, which are currently not included in the court's informational assets.

In order to ensure that all records created and received are included in the court's information assets, each staff member must continue to adhere to established records management procedures as set out in the Records Retention and Disposal Policy particularly as we transition to a fully digital environment.

The policy is currently under review and it is hoped that it will be finalized within the next two months.

The RMU has also developed draft rules for the management of court records along with draft schedules. We are currently awaiting feedback on the draft schedules from the High Courts. In addition, there was also a review of existing retention schedules to ensure that they still meet business needs, and to identify gaps that may indicate unscheduled records. These activities have been progressing slowly due to the Covid-19 pandemic.

During the reporting period, work in the following areas continued to progress satisfactorily, despite all the challenges which resulted from Covid-19:

1. Correspondence Management

During the reporting

year, we developed and implemented a web-based Correspondence Management Database, with the assistance of Mr. Demetrius Charles, Website Administrator. Phase I of the database, which is the correspondence data entry module, was implemented in April 2020. To date we have entered over 300 records and we are in the process of integrating over 65,000 records from the previous Microsoft Access correspondence database, which failed in November 2019.

Phase II of the database is the development of the records series module which we hope to implement by September 2021. This will complete our Correspondence Management Database and enable us to integrate into the Versatile records management programme

by providing links to the records in the database. It must be reported that though there are a few bugs which we continue to resolve as they arise, the system is working efficiently.

2. Active Records Management

The bulk of active records management activities revolved around coding and filing of paper-based records and provision of access to these records. These activities continued at its regular pace though there were challenges for filing and retrieval due to the relocation of staff to the Waterfront offices while the physical records are still located at the Renham offices. Arrangements have been made for the Records & Archives Officer II to carrying out filing and retrieval activities at the Renham offices, when necessary.

The RMU has embarked on a project to enhance the requests for retrieval of records (active and inactive) via a web-based records request form with the assistance of Mr. Demetrius Charles, Website Administrator. This new form will advance our move towards a fully digital environment, as well as reduce the time to receive requests for records and to provide the information for records and providing the information.

3. Inactive Records Management

Inactive records management activities continued to be very challenging during the reporting period. Staff have been unable to carry out any accessioning activities at the Records Centre since 2017, although we have transferred a total of 256 boxes during that period. We are currently experi-

encing some Logistical challenges which should be sorted out in short order. This means that the transferred boxes are currently stored on pallets and tables on top of each other. Despite this situation, we continued to update the inactive records metadata in the Versatile Records Management Programme, although we were unable to assign permanent box and location numbers to the transferred records. This has impacted negatively on our ability to retrieve any records which were transferred from 2017 to current. At this point, it must be noted that the furniture has since been relocated, however acquisition and installation of additional shelves are still pending. Though we have experienced challenges with some inactive records management activities, destruction activ-

ities have been 100% satisfactory. During the reporting period all records scheduled for destruction have been destroyed.

INFORMATION TECHNOLOGY



Attorney General of Montserrat, Mrs. Sheree Jemmotte Rodney, signing into ECSC E-Litigation Portal for the first time

ECSC E-LITIGATION PORTAL

As a result of the Covid-19 pandemic, the ECSC was only able to launch the Portal in three additional MSTs during this reporting period. The island of Montserrat became the sixth MST to go-live with the ECSC E-Litigation Portal. Staff members from the High Court Registry and Attorney General's office along with all legal Practitioners (with their clerks) were trained during

the latter part of February into early March 2020. The Portal went live for filing of all Civil and Court of Appeal Matters in Montserrat on March 2, 2020.

Litigants in the MST of Anguilla, Antigua and Barbuda, Montserrat, St. Kitts and Nevis, Saint Lucia and the Territory of the Virgin Islands (TVI) are now able to file and manage all Civil (including Commercial

matters in Saint Lucia and TVI) and Court of Appeal matters electronically via the portal. Civil (including Commercial in Saint Lucia and TVI) and Court of Appeal Matters that were originally filed and managed manually can now be migrated into the E-Litigation Portal through implementation of the Practice Guide 1 of 2020 – **“Migration of Court of Appeal, Civil, and Commercial Matters manually filed prior to the implementation of the Electronic Litigation Portal.”**

The implementation of the Portal in the remaining MSTs – Commonwealth of Dominica, Grenada and St. Vincent and the Grenadines is currently being planned amidst the pandemic. Effective implementation is contingent on hands-on training of all stakeholders in the various Courts. ECSC ELP Implementation Team is exploring the use of on-line training modalities, most likely via Zoom, and which will involve smaller

groups of trainees per session.

The ECSC E-Litigation Team has been focusing heavily during the last few months on the provision of timely support to users of the Portal including legal practitioners, court staff and judicial officers. The utility of the Portal was demonstrated even more with the advent of the COVID-19 pandemic when the physical court offices were closed but filing of civil and appeal matters were still being done, electronically. Configuration of the Portal to manage Family and Criminal case types also continues apace. We anticipate that these modules will be available for implementation during the latter part of 2021.

REMOTE OPERATIONS OF THE COURT

The COVID-19 Pandemic also ushered in a greater shift towards the use of online technology by all Courts and Staff in the MSTs. The



Group of Participants at Montserrat Training Session

efforts of IT department also gravitated towards the provision of access to and support in the use of several online technologies in the Courts and by Judicial officers and staff. The Court increased the number of licensed zoom accounts from six to 45 to allow all Courts in the subregion to undertake Zoom Hearings. The ECSC also acquired licenses for Microsoft Teams and SharePoint for all Judges, Masters and Staff. The use of online shared drives such as OneDrive and Google Drive has also become more prominent by staff

at the ECSC. The need for staff to remotely access resources on the ECSC Server using VPN connectivity has been another technology staple of the Court. The heavy utilization of electronic case documents has also necessitated the use of Adobe Acrobat Professional by Judges for easy commenting, bookmarking and referencing of the content and pages of documents. As a consequence, the IT Department has acquired a few Adobe Acrobat Professional licenses for Judges; initially for Judges of the Court of Appeal.



ECSC Application Support Officer leading training session with ECSC Systems Administrator providing support, in Montserrat

The Court of Appeal has been conducting remote hearings from its base Country – Saint Lucia from the onset of the pandemic, primarily via Zoom. The COA schedule has not been affected by the pandemic. Prior to the pandemic, the Chief Justice and other COA Judges made frequent use of Zoom for Chamber Hearings. Also, all Status Hearings and Case Management of all COA matters have long been conducted by the Chief Registrar and Deputy Chief Registrar re-

spectively via Zoom.

Each High Court has been provided with two to four zoom licenses. Licenses were also made available to Masters. In addition, several Magistrate's Courts have also been provided with temporary Zoom Licenses (two each) under the "Support for Remote Operations of Magistrate's Courts" project funded by the British High Commission (Barbados). The project also provided four laptop computers, printers and

mobile phones to Magistrate's Courts in the Independent Member States to facilitate the operations of Courts during the pandemic. Remote operation of the ECSC Headquarters staff was also facilitated by the provision of ten laptop computers by JURIST to the staff of the Eastern Caribbean Supreme, many of whom are working from home, and participating in Zoom Hearings. JURIST has also solicited proposals (valued about US \$20,000) from several High Courts and Magistrates' Courts in the MSTs in an effort to provide further support during the pandemic.

The IT Department continues to implement and provide support to several technologies used in Courts throughout the Sub-region. The ECSC Website continues to play a pivotal role in sharing information of the Court's work.



COURT PERFORMANCE

COURT PERFORMANCE AT A GLANCE

EASTERN CARIBBEAN SUPREME COURT 2019

COURT OF APPEAL

Total filed appeals: 481

Full Court matters listed and heard: 430 and 393

Status matters listed and heard: 590 and 393

Chamber matters listed and heard: 494 and 456

13 video/teleconference matters listed and heard

Written judgments: 55

Oral judgments: 348

OVERVIEW

This report examines the case load and case flow within the Eastern Caribbean Supreme Court for the year 2019 and in many instances trends from 2017 to 2019 are shown. Indicators such as clearance rates and time to disposition of cases are also given to evaluate Court performance.

HIGH COURTS

Overall clearance rate: 58.85%

Total filed cases: 7,450

Total disposed cases: 4,384

MAGISTRATES COURTS

Overall clearance rate: 79.73%

Total filed cases: 41,053

Total disposed cases: 32,731

FAMILY COURTS

SVG clearance rate: 86.28%

SLU clearance rate: 91.55%

The ECSC extends thanks to the Registrars, Deputy Registrars, Magistrates, Court Administrators, Directors of the Family Courts, JEMS users and other personnel within the Courts for assist-

ing with the verification of data obtained from JEMS. Data within this report are rounded to two decimal places and are subject to slight round off error; however the data remains valid.

SECTION 1 COURT OF APPEAL

There were 481 appeals filed in total in the High Courts and Magistrates Courts during the year 2019:

- 186 High Court Civil Appeals
- 106 High Court Criminal Appeals
- 26 High Court Commercial Appeals
- 12 Industrial Court/Labor Tribunal Appeals
- 34 Magisterial Civil Appeals
- 117 Magisterial Criminal Appeals

Table 1 (a) gives information on the numbers of filed appeals for the period 2017 to 2019. Total appeals fluctuated over the three years but from 2018 to 2019 total appeals filed declined by 6.24%.

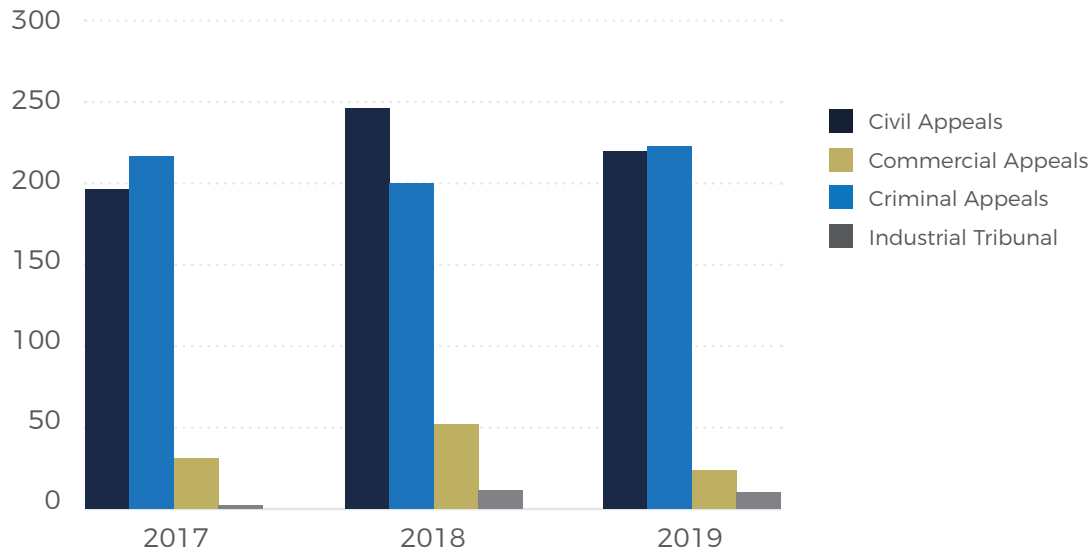
This paragraph references the year 2019: Civil and Criminal appeals were 45.74% and 46.36% respectively of total filed appeals. The 26 High Court Commercial appeals included 20 from the Territory of the Virgin Islands and 6 from Saint Lucia. There were 8 Labour/Industrial Court ap-

peals filed in Antigua and Barbuda and 4 in Montserrat.

Over the 3-year period, Civil appeals were more dominant in the High Courts, whereas more Criminal Appeals were filed in the Magistrates Courts. From 2017 to 2019, Civil appeals were on average 57.34% of total appeals filed in the High Courts and Criminal appeals were on average 75.65% of total appeals filed in the Magistrates Courts.

TABLE 1 (A) COMPARISON BETWEEN TOTAL APPEALS FILED, 2017 TO 2019

Type of Appeal	2017			2018			2019		
	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total
Civil Appeals	164	33	197	193	54	247	186	34	220
Criminal Appeals	85	132	217	72	127	199	106	117	223
Commercial Appeals	33		33	54		54	26		26
Industrial/Labour	3		3	13		13	12		12
Total	285	165	450	332	181	513	330	151	481

FIGURE 1: TOTAL NUMBER OF APPEALS FILED BY CASE TYPE, 2017 TO 2019

Tables 1(b) and 1(c) compare Civil and Criminal Appeals only. The numbers of Civil and Criminal appeals filed in the **High**

Courts from 2017 to 2019 are shown in Table 1(b). Overall, both Civil and Criminal appeal totals fluctuated over the three

years however the Civil appeals declined from 2018 to 2019 while the Criminal appeals increased.

TABLE 1 (B) HIGH COURT CIVIL AND CRIMINAL APPEALS FILED BY MEMBER STATE: 2017 TO 2019

Member States	2017		2018		2019	
	Civil	Criminal	Civil	Criminal	Civil	Criminal
Anguilla	10	1	14	0	6	2
Antigua and Barbuda	29	6	49	12	24	16
Commonwealth of Dominica	8	6	11	1	6	4
Grenada	19	27	17	22	27	30
Montserrat	8	5	11	3	17	4
St. Kitts and Nevis	27	8	29	6	50	12
Saint Lucia	42	12	41	2	28	5
St. Vincent and the Grenadines	14	16	14	26	23	31
Territory of the Virgin Islands	7	4	7	0	5	2
Total	164	85	193	72	186	106

Data shown in Table 1(c) the **Magistrates Courts** declined over the three years. point to the following: Total Civil appeals filed in fluctuated while Criminal Appeals continuously de-

TABLE 1 (C) MAGISTRATES COURT CIVIL AND CRIMINAL APPEALS FILED BY MEMBER STATE: 2017 TO 2019

Member States	2017		2018		2019	
	Civil	Criminal	Civil	Criminal	Civil	Criminal
Anguilla	1	2	0	1	0	0
Antigua and Barbuda	5	5	4	1	5	4
Commonwealth of Dominica	2	27	12	11	7	18
Grenada	3	7	3	21	3	21
Montserrat	3	4	2	10	0	7
St. Kitts and Nevis	9	9	22	8	7	11
Saint Lucia	0	5	2	16	2	6
St. Vincent and the Grenadines	8	70	6	56	10	47
Territory of the Virgin Islands	2	3	3	3	0	3
Total	33	132	54	127	34	117

Table 1(d) below gives a breakdown of written judgments by Member State for the years 2017 to 2019. Total written judgments

gradually declined over the three years. There was a total of 55 written judgments delivered by the full court in 2019 which included

oral judgments reduced to writing and reasons for decisions.

TABLE 1(D) WRITTEN JUDGMENTS DELIVERED BY THE COURT OF APPEAL BY MEMBER STATE, 2017 TO 2019

Total Written Judgments Delivered (including oral judgments reduced to writing and reasons for decisions)						
Member States	2017 Total	2017 (%)	2018 Total	2018 (%)	2019 Total	2019 (%)
Anguilla	2	2.99	3	5.36	4	7.27
Antigua and Barbuda	18	26.87	6	10.71	12	21.82
Commonwealth of Dominica	2	2.99	2	3.57	1	1.82
Grenada	8	11.94	7	12.50	3	5.45
Montserrat	3	4.48	4	7.14	2	3.64
St. Kitts and Nevis	7	10.45	3	5.36	2	3.64
Saint Lucia	5	7.46	4	7.14	15	27.27
SVG	4	5.97	3	5.36	1	1.82
Territory of the Virgin Islands	18	26.87	24	42.86	15	27.27
Total	67	100.00	56	100.00	55	100.00

Table 1(e) gives information on the numbers of the various sittings held by the Court of Appeal from 2017 to 2019. From 2019 the sit-

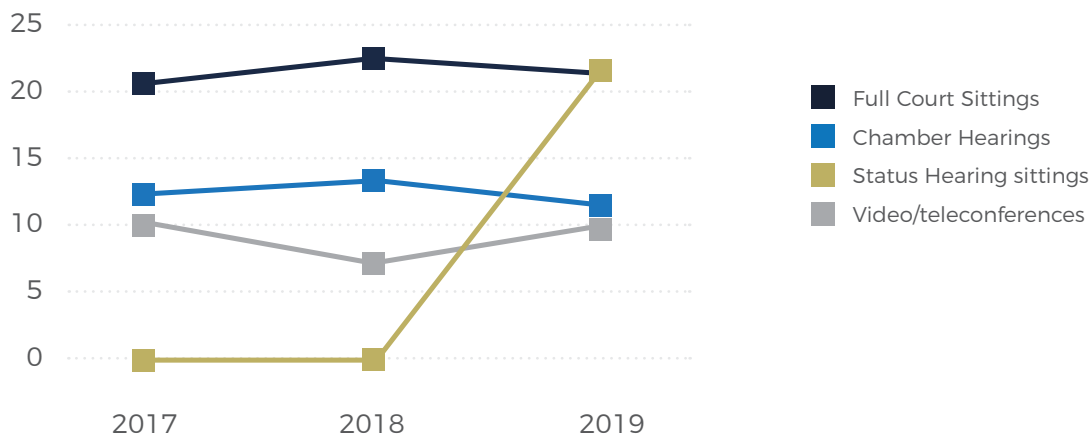
tings for the full court and status hearings were held separately. In the previous years, full court sittings and status hearings were ac-

tivities undertaken by the Court of Appeal however from January 2019, the status hearings were conducted by the Chief Registrar.

TABLE 1 (E) ACTIVITIES OF THE COURT OF APPEAL: 2017 TO 2019

Activity	Total 2017	Percentage of total activities in 2017 (%)	Total 2018	Percentage of total activities in 2018 (%)	Total 2019	Percentage of total activities in 2019 (%)
Full Court Sittings	20	47.62	22	52.38	21	33.33
Status Hearing sittings	-	-	-	-	21	33.33
Chamber Hearings	12	28.57	13	30.95	11	17.46
Video/teleconferences	10	23.81	7	16.67	10	15.87
Total	42	100.00	42	100.00	63	100.00

FIGURE 2: TOTAL ACTIVITIES OF THE COURT OF APPEAL, 2017 TO 2019



The numbers of appeal matters dealt with during chamber hearings and video/teleconferences are shown in Table 1 (f) be-

low. The numbers of matters heard during chamber hearings continuously increased from 2017 to 2019 while the numbers of mat-

ters heard during video conferences dropped from 2017 to 2018 and slightly increased in 2019.

TABLE 1 (F) APPEAL MATTERS HEARD DURING CHAMBER HEARINGS, VIDEO/TELE CONFERENCES: 2017 TO 2019

Year	2017		2018		2019	
	Total no. of sittings	No. of matters heard	Total no. of sittings	No. of matters heard	Total no. of sittings	No. of matters heard
Chamber Hearings	12	377	13	436	11	456
Video/ Tele Conferences	10	18	7	8	10	13

The total numbers of appeal matters (applications and appeals) listed and heard for 2019 are compared in Table 1(g). **The matters heard during the Court sittings have outcomes which can be categorized as: oral judgments/decisions, directions, reserved decisions and adjournments.** In this table, the outcomes for matters heard excludes only the

adjournments. In 2019, for all court sittings combined, 1,255 matters were heard out of the 1,527 listed matters and thus roughly 82% of all listed appeal matters were heard.

Noteworthy is that 14 of the High Court Civil Appeals listed and heard during full court sittings were Commercial cases. Additionally, during the year 2019, 17

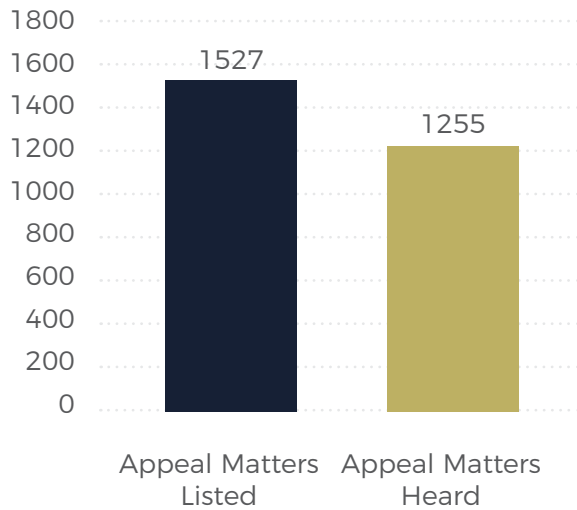
High Court Commercial appeals came up for status hearing.

The numbers of appeals heard do not directly correlate with appeals filed since appeals filed from previous years could have been heard during 2019 and also not all appeals filed in 2019 were necessarily heard.

TABLE 1 (G): NUMBERS OF APPLICATIONS AND APPEALS LISTED AND HEARD DURING 2019

Type of Matter	Matters Listed	Matters Heard
Full Court Sitzings		
Applications/Motions	117	112
High Court Criminal Appeals	45	38
High Court Civil Appeals	157	146
Magisterial Criminal Appeals	102	90
Magisterial Civil Appeals	9	7
Total for Full Court Sitzings	430	393
Status Hearings		
High Court Criminal Appeals	119	88
High Court Civil Appeals	246	138
Magisterial Criminal Appeals	142	113
Magisterial Civil Appeals	83	54
Total for Status Hearings	590	393
Chamber Hearings		
Total for all Chamber matters	494	456
Video/Teleconferences		
Total for all video/teleconference matters	13	13
Total for all Sitzings	1527	1255

FIGURE 3: COMPARISON BETWEEN TOTAL APPEAL MATTERS (APPLICATIONS AND APPEALS) LISTED AND HEARD, 2019



DISPOSED APPEALS AND APPLICATIONS

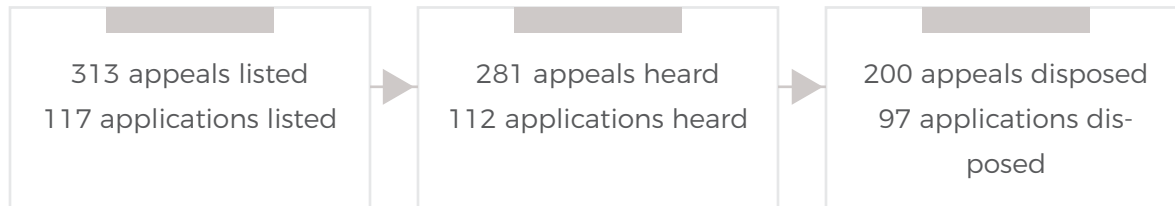
Figures 4(a) and 4(b) depict the numbers of matters which were disposed of or completed by the Court of Appeal during the year 2019. As previously stated, the matters heard during Court sittings have outcomes which can be categorized as: oral judgments/decisions, directions,

reserved decisions and adjournments. The disposed appeals and applications include only the oral judgments/decisions where final decisions or judgments **were made and given during the sittings.**

The flow of matters listed, heard (as obtained from Table 1(g)) and disposed of is shown in Figures 4(a) and 4(b). During Full Court

Sittings, there were 200 appeals disposed out of the 281 appeals heard, hence approximately 71% of appeals heard were disposed of. Additionally, during Full Court Sittings, there were 97 applications disposed of out of the 112 which were heard and thus roughly 87% of applications heard were disposed of.

FIGURE 4A: NUMBERS OF APPEALS AND APPLICATIONS LISTED, HEARD AND DISPOSED DURING FULL COURT SITTINGS IN 2019

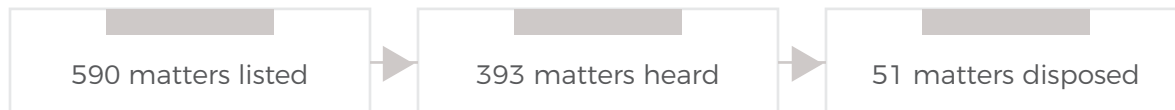


Status hearings are geared more towards determining the status of matters which at the time have not progressed to the stage of

hearing. At these hearings, orders are made to further the matter along in preparation for hearing. For such matters there are instances

where dispositions occur and it must be noted that 51 appeal matters were disposed of during status hearings in 2019.

FIGURE 4B: NUMBER OF APPEAL MATTERS LISTED, HEARD AND DISPOSED OF DURING STATUS HEARINGS IN 2019



A comparison between the number of oral and written decisions is given in Table 1(h). Oral judgments/deci-

sions (which can be added up from the disposed applications and appeals in Figures 4(a) and (b) above)

formed the majority of total decisions in 2019 and were approximately 86% of total decisions delivered.

TABLE 1 (H) COMPARISON BETWEEN ORAL AND WRITTEN JUDGMENTS DELIVERED BY THE COURT OF APPEAL, 2019

Year	2019	2019 (%)
Number of written judgments	55	13.65
Number of oral judgments/decisions	348	86.35
Total Decisions delivered	403	100

SECTION 2 HIGH COURTS

This section highlights the caseload of the High Courts in 2019 with some comparative data on filed and disposed cases as well as clearance rates from 2017 to 2019.

The overall clearance rates from 2017 to 2019 are given

in Table 2(a) which follows. The overall clearance rate continuously declined over the three years and was lowest at 58.85% in 2019. It is noted that none of the High Courts recorded a clearance rate above 100% in 2019 which points to non-reduction of case backlog. Both total filed and disposed cases fluctuated over the three-year

timeframe. These results flag a dire need for continued measures to work with those countries which recorded low clearance rates over the 2017 – 2019 period and generally to identify strategies in order to facilitate the disposition of cases in a more timely manner within the High Courts.

TABLE 2 (A) COMPARISON OF CLEARANCE RATES IN THE HIGH COURTS: 2017 TO 2019

Country	2017			2018			2019		
	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)
Anguilla	205	113	55.12	181	112	61.88	159	108	67.92
A&B	1248	1000	80.13	1005	1063	105.77	1396	953	68.27
C o m m . Dominica	430	199	46.28	842	189	22.45	422	127	30.09
Grenada	1294	778	60.12	1032	411	39.83	1463	435	29.73
Montserrat	95	83	87.37	110	88	80.00	123	115	93.50
SKN	947	405	42.77	775	294	37.94	738	323	43.77
Saint Lucia	1754	1892	107.87	1565	1313	83.90	1618	1480	91.47
SVG	489	98	20.04	445	226	50.79	631	394	62.44
TVI	735	283	38.50	836	437	52.27	900	449	49.89
Total	7197	4851	67.40	6791	4133	60.86	7450	4384	58.85

Figure 5 depicts the fluctuation of total filed and disposed cases and shows to-

tal filed cases continuously above the disposed totals. The downward trend in the

overall clearance rates is illustrated in Figure 6.

FIGURE 5: TOTAL FILED AND DISPOSED CASES IN THE HIGH COURTS: 2017 TO 2019

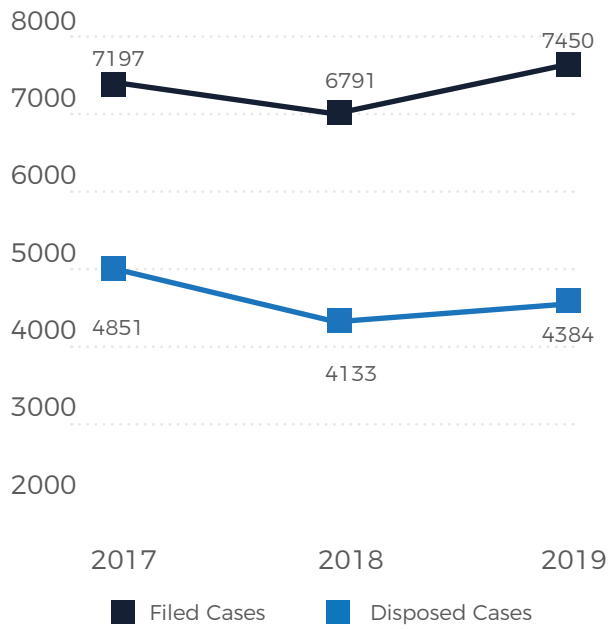
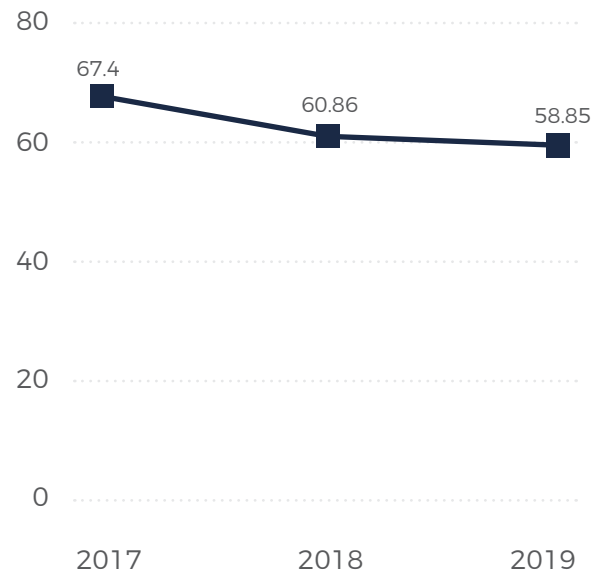


FIGURE 6: OVERALL CLEARANCE RATES (%) OF CASES IN THE HIGH COURTS: 2017 TO 2019



The following are deduced from Table 2(b): The majority of total filed and disposed cases were Civil cases (over 40% of each). When combined, Civil and

Probate cases were 72.54% and 61.93% of total filed and disposed caseloads, respectively. Pertaining to the "Other" category; the 24 filed cases included 3 Cave-

at and 21 Disciplinary matters from Saint Lucia while the 2 disposed cases were Disciplinary matters from that same jurisdiction.

TABLE 2 (B) CASES FILED AND DISPOSED BY MAJOR CASE TYPE IN THE HIGH COURTS: 2019

Case Type	2019			
	Filed Cases	% of Total Filed Cases	Disposed Cases	% of Total Disposed Cases
Civil	3,477	46.67	1,783	40.67
Probate	1,927	25.87	932	21.26
Matrimonial	940	12.62	800	18.25
Criminal	739	9.92	763	17.40
Commercial	289	3.88	80	1.82
Adoption	47	0.63	20	0.46
Admiralty	7	0.09	4	0.09
Other	24	0.32	2	0.05
Total	7,450	100.00	4,384	100.00

Table 2 (c) shows the numbers of filed cases by case type and Member State. Some points to note from this table include:

- Saint Lucia recorded the highest number of total filed cases (21.72% of the total)
- Civil cases were a major 46.67% of total filed cases
- The Criminal cases filed

in the jurisdictions of Saint Lucia and St. Vincent and the Grenadines represented 63.33% of total filed Criminal cases

- The most probate cases were filed in Grenada (36.79% of total filed probate cases)
- The 24 cases categorized as "Other" from Saint Lucia were 3 Ca-

veat and 21 Disciplinary cases

- Data on filed probate cases in Dominica were not available; measures are being put in place by the relevant persons to ensure that this data are available for the next report. This also applies to the disposed probate cases

TABLE 2 (C) CASES FILED IN THE HIGH COURTS BY CASE TYPE AND MEMBER STATE: 2019

Member States	2019									Country Total as a % of Total
	Admir.	Adopt.	Civil	Comm.	Crim.	Matri.	Pro-bate	Other	Total	
Anguilla			63		15	36	45		159	2.13
Antigua and Barbuda		5	722		91	214	364		1396	18.74
Comm. of Dominica		13	308		15	86	na		422	5.66
Grenada	4	9	573		68	100	709		1463	19.64
Montserrat			59		24	5	35		123	1.65
St. Kitts and Nevis		1	455		25	118	139		738	9.91
Saint Lucia		16	624	102	266	210	376	24	1618	21.72
St Vincent and the Grenadines	2		259		202	117	51		631	8.47
Territory of the Virgin Islands	1	3	414	187	33	54	208		900	12.08
Total	7	47	3,477	289	739	940	1,927	24	7,450	100.00
Case Type as a % of Total	0.09	0.63	46.67	3.88	9.92	12.62	25.87	0.32	100.00	

Admir. (Admiralty), Adopt. (Adoption), Comm. (Commercial), Crim. (Criminal), Matri. (Matrimonial)

Some of the more pertinent information inferred from Table 2(d) which provides data on the disposed cases in the Member States by Case Type are listed following:

- The highest numbers of disposed cases were from Saint Lucia (33.76% of total dis-

posed cases)

- Civil cases were the most frequent types of disposed cases (40.67% of total disposed cases)
- Saint Lucia recorded the highest numbers of disposed Civil and Criminal cases
- Three jurisdictions accounted for 76% of total disposed Matrimonial

cases: Grenada, Saint Lucia and Antigua and Barbuda

- Over half (55.69%) of disposed probate cases were from Antigua and Barbuda and Saint Lucia
- The 2 cases categorized as "Other" from Saint Lucia, were Disciplinary matters

TABLE 2 (D) CASES DISPOSED IN THE HIGH COURTS BY CASE TYPE AND MEMBER STATE: 2019

Member States	2019									Country Total as a % of Total
	Admir.	Adopt.	Civil	Comm.	Crim.	Matri.	Probate	Other	Total	
Anguilla			23		3	41	41		108	2.46
Antigua and Barbuda			363		167	153	270		953	21.74
Comm. of Dominica		8	77		27	15	na		127	2.90
Grenada	2	1	104		42	248	38		435	9.92
Montserrat			55		19	7	34		115	2.62
St. Kitts and Nevis			177		11	24	111		323	7.37
Saint Lucia		10	672	27	313	207	249	2	1480	33.76
St Vincent and the Grenadines			136		151	66	41		394	8.99
Territory of the Virgin Islands	2	1	176	53	30	39	148		449	10.24
Total	4	20	1,783	80	763	800	932	2	4,384	100.00
Case Type as a % of Total	0.09	0.46	40.67	1.82	17.40	18.25	21.26	0.05	100.00	

TIME TO DISPOSITION REPORTS FOR HIGH COURTS

Table 2(e) showcases the numbers of cases disposed (within the listed timeframes) in 2019, by Member State. It must be noted that in some instances, the data are not consistent with the previous totals on disposed cases since only data from JEMS were used in the time to disposition

reports in this section, while in the previous tables there are some instances when manual data were obtained for inclusion during the data verification process with the Court Offices. Data for St. Vincent and the Grenadines are not included because minimal data were obtained from the software.

Table 2(e) shows the time

to disposition in days by time frame and Member State. The time range when the most cases were disposed was “more than 720 days” (more than two years) where 33.16% of cases were disposed. Figure 7 depicts the overall percentage of cases disposed within the time periods specified in Table 2(e).

TABLE 2(E) THE NUMBERS OF CASES DISPOSED (WITHIN THE LISTED TIMEFRAMES) IN THE HIGH COURTS IN 2019, BY MEMBER STATE

Time to disp. of all cases	An-guilla	Antigua and Barbu-da	Comm. of Domi-nica	Grena-da	Mont.	St. Kitts and Nevis	Saint Lucia	TVI	Total	% of Total
<1	0	2	0	4	0	0	6	0	12	0.31
1 to 90	10	188	8	46	67	79	182	155	735	18.70
91 – 180	22	94	8	90	11	32	133	97	487	12.39
181-360	32	145	34	137	10	57	238	86	739	18.80
361-720	23	131	13	65	13	66	275	68	654	16.64
>720	16	383	12	92	14	81	639	66	1303	33.16
Total cases	103	943	75	434	115	315	1473	472	3930	100.00

FIGURE 7: PERCENTAGE OF CASES DISPOSED WITHIN THE SPECIFIED TIME PERIODS IN THE HIGH COURTS, 2019

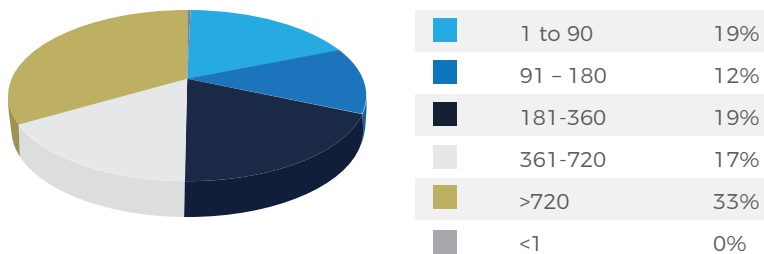


Table 2(f) displays the cumulative percentages which indicate the percentage of cases disposed within the said timeframes, by Member State. On average, just about half of the cas-

es (50.20%) were disposed within the one-year mark and 66.84% of cases were disposed within two years.

It should be noted that the High Court in Montser-

rat disposed of over half of their cases within a three-month timeframe and the High Court in the Territory of the Virgin Islands disposed of over half of their cases within six months.

TABLE 2(F) CUMULATIVE PERCENTAGES; TIME TO DISPOSITION FOR THE HIGH COURTS, 2019

Member States	Cumulative percentages: % cases disposed within:			
	90 days/ 3 months	180 days/ 6 months	360 days/ 12 months/ 1 year	720 days/ 24 months/ 2 years
Anguilla	9.71	31.07	62.14	84.47
Antigua and Barbuda	20.15	30.12	45.49	59.38
Commonwealth of Dominica	10.67	21.33	66.67	84.00
Grenada	11.52	32.26	63.82	78.80
Montserrat	58.26	67.83	76.52	87.83
St. Kitts and Nevis	25.08	35.24	53.33	74.29
Saint Lucia	12.76	21.79	37.95	56.62
Territory of the Virgin Islands	32.84	53.39	71.61	86.02
Overall	19.01	31.40	50.20	66.84

Data on the average time to disposition by case type are shown in Table 2(g); as obtained from JEMS.

TABLE 2(G) AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE FOR THE HIGH COURTS, 2019

Case Types	Anguilla		Antigua and Barbuda		Comm. of Dominica		Grenada		St. Kitts and Nevis	
	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Admiralty							2	548		
Adoption					6	181	1	94		
Civil	18	535	362	1774	35	194	104	1058	177	525
Criminal	3	341	158	475	27	681	42	748	4	235
Matrimonial	41	480	153	455	7	272	247	385	23	946
Probate	41	331	270	680			38	41	111	493

TABLE 2(G) CONTINUED AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE FOR THE HIGH COURTS, 2019

Case Types	Montserrat		Saint Lucia		TVI	
	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Admiralty					2	749
Adoption			10	449	1	261
Civil	55	413	672	1043		
Commercial			25	415	24	640
Criminal	19	136	308	1530	26	331
Disciplinary			2	1630		
Matrimonial	7	399	207	786	39	639
Probate	34	15	249	267	204	270

Data in Table 2 (h) shows that Chamber Hearings followed by Case Manage-

ment Conferences (including Masters Hearings) were the most common events

in the High Courts and together they represented 42.77% of total events

TABLE 2 (H) SUMMARY OF EVENTS IN THE HIGH COURTS: 2019

Types of Events	2019										
	Ang.	A&B	Comm. of Dom.	Gren.	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Chamber Hearing	121	339	249	770	3	493	1865	1385	522	5747	23.70
Case Management Conference/Masters Hearing/Order on Case Management Conference	27	857	481	647	43	397	1903	34	234	4623	19.07
Fixed Date Claim Form Hearing/First Hearing	4	343	10	702	32		756	19	187	2053	8.47
Criminal Trial	2		11	18		29	1984	53	22	2119	8.74
Open Court Hearing			239			427		737	478	1881	7.76
Status Hearing	11				34		934	10	65	1054	4.35
Sufficiency Hearing							960			960	3.96
Judgment Summons		457	11						14	482	1.99
Omnibus Conference/Hearing							361			361	1.49
Civil Trial	3	70	3	16	11	54	213	97	35	502	2.07
Arraignment			26	87			294	61	7	475	1.96
Uncontested Divorce		1		172		36	271	34		514	2.12
Sentencing					1	36	540			577	2.38
Pre -Trial Review/conference	1	119			1	3	168	7	24	323	1.33

Types of Events	2019										
	Ang.	A&B	Comm. of Dom.	Gren.	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Divorce/Con- tested Divorce/ Decree Nisi	32	26	143				3	3	78	285	1.18
Application for Committal Or- ders/ Committal Proceedings		145					165			310	1.28
Bail Hearing							237	40	11	288	1.19
Application Without Hear- ing			1	2			270	1		274	1.13
Hearing of Pe- tition		216								216	0.89
Application for special proce- dure/Special Procedure				262						262	1.08
Directions/ Request for directions									108	108	0.45
Admission to Bar									98	98	0.40
Judgment De- livery			5		1	2	82	39		129	0.53
Decree Abso- lute	26									26	0.11
Matrimonial/ Ancillary Relief									46	46	0.19
Disciplinary Hearing							70			70	0.29
Fitness Hearing							45			45	0.19
Adoption Order/ Adoption			4							4	0.02
Judicial Sale							38			38	0.16
Mixed cause list	231									231	0.95
Other					29	86	8	13	7	143	0.59
Total	458	2573	1183	2676	155	1563	11167	2533	1936	24244	100.00

** For some of the Member States including SLU; data includes adjournments and this would account for the high figures.

THE SEXUAL OFFENCES MODEL COURT (SOMC) IN ANTIGUA AND BARBUDA

Antigua and Barbuda was chosen as the first site for the establishment of a Sexual Offences Model Court which is a specialized Court to prosecute sexual offence cases. The effective implementation of this Model Court will result in:

1. Timely disposition of cases involving these types of offences
2. Reduction of secondary trauma or revictimization through the use of gender sensitive and /or other appropriate support processes
3. Proper monitoring of sexual offence cases from filing to disposition
4. Fostering greater coordination among and between the police, legal practitioners (to include judges), victim and support units among others who work along the justice chain for sexual offences matters



This court was established as part of a special initiative of the Government of Canada funded JURIST Project who funded the preparation of the “Inception Report and Workplan” as well as the remodeling and outfitting of one of the courtrooms and an offsite witness evidence room with the appropriate technology for the conduct of matters in the specialized court.

The Sexual Offences Model Court was implemented in January 2019. The day to day operations of the Court are under the direct supervision of the Deputy

Registrar, Criminal Division and the position of Criminal Division Case Manager was created to manage the caseload among other matters. It is expected that this position will be filled in the foreseeable future. The following data has been compiled thus far by the Court:

Data from January 2019 to October 2020 on the Sexual Offences Model Court in Antigua and Barbuda

1. Number of completed SOMC cases since January 2019: 27
2. Types of Offences for the completed SOMC cases:

TABLE 2 (I) : BREAKDOWN OF THE 27 COMPLETED CASES BY TYPE OF OFFENCE

Offence	Number of cases
Incest	1
Indecent Assault	6
Rape	7
Serious Indecency	6
Unlawful Sexual Intercourse	7
Total	27

3. Of the 27 completed cases; there were:
- 12 Guilty Pleas
 - 3 Convictions after trial
 - 2 Acquittals
 - 10 matters discontinued by the Office of the DPP

SECTION 3 MAGISTRATES COURTS

This section gives information on the Magistrates Courts for 2019 with comparative data shown from 2017 to 2019 in the first table. Data on family court matters in Saint Lucia as well as St. Vincent and the Grenadines are given in the following section on Family Courts because these 2 jurisdictions have official Family Courts.

The overall clearance rates for 2017 to 2019, shown in Table 3(a), increased continuously but slightly over the three years, from 76.87% in 2017 to 79.66% in 2018 to 79.73% in 2019. It is also observed that the Magistrates Courts collectively recorded clearance



rates below 100% for all 3 years and there continues to be a need to focus on reduction of case backlog. Antigua and Barbuda was the only Member State with a clearance rate below 50% in 2019, although there was some improvement from the previous year. Both overall total filed and disposed cases first increased from 2017 to 2018 but declined from 2018 to 2019.

Worth mentioning is that the number of filed cases from 2017 to 2018 in the Saint Lucia Magistrates Court almost doubled over the two-year period. This was attributed to a drastic increase in the numbers of traffic ticket cases filed from 3894 in 2017 to 9566 in 2018 in that jurisdiction.

TABLE 3 (A) CASES FILED AND DISPOSED BY MEMBER STATE IN THE MAGISTRATES COURTS WITH ACCOMPANYING CLEARANCE RATES: 2017 TO 2019

Country	2017			2018			2019		
	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)
Anguilla	636	636	100.00	609	589	96.72	572	600	104.90
Antigua and Barbuda	3,002	960	31.98	4,210	1,092	25.94	3,808	1,718	45.12
Comm. of Dominica	3,349	3,130	93.46	4,190	4,108	98.04	3,843	4,037	105.05
Grenada	10,346	8,626	83.38	11,286	10,153	89.96	11,545	8,025	69.51
Montserrat	406	416	102.46	313	252	80.51	415	305	73.49
St. Kitts and Nevis	5,207	3,449	66.24	6,246	4,664	74.67	5,932	4,425	74.60
Saint Lucia	6,353	4,761	74.94	12,021	9,717	80.83	9,874	8,785	88.97
SVG	3,905	3,676	94.14	5,509	4,266	77.44	3,994	3,711	92.91
TVI	1,070	692	64.67	917	1,247	135.99	1,070	1,125	105.14
Total	34,274	26,346	76.87	45,301	36,088	79.66	41,053	32,731	79.73

Traffic cases were the most frequently filed and disposed cases; 45.72% of total filed and 47.49% of total

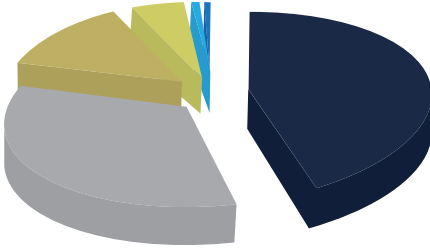
disposed cases. Traffic and Criminal cases combined were a significant 78.83% and 79.21% of total filed

and disposed cases respectively.

TABLE 3 (B) CASES FILED AND DISPOSED BY MAJOR CASE TYPE IN THE MAGISTRATES COURTS: 2019

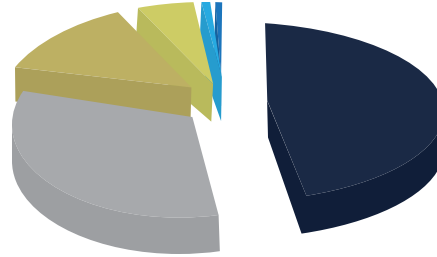
Case Type	2019			
	Filed Cases	% of Total Filed Cases	Disposed Cases	% of Total Disposed Cases
Traffic	18,771	45.72	15,545	47.49
Criminal	13,594	33.11	10,382	31.72
Civil	5,726	13.95	4,394	13.42
Maintenance/ Affiliation	2,155	5.25	1,761	5.38
Domestic Violence/ Family	473	1.15	353	1.08
Juvenile	313	0.76	285	0.87
Coroner/Inquests	21	0.05	11	0.03
TOTAL	41,053	100.00	32,731	100.00

**FIGURE 8A: PERCENTAGE OF CASES
FILED BY MAJOR CASE TYPE IN THE
MAGISTRATES COURTS: 2019**



■	Traffic	46%
■	Criminal	33%
■	Civil	14%
■	Maintenance/Affiliation	5%
■	Domestic Violence/Family	1%
■	Juvenile	1%
■	Coroner/Inquests	0%

**FIGURE 8B: PERCENTAGE OF CASES
DISPOSED BY MAJOR CASE TYPE IN THE
MAGISTRATES COURTS: 2019**



■	Traffic	48%
■	Criminal	32%
■	Civil	13%
■	Maintenance/Affiliation	5%
■	Domestic Violence/Family	1%
■	Juvenile	1%
■	Coroner/Inquests	0%

The following are observed from Table 3 (c) below:

- 35.43% of total filed Criminal cases were from Grenada
- St. Kitts and Nevis had a significant share of total

filed Civil cases (36.22%)

- Saint Lucia recorded the most filed Traffic cases (39.67%)
- Grenada and Saint Lucia had the major percentage share of to-

tal filed cases (52.17% when combined)

- As previously mentioned, Criminal and Traffic cases together represented 78.83% of total filed cases

TABLE 3(C) CASES FILED BY MEMBER STATE AND CASE TYPE IN THE MAGISTRATES COURTS: 2019

Member States	2019								Country Total as a % of Total
	Criminal	Civil	Traffic	Dom/Fam-ily	Juvenile	Maint/Aff	Coroner/Inquests	Total	
Anguilla	256	110	98	28	15	47	18	572	1.39
Antigua and Barbuda	2,157	730	918		1	2		3808	9.28
Comm. of Dominica	1,081	572	1577	125	76	412		3843	9.36
Grenada	4,816	618	4,907	276	167	761		11545	28.12
Montserrat	222	56	107	9	7	14		415	1.01
St. Kitts and Nevis	908	2,074	2038	35	30	847		5932	14.45
Saint Lucia	1,849	575	7,447				3	9874	24.05
St Vincent and the Grenadines	1,975	727	1,292					3994	9.73
Territory of the Virgin Islands	330	264	387		17	72		1070	2.61
Total	13,594	5,726	18,771	473	313	2,155	21	41,053	
Case Type as a % of Total	33.11	13.95	45.72	1.15	0.76	5.25	0.05		

Some of the more substantial points from Table 3 (d) include:

- 32.14% of disposed Criminal cases were recorded in Grenada
- Over 1000 Civil cases were disposed in St.

Kitts and Nevis and they represented 29.88% of total disposed Civil cases

- A major 44.52% of Traffic cases were disposed of in Saint Lucia
- Grenada and Saint Lu-

cia accounted for a substantial 51.36% of total disposed cases

- As previously indicated, Criminal and Traffic cases were a major 79.21% of total disposed cases

TABLE 3(D) CASES DISPOSED BY MEMBER STATE AND CASE TYPE IN THE MAGISTRATES COURTS: 2019

Member States	2019								Country Total as a % of Total
	Criminal	Civil	Traffic	Dom/ Family	Juve- nile	Maint/ Aff	Coroner/ Inquests	Total	
Anguilla	310	94	96	24	21	44	11	600	1.83
Antigua and Barbuda	915	213	590					1,718	5.25
Comm. of Dominica	1,247	545	1649	114	93	389		4,037	12.33
Grenada	3,337	633	3,172	199	108	576		8,025	24.52
Montserrat	151	56	85	7	1	5		305	0.93
St. Kitts and Nevis	868	1,313	1520	9	28	687		4,425	13.52
Saint Lucia	1,418	447	6,920					8,785	26.84
St Vincent and the Grenadines	1,736	939	1,036					3,711	11.34
Territory of the Virgin Islands	400	154	477		34	60		1,125	3.44
Total	10,382	4,394	15,545	353	285	1,761	11	32,731	
Case Type as a % of Total	31.72	13.42	47.49	1.08	0.87	5.38	0.03		

TIME TO DISPOSITION REPORTS FOR MAGISTRATES COURTS AS OBTAINED FROM JEMS

Tables 3(e), 3(f) and 3(g) give information on time to disposition of cases. It must be noted that the data are not consistent with the previous totals on disposed cases; whereas only data from JEMS were used in 3(e), 3(f) and 3(g), additional manual data were submitted by the respective Court Offices for some of the previous tables.

Some branches of the

Grenada and Saint Lucia Magistrates Court still use manual data entries and hence the disposed data are significantly less than what was shown previously. Nevis Magistrates Court is not connected to JEMS and the Saint Vincent and the Grenadines as well as the Montserrat Magistrates Courts have connectivity issues; hence data in JEMS are not given for these Member States. This highlights a need for all data to be captured via the software to ensure consistency in reporting.

Table 3 (e) shows that overall, the timeframe where the most cases were disposed was 1 – 90 days where a high 43.55% of cases were disposed. All Member States had most cases disposed in this said time period with the exception of Antigua and Barbuda where their cases were disposed in less than 1 day. The percentage shares of cases disposed in the timeframes indicated in Table 3(e) are depicted in Figure 9.

TABLE 3(E) TIME TO DISPOSITION IN DAYS AS OBTAINED FROM JEMS, MAGISTRATES COURTS 2019

Time to disp. of all cases	Anguilla	Antigua and Barbuda	Comm. of Dominica	St. Kitts	Grenada	Saint Lucia	Territory of the Virgin Islands	Total	% of Total
<1	20	239	234	10	44	24	11	582	4.31
1 to 90	342	184	1547	1352	208	1908	334	5875	43.55
91 – 180	82	99	488	680	74	323	216	1962	14.55
181-360	73	196	723	755	37	306	201	2291	16.98
361-720	57	138	472	579	20	206	161	1633	12.11
>720	13	32	545	206	4	134	212	1146	8.50
Total cases	587	888	4009	3582	387	2901	1135	13489	100.00

FIGURE 9: PERCENTAGE OF CASES DISPOSED PER TIME FRAME IN THE MAGISTRATES COURTS, 2019

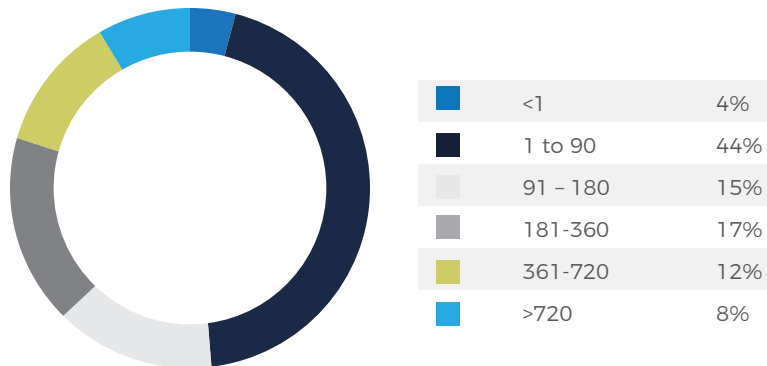


Table 3(f) displays the cumulative percentages which indicate the percentage of cases disposed by certain time frames for

each Member State. Overall, almost half of cases (47.87%) were disposed of within 3 months, 62.41% were disposed within 6

months, 79.40% of cases were disposed within 1 year and the majority of cases (91.50%) were disposed within two years.

TABLE 3(F) CUMULATIVE PERCENTAGES, MAGISTRATES COURTS 2019

Member States	Cumulative percentages: % cases disposed within:			
	90 days/ 3 months	180 days/ 6 months	360 days/ 12 months/ 1 year	720 days/ 24 months/ 2 years
Anguilla	61.67	75.64	88.07	97.79
Antigua and Barbuda	47.64	58.78	80.86	96.40
Comm, of Dominica	44.43	56.60	74.63	86.41
St. Kitts	38.02	57.01	78.08	94.25
Grenada	65.12	84.24	93.80	98.97
Saint Lucia	66.60	77.73	88.28	95.38
Territory of the Virgin Islands	30.40	49.43	67.14	81.32
Overall	47.87	62.41	79.40	91.50

Table 3(g) features the average time to disposition by case type for the Member States where the databases were accessible.

TABLE 3(G) AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE, MAGISTRATES COURTS 2019

Case Types	Anguilla		Antigua and Barbuda		Comm. of Dominica		St. Kitts and Nevis	
	#of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Civil	94	71	16	472	519	770	1153	315
Criminal	310	205	866	183	1246	426	458	298
Dom/ Family	24	34			114	32	9	139
Juvenile	19	218			93	322	19	148
Maint./Aff.	44	80			389	257	649	79
Traffic	96	67	6	367	1648	140	1294	215

TABLE 3(G) CONTINUED AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE, MAGISTRATES COURTS 2019

Case Types	Grenada		Saint Lucia		TVI	
	#of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Civil			376	328	154	97
Criminal	288	115	642	309	400	508
Dom/ Family						
Juvenile	1	0			34	557
Maint./Aff.					60	247
Traffic	98	75	1883	97	487	311

SECTION 4 FAMILY COURTS

Information on the case-load of the Saint Lucia Family Court and the St. Vincent and the Grenadines Family Court is provided in this section. These are the two official Family Courts within the OECS. Family Court data are included in the Magistrates Courts section for the remaining Member States and Territories.

ST. VINCENT AND THE GRENADINES FAMILY COURT

Table 4 (a) shows data on the numbers of cases filed by case type from 2017 to 2019 sorted by largest percentage shares in 2019. Total filed cases fluctuated over the three years with a decline in 2018 and a subsequent increase by 7.55% in 2019.

The most frequent filed cases pertained to Arrears and Maintenance and these case types averaged about 41.25% and 27.76%

respectively of total filed cases over the three years. There were no Occupation Orders filed from 2018. This is because there was new legislation implemented (2015 Domestic Violence Act) which came into force on the 16 November 2016. Occupation Orders were no longer filed in the St. Vincent Family Court after early 2017. Some more information will be given on the filed cases pertaining to Criminal Offences further on in this section.

TABLE 4(A) NUMBERS OF CASES FILED IN THE ST. VINCENT AND THE GRENADINES FAMILY COURT: 2017 TO 2019

Case Type	2017		2018		2019	
	No. of cases	% of total	No. of cases	% of total	No. of cases	% of total
Arrears	1200	44.02	1069	41.63	1054	38.16
Maintenance	749	27.48	725	28.23	762	27.59
Criminal Offences	218	8.00	198	7.71	387	14.01
Custody/ Access	375	13.76	368	14.33	346	12.53
Protection Order	167	6.13	208	8.10	213	7.71
Occupation Order	17	0.62	0	0.00	0	0.00
Total	2726	100.00	2568	100.00	2762	100.00

Data on disposed cases from 2017 to 2019, sorted according to largest percentage share in 2019, are given in Table 4 (b). Total disposed cases fluctuated over the three years with a drop in 2018 followed by an increase of 7.44% in 2019.

Arrears and Maintenance cases averaged 42.29% and 28.79% respectively of the total disposed case-load from 2017 to 2019. Although there were no new filed Occupation Orders as a result of implementation of the 2015 Domestic Vio-

lence Act as previously explained; there were 5 disposed in 2019 and these would have been filed in a previous period. These 5 Occupation Orders were struck out for non-appearance of parties.

TABLE 4(B) NUMBERS OF CASES DISPOSED IN THE ST. VINCENT AND THE GRENADINES FAMILY COURT: 2017 TO 2019

Case Type	2017		2018		2019	
	No. of cases	% of total	No. of cases	% of total	No. of cases	% of total
Arrears	1056	42.09	915	41.25	1036	43.47
Maintenance	713	28.42	608	27.41	726	30.47
Custody/ Access	337	13.43	276	12.44	308	12.92
Protection Order	146	5.82	165	7.44	187	7.85
Criminal Offences	222	8.85	252	11.36	120	5.04
Occupation Order	35	1.39	0	0.00	5	0.21
Legal Guardian-ship	0	0.00	2	0.09	1	0.04
Total	2509	100.00	2218	100.00	2383	100.00

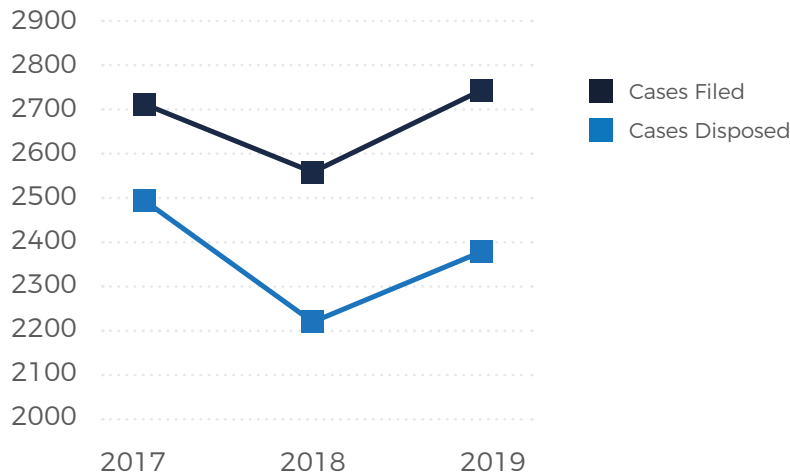
FIGURE 10: CASES FILED AND DISPOSED IN THE SVG FAMILY COURT, 2017 TO 2019

Figure 10 above illustrates the fluctuation in both filed and disposed cases from 2017 to 2019 as previously stated. The decline in the number of total filed as well as disposed cases in the year 2018 are clearly observed in the graph.

Data in Table 4 (c) indicates that the overall clearance

rate of cases in the St. Vincent and the Grenadines Family Court initially declined from 2017 to 2018 and then remained relatively constant from 2018 to 2019. The overall clearance rates were below 100% in all 3 years. In 2019 none of the case types recorded clearance rates above 100%. The two pre-

vious observations indicate the need for a continued focus on reducing backlog of cases through the timely disposition of cases. The clearance rate could not be calculated in instances where there was a division by zero and thus na (not available) is written in such instances.

**TABLE 4 (C) CLEARANCE RATES IN THE ST. VINCENT AND THE GRENADINES FAMILY COURT:
2017 TO 2019**

Case Type	2017			2018			2019		
	Total Cases Filed	Total Cases Disposed	Clearance Rate (%)	Total Cases Filed	Total Cases Disposed	Clearance Rate (%)	Total Cases Filed	Total Cases Disposed	Clearance Rate (%)
Arrears	1200	1056	88.00	1069	915	85.59	1054	1036	98.29
Custody/ Access	375	337	89.87	368	276	75.00	346	308	89.02
Legal Guardian- ship	-			2	na		-	1	na
Mainte- nance	749	713	95.19	725	608	83.86	762	726	95.28
Occupation Order	17	35	205.88				5	na	
Protection Order	167	146	87.43	208	165	79.33	213	187	87.79
Criminal Offences	218	222	101.83	198	252	127.27	387	120	31.01
Total	2726	2509	92.04	2568	2218	86.37	2762	2383	86.28

The Criminal offences which were amalgamated in previous tables into that one category, have been separated to show major categories which are listed in Table 4 (d). The most frequently filed and disposed

Criminal cases pertained to Assault, Indecent Assault, Unlawful Sexual Intercourse and to a lesser extent Rape and Theft. Cases included under the category "Other" were varied and a few of these case types were

intimidation, escape from lawful custody, resisting arrest, giving intoxicating liquor to a minor, buggery, and unlawful exposure/gross indecency.

TABLE 4 (D) CASES FILED AND DISPOSED: BREAKDOWN OF CRIMINAL OFFENCES, 2019

Case Type	2019			
	Filed	% of Total	Disposed	% of Total
	Cases	Filed Cases	Cases	Disposed Cases
Abduction	11	2.84	2	1.67
Assault/intent to commit assault	51	13.18	23	19.17
Damage to Property	10	2.58	1	0.83
Grievous Bodily Harm	4	1.03	0	0.00
Incest	6	1.55	0	0.00
Indecent assault	54	13.95	27	22.50
Offences related to trespassing	7	1.81	0	0.00
Possession of controlled drug	9	2.33	0	0.00
Possession of offensive weapon	5	1.29	1	0.83
Rape/ intent to commit rape	55	14.21	9	7.50
Theft/ Intent to commit theft/Removal of stolen goods	51	13.18	10	8.33
Unlawful and malicious wounding, actual bodily harm	12	3.10	2	1.67
Unlawful Sexual intercourse/attempt (also includes Intercourse with a girl under 13 or 15)	71	18.35	37	30.83
Other	41	10.59	8	6.67
Total	387	100.00	120	100.00

**ADDITIONAL INFORMATION
FROM THE PRESIDENT OF
THE SVG FAMILY COURT**

The social support section within the Department, which consists of three counselors, has received extensive training over the past 2 years. All of our counselors were trained in the use of the Therascribe Data/Case Management Software which is designed to assist with the genera-

tion of complete and effective intervention/treatment plans for children within the juvenile justice system. This software allows for the sharing of relevant client information through the use of a secured network.

Two of our counselors are also trained mediators, having attended the New Entrants Mediators Workshop facilitated by the Judicial

Education Institute (JEI) of the Eastern Caribbean Supreme Court (ECSC) in collaboration with the University of the West Indies (UWI). During the period September 2018 – July, 2019, 290 matters were referred to mediation and 281 were effectively settled, without proceeding to trial.

SAINT LUCIA FAMILY COURT

This section gives information on cases administered within the Saint Lucia Family Court (District 1 and District 2 data are combined) for the year 2019.

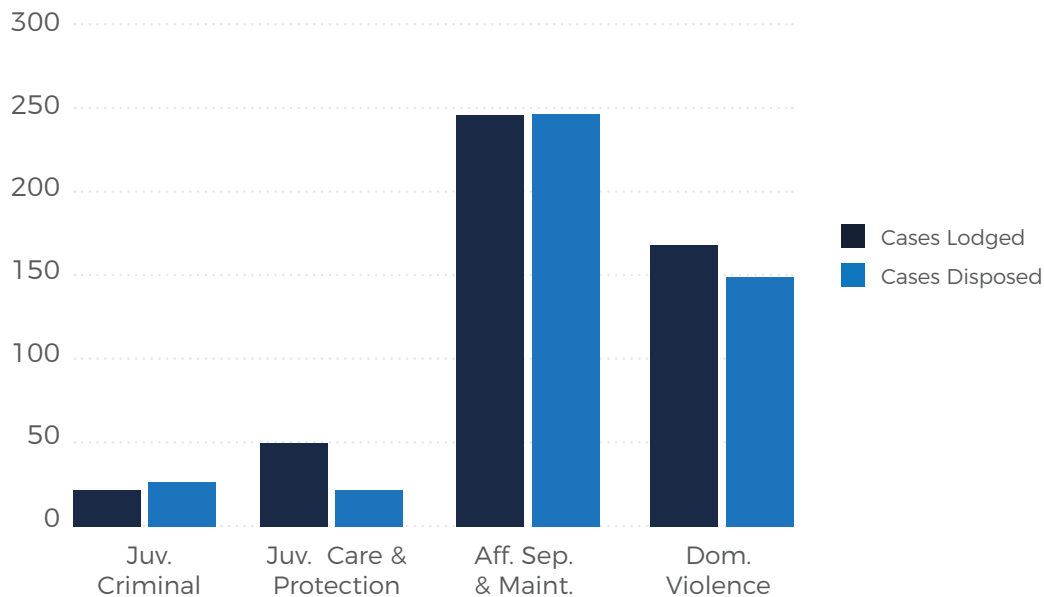
Table 4(e) indicates that

485 new cases were lodged in the Saint Lucia Family Court while 444 cases were disposed. Total disposed cases is derived by adding the categories; cases heard and final orders given, cases discharged, cases withdrawn and cases transferred to another court.

Affiliation, Separation and Maintenance cases formed a substantial 50.52% and 55.18% of the total filed and disposed caseloads. These cases together with Domestic Violence cases were a major 84.95% of total filed and 88.74% of total disposed cases

TABLE 4 (E) CASES FILED AND DISPOSED IN THE SAINT LUCIA FAMILY COURT , 2019

	Juvenile		Affiliation, Separation & Maintenance	Domestic Violence	TOTAL
	Criminal	Care & Protec- tion			
New Cases Lodged	22	51	245	167	485
Cases Heard and Final Orders Given	17	23	106	71	217
Cases Discharged	1	0	107	76	184
Cases withdrawn by applicant	7	0	32	2	41
Cases Transferred to another Court	2	0	0	0	2
Total Cases Disposed	27	23	245	149	444

FIGURE 11: CASES LODGED AND DISPOSED IN THE SAINT LUCIA FAMILY COURT, 2019

Information on the clearance rates of cases is shown in Table 4(f). The overall clearance rate was 91.55%. There were some Juvenile Criminal cases brought forward from previous years

which were disposed in 2019 and thus more cases were disposed than lodged. The clearance rate of 122.73% recorded by Juvenile Criminal Cases was above 100% and indicates

that some backlog reduction occurred. Affiliation, Separation and Maintenance cases also had a high clearance rate of 100%.

TABLE 4 (F) CLEARANCE RATES OF CASES BY CASE TYPE IN THE SAINT LUCIA FAMILY COURT, 2019

	Juvenile		Affiliation, Separation & Maintenance	Domestic Violence	TOTAL
	Criminal	Care & Protec- tion			
New Cases Lodged	22	51	245	167	485
Total Cases Disposed	27	23	245	149	444
Clearance Rates	122.73	45.10	100.00	89.22	91.55

COURT PERFORMANCE CONCLUSION

There continues to be a need for emphasis on the timely disposition of cases and reduction of case

backlog. This was particularly evident for the High Courts. The Courts need to continue to put measures in place to ensure that all cases are entered and disposed of in the software to facilitate accuracy and con-

sistency when reporting and to move away from the recording of manual data entries. The Court of Appeal continues to hear numerous matters, delivering most of the decisions orally.

THOSE WHO SERVE



Her Ladyship the Honourable Dame Janice M. Pereira, DBE, LLD, Chief Justice

Dame Janice M. Pereira, DBE, LLD was sworn in as the first female Chief Justice of the Eastern Caribbean Supreme Court on 24th October, 2012. She joined the Eastern Caribbean Supreme Court as a High Court Judge in 2003 and later was elevated to the position of Justice of Appeal in 2009. In May 2013 she was awarded Dame Commander of the Order of the British Empire by Her Majesty, Queen Elizabeth II. In March 2018, she was called to the Bench as an

Honorary Bencher of the Honourable Society of the Middle Temple.

She became a Fellow of the Commonwealth Judicial Education Institute in June 2018. The award of Honorary Doctorate of Laws was bestowed upon Dame Janice by the University of the West Indies in October, 2018. In October, 2019, Dame Janice was elected an Honorary Master of the Bench of the Honourable Society of Gray's Inn.

She is the holder of several awards and has been recognized for her contributions in the field of law and the administration of justice. She has the distinction of other “firsts”: one of the first female Virgin Islanders to be called to the Bar of the Virgin Islands; the first Virgin Islander to be appointed to the Bench of the Eastern Caribbean Supreme Court; and the first female to be appointed to the Court of Appeal.

JUSTICES OF APPEAL



The Hon. Justice
Davidson Kelvin Baptiste



The Hon. Justice
Louise Esther Blenman



The Hon. Justice
Mario Michel



The Hon. Justice
Gertel Thom



The Hon. Justice
Paul Webster [Ag.]



The Hon. Justice
Gerard Farara QC [Ag.]

HIGH COURT JUDGES

ANGUILLA



The Hon. Justice
Shawn Innocent

ANTIGUA & BARBUDA



The Hon. Justice
Rosalyn Wilkinson



The Hon. Justice
Iain Charles Morley, QC



The Hon. Justice
Rohan Phillip



The Hon. Justice
Marissa Robertson

DOMINICA



The Hon. Justice
Birnie Stephenson



The Hon. Justice
Wynante Adrien-Roberts

GRENADA



The Hon. Justice
Paula Gilford



The Hon. Justice
Raulston Glasgow



The Hon. Justice
Victoria Charles-Clarke



The Hon. Justice
Agnes Actie

ST. KITTS AND NEVIS



The Hon. Justice
Trevor Ward



The Hon. Justice
Eddy Ventose



The Hon. Justice
Ermin Moise

SAINT LUCIA



The Hon. Justice
Margaret Price-Findlay



The Hon. Justice
Cadie St. Rose-Albertini



The Hon. Justice
Vivian Georgis Taylor-
Alexander



The Hon. Justice
Kimberly Cenac-Phulgence



The Hon. Justice
Godfrey Phillip Smith, SC



The Hon. Justice
Lorraine Williams

ST. VINCENT AND THE GRENADINES

The Hon. Justice
Brian Cottle



The Hon. Justice
Nicola Byer



The Hon. Justice
Esco Henry



The Hon. Justice
Angelica Teelucksingh

TERRITORY OF THE VIRGIN ISLANDS

The Hon. Justice
Vicki Ann Ellis



The Hon. Justice
Ann-Marie Smith



The Hon. Justice
Gerhard Wallbank [Ag.]



The Hon. Justice
Adrian Jack [Ag.]

MASTERS



Master
Jan Drysdale



Master
Tamara Gill



Master
Ricardo Sandcroft (Ag)

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Accountant



Mrs. Rita Bastien
Accounts Assistant



Ms. Benedicta
St. John- Dussiel
Accounts Clerk

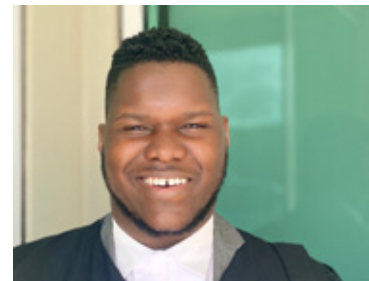
COURT OF APPEAL REGISTRY



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John-Theobalds
Chief Registrar



Mr. Carlos Michel Jr.
Deputy Chief Registrar



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Judicial Research
Assistant



Ms. Leonette Headley
Judicial Research
Assistant



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Judicial Research
Assistant



Mrs. Jodi-Ann
Masters-Singh
Judicial Research Assistant



Ms. Desiree Valentine
Judicial Research Assistant



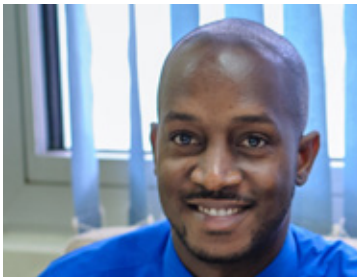
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Judicial Research Assistant



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Narcisse-Lionel
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Case Manager



Mr. Craig Gabriel
Case Manager



Mr. John Dwite Joseph
Case Manager



Ms. Maria Edmund
Case Manager

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Fitz - Christophe
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Archives Officer

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Secretary



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Secretary



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Gabriel
Secretary



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Mr. Baldwin Paul
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Manager



Mr. Anderson Henry
Systems Administrator



Mr. Augustus Marcellin
Network Administrator



Mrs. Cynthia Ramjeawan
Project Coordinator/
Application Support
Officer



Mr. Demetrius Charles
Website Administrator



Ms. Raejean Montoute
Website Content
Officer



Today I join the Judicial Officers, Management and Staff of the Eastern Caribbean Supreme Court (ECSC) Headquarters family, the Registrars and particularly the accounting staff of the High Court Offices, the Ministers of Finance and Accountants General in the Court's nine Member States and Territories, family and friends, in mourning the death of our beloved, Irvin Ferdinand.

TRIBUTE

Eastern Caribbean Supreme Court Tribute to
Mr. Irvin Ferdinand

Our departed colleague has obviously left indelible footprints in the sands of our lives, interwoven as they are in our individual and collective human experiences and endeavours.

It isn't April when our thoughts turn to taxes, nor is it August when budget submissions are on our minds, but it was Sunday 18th October when our thoughts turned to grief, as we learnt of the passing of our dear colleague and friend Irvin.

A dear son of the soil, Irvin joined the ECSC family as our Accountant on 17th November, 2003. He was responsible for the fiscal management, reporting and maintenance of the Court's finances at the Headquarters. In performing these tasks he worked

hand in hand with officials in each of the Court's nine Member States and Territories.

Irvin was a skilled accountant who, through his years of service to the Court, knew every influential public officer in the Ministries of Finance and Legal Affairs/Justice and the Accountant General's Departments in the MSTs. He would not hesitate to use that knowledge and experience to secure the necessary financial commitments for the Court from these governments to ensure the daily up-keep of its operations. They all ad-

mired and respected Mr. Ferdinand and responded well to him even under the most trying fiscal times, a testament of the affable, yet professional nature, of Irvin.

Irvin's upbringing and the trajectory of his education formed the basis for his enduring professionalism and service to humanity. As a trained accountant, his pedigree in his chosen path has seen him work in various sectors with remarkable aplomb. His credible professionalism resonated in all spheres of operation at the ECSC whether as a consummate employee or as a mentor to members of his accounting team direct reports and others.

Irvin was often the life of our office celebrations. Whether it was Jounen Kweyol, a celebration that he truly enjoyed, Independence or Christmas, you could count Irvin in. Not only would he participate but he was also



always suitably dressed for the occasion. We fondly remember him sparring with His Lordship, The Hon. Mr. Mario Michel, Justice of Appeal, as they gave jokes and told stories in creole at our office Jounen Kweyol celebrations.

From whichever angle one wishes to view Irvin, the narrative invariably underscores the quantum of the regenerative endowment with which he was imbued. From the Hills of Morne Fortune where he resided, through the doors of corporate, sporting, culture (and here I pause to recognize his stunning contribu-

tion as a judge at several calypso competitions at all levels) and government offices across Saint Lucia and the rest of the OECS, Irvin Ferdinand was held in high esteem. Indeed his superb sense of humour was unmatched and his warm personality and collegiality was valued and respected by his ECSC colleagues. He will be immensely missed by us all.

Like a true West Indian and an avid cricket and tennis fan, Irvin had faith and he played a brave and difficult innings as he battled his illness; he did not give up. Like a maverick he

dealt with the rigours of his treatment and the promise of short life without complaint. Theologian and Scholar Charleston Parker said that “In life, you have 3 choices. Give up, give in, or give it your all.” We can safely say that Irvin gave it his all and for that we are comforted.

Our departed colleague has obviously left indelible footprints in the sands of our lives, interwoven as they are in our individual and collective human experiences and endeavours. His colleagues at the ECSC, as do I, and all who had the pleasure of either working

or interacting with him will treasure his memory.

On behalf of the Judiciary and Staff of the Eastern Caribbean Supreme Court and on my own behalf, I offer heartfelt condolences and gratitude to Irvin’s dear wife, Anne Sheran Ferdinand, his children, relatives and many friends. May he live on in our hearts and the hearts of all those who loved him and may his soul rest in peace.

Dame Janice M. Pereira,
DBE, LL.D.- Chief Justice



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