

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

SAINT LUCIA

MONDAY 9TH MARCH TO FRIDAY 13TH MARCH 2026

JUDGMENTS

Case Name:

Telecommunication Regulatory Authority

v

**1. Caribbean Cellular Telephone
Limited**

2. BVI Cable TV Limited

3. Cable and Wireless (BVI) Limited

4. Digicel (BVI) Limited

[BVIHCVAP2022/0003]

[BVIHCVAP2022/0004]

[BVIHCVAP2022/0005]

**TERRITORY OF THE VIRGIN
ISLANDS**

Date:

Tuesday 10th March 2026

**Coram for
delivery:**

**Mr. Trevor M. Ward, Justice of Appeal
Mde. P. Nicola Byer, Justice of Appeal
Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]**

Appearances:

Appellant:

**Mr. Terrence Neale with Ms. Nelcia St. Jean and
Mr. Lawrence Alexander**

Respondent:

**Mr. Sydney Bennett, KC with him Ms. Anthea
Smith for the first and second respondent
Mr. Brian Childs for the third respondent
Ms. Asha Johnson-Willins and Ms. Catherine
Dobson for the fourth respondent**

Issues:

**Civil appeal – Judicial review –
Telecommunications Act 2006 – Industry levy and**

royalty payments - Whether the learned judge erred in his interpretation and application of sections 58, 59, 60, 63, and 65 of the Telecommunications Act – Whether royalty payments under section 60 are part of the ‘funds’ of the Commission pursuant to section 58(1) – Whether the Commission acted ultra vires in deciding that royalties were intended for the Government to be paid into the Consolidated Fund – Whether royalties are funds of the Commission to be used to defray its permitted expenditures under section 58(2) – Whether royalties collected by the Commission can be transferred to the Government and paid into the Consolidated Fund under paragraph (f) of section 58(2) – Whether royalties are an ‘expenditure’ authorized by the Commission and whether they are ‘properly chargeable to revenue’ pursuant to paragraph (f) of section 58(2) - Whether royalties as funds of the Commission are to be factored into the estimated of income of the Commission to be approved by the Minister of Finance under section 63(3) – Whether royalties are to be factored into the estimates of expenditure and of income to be approved by the Minister of Finance in determining whether there is a ‘net estimated expenditure’ of the Commission shown in the audited accounts of the Commission for the previous year under section 59(2) for the purposes of calculating an industry levy – Whether the judge was correct in making an order of certiorari quashing the decision of the Commission to impose and collect an industry levy for the year 2019/2020 from the licensees - Whether the industry levy for the year 2019/2020 calculated and imposed by the Commission was ultra vires the Act, null and void – Whether the learned judge erred in finding that the Commission had failed to consult with the respondents – Whether the learned judge erred in law when he held that the Commission acted irrationally and unreasonably to engage in the consultation process on the imposition of an industry levy for the year 2019/2020 without completing the audited financial statements of the Commission for the year 2018/2019 - Whether the learned judge erred in deciding that royalty

payments were meant for the Government of the Virgin Islands to be paid into the Consolidated Fund and that the industry levy should be paid by the respondents to fund the operational expenses of the Commission and royalties could not be used to fund the expenditure of the Commission – Whether the learned judge erred in finding that the Commission’s conduct and statements in the matter gave rise to a legitimate expectation that the respondents would be consulted prior to the final demand for payment of the industry levy – Whether the learned judge erred in law in making a declaration in respect of the collection of the 2020/2021 industry levy as no industry levy has yet been issued by the Commission for this period – Whether the learned judge failed to or improperly exercised his discretion under rule 56.13(3) of the Civil Procedure Rules 2000 with respect to the appropriate reliefs to be granted on the respondents’ application for judicial review

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The three appeals BVIHCVAP2022/0003, BVIHCVAP2022/0004, BVIHCVAP2022/0005 stand dismissed.
2. The declarations and orders of the learned judge at paragraphs [272] and [273] of the judgment in the court below are affirmed.
3. The respondents shall each have their costs of the particular appeal pertaining to them, such costs to be assessed by a judge of the Commercial Court or by a Master, if not agreed within 30 days from the date of delivery of this judgment.

Reason:

Held: dismissing all three appeals BVIHCVAP2022/0003, BVIHCVAP2022/0004, and BVIHCVAP2022/0005, affirming the declarations and orders of the learned judge at paragraphs [272] and [273] of the judgment in the court below,

and awarding costs to all three respondents in the particular appeal pertaining to them, such costs to be assessed by a judge of the Commercial Court or by a Master, if not agreed within 30 days from the date of delivery of this judgment, that:

- 1. By section 64(4) of the Act, the accounts of the Commission are to be audited ‘within 6 months after the end of each financial year’ by independent accountants/auditors appointed for that purpose by the Commission. This requirement raises a serious practical timing issue, as it relates to or impacts the ability of the Commission to calculate an industry levy for the new financial year, and to do so within the period of 4 weeks from the date of approval of its estimates of expenditure and income by the Minister responsible for finance under section 63, as stipulated by section 59(1) of the Act. Thus, in circumstances where the accounts for the previous year are not audited until some time into the new financial year, but before 6 months has elapsed, it would mean that the industry levy for said year cannot be calculated until the accounts for the prior year have been audited, and this may not be possible within the 4 week period from approval of the estimates of expenditure and income as stipulated by section 59(1) of the Act for the fixing of an industry levy for the new financial year.**
- 2. In the instant matter, the real dilemma is that the Commission did not have any audited accounts for the financial year 2018/2019 when it purported to calculate and to fix, under section 59, an industry levy for the financial year 2019/2020. Sections 59(2)(a) and (b) make the determination by the Commission of whether to add a ‘deficit’ or to subtract a ‘surplus’ in its calculation of the industry levy, a critical and essential part of the calculation. It is therefore most significant for the Commission to ascertain**

not just whether such a deficit or surplus existed for the previous financial year, but the correct amount of such 'deficit' or 'surplus' in order to properly and correctly calculate the industry levy for the new financial year. This is to be had not from the approved 'estimates' but, importantly, from the audited accounts of the Commission for the previous year. This requirement is an integral part of the intention of the legislature as gleaned from the statutory scheme and as is manifest from the clear and unambiguous words of section 59(2) the Act. The determination as to whether the Commission had a deficit or surplus from its operations under the Act for the previous year, can only be ascertained conclusively by an audit of its actual expenditure incurred and its income received or collected from all sources during that said year. Accordingly, the absence of audited accounts for the financial year 2018/2019 is fatal to any purported attempt by the Commission to embark upon, and to calculate, fix, apportion, and impose on the respondents, as licensees, an industry levy for the year 2019/2020. On this basis alone, the purported industry levy for the 2019/2020 financial year as calculated and imposed on the respondents by the Commission was ultra vires the Act and cannot stand.

3. It is pellucid that an industry levy legitimately calculated, fixed, imposed, and paid over to the Commission is part of or a component of its 'funds' in any financial year. This is made clear by sections 58(1) and 59(3) of the Act. Further, by section 59(5), it is the Commission, which is empowered to recover, by way of summary proceedings, from a defaulting licensee or authorized holder, an industry levy and any accrued interest, as a civil debt due to the Commission. Further, the provisions of subsection (6) of section 59 are clear and unambiguous. It expressly provides and

requires that monies received by the Commission from an industry levy are to be retained by the Commission, for its own use. The only exception permitted is where the Minister of Finance, with the approval of the House of Assembly, otherwise directs. Thus, neither the Commission itself nor the Minister of Finance can direct that monies received from an industry levy or portions of those monies be redirected by the Commission to some use other than the own use of the Commission, without the sanction and approval of the House of Assembly.

4. By section 60, licensees or authorization holders are liable to pay to the Commission, in accordance with the provisions of its licence or frequency authorization, a royalty calculated at the rate of 3 percent of their gross revenue annually. Royalty payments are clearly funds of the Commission caught by or declared by section 58(1), and to be used in accordance with the provisions of section 58(2) of the Act. There is, however, no equivalent provision pertaining to the use of royalty payments as appears in section 59(6) pertaining to the use of monies received by the Commission from an industry levy. This notwithstanding, the effect of section 58 of the Act is that royalty payments received by the Commission under section 60 of the Act immediately become part of the 'funds' of the Commission under section 58(1), and which 'funds', collectively with other funds of the Commission received from other prescribed sources, including funds received from payment of an industry levy, 'shall' be used and applied in the payment of the permitted classes of expenditures authorized by section 58(2)(a) to (f).
5. Paragraph (f) of section 58(2) of the Act permits the Commission to use or to apply its funds in payment of 'any other

expenditure authorized by the Commission and properly chargeable to revenue.’ It is clear on a proper interpretation of the word ‘expenditure’ in paragraph (f) that the making or transfer of royalty payments to the Government are not a legitimate ‘expenditure’ of the Commission, much less one ‘properly chargeable to revenue’ of the Commission. This is so notwithstanding that royalties are usually payment for the use of the intellectual property or some asset of another under the terms of a license. Under section 60 of the Act, royalties are a statutory charge imposed on licensees and authorization holders to be paid to and collected by the Commission, which, once paid, become part of the income or ‘funds’ of the Commission pursuant to section 58(1). In no sense does the Act provide or stipulate that royalty payments are payments to the Government, or to the Commission for and on behalf of the Government, to be passed on to the Government by transfer or payment into the Consolidated Fund. To the contrary, these royalties may be considered a working or operational expense or cost to the licensees and authorization holders, to be treated as such by them in their annual accounts. It is therefore not an ‘expenditure properly chargeable to revenue’ of the Commission in the sense in which this term is used and to be understood at paragraph (f) of section 58(1).

6. The learned judge’s conclusion that royalties are income or funds of the Commission to be used by it in defraying its operational expenses as permitted by section 58(2) is correct. The Commission has no power or authority under paragraph (f) of section 58(2) to transfer any of its income or funds to the Government, including royalty payments received by it under section 60 of the Act. Absent no other provision in the Act by which the

Commission is required or permitted to transfer royalty payments (in whole or in part) to the Government, it follows that the learned judge was correct to find that by so doing, the Commission acted or was acting ultra vires the Act and illegally. It also follows that the learned judge was correct to hold that by excluding royalties from the Commission's estimates of income in the 2019/2020 Draft Budget to be applied in defraying or meeting the approved expenditures of the Commission for that year and thereby excluding such sums from its calculation of the 2019/2020 industry levy, the Commission acted ultra vires the Act. Accordingly, the calculation, fixing and apportioning of an industry levy for 2019/2020 among the licensees/respondents is null and void and of no effect.

7. The only way which the Act permits monies part of the income, revenue or 'funds' of the Commission to be paid over to the Government by the Commission is where the circumstances contemplated by section 65 are applicable, that is, as a 'surplus on the budget approved for the Commission's expenditure for any financial year'. It is notable that there is no evidence to suggest that the Commission has realized or declared such a 'surplus' and has acted in fulfillment of its statutory obligation and duty prescribed by section 65. The learned judge was therefore correct in his conclusion that royalties are income or funds of the Commission to be used by it in defraying its operational expenses as permitted by section 58(2).
8. On a strict interpretation of the provisions of section 59, the learned judge was correct in his conclusion that the Commission was wrong in using the 'expected expenditure' in the estimates approved by the Minister of Finance pursuant to section 63(3) of the Act,

as the 'net estimated expenditure' to be used under section 59(2) when calculating the industry levy. The calculation of an industry levy under section 59(2), involves as a starting point or precursor to embarking upon such an exercise, that there be a 'net estimated expenditure' of the Commission set out in the estimates approved by the Minister responsible for finance. To this is then added a contingency of ten per cent of the net estimated expenditure. The resulting total is then adjusted upwards or downwards depending on whether the audited accounts of the Commission for the previous financial year shows as 'deficit' or a 'surplus'. If there is no 'net estimated expenditure' arising from the approved estimates there is nothing to which can be calculated and added the 10 per cent contingency, as the sum total or base sum for calculating an industry levy. Absent any 'net estimated expenditure' from the estimates for the financial year under consideration, it follows, that the entire exercise of calculating an industry levy by adding a 'deficit' to or subtracting a 'surplus', pursuant to subparagraph (a) or (b) of section 59(2), from the total of the net estimated expenditure and the 10 per cent contingency, falls away or is rendered unnecessary and cannot be proceeded with for that new financial year.

9. The appellant has not surmounted two main issues in the appeals and in the court below, the effect of which in law, jointly or severally, render any challenge to the findings of the judge on the failure to adequately consult with the respondents, unsustainable, with the result that these grounds of appeal must be dismissed. The first is the incorrect, ultra vires and illegal approach by the Commission in its treatment of royalty payments in its estimates of income and in its budget for the financial year 2019/2020. This factor alone

renders the public consultation process embarked upon by the Commission hopelessly inadequate and deficient to the point of being erroneous in that its accounts were based on a totally false or illegal premise. The second is the abject failure to have completed and included as an integral part of its public consultation process, and by extension its calculation, fixing and imposition of an industry levy for the 2019/2020 financial year, of audited financial statements of the Commission for the financial year 2018/2019. This was clearly in breach of its duty under section 64(4) and its obligations under section 59 of the Act. These two major failures, render any public consultation process undertaken by the Commission for the year financial year 2019/2020 woefully deficient, inadequate and not in keeping with its statutory and common law duty to conduct adequate consultations with the public, including, most importantly, the licensee/respondents. Therefore, the learned judge was correct that the consultation undertaken by the Commission was deficient, inadequate and in breach of its statutory duties to have public consultations under sections 63(1) and 59(1) of the Act.

10. The judge was entirely correct in his statements of principle and conclusions of law to the effect that the Commission has a statutory duty to engage its annual budget process and, in so doing, it is obliged to impose and collect any industry levy lawfully due. This is because the provisions of section 59 of the Act does not permit the Commission to forego the collection of an industry levy payment; there is simply no discretion given to it to do so. The fact that the Commission had foregone the calculation and collection of an industry levy for past financial years, that is, 'waived' the lawful imposition and collection of a levy in breach of section 59, cannot be the basis

upon which the Commission may undertake not to seek to collect a future industry levy. Where the legislature has imposed an obligation on a public body to collect monies lawfully due to it in accordance with law, that body is not entitled to promise that it would forego the collection of such sum, and where such a promise is in fact made, the promisee is not entitled to rely on that promise, whether expressed or implied, that collection would be waived.

11. Where a statute imposes on a public body a duty or obligation to assess each year the amount, if any, of an industry levy to be imposed on licensees or others, the public body, in this case, the Commission must embark upon all steps required under the provisions of the statute to conduct such assessment and calculation, with a view to imposing or charging such levy. This speaks directly to the obligations of the Commission in relation to its annual estimates under section 63(1) and to its obligations to use such approved estimates first to ascertain whether there is a 'net estimated expenditure' for the relevant year under consideration and, if so, to calculate an industry levy for the same financial year. Thus, where those circumstances do exist, the Commission must, following a public consultation and within 4 weeks of approval by the Minister of Finance of its estimates for a new financial year, embark upon a calculation and setting of an industry levy for the said new financial year. The Commission has no power or discretion, in such circumstances, to delay or to elect not to calculate and to set an industry levy, and any decision to do so is illegal and ultra vires the Act, in particular section 59.
12. The judge was correct in his reasoning and conclusion that while the Commission has a statutory obligation to calculate, fix, impose, and collect an industry levy for each

financial year and, as a precursor to doing so, to conduct a public consultation in relation to its estimates of expenditure and income under section 63 of the Act and to obtain from the Minister of Finance approval of such estimates, it nevertheless has sufficient latitude under the Act to adopt a pragmatic approach to the actual collection of such industry levy from the licensees. In doing so, it may take into account the prevailing economic circumstances within the Territory and in the telecommunications industry as a whole; and even, in some appropriate instances, the particular or individual financial position of a licensee/payee. It follows, as the judge found, that the clear representations made by the Commission to the licensees/respondents that it would be adopting an 'amended approach' for collection of the industry levy, would introduce a 'path for payment of the industry levy', and would engage in discussions with stakeholders on the 2019/2020 industry levy during that financial year 'with a view of determining a mutually agreeable plan concerning the timing and approach for collection', were, collectively, capable of giving rise to an enforceable procedural legitimate expectation. Furthermore, any departure from or change to these representations ought to have been conveyed by the Commission in writing and within a reasonable time to the licensees/respondents, so that they could prepare themselves to meet and to pay any lawful industry levy for 2019/2020.

13. The learned judge was correct in the way in which the declaration at paragraph [273] (b) of the judgment was framed. It was not framed as if to say that the Commission had in breach of the Act issued or imposed an industry levy for the financial year 2020/2021. Instead, it was framed so as to declare the public consultation in relation to

that financial year to be in breach of the Act. To the extent that the appellant argues that the judge was also incorrect in making that declaration as that financial year was not the subject of the judicial review claims, this is not entirely correct. Digicel (BVI) Limited, in its Claim Form, did seek a declaration with respect to the 2020/2021 financial year as to the Commission's failure to undertake and complete a public consultation, and a failure to submit to the Minister of Finance estimates of expected expenditure and expected income not later than 3 months before 1st October 2020. Digicel (BVI) Limited also sought a declaration that the Commission cannot lawfully submit finance estimates or a work plan under section 63 of the Act or set an industry levy under section 59 for the 2020/2021 financial year.

14. The judge was correct in his classification of the 'seriousness' of the breaches by the Commission of the Act and the meaningless outcome of each of its decisions, including, most importantly, the decision to calculate, fix and impose an industry levy for the 2019/2020 financial year. The judge also held that the decision to impose and implement the industry levy for the 2019/2020 year was 'irrational and Wednesbury unreasonable', for the reasons which he gave. Likewise, the Commission's conduct and statements gave rise to a procedural legitimate expectation that the Commission would consult with the licensees on the timing and approach to payments of the industry levy.
15. While the judge did not refer specifically to the discretion conferred on him by rule 56.13(3) of the CPR 2000, he clearly had in mind that he was exercising a discretion as to the nature, type and extent of the remedy or remedies to be granted having due regard to the key or significant findings which he had made in the judgement as to the

Commission acting illegally, ultra vires and in breach of the Act, and irrationally. The judge gave due consideration to those findings and conclusions and, most importantly, as to how serious the breaches of the Act were, particularly in the context of the clear and unambiguous provisions of sections 58, 59 and 60. There can be no question that these breaches were serious, especially the decision of the Commission, without absolutely no statutory or other authority or power, to decide to transfer over to the Government by payment into the Consolidated Fund, royalty payments, and not to factor such payments into the income of the Commission in its estimates, in the face of the pellucid provisions of section 58(1), a point which the Commission conceded on appeal. These decisions were clearly irrational and Wednesbury unreasonable, warranting their quashing, by writ of certiorari.

Case Name:

Dews Pro Buildings Limited

v

Christopher K. Martin

[ANUHCVP2025/0007]

ANTIGUA AND BARBUDA

Date:

Wednesday 11th March 2026

**Coram for
delivery:**

**The Hon. Mde. Margaret Price Findlay, Chief
Justice of Appeal [Ag.]**

The Hon. Mr. Trevor M. Ward, Justice of Appeal

The Hon. Mde. Esco L. Henry, Justice of Appeal

Appearances:

Appellant:

Ms. Shannon Potter

Respondent:

Ms. Chantal Marshall

Issues: Civil appeal – Breach of contract – Implied contract – Pleadings – Whether learned judge determined claim on cause of action not pleaded

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appeal is dismissed with costs to the respondent.
2. Costs to be assessed by a Judge of the High Court if not agreed within 21 days of this order.

Reason: Held: dismissing the appeal with costs to the respondent, to be assessed by a judge of the High Court if not agreed within twenty-one days, that:

1. It is settled law that parties to litigation are bound by their pleadings. The court is equally bound by the parties' pleadings. It is not the duty of the court to enter into an inquiry into the case before it other than to adjudicate upon the specific matters in dispute which the parties themselves have raised by the pleadings. This principle is based on fairness which requires the court to determine only issues raised by the parties and not issues which in the court's opinion should have been raised.
2. An examination of the respondent's pleaded case shows that his claim for payment of the sum of EC\$89,854.98 was based on the February 19th 2021 Agreement. In his response to the counterclaim, the respondent's pleading was that he was employed with the appellant during the period of February-June 2021 by agreement between himself and the appellant. There was no pleading of an implied contract. His witness statement stated clearly there was an agreement for him to continue as the CEO of the appellant. The implied contract

only arose upon cross examination of the respondent. Mr. Simon KC's approach towards this evidence of an implied contract in his closing submissions was not that an implied contract was not pleaded, but rather that the evidence adduced by the respondent did not amount to an implied contract of employment. Not only was the pleading point not raised in the court below by the appellant, it was not included as a ground of appeal nor in the appellant's written submissions before the Court. Both parties having based their submissions before the learned judge on whether there was an implied contract of employment, and there being no ground of appeal that implied contract was not pleaded, it would not be fair to determine the appeal on the basis that implied contract was not pleaded, when the appellant had the opportunity to so argue before the learned judge and elected not to do so, but rather to base his case on an insufficiency of evidence to ground an implied contract. Having opted to take that route, the appellant ought not to be allowed to resile from it at this late stage.

APPLICATIONS AND APPEALS

Case Name:

**IN THE MATTER of section 3(1) (a) of the
Attorney General's Reference
(Constitutional Questions) Act Cap 17.18**

**AND IN THE MATTER of the Attorney
General referring to the court for hearing
and consideration, important questions
relating to sections 30 and 36 (as
amended) of the Constitution of Saint
Lucia, Cap. 1.01 of the Revised Laws of
Saint Lucia**

**AND IN THE MATTER of Part 61.1(2)(a)(ii)
of the Revised Civil Procedure Rules 2000**

**[SLUHCVAP2024/0018]
SAINT LUCIA**

Date: Monday 9th March 2026

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Applicant: Mr. Arthur D. Compass with Ms. Kimberley Williams

Interested Party: Mr. Garth Patterson KC with him Ms. Akeelia Richards

Issues: Constitutional law - Attorney General's Reference
- Whether the section 36 (as amended) of the Constitution of Saint Lucia has legal validity in the absence of a corresponding amendment to section 30 of the Constitution - Whether in the context of the Attorney General's Reference (Constitutional Questions) Act Cap 17.18, the Court should make positive declarations in one way or another - Whether the Court, under its inherent powers as the guardian of the constitution, consistent with the overriding objective, may grant such declarations

Type of Order: N/A

Result / Order: IT IS HEREBY ORDERED THAT:

Judgment is reserved pending receipt of further submissions no more than 10 pages in length, with authorities from both parties, on the issue of whether the amended section 36 of the Constitution of Saint Lucia has legal validity in the absence of a corresponding amendment to section

30 of the Constitution and whether the Court should make positive declarations in one way or another, to be provided on or before 24th March 2026.

Reason: N/A

Case Name: St Lucia Development Bank
v
Vincent Boland
[SLUHCVAP2025/0023]
SAINT LUCIA

Date: Monday 9th March 2026

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Applicant: Mr. Leevie Herelle

Respondent: Mr. Horace Renison Fraser

Issues: Application for Leave to Appeal , Stay of execution and Cost - Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 Rule 62.2 , 62.23 - Whether the court considers that the appeal would have a realistic prospect of success or there is some other compelling reason why the appeal should be heard- Whether the applicant has provided cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted - Adjournment - Whether counsel who has deposed to an affidavit in support of an application is permitted to appear and advance that application before the Court

Type of Order: Adjournment

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal filed on 26th November 2025 along with the application for stay of execution filed 12th December 2025 is adjourned to the next sitting of the Court in St Lucia in the week commencing on 15th June 2026 or on an earlier date to be fixed by the Chief Registrar.**
- 2. In respect of the stay application which had to be adjourned as a consequence of the leave to appeal application being adjourned, costs to be paid personally by counsel for the applicant in the sum of XCD \$750.00 on or before 24th March 2026.**

Reason:

Before the Court were two applications: (1) an application for leave to appeal the decision of the learned judge court below filed on 26th November 2025 ; and (2) an application for a stay of execution of that decision filed on 12th December 2025.

The Court noted that the application for leave to appeal was supported by an affidavit deponed to by the attorney for the applicant who consequently could not move the application. The Court stood the matter down to allow counsel for the applicant to explore his options and upon return, granted an adjournment of application for leave to appeal affording counsel for the applicant an opportunity to remedy the issue.

The Court also adjourned the application for a stay of execution as there was no pending appeal. The Court further ordered that costs be paid by counsel for the applicant personally to the respondent in respect of the stay application.

Case Name:

**Gregory Fevrier
v
Luciana Mary Fevrier**

**[SLUHCVAP2022/0009]
SAINT LUCIA**

Date:

Monday 9th March 2026

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco Henry, Justice of Appeal
Te Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal**

Appearances:

Appellant: Mr. Horace Renison Fraser

Respondent: Mr. Leevie Herelle

Ms. Brenda Portland, Vice President of the the Bar Association of Saint Lucia appearing Amicus Curiae

Ms. Kimberly Williams of the Attorney General's Chambers appearing Amicus Curiae

Issues:

Interlocutory Appeal - Article 2111 of the Civil Code of Saint Lucia - Post Judgment Interest - Whether the learned judge erred in law by ruling that interest at the rate of 6% per annum from the date of judgment until payment in full automatically applies - Whether the learned judge's ruling that interest is not prescribed after five years in accordance with Article 2111 of the Civil Code of Saint Lucia is a wrong interpretation of the Article

Type of Order:

Directions

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

1. The hearing of the appeal is adjourned to the next sitting of the Court in St Lucia in the week commencing on 15th June 2025.
2. The President of the St. Lucia Bar Association and the Attorney General of St. Lucia are hereby appointed amicus curiae to assist the Court in respect of the important legal issues which arise in this appeal.
3. The appellant and respondent along with the Court appointed amicus curiae are to file written legal submissions along with supporting authorities on the following questions, on or before the 10th April 2026:
 - a. what is the legal statutory basis for awarding post-judgment interest in Saint Lucia;
 - b. whether Articles 1008 and 1685 of the Civil Code are the applicable statutory bases for awarding post judgment interest;
 - c. if yes, then does post judgment interest accrue automatically or must it be specifically pleaded and a court order made in that regard;
 - d. whether pursuant to Article 2111 of the Civil Code, post judgment interest, (to the extent that it applies in this jurisdiction) would be prescribed after 5 years.
4. The Chief Registrar is authorised to release the authorisation code granting access to the relevant filed documents in this appeal on the E-Litigation Portal to the appointed Amicus Curiae.

Reason:

Before the Court was an interlocutory appeal against the decision the learned judge of the court below dated 27th May 2022 in which he (1)

determined that the respondent is entitled to claim interest under Article 1008 of the Civil Code on the judgment debt at the statutory rate of 6 % per annum from the date of the judgment until payment and; (2) adjourned the matter for report on the parties' agreement of the principal judgment sum and further consideration of the judgment summons to 15th June 2022

Upon hearing counsel for both the appellant and respondent, the Court was of the view that additional submissions were required to assist the Court in determining the issue of whether the learned trial judge misdirected himself and erred by ruling that interest at the rate of 6% per annum from the date of judgment until payment automatically applies. The Court further determined that the appointment of Amicus Curiae from Attorney General's Chambers and the Bar Association of Saint Lucia was appropriate in this matter since any ruling in this judgment is likely to have far-reaching implications in Saint Lucia.

The Court requested submissions on the following questions:

- a. what is the legal statutory basis for awarding post-judgment interest in Saint Lucia;
- b. whether Articles 1008 and 1685 of the Civil Code are the applicable statutory bases for awarding post judgment interest;
- c. If yes, then does post judgment interest accrue automatically or must it be specifically pleaded and a court order made in that regard;
- d. whether pursuant to Article 2111 of the Civil Code, post judgment interest, (to the extent that it applies in this jurisdiction) would run afoul of Article 2111 of the Civil Code being prescribed after 5 years.

The Court adjourned the hearing of the appeal to the next sitting of the Court of Appeal in Saint Lucia to allow counsel for the parties as well as counsel appointed as amicus to provide submissions to assist the Court.

Case Name:

**Camillus Roberts
v
Medwin Hunte Baptiste
[SLUHCVAP2024/0019]
SAINT LUCIA**

Date:

Monday 9th March 2026

Coram:

**The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal [Ag.]**

Appearances:

**Appellant: Mr. Sahleem Charles
Respondent: Ms. Lydia Faisal**

Issues:

Civil appeal - Application for adjournment

Type of Order:

Adjournment

Result / Order:

[Oral delivery]

IT IS HEREBY ORDERED THAT:

The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 15th June 2026.

Reason: Before the Court was an application for an adjournment. The application was made on the basis that counsel on record for the appellant had fallen ill and had sought medical treatment the previous night. It was therefore not possible, in the circumstances, for another counsel to be briefed in sufficient time to proceed with the matter. The Court was also informed that a consent order had been agreed with counsel for the respondent on the previous day. A medical leave certificate was produced to the Court. Having taken these matters into account, the Court granted the adjournment.

Case Name: Joan Marquis
v
The Attorney General of Saint Lucia
[SLUHCVAP2025/0016]
SAINT LUCIA

Date: Tuesday 10th March 2026

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Kenroy Denver Justin
Respondent: Mrs. Nichola George-Benjamin

Issues: Application for adjournment on behalf of the appellant

Type of Order: Adjournment

Result / Order: [Oral delivery]

IT IS HEREBY ORDERED THAT:

1. The oral application of counsel for the appellant for an adjournment of the appeal upon the presentation of a medical certificate for the lead counsel for the appellant Mrs Cynthia Coombie – Martyr with counsel for the respondent consenting, the application for an adjournment of the appeal is granted.
2. The application is to be listed for hearing on a date to be confirmed by the Chief Registrar.

Reason:

Before the Court was an application by the appellant for an adjournment on medical grounds. The medical certificate had been forwarded by senior counsel to the court through the Chief Registrar. However, counsel for the respondent had not had prior sight of the email and the accompanying medical certificate before the hearing. The same having been provided to counsel for the respondent by the court, counsel reviewed the same and raised no objection to the application although they indicated they were ready to proceed. The Court was satisfied that the application ought to be acceded to and the application for an adjournment was therefore granted.

Case Name:

**Bamboo Springs Bottled Water Limited
v
The Bank of Nova Scotia
[SLUHCMAP2022/0003]
SAINT LUCIA**

Date:

Tuesday 10th March 2026

Coram:

**The Hon. Mr. Trevor Ward, Justice of Appeal
The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]**

Appearances:

Appellant: Ms. Natalie Da Breo

Respondent: Mr. Deale Lee

Issues: Application to be removed from the record for the appellant

Type of Order: Oral Decision

Result / Order: IT IS HEREBY ORDERED THAT:

1. Leave is granted to Ms. Natalie Da Breo to withdraw as counsel for the appellant.
2. The appellant shall retain and properly instruct counsel to appear on its behalf on or before 4pm on 13th April 2026.
3. Counsel retained by the appellant shall file its notice of acting on or before 4 pm on 13th April 2026.
4. Unless the appellant complies with the orders made at paragraphs 2 and 3, the appeal shall stand dismissed without further order of the court with costs to the respondent to be assessed.

Reason: Before the Court was an oral application made by counsel for the appellant, Ms. Natalie da Breo, for leave to withdraw from the record on the basis that she had not been properly retained. The Court noted the attendance of the appellant's representative Mr. Martin Martin in Court and the response of counsel for the respondent to the oral application.

The Court considered the history of this matter, including previous Case Management notes which show that there has been some delay by the

appellant in finalizing representation and noted that this matter came before the Full Court on 27th October 2025 and was adjourned. Additionally, the Court noted that this being an appeal from the Commercial Court, the appellant is required to be represented by a legal practitioner pursuant to the Eastern Caribbean Supreme Court Civil Procedure Rules 71.8(2).

In these circumstances, the Court granted leave to Ms. Natalie da Breo to withdraw as counsel for the appellant; ordered the appellant to instruct and properly retain counsel to appear on his behalf on or before 4pm on Monday, 13th April 2026, and counsel upon being retained by the appellant to file a notice of acting on or before 4pm on 13th April 2026. The Court also ordered that unless the appellant complies with the orders made at paragraphs 2 and 3, the appeal shall stand dismissed without further order from the Court with costs to the respondent to be assessed.

Case Name:

**[1]Peter Toussaint
[2]Terentia Nigel Toussaint-Carroll
[3]The Heirs of Thelma Toussaint**

v

**Peter Michael Barnard
[SLUHCVAP2024/0005]
SAINT LUCIA**

Date:

Wednesday 11th March 2026

Coram:

**The Hon. Mde. Margaret Price Findlay, Chief Justice [Ag.]
The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal**

Appearances:

Applicants/Appellants:

Second named applicant in person, and for and on behalf of the other appellants

Respondent:

Mr. Dexter Theodore, KC

Issues: Application for leave to appeal to the Caribbean Court of Justice - Section 108(1)(a) of the Constitution of Saint Lucia - Rule 11.3 of the Caribbean Court of Justice (Appellate Jurisdiction) Rules 2024

Type of Order: Oral Decision/Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application filed on 29th December 2025 for leave to appeal to the Caribbean Court of Justice pursuant to section 108(1) of the Constitution of Saint Lucia from the decision of the Court of Appeal in the matter bearing the number SLUHCVAP2024/0005 dated 12th November 2025 is granted on the following conditions:
 - a. The applicants shall within a period not exceeding 90 days of the date of this judgment provide security for costs with which the applicants may become liable to be ordered to pay in an amount not exceeding EC\$7,500.
 - b. The applicant shall provide to the Chief Registrar within a period not exceeding 90 days of the date of this judgment, a list proposing the documents which will be included in the record of appeal
2. Upon compliance with the conditions therein, the Chief Registrar shall issue a certificate of compliance in conformity with Form 2A Schedule 5 of the Caribbean Court of Justice Appellate Jurisdiction Rules 2024 and within 7 days of its issue, serve copies on the applicants and the intended respondents and shall notify the registrar of the Caribbean Court of Justice.
3. Costs in the application to be on the appeal to the Caribbean Court of Justice.

Reason:

Before the Court was an application for leave to appeal the Court of Appeal's decision in claim number SLUHCVAP2024/0005 dated 12th November 2025 for leave to the Caribbean Court of Justice (CCJ) pursuant to section 108(1)(a) of the Constitution of Saint Lucia.

The Court had regard to the Notice of Appeal filed on 29th December 2025, Skeleton Arguments filed by the appellant on 9th February 2026, Notice of Opposition filed by the respondent filed on 7th January 2026 and Skeleton Arguments of the respondent filed on 23rd February 2026.

The Court considered the written submissions of both parties and determined that the intended appeal lies to the CCJ as of right pursuant to section 108(1)(a) of the Constitution of Saint Lucia.

The Court was satisfied that the decision from which the appeal is sought is a final decision in a civil proceeding; the matter in dispute on appeal is of the proscribed value, and the appeal involves a claim respecting property rights of the prescribed value or upwards.

Accordingly, the Court was satisfied that the applicants met the requirement for the grant of leave to appeal to the CCJ as of right and granted leave.

Case Name:

**Mario Perez Charles
v
Director of Public Prosecutions**

**[SLUHCRAP2025/0001]
SAINT LUCIA**

Date:

Wednesday 11th March 2026

Coram: Her Ladyship, The Hon. Mde. Margaret Price Findlay, Chief Justice [Ag.]
His Lordship, The Hon. Mr. Trevor Ward, Justice of Appeal
Her Ladyship, The Hon. Mde. Esco L. Henry, Justice of Appeal

Appearances:

Appellant: Mrs. Wauneen Louis-Harris
Respondent: Ms. Kelly Thomson and Ms. Karleen King

Issues:

Criminal appeal - Murder contrary to section 85(b) of the Criminal Code of Saint Lucia - Appeal against sentence for murder - Whether the sentence imposed was excessive in all the circumstances - Whether the learned judge erred in law in concluding that there were no mitigating factors notwithstanding that the appellant was convicted under section 85(b) of the Criminal Code of Saint Lucia which contemplates an intention to cause grievous bodily harm rather than an intention to kill - Whether the learned trial judge erred in making an upward adjustment of the starting point from 25 years to 28 years by failing to treat the appellant's intention to cause grievous bodily harm, rather than an intention to kill, as a mitigating factor - Whether the learned judge erred in law in concluding that the previous conviction of the appellant when he was a minor was an aggravating factor which ought to have been considered in determining the appropriate sentence of the appellant - Whether the learned judge misdirected herself on the law in failing to take into account the good character of the appellant and the fact that he had good prospects of rehabilitation in relation to the mitigating factors which would have justified a further reduction in the sentence

Type of Order: Oral Judgment with written reasons to follow

Result / Order: IT IS HEREBY ORDERED THAT:

The appeal is allowed with written reasons to follow.

Reason: N/A

Case Name: Sabina Alcide
v
[1] Marguerite Desir
[2] Marguerite Desir (qua executrix of the will of the late Albertha Bella Butcher)

**[SLUHCVAP2023/0004]
SAINT LUCIA**

Date: Thursday 12th March 2026

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Dexter Theodore, KC

Respondent: Mrs. Diana Thomas Hunte and Ms. Iyka Dorival

Issues: Civil Appeal - Adjournment due to constitution of the panel

Type of Order: Adjournment

Result / Order: IT IS HEREBY ORDERED THAT:

The notice of appeal and counter notice of appeal are adjourned for hearing in the week commencing the 4th May 2026 during the Court of Appeal sitting in St. Vincent and the Grenadines.

Reason:

This appeal had been listed for hearing during the present sitting of the Court. However, the hearing could not proceed before the panel as constituted. notwithstanding the efforts made to constitute the panel required to hear and determine the appeal, it was not possible to convene a properly constituted panel of the Court for that purpose. In those circumstances, the Court was unable to proceed with the hearing of the appeal at this sitting. The appeal was therefore adjourned to a future sitting of the Court of Appeal when a properly constituted panel can be convened to hear and determine the matter.