

EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING
VIDEOCONFERENCE
TERRITORY OF THE VIRGIN ISLANDS
TUESDAY, 24TH FEBRUARY 2026- FRIDAY, 28TH FEBRUARY 2026

JUDGMENTS

Case Name: Brenda Gillian Furlonge
v
[1] Honourable Minister of Public Safety and Labour
[2] The Attorney General

[ANUHCVAP2020/0009]
(Antigua and Barbuda)

Date: Tuesday, 24th February 2026

Coram for Delivery: The Hon. Mde. Margaret Price Findlay, Chief Justice [Ag.]
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St.C Farara, Justice of Appeal [Ag.]

Appearances:
Appellant: In person
Respondents: Ms. Alicia Aska

Issues: Civil Appeal – Judicial review – Public employment – Non established employee – Revocation of appointment and transfer to another ministry – Cabinet Decisions Nos. 105 and 106 – Whether the collective agreements applied to the appellant and were enforceable as contractual terms – Whether the learned judge erred in treating the collective agreements as applicable and enforceable – Sections K25 and K27 of the Antigua and Barbuda Labour Code – Management Clause and Government’s discretion to transfer non established employees without consent – Whether the Government’s discretion to transfer was constrained by good faith, rationality, and the duty to act fairly –

Procedural fairness – Retrospective implementation of the Cabinet decisions -Short or absent notice – Lack of consultation and reasons – No meaningful opportunity to be heard – Whether the manner of implementation rendered the Cabinet decisions unlawful – Malice and victimisation – Whether a sufficient causal connection was established between the appellant’s complaint of sexual assault and the transfer decisions – Relief – Whether the Cabinet decisions should be quashed or declared unlawful – Whether declaratory relief was appropriate – Damages.

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. It is hereby declared that the appellant’s right to procedural fairness was infringed and that the Government’s decision to transfer the appellant is unlawful. Consequently, the appellant did not lawfully cease to hold the office of prison officer.**
- 2. The appeal is allowed and the decision of the learned judge below is hereby set aside.**
- 3. Each party shall bear their own costs of the appeal.**

Reason:

- 1. The Government, acting as employer under a valid collective agreement, enjoys a managerial discretion to transfer non-established employees without their consent. However, that discretion is not unfettered and must be exercised within recognised legal constraints. These authorities, read together, confirm that while the Government enjoys managerial discretion to transfer employees under the collective agreement, that discretion is not unfettered. It must be exercised in good faith, for proper administrative reasons, and consistently with the common law duty of fairness. Accordingly, the Government, acting as employer under a valid collective agreement, possesses the discretion to transfer a non-established employee without that employee’s consent, provided that the discretion is exercised honestly, in good faith, rationally, and in accordance with the principles of procedural fairness.**

Sections A6, C7 and K27 of the Labour Code Cap. 27 of the Laws of Antigua and Barbuda applied; Braganza v BP

Shipping Ltd [2015] UKSC 17 applied; Claude Gerald v The Governor of Montserrat et al Territory of Montserrat Civil Appeal No. 2 of 2003 (delivered 29th March 2004, unreported) followed; Judy Benoit v Her Excellency the Governor-General Dame Cécile La Grenade and The Attorney General GDAHCV2022/0196 (delivered 11th October 2022, unreported) followed.

- 2. Although the power to transfer was correctly recognised by the trial judge, the central issue on appeal concerned not the existence of that power but the legality of the manner in which it was exercised. This Court accepts that the trial judge's conclusion on power to transfer is correct, there being no provision which curtailed the Government's discretion. The issue which nevertheless arises for this Court to determine is not merely whether the appellant was amenable to transfer, but whether the manner in which those transfers were effected complied with the requirements of legality and procedural fairness.**
- 3. A claim that the transfers were motivated by victimisation requires proof of a causal connection between the protected complaint and the impugned decision. The burden fell on the appellant to establish a causal connection between the transfers and her complaint. No such connection was demonstrated. No independent material capable of supporting the conclusion that the transfers were tainted by victimisation was produced, and the claim of victimisation therefore cannot be sustained.**

Moriba Baker v The University of Trinidad and Tobago Trinidad and Tobago Equal Opportunity Tribunal No. 004 of 2016 (delivered 19th November 2016, unreported) considered; Phonographic Performance Ltd v Ellis (t/a Bla Bla Bar) [2018] EWCA Civ 2812 followed.

- 4. Even where no retaliatory motive is established, the duty to act fairly remains operative. The absence of improper purpose does not relieve a decision maker of the obligation to comply with the requirements of natural justice. Notwithstanding the absence of a retaliatory motive, the decision maker is not absolved from the obligation to act fairly, and legitimate administrative reasons do not discharge the duty to ensure that the process by which the transfers were effected was procedurally fair. Procedural fairness requires meaningful**

engagement with the affected employee before implementation of a prejudicial decision. The evidence shows that the appellant was notified of transfers on very short notice, with no indication that her objections were ever considered or that she was provided with any explanation prior to implementation. Such an absence of engagement or explanation demonstrates a clear breach of procedural fairness.

Montrope v The Public Service Commission and The Attorney General of Saint Lucia SLUHCV2017/0385 (delivered 4th May 2018, unreported) distinguished; Judy Benoit v Her Excellency the Governor-General Dame Cécile La Grenade and The Attorney General GDAHCV2022/0196 (delivered 11th October 2022, unreported) followed.

5. The breach was compounded by the retrospective and immediate implementation of Cabinet Decisions Nos. 105 and 106. Those decisions were applied retrospectively and without prior notice and were implemented with such immediacy that genuine engagement was impossible. The appellant was deprived of any realistic opportunity to respond, and the retrospective implementation together with the absence of prior notice constitutes a breach of procedural fairness. Accordingly, the Court finds that Cabinet Decisions Nos. 105 and 106 were procedurally unfair and allows the appeal on this ground. It was the appellant's inability to respond to the decisions which constituted the core breach of natural justice, and procedural fairness was therefore violated in respect of those decisions.
6. Where procedural unfairness is established, the appropriate public law relief is to reflect the nature of the unlawfulness found. In the present case, the appropriate relief ought to be declaratory in nature, as Cabinet Decisions Nos. 105 and 106 are vitiated by procedural unfairness.

Case Name:

**[1] Notre Dame Investments Limited
[2] Angela Diala List
[3] Nguvu Holdings Limited
v
[1] Rowntry Trading Limited**

[2] Paul List
[3] BCM International Limited

[NEVHCVAP2025/0007]
(Saint Christopher and Nevis)

Date: Tuesday, 24th February 2026

Coram for Delivery: The Hon. Mde. Margaret Price Findlay, Chief Justice [Ag.]
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St.C Farara, Justice of Appeal [Ag.]

Appearances:

Appellants: Mr. Errol Williams holding papers for Mr. Dalano Bart, KC

Respondents: Mr. Jaydee Bourne holding papers for Ms. Jean Dyer

Issues: Civil appeal – Application to adduce expert evidence of foreign law – Rules 31.2 and 32.6 of the Civil Procedure Rules (Revised Edition) 2023 – Exercise of judicial discretion to permit evidence of foreign law - Final judgment - Issue estoppel – Duty to sufficiently plead case - Costs – Whether the learned judge erred in awarding costs to the respondents

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appeal is dismissed, except that the order awarding costs to the second respondent in the sum of \$1,250.00 is set aside and an order for costs in the cause substituted.
2. The finding and order made by the learned judge at paragraph 9 of the judgment in the court below granting permission to Angela List to adduce and to rely on the expert evidence of Ghanaian law of Dr. Kweku Ainuson on the issue of issue estoppel is set aside.
3. The respondents shall have their costs of the appeal to be assessed by a judge or master, if not agreed by the parties within 21 days from the date of this judgment.

Reason: 1. The question of whether and what evidence a party to civil proceedings is permitted to adduce by way of expert

evidence of foreign law falls to be decided by a judge under rules 31.2 and 32.2 of the CPR. It is part of the exercise of a case management power by the judge to be decided judicially as a matter of the court's discretion and having regard to the overriding objective under the CPR. The permission of the court must be limited to only evidence which is reasonably required to resolve the proceedings (or an issue in the proceedings) justly. Rule 32.6, which sets out the procedure for applying for permission to adduce expert evidence and the court's power to restrict its permission to the expert witness proposed by the applicant and to the issues or questions upon which the judge, in his judgment, considers he could benefit from expert evidence of foreign law, is to be decided having regard to the standard stipulated by rule 32.2. Together these provisions subject the entirety of the deployment of expert evidence to active judicial control by way of case management in pursuit of the overriding objective and in particular, ensuring proportionality and economy in the resolution of civil disputes. The learned judge was therefore required to consider whether the evidence of Ghanaian law sought to be adduced by Mrs. List relates to an issue in the proceedings and is evidence of the kind reasonably required to resolve the proceedings or that issue justly.

Rules 32.2 and 32.6 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 applied; *Bergan v Evans* [2019] UKPC 33 applied.

2. If the evidence sought to be adduced as expert evidence does not concern or arise from the appellants' pleaded case or an issue raised in the defence, it would be impermissible for the appellants to be allowed to adduce such evidence by way of an expert witness. Pursuant to rule 8.7, a claimant's duty when pleading their case is to include in the claim form and statement of claim a statement of all the facts on which the claimant relies and the statement of claim must be as short as practicable. Pursuant to rule 8.8, a claimant may not rely on any allegation or factual argument which is not set out in the claim, but which could have been set out therein, unless the court gives permission or the parties agree. Once the case is sufficiently pleaded, witness statements may furnish the particulars or details of the allegations or facts

contained in the statement of claim. In this way and to this extent, particulars provided in witness statements do not constitute a change of case, provided that the allegation was sufficiently pleaded. In this case, what is stated at paragraph 69 of Mrs. List's witness statement as the issue with respect to which permission to adduce expert evidence of foreign law was sought, is not 'particulars' or an 'amplification' of the case as pleaded in the statement of claim. The learned judge was therefore correct in concluding that it was an impermissible recasting or reshaping of the pleaded case relating to the haulage business and detrimental reliance arising from the alleged mutual understanding between Mr. Paul List and Mrs. Angela List. Accordingly, grounds 5, 6, 7, 8, 9, 10, 11 and 12 in the notice of appeal also fail.

Rules 8.7 and 8.8 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 applied; *National Lotteries Authorities v Jerome De Roche* GDAHCVAP2021/0025 (delivered 21st November 2022, unreported) followed; *McPhilemy v Times Newspaper Ltd and other* [1999] 3 All ER 775 applied; *Saint Lucia Motor & General Insurance Co. Ltd v Peterson Modeste* SLUHCVP2009/008 (delivered 11th January 2010, unreported) followed.

3. While the learned judge did not indulge in an examination of the requirements under rule 31.2 of the CPR for permitting a party to adduce evidence on a question or questions of foreign law, nor did he specifically examine Mrs. List's application and determine whether she had met the requirements of rule 32.6 as to the expert evidence to be adduced and the name and qualifications of the person proposed as an expert on Ghanaian law, it is clear from a reading of the judgment that the learned judge must have been mindful of each of these requirements of an application to adduce expert evidence of foreign law. His focus was however on whether such evidence was necessary in order to decide justly the three issues or questions posited by the notice of application. Further, there was no real issue before the judge as to whether the applicant, Mrs. List, had complied with the requisite procedural requirements of rules 31.2 and 32.6. Accordingly, in this regard, the learned judge did not err in his approach to dealing with Mrs. List's application.

Rules 31.2 and 32.6 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 considered.

- 4. A judgment that is not a final judgment cannot support an argument or pleading of estoppel. In this case, while the learned judge was correct in finding that the Ghana judgment was not a final judgment, the learned judge's finding and subsequent order permitting expert evidence of Ghanaian law on the issue of whether the finding at paragraph [81] of the Ghana judgment creates or constitutes an issue estoppel as to whether or not Mrs. List had by her letter dated 3rd October 2020 effectively resigned her position as finance director, must be set aside. While Mrs. List is a party in the Ghana proceedings giving rise to the Ghanaian judgment, the 'finding' of the Ghanaian court at paragraph [81] relate to BCM Ghana Limited, which company is not a party to these proceedings. It is therefore highly unlikely that what is said at paragraph [81] of the Ghanaian judgment can create or constitute an issue estoppel as to Mrs. List's resignation as a director of any of the companies which are parties to these proceedings. It is also at least arguable that what is said at paragraph [81] is not a positive finding of fact that Mrs. List had subsequently withdrawn her letter of resignation dated 3rd October 2020 as a director of BCM Ghana Limited with the consent of the said company. The finding of lack of finality of the Ghana judgment ought to have led the judge inexorably to hold that there was no proper basis upon which expert evidence of Ghanaian law could assist the court to resolve the issues justly and to the dismissal of the Expert Evidence Application in its entirety.**
- 5. Costs incurred at a pre-trial review or at a case management conference are part of prescribed costs to be assessed as part of the proceedings and cannot be the subject of an independent costs order. Pursuant to rule 65.5, the general rule is that where rule 65.4 (fixed costs) does not apply, costs are to be determined in accordance with Appendices B and C of Part 65 and paragraphs (2) and (4) of rule 65.5. Accordingly, by rule 65.3(b), the costs of this application fell to be determined in accordance with rule 65.5 - prescribed costs. Furthermore, rule 65.11(1) expressly exempts from the assessed costs regime interlocutory applications determined at a case**

management conference, pre-trial review or trial (procedural applications). For these reasons, the award of \$1,250.00 as costs of the application to the second respondent was wrong in principle and an erroneous exercise of discretion by the learned judge, and must be set aside.

Part 65 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 applied.

Case Name: **Culgoa Limited**
v
Basement Investments Limited
[BVIHCMAP2024/0011]
(Territory of the Virgin Islands)

Date: **Thursday, 26th February 2026**

Coram for Delivery: **The Hon. Mde. P. Nicola Byer, Justice of Appeal**
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
The Hon. Mde. Marlene Carter, Justice of Appeal [Ag.]

Appearances:
Appellant: **Mr. Litrow Hickson**
Respondent: **Mr. Nicholas Burkill**

Issues: **Civil Appeal – Summary Judgment – Part 15 of the Eastern Caribbean Supreme Court Civil Procedure Rules 2023 – Test for summary judgment – Real prospect of success – Distinction between legal theory and factual matrix – Equity – Express bare trusts – Beneficial ownership – The “three certainties” – Certainty of intention – Construction of transfer documents – Gratuitous transfers – Presumption of resulting trust – Appellate interference – Exercise of judicial discretion – Whether decision was clearly or blatantly wrong – Standard for interfering with discretionary assessment on summary judgment**

Type of Order: **N/A**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The appeal is dismissed.**
- 2. Costs to Basement Investments Limited, to be assessed by a judge of the Commercial Court.**

Reason:

- 1. The decision of a judicial officer whether or not to grant an application for summary judgment is wholly within the remit of judicial discretion. This Court will not disturb such a decision unless the appellant demonstrates that the learned judge committed a blatant error of principle or reached a conclusion that exceeded the generous ambit within which reasonable disagreement is possible. In the context of CPR Part 15, the judge is performing a balancing act, and provided the judge applied the correct legal test for "real prospect of success," the appellate court must accord significant weight to the lower court's assessment of the case's viability.**
- 2. Pursuant to CPR Part 15, the court may give summary judgment if it considers that a party has "no real prospect" of succeeding. A "real" prospect must be one that is more than merely arguable; it must be realistic and not fanciful. The court is not required to accept assertions that are inherently incredible or contradicted by contemporaneous documents. To allow a matter to proceed to trial on the vague hope that "something might turn up" in the course of discovery or cross-examination is to invite speculation, which is contrary to the overriding objective of the CPR.**
- 3. For an express trust to exist, the "three certainties" must be present: certainty of intention, certainty of subject matter, and certainty of objects. Certainty of intention requires an objective assessment of whether the transferor intended to create a trust relationship. The learned judge was correct to look beyond the "internally coherent" legal theory of Culgoa to the factual matrix. The necessary intention can be inferred from conduct, and the evidence regarding Stella's role as the directing mind, indicated that the transfer was intended to place the shares at her disposal, which is fundamentally inconsistent with the manifestation of a sufficient**

intention to create an express bare trust in favour of Culgoa.

4. In construing the Transfer Form, the court must perform a unitary exercise, considering the language used against the background knowledge available to the parties at the time. While the form stated that there was no change in beneficial ownership, it also indicated that Basement received the shares "free and clear" to be dealt with at the direction of Stella. Where a document is capable of two constructions, the court is entitled to prefer the construction consistent with business common sense. The notion that the shares were moved from one entity to another only for the second entity to hold them for the first "made no logical or business sense" in the context of the family's administrative reorganisation.
5. A gratuitous transfer of legal title may raise a presumption of a resulting trust, suggesting the transferor did not intend to make a gift. However, this is a mere rule 4 of evidence that is easily rebutted by direct evidence of the transferor's actual intention. Because Culgoa specifically pleaded an express bare trust, which requires a positive intention, the learned judge was entitled to conclude that the evidence of the parties' conduct and the "free and clear" language of the transfer form negated that specific cause of action. The Court found no basis to suggest that the beneficial interest remained with Culgoa as a matter of express intent.
6. It is incumbent on a party responding to a summary judgment application to put forward sufficient evidence to show a real prospect of success. If a party relies on the possibility of further evidence emerging at trial, they must describe the nature of that evidence and its source; otherwise, they are merely playing for time. Culgoa failed to identify any tangible evidence that could be deployed at trial to rebut the contemporaneous documentation. Consequently, it was entirely open to the learned judge to exercise his discretion to stop the matter from proceeding on a case that had no reasonable prospect of success.

Case Name:

ICM SPC
v
[1] Ryan Jarvis

[2] Rachelle Frisby
(as Joint Liquidators of Phoenix Commodities PVT Ltd
(in liquidation))

[BVIHCMAP2024/0019]
(Territory of the Virgin Islands)

Date: Friday, 27th February 2026

Coram for The Hon. Mr. Trevor M. Ward, Justice of Appeal
Delivery: The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal

Appearances:

Appellant: Ms. Emily Rivett

Respondents: Mr. Jeremy Child and Ms. Jhneil Stewart

Issues: Company Law – Application for a stay of execution pending appeal – Exercise of judicial discretion – Whether the applicant has provided cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted – Whether the balance of harm test favours a grant of the application for a stay – Whether the applicant will suffer prejudice if the stay is not granted – Whether the appeal has good prospects of succeeding – Whether the learned judge erred in determining that ASOR should be included on the list of members of Phoenix BVI for the purposes of its liquidation

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for a stay of execution of the Mangatal Judgment dated 30th May 2024 and amended on 11th June 2024 and the Webster Order dated 30th May 2024 is refused.
2. The respondents shall have their costs to be assessed, if not agreed within 21 days of the date of this order; i.e. on or before 23rd March 2026.

Reason:

- 1. Jurisdiction to grant a stay of execution is bestowed on the Court by the joint effect of CPR rules 62.24(1) and 26.1(2)(q). The former states that the Court has all the powers and duties of the High Court including the case management powers outlined under Part 26, while the latter expressly empowers the Court to stay the whole or part of any proceedings generally or until a specified date or event. By rule 62.19(1)(b), a single judge of the court, (and by necessary implication the Full Court) is authorised to grant a stay of execution on any judgment or order against which an appeal has been made pending the determination of the appeal. The court also has an inherent jurisdiction to grant a stay of execution. The governing principles relevant to the determination of an application for stay are well-established. They are: (i) a court must have regard to all the circumstances; (ii) a stay is the exception rather than the general rule; (iii) a party seeking a stay should offer cogent evidence that an appeal will be stifled or rendered nugatory unless a stay is granted; (iv) the court in exercising its discretion applies, what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered; and (v) the Court should take into account the prospects of the appeal succeeding but only where strong grounds of appeal or a strong likelihood that the appeal will succeed is shown.**

C-Mobile Services Limited v Huawei Technologies Co. Ltd BVIHCMAP2014/0017 (delivered 2nd October 2014, unreported) followed; Novel Blaze Limited (In Liquidation) v Chance Talent Management Limited BVIHMCAP 2020/0006 (delivered 9th July 2020, unreported) followed; Nam Tai Property Inc v IsZo Capital BVIHCMAP2021/0010 (delivered 8th November 2021, unreported) followed.

- 2. In evaluating the prospects of the appeal, it is noted that by the applicant's own admission, the appeal at its highest raises legal questions as to the interpretation and application of section 49 of the Business Companies Act 2004 ('BCA'). The applicant does not challenge the applicable rules of statutory interpretation identified and applied by the judge in construing the provision, namely that the provision ought to be given its ordinary, natural and grammatical meaning. A common thread in the applicant's first five grounds of appeal is that the judge erred by holding that the section does not require the**

existence of a written agreement between the company and the shareholder in relation to the number of shares agreed to be acquired and the price of the shares. In arriving at her decision, the learned judge considered among other factors, all the evidence including ASOR's representative Mr. Abdul-Massih's testimony about events contemporaneous with and central to the circumstances in which the shares were held to have been acquired. It is noteworthy that she found Mr. Abdul-Massih's account to be inconsistent, incredible and convoluted. She clearly preferred the account of other witnesses. It follows that for an appeal against those findings of fact to be successful, the applicant would need to persuade the appellate court that it is an exceptional case that justifies relaxation of the restraint that characterises the court's settled approach to appeals against findings of fact. The learned judge considered all legal arguments advanced by the parties and gave a balanced, reasoned and logical assessment of the several authorities cited. It was open to the learned judge to conclude on the construction of section 49 as she did based on the learning on which she relied and to find as she did on the totality of the evidence that section 49 does not require that parties agree in writing the number or consideration for shares being purchased. The applicant has therefore not demonstrated that its strongest grounds of appeal appear to have a realistic chance of success.

3. As to whether the absence of a stay would render the appeal nugatory, even if a winding-up order is made, the liquidators appointed to wind up the company would have several options available to them, including pursuing the appeal if it is considered meritorious and beneficial to those concerned. A number of considerations would inform that decision. ICM's concerns that a winding up order has the potential to adversely impact its reputation and future prospects as well as those of AK-FY and result in irreparable harm to them fall short of showing that any of those fears would actually be realised. ICM has simply not supplied cogent evidence that the appeal would be stifled or rendered nugatory in such an eventuality.
4. Finally, on the balance of harm, the investors and shareholders of Phoenix BVI, represented by the respondents are likely to experience greater harm and prejudice if a stay is granted than the applicant would

suffer if a stay is refused. In this regard, the record reveals that they have awaited the completion of the winding up process over several years and have an interest in an expeditious resolution of all related proceedings. It is accepted that the consequences of a winding up order would mean the death of ICM and its inability to conduct the appeal or carry on the business activities of ASOR and AF-KY. It is also recognized that if the petition succeeds, ICM's appeal may be pursued by liquidators appointed to wind it up, in tandem with their other obligations to ICM's creditors, shareholders and to the extent permissible, its clientele, thereby minimizing potential prejudice to all concerned. The balance of harm therefore favours refusing the stay. Being mindful that a stay is the exception and not the general rule and having regard to the circumstances in this case, ICM has not met the threshold for grant of a stay of the Mangatal Judgment and the Webster Order. The applicant has not supplied cogent evidence that its appeal will be stifled or rendered nugatory if the stay is not granted; has not demonstrated that the balance of harm favours a stay or that it has a realistic prospect of success on appeal. For these reasons the application for a stay ought to be refused.

APPLICATIONS AND APPEALS

Case Name:

Xeno Origin Limited

v

Ma Kwok Leung

[BVIHCMAP2025/0024]

(Territory of the Virgin Islands)

Hear together with:

Ma Kwok Leung

v

Xeno Origin Limited

[BVIHCMAP2025/0026]

(Territory of the Virgin Islands)

Date: Tuesday, 24th February 2026

Before: The Hon. Mde. Margaret Price Findlay, Chief Justice [Ag.]
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St.C Farara, Justice of Appeal [Ag.]

Appearances:

Appellant/Respondent:	Mr. David Lord, KC
Respondent/Appellant:	Mr. Alexander Cook, KC with him Mr. Guy Olliff-Cooper, Ms. Grainne Hussey and Mr. Aaron Mayers

Issues:

Interlocutory Appeal - Order granting prospective leave to the respondent to commence derivative proceedings in Hong Kong - Section 184C of the BVI Business Companies Act (“BCA”) - Likely to succeed threshold - Whether judge erred in granting prospective leave to commence derivative claims “substantially in the form” as pleaded in the Hong Kong Proceedings without a claim by claim analysis - Whether there was no adequate alternative remedy available to the respondent as required by section 184C(e) of the BCA - Whether the judge erred in failing to conclude in the absence of valuation evidence of the shares at the sale date and any evidence of likely litigation costs and recoveries prevented compliance with section 184C(2)(d) - Whether the judge was wrong to treat the five mandatory considerations which the court must take into account at section 184C(2) of the BCA as a non-cumulative checklist

Interlocutory appeal – Whether the judge erred in declining to grant the respondent/appellant retrospective leave to bring claims on behalf of the respondent/appellant in the Hong Kong Proceedings as he considered that he had no power to do so pursuant to s. 184(C)(6) of the BCA - Whether in declining to grant retrospective leave, the judge was wrong to award the respondent its costs relating to the issue of retrospective leave

Type of Order: N/A

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Case Name: Vladimir Niyazov

v

[1] Agon Litigation

[2] Arabella di Iorio

**[BVIHCMAP2024/0005]
(Territory of the Virgin Islands)**

Date: Wednesday, 25th February 2026

Before: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]
The Hon. Mde. Marlene Carter, Justice of Appeal [Ag.]

Appearances:

Applicant: In person

Respondents: Ms. Charlotte Branfield

Issues: Application for conditional leave to appeal to the Privy Council and for related relief, filed 15th April 2025– Conditional leave to appeal Court of Appeal's order dated 24th March 2025 refusing leave to appeal an order of Wallbank J- Service - Whether service of the respondent's notice of opposition filed 28th April 2025, written submissions filed 28th April 2025 and hearing bundle filed 11th February 2025 were validly effected on the applicant by way of email

Type of Order: Adjournment

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The application for conditional leave to appeal to the Privy Council and related relief is adjourned to the next sitting of the Court of Appeal in the Territory of the Virgin Islands which is scheduled to commence the week of 1st June 2026.**

Reason:

Before the Court was an application filed on 15th April 2025 seeking conditional leave to appeal to the Privy Council. While the application was properly lodged on the E-Litigation Portal, it was however unsupported by affidavit evidence and, there were no legal submissions filed in support thereof. There were, however, the respondents' notice of opposition and written legal submissions which had been filed by the respondents. There was also a hearing bundle which was filed by the respondents pursuant to a case management order following a case management hearing on the 16th December 2025 at which the applicant was absent.

The applicant is a self-represented litigant who would not have access to the E-Litigation Portal and as such, it was a requirement that he be served in accordance with the E-Litigation Rules of the Court which regulate service on self-represented litigants.

The respondents would have emailed the hearing bundle, the written legal submissions and the notice of opposition to the applicant at the email address regularly used by the applicant. However, the applicant submitted that this was not proper service.

The Court noted that at page 9 of the applicant's notice of application, the applicant made clear that his address for service is Romos Limited, 2nd Floor Abbott Building, Waterfront Drive, P.O. Box 3169, Road Town, Tortola, VG1110, British Virgin Islands. The applicant also provided his email address but he made clear that the email address was available for service only if the receipt of the documents to be served was manually confirmed. It follows that the applicant was insisting that he be served in accordance with the ordinary practice and had provided an address for service within the Virgin Islands for that purpose.

The Court had regard to those facts and circumstances and also to the fact that the applicant is a self-represented litigant; that the respondents' written legal submissions were advanced not only in response to the application seeking conditional leave to appeal to the Privy Council but they also positively advanced arguments that the applicant ought to be declared as a vexatious litigant and that there should be costs consequences. Having regard to those matters, the Court determined that the application for conditional leave to appeal to the Privy Council and related relief ought to be adjourned in order to facilitate proper service on the applicant of not only the respondents' hearing bundle but also the notice of opposition and written submissions all of which were filed in response.

Accordingly, the application for conditional leave to appeal to the Privy Council and related relief was adjourned to the next sitting of the Court in the Territory of the Virgin Islands scheduled to commence the week of 1st June 2026.

Additional Note: During the course of hearing the applicant objected to the constitution of the Panel on the basis that the President should recuse from participating as a member of the panel. The President determined that the application for recusal should be refused because (1) the fact that she (as a single judge) would have made an order referring the applicant's application for leave to appeal to the Full Court pursuant to CPR Part 62. 2 (7) would not warrant recusal - *Locabail v Bayfield* [2000] QB 451 (2) there was no evidence which raised any conduct which could be said to satisfy the threshold test in *Porter v Magill* [2002] 2 AC 357.

Case Name:

Marine Bright Limited
v
Lai Wing Lun
(as Sole Liquidator of Docile Bright Investments
Limited (In Liquidation))

[BVIHCMAP2022/0057]
(Territory of the Virgin Islands)

Date:

Wednesday, 25th February 2026

Before:

The Hon. Mde. Vicki Ann Ellis, Justice of Appeal

The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]
The Hon. Mde. Marlene Carter, Justice of Appeal [Ag.]

Appearances:

Appellant: No appearance

Respondent: Mr. Dean Robson with Mr. Dhanshuklal Vekaria

Issues:

Application to strike out the appellant company's notice of appeal – Dissolution of company – Service on dissolved company – Section 215 of the BVI Business Companies Act

Type of Order:

Adjournment

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

- 1. The notice of application to strike out the notice of appeal filed on 15th July 2025 is adjourned to a date to be fixed by the Chief Registrar.**

Reason:

The Court noted that the respondent's notice of application had not been served on the appellant company, neither had the appellant company been provided with a notice of hearing date.

The Court considered the submissions of the respondent (including the supplemental submissions of 24th February 2026) advanced by counsel for the respondent as well as the oral submissions.

The Court noted that notwithstanding that the appellant company had been struck off the Register and dissolved since 2023, that having regard to section 215 of the Business Companies Act, where a company has been struck off the Register and dissolved, the company, or a director, member, liquidator or receiver thereof, may— (a) make application for restoration of the company to the Register; (b) continue to defend proceedings that were commenced against the company prior to the date of the striking-off; and (c) continue to carry on

legal proceedings that were instituted on behalf of the company prior to the date of striking-off.

The Court was therefore not satisfied that the respondent's strike out application should be heard ex parte purely because the appellant company has been dissolved. Accordingly, the Court was of the view that an adjournment of the hearing of the application was necessary to allow the respondent to take the necessary steps to resolve the issue of service of the application to strike out the appellant company's notice of appeal.

Case Name:

Andrey Titarenko

v

[1] Viktor Vekselberg

[2] Renova Industries Ltd

[3] Lamesa Holdings Sa

[4] Zapanco Limited

[5] Integrated Systems Limited

(a company incorporated under the laws of Belize)

[6] Wedgwood Management Limited

[7] Odvin Financial Inc

[8] Starlex Company Limited

[9] Sunglet International Inc.

[10] Flopsy Overseas Limited

[11] Integrated Energy Systems Limited

(a company incorporated under the laws of Cyprus)

[BVIHCMAP2021/0036]

(Territory of the Virgin Islands)

Date:

Wednesday, 25th February 2026

Before:

The Hon. Mde. Vicki Ann Ellis, Justice of Appeal

The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]

The Hon. Mde. Marlene Carter, Justice of Appeal [Ag.]

Appearances:

Appellant: In person

Respondents: Ms. Arabella di Iorio

Issues: Interlocutory appeal – Appeal against order granting with retrospective effect, extension of time to the respondents to file their defences and ordering costs of the application to the appellant – Whether the learned judge breached Rule 65.11(3)(b) of the Civil Procedure Rules 2000 and abused the court’s process by making a costs order – Whether the learned judge ought to take into account the circumstances at the time of the adjourned hearing prior to the expiry of deadlines for filing defences – Whether the learned judge erred in finding that the appellant would suffer no prejudice – Whether the learned judge failed to find that the sanctions were imminent at the time of making the extension application – Whether the learned judge erred by dealing with the evidence of counsel for the respondents – Whether the learned judge erred in law by finding that granting an extension of time for filing a defence is a matter of discretion of a judge

Type of Order: N/A

Result / Order: IT IS HEREBY ORDERED THAT:

1. The eighth and ninth named respondents to the appeal are struck out by consent.
2. Judgment is reserved.

Reason: Counsel for the respondent indicated that the eighth and ninth respondents had been improperly joined in this appeal as they were not involved in the proceedings in the court below. The appellant conceded this point and consented to the removal of the eighth and ninth respondents.

The Court therefore determined that the eighth and ninth respondents should be struck off as parties to the appeal.

Case Name: The British Virgin Islands Christian Council (also known as BVI Christian Council)
v
[1] Kinisha Forbes

[2] Kirsten Lettsome
[3] Attorney General of the Virgin Islands

[BVIHCVAP2025/0021]
(Territory of the Virgin Islands)

Date: **Wednesday, 25th February 2026**

Before: **His Lordship, The Hon. Mr. Trevor M. Ward, Justice of Appeal**
Her Ladyship, the Hon. Mde. P. Nicola Byer, Justice of Appeal
Her Ladyship, the Hon. Mde. Cadie St. Rose-Albertini, Justice of Appeal

Appearances:

Applicant **Ms. Lorraine A. Y. La Rose**

Respondent: **Mr. Terrence Williams KC, with him Ms. Karlene Thomas Lucien**
for the first and second respondents

Ms. J'Nae Hopkins and Ms. Shonice Warner for the third respondent

Issues: **Application for leave to appeal – Section 30(4) of the Eastern Caribbean Supreme Court Act – Rule 62.2 and 2.5(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 (“CPR”) – Whether the proposed appeal has a realistic prospect of success – Whether there is some other compelling reason why the appeal should be heard – Whether the directive/order accorded with CPR 2.5(8) – Application for stay of execution – Whether the appeal would be stultified or rendered nugatory and reduced to a purely academic exercise unless a stay is granted**

Type of Order: **Oral Decision**

Result / Order: **IT IS HEREBY ORDERED THAT:**

- 1. Leave to appeal is granted on the basis that there is some compelling reason why this appeal should be heard pursuant to CPR Part 62.2(8).**

2. The applicant shall file and serve the notice of appeal within 7 days of the date of today's order.
3. The Registrar is directed to produce and serve the transcript of proceedings before Hadad J on 18th November 2025 and 27th November 2025 on an expedited basis.
4. The appellant shall file and serve the Record of Appeal and written submissions with authorities within 7 days of receipt of the notice of availability of transcript.
5. The respondent shall file and serve submissions with authorities in reply within 7 days of receipt of the appellant's submissions.
6. The appellant is at liberty to file and serve written submissions with authorities in reply within 7 days of receipt of the respondent's submissions.
7. The appeal shall be listed for hearing on a date to be fixed by Chief Registrar on the matter being ready for hearing.
8. The proceedings of the court below are stayed pending the outcome of the appeal.

Case Name:

**Zvi Dekel
v
Clerkenwell Lifestyle Ltd.**

**[BVIHCMAP2025/0017]
(Territory of the Virgin Islands)**

Date: Thursday, 26th February 2026

Before: The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
The Hon. Mde. Marlene Carter, Justice of Appeal [Ag.]

Appearances:

Applicant: Mr. Tom Wieselberg KC, with him Mr. Ben Woolgar and Mr. Richard Evans

Respondent: Mr. Ryan James Turner with Ms. Tamara Cameron

Issues: Application to adduce fresh evidence – The applicable legal test for the admission of fresh evidence on appeal (Ladd v Marshall [1954] 1 WLR 1489) – Whether the Adverse Cost Indemnity Evidence could with reasonable diligence have been obtained for use at the February Hearing – Whether the Adverse Costs Indemnity Evidence would probably have an important influence on the outcome of the Derivative Application – Whether the Adverse Costs Indemnity Evidence is apparently credible – Whether the learned judge had jurisdiction to revoke or vary the 4 March Order after hand down – Procedural fairness – Whether the learned judge failed to afford the appellant a real opportunity to address the proposed adverse costs indemnity prior to judgment – Exercise of discretion – Whether the learned judge wrongly exercised his discretion in dismissing the Revocation/Variation Application – Relevance of the indemnity – Whether the offered Adverse Costs Indemnity adequately addressed the court’s concerns as to potential adverse costs exposure of the Company – Interests of justice - Whether it is in the interests of justice to admit the Adverse Costs Indemnity Evidence for the determination of the Appeals

Type of Order: N/A

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason: N/A

Case Name: Zvi Dekel
v
Clerkenwell Lifestyle Ltd.
[BVIHCMAP2025/0017]

(Territory of the Virgin Islands)

Date: Thursday, 26th February 2026

Before: The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
The Hon. Mde. Marlene Carter, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Tom Wieselberg KC, with him Mr. Ben Woolgar and Mr. Richard Evans

Respondent: Mr. Ryan Turner with Ms. Tamara Cameron

Issues: Interlocutory appeal – Whether the judge’s conclusions expressed at paragraph [57] and elaborated at paragraphs [58] – [75] of the Judgment that the appellant’s proposed claims based on alleged dishonesty or bad faith by the directors were not sufficiently pleaded and had no realistic prospect of success were wrong – Whether the judge’s conclusion at paragraphs [76] – [77] of the Judgment that there is no realistic prospect of the claims in negligence succeeding was wrong, having given no reasoning at all for that conclusion, which was incorrect in light of the evidence and explanations put forward by the appellant regarding the intended negligence claims – Whether the judge was wrong to conclude at paragraphs [41] - [46] of the Judgment that Article 14 of the Respondent’s Articles of Association would provide a complete defence to all non-dishonesty-related claims made against the respondent’s directors – Whether the judge ought to have concluded that Article 14 applies only to claims brought by third parties, and not to claims brought by the company (the respondent) itself – Whether the judge was wrong to hold that, without the benefit of argument and with no consideration at paragraph [56] of the Judgment, that Article 14 would apply even to Mr. Leech as a shadow director, a conclusion which was plainly wrong – Whether the judge was wrong to find that the claims against Mr. Leech (as an alleged “*shadow director*” of the respondent) had no prospect of success – Whether the judge’s conclusion at paragraphs [48] and [56] of the Judgment that the concept of a “*shadow director*” does not exist in the BVI was incorrect as a matter of law - Whether the judge’s conclusion at paragraph [56] of the Judgment that there was no evidence that the board (or a majority thereof) of the respondent was accustomed to act on

Mr. Leech's instructions (or on any parts of those instructions) was wrong and entirely unreasoned as he failed to have any or any proper regard to the matters pleaded at paragraph 8 of the appellant's draft particulars of claim – Whether the judge was wrong to refuse to consider the appellant's offer, made on 27th February 2025 by way of a written Note to the Court, to indemnify the respondent against any adverse costs orders made against it in the intended derivative claim (the "Adverse Costs Indemnity") – Whether the judge's finding at paragraph [81] of the Judgment was unsupported by the evidence- whether the learned judge was wrong in all the circumstances to deny permission to the appellant to file a derivative action in the name of the company.

Type of Order: N/A

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason: N/A

Case Name:

**Zvi Dekel
v
Clerkenwell Lifestyle Ltd.

[BVIHCMAP2025/0018]
(Territory of the Virgin Islands)**

Date: Thursday, 26th February 2026

Before: The Hon. Mde. P. Nicola Byer, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
The Hon. Mde. Marlene Carter, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Tom Wieselberg KC, with him Mr. Ben Woolgar and Mr. Richard Evans

Respondent: Mr. Ryan Turner

Issues: Interlocutory Appeal - Revocation or variation of order - Whether the learned Judge wrongly refused to exercise his power to revoke/vary the 4th March Order - Material change of circumstances - Whether the learned Judge erred in holding that a material change of circumstances was required - Finality - Whether the learned Judge wrongly treated the principle of finality as precluding revocation or variation notwithstanding the procedural context - Nature of derivative proceedings - Whether the learned Judge failed to take into account that an application for leave to continue a derivative claim is not a freestanding claim and that parallel English proceedings would continue in any event - Timing and promptness - Whether the learned Judge failed to give proper weight to the appellant's prompt indication of willingness to provide an indemnity and his timely application following the 4th March Order - Judicial indication - Whether the application was made in direct response to the learned Judge's own indication that an indemnity would have led to permission being granted - Indemnity as a new matter - Whether the learned Judge was wrong to hold that indemnity did not constitute a material change of circumstances or was already known to the appellant - Error of law or fact - Whether that finding was contrary to the evidence and/or wrong in law - Exercise of discretion - Whether the learned Judge failed in substance to exercise his discretion - Appellate intervention - Whether this Court should exercise the relevant power or discretion afresh

Type of Order: N/A

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason: N/A

Case Name: [1] Wilbert Owen Smith
[2] Eleanor Melvina Smith
[3] Creighton Antonio Smith
[4] Dave Brubeck Smith
[5] Shaina Mary Ann Smith
[6] Oraal Dwayne Smith
v
Omar Hurst (dba Best Cup/Omar Fusion)
[BVIHCVAP2025/0014]
(Territory of the Virgin Islands)

Date: Thursday, 26th February 2026

Before: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]

Appearances:

Appellants: Mr. Michael J Fay KC

Respondent: Ms. Tana'ania Small KC with her, Ms. Karlene Thomas Lucien

Issues: Interlocutory Appeal - Appeal against decision dismissing application for summary judgment - Whether the learned judge failed to give any proper reason or explanation for his decision that there were issues to be tried - Whether the appellants were denied a fair opportunity to present their case - Whether the learned judge erred in permitting the respondent to rely, at the hearing of the summary judgment application, on facts, matters and arguments that were not pleaded and not supported by evidence - Whether the learned judge relied on matters that did not form part of the respondent's pleaded case - Whether the learned judge erred in finding a triable issue regarding the "proper service of the notice" under section 56 of the Registered Land Act - Whether the learned judge erred in treating the termination of the Bank's legal charge as a triable issue - Whether the learned judge erred in finding an issue

regarding the appellants' occupation between 30th June 2024 and 6th December 2024 - Whether the learned judge erred in finding an issue as to compliance with sections 55 and/or 56 of the Registered Land Act - Whether the learned judge erred in identifying an issue as to whether the appellants were required to serve the respondent or the Bank - Whether the learned judge erred in identifying an issue as to whether the appellants' re-entry was unlawful - Whether the learned judge erred in treating the effect of the respondent's payment of stamp duty as a triable issue - Whether the learned judge erred in failing to address the submission concerning the non-registration of the TWL Sub-Lease at the Land Registry in accordance with section 46 of the Registered Land Act - Whether the learned judge erred in failing to address that it was impossible to register the TWL Sub-Lease - Whether the learned judge erred in failing to deal with the submission that, even if the TWL Sub-Lease is stamped, it is not duly stamped and therefore cannot be registered under section 109 of the Registered Land Act - Whether the learned judge failed to address the submission regarding Ex Turpi Causa Non Oritur Actio which bars the respondent from pleading and relying on his own unlawful conduct

Type of Order: N/A

Result / Order: [Oral Delivery]

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason: N/A

Case Name: **Andrey Titarenko**
v
Alexie Moskov

[BVIHCMAP2020/0003]
(Territory of the Virgin Islands)

Date: Thursday, 26th February 2026

Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St.Rose Albertini, Justice of Appeal

Appearances:

Applicant: In person

Respondent: Mr. Andrew Willins KC

Issues: Application to strike out appeal for want of prosecution -
Whether the appellant has demonstrated no genuine intention to
progress the appeal - Whether the appeal is an abuse of the
Court's process - Whether the appeal is academic

Type of Order: Oral Decision with Reasons to Follow

Result / Order: IT IS HEREBY ORDERED THAT:

1. The purported joinder of Andrew Willins, KC and Fraser Mitchell in appeal No. BVIHCMAP2020/0003 in the procedural application filed on 7th January 2022 is struck out.
2. Appeal No. BVIHCMAP2020/0003 is dismissed for want of prosecution.
3. The procedural application filed on 7th January 2022 therefore falls away and is therefore dismissed.
4. The respondent to the strike out application shall pay the costs of the appeal, strike out application and the procedural application to be assessed by a judge of the commercial court if not agreed.

Case Name:

[1] Mary Elizabeth Smith Vanterpool
[2] Wilbert Owen Smith
[3] Eleanor Melvina Smith

**[4]Elvia Eugenie Merryman
[5]Teddy Louis Smith
[6]Creighton Antonio Smith
[7]Daniel Marvin Smith
[8]Dave Brubeck Smith
[9]Shaina Mary Ann Smith
[10] Oraal Dwayne Smith
[11] Doran Martinez Smith**

v

[1]Turquoise Water Limited

**[BVIHCVAP2024/0004]
(Territory of the Virgin Islands)**

Date: Friday, 27th February 2026

**Before: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mde. Cadie St.Rose Albertini, Justice of Appeal**

Appearances:

Appellants: Michael J Fay, K.C

**Respondent: No appearance
Ms. Hazel-Ann Hannaway Boreland present for First Bank (an interested party)**

Issues: Interlocutory Appeal - Sections 55(2)(b) and 57 of the Registered Land Act - Jurisdiction - Whether the learned judge's interpretation of the legal nature and effect of the Order dated 20th January 2010 ('the 2010 Order') gave rise to an issue of law - Whether the 2010 Order was necessarily premised upon forfeiture of the lease pursuant to section 55(2)(b) of the Registered Land Act - Whether the learned judge's 2010 Order requiring the respondent to quit possession, constituted enforcement consequent upon forfeiture of the lease - Whether the learned judge's 2010 Order requiring the respondent within 14 days to remove structures erected on Parcel 120 without the owner's consent, operated in substance as relief from forfeiture

pursuant to section 57 of the Registered Land Act - Whether the suspension of possession was expressly conditional upon compliance with the Schedule and automatically lapsed upon breach - Whether, upon breach of the Schedule, the appellants became entitled to possession pursuant to the 2010 Order without the necessity of further court intervention - Whether the learned judge's interpretation of the order made by another judge on 8th December 2015, the facts and the law led her to erroneously dismiss the applications filed on 18th September 2023 and 20th December 2023 on the basis that no valid and subsisting order remained capable of enforcement

Type of Order:

N/A

Result / Order:

[Oral Delivery]

IT IS HEREBY ORDERED THAT:

Judgment is reserved.