

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

SAINT KITTS AND NEVIS
HYBRID

Monday 8th December 2025 – Friday 12th December 2025

JUDGMENT

Case Name:

**Financial Services Regulatory
Commission**

v

Sundry Workers

**[ANUHLTAP2020/0008]
Antigua and Barbuda**

Date:

Friday, 12th December 2025

**Coram for
delivery:**

**The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]
The Hon. Mr. Reginald T. A. Armour, Justice of
Appeal [Ag.]
The Hon. Mde. Cadie St. Rose Albertini, Justice of
Appeal [Ag.]**

Appearances:

Appellant:

Mr. Hugh Marshall

Respondent:

**Ms. Zenitaa Singh holding papers for Mr. Cosbert
Cumberbatch**

Issues:

**Civil appeal – Unfair dismissal – Dismissal by
redundancy – Section C58 Antigua and Barbuda
Labour Code – Reasonableness of termination –
Whether the appellant acted unfairly and**

unreasonably is dismissing the employees – Principles of good industrial practices adopted in redundancy situations – Guidelines in Williams v Compair Maxam Ltd. [1982] I.C.R. – Section A5 Antigua and Barbuda Labour Code – Whether the Tribunal erred by finding that the dismissal of the employees was tantamount to a lockout

Result/Order:

IT IS HEREBY ORDERED THAT:

1. The appeal is allowed.
2. The order of the Industrial Court is set aside.
3. No order as to costs.

Reason:

Held: allowing the appeal, setting aside the order of the Industrial Court and making no order as to costs that:

1. The jurisdiction conferred upon this Court by section 17 of the Industrial Court Act is to be exercised only in exceptional circumstances. The burden rests on the appellant to demonstrate that the Court should invoke this exceptional jurisdiction and overturn the decision of the Industrial Court.

Section 17 of the Industrial Court Act Cap. 214 of the Revised Laws of Antigua and Barbuda applied; Jewellers Warehouse v Cecil Norde Civil Appeal No. 29 of 2004 (delivered 27th November 2006, unreported) followed; West Indies Oil Company Limited v Janis James et al ANUHCVP2022/0014 (delivered 14th January 2025, unreported) followed; Leonart Matthias v Antigua Commercial Bank ANULTAP2017/0002 (delivered 28th May 2020, unreported) followed.

2. The Industrial Court concluded that there existed a genuine redundancy situation within the Employer's Gaming Department. It then went on to find that the Employer acted unreasonably and stated the reasons for same. However, it should have first considered the appropriate conduct for an employer in a redundancy situation. The principles of good industrial practices which a reasonable employer should adopt where a redundancy situation exists, should be those outlined in the guidelines laid down by the United Kingdom Employment Appeal Tribunal in *Williams v Compair Maxam Ltd.* The Industrial Court makes mention of this case yet opted not to consider the principles therein. Instead, the tribunal was of the view that it was not necessary to apply those principles to the facts of the case since the Employer continued with the restructuring process, essentially giving effect to the dismissals of the Employees after being served with the reference. Therefore, the learned tribunal erred on this point.

Williams v Compair Maxam Ltd. [1982] I.C.R 156 applied; *Cable and Wireless (Antigua and Barbuda) Limited v Antigua and Barbuda Workers' Union* ANULTAP2016/0003 (delivered 23rd May 2019, unreported) applied; *Antigua Workers' Union v Antigua Gases Ltd.* Industrial Court Reference No. 20 of 1988 (delivered 8th July 1987, unreported) applied.

3. While the considerations outlined in *Williams v Compair* do not amount to legal principles strictly speaking, they serve as important guidelines to assist an industrial tribunal in assessing whether an employer acted

reasonably. By disregarding these guidelines, the Industrial Court failed to take into account factors that could have supported a finding that the Employer's behaviour was not unreasonable. In this case, the conduct of the Employer was in line with the Williams guidelines. The Employer informed the Employees of their redundancy prior to the proceedings in the Industrial Court, they were in communication with the Union and implemented suggestions made by the Union and they afforded the Employees the opportunity to apply for other positions in the appellant Commission.

Williams v Compair Maxam Ltd. [1982] I.C.R 156 applied.

4. While it is regrettable that the Employer proceeded to terminate the Employees prior to considering the conciliation report, the redundancy was well in effect by that time. Although the effective date of redundancy was stated to be 8th May 2015, Ms. Buntin was given written notice of the termination of her employment by letter dated 30th April 2015, prior to the involvement of the Labour Commissioner. Ms. Etinoff's letter of dismissal was also dated 8th May 2015 but she was aware of the redundancy as early as 26th November 2014. In the case of Ms. Thomas, her letter of termination was dated 15th May 2015, after the conciliation report was received by the Employer. It is therefore difficult to determine how the Employer acted unreasonably since the termination of Ms. Thomas took place after the conciliation report was presumably considered. Effecting termination prior to receiving the conciliation report does not amount to unreasonableness

in the face of the principles set down in Williams.

Williams v Compair Maxam Ltd. [1982] I.C.R 156 applied; West Indies Oil Company Limited v Janis James et al ANUHCVP2022/0014 (delivered 14th January 2025, unreported) followed.

5. The circumstances described under the definition of 'lockout' under the Labour Code do not apply in the present case. The present case concerned the termination of employment due to a statutorily required redundancy. There was no scope for bargaining nor inducement as contemplated by the Labour Code. Even where the 'inducement aspect' of the definition of lockout is ignored, the circumstances of this case disclose a dismissal rather than a lock out. The Employer was acting within the authority conferred by statute in exercising its power to dismiss the Employees owing to redundancy. The Industrial Court therefore erred in characterising the Employer's conduct as tantamount to a lockout and by extension, unreasonable.

Section A5 of the Antigua and Barbuda Labour Code Cap. 27 of the Revised Laws of Antigua and Barbuda applied.

APPLICATIONS AND APPEALS

Case Name:

Nalini Bhup

v

**Ross University School Veterinary Medicine
(St. Kitts) Limited**

**[SKBHCVAP2023/0002]
Saint Kitts and Nevis**

Date: **Monday, 8th December 2025**

Coram: **The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]**

**Appearances
(via zoom):**

Applicant/Appellant: **Mr. Brian Barnes**

Respondent: **Mr. Garth Patterson KC with him Mr. Johnathan Rattan**

Issues: **Application for an extension of time - Application to strike out appeal - Length of delay - Reasons for delay - Whether the appeal has good prospects of success - Whether the respondent to the application is likely to suffer prejudice if the application is granted - Costs**

Type of Order: **Oral Decision**

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

- 1. The application for extension of time is granted.**
- 2. The skeleton argument filed on 8th July 2025 and the record of appeal filed on 1st July 2025 are deemed properly filed.**

3. The appellant shall pay the respondent's costs on the extension of time application to be assessed
4. The application to strike out is refused.
5. No order as to costs on the strike out application.

Reason:

Before the Court were two applications in SKBHCVAP2023/0002. The first was the applicant's application for an order pursuant to Part 26.1(2)(k) of the Eastern Caribbean Supreme Court Civil Procedure Rules, (Revised Edition) 2023 ("CPR") or the inherent jurisdiction of the Court that (1) the time for the appellant to file the appeal and serve the record of appeal and submissions in the matter be extended as the Court considers just and equitable and (2) that the record of appeal filed on 1st July 2025 and the skeleton submissions filed on 7th July 2025 be deemed properly filed. The appellant sought relief from sanctions pursuant to Part 26.8 of the CPR and asked that the costs of the application be costs in the appeal. The respondent opposed the application for the extension of time and countered with its own application to strike out the appeal. This was the second application before the Court and it was filed on 8th July 2025.

CPR 62.14 stipulates that within 52 days of the receipt of the notice of availability of the transcript, the appellant must file and serve on all other parties its skeleton argument. CPR 62.15 provides that within 42 days of the receipt of the availability of the transcript the appellant must prepare and file with the court office the record of appeal. It was agreed between the parties that the time for calculating the filing date for the skeleton submissions and record of appeal should commence from 30th July 2024 which is the date on which a single judge of the Court granted an order dispensing with the requirement for the production of the transcript of the proceedings in the High Court. By this marker, the appellant should have filed his record of appeal on or before 10th September 2024 and his skeleton argument on or

before 20th September 2024. The appellant advanced as the reason for the delay, the medical challenges of her legal practitioner which made it impossible for him to meet the deadlines. The appellant contended that the appeal presents a good prospect of success and for these reasons the Court should exercise its discretion and accede to the request for an extension of time and relief from sanctions. For its part, the respondent contended that the reasons advanced by the appellant are unsatisfactory because no evidence had been produced in support of the assertion that her legal practitioner experienced health issues. The respondent invited the Court to draw adverse inferences from the absence of such medical evidence. It was said that the appellant had a duty to manage the litigation responsibly by communicating anticipated delays and seeking directions from the Court if necessary. Insofar as the prospects of success of the appeal is concerned, the respondent submitted that the appellant has failed to set out with any clarity any argument or analysis of the purported merits of the appeal. In the respondent's view, the appeal is hopeless in that the order that the appellant seeks on this appeal is one that is outside of the Court's jurisdiction to grant because it is a contractual claim. The respondent alleged that the delay resulted in prejudice to it as it has had to incur additional costs in the period of this extensive delay and the appellant's failure to progress the matter efficiently. These are the very reasons that informed the respondent's application to strike out the appeal. The respondent sought its costs on both applications.

The Court considered the applications in the order in which they were filed; the application for an extension of time and relief from sanctions being first in time. The original application was on 8th July 2025 and an amended application was filed on 11th July 2025. The Court has power to extend time for compliance for any rule, practice direction, order or direction of the Court even if the application for an extension is made after the time for compliance has passed pursuant to CPR 26(1)(2)(k). In

circumstances where the consequences to comply with a rule, practice direction, court order or direction has not been specified by any rule, practice direction or court order, the applicable rule is rule 26.9 which deals with the general power of the Court to rectify matters. It was noted by the Court that the rules which have been breached in this case (62.14 and 62.15) do not specify any consequences for failure to comply. As such rule 26.9 is engaged. Rule 26.8 is not engaged since 26.8 deals with applications for relief from sanctions and as the rule itself makes clear, 26.8 is concerned with relief from any sanctions specified or imposed for a failure to comply with any rule, order or direction. Where no sanctions are specified in the rule that has been breached, the requirement for relief from sanctions does not arise: *Attorney General v Keron Mathews* [2011] UKPC 38.

That said, an application for an extension of time engages the Court's discretion. The traditional approach of this Court when met with an application for extension of time is to consider four main factors, although not exhaustive: (1) the length of the delay, (2) the reasons for the delay, (3) the prospects of success and (4) the prejudice to the respondent. The length of the delay in this case is inordinate. It is 10 months beyond the time which the skeleton argument and record of appeal should have been filed. The reasons for the delay are not persuasive. In as much as the Court sympathizes with counsel's medical predicament, having regard to the nature of those medical issues, it was foreseeable that he would be disengaged for extended periods. He therefore had enough time to brief other counsel in this matter. The Court did not accept that this matter required him to have personal conduct of the matter. The matter was not of any significant complexity that it would really benefit from someone immersed with it from the outset which would make it problematic to obtain someone else instead. In relation to prospects of success, the Court found that at least 1 limb of the grounds of appeal provides some credence to prospects of success i.e. 3(e) and 3(f). This factor

weighed heavily in favour of extending the time. The Court was not persuaded that any real prejudice had occurred to the respondent. The skeleton submissions and the record of appeal had been filed several months before the hearing of the appeal. The respondent filed comprehensive submissions in response to the appellant's skeleton submissions and the appeal was ready. For those reasons the Court declined the respondent's invitation to deploy the draconian measure of striking out the appeal. In circumstances where rules 62.14 and 62.15 do not specify any sanctions for non-compliance, the appropriate remedy which the respondent should have engaged was an Unless Order pursuant to 26.4(1). This course promotes the overriding objective of dealing with cases justly and resolving them on the merits.

Finally, the appellant sought an order that costs of this application be costs in the appeal. The Court considered that although the appellant had succeeded, it was entirely at fault for the respondent's expense to respond to the application. The Court exercised its discretion under CPR64.6(2) and ordered that the appellant should pay the respondent's costs to be assessed by the Chief Registrar within 21 days of the date of this order. In relation to the application to strike out the Court made no order as to costs.

Case Name:

**Ross University School Veterinary Medicine
(St. Kitts) Limited**

v

Nalini Bhup

**[SKBHCVAP2023/0003]
Saint Kitts and Nevis**

Date:

Monday, 8th December 2025

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]**

**Appearances
(via zoom):**

Appellant: Mr. Garth Patterson KC with him Mr. Johnathan Rattan

Respondent: Mr. Brian Barnes

Issues:

Civil appeal - Appeal against the order of the learned judge setting aside the decision of the conduct panel that the respondent violated Ross University School of Veterinary Medicine's ('RUSVM') code of conduct, setting aside the decision of the conduct administrator to expel the respondent, and remitting the complaint filed against the respondent for rehearing before a differently constituted panel - Whether the learned judge's decision to set aside the decision of the conduct panel was wrong - Whether the learned judge's decision to set aside the decision of the conduct administrator was wrong - Whether the learned judge erred in remitting the matter to a differently constituted conduct panel to be determined under the organisation's internal procedures and the principles of natural justice – Whether the learned judge erred by not informing the parties that she intended to and not inviting representations from them of her intention to set aside the decisions of the conduct panel and Control Administrator and remit the hearing for determination by a differently constituted conduct panel – Whether the learned judge erred in ordering a re-hearing if there was no credible complaint or doubt that there was a credible complaint against the appellant - Reinstatement – Whether the learned judge erred by not exercising her discretion to reinstate the appellant - Damages – Whether the learned judge erred by not awarding general damages – Whether the learned judge erred in not considering that she had the option to award nominal damages

Type of order:

N/A

Result / Order:

**IT IS HEREBY ORDERED THAT:
Judgment is reserved.**

Case Name:

Nalini Bhup

v

**Ross University School Veterinary Medicine
(St. Kitts) Limited**

**[SKBHCVAP2023/0002]
Saint Kitts and Nevis**

Date:

Monday, 8th December 2025

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of
Appeal [Ag.]**

**Appearances
(via zoom):**

Appellant:

Mr. Brian Barnes

Respondent:

**Mr. Garth Patterson KC with him Mr. Johnathan
Rattan**

Issues:

**Civil appeal - Appeal against the order of the
learned judge remitting the complaint against the
appellant to the conduct panel for rehearing by a
differently constituted panel - Whether the Court
should substitute the remittal order with an order
for reinstatement into the academic programme -
Whether the disciplinary process was procedurally
unfair, including due to bias, absence of a proper**

**complainant, and prejudicial handling of evidence -
Whether the appellant is entitled to damages for
breach of contract**

Type of Order: N/A

Result / Order: IT IS HEREBY ORDERED THAT:
Judgment is reserved.

Case Name: Kevin Horstwood

**v
Adam Bilzerian**

**[SKBHCVAP2025/0005]
(Saint Kitts and Nevis)**

Date: Tuesday, 9th December 2025

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of
Appeal [Ag.]
The Hon. Mde. V. Georgis Taylor-Alexander, Justice
of Appeal [Ag.]

**Appearances
(via zoom):**

Applicant: Mr. Dexter Theodore KC

Respondent: Ms. Deriann Charles

Issues: Application for an extension of time - Application
for a stay pending appeal (“stay application”) -
Whether the appeal would be rendered nugatory if
a stay is not granted - Application to strike out stay
application (application to strike out”) - Whether
the stay application ought to be struck out

Type of Order: Oral decision

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The time for the respondent/applicant to file the notice of opposition to the interlocutory appeal is extended.**
- 2. The respondent/applicant's notice of opposition to the interlocutory appeal filed on the 22nd October 2025 is deemed appropriately filed.**
- 3. With respect to the application for an extension of time there is no order as to costs.**
- 4. With respect to the application for a stay and the application to strike out, judgment is reserved.**

Reason:

The parties filed a Consent Order dated 23rd October 2025, wherein they agreed to extend the time for the respondent/applicant to file its notice of opposition to the interlocutory appeal. In accordance with that agreement, the Court issued the requisite orders giving effect to the consent order and reserved its judgment on both the stay application and the application to strike out.

Case Name:

Pedro Celestino Flores Ramos

v

The Police

**[DOMMCRAP2023/0008]
(Commonwealth of Dominica)**

Heard together with

Diake Jose Herrera Ramirez

v

The Police

**[DOMMCRAP2023/0009]
(Commonwealth of Dominica)**

Heard together with

Yhorbby Jose Rosario

v

The Police

**[DOMMCRAP2023/0010]
(Commonwealth of Dominica)**

Heard together with

Daniel Jose Rivas Herrera Ramirez

v

The Police

**[DOMMCRAP2023/0011]
(Commonwealth of Dominica)**

Heard together with

Hector Luis Ramirez

v

**The Police
[DOMMCRAP2023/0012]
(Commonwealth of Dominica)**

Date: Tuesday, 9th December 2025

Coram: The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]
The Hon. Mde. V. Georgis Taylor-Alexander, Justice of Appeal [Ag.]

Appearances (via zoom):

Applicants: Mr. Wayne Norde

Respondents: Ms. Sherma Dalrymple, DPP

Issues: Magisterial Criminal appeal - Constitutionality of mandatory minimum sentence - Section 16 of the Drugs (Prevention of Misuse) Act Cap. 40.07 of the Revised Laws of Dominica 2017 - Whether the mandatory minimum sentence prescribed by section 16 of the Drugs (Prevention of Misuse) Act infringes the protection against cruel or inhumane punishment under section 5 of the Constitution - Proportionality - Whether the mandatory minimum sentence fails to account for the gravity of any particular offence or degree of responsibility of the offender - Severance - Whether the mandatory minimum sentence should be severed to the extent that it is unconstitutional - Excessive sentence - Whether the sentences imposed were excessive in all circumstances of the case - Consent order

Type of Order: Oral decision

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appeal against sentence with respect to each appellant is allowed
2. The sentence of 7 years imprisonment imposed on each appellant is quashed.
3. The appellants are sentenced to time served.

Reason:

Before the Court was an appeal against sentence of 7 years imprisonment for the offence of drug trafficking and four years imprisonment for making a false declaration in relation to each of the appellants. The sentences were to run concurrently.

On 17th September 2025 a consent order was filed by counsel for the parties agreeing that (i) the appellants “Pedro Celestino Flores Ramos, Daniel Jose Rivas Herrera, Yhorbby Jose Rosario, Hector Luis Ramirez, Diake Jose Herrera Ramirez appeals be consolidated”; and (ii) the appellants appeal be allowed and their sentence be considered as time served.

Upon considering the written submissions of the appellants, and in light of the Consent Order in which the respondent conceded the appeals, the Court allowed the appeals and set aside the sentences imposed on each appellant and varied the sentence to time served.

Case Name:

**[1] SKN Choice Times Limited
[2] Dwight C. Cozier**

v

Josephine Huggins

**[SKBHCVAP2024/0016]
(Saint Kitts and Nevis)**

Date:

Tuesday, 9th December 2025

Coram:

**The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mr. Reginald T.A. Armour, Justice of Appeal [Ag.]
The Hon. Mde. V. Georgis Taylor-Alexander, Justice of Appeal [Ag.]**

**Appearances
(via zoom):**

Appellants: Ms. Angela Cozier
Respondent: Mr. Victor Elliot - Hamilton

Issues: Interlocutory appeal - Appellant in default of costs orders while continuing to prosecute appeal - Whether it is in the interests of justice that the appellants be allowed to prosecute their appeal

Type of order: Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The respondent shall file and serve an affidavit with supporting exhibits, if any, to substantiate the assertions made at paragraph 14 of her skeleton submissions on or before 16th January 2026.
2. The appellant shall file and serve an affidavit in response on or before 2nd February 2026.
3. The respondent shall file and serve skeleton arguments with authorities addressing the issue of whether this is an appropriate case for the court to exercise its inherent jurisdiction to impose conditions on the appellant for the prosecution of the appeal on or before 16th February 2026.
4. The appellant shall file and serve submissions in reply on or before 2nd March 2026.
5. The respondent is at liberty to file submissions in reply, if necessary, on or before 9th March 2026.
6. The hearing of the interlocutory appeal is adjourned pending the resolution of this issue. Proceedings below in relation to the judgment summons are

stayed pending resolution of this issue or until further order of the Court.

- 7. The Chief Registrar shall list this matter for hearing before the Full Court during the next sitting of the Court of Appeal in St. Kitts and Nevis scheduled for the week commencing 20th April 2026.**

Reason:

The Court perused the skeleton submissions filed by the appellants and the respondent and noted that paragraph 14 of the respondent's skeleton arguments asserted that the appellants have failed to comply with a number of costs orders in various sums made by this Court and the court below, more particularly an order dated 12th April 2018 to pay costs of \$800.00; an order dated 11th July 2018 to pay costs of \$1,500.00; an order dated 30th January 2019 to pay costs of \$1,000.00; an order dated 23rd June 2020 to pay costs of \$1,500.00; an order of the Court of Appeal dated 28th October 2020 requiring payment of \$10,166.66; and order of the Court of Appeal dated 22nd March 2021 requiring the payment of \$1,500.00; an order of the Court of Appeal dated the 11th January 2021 requiring payment of \$1,000.00. The Court noted the appellants' response to these allegations at paragraphs 22 and 23 of their reply submissions. It became apparent that these allegations warranted further enquiry. The Court was mindful that it has, and always retains, a residual and inherent jurisdiction which enables it to make orders aimed at protecting its processes from abuse and that the notion of abuse of process cannot be restricted to defined and closed categories and can include a failure to comply with costs orders.

The Court considered the provisions of Part 26 of the Civil Procedure Rules, 2023, in particular CPR 26.1(2)(q), which empowers the Court to grant a stay of the whole or part of any proceedings generally or until a specified date or event; CPR 26.1(3) which provides that when the court makes an order or gives a direction, it may make the

direction or order subject to conditions; and CPR 26.1(4) which lists non-exhaustive conditions which the court must impose. The Court also considered that on a proper construction of the Rules, the Court of Appeal has the power and discretion to impose conditions for the prosecution of an appeal before it in the face of an ongoing and wilful failure by the appellant to comply with consequential orders made by this Court or in the court below, whether or not there has been a formal finding of contempt in the court below. The Court further considered that it is required to undertake an evaluation of the particular factual circumstances of the case in determining whether to decline to further hear a party who has contemptuously flouted orders of the court, and was mindful that it is not sufficient for the Court to refuse to hear the party at fault, merely because that party has not complied with orders of the court. While it is important for the Court to ensure prompt observance of its orders and otherwise protect its processes from abuse, the critical consideration is whether the interests of justice are served by the court staying its proceedings until the defaulting party complies with the orders of the court. In considering abuse of process, the Court is called upon to evaluate whether in all of the circumstances the party's conduct amounts to abuse. The Court therefore gave directions to the parties for the filing of further evidence and submissions in light of this issue raised by the Court.

Case Name:

**[1] Notre Dame Investments Limited
(a registered minority shareholder of
BCM International Limited)**

[2] Angela List

**[3] Nguvu Holdings Limited
(formerly BCM Investments Ltd.)**

v

**[1] Rowntry Trading Limited
[2] Paul List
[3] BCM International Limited**

**[NEVHCVAP2025/0007]
(Saint Kitts and Nevis)**

Date: **Wednesday, 10th December 2025**

Coram: **The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]**

**Appearances
(via zoom):**

Appellants: **Mr. Delano Bart KC with him Ms. Midge Morton and
Mr. Errol Williams Jr**

Respondents: **Ms. Jean M. Dyer and Mr. Jaydee Bourne**

Issues: **Interlocutory appeal - Expert evidence - Whether the learned judge erred in law by failing to consider and or apply the relevant principles to the application to adduce expert evidence - Whether the learned judge erred by taking irrelevant factors into consideration in his conclusions and/or inferences of fact and law as to the effect of the Judgment of the Ghanian Courts dated 24 October 2024 - Whether the learned judge erred and misdirected himself when he summarily assessed costs and awarded the same to the Respondents - Exercise of discretion of judge in the court below - Whether the learned trial judge consequently erred in law by thereafter stating that it could still find the same evidence useful in aid of issue estoppel principles – Whether the learned judge failed to consider and/or adequately consider the relevant principles of the law of constructive trusts invoked by the applicant’s pleaded case – Whether the learned judge misdirected himself and erred in his conclusions as to the nature and purpose of the subject application - Whether the learned judge erred in law in his conclusion that the purpose of**

the subject application was to recast the applicant's case – Whether the learned judge erred in his conclusion that it was impermissible for the applicants to rely on evidence given in a witness statement to ground an application for expert evidence when the issue was not pleaded – Whether the learned judge misdirected himself by considering paragraphs 19, 20 and 21 of the Statement of Claim as insufficient grounds upon which to support the subject application - Whether the learned judge erred in law in his conclusion of fact on the application that the applicants had not properly pleaded their case – Whether the learned judge erred in law by prioritizing form over substance when he concluded that the absence of titled particulars supported his position that the appellants were now seeking to recast their case - Whether the learned judge erred and misdirected himself when he concluded that to allow the proposed expert would railroad the trial or cause it to be vacated, when the application was being heard in excess of the 42 days required under CPR 31.2(3) – Whether the learned judge erred and misdirected himself when he summarily assessed costs of resisting the application to the respondents in the sum of \$1,250.00 taking into account the fact that Mrs. List enjoyed success on one aspect of her application

Type of order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason:

N/A

Case Name:

[1] Digital Security Services Limited
[2] Michael Peets
v

**Nevis International Bank and Trust Limited
(formerly Hamilton Reserve Bank Limited)**

**[NEVHCVAP2024/0020]
(Saint Kitts and Nevis)**

Date: **Wednesday, 10th December 2025**

Coram: **The Hon. Mr. Trevor M. Ward, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]**

**Appearances
(via zoom):**

Appellants: **Ms. Angela Cozier**

Respondent: **Ms. Aymah George and Ms. Kurlyn Merchant**

Issues: **Interlocutory appeal - Summary judgment -
Exercise of judicial discretion - Appeal against
decision of the learned judge determining that the
respondent is entitled to summary judgment -
Whether the application filed by the respondent to
strike out the counterclaim or alternatively
summary judgment was misconceived - Whether
the order of the learned judge was blatantly wrong
in that after dismissing the strike out application
as not being made out, he nonetheless held that
the respondent was entitled to summary judgment
on the appellant's counterclaim without providing
any reason for this conclusion - Whether the
affidavit of Benjamin Wey adduced evidence in
support of the summary judgment application -
Whether the learned judge misdirected himself in
the law relating to assessed costs when he
summarily assessed and awarded costs to the
respondent in the amount of \$5,000.00 on the
summary judgment**

Type of Order: **Adjournment**

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The Registrar shall cause the transcript of the hearing before Thompson J on 18th November 2024 to be made available to the parties and to serve the notice on them of its availability when it is ready.
2. The appellant shall file and serve said transcripts within 21 days of receiving the notice of availability.
3. The appeal is adjourned to a date to be fixed by the Chief Registrar.

Reason:

Upon the appeal NEVHCVAP2024/0020 coming on for hearing.

Upon the Court considering that having regard to the issues that arise in the appeal and in particular, the issue arising under ground 7 which complains about the failure of the learned trial judge to have given reasons for his decision.

AND UPON the Court determining that the transcripts are indispensable for the proper consideration and disposition of this and other issues raised in the appeal, it was ordered that: (1) the Registrar shall cause the transcript of the hearing before Thompson J on 18th November 2024 to be made available to the parties and to serve the notice on them of its availability when it is ready; (2) the appellant shall file and serve said transcripts within 21 days of receiving the notice of availability and (3) the appeal is adjourned to a date to be fixed by the Chief Registrar.

Case Name:

[1]Heritage Plantation
Condominiums Limited
[2] Heritage Plantation Inc
[3] Mervin Grant

v

Doche and Doche Inc

**[SKBHCVAP2024/0002]
(Saint Kitts and Nevis)**

Date: **Thursday, 11th December 2025**

Coram: **The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]**

**Appearances
(via zoom):**

Appellants/Respondents: **Dr. Henry Browne KC**

Respondent/Applicant: **Ms. Renal Edwards**

Issues: **Application for an adjournment - Failure of the respondent to comply with case management timeline for filing submissions - Whether the respondent ought to be heard on the appeal in light of its non-compliance with the court's order - Whether the application for an adjournment filed by the respondent should be granted - Costs**

Type of Order: **Oral Decision**

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

- 1. The application for the adjournment of the hearing of this appeal is denied.**
- 2. No order as to costs.**

Reason:

Before the Court was an application for an adjournment filed on 5th December 2025 supported by the affidavit of Rafik Doche filed on even date. A notice of opposition to the application was filed on 9th December 2025, supported by the affidavit of Mervin Grant. Thereafter followed an affidavit of Rafik Doche filed on 9th December 2025 in reply with an exhibit of the decision of this Court involving the same parties that was delivered on 23rd July 2025 and reissued on 20th August 2025.

The Court also considered the medical certificate provided at the request of this Court which certifies that counsel was examined on 5th December 2025 and is expected to resume duties on 5th January 2026.

The Court noted that the appeal in this matter was filed on 15th January 2024, appealing the order of Gill J dated 11th February 2023; that no notice of opposition was filed in response to this appeal; and no submissions were filed in response to this appeal although the appellants' submissions were filed as early as 1st March 2024.

The Court further noted that a case management conference was conducted on 23rd October 2025 and directions were issued which mandated the respondents to file written legal submissions by 30th October 2025. The Court noted that there was no compliance with this order; there was no application filed seeking to extend time for complying with this order; and no such application accompanied the application for an adjournment.

The Court noted that in multiple decisions it has made it clear that save and except in exceptional circumstances and in relation to the issue of costs only, that a litigant who fails to comply with the court's order to file written submissions, will not be heard.

In the premises, applying the overriding objective and considering the potential for prejudice to the appellant, the Court did not entertain counsel for the respondent in advancing oral submissions on the date of the hearing of the appeal. The Court found, having regard to all of the circumstances, that an adjournment even for the reasons that have been advanced, would have no useful or legitimate objective, would not be in the interest of justice, was not consistent with the overriding objective, and accordingly, ought to be refused.

Case Name:

**[1] Janice Daniel-Hodge
[2] The Sir Simeon Daniel
Foundation**

v

Adrian Daniel
(as co-executor of the Estate of Simeon Daniel)

**[NEVHCVAP2025/0005]
(Saint Kitts and Nevis)**

Date:

Thursday, 11th December 2025

Coram:

**The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]**

**Appearances
(via zoom):**

Appellants:

Ms. Renee T. St. Rose KC with her Ms. Shari-Ann Walker

Respondent:

Mr. Brian Barnes and Ms. Leigh-Anne Wellington

Issues:

Interlocutory appeal - Exercise of judicial discretion
- Appeal against decision of learned judge to dismiss a strike out application - Whether the learned judge erred in dismissing the application to strike out the claim in light of earlier pronouncements on the evidence before the court - Whether the learned judge erred in finding that there was no fetter of the Court's jurisdiction to appoint an assessor - Whether the learned judge erred in ordering the appointment of an assessor to provide expert evidence - Part 67 of the Civil Procedure Rules - Whether the learned judge erred in finding that the respondent had a right to seek determination at trial whether the name, image and likeness of a deceased individual may be the subject of proprietary rights pursuant to Part 67 of the CPR - Whether the learned judge erred in relying on Canadian and Jamaican jurisprudence in concluding that a proprietary right in a deceased person's name, image and likeness may potentially exist when that right has not been established in Saint Kitts and Nevis

Type of order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason:

N/A

Case Name:

[1]Heritage Plantation
Condominiums Limited
[2] Heritage Plantation Inc
[3] Mervin Grant

v

Doche and Doche Inc

**[SKBHCVAP2024/0002]
(Saint Kitts and Nevis)**

Date: Thursday, 11th December 2025

Coram: The Hon. Mde. Vicki Ann Ellis, Justice of Appeal
The Hon. Mde. Esco L. Henry, Justice of Appeal
The Hon. Mr. Gerard St. C. Farara, Justice of Appeal
[Ag.]

**Appearances
(via zoom):**

Appellants: Dr. Henry Browne KC

Respondent: Ms. Renal Edwards

Issues: Civil appeal - Whether there was no or no proper trial before the impugned order was made. The summary trial hearing, so-called, was not a hearing in law within our adversarial system of justice - Whether the appellants were denied due process of the law - Whether the learned judge erred in law in holding that the respondent Doche & Doche Inc. "has an existing legal right to be issued and allotted 90% shareholding in Heritage Plantation Condominiums Ltd and to be registered as a member of Heritage Plantation Condominiums Ltd accordingly and with retrospective effect from November 20, 2014..." without any evidential basis - Whether the learned judge misinterpreted the effect of the orders of Ventose J in his judgment dated 27th January 2020 in the underlying consolidated claims SKBHCV2017/0343, Mervin Grant and Heritage Plantation Inc. v Heritage Plantation Condominiums Ltd. et al and SKBHCV2018/0186 Heritage Plantation Inc. v Doche & Doche Inc. and of the orders of the Court of Appeal in its judgment of 29th April 2021 in appeal number SKBHCVAP2020/0006 - Whether the learned judge in effect made an order for specific performance without a trial on the merits of whether the respondent was entitled to such relief - Whether the learned judge erred in law in

proceeding to make the impugned orders despite her failure to give any or any adequate reasons for the said orders dated 11th December 2023 - Whether the learned judge erred in law in failing to appreciate that the parties and the Court are entitled to know the processes she mentally deployed in arriving at the 'order' she made - Whether the learned judge erred in law in failing to appreciate that failure to give adequate reasons for making of the impugned order robs this Court of the opportunity to make its own findings of fact if appropriate and/or arrive at conclusions of law based on those findings - Whether the learned judge was under a duty to give reasons for her order of 11th December 2023 and did not do so and without such reasons the impugned order is not transparent, and thus the appellants do not know whether the learned judge had adequate or inadequate reasons for the order she ultimately made - Whether the learned judge erred in making findings without evidential support resulting in a grave injustice to the appellant - Whether the learned judge erred in failing to appreciate that the respondent Doche & Doche Inc. on its own evidence made no capital investment in the joint venture project (as was required) under the 2014 agreement between the appellant and the respondent - Whether the respondent's failure to deliver the audited financial accounts as directed by the Court of Appeal at paragraph [70] of its judgment of 29th April 2021 constitutes an/or a collateral estoppel within the comprehension of section 36 of the Supreme Court Act, CAP 3.11 with the consequence that Doche & Doche Inc. is barred from asserting a claim or right to the 90% shareholding in Heritage Plantation Condominium

Type of Order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

Judgment is reserved.

Reason: N/A

Case Name: [1]Himmelstrasse (PTC) Limited
[2] TMF (B.V.I.) Ltd
[3] FMC Limited

v

Elena Heinz

[BVIHCMAP2025/0022]
(Territory of the Virgin Islands)

Date: Friday, 12th December 2025

Coram: The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal [Ag.]
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]

Appearances:

Applicants/Appellants:	Mr. Timothy Collingwood, KC with him Mr. Matthew Brown
Respondent:	Mr. John Wardell, KC with him Mr. Tom Roscoe

Issues: Application for a stay of execution of paragraphs 1 and 4 of a Norwich Pharmacal disclosure order pending appeal - Whether trustees, as respondents to a Norwich Pharmacal application, have any legitimate interest in appealing an order for disclosure given their conflicting duty of confidentiality and a duty of disclosure imposed by the order - Whether the appeal would be rendered nugatory if a stay is refused by reason of

irreversible disclosure and overseas deployment of confidential trust information - Whether the balance of harm test favours the grant of a stay - Whether the Court should exercise its discretion to grant a stay of execution - Whether having regard to the embargo on the draft judgement and the directions as to anonymity, the proceedings should be temporarily sealed pending further order of the Court at the inter partes hearing - Whether, in the alternative to refusing an interim stay, the appeal should be expedited pursuant to CPR 62.8 in order to minimise any prejudice said to arise from delay in disclosure

Type of Order:

N/A

Result / Order:

IT IS HEREBY ORDERED THAT:

1. Judgment is reserved.
2. Paragraph 7 of the interim stay order dated 25th August 2025 is extended until the decision and order in this matter is given.

Reason:

N/A

Case Name:

Adrienne Denise Kearney

v

Michael Leslie Winter

**[SLUHCVAP2024/0022]
(Saint Lucia)**

Date:

Friday, 12th December 2025

Coram: The Hon. Mr. Gerard St. C. Farara, Justice of Appeal [Ag.]
The Hon. Mr. Reginald T. A. Armour, Justice of Appeal [Ag.]
The Hon. Mde. Cadie St. Rose Albertini, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Fidel Michel
Respondent:	Mrs. Wauneen Louis-Harris

Issues: Civil appeal - Appeal against order that the respondent succeeds on his claim and he is beneficially entitled to all of the proceeds of sale of the property to the exclusion of the appellant who has no beneficial interest in the said proceeds - Whether the learned judge erred in law and/or in fact when he found that the respondent who was the registered proprietor of the property in common with the appellant giving rise to a presumption of an equal beneficial interest in said property, had discharged his burden in proving that the appellant had no beneficial interest in the property - Whether the learned judge took irrelevant factors into consideration in arriving at his decision - Whether the learned judge failed to consider or give adequate consideration to the factors and/or principles established by the House of Lords in *Stack v Dowden* [2007] UKHL 17 for determining beneficial interests - Whether the learned judge misconstrued the laws of intestacy and arrived at a wrong conclusion in finding that the appellant ought to have obtained a grant of probate of her mother's estate because the bequest in her father's will have fallen into her mother's estate - Whether the learned judge erred in law and/or wrongly exercised his discretion in finding that the appellant had made no contribution towards the purchase of the property - Whether the learned judge erred in law and/or in fact in relying on the evidence of the respondent's wife in his determination as to shared common intention of the parties - Whether the learned judge erroneously

relied on limited evidence and found that it is was more likely than not that the respondent paid the deposit on the purchase price and that it was unlikely that the appellant had made the substantial initial outlay as she claimed - Whether the learned judge misdirected himself and gave too much weight to or relied too heavily on the letter dated 5th January 2005 from Windjammer in concluding that the mortgage on the property was partially paid from the respondent's personal income - Whether the learned judge's decision is against the weight of the evidence and cannot be supported and in any event produced a manifestly unjust result - Whether there was undue delay by the learned judge in the preparation and delivery of his judgment which was likely to have affected his recollection of facts and/or evidence in the case and thereby caused him to reach incorrect conclusions - Counter notice of appeal - Finding that each party shall pay their respective costs in the proceedings based on the nature of the claim and the relationship that previously existed between the parties - Whether the learned judge committed an error of law and/or improperly exercised his discretion in failing to award costs in favour of the respondent with respect to the claim and counterclaim

Type of order:

N/A

Result / Order:

**IT IS HEREBY ORDERED THAT:
Judgment is reserved.**

Reason:

N/A