

**EASTERN CARIBBEAN SUPREME COURT**  
**COURT OF APPEAL SITTING**

**CHAMBER HEARING**  
**Tuesday 25<sup>th</sup> June 2024**

**MATTERS DEALT WITH ON PAPER**

**Case Name:**

**Joseph Brice**  
**v**  
**The Attorney General**  
  
**[AXAHCVAP2022/0002]**  
**(Anguilla)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicant:** **In Person**

**Respondent:** **Erica Edwards**

**Issues:**

**Application for an extension of time to file a reply  
to the respondent's submissions**

**Result/ Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The application for an extension of time to file a reply to the respondent's submissions is granted.**
- 2. The applicant's reply filed on 27<sup>th</sup> May 2024 in response to the skeleton submissions of the respondent is deemed properly filed.**

3. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

**Reason:**

The Court considered the factors on which an extension of time is granted which are the length of the delay; the reasons for the delay; the chances of the appeal succeeding if the extension is granted; and the degree of prejudice if the application is granted.

The Court was of the view that the applicant satisfied those requirements, having found that he provided a good explanation for failing to file a reply, that the delay was not inordinate, that he has a good chance of his appeal succeeding if the extension is granted and that there is no discernible prejudice to the respondents should the extension be granted.

**Case Name:**

**Sylvia O'Mard**  
**v**  
**[1] Abi Bank Ltd.**  
**[2] The Eastern Caribbean Central Bank**  
**[3] The Attorney General**  
  
**[ANUHC VAP2021/0010]**  
**(Antigua and Barbuda)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Adlai David Dorsett**

**Respondents:**

**Justin Simon for the 1<sup>st</sup> Respondent**  
**E. Ann Henry for the 2<sup>nd</sup> Respondent**

**Carla Brookes-Harris for the 3<sup>rd</sup> Respondent**

**Issues:**

**Application for extension of time to file submissions in support of the appeal**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The application filed on 24<sup>th</sup> May 2024 for an extension of time to file submissions is granted.**
- 2. The submissions of the applicant filed on 25<sup>th</sup> June 2024 is deemed properly filed.**

**Reason:**

**The Court considered the principles on which an extension of time should be granted as enunciated in Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6<sup>th</sup> July 2020, unreported) and the power of a single judge to extend time pursuant to rule 62.19(c) of the Civil Procedure Rules (Revised) 2023 and was of the view that the applicant had met the threshold for an extension of time to file submissions.**

**Case Name:**

**Anderson Carty  
v  
[1] The Industrial Court of Antigua and Barbuda  
[2] Attorney General  
  
[ANUMCVAP2023/0015]  
(Antigua and Barbuda)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Appellant/Applicant:** Wendel Alexander

**Respondents:** First Respondent in Person  
Zachary Phillips for the 2<sup>nd</sup> Respondent

**Issues:** Application for a stay of execution

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

1. The application for a stay of execution of the Order of the Industrial Court dated 3<sup>rd</sup> November 2023 is refused.

**Reason:**

The Court considered the principles upon which a stay pending the determination of the appeal is granted as established in the case of C-Mobile Services Limited v Huawei Technologies Co Limited BVIHCMAP2014/0017 (delivered 2<sup>nd</sup> October 2014, unreported) which are that the court should take into account all the circumstances of the case; that a stay is the exception rather than the general rule; that the party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted; the likely prejudice to the successful party; the prospect of the appeal succeeding and where strong grounds of appeal or a strong likelihood the appeal will succeed is shown.

The Court noted that the Notice of Appeal filed on 15<sup>th</sup> December 2023 does not challenge the finding that the utterances of the applicant were contemptuous and that the issues on the appeal are essentially concerned with important jurisdictional and procedural issues which will

require resolution whether or not the appellant complies with the order of the Industrial Court.

The Court was of the view that a stay of execution, being the exception rather than the general rule, should not be granted in the circumstances as although the applicant may have good prospects of success, refusing a stay of the order of the Industrial Court will not stifle the appeal or render the appeal nugatory.

**Case Name:**

**Brenda Gillian Furlonge**

**v**

**[1] Honourable Minister of Public Safety  
and Labour**

**[2] Honourable Attorney General Antigua  
and Barbuda**

**[ANUHCVP2020/0009]  
(Antigua and Barbuda)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Appellant:**

**In Person**

**Respondents:**

**Alicia Aska for the Respondents**

**Issues:**

**Application for an extension of time to file  
supplemental submissions**

**Type of Order:**

**Result /**

**IT IS HEREBY ORDERED THAT:**

**Order:**

1. The application for an extension of time to file supplemental submissions filed on 30<sup>th</sup> May 2024 is granted.
2. The applicant's supplemental submissions filed on 17<sup>th</sup> June 2024 are deemed properly filed.
3. The applicant is relieved from sanctions.

**Reason:**

The Court considered the principles on which an extension of time should be granted as enunciated in *Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004* (delivered 6<sup>th</sup> July 2020, unreported) and the power of a single judge to extend time pursuant to rule 62.19(c) of the Civil Procedure Rules (Revised) 2023 and the Court noted that the respondents were not opposed to the application for an extension of time.

The Court was also cognizant of rule 26.8(2) of the Civil Procedure Rules (Revised) 2023 which sets out the Court's considerations in determining whether to grant relief from sanctions.

The Court determined that although the applicant had not provided sufficient reason for the delay, the delay was not inordinate and the respondents are unlikely to suffer any prejudice. With the foregoing, the Court was of the view that the applicant had met the threshold for an extension of time.

**Case Name:**

**Angel Nieves  
v  
The King**

**[ANUHCRA2024/0003]  
(Antigua and Barbuda)**

**Date:** Tuesday 25<sup>th</sup> June 2024

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Applicant:** In Person

**Respondent:** In Person

**Issues:** Application for leave to appeal against sentence

**Type of Order:**

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

1. The application for leave to appeal against sentence filed on 28<sup>th</sup> May 2024 is out of time and therefore dismissed as a nullity.
2. The Registrar of the High Court shall serve a copy of this order on the parties and provide proof of service within 7 days of the date of this order.

**Reason:** The Court considered part 62(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised) 2023 which states that leave to appeal may be given only where (a) the court considers that the appeal would have a realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard.

The Court also considered section 48 of the Eastern Caribbean Supreme Court (Antigua and Barbuda) Act which states that where a person convicted desires to appeal

under this Act to the Court of Appeal or to obtain the leave of the Court of Appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within fourteen days of the date of conviction and noted that the applicant's application for leave to appeal against sentence has been filed out of time by almost six years.

**Case Name:**

**[1] Leslie Emanuel  
(Personal Representative of Leopold  
Allan Emanuel)  
[2] Lennard Emanuel  
v  
[1] Ace Engineering Ltd.  
[2] Anthony Leblanc  
[DOMHCVAP2024/0007]  
(Commonwealth of Dominica)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Appellant:**

**Dawn Yearwood-Stewart**

**Respondent:**

**In Person**

**Issues:**

**Application for leave to appeal**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The application for leave to appeal filed on 21<sup>st</sup> May 2024 against the decision of Cenac-Dantes M dated 1<sup>st</sup> May 2024 appointing the applicant as the**

representative of the Estate of Lennard Emmanuel is granted.

2. The applicants shall file and serve their notice of appeal within 21 days of the date of this order.
3. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules (Revised) 2023.

**Reason:**

The Court considered Rule 21.7 and Part 62(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised) 2023, the latter stating that leave to appeal may be given only where (a) the court considers that the appeal would have a realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard. With the foregoing, the Court determined that the applicant met the threshold for the grant of leave to appeal.

**Case Name:**

**Kerdell Hazzard**

**v**

**The King**

**[GDAHCRAP2024/0009]  
(Grenada)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicants:**

**In Person**

**Respondent:**

**In Person**

**Issues:**

**Application for leave to appeal against conviction and sentence**

**Type of Order:**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The application for leave to appeal against conviction and sentence filed on 18<sup>th</sup> April 2024 is granted and the notice of application for leave to appeal is deemed to be the notice of appeal.
2. The applicant is at liberty to file additional grounds of appeal upon receipt of the transcript of proceedings.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and respondent within 7 days of the date of this order.

**Reason:**

The Court considered part 62(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised) 2023 which states that leave to appeal may be given only where (a) the court considers that the appeal would have a realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard. The Court also considered the applicant's grounds of appeal, particularly that the applicant intends to file additional grounds of appeal on receipt of the transcript, and considered rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules. The Court was of the view that the applicant met the threshold for the grant of leave to appeal against conviction and sentence.

**Case Name:**

**Ashwin Richards  
v  
The King**

**[GDAHCRAP2023/0011]  
(Grenada)**

**Date:** Tuesday 25<sup>th</sup> June 2024

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Applicant:** In Person

**Respondent:** In Person

**Issues:** Application for leave to appeal against conviction and sentence

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

1. The notice of application for leave to appeal against conviction and sentence is granted.
2. The said notice of application is deemed to be the notice of appeal.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and the Director of Public Prosecutions within 7 days of the date of this order and provide proof of service thereof.

**Reason:** The Court considered rule 55 of the Eastern Caribbean Supreme Court, Court of Appeal Rules as well as rule 62.2(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023. The Court was of the view that the

applicant had met the threshold test for the grant of leave to appeal.

Case Name:

**The Bank of Montserrat  
v  
Owen Martin Rooney**

**[MNIHCVAP2023/0001]  
Formerly MNIHCVAP2018/0007  
(Montserrat)**

Date:

**Tuesday 25<sup>th</sup> June 2024**

Before:

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

On paper:

**Applicant:**

**Sylvester Carrott**

**Respondent:**

**Tim Prudhoe**

Issues:

**Application for leave to adduce fresh evidence**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

**The application to adduce fresh evidence filed on 10<sup>th</sup> May 2024 is refused.**

Reason:

**The Court considered the principles on which it may exercise its discretion to admit fresh evidence as stated in Ladd v Marshall [1974] 1 WLR 1489. Against the foregoing, the Court was of the view that the applicant had not met the threshold for the grant of the application to adduce fresh evidence, because (1) the evidence was available at trial and the reason offered for the failure to adduce it is unsatisfactory; (2) while it would not have had some influence on the**

outcome of the trial, the purpose for which the new evidence would have been deployed was achieved in any event since the judge set aside the mediation agreement; and (3) the fresh evidence is irrelevant to the issues engaged on the appeal because the judge's decision to set aside the mediation agreement is not the subject of appeal.

**Case Name:**

**[1] Exclusive Retreats Limited  
[2] Kevin Andrew Horstwood  
v  
First Caribbean International Bank  
(Barbados) Limited  
  
[SKBHCVAP2024/0006]  
(Saint Kitts and Nevis)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicants: First Applicant in Person  
Second Applicant in Person  
  
Respondent: In Person**

**Issues:**

**Application for leave to appeal**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:  
  
The application for leave to appeal against the order of Gill J refusing the application to adduce expert evidence filed by the applicants on 24<sup>th</sup> May 2024 be fixed for hearing before the full Court on a date to be set by the Chief Registrar.**

**Reason:** The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 and was of the view that, based on the reasons contained in the Order of Gill J that the applicant has not met the threshold test for the grant of leave to appeal. The Court thereafter considered rule 62.2(7) which provides that where the single judge considering an application for leave to appeal is minded to refuse leave he must direct that an oral hearing be fixed either before a single judge or the court.

**Case Name:** [1] Digital Security Services Limited  
[2] Michael Peets  
v  
Nevis International Bank and Trust  
Limited  
(formerly Hamilton Reserve Bank Limited)  
[NEVHCVAP2024/0009]  
(Saint Kitts and Nevis)

**Date:** Tuesday 25<sup>th</sup> June 2024

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Applicants:** First Applicant in Person  
Second Applicant in Person

**Respondent:** In Person

**Issues:** Application for leave to appeal

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

1. The applicants shall file a copy of the approved order of Thompson J. dated 9th May 2024.
2. The applicants shall file submissions with authorities in support of the application for leave to appeal within 14 days of the date of this order.
3. The application for leave to appeal is adjourned to the next chamber hearing scheduled for 30<sup>th</sup> July 2024.

**Reason:**

Upon reading the notice of application for leave to appeal, the Court was minded to adjourn the application and direct that the applicants file a copy of the approved order of Thompson J dated 9<sup>th</sup> May 2024 and file submissions with authorities in support of the application.

**Case Name:**

**Fleur Byron Cox  
v  
Nick Ltd.**

**[SLUHCVP2023/0003]  
(Saint Lucia)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Cynthia Hinkson-Ouhla**

**Respondent:**

**Diana Thomas**

**Issues:**

**Application for extension of time and relief from sanctions**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

**The application for extension of time being no longer necessary is deemed withdrawn.**

**Reason:**

**The Court noted the approved draft order of Pariagsingh J dated 18<sup>th</sup> June 2024 where a conditional order was given granting the appointment of a curator and noted further that the appellant has therefore complied with this Court's Order dated 2<sup>nd</sup> April 2024 within the time prescribed therein and therefore the extension of time is no longer necessary.**

**Case Name:**

**Keron Samuel**

**v**

**The King**

**[SVGHCRAP2023/0001]  
(Saint Vincent and the Grenadines)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicant:**

**In Person**

**Respondent:**

**Tammika Da Silva-McKenzie**

**Issues:**

**Application for extension of time and relief from sanctions**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

**The application for extension of time within which to appeal against sentence is dismissed.**

**Reason:**

**The Court was cognizant of section 31(2) of the Eastern Caribbean Supreme Court (Saint Vincent and The Grenadines) Act which empowers the court to extend the time within which to appeal and considered rule 27(1)(e) of the Eastern Caribbean Supreme Court, Court of Appeal Rules. The Court was ultimately of the view that the delay in applying for an extension of time is inordinate and that the reasons proffered for the delay are unsatisfactory. The Court also found that the appeal lacks any realistic prospects of success, and that accordingly the applicant has not satisfied the requirements for the grant of an extension of time to appeal.**

**Case Name:**

**Mikhail Thomas  
v  
The King**

**[SVGHCRA2024/0003]  
(Saint Vincent and the Grenadines)**

**Date:**

**Tuesday, 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicants:**

**In person**

**Respondent:**

**In person**

**Issues:**

**Application for leave to appeal against conviction and sentence – Application for extension of time within which to appeal**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The application filed on 24<sup>th</sup> May 2024 for an extension of time within which to appeal is refused.
2. The application filed on 24<sup>th</sup> May 2024 for leave to appeal against conviction and sentence is dismissed.
3. The Registrar of the High Court shall serve a copy of this order on the parties and provide proof of service thereof within 7 days of the date of this order.

**Reason:**

The Court noted that the applicant had previously filed an application for an extension of time within which to appeal dated 5<sup>th</sup> February 2024, which was dismissed by Price Findlay JA by Order dated 23<sup>rd</sup> April 2024 on the basis that the applicant had furnished no cogent reasons for the delay and the proposed appeal did not have a realistic prospect of success. The Court therefore considered the present application to constitute a wanton abuse of the process of the court and was minded to refuse the application for an extension of time and dismiss the application for leave to appeal against conviction and sentence.

**Case Name:**

**Okqueto Jones**

**v**

**The King**

**[SVGHCRA2024/0006]**

**(Saint Vincent and the Grenadines)**

**Date:**

**Tuesday, 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicants:**

**In person**

**Respondent:** In person

**Issues:** Application for leave to appeal against conviction and sentence – Application for Bail

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

1. The application filed on 16<sup>th</sup> May 2024 for leave to appeal against conviction and sentence is refused.
2. The application for bail dated 27<sup>th</sup> April 2024 is refused.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 14 days of the date of this order.

**Reason:** The Court noted that the applicant had failed to comply with the order of Court dated 26<sup>th</sup> March 2024 which granted the applicant an extension of time for the filing and serving of the application for leave to appeal within 14 days of the date of the order. The Court also considered that, on the authority of *The State v Lynette Scantlebury* (1976) 27 WIR 103, the applicant had failed to provide cogent evidence revealing exceptional circumstances justifying the grant of bail.

**Case Name:** Kelroy Richards  
v  
The King

[SVGHCRA2024/0011]  
(Saint Vincent and the Grenadines)

**Date:** Tuesday 25<sup>th</sup> June 2024

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Applicant:**

**In Person**

**Respondent:**

**Maria Jackson**

**Issues:**

**Application for extension of time within which leave to appeal**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The application for an extension of time within which to appeal filed on 9<sup>th</sup> May 2024 is dismissed.**
- 2. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.**

**Reason:**

**The Court considered the principles on which an extension of time should be granted as enunciated in Lindsay F.P. Grant et al v Tanzania Tobin Tanzil SKBHCVAP2020/0004 (delivered 6<sup>th</sup> July 2020, unreported) and the power of a single judge to extend time pursuant to rule 62.19(1)(c) of the Civil Procedure Rules (Revised) 2023. The Court noted that the delay in filing an application for appeal against sentence or application for extension of time has spanned 1 year, 9 months and 5 days without any action taken to advance the appeal. Against the foregoing, the Court determined that the applicant failed to satisfy the threshold for the grant of an extension of time within which to appeal.**

**Case Name:**

**Keshurn Sayers**

**v**

**The King**

**[SVGHCRA2024/0009]**

**(Saint Vincent and the Grenadines)**

**Date:** Tuesday 25<sup>th</sup> June 2024

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Applicant:** Jomo Thomas

**Respondent:** In Person

**Issues:** Application for leave to appeal against sentence

**Result /**  
**Order:**

**IT IS HEREBY ORDERED THAT:**

1. The application for leave to appeal against sentence filed on 6<sup>th</sup> May 2024 is dismissed.
2. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

**Reason:** The Court considered rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 (“the CPR”) which provides that leave to appeal may be given only where (a) the court considers that the appeal would have a realistic prospect of success; or (b) there is some other compelling reason why the appeal should be heard. The Court was of the view that the application for leave to appeal against sentence did not have a realistic prospect of success.

**Case Name:** MBS Software Solutions Limited  
v  
[1] Matthew Paget  
[2] Reid Zulpo

**[BVIHCMAP2024/0012]  
(Territory of the Virgin Islands)**

**Date:** Tuesday 25<sup>th</sup> June 2024

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Applicant:** Andre McKenzie

**Respondents:** Andrew Willins for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents

**Issues:** Application for leave to appeal – Application for stay of execution

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

1. The application for leave to appeal is granted.
2. The application for a stay of execution pending the hearing and determination of the appeal is granted.
3. Costs in the appeal.

**Reason:** The Court considered rule 62.2 (8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which states that leave to appeal may be given only where (a) the court considers that the appeal would have a realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard. The Court was of the view that the appeal does have a realistic prospect of success.

The Court considered the relevant principles which a court should apply when deciding whether to exercise its discretion to grant a stay as adumbrated in Hammond Studdard Solicitors

**v Agrichem International Holdings Limited [2001] EWCA Civ 2065 and applied in C-Mobile Services Limited v Huawei Technologies Co Limited BVIHCMAP2014/0017 (delivered 2<sup>nd</sup> October 2014, unreported). The Court determined that, taking into consideration the totality of circumstances, there is a real risk of injustice to the applicant if the court refuses a stay and the justice of this application demands that a stay of the judgment of Justice Webster be granted pending the hearing and determination of the appeal.**

**Case Name:**

**[1] Lau Man Sang, James  
[2] Lung Hung Cheuk  
[3] Cheung Wing Sum, Albert  
[4] Ngai Hin Kwan, Albert  
[5] Yeung Yiu Chong  
[6] Zhang Guo Wei**

**v**

**[1] King Bun Limited  
[2] Kency Ltd  
[3] Kar Kwong Development Limited  
(trading as Kai Kwong Trading Company)  
[4] Khi Capital Limited  
[5] Kentrue Company Limited  
[6] Hui Pak Kong (Suing in the name and  
on behalf of themselves and all other  
shareholders in Vanway International  
Group Limited, except the First and  
Second Defendants)  
[7] Chau Cheuk Wah, Angus  
[8] Vanway International Group Limited**

**[SVGHCRA2024/0008]  
(Saint Vincent and the Grenadines)**

|                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Date:</b>           | <b>Tuesday 25<sup>th</sup> June 2024</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Before:</b>         | <b>The Hon. Mr. Trevor M. Ward, Justice of Appeal</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>On paper:</b>       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Applicants:</b>     | <b>Yegâne Güley for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Applicants</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Respondents:</b>    | <b>Jerry Samuel for the 1<sup>st</sup>, 2<sup>nd</sup> 3<sup>rd</sup> and 4<sup>th</sup> Respondents</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Issues:</b>         | <b>Application for security for costs</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Result / Order:</b> | <p><b>IT IS HEREBY ORDERED THAT:</b></p> <ol style="list-style-type: none"> <li><b>1. The application for security for costs in sum of US\$200,000.00 is granted.</b></li> <li><b>2. The appellants/respondents shall pay security for costs within 21 days of the date of this order.</b></li> <li><b>3. The appellants/respondents shall pay the 1st to 6<sup>th</sup> Respondents costs of the security for costs application, to be assessed by a judge of the Commercial Court if not agreed within 21 days.</b></li> <li><b>4. The Registrar of the High Court shall serve a copy of this order on the parties and provide proof of service within 7 days of the date of this order.</b></li> </ol> |
| <b>Reason:</b>         | <b>The Court considered rule 62.21 (1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which empowers the court to make an order that either party on appeal gives security for the costs of the appeal, as well as the principles upon which an application for security for costs should be granted as illustrated in the</b>                                                                                                                                                                                                                                                                                                                                       |

case of National Bank of Anguilla Limited (in receivership) et al v National Bank of Anguilla (Private Banking and Trust) Limited (in administration) et al [AXAHCVP2019/0004] (delivered 9<sup>th</sup> July 2020, unreported). The Court further considered the balancing exercise which a court must undertake when exercising its discretion as to whether or not to grant security for costs, taking into account amongst other factors whether it is just to make the order and whether such an order might stifle a genuine claim.

The Court was of the view that there is (1) no suggestion that an order for security for costs, even in the sum requested by the appellant in its application, would stifle the claim, (2) the respondents/applicants stand a greater risk of detriment if the order is not made and (3) it would be just in the totality of the circumstances to make an order for security for costs. Against the foregoing, the Court ultimately determined that the application for security for costs should be granted.

**Case Name:**

**[1] Elvin Hodge  
[2] Ethelyne Hodge King  
v  
The Registrar of the High Court  
[BVIHCMAP2024/0002]  
(Territory of the Virgin Islands)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicants:**

**Marie-Lou Creque for the 1<sup>st</sup> and 2<sup>nd</sup> Applicants**

**Respondent:**

**Shonice Warner**

**Issues:**

**Application for an order directing the Registrar of the High Court to state a case**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The appellants shall be at liberty to file a reply to the submissions of the respondent dated 24<sup>th</sup> June 2024 within 14 days of the date of this order.**
- 2. The application for an order directing the Registrar of the High Court to state a case is adjourned for further consideration at the next Chamber Sitting of this Court scheduled for 30<sup>th</sup> July 2024.**

**Reason:**

**The Court considered the arguments raised by the respondent in the submissions dated 24<sup>th</sup> June 2024 and was of the view that the appellants ought to be given an opportunity to respond to the submissions of the respondent.**

**Case Name:**

**Mex Clearing Limited  
v  
[1] Von der Heydt Invest S.A.  
[2] Mex Securities S.A.R.L.  
[3] Multibank FX International Corporation  
  
[BVIHCMAP2021/0026]  
(Territory of the Virgin Islands)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicant:** Christopher Bromilow

**Respondents:** Catherine O'Connell for the 1<sup>st</sup> Respondent  
2<sup>nd</sup> Respondent in Person  
Andrew Willins for the 3<sup>rd</sup> Respondent

**Issues:** Application seeking the removal of Solicitor from the record

**Type of Order:**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

1. The application for the removal of Forbes Hare from the record as legal practitioners for their client, the appellant is granted.
2. The appellant shall pay the costs of the application in an amount to be assessed if not agreed by the parties within 14 days.
3. The applicant shall serve a copy of this order on the appellant within 7 days of the date of this order and such service may be by email to the appellant's director, Mr. Raed Salahat, at r.salahat@alliance-fx.com.
4. The applicant shall serve a copy of this order on the legal practitioners for the respondents within 7 days of the date of this order.
5. The applicant shall file a certificate of service of this order within 14 days of the date of this order.

**Reason:** The Court considered the requirements to be satisfied upon an application by a legal practitioner to be removed from the record pursuant to rule 63.6 (2) and (3) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which are (1) that the

application must be on notice to the client or former client and to all other parties; and (2) that the application must be supported by evidence on affidavit which must be served on the client but must not be served on any other party to the proceedings. Based on the foregoing, the Court was of the view that the applicant has satisfied the requirements under rule 63.6 of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023.

**Case Name:**

**Charlotte Brodie**

**v**

**Henry Brodie**

**[BVIHCVAP2024/0006]**

**(Territory of the Virgin Islands)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicant:**

**Marie-Lou Creque**

**Respondent:**

**Asha Johnson Willins**

**Issues:**

**Application for extension of time to file record and skeleton arguments – Application for relief from sanctions**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The application for an extension of time to file the record of appeal and skeleton arguments is granted.**

2. The application for relief from sanctions is granted.
3. The record of appeal is deemed properly filed.
4. The skeleton arguments in support of the appeal is deemed properly filed.
5. The Registrar of the High Court shall serve a copy of this order on the parties within 7 days of the date of this order and provide proof of service thereafter.

**Reason:**

The Court considered the principles on which an extension of time should be granted as enunciated in *Carleen Pemberton v Mark Brantley SKBHCVAP2011/009* (delivered 14<sup>th</sup> October 2011, unreported) and the power of a single judge to extend time pursuant to rule 62.19(1)(c) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023. The Court was of the view that (i) the reason for the failure to file the record of appeal and skeleton arguments within the required timeframe is a good reason, (ii) the appellant has a realistic prospect of success and (iii) there would be no prejudice to the parties upon the grant of an extension of time.

The Court considered the principles for the granting of relief from sanctions pursuant to rule 26.8(2) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 and was of the view that (i) the failure to comply has been remedied within a reasonable time and (ii) the application for relief from sanctions was made promptly.

**Case Name:**

**Elmo Conner  
v  
Anyelina Mejia Villa**

**[BVIHCVAP2022/0014]**

**(Territory of the Virgin Islands)**

**Date:** Tuesday 25<sup>th</sup> June 2024

**Before:** The Hon. Mr. Trevor M. Ward, Justice of Appeal

**On paper:**

**Applicant:** Daniel Fligelstone Davies

**Respondent:** Ruthilia Maximea

**Issues:** Application for extension of time – Application for relief from sanctions

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

1. The application for an extension of time and relief from sanctions filed by the applicant on 5<sup>th</sup> June 2024 is granted.
2. The appellant shall file and serve an affidavit in response and written submissions in response to the respondent's strike out application on or before 5<sup>th</sup> July 2024.
3. The Registrar of the High Court shall serve a copy of this order on the applicant and provide proof of service within 7 days of the date of this order.

**Reason:** The Court considered the principles on which an extension of time should be granted as enunciated in Carleen Pemberton v Mark Brantley SKBHCVAP2011/009 (delivered 14<sup>th</sup> October 2011, unreported) and the power of a single judge to extend time pursuant to rule 62.19(1)(c) of the

Civil Procedure Rules (Revised) 2023. The Court also considered the principles for the granting of relief from sanctions pursuant to rule 26.8(2)(e) of the Civil Procedure Rules (Revised) 2023. Having found that the application for extension of time and relief from sanctions was made promptly and that the appellant provided a good and substantial reason for the delay in filing a response to the respondent's strike out application which amounted to a failure to comply with this court's order dated 21<sup>st</sup> May 2024, the court determined that the appellant satisfied the threshold for the grant of an extension of time and relief from sanctions.

**Case Name:**

**[1] WWRT Limited  
[2] Olga Gutovska  
v  
Boris Kaufman**

**[BVIHCMAP2024/0015]  
(Territory of the Virgin Islands)**

**Date:**

**Tuesday 25<sup>th</sup> June 2024**

**Before:**

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

**On paper:**

**Applicants: Charles Goldblatt for the 1<sup>st</sup> and 2<sup>nd</sup> applicants**

**Respondent: Richard Brown**

**Issues:**

**Application for leave to appeal**

**Result /  
Order:**

**IT IS HEREBY ORDERED THAT:**

- 1. The application filed on 11<sup>th</sup> June 2024 for leave to appeal paragraph 1 of the order of Wallbank J dismissing the intended**

**appellant's submission that there was no case to answer in respect of the intended respondent's committal application made on 21<sup>st</sup> May 2024 is granted;**

- 2. The applicants shall file and serve their notice of appeal within 21 days of the date of this order.**
- 3. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules (Revised) 2023.**

**Reason:**

**Having considered part 62(8) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised) 2023 which states that leave to appeal may be given only where (a) the court considers that the appeal would have a realistic prospect of success or (b) there is some other compelling reason why the appeal should be heard, the Court determined that the applicant had met the threshold for the grant of leave to appeal.**