

COURT OF APPEAL SITTING

**SAINT LUCIA
12th - 14th November 2018
16th November 2018**

STATUS HEARING

Case Name: [1] Network Construction Maintenance &
Rehabilitation Limited
[2] Gregory Laughan Fevrier
v
Cable & Wireless (St. Lucia) Limited

[SLUHCVAP2016/0001]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther. Blenman, Justice of Appeal

Appearances:

Appellants: Mr. Dexter Theodore, QC with him Ms. Maureen John-Xavier

Respondent: Mr. Deale Lee

Issue: Status of the matter

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral Delivery]

The court being advised that the parties have received information that the audio recording of the proceedings below was inaudible and that directions were given for access to be given to the judge's notes and those were not forthcoming;

1. It is hereby directed that the parties meet,

together with the assistance of Mr. Mark Maraj, with a view to producing transcripts of the notes of evidence of the proceedings.

2. It is ordered that if successful in reproducing transcripts of the notes of evidence, the notes will form part of the record of appeal.
3. The matter is fixed for further assessment at the status hearing during the sitting of the Court in Saint Lucia during the week commencing April 8th, 2019.

Reason:

The Notice of Appeal was filed on 29th of January 2016. The Court wrote to say that the audio recording of the proceedings below was inaudible, and Court was awaiting the notes of Belle J. There being no further indication from the Court on the availability of the notes, the parties agreed to reconstruct the transcript from their notes of evidence.

Case Name:

Bank of Saint Lucia Limited

v

[1] Jones Biscette

[2] Marie Biscette

[SLUHCVAP2017/0007]

(Saint Lucia)

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther. Blenman, Justice of Appeal

Appearances:

Appellant:

Mr. Leslie Prospere

Respondents:

Mr. Carlton Amsterdam holding for Mr. Horace Fraser

Issue:

Status of the matter

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral Delivery]

The appeal bundle having been filed;

- 1. Leave is granted to the appellant to file and serve skeleton arguments, together with authorities, on or before the 4th of January 2019.**
- 2. The respondent is granted leave to file and serve skeleton arguments together with authorities, on or before the 4th of February 2019.**
- 3. The matter is taken off the status list and referred to the Chief Registrar for it to be proceeded with, in accordance with CPR 2000.**

Reason:

Appellant filed Appeal Bundle on 11th September 2018. The appeal bundle was served on the Respondent on 12th September 2018 evidenced by an affidavit of service filed on 17th September 2018.

Case Name:

**[1] Justin Augustin
[2] Levista Augustin
v
Joseph Oberius**

**[SLUHCVAP1999/0002]
(Saint Lucia)**

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:	
	Appellants: None
	Respondent: Ms. Shirley Lewis
Issue:	Status of the matter
Type of Oral Result / Order Delivered:	Oral Judgment or Decision
Result / Order:	[Oral Delivery] The Court having noted that both appellants are deceased and the antiquity of this appeal, the matter having been filed several years ago, it is hereby ordered that the matter is struck out.
Reason:	Both appellants are deceased.
Case Name:	Khardisha Lindy Princess Jawahir v David Garvin Jawahir [SLUHCVP2017/0055] (Saint Lucia)
Date:	Wednesday, 14th November 2018
Before:	The Hon. Louise Esther Blenman, Justice of Appeal
Appearances:	
	Appellant: Mr. Leevie Herelle
	Respondent: Mrs. Maureen John-Xavier
Issue:	Status of the matter

**Type of Oral
Result / Order
Delivered:**

Directions

Result / Order:

[Oral Delivery]

The court having noted that the Notice of Appeal has not been served on the respondent, it is hereby ordered that the appellant is to serve the Notice of Appeal on Respondent personally within 7 days. Thereafter the appeal shall proceed in accordance with CPR 2000.

Reason:

The Notice of Appeal has not been served on the respondent.

Case Name:

Wauneen Louis-Harris

v

Lazarus Paul

[SLUHCVAP2015/0032]

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:

Mrs. Maureen John-Xavier holding for Mrs. Wauneen Louis-Harris

Respondent:

Mr. Gerard Williams

Issue:

Status of the matter

**Type of Oral
Result / Order**

Directions

Delivered:

Result / Order:

Oral Delivery]

The court being advised that mediation thus far has been unsuccessful, it is hereby ordered that the matter be listed for hearing, during the sitting of the Court of Appeal in Saint Lucia during the week which commences on the 8th April 2019.

Reason:

Mediation has been unsuccessful.

Case name:

The Attorney General

v

Michael Stephens

[SLUHCVAP2017/0035]

(Saint Lucia)

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:

Mr. George Kamali Charlemagne

Respondent:

Ms. Sherene Francis

Issue:

Status of the Matter

**Type of Oral
Result / Order
Delivered:**

Directions

Result / Order:

[Oral Delivery]

The Court having had sight of both the Notice of

Discontinuance of the appeal and the Notice of Discontinuance of the counter appeal, it is hereby ordered that both the appeal and the counter appeal stand dismissed.

Reason: Notice of discontinuance of appeal was filed and served on 9th November 2018. Notice of discontinuance of the counter appeal also filed but not yet served.

Case name: Helen Television System Limited
v
Victoria Alcide
[SLUHCVAP2017/0053]

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:
Appellant: Mr. Dexter Theodore, QC with him Mr. Mark Maraj
Respondent: Ms. Rowana-kay Campbell holding papers for Mr. Sahleem Charles

Issue: Status of the matter

Type of Oral Result / Order Delivered: Directions

Result / Order: Oral Delivery]

The Court having been advised by learned Queen's Counsel Mr. Theodore that the record of appeal is not yet due to be filed, it is hereby ordered that the matter be taken off the status hearing list insofar as it was

erroneously listed.

Reason: The record of appeal is not yet due to be filed. It becomes due on 20th November 2018.

Case name: James Junior Frederick
v
The Attorney General
[SLUHCVAP2017/0046]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:
Appellant: Mr. Colin Foster
Respondent: Mr. George Kamali Charlemagne

Issue: Status of the matter

**Type of Oral
Result / Order
Delivered:** Oral Judgment or Decision

Result / Order: [Oral Delivery]

1. Leave is granted to the appellant to file and serve an amended notice of appeal on or before 14th December 2018.
2. Leave is granted to the appellant to file and serve the record of appeal together with skeleton arguments and authorities on or before 11th January 2019.

3. The respondent is granted leave to file and serve skeleton arguments together with authorities on or before 11th February 2019.

The matter is listed for further status hearing during the sitting of the Court in Saint Lucia in the week commencing 8th April 2019.

Reason:

Appellant has been ill and unable to finalise a proposed amended notice of appeal. Notice of the availability of the transcript was received by the appellant's counsel, however the transcript fee was erroneously paid into the wrong office.

Case Name:

Brandon Charles

v

The Attorney General

[SLUHCVAP2017/0039]
(Saint Lucia)

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:

Mr. Gerard Williams

Respondent:

Mr. George Kamali Charlemagne

Issue:

Status of the matter

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral Delivery]

1. Leave is granted to the appellant to file and serve on the respondent the record of appeal together with skeleton arguments, on or before the 11th of January 2019.
2. Leave is granted to the Attorney General to file and serve skeleton arguments together with authorities on or before 11th February 2019.
3. The appeal is listed for further consideration at the status hearing during the sitting of the Court of Appeal in Saint Lucia in the week which commences on the 8th April 2019.

Reason: Notice of the availability of the transcript was received, however the appellant is impecunious, and transcript has not yet been procured.

Case Name: [1] Della Vallery Nolan nee Jude
[2] Beverley Jude-Porter
v
[1] Diane Jude
[2] Vandyke Jude
[SLUHCVP2017/0025]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:	Mrs. Maureen John-Xavier
Respondents:	Mr. Dexter Theodore, QC with him Mr. Mark Maraj for 1 st Respondent Mrs. Petra Nelson and Mrs. Esther Greene-Ernest for 2 nd Respondent

Issue:	Status of the matter
Type of Oral Result / Order Delivered:	Directions
Result / Order:	[Oral Delivery] The court having been advised that the record of appeal is due to be filed on or before 19th November 2019, it is hereby ordered that the matter, as it is erroneously listed, is taken off the list.
Reason:	The record of appeal is not yet due to be filed. The record is due on or before 19 th of November 2019.
Case Name:	[1] Daniel Forde [2] Ian Forde v The Attorney General [SLUHCVAP2017/0024] (Saint Lucia)
Date:	Wednesday, 14th November 2018
Before:	The Hon. Mde. Louise Esther Blenman, Justice of Appeal
Appearances:	
Appellant:	Mr. Carlton Amsterdam holding for Mr. Horace Fraser
Respondent:	Mr. George Kamali Charlemagne
Issue:	Status of the matter
Type of Oral Result / Order	Directions

Delivered:

Result / Order:

[Oral Delivery]

The court having been advised that the record of appeal has been filed and served, that the appellant filed skeleton arguments and authorities, and that the respondent will file skeleton arguments and authorities on or before December 6th, 2018, it is hereby ordered that the appeal shall proceed thereafter in accordance with the CPR 2000

Reason:

The appellant filed skeleton arguments and authorities on 2nd February 2018 and served on the respondent on 7th November 2018. The record of appeal has been prepared. The respondents have undertaken to file their skeleton arguments on or before the 6th of December 2018.

Case Name:

Elliot Clarke

v

Leota Gregg

[SLUHCVAP2016/0004]

(Saint Lucia)

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:

None (Mr. Alfred Alcide (on record))

Respondent:

Ms. Andra Gokool-Foster

Issue:

Status of the matter

Type of Oral

Oral Judgment or Decision

**Result / Order
Delivered:**

Result / Order:

The court having noted that notice of this hearing was served on the legal practitioner for the appellant, the appellant and their legal practitioner being absent, it is hereby ordered that the appeal is struck out.

Reason:

Appellant was served with the notice of hearing, but no appearance by the appellant or the appellants legal practitioner.

Case Name:

[1] Seafari St Lucia Limited
[2] Rodney Bayside Limited
[3] Marcarius Joinville

v

The Harbour Proprietors Unit Plan No. 2/2008

[SLUHCVAP2016/0008]
(Saint Lucia)

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:

Mr. Mark Maraj

Respondent:

None

Issue:

Status of the matter

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral Delivery]

The notice of the availability of transcripts having been served on Amicus chambers (Counsel for the Appellant), and counsel for the appellant having advised that he was not aware of the notice because of circumstances beyond his control and having made an application for leave to file and serve the record of appeal. It is hereby ordered that:

1. Leave is granted to the appellant to file and serve the record of appeal on or before 7th December 2018, together with skeleton arguments.
2. The matter is fixed for status hearing in the week commencing 8th April 2019.
3. Thereafter the appeal shall proceed in accordance with CPR 2000.

Reason:

The notice of appeal was filed. There was no response to the appeal. A notice of intention to proceed with the appeal was filed. An affidavit of service for the notice of availability of transcripts served on both parties. However, circumstances prevented counsel for the appellant from having knowledge of that notice.

Case Name:

Ramesh Sinanan
v
Monroe College Limited
[SLUHCVP2017/0023]
(Saint Lucia)

Date:

Wednesday, 14th November 2018

Before:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:

Ms. Rowana-kay Campbell holding for Ms. Renée T.

St. Rose

Respondent:

Mr. Dexter Theodore QC, with him Mr. Mark Maraj

Issue:

Status of the matter

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral Delivery]

It is hereby directed that;

1. Leave is granted to the appellant to file and serve skeleton arguments and authorities on or before 30th November 2018.

2. Leave is granted to the respondent to file and serve skeleton submissions together with authorities on or before 4th January 2019

3. The Appeal shall proceed thereafter in accordance with CPR 2000

Reason:

Record of Appeal was filed and served on the respondent on 11th June 2018

Appellant is seeking leave to file and serve skeleton arguments and authorities on or before the end of Nov. 2018.

Case Name:

**Durand Dorsey et al
v
West Indies Insurance Company Limited**

**[SLUHCVP2016/0029]
(Saint Lucia)**

Date:	Wednesday, 14th November 2018
Before:	The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:	
Appellant:	Ms. Lydia Faisal
Respondent:	None
Issue:	Status of the matter
Type of Oral Result / Order Delivered:	Directions
Result / Order:	[Oral Delivery] 1. The Registrar of the High Court is directed to take the necessary steps to have the transcript of proceedings prepared and a notice of preparation provided no later than 21st December 2018. 2. This status hearing is adjourned for further consideration during the week of 8th April 2019 when the Court sits in Saint Lucia.
Reason:	Despite the notice of availability, there has not been production of the transcripts due to oversight in the Registry of the High Court.
Case Name:	Suzanne Gryspeerdt et al v Robert Ainsworth et al [SLUHCVP2017/0013] (Saint Lucia)
Date:	Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant:	Mr. Colin Foster holding for Mr. Gerard Williams
Respondent:	None

Issue: Status of the matter

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Decision]

It is noted that the notice of availability of the transcripts was served on Counsel for the appellant on the 23rd December 2017 and that there has been no payment of the fees for the transcripts. It is hereby ordered that;

1. The appellants are given leave to obtain the transcript by payment of the prescribed fee and to file the record of appeal on or before 18th January 2019.
2. Failure to comply with the order above, the appeal stands struck out and dismissed.

Reason: The notice of availability of the transcripts was served on the appellant on the 23rd of December 2017. No payment for the transcripts has been made.

Case Name:

Dr. Charles Isidore
v
Gerard Williams

[SLUHCVAP2017/0022]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:

Appellant: Mr. Carlton Amsterdam holding for Horace Fraser

Respondent: Mr. Dexter Theodore, QC

Issue: Status of the matter

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

The record of appeal having been filed on the 7th of August 2018, there being no skeleton arguments filed and served, and that an application for leave to file the skeleton argument having been made by the appellant's counsel. There being no objection by the counsel for the respondent;

1. Leave is granted for the appellant to file and serve skeleton arguments with authorities within 21 days.
2. Leave is granted to the respondent to file and serve skeleton arguments on or before 11th of January 2019.

Thereafter the appeal shall proceed in accordance with CPR 2000.

Reason: A record of appeal was filed and served on the respondent on 7th August 2018 but does not contain the appellant's skeleton arguments and authorities.

Case Name: Castries Constituency Council
v
Margaretta Frank
[SLUHCVAP2017/0018]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:
Appellant: Ms. Ann-Alicia Fagan
Respondent: Ms. Lydia Faisal

Issue: Status of the matter

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

The court having noted that the record of appeal was filed and served, and the court having noted that the appellant's skeleton arguments and authorities were filed but through inadvertence not been served, and the appellant's counsel having undertaken to serve its skeleton arguments before the close of business on 15th November 2018;

1. Leave is granted to the appellant to serve its skeleton arguments no later than Friday 16th November 2018

2. The respondent is granted leave to file and serve its skeleton arguments together with authorities within 28 days of receipt of the appellant's skeleton arguments and authorities

3. The appeal shall thereafter proceed in accordance with CPR 2000

Reason: The record of appeal is filed. The appellant has filed skeleton arguments and authorities on the 8th of November 2018. However, the appellant has not served on the respondent due to inadvertence.

Case Name: Alva R. Baptiste
v
Monica D. Baptiste
[SLUHCVP2015/0023]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:
Appellant: Ms. Ann-Alicia Fagan
Respondent: None

Issue: Status of the matter

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

The court having been advised by counsel for the appellant that counsel for both sides were in the process of finalising a notice of discontinuance by the appellant, and the appellant having applied orally to the Court for the appeal to be withdrawn, it is hereby ordered that the appeal is dismissed and struck out.

Reason: The matter was settled. A notice of discontinuance was being finalized. An oral application was made by counsel for the appellant for discontinuance

Case Name: [1] Andrew Laurent
[2] Brent Laurent
v
Caribbean Metals Ltd.
[SLUHCVAP2012/0017]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:
Appellant: Mr. Carlton Amsterdam holding for Mr. Horace Fraser
Respondent: None

Issue: Status of the matter

**Type of Oral
Result / Order
Delivered:** Directions

Result / Order: The respondent having not appeared and counsel holding papers for the appellant having advised the Court that the parties have settled the matter, but the Court not having sight of the consent order to which counsel referred;

1. The matter remains on the list and will come up for further consideration at the status hearing in the week commencing April 8th, 2019.

2. If the consent order is filed with the court

before 8th April 2019, the matter will not be listed.

Case Name: Juliet Sutherland
v
Bank of Saint Lucia Limited
[SLUHCVAP2016/0005]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:
Appellant: Mr. Alfred Alcide (Not on the record)
Respondents: Mr. Leslie Prospere

Issue: Status of the matter

**Type of Oral
Result / Order
Delivered:** Adjournment

Result / Order: The Court having noted that a notice of the availability of the transcript was provided on 10th February 2017, and that the appellant is not present in court, neither is there counsel on record appearing for the appellant, the matter is fixed for further status hearing consideration, during the week which commences April 8th, 2018.

Reason: No notice of change of attorney provided to the Court. Mr. Alcide, though present, is not on record. He undertakes to file a notice of change of attorney

forthwith. The notice of appeal of transcripts was filed. The notice of availability of transcript was provided.

Case Name: Martin Christian Devaux
V
Ann Delores Devaux
[SLUHCVAP2015/0027]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Before: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

Appearances:

Appellant: Mr. Colin Foster

Respondent: Mrs. Esther Greene-Ernest

Issue: Status of the matter

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

The notice of transcript availability having been served on both parties;

1. Leave is granted to the appellant to file and serve the record of appeal on or before the 4th of January 2019, on the basis that the notice of the availability of the transcript was served on both parties on the 9th of January 2017.

2. Thereafter the appeal will proceed in accordance with CPR 2000.

3. Out of an abundance of caution, the appeal will be listed for further status consideration at the status hearing during the week which commences on the 8th of April 2019.

Reason:

Appellant applied for transcript. There is proof of service of notice of availability of transcript on the 9th of January 2017

APPLICATIONS AND APPEALS

Case Name: First Caribbean International Bank (Barbados)
Limited
v
Sunset Village Inc.

[SLUHCVAP2016/0027]
(Saint Lucia)

Date: Monday, 12th November 2018

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]

Appearances:

Applicant:	Ms. Renée T. St. Rose with her, Ms. Rowana-Kay Campbell
Liquidator:	Mr. Anwar Brice
Interested Creditors:	Mr. Ramon R. Raveneau holding for Mr. Colin Foster Mr. Colin Foster

Issues: Motion for Leave to appeal to Her Majesty in Council
– Application for stay of execution by consent

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

1. Leave to appeal to Her Majesty in Council is hereby granted upon condition that:
 - i. The applicant within 90 days of the date hereof do enter into good and sufficient security in the sum of 500 pounds sterling for the due prosecution of the appeal and such security to consist of a deposit of the said amount at the court office.

- ii. Within 90 days of the date hereof the applicant does take necessary steps for the purposes of procuring the preparation of the records, the settling of such records with the solicitors for the respondent to this application and the certification of the record by the Registrar of the court of appeal.
 - iii. The record shall be prepared in accordance with rules 18-20 of the Judicial Committee (Appellate Jurisdiction) Rules Order 2009 and its practice direction 4.2.1 -4.3.2 and practice direction 5 and shall be transmitted to the registrar of the judicial committee of the privy council without delay where final permission to appeal has been granted.
- 2. The applicant shall make an application to the Court for final permission to appeal to Her Majesty in Council supported by the certificate of the registrar that the security for costs ordered herein has been given within the time prescribed by this order to the satisfaction of the Registrar.
- 3. IT IS FURTHER BY CONSENT ORDERED THAT: upon the undertaking of First Caribbean International Bank (Barbados) Limited to return to the Liquidator any sum paid pursuant to the order of the Court of Appeal made on 20th September 2018 ("the Court of Appeal Order"), in the event the Court of Appeal order is set aside on appeal to Her Majesty's Privy Council paragraphs 5 and 6 of the order applied for by the interested creditors for a stay of execution of the Court of Appeal's order and forbidding among other things the apportionment and distribution of the proceeds of sale of the assets of Sunset Village Inc. (in Liquidation) are hereby withdrawn by the interested creditors.
- 4. The costs of this application for conditional leave shall be costs of the appeal to Her Majesty in

Council.

Reason: The Court is satisfied that leave to Her Majesty in Council in relation to this matter is as of right pursuant to s.108(1)(a) of the Constitution of Saint Lucia and rule 4 of the Saint Lucia (Procedure and Appeals to the Privy Council) Order in Council.

Case Name: Dannion CE Ltd.
v
Central Tenders Board
[SLUHCVAP2016/0015]
(Saint Lucia)

Date: Monday, 12th November 2018

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]

Appearances:
Applicant: Mr. Vilan Edward holding papers for Mr. Leslie Prospere
Respondent: Mr. Rene Williams (Attorney General's Chambers)

Issues: Motion for conditional Leave to appeal to Her Majesty in Council

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

Oder:
1. Leave to appeal to Her Majesty in Council is

granted to the Applicant pursuant to Section 108 (1) (a) of the Saint Lucia Constitution Order 1978 upon the conditions that:

- i. The Petitioner shall within 90 days of the date hereof do enter into good and sufficient security in the sum of £500 for the due prosecution of the appeal, such security to consist of a deposit of the said amount at the court office.
 - ii. Within 90 days of the date hereof, the Petitioner do take the necessary steps for the purposes of procuring the preparation of the record, the settling of such records with the solicitors for the respondent to this application and the certification of the record by the Registrar of the Court of Appeal.
 - iii. The record shall be prepared in accordance with Rules 18 to 20 of the Judicial Committee (Appellate Jurisdiction) Rules Order 2009, and its Practice Direction 4.2.1 to 4.3.2 and Practice Direction 5 and shall be transmitted to the registrar of the Judicial Committee of the Privy where final permission to appeal has been granted.
2. The Petitioner shall make an application to this Court for final leave to appeal to Her Majesty in Council supported by the Certificate of the Registrar that the security for costs ordered herein has been given within the time prescribed by this Order to the satisfaction of the Registrar.
3. The costs of this application for conditional leave to appeal shall be the costs in the appeal to Her Majesty in Council.
4. Council for the Petitioner shall have conduct of preparing the order for sealing by the court.

Reason:

The Court being satisfied that the appeal arises as of right to her majesty in Council and that the value is

that of the prescribed value and upwards of \$1,500 pursuant to sections 108(1)(a) of the Saint Lucia Constitution Order 1987 and the Court also recording that there is no objection on behalf of the respondent.

Case Name: [1] SMJ (St. Lucia) Ltd.
[2] Frederick Biscette
v
Barbara Elizabeth Radmore qua Administratrix of the
Estate of Edward David Radmore (deceased)
[SLUHCVP2017/0011]
(Saint Lucia)

Date: Monday, 12th November 2018

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]

Appearances:

Applicant: Mr. Dexter Theodore, QC with him, Mr. Deale Lee and Mr. Mark Maraj

Respondent: Ms. Renée T. St. Rose (Peter I. Foster & Associates)

Issues: Amendment of Notice of Appeal – Adjournment

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]
1. Leave is hereby granted to the applicant/appellant to amend the grounds of appeal in terms of the amended draft notice of appeal filed with the application on 29th October 2018 there being no objection to the amendments by the respondent.

2. Given the illness of counsel and the position of counsel for the appellant not opposing having regard of counsel on behalf of the respondent. The Court grants the adjournment to the next sitting of the Court when sitting in the state of Saint Lucia for the appeal to be heard during week commencing 8th April 2019.

Reason:

Respondent does not oppose to the application to amend the notice of appeal. Respondent seeks an adjournment of the substantive appeal as lead counsel Mr. Foster is unwell and unable to attend the sitting.

Case Name:

[1] The Roserie Company Limited
[2] Thomas Roserie
[3] Sonia Roserie
[4] Chemico Manufacturing and Investment Ltd.

v

First Caribbean International Bank (Barbados) Limited

[SLUHCVAP2017/0029]
(Saint Lucia)

Date:

Monday, 12th November 2018

Coram:

The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]

Appearances:

Appellant:

Ms. Cynthia Hinkson-Ouhla with her, Ms. Nathalie Dabreo
Mr. Thomas Roserie and Mrs. Sonia Roserie present

Respondent:

Mr. Deale Lee with him, Ms. Zinaida McNamara

Issues: Interlocutory appeal — Preliminary issue — Prescription of debt — Interruption of prescription — Acknowledgement of debt — Whether claim is prescribed – Whether letter dated 29th November 2004 amounted to an acknowledgment of debt – Whether debts were prescribed — Article 2088 of the Civil Code of Saint Lucia

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

1. The appeal is dismissed.
2. Cost is to be paid by the appellants to the respondent fixed in the sum of \$2,500.00 to be paid within one month, by 14th December 2018

Reason: This is an appeal by the appellants against the decision of the learned trial judge made on 30th June 2017 in respect of the preliminary issue raised on the applications filed by the respondent Bank, First Caribbean International Bank (Barbados) Ltd. (which I will refer to as “FCIB”) on 7th November 2014 in which FCIB sought a ruling as to whether the alleged debts of the appellant had been prescribed. In essence, the learned judge at paragraph 2 of her decision basically identified that preliminary issue as the matter on which she was determining the question of prescription.

The learned judge in her judgment went through the various debts or loans as made by FCIB to the appellants and the question which arose crucially and which is challenged on this appeal is whether the learned judge was right in concluding that the letter of appellants written on the 29th November 2004 amounted to an interruption of the period of prescription which is common ground, the prescriptive period would have been 6 years for a contract of a commercial nature.

At paragraph 52, the learned trial judge after considering the arguments on both sides and after setting out in full the text of the letter of 29th September 2004, whatever may have been the prescription period which had run before concluded that the letter of 29th November 2004 contained an acknowledgment of the debts due to FCIB by the appellants and that that letter had the effect of interrupting prescription so that the claims when brought in 2009 and the other in 2010 fell within the prescribed period of 6 years for bringing the claim and therefore the claims were not prescribed.

The appellant being dissatisfied with that ruling contends before this Court that the learned judge in essence erred in applying the case of *Bradford & Bingley plc v Rashid* 2006 4 All ER 705 to the matter at hand in determining whether the acknowledgment of the debt was sufficient for the purposes of the *Civil Code of Saint Lucia* Cap. 4.01, Revised Laws of Saint Lucia 2008. In paragraph 52, the learned judge basically said within that paragraph that:

“On the authority of the Bradford case, I accept that at paragraph 2 of the letter, the acknowledgment of liabilities owed by the companies had the effect of an admission by the respondents of the right of FCIB to the sums claimed as the person against whom the prescription runs and that the remainder of the letter dealt with the extent to which TRCL and Chemico could meet these liabilities”.

She went on further to conclude that “I do not accept that the letter was conditional by asking for a concession on interest and a further advance to meet capital expenditure of Chemico”.

This Court is of the view that there is no reason to disturb those conclusions arrived at by the trial judge. Even if one were to accept that the Bradford case is an application of the common law principles and apply strictly the provisions of article 2088 of the Civil Code, this Court would come to no different conclusion to that arrived at by the trial judge, but that the letter is in fact, properly construed in its

entirety of the context, an acknowledgment of the debt sufficient to interrupt prescription or in essence to start the prescription period running again if the period had already expired. There is therefore no basis that this Court sees for disturbing the conclusion to which the trial judge has arrived at in finding that the claims brought by FCIB are not prescribed and the Court would so hold.

Case Name:

Theresa Plummer

V

[1] Dennis Mangal

[2] Irmina Lena Edwin

[3] Tarcisus Robinson Stanislaus

[4] Virgina Everiste

[5] Anthony Felicien

[SLUHCVP2017/0015]

(Saint Lucia)

Date:

Monday, 12th November 2018

Coram:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal

The Hon. Mde. Gertel Thom, Justice of Appeal

The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:

Mrs. Wauneen Louis-Harris

Applicant not present

Respondents:

Ms. Diana Thomas for the First, Second and Third Respondents

Ms. Diana Thomas holding papers for Mr. Alvin St. Clair for the Fourth Respondent

Ms. Diana Thomas holding papers for Mr. Anthony Felicier in person

Respondents not present

Issues:

Civil appeal – Application for leave to appeal to Her Majesty in Council – Application for an adjournment –

Application to file written submissions

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral Delivery]

1. The application is adjourned in order to enable the applicant to provide the court with the order of the court from which the application is being lodge, and with a copy of the judgment together with written skeleton arguments in support.

2. Leave in granted to the applicant to furnish the Court with the order being appealed together with skeleton arguments on or before 12th December 2018 together with skeleton arguments in support of the application

3. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 8th April 2019.

Reason:

The Court having noted that the intended applicant having failed to provide the court with a copy of the judgment in which leave to appeal is being sought or the order of the court in relation to which leave is being sought and so the matter is unable to proceed to today it is hereby ordered that the application is adjourned in order to enable the applicant to provide the Court with the order of the court from which the application is being launched and a copy of the judgment together with written skeleton arguments in support.

Case Name:

**First Caribbean International Bank (Barbados)
Limited**

v

[1] Praise and Worship Tabernacle Inc.

[2] David Tommy

[SLUHCVAP2018/0014]

(Saint Lucia)

Date: Monday, 12th November 2018

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Applicant: Mrs. Wauneen Louis-Harris

Respondents: Mrs. Esther Greene-Ernest

Issues: Interlocutory appeal – Application for leave to correct the record of appeal – Application for leave to file supplemental record of appeal

Type of Oral Result / Order Delivered: N/A

Result / Order: The matter is stood down.

Reason: Ms. Renée T. St. Rose was not present but in the other Court.

Case Name:

[1] The Attorney General
[2] The Public Service Commission
v
Darrel Montrope

[SLUHCVP2018/0020]
(Saint Lucia)

Date: Monday, 12th November 2018

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal

**The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Garth Patterson with him Mr. Mark Maraj for the First Appellant/Applicant
Mr. Vern Gill with a watching for brief the Public Service Commission

Respondent: No appearance

Issues: Civil appeal. Application to set aside leave to appeal – Application to set aside order of single judge.

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

The Court is of the unanimous view that the order of the single judge should be set aside that the matter was improperly placed before the Court of Appeal and the matter is remitted to the High Court to be dealt with by that Court.

Reason: Having heard from learned Queen's Counsel for the applicant and the Court having noted that the matter was inadvertently listed before the Court of Appeal instead of the High Court that was meant to hear the matter and the Court being in the view that this was an administrative slip by the Registrar of the High Court,

Case Name: First Caribbean International Bank (Barbados) Limited
v
[1] Praise and Worship Tabernacle Inc.
[2] David Tommy

[SLUHC VAP2018/0014]
(Saint Lucia)

Date: Monday, 12th November 2018

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Sahleem Charles
Appellatious Popo – Representative for the Appellant

Respondent: Mr. Ramon R. Raveneau

Issues: Civil appeal – Application to withdraw appeal by consent

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]
1. The appeal is withdrawn.
2. There is no order as to costs.

Reason: The Court having noted that the parties having agreed that that appeal will be withdrawn and that there will be no order as to costs, the Court made an order to that effect.

Case Name:

Meat Express Limited
Claimant

Bank of Saint Lucia
Appellant

v

[1] Prestige Fish Processing Inc.
[2] Gregory Charles
Respondents

**[SLUHCVAP2017/0014]
(Saint Lucia)**

Date: Monday, 12th November 2018

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Cleopatra McDonald with her Ms. Diana Thomas
Mr. Valdez James Bank of Saint Lucia representative

Respondent: Unrepresented with no appearance

Issues: Interlocutory Appeal – Application from the order of the learned master refusing application to strike out ancillary claim – Whether the learned master erred in law in applying CPR 26.3(b) instead of CPR 26.3(c) the latter being the ground upon which the application was made – Whether the learned master misdirected herself and/or erred in law in that she failed to consider adequately or at all whether the second claim may be an abuse of process – Whether the learned failed to consider adequately or at all the injustice to the applicant if the respondents fail to prove their case in the first claim, the applicant would nevertheless be subject to defending the same claim in the separate and second proceeding and would likewise be exposed to the possibility of having comply with a conflicting decision by a different judge to that rendered in the first claim – Whether the learned master failed to consider adequately or at all that a similar or worse injustice would arise if the respondents were to succeed on both claims, thereby subjecting the applicant to two or more judgments granting the same remedy for the same cause of action

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order:

[Oral Delivery]

- 1. The claim is struck out.**
- 2. The decision of the learned master granted on 17th March 2017 is set aside.**
- 3. The appellant is awarded costs in the sum of \$500.00.**

Reason:

This is an appeal against the order to the learned master in which the learned master refused to strike out a fixed date claim on the basis that the decision in Citco Global Custody NV v Y2K Finance Inc. [2009] ECSCJ No. 165 was relevant in circumstances where an applicant sought to have an application struck out for abuse of process.

The Court has read the submissions in the appeal and is of the view that the learned master exercised her discretion improperly in refusing to strike out the ancillary claim.

It therefore falls to this Court to exercise its discretion afresh based on the well-known principles as stated in Dufour and Others v Helenair Corporation (1996) 52 WIR 188 which need no repetition.

In exercising the Court's discretion afresh, the Court holds the view that the ancillary claim is not more than a parallel claim, in that there are identical parties and an identical cause of action, and taking all of the circumstances in the round, we are the view that the learned master should have exercised her discretion to strike out the claim.

Accordingly, the ancillary claim is struck out and the decision of the learned master that was made on 2nd March 2017 is set aside. The bank is awarded costs in sum of \$500.00

Case Name:

[1] Romanus Boyce
[2] Thecla Descartes
v
[1] Keitha Auguste
[2] Victor Auguste

(consolidated with)

[1] Louis De Leon
[2] Josephine De Leon
v
Romanus Boyce

[SLUHCVP2017/0017]
(Saint Lucia)

Date:

Monday, 12th November 2018

Coram:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:

Mr. Gerard Williams appearing for Mr. Romanus Boyce and Ms. Thecla Descartes

Respondent:

Ms. Diana Thomas with her Ms. Cleopatra McDonald for Ms. Keitha Auguste and Mr. Victor Auguste
No appearance for Louis De Leon and Josephine De Leon

Issues:

Civil Appeal - Application for adjournment – Respondents have not been served with record of appeal

**Type of Oral
Result / Order
Delivered:**

Directions

Result / Order:

[Oral Delivery]

1. The Court having noted that the record of appeal was not served on the respondents, Louis De Leon and Josephine De Leon and having noted the application by counsel for the appellant for adjournment of the hearing of this appeal, the Court grants leave to the appellants to serve the record of appeal on the respondents Louis De Leon and Josephine De Leon within 14 days of the date of this order.
2. The appeal is adjourned to the next sitting at the Court of Appeal in State of Saint Lucia commencing 8th April 2019.

Reason:

The record of appeal was not served on the respondents, Louis De Leon and Josephine De Leon.

Case Name:

Cynthia Paul
v
[1] The New India Assurance Co. Ltd.
(Trinidad & Tobago) Ltd.
[2] S&A Insurance Brokers Ltd.

[SLUHCVP2015/0007]
(Saint Lucia)

Date:

Tuesday, 13th November 2018

Coram:

The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]

Appearances:

Appellant:

Mrs. Wauneen Louis-Harris

Respondent:

Mr. Dexter Theodore, QC with him, Ms. Shahida Charlemagne for the first respondent

Issues:	Civil appeal – Application for an adjournment
Type of Oral Result / Order Delivered:	Directions
Result / Order:	[Oral Delivery] 1. The appellant is hereby directed to serve the notice of appeal together with the record of appeal on the second respondent within 7 days of the date of this order. 2. The appellant is hereby directed to file and serve supplemental submissions on both respondents within 21 days of the date of this order. 3. The first respondent is directed to file and serve written submissions within 21 days of being served with the appellant's supplemental submissions. 4. Leave is given to the second respondent to file and serve submissions in response within two months of being served with the notice of appeal, record of appeal and appellant's submissions. 5. Hearing of the appeal is adjourned to the next sitting of the Court of Appeal in St. Lucia during the week commencing 8th April 2019.
Reason:	The Court adjourned the matter to the next sitting in Saint Lucia as the appellant had not yet served the second respondent with the notice of appeal personally. The appellant sought leave of the court to allow personal service to be done on the second respondent.
Case Name:	Vernantius Popo v St. Lucia Seamen Waterfront and General Workers Trade Union

**[SLUHCVAP2017/0028]
(Saint Lucia)**

Date: Tuesday, 13th November 2018

Coram: The Hon. Mde. Louise Esther Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Gerard Williams

Respondent: Ms. Lydia Faisal

Issues: Civil appeal — Interlocutory relief — Application for leave to file judicial review claim

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]

1. The appeal against the order of the learned judge is dismissed.
2. Costs in the sum of \$400 are to be paid by the appellant to the respondent on or before the 30th November 2018.

Reason: This is an appeal against the decision of the learned judge which was granted on 19th June 2017 in which the learned judge having already granted the applicant leave to file his judicial review claim and the applicant having not filed the claim within time, but rather filed a new application in which he sought leave to file a claim for judicial review, the learned judge correctly took the position that leave having been granted already. The effect of that would have been that the applicant was required to have complied with that order as distinct from filing a new application for leave and that the applicant's failure could not have been cured based on the applicant

which was filed in the second instance.

The Court has reviewed the entirety of the matter and listened to the learned counsel for the appellant's submissions and the submissions of the respondents were read by the Court. The Court is of the unanimous view that the learned judge did not err in the order that was made on the 13th July 2017 in which the judge ordered that the claimant having failed to file a claim for judicial review within 14 days of the order which granted leave to file the claim for judicial review cannot cure his failure to file a judicial review claim by filing a fresh application for leave to make a claim for judicial review was the correct position that was taken. Accordingly, the appeal against the order of the learned judge is dismissed since the judge's order was correct as a matter of law and discretion.

Case Name:	Eastern Caribbean Collective Organisation for Music Rights (ECCO) Inc. formerly Hewannora Musicial Society (HMS Inc.) v Mega-Plex Entertainment Corporation [SLUHCVAP2017/0032] (Saint Lucia)
Date:	Tuesday, 13th November 2018
Coram:	The Hon. Mde. Louise Esther Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]
Appearances:	
Appellant:	Mr. Gregory Delzin with him, Ms. Cleopatra McDonald
Respondent:	Mr. Thaddeus M. Antoine

Issues:	Civil appeal — Breach of copyright — Locus standi — Whether appellant is proper claimant for breach of copyright under the Copyright Act of Saint Lucia — Whether the respondent is the owner of the copyright by virtue of it being a collective society — Whether learned trial judge did not properly take into account the pleaded defence — Whether learned trial judge failed to take account of the provisions of the Copyright Act
Type of Oral Result / Order Delivered:	N/A
Result / Order:	[Oral Delivery] The matter is stood down until 12 p.m.
Reason:	
Case Name:	Eastern Caribbean Collective Organisation for Music Rights (ECCO) Inc. formerly Hewannora Musicial Society (HMS Inc.) v Mega-Plex Entertainment Corporation [SLUHCVAP2017/0032] (Saint Lucia)
Date:	Tuesday, 13th November 2018
Coram:	The Hon. Mde. Louise Esther Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Kimberly Cenac-Phulgence, Justice of Appeal [Ag.]
Appearances:	
Appellant:	Mr. Gregory Delzin with him, Ms. Cleopatra McDonald
Respondent:	Mr. Thaddeus M. Antoine

Issues: Civil appeal — Breach of copyright — Locus standi — Whether appellant is proper claimant for breach of copyright under the Copyright Act of Saint Lucia — Whether the respondent is the owner of the copyright by virtue of it being a collective society — Whether learned trial judge did not properly take into account the pleaded defence — Whether learned trial judge failed to take account of the provisions of the Copyright Act

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral Delivery]
1. The decision is reserved.
2. The parties are to provide the court with an agreed costs order within 7 days of the date of this order, failing which the Court will make the costs order.

Case Name:

[1] JSC MCC Eurochem
[2] Eurochem Trading GMBH
v
[1] Livingston Properties Equities Inc
[2] Nimati International Trading Limited
(Appellant/Respondent)
[3] Nautilus Services Limited (Appellant/Respondent)
[4] Global Med Services Inc (Appellant)
[5] Sevan Properties Management Limited
(Appellant/Respondent)
[6] Rumbay Assets Corp.
[7] Banter Industries Limited
[8] Valery Rogalskiy
[9] Dimitry Pomytkin
[10] Nejdet Baysan (Appellant/Respondent)
[11] Kopist Holding Limited (Appellant/Respondent)
[12] Itrade Fertilisers S.A. (Appellant/Respondent)
[13] Fabio Scalabrini (Appellant/Respondent)
[14] Darlow Enterprises
[15] Darlow Investment Lp

**[16] Dearborn Enterprises Limited
(Appellant/Respondent)
[17] Gianthill Management Limited
(Appellant/Respondent) [18] Drey Moor Fertilisers Pte
Limited (Appellant/Respondent)**

**[BVIHCMAP2016/0042-46]
(Territory of the Virgin Islands)**

Date: Tuesday, 13th November 2018

Coram: The Hon. Dame Janice M. Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Patrick Lawrence with him, Mr. Jonathan Addo,
Mr. George Spalton and Mr. Christopher Pease

Respondent: Mr. Stephen Moverley Smith, QC, for the 2nd - 5th, 10th -
13th, 16th defendants, with him, Mr. Brian Child for the
18th defendant

Issues: Civil appeal – Application for leave to appeal to Her
Majesty in Council – Application for stay of order of
Court of Appeal

**Type of Oral
Result / Order
Delivered:** Oral Judgment or Decision

Result / Order: [Oral delivery]

Leave is accordingly hereby granted to the applicants
to appeal to Her Majesty in Council on the following
terms:

1. The applicants shall within 90 days of the date of
this order lodge with the Registrar of the High Court
the US dollar equivalent of £500 as security for the
prosecution of the appeal to her Majesty in Council
and the payment of all such costs as may become
payable by them in the event of them not obtaining an

order granting final leave to appeal or the appeal being dismissed for non-prosecution or of the Judicial Committee ordering them to pay the costs of the appeal (as the case may be).

2. The record shall be prepared by the applicants in accordance with rules 18 to 20 of the Judicial Committee (Appellate Jurisdiction) Rules Order 2009 and its Practice Directions 4.2.1 to 4.3.2. and 5; the same to be transmitted to the Registrar of the Judicial Committee of the Privy Council without delay when final permission to appeal has been granted.

3. The appellant shall make an application for final leave to appeal to Her Majesty in Council, supported by the certificate of the Registrar of the High Court that the security for costs of the prosecution of the appeal ordered herein has been given to the satisfaction of the Registrar within the time prescribed by this order.

4. The costs of and occasioned by this application be costs in the appeal to Her Majesty in Council.

5. The interim stay granted by the court on 8th October 2018 is hereby set aside.

6. A stay is hereby granted of paragraph 4 of the order contained in the judgment of the court made on 18

Reason:

On the motion for leave to Her Majesty's Privy Council pursuant to section 3(2)(a) of the Appeals to the Privy Council Order 1967 brought by the applicants we are guided by the observations made by the Court in *Pacific Wire v Texan Management Co Ltd* and others where the Court observed that it is inappropriate to grant leave in circumstances where it may be beneficial to the local courts to have guidance from the Privy Council on matters of substance or procedural law which may be in need of clarification.

To this end, we consider it appropriate to grant leave to Her Majesty in Council on the question of the

burden on a claimant to plead and prove foreign law/or the governing law in respect of the commission of a tort in the context of a foreign challenge.

Additionally, guidance may also be helpful as the weight to be placed by the local court on the incorporation of a company which is said to be involved or as instrument in the commission of an international fraud in the context of a forum challenge.

For these reasons, we are of the view that the issues are ones of great general importance which ought to be referred to Her Majesty in Council.

Case Name:

[1] Ruth Dubois
[2] Elvis Naitram
[3] John Alexander
v
Francis Maurice

[SLUHCVAP2013/0007]
(Saint Lucia)

Date:

Wednesday, 14th November 2018

Coram:

The Hon. Dame Janice Pereira, DBE Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Wauneen Louis-Harris

Respondent: Ms. Esther Greene-Ernest

Issues:

Application for leave to appeal to Her Majesty in Council

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral delivery]

The Court is satisfied that an appeal to Her Majesty in Council lies as of right in relation to this motion; the matter being a final decision of the court with an upward value of \$1500 as stipulated in section 108 (1)(a) of the Constitution of St. Lucia.

Accordingly, leave to appeal to Her Majesty in Council is hereby granted upon the following conditions:

- 1. The applicant within 90 days of the date hereof do enter into good and sufficient security in the sum of £500 or its equivalent for the due prosecution of the appeal such security to consist of a deposit of the said amount at the court office.**
- 2. Within 90 days of the date hereof the applicant do take the necessary steps for the purposes of procuring the preparation of the record, the settling of such record with the solicitors for the respondent to this application and the certification of the record by the Registrar of the Court of Appeal.**
- 3. The record shall be prepared by the applicants in accordance with rules 18 to 20 of the Judicial Committee (Appellate Jurisdiction) Rules Order 2009 and its Practice Directions 4.2.1 to 4.3.2. and 5; and shall be transmitted to the Registrar of the Judicial Committee of the Privy Council without delay where final permission to appeal has been granted.**
- 4. The appellant shall make an application to the court for final permission to appeal to Her Majesty in Council, supported by the certificate of the Registrar of the High Court that the security for costs herein ordered has been given within the time prescribed by this order to the satisfaction of the Registrar within the time prescribed by this order.**
- 5. The costs of the application for conditional leave shall be costs in the appeal to Her Majesty in Council.**
- 6. Counsel for the applicant shall have conduct for**

preparing the order for submission to the Court.

Reason:

The Court is satisfied that an appeal to Her Majesty in Council lies as of right in relation to this motion; the matter being a final decision of the court with an upward value of \$1500 as stipulated in section 108 (1)(a) of the Constitution of St. Lucia.

Case Name:

[1] Sharon Theodule
[2] Sylvester Theodule
[3] Alfred Alcide
[4] Huggins Neal Nicholas
v
[1] Doris Adella John
[2] Eustace Eugene
[3] Angus Eugene
[4] Justin William
[5] Claudia William

[SLUHCVP2018/0026]
(Saint Lucia)

Date:

Wednesday, 14th November 2018

Coram:

The Hon. Dame Janice Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Applicant:

Ms. Wauneen Louis-Harris

Issues:

Application for leave to appeal – Application for extension of time to file notice of appeal

**Type of Oral
Result / Order
Delivered:**

N/A

Result / Order:	The Court cannot proceed to deal with the matter further with there being no service on the proposed respondent.						
Reason:	The Court was not satisfied that there was proper service on the respondent. The Court noted that there was service on the legal practitioner but not on the respondent, which is what is required by the rules.						
Case Name:	Paul Eloise v 1st National Bank St. Lucia Limited [SLUHCVAP2018/0007] (Saint Lucia)						
Date:	Wednesday, 14th November 2018						
Coram:	The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]						
Appearances:	<table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;">Appellant:</td> <td>Mr. Sahleem Charles</td> </tr> <tr> <td style="vertical-align: top;">Respondents:</td> <td>Ms. Sardia Cenac-Prospere with her, Mr. Andre McKenzie</td> </tr> <tr> <td style="vertical-align: top;">Amicus:</td> <td>Mr. Rene Williams, Senior Crown Counsel</td> </tr> </table>	Appellant:	Mr. Sahleem Charles	Respondents:	Ms. Sardia Cenac-Prospere with her, Mr. Andre McKenzie	Amicus:	Mr. Rene Williams, Senior Crown Counsel
Appellant:	Mr. Sahleem Charles						
Respondents:	Ms. Sardia Cenac-Prospere with her, Mr. Andre McKenzie						
Amicus:	Mr. Rene Williams, Senior Crown Counsel						
Issues:	Interlocutory Appeal — Application for removal of counsel from the record						
Type of Oral Result / Order Delivered:	N/A						
Result / Order:	Matter stood down to 1:30pm						

Case Name:	Linus Felix v Hildree Edward [SLUHCVAP2014/0006] (Saint Lucia)
Date:	Wednesday, 14th November 2018
Coram:	The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:	
Appellant:	Ms. Wauneen Louis-Harris
Respondent:	Ms. Esther Greene-Ernest
Issues:	Application for removal of counsel from the record – Application by Ms. Esther Greene- Ernest to be to be removed from the record
Type of Oral Result / Order Delivered:	Adjournment
Result / Order:	[Oral delivery] 1. Hearing of the application to be removed from the record as legal practitioner for the respondent is fixed for the chamber hearing of the Court scheduled for 18th December 2018. 2. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in St. Lucia during the week commencing 8th April 2019.
Reason:	The Court noted that the application to be removed

from the record was not served on the respondent personally and allowed time for service to be effected.

Case Name:	Jonathan David Lesfloris v [1] Glenda Dale Henry [2] Department of Fisheries [SLUHCVAP2018/0005] (Saint Lucia)
Date:	Wednesday, 14th November 2018
Coram:	The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:	
Appellant:	Ms. Wauneen Louis- Harris
Respondent:	Mr. Gerard R. Williams for 2nd respondent
Issues:	Interlocutory Appeal
Type of Oral Result / Order Delivered:	Oral Judgment or Decision
Result / Order:	[Oral delivery] By consent: 1. The appeal is allowed 2. The matter be remitted to the court below to be case managed by a different judge 3. Costs of the appeal fixed in the sum of \$1500.00 to be paid within 42 days.
Reason:	The parties arrived at a consent order.

Case Name:

[1] Roger Goring
[2] Claver Estaphane
v
[1] Florence Chedy
[2] Melba Sonny
[3] Kissy Williams
(By her representative Simon Popo)
[4] Tedburt Theobalds

[SLUHCVAP2014/0017]
(Saint Lucia)

Date:

Wednesday, 14th November 2018

Coram:

The Hon. Dame Janice Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:

Mr. Gerard Williams for the 1st appellant (only person pursuing the appeal)

Respondent:

No appearance

Issues:

Interlocutory appeal

**Type of Oral
Result / Order
Delivered:**

N/A

Result / Order:

Matter is stood down until the afternoon session of the Court of Appeal hearing on 14th November 2018.

Case Name:

Hilary Samuel

v
Rishiram D. Singh

[SLUMCRAP2018/0001]
(Saint Lucia)

Date: **Wednesday, 14th November 2018**

Coram: **The Hon. Dame Janice Pereira, DBE, Chief Justice**
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant:	Mr. Ramon R. Raveneau holding for Mr. Eghan Modeste
Respondent:	Mr. Gerard R. Williams holding for Ms. Maureen John-Xavier

Issues: **Civil appeal – Driving without due care and attention**
— Application for an adjournment

Type of Oral
Result / Order
Delivered: **Adjournment**

Result / Order: **[Oral Delivery]**

The hearing of the appeal is adjourned to the next sitting of the Court in St. Lucia during the week commencing 8th April 2018.

Reason: **Neither counsel with conduct present to conduct the appeal. No appearance by either of the parties in the matter.**

Case Name: **[1] Norman Francis**
[2] Thaddeus Antoine
v

[1] Jones Biscette
[2] Marie Biscette
[3] Bank of Saint Lucia Limited

[SLUHCVAP2017/0008]
(Saint Lucia)

Date: Wednesday, 14th November 2018

Coram: The Hon. Dame Janice Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Peter Marshall

Respondent: Mr. Carlton Amsterdam holding for Mr. Horace Fraser

Issues: Interlocutory appeal – Application for adjournment

Type of Oral Result / Order Delivered: Adjournment

Result / Order: [Oral delivery]
By consent of the parties, the matter (SLUHCVAP2017/0008) is adjourned to the next sitting of the Court in St. Lucia during the week beginning 8th April 2018. This will be the final adjournment.

Reason: Mr. Amsterdam requested an adjournment, on Mr. Fraser's behalf on the basis that Mr. Fraser was out of the jurisdiction and was unable to secure a flight for the hearing of the appeal. There was no opposition to the adjournment. The Court warned that this is the final adjournment of the matter.

Case Name: Clico International Life Insurance Limited

(Under Judicial Management)

v

Deldridge Flavius

[SLUHCVAP2017/0045]

(Saint Lucia)

Date: **Wednesday, 14th November 2018**

Coram: **The Hon. Dame Janice Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]**

Appearances:

Appellant: **Mr. Peter Marshall**

Respondent: **Mr. Carlton Amsterdam holding for Mr. Horace Fraser**

Issues: **Application for an adjournment**

Type of Oral Result / Order Delivered: **Adjournment**

Result / Order: **[Oral delivery]
The hearing of this appeal is adjourned to Friday, 16th November 2018 at 9 am.**

Reason: **Mr. Amsterdam requested an adjournment, on Mr. Fraser's behalf on the basis that Mr. Fraser was out of the jurisdiction and was unable to secure a flight for the hearing of the appeal. He indicated that Mr. Fraser would be back on Thursday, 15th November 2018. There was no objection by the respondent to the adjournment application.**

Case Name: **Elesia Crisp**
v
The Attorney General of Saint Lucia

**[SLUHCVAP2017/0038]
(Saint Lucia)**

Date: Wednesday, 14th November 2018

Coram: The Hon. Dame Janice Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Carlton Amsterdam holding for Mr. Horace Fraser

Respondent: Mr. Rene Williams with him, Mr. Curt Thomas

Issues: Application for adjournment

Type of Oral Result / Order Delivered: Adjournment

Result / Order: [Oral delivery]
The hearing of this appeal is adjourned to Friday, 16th November 2018 at 9 am.

Reason: Mr. Amsterdam requested an adjournment, on Mr. Fraser's behalf on the basis that Mr. Fraser was out of the jurisdiction and was unable to secure a flight for the hearing of the appeal. He indicated that Mr. Fraser would be back on Thursday, 15th November 2018. There was no objection by the respondent to the adjournment application.

Case Name:

[1] Roger Goring
[2] Claver Estaphane
v
[1] Florence Chedy
[2] Melba Sonny
[3] Kissy Williams
(By her representative Simon Popo)
[4] Tedburt Theobalds

**[SLUHCVAP2014/0017]
(Saint Lucia)**

Date: Wednesday, 14th November 2018

Coram: The Hon. Dame Janice Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Gerard Williams for the 1st appellant (only person pursuing the appeal)

Respondent: No appearance

Issues: Civil appeal

Type of Oral Result / Order Delivered: Oral Judgment or Decision

Result / Order: [Oral delivery]
This matter should be removed from the list then an application could be made to restore producing the requisite evidence of service.

The matter will then take its natural course.

Reason: The respondents have not been served with the requisite documents.

Case Name: Paul Eloise
v
1st National Bank St. Lucia Limited

**[SLUHCVAP2018/0007]
(Saint Lucia)**

Date: Wednesday, 14th November 2018

Coram: The Hon. Dame Janice Pereira, DBE, Chief Justice
The Hon. Mde. Gertel Thom, Justice of Appeal
The Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Sahleem Charles with him, Ms. Rowana-Kay Campbell

Respondent: Ms. Sardia Cenac-Prospere with her, Mr. Andre McKenzie

Issues: Application to be removed from the record

Type of Oral Result / Order Delivered: Directions

Result / Order: [Oral delivery]

1. The court treats the notice of withdrawal of appealed filed on 16th August 2018 by Mr. Felix of Stanley Felix Chambers as withdrawn meaning that the appeal is still on foot, Mr. Eloise, the appellant, the appellant having stated that he gave no such instructions for the withdrawal of the appeal.
2. The application by the appellant's lawyers Fosters and Associates to be removed from the record be heard by a single judge on Friday, 23rd November 2018 at 10 am at the Court's Headquarters.
3. The hearing of the appeal is adjourned to the next sitting of the Court in St. Lucia during the week commencing 8th April 2019.
4. There is the final adjournment of this appeal.
5. The costs wasted today are reserved until the hearing and determination of the appeal.

Reason: Notice of withdrawal having been withdrawn on the basis that the withdrawal was entered without the instructions of the appellant, the Court continued with the matter. The Court noted that the application to be removed from the record as legal practitioner was served on the applicant on 12th November and thus the applicant was short served. The matter was

accordingly adjourned.

Case Name:

**Clico International Life Insurance Limited
(Under Judicial Management)**

V

Deldridge Flavius

**[SLUHCVAP2017/0045]
(Saint Lucia)**

Date:

Friday, 16th November 2018

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
The Hon. Mr. Francis Belle, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. Peter Marshall with him, Ms. Ann-Alicia Fagan

Respondent:

No appearance

Issue:

Civil appeal — Adjournment

**Type of Oral
Result / Order
Delivered:**

Adjournment

Result / Order:

[Oral Delivery]

- 1. The hearing of this matter is adjourned to the next sitting of the Court of Appeal in St. Lucia during the week commencing 8th April 2019.**
- 2. The matter will be proceeded with on the next occasion with or without the respondent or counsel on his behalf.**
- 3. Costs to the appellant in the sum of \$1,000.00. Mr. Horace Fraser on record as counsel for the respondent to show cause on the resumed hearing date of this matter as to why he personally as opposed to the respondent ought not to be liable to pay the costs of the appellant on the adjournment of this matter.**

Reason:

The Court adjourned this matter to the next sitting of

the Court of Appeal in Saint Lucia because neither Mr. Fraser, Counsel for the respondent nor the respondent in person were present, or any Counsel holding for him. Counsel, Mr. Fraser faced difficulty in travelling to St. Lucia for the hearing of the appeal.

Case Name:

**Elesia Crisp
v
The Attorney General of Saint Lucia**

**[SLUHCVAP2017/0038]
(Saint Lucia)**

Date:

Friday, 16th November 2018

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
The Hon. Mr. Francis Belle, Justice of Appeal [Ag.]**

Appearances:

Appellant: No appearance

Respondent: Mr. Rene Williams with him, Mr. Kurt Thomas

Issues:

Civil appeal — Adjournment

**Type of Oral
Result / Order
Delivered:**

Oral Judgment or Decision

Result / Order:

[Oral Delivery]

- 1. The appeal is dismissed for want of prosecution.**
- 2. No order as to costs.**

Reason:

The Court dismissed the appeal for want of prosecution because of the absence of Counsel for the appellant and the appellant in person. No explanation was provided by Counsel to the Court for

his absence.