

COURT OF APPEAL SITTING

SAINT CHRISTOPHER AND NEVIS

Monday, 4th December to Friday, 8th December 2017

		<u>JUDGMENTS</u>
Case Name:		South East Asia Energy Holding AG v Hycarbex-American Energy Inc. [SKBHCVAP2016/0015] The Federation of Saint Christopher and Nevis
Date:		Monday, 4th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Dia Forrester
	Respondent:	Dr. Henry Browne, QC holding for Ms. Midge Morton for the respondent
Issues:		Interlocutory proceedings – Application for stay of proceedings – Application made pursuant to incorrect civil procedure rule – Whether learned master erred in considering application against rule 9.7 of Civil Procedure Rule 2000 (“CPR”) where application was made pursuant to CPR 9.7A – Stay granted based on forum non conveniens but issue of forum of non conveniens not pleaded or raised in submissions – Whether master erred in exercise of her discretion by ordering stay on that basis – Stay granted based alternatively on arbitration clause in loan agreement – Whether master erred in so ordering.

Result and Reason:		Held: allowing the appeal in part on the ground of forum non conveniens, dismissing the appeal on the remaining two grounds and awarding costs to Hycarbex of two thirds of two thirds of the costs assessed in the court below, that: 1. Hycarbex, by bringing the application under Rule 9.7A(1) of the Civil Procedure Rules 2000 (“CPR”) as opposed to CPR 9.7 committed a procedural error. Nonetheless, the master cannot be faulted for refusing to accede to South East Asia’s request to dismiss the stay application on a mere technicality such as the reference to an incorrect rule. It is accepted that the failure to refer to the specific rule under which an application is brought is not necessarily fatal to the application. Even though the master considered the application under CPR 9.7 and not under CPR 9.7A(1), this could not have prejudiced South East Asia since it was able to advocate all of the relevant points in opposition to the grant of the stay on the basis of CPR 9.7. In any event, it is unfair to criticize the master on the basis that she allegedly utilized CPR 9.7 which was not pleaded or relied on by Hycarbex in grounding its stay application and very little turns on this point since this was not the basis upon which the learned master granted the stay. The proceedings were not stayed based on CPR 9.7. Cognizance must be taken of the fact the learned master stayed the proceedings on two basis namely (a) on the ground of forum non conveniens; and (b) alternatively, the proceedings are stayed pursuant to section 4 of the UK Arbitration Act 1950. Texan Management Ltd. et al v Pacific Electric Wire and Cable [2009] UKPC 46 applied. 2. The plank which the learned master used to launch the forum non conveniens examination

		was the inherent jurisdiction of the court. Insofar as there was no issue of forum non conveniens raised on the pleadings or in the submissions before the master, it was not open to her to resolve the application for the stay on this basis. Further, it is undesirable for a judicial officer to seek to resolve an issue that was not raised by the parties and without the benefit of arguments on the point. 3. South East Asia's claim was originally based on the Loan Agreement. In its amended statement of claim, it included the alternative claim for damages based on the Settlement Agreement. It is notable that the amended statement of claim was based on the Loan Agreement and the Settlement Agreement. The learned master judgment indicates that she consider the Settlement Agreement and analyzed all the relevant circumstances in relation to the Settlement Agreement. The learned master understood that South East Asia was contending that the Settlement Agreement was a compromised position and in the absence of an Arbitration clause in the Settlement Agreement there was no basis for staying the claim. However, she made it clear that since the amended claim was primarily based on the Loan Agreement it was opened to her to stay the claim on that basis. The master properly exercised her discretion taken into account all the relevant factors while omitting irrelevant factors and attaching the appropriate weight to those factors. Thus, there are no grounds for this court to interfere with the learned master's exercise of her discretion. Michael Dufour v Helenair Corporation Ltd and others (1996) 52 WIR 188 applied.
Case Name:		Flat Point Development Limited

		V Canisby Limited [ANUHCVP2016/0006] Antigua and Barbuda
Date:		Thursday, 7 th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Talibah Byron holding papers for Mr. Frank Walwyn
	Respondent:	Ms. Angelina Gracy Sookoo holding papers for Mr. Anthony Astaphan, SC
Issues:		Civil appeal – Civil procedure – Submissions to foreign court’s jurisdiction – Finality and conclusiveness of default judgment obtained in foreign court – Summary enforcement of default judgment in local court – Natural justice principles- Whether learned master was correct in granting summary judgment in circumstances where objections were made on the basis of breach of natural justice in the foreign court and that the summary judgment was obtained in violation of public policy of Antigua and Barbuda.
Result and Reason:		Held: (the majority Blenman JA and Henry JA [Ag.] with Webster JA [Ag.] dissenting) allowing the appeal; setting aside the summary judgment and costs granted to Canisby Ltd; remitting the substantive enforcement claim to the High Court to be determined in accordance with the Civil Procedure Rules 2000 and awarding costs to Flat Point Development Limited fixed at two thirds of the costs of \$650.00 awarded in the court below, that:

		1. It is settled law that a foreign court has jurisdiction over a defendant who had previously contracted to submit to that jurisdiction. Based on article 14, the nonexclusive jurisdiction clause, Flat Point submitted to the jurisdiction of the Isle of Man court. Therefore, the Isle of Man had jurisdiction in the private international law sense, to hear and determine the claim that was brought there. Accordingly, the learned master cannot be properly criticised for concluding that Flat Point had submitted to the jurisdiction of the Isle of Man. Consequently, the appeal on this issue fails. Raffle America Inc. v Kingsboro International Holding Co. Ltd and Another (1993) 52 WIR 37 considered. 2. In private international law, in order for the local court to enforce a foreign judgment, it must be satisfied that the judgment was obtained in circumstances that do not infringe the local jurisdiction's standards of natural justice. In the case at bar, the learned master, having examined the papers, seemed to have decided that Flat Point was served with the documents. The learned master could not have made a proper determination of that issue by a mere examination of the papers and the letter in circumstances where Flat Point vehemently denied receipt of the letter and the enclosures. Flat Point maintained that its acknowledgment of service had been struck out and default judgment entered against it unbeknownst to it. These are critical issues which warranted full ventilation in order for the court to be able to properly determine whether the default judgment was obtained in breach of natural justice. Further, the issue of whether Flat Point was provided with the opportunity to be heard on the applications was a matter which required a proper investigation in the form of a trial where there is testing of the evidence. The fact that the acknowledgment of service indicated that judgment can be entered if no
--	--	---

		defence is filed within 28 days, is irrelevant to the issue of whether or not Flat Point was afforded the opportunity to be heard on the application for the default judgment. Langer v International Transport and Earthmoving Unreported April 11, 1983 CA Bermuda 26/1982 cited. 3. Per Blenman JA: The finality and conclusive nature of a judgment is by no means a straight forward matter and should only be determined at a trial except in the clearest of cases. The case at bar is not a clear case. There were serious contentions made by Flat Point, and if proven to be correct in relation to the default judgment, could potentially undermine the finality and conclusiveness of the default judgment. This issue could not have been properly determined by an examination of the pleadings and opposing affidavits which contained conflicting evidence and the master erred in determining the issue in those circumstances. 4. Per Blenman JA: The violation of public policy has always been recognised as an acceptable basis, at common law, to refuse to enforce a foreign judgment. In this case, the raising of this objection is important and required full ventilation. It is only after a full and proper trial that a court can properly test the merits and demerits of the issues that have been raised by the parties. BCB Holdings Ltd and the Bleize Bank Ltd v The Attorney General of Belize 2013 CCJ 5 (AJ) cited; Loucks v Standard Oil of New York 224 N.Y. 99 cited. 5. Part 15 of the Civil Procedure Rules 2000 provides for summary judgment to be granted in appropriate cases where the claim or defence has no realistic prospect of success. In this case, there are in depth triable issues to be dealt with and in relation to which there is conflicting evidence by Flat
--	--	---

Point and Canisby. The learned master could not have properly concluded, on the pleadings and documents, that flat point's defence of natural justice and public policy were fanciful. These types of claims are unsuitable for resolution by the summary judgment procedure. Accordingly, the learned master exercised his discretion improperly in granting Canisby summary judgment in circumstances where there were factual disputations which ought to have been ventilated at a trial. Due to the factual disputes in this case, this Court will be in no better position to resolve those issues even if it minded to exercise its discretion afresh.

Comodo Holdings Limited v Renaissance Ventures Ltd. et al BVIHCMAP2014/0032 (delivered 3rd May 201, unreported) followed; Alfa Telecom Turkey Ltd. v Cukurova Finance International Limited et al BVIHCVAP2009/0001 (delivered 16th September 2009, unreported) followed; SGL Holdings v Aiham Shammass GDAHCVAP2010/0002 (delivered 13th August 2010, unreported) followed; Saint Lucia Motor & General Insurance Company Ltd v Peterson Modeste SLUHCVP2009/0008 (delivered 11th January 2010, unreported) followed.

6. Per Webster JA [Ag.] dissenting: 6. The issue of natural justice in the context of the entry of a default judgment usually arises when the defendant in the proceedings was not served with the claim and was unaware of the proceedings. No such issue arises in this case as Flat Point was served with the claim form and entered an acknowledgement of service. Flat Point took no further part in the proceedings even though it would have been aware from the terms of the acknowledgement of service that it was required to file a defence within 28 days of service of the claim. There is no evidence in Manx law that the intended defendant must be notified of the default judgment after it has been obtained from the foreign court. The law requires that the

		defendant be notified of the claim in the foreign court, as was done in this case. Flat Point was given ample opportunity to respond to the claim in the Isle of Man court. 7. On a summary judgment application, the judge or master must not conduct a minitrial and make findings of fact on important issues which must be resolved before judgment can be given. However, this does not mean that a master, hearing a summary judgment application, should adopt a sterile approach. He or she should examine the pleadings and the evidence critically to see if when properly assessed they disclose a reasonable prospect of succeeding on or defending the claim. Service of the default judgment on Flat Point was not an essential or important part of the claim against Flat Point. What was important was that there was a foreign judgment of which Flat Point was aware and participated. In the circumstances, the learned master's finding that Flat Point was served with notice of the default judgment when this issue was disputed does not affect the integrity of his overall finding that Flat Point does not have a reasonable prospect of succeeding on its defence. Thus, there is no basis for this Court to interfere with the exercise of the master's discretion. Saint Lucia Motor & General Insurance Company Ltd v Peterson Modeste SLUHCVAP2009/0008 (delivered 11th January 2010, unreported) followed; Doncaster pharmaceuticals group Limited and others v Bolton pharmaceutical Co 100 Ltd [2006] EWCA Civ 661 applied.
Case Name:		Gregory Gordon v Jacqueline Havener [ANUHCVAP2015/0030]

		Antigua and Barbuda
Date:		Thursday, 7th December 2017
Coram:		The Hon. Mde. Louise Blenman Justice of Appeal The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Kris Liburd holding papers for Ms. Samantha May
	Respondent:	Mr. Victor Elliott - Hamilton holding papers for Mr. Dane Hamilton, QC
Issues:		Civil appeal – Whether contracts for sale of land entered into between the parties are valid and enforceable – Whether there was an intention to create legal relations between the parties – Whether consideration paid under the contracts – Specific performance – Proprietary estoppel – Whether an equitable estoppel can be established when a cause of action in contract is available – Whether learned trial judge fail to properly assess the value of the claim in awarding costs – Rule 65.5 (2) (b) of the Civil Procedure Rules 2000.
Result and Reason:		Held: dismissing the appeal and the counter appeal, affirming the order of the learned trial judge, awarding costs of the appeal to the respondent in the amount of \$2,500.00, that: 1. A leasehold interest is distinct from the freehold interest in property. Any ownership or possession of the former does not equate to, constitute, or prevent acquisition of ownership of the latter. The finding by the learned judge on the issue of the appellant's ownership of Parcel 59 is erroneous. The appellant's leasehold interest was distinct from the freehold interest in the property.

		2. An appellate court is not entitled to interfere with a finding of fact of a lower court unless the judge's conclusion was rationally unsupportable, the decision being one that no rational judge could have reached. In the circumstances, the finding by the trial judge of lack of intention to create legal relations is one of fact. McGraddie v McGraddie [2013] UKSC 58 considered; Henderson v Foxworth Investments Ltd [2014] 1 WLR 2600 considered. 3. In deciding issues of contractual intention, the courts apply an objective test. That is, whether there is a binding contract between the parties, and, if so upon what terms depends upon what they have agreed. It depends not upon their subjective state of mind, but upon a consideration of what was communicated between them by words and conduct, and whether that leads to a conclusion that they intended to create legal relations and had agreed upon all the terms which they regarded or the law requires as essential for the formation of legally binding relations. Traditionally in the case of agreements in a commercial context, there is generally a presumption that parties intend to be legally bound. On the other hand, parties in a domestic or social context are generally presumed not to intend to create legal relations. Whether agreements between close relatives are enforceable depends on the circumstances of each case. In the instant case, approaching the matter on the basis that these are agreements made in a social or domestic context, and that a presumption applies that it was not intended to create legal
--	--	---

		relations, the evidence before the judge rebutted that presumption to an extent that the judge's decision simply was not rational. Objectively considered, the parties intended to be bound by their agreements at the respective dates they executed same. RTS Flexible Systems Ltd. v Molkerei Alois Muller [2010] UKSC 14 applied; Rose and Frank Co v J.R. Crompton & Bros. Ltd [1925] AC 445 applied; Snelling v John G. Snelling Ltd. [1972] 1 All ER 79 applied. 4. In the instant case, the learned trial judge was correct when he found that no consideration was ever paid as the very contracts contained the term that stated payment was due on signing. Further, the appellant cannot now assert that the respondent never sought to rescind the agreements and that he should be allowed to pay the consideration now as this was not part of his pleaded case. It would be unfair to the respondent for the court to consider that argument by the appellant. Further, the appellant did not come to the court with clean hands when he alleged that he had paid the required consideration, the court having found that he had not, and for that reason the learned judge was correct not to grant specific performance. 5. If a claim properly lies in contract, no proprietary estoppel can be established, at least when the promise or assurance being relied upon arises exclusively out of the contract. In the circumstances, having determined that a valid contract existed between the parties, as between the contract and proprietary estoppel, it is to the contract that the appellant must look for his remedy. Therefore, the claim in proprietary estoppel arising out of a promise to transfer the
--	--	--

		properties referred to in the contracts is not available to the appellant. Riches v Hogben [1985] 2 QD R 292 applied; Wilson Parking New Zealand Limited v Fanshawe 136 Limited et al [2014] NZCA 407 applied. 6. It was the obligation of either party, if they wished to have the claim valued, to apply to the court before trial for valuation of the claim pursuant to CPR rule 65.6(1)(a). The rule recognizes that parties are apt to take convenient and self-serving positions on costs after the completion of a trial. Neither party having made any such application, the learned judge committed no legal error in not sifting through the evidence to determine the value of the claim and in applying CPR rule 65.5(2)(b). Rule 65.5(2)(b) of the Civil Procedure Rules 2000 applied; Next Level Engineering Services Ltd. v The Attorney General ANUHVCA2007/0017 (delivered 24th July 2007, unreported) distinguished; Ultramarine (Antigua) Limited v Sunsail (Antigua) Limited ANUHCVA2016/0004 (delivered 7th April 2017, unreported) distinguished.
Case Name:		Dennis Browne v Nagico Insurance Company Limited [SKBHCVAP2014/0001] The Federation of Saint Christopher and Nevis
Date:		Friday, 8th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]

Appearances:		
	Appellant:	Mrs. Teshari John-Sargeant
	Respondent:	Ms. Angelina Gracy Sookoo
Issues:		Civil appeal – Whether facts stated by the appellant in proposal insurance misrepresented – Whether failure by appellant to disclose modification of truck material non-disclosure – Whether expert evidence of materiality necessary to enable the Court to find that non-disclosure was material – Whether insurance company entitled to avoid insurance policy on ground of material non-disclosure.
Result and Reason:		Held: dismissing the appeal and awarding costs to the respondent, if not agreed within 14 days, to be assessed at two-thirds of the costs awarded to the respondent in the lower court, that: 1. The law relating to misrepresentation and non-disclosure in the context of insurance contracts is well settled. It is that the contract of insurance is a contract of the utmost good faith and because the facts relating to the assessment of the risk involved are generally known by the insured, he or she is under an obligation to disclose all material facts to the insurer. The learned judge found that the appellant saw the identification plate on several occasions and that the import of the plate is that the truck is a “truck tractor”. Further, the appellant’s attempt to describe it otherwise cannot alter the fact of what the manufacturer endorsed on the plate. If a vehicle is manufactured as a truck tractor to pull loads and is converted and used as a dump truck, the conversion does not alter the fact that it is a truck tractor. It follows that the appellant was incorrect in describing the truck in two places on the proposal for as a “dump truck”. MacGillivray on Insurance Law 12th Edition

		considered; Halsbury's Laws of England, Volume 60 (2011) paras. 43 and 46 considered. 2. The findings of fact by the learned judge that the appellant either knew that the truck was a truck tractor or failed to make reasonable enquiries to determine the body type of the truck are based on the judge's assessment of the oral and written evidence of the witnesses and there is no basis on which this Court should interfere with these findings. 3. The finding of materiality is ultimately a question of mixed fact and law for the trial judge based on his findings of fact in the case. The authorities do not support the appellant's position that the allegation of materiality has to be proved by expert evidence. The burden of proving materiality rests squarely on the insurer to prove on a balance of probabilities that the undisclosed information influenced the decision to accept the risk and to do so on the terms in the policy. The learned judge in this case carried out a full assessment of the evidence relating to materiality and concluded that there was misrepresentation and non-disclosure that was material to a prudent or reasonable insurer that entitled the Insurer to avoid the contract. Somati Ali v Hand-in-Hand Mutual Fire and Life Insurance Ltd (2001) 65 WIR 186 considered; Glicksman v Lancashire and General Assurance Co. Ltd [1925] 2 KB 593 considered; AC Ward & Son Ltd v Catlin (Fire) Ltd and Others [2008] EWHC 3122 (Comm) considered; MacGillivray on Insurance Law 12th Edition considered. Somati Ali v Hand-in-Hand Mutual Fire and Life Insurance Ltd (2001) 71 WIR 227 considered.

		<u>STATUS HEARING</u>
Case Name:		Alistair Isaac v The Director of Public of Public Prosecutions [SKBHCRAP2012/0023]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	In person
	Respondent:	Ms. Greatess Gordon
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. In respect of 2012 appeal, the Registrar of the High Court is directed to cause the transcript of proceedings in the High Court to be provided to the appellant on or before the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018. 2. If the Registrar fails to provide the appellant with the transcript by the date ordered in paragraph 1 hereof the appeal shall be allowed.
Reason:		The transcript is not yet available.

Case Name:		Alistair Isaac v The Director of Public of Public Prosecutions [SKBHCRAP2014/0002]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	In person
	Respondent:	Ms. Greatess Gordon
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. In respect of the 2014 appeal, the Registrar of the High Court is directed to cause the transcript of proceedings to be completed and the copy provided to the appellant on or before 8 th January 2018. 2. The appellant is ordered to file and serve submissions in support of his appeal on or before 8 th February 2018. 3. The respondent is ordered to file and serve skeleton arguments in response on or before 1 st March 2018. 4. The hearing of the appeal is fixed for the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis during the week commencing 12 th March 2018.
Reason:		Transcript incomplete.

Case Name:		Jomi Rawlins v The Director of Public Prosecutions [SKBHCRAP2015/0001] Shenroy Francis v The Director of Public Prosecutions [SKBHCRAP2015/0002] Glenroy Smithen v The Director of Public Prosecutions [SKBHCRAP2015/0003] Nelson Challenger v The Director of Public Prosecutions [SKBHCRAP2015/0004] Moses Gardiner v The Queen [SKBHCRAP2015/0005]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellants:	Mr. Jomi Rawlins in person Mr. Fitzroy Eddy for Shenroy Francis Ms. Natasha Grey for Glenroy Smithen Ms. Natasha Grey holding papers for Mr. Roberto

		Hector for Nelson Challenger Ms. Natasha Grey holding papers for Mr. Chesley Hamilton for Moses Gardener
	Respondent:	Ms. Greatess Gordon
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. The matter is adjourned for further status hearing at the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018. 2. Mr. Jason Hamilton is assigned as counsel on behalf of the appellant, Jomi Rawlins.
Reason:		Transcript is not yet available and the court office is not in a position to indicate when the transcript is likely to be available due to the volume of the transcript.
Case Name:		Ramsbury Properties Limited v Ocean View Construction Limited [SKBHCVAP2011/0020]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Ms. Emily Prentice
	Respondent:	Ms. Leonora Walwyn

Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. The appellant shall file and serve skeleton arguments in support of the appeal on or before Monday, 8th January 2018. 2. Leave granted to the respondent to file and serve skeleton arguments in response on or before 8th February 2018. 3. Leave granted to the appellant to reply if necessary within 14 days of being served with the respondent's skeleton argument. 4. The appeal is set down for hearing at the next sitting of the court of appeal in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018.
Reason:		Appellant has not filed or served necessary submissions and arguments.
Case Name:		[1] Kimberly Ward [2] Joel Daniel [3] Kashif Daniel v [1] Chief of Police [2] The Attorney General of St. Christopher and Nevis [SKBHCVAP2014/0004]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:		
	Appellants:	Mr. Terence Byron
	Respondents:	Ms. Nisharma Rattan-Mack
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. The appellants are ordered to file and serve skeleton arguments in support of the appeal on or before 15th January 2018. 2. The respondents are ordered to file and serve skeleton arguments in response on or before 15th February 2018. 3. Leave to the appellants to file and serve submissions in reply if necessary on or before 22nd February 2018. 4. The appeal is fixed for hearing at the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018.
Reason:		Appellant has not filed or served necessary submissions and arguments
Case name:		Myrna Liburd v Lorna Hunkins [SKBHCVAP2014/0023]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:		
	Appellant:	No appearance of or on behalf of the appellant
	Respondent:	Ms. Emily Prentice
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. Matter is adjourned to the next sitting of the Court of Appeal in the Federation of St. Christopher and Nevis for further status hearing.
Reason:		The appellant was absent from the proceedings
Case name:		Wingrove George v Cherita Clarke [SKBHCVAP2014/0024]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Ms. Nisharma Rattan-Mack
	Respondent:	No appearance of or on behalf of the respondent
Issue:		Status of the matter

Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Leave is granted to discontinue the appeal and the appeal accordingly stands dismissed. 2. No order as to costs.
Reason:		The appeal has been discontinued.
Case name:		[1] Richard Rowe and Mark Secrist (and those whom they represent) [2] Roy and Gen Benton v [1] The Attorney General [2] The Authorised Officer for the Angelus Resort [SKBHCVAP2011/0014]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellants:	No appearance of or on behalf of the appellant
	Respondents:	Ms. Nisharma Rattan-Mack
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is hereby dismissed.

Reason:		The matter has been resolved.
Case Name:		[1] Anthony Glasford [2] Jacqueline Jeffers v Jefter Douglas [SKBHCVAP2012/0014]
Date:		Friday, 8 th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellants:	No appearance of or on behalf of the appellant
	Respondent:	Ms. Emily Prentice
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. The appellants shall file and serve skeleton arguments in support of their appeal on or before 8th January 2018. 2. The respondent shall file and serve skeleton arguments in response to the appellants' appeal and in support of the cross appeal on or before 8th February, 2018. 3. The appellant shall file and serve submissions in reply and in response to the cross appeal on or before 23rd February 2018. 4. The hearing of the appeal is fixed for the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis during the week beginning 12th March 2018.

Reason:		The appellants have not filed their submissions.
Case Name:		Ermine Daniel v [1] Kirthley Sutton [2] Lorna Sutton [SKBHCVAP2012/0022]
Date:		Friday, 8th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Ms. Emily Prentice
	Respondents:	No appearance of or on behalf of the respondent
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. The Registrar of the High Court is directed to cause the transcript in the proceedings in the court below to be prepared by 28th February 2018 and the parties to be notified accordingly. 2. In the event that the transcript is not produced by that date, the Registrar shall provide to the parties at no cost to them such portion of the transcript as can be produced by 28th February 2018. 3. The matter of the appeal is adjourned for further status hearing at the next sitting of the

		Court of Appeal in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018. 4. The Registrar of the High Court shall ensure that the respondents are served with notice of the status hearing of this matter in March 2018.
Reason:		The transcript is not yet completed.
Case Name:		Eustace Nisbett v [1] Alexis Jeffers [2] Cardell Rawlins [3] Leon Lescott [4] Melissa Seabookes [5] Dexter Doncamper [6] Juletta Jeffers [SKBHCVAP2016/0018]
Date:		Friday, 8 th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Patrice Nisbett
	Respondents:	Mr. Terence Byron
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. The appellant is hereby directed to file and serve the record of appeal on or before Friday,

		29th December 2017. 2. The respondent shall file and serve skeleton arguments in response to the appellant's appeal and in support of the cross appeal on or before 23rd December 2017. 3. The appellant shall file submissions in reply and in response to the cross appeal on or before 12th January 2018. 4. The hearing of the appeal is fixed for the next sitting of the court of appeal in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018.
Reason:		The respondents did not file their submissions.
Case Name:		Junior McFarlane v Desdemona Henry [SKBHCVAP2015/0005]
Date:		Friday, 8 th December 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Ms. Natasha Grey
	Respondent:	Mr. David Rawlings
Issue:		Status of the matter
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. Further status hearing of this matter is fixed for the next Court of Appeal sitting in the Federation of Saint Christopher and Nevis

		during the week commencing 12 th March 2018, so as to allow counsel for the parties to make such applications as may be considered appropriate or necessary.
Reason:		The respondent is deceased.
		<u>APPLICATIONS AND APPEALS</u>
Case Name:		Lindsay Fitzpatrick Grant v [1] Rupert Herbert [2] Leroy Benjamin [3] Wentford Rogers [SKBHCVAP2012/0001]
Date:		Monday, 4 th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mrs. Marguerite Foreman and with her, Mrs. Teshari John –Sargeant
	Respondents:	Mr. Anthony Astaphan, SC and with him, Ms. Angelina Gracy Sookoo
Issues:		Application for leave to appeal costs in the matter to Her Majesty in Council – Whether the Court of Appeal is the final Court in election petition proceedings – Section 36 of the Constitution of Saint Christopher and Nevis.
Type of Oral Result / Order Delivered		Oral Judgment with written reasons to follow

(if applicable):		
Result / Order:		[Oral Delivery] 1. The Motion for leave to appeal to Her Majesty in Council is dismissed.
Reason:		The Court will provide written reasons at a later date.
Case Name:		Jahmari Lake v The Director of Public Prosecutions [SKBHCRA2013/0006] Leon Jederon v The Director of Public Prosecutions [SKBHCRA2013/0007]
Date:		Monday, 4th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellants:	Mr. John Cato for Jahmari Lake Mr. Leon Jederon in person
	Respondent:	Ms. Greatess Gordon
Issues:		High Court criminal appeals against conviction – Armed robbery – Rape – Application to withdraw the appeal by the 2nd appellant – Application by counsel for the 1st appellant for an adjournment – Application by counsel for the 1st appellant for extension of time to file submissions in support of

		his appeal.
Type of Oral Result / Order Delivered (if applicable):		Oral judgment or Decision
Result / Order:		[Oral Delivery] 1. With the leave of the Court the appeal filed on behalf of the 2nd appellant, Leon Jederon is hereby withdrawn. 2. At the request of counsel for the 1st appellant, Jahmari Lake, who seeks further time to file submissions in support of his appeal the Court hereby directs that time is extended to the appellant to file and serve written submissions together with copies of authorities relied on no later than 31st January 2018. 3. The respondent shall be at liberty to file and serve a response together with authorities relied no later than 28th February 2018. 4. The hearing of this appeal is adjourned to the next sitting of the Court during the week commencing 12th March 2018 in the Federation of Saint Christopher and Nevis and shall proceed even if the appellant fails to comply with the directions made herein.
Reason:		Counsel for the 1st appellant was not ready to proceed. The Court being mindful of this fact did not wish for the appellant to be prejudiced.
Case Name:		Darrell Sutton v The Director of Public Prosecutions [SKBHCRAP2015/0006]
Date:		Monday, 4th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal

		The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Gerard Farara, QC, Justice of Appeal, [Ag.]
Appearances:		
	Appellant:	Mr. Fitzroy Eddy
	Respondent:	Mr. Teshaun Vasquez
Issues:		High Court criminal appeals against conviction – Wounding – Application for leave to withdraw the appeal.
Type of Oral Result / Order Delivered :		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Leave to withdraw the appeal is granted. 2. The appeal stands dismissed in relation to Darrell Sutton v The Director of Public Prosecutions in suit no. SKBHCRA2015/0006.
Reason:		The appellant is no longer interested in proceeding with the appeal.
Case Name:		Jamal Phillip v The Director of Public Prosecutions [SKBHCRA2015/0011] Charles Bowry v The Director of Public Prosecutions [SKBHCRA2015/0012]
Date:		Monday, 4 th December 2017

Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Gerard Farara, QC, Justice of Appeal, [Ag.]
Appearances:		
	Appellants:	Dr. Henry Browne, QC and with him, Mr. O’Grenville Browne and Mrs. Marissa Hobson-Newman
	Respondent:	Mr. Teshaun Vasquez
Issues:		High Court criminal appeals against conviction – Rape – Whether the learned judge’s summation cannot be faulted – Whether there was no error committed which undermined the safety of the conviction.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against conviction of each accused is dismissed and the conviction is affirmed. 2. The appeal against sentence is allowed to the extent that the sentence of 16 years is varied to 12 years in relation to each appellant.
Reason:		They were first time offenders and taking into account the relevant principles of sentencing which the court articulated the sentence imposed was excessive.
Case Name:		The Director of Public Prosecutions v [1] Darrell Sutton [2] Nicholas Riley [3] Keithroy Phillip [4] Kenrick Phillip

		[SKBHCRA2015/0007]
Date:		Monday, 4th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Gerard Farara QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Teshaun Vasquez
	Respondents:	Mr. Fitzroy Eddy for Darrell Sutton Dr. Henry Browne, QC holding for Mr. Hesketh Benjamin for Nicholas Riley Dr. Henry Browne, QC and with him, Mr. O'Grenville Browne and Mrs. Marissa Hobson-Newman for Keithroy Phillip Mr. Fitzroy Eddy holding for Marsha Henderson for Kenrick Phillip
Issues:		High Court criminal appeals against conviction – Upholding of no case submission – Application by the learned Director of Public Prosecutions for adjournment – No objection by the respondent.
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Judgment] 1. Application for the adjournment as requested by the Director of Public Prosecution's Office is granted. 2. Leave is granted to the appellant to file and serve submissions together with authorities on or before 16th January 2018. 3. Leave is granted to each of the respondents to file and serve skeleton submissions together with authorities on or before 18th February

		2018. 4. The Hearing of the appeal is adjourned and traversed to the next sitting of the Court in the Federation of Saint Christopher and Nevis during the week commencing on the 12 th March 2018.
Reason:		The learned Director of Public Prosecutions was not ready to proceed with the appeal.
Reason:		The Court found that there is no realistic prospect of success.
Case Name:		Samuel Tyson v The Director of Public Prosecutions [SKBHCRA2011/0012]
Date:		Monday, 4 th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Gerard Farara, QC, Justice of Appeal, [Ag.]
Appearances:		
	Appellant:	Mr. Jason Hamilton
	Respondent:	Mr. Teshaun Vasquez
Issues:		High Court criminal appeals against conviction – Indecent assault – Application for adjournment by the appellant to instruct new counsel, Jason Hamilton.
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery]

		1. There being no objection by the Crown: - Leave is granted to the appellant to file and serve written submissions with authorities on or before 15th January 2018. 2. Leave is granted to the respondent if necessary to file and serve written submissions with authorities on or before 15th February 2018. 3. The hearing of the appeal is adjourned and traversed to the next sitting of the Court in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018.
Reason:		The appellant had only recently retained counsel who needed more time to deal with the matter.
Reason:		The Crown indicated that it only received the appellant's submissions a few days ago and was therefore unable to respond. The Crown therefore requested an adjournment in order to file and serve submissions in response.
Case Name:		Eugene Hamilton v [1] Cedric Liburd [2] Leroy Benjamin [3] Wayland Vaughn [SKBHCVAP2011/0025]
Date:		Monday, 4 th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Terence Byron

	Respondents:	Mr. Delano Bart, QC and with him, Ms. Vadeesha John
Issues:		High Court civil appeal – Appeal against the decision of the learned trial judge, Mr. Errol Thomas dated 2nd December 2011 – Whether Justice Errol Thomas had any jurisdiction to tax costs in the matter – Whether after the repeal of the Rules of the Supreme Court (1970) taxation of costs became something of the past – Whether the learned trial judge Thomas J, went outside the order of Belle J, when he failed to tax the 1st respondent's costs.
Type of Oral Result / Order Delivered (if applicable):		N/A
Result / Order:		[Oral Judgment] 1. The Court reserves its decision. The parties will be given notice of the date of delivery of the decision.
Reason:		The court will take time to consider the matter.
Case Name:		The Attorney General v [1] Jovil Williams [2] Devon Fyfield [SKBHCVAP2016/0005]
Date:		Monday, 4th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Gerard Farara, QC, Justice of Appeal, [Ag.]

Appearances:		
	Appellant:	Mrs. Simone Bullen-Thompson and with her, Ms. Violet Williams
	Respondents:	Ms. Angelina Gracy Sookoo
Issues:		High Court civil appeal – Whether the trial judge should have awarded general damages, aggravated damages and exemplary damages separately or compensatory damages with aggravated factors in mind given the circumstances of the case – Whether damages of \$500,000.00 (\$350,000.00 for the 1st respondent and \$150,000.00 for the 2nd respondent) was too excessive.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Compensatory damages awarded. 2/3 the amount awarded for costs based on the Court below. 2. Damages of \$350,000.00 for the 1st respondent and \$150,000.00 for the 2nd respondent is affirmed and the appeal is dismissed.
Reason:		The Court is of the view that exemplary damages ought not to have been awarded by the learned judge on the constitutional motion. However, when the Court looks at the damages that were awarded to each respondent in the case, the Court is of the view they are not excessive in constitutional claim.
Case Name:		[1] Chris Kanhai [2] St. Michael's Foundation Ltd. [3] St. Michael's Hospitality Corporation

		Ltd. v Barden Holdings Inc. successor to Geostar Inc. [SKBHCVAP2017/0013]
Date:		Tuesday, 5th December 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellants:	Dr. Henry Browne, QC for Chris Kanhai Mr. John Cato for St. Michael's Hospitality Corporation Limited
	Respondent:	Mr. Glenford Hamilton
Issue:		Leave to appeal – Application by St. Michael's Hospitality Corporation Limited for leave to file interlocutory appeal which was referred by a single judge to the full court against an order of The Honourable Justice Pearletta Lanns made on 9th August 2017 in which she divested all of the shares of the St. Michael's Hospitality Corporation Limited out of the hands of Mr. Chris Kanhai, the sole shareholder on an application for default judgment by the defendant, Barden Holdings Inc. – The Court indicated that Mr. Kanhai is not a party to the application and neither does Mr. Cato represent Mr. Kanhai. Mr. Cato indicates that he wishes to add Mr. Kanhai to the application.
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. The adjournment is granted based on the

		application by St. Michael's Hospitality Corporation Ltd. in order to allow counsel to advise himself forward in relation to the referral of that application to the full court, pursuant to Rule 62.2 of CPR 2000. 2. The hearing of this application for permission to appeal is adjourned and traversed to the next sitting of the Court in the Federation of Saint Christopher and Nevis during the week which commences 12th March 2018.
Reason:		Counsel for the appellant needs to advise himself as to how to proceed going forward since he indicated that on Mr. Kanhai's behalf to the Court that he is required to file an amendment to the application that is before the Court.
Case Name:		Bessage Ltd v St. Michael's Foundation Ltd. (now) St. Michael Hospitality Ltd. [SKBHCVAP2017/0014]
Date:		Tuesday, 5 th December 2017
Before:		The Hon Mr. Mario Michel, Justice of Appeal The Hon Mr. Paul Webster, Justice of Appeal [Ag.] The Hon Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Dr. Henry Browne, QC and with him, Mr. O'Grenville Browne
	Respondents:	Ms. Dia Forrester and with her, Ms. Michelle Slack for the 1st respondent No appearance for or on behalf of the 2nd respondent

Issue:		Leave to appeal – Stay of execution – Who is the shareholder or directors of St. Michael's Hospitality Cooperation Ltd. – Who is entitled to act on behalf of St. Michael's Hospitality Cooperation Ltd – Should counsel for the 1 st respondent be given costs for the day given the fact that counsel for the appellant is not prepared and seeks adjournment – The quantum of costs to be awarded to the Respondent.
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral Delivery] 1. Matter is adjourned to the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis in the week commencing 12th March 2018. 2. Cost to the first respondent in the amount of \$1,500.00.
Reason:		Counsel for the appellant is not prepared to have the matter heard, counsel for the appellant sought adjournment due to lack of preparation given the fact that counsel received an application of acting recently.
Case Name:		Sylvester Merchant v The Director of Public Prosecutions [SKBHCRA2013/0014]
Date:		Tuesday, 5th December 2017
Before:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal

		The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Dr. Henry Browne, QC
	Respondent:	Mr. Teshaun Vasquez
Issue:		High Court criminal appeals against conviction – Unlawful Carnal Knowledge – Application for an adjournment.
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral Delivery] 1. Based on the application of the Crown to file written submissions, there being no objections by learned Queen's Counsel for the appellant, leave is granted to The Director of Public Prosecutions to file and serve written submissions together with authorities on or before 17th January 2018. 2. The hearing of the appeal is adjourned and traversed to the next sitting of the Court in the Federation of Saint Christopher and Nevis during the week which commences on 12th March 2018.
Reason:		The Crown indicated that it only received the appellant's submissions a few days ago and was therefore unable to respond. The Crown therefore requested an adjournment in order to file and serve submissions in response.
Case Name:		Denver Fyfield v The Director of Public Prosecutions [SKBHCRAP2015/0009]

Date:		Tuesday, 5th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Dr Henry Browne, QC
	Respondent:	Mr. Valston Graham and with him, Mr. Teshaun Vasquez and Ms. Greatess Gordon
Issues:		High Court criminal appeals against conviction – Wounding – Murder – Application for an adjournment in the case of murder.
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. Dr. Henry Browne, QC is assigned by the Court as counsel for Denver Fyfield. Leave is granted to the appellant to file and serve written submission on or before 29th January 2018. 2. Leave is granted to the Director of Public Prosecutions to file and serve written submissions together with authorities on or before 1st March 2018. 3. The hearing of this appeal is adjourned and traversed to the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis during the week which commences on 12th March 2018.
Reason:		The appellant appeared and indicated that he did not have the means to retain a lawyer and therefore does not have a counsel to represent him. Dr. Browne, QC had represented him pro

		bono in the High Court.
Case Name:		Rudolph Duggins v Phoebe Smithen aka Phoebe Smithen-Ngumbah [SKBHCVAP2014/0008]
Date:		Tuesday, 5 th December, 2017
Coram:		The Hon Mr. Mario Michel, Justice of Appeal The Hon Mr. Paul Webster, Justice of Appeal [Ag.] The Hon Mr. Michael Fay QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Midge Morton and with her, Ms. Maurisha Robinson
	Respondent:	Ms. Kurlyn Merchant
Issues:		High Court civil appeal – Change of name of child done by deed poll by order of the High Court – Whether the deed poll was a valid document at the time it was made – Whether the learned trial judge had the jurisdiction to make an order to change the child’s name as reflected in the current deed poll
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] Upon reading the amended notice of appeal, and affidavit and submissions filed on behalf of the parties and upon hearing counsel for the appellant and counsel for the respondent, it is hereby ordered that the order of the learned judge dated the 19/2/2014 is set aside and replaced by the

		following: 1. That Rudolph Duggins is hereby declared the father of the child, Phejournte Ethen Josiah. 2. The name of the father and such other particulars relating to him be entered in the register of Births, Deaths and Marriages in the Parish of St. Paul's in the Island of Nevis for the year 2004. 3. That the child shall use the surname of the father "Duggins" and that all documents bearing the name of the child shall be amended accordingly. 4. The deed poll bearing the user name "Smithen-Ngumbah" as per Deed Poll #19852 dated the 31st August 2011 and recorded in Liber C. R Vol 71 at Folio 2574-2582 is not valid. 5. No order as to costs
Reason:		Section 7 of the Status of Children Act makes it mandatory for a child to carry the last name of a father once the father's name appears on the birth certificate.
Case Name:		[1] Carino Hamilton Development Company Limited [2] Jorn Eivik v Miranda Fellows [SKBHCVAP2015/0022]
Date:		Tuesday, 5 th December 2017
Coram:		The Hon Mr. Mario Michel, Justice of Appeal The Hon Mr. Paul Webster, Justice of Appeal [Ag.] The Hon Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellants:	Ms. Nadia Chiesa and with her, Ms. Marlene Uter

	Respondent:	Dr. Henry Browne, QC and with him, Mr. John Cato
Issues:		High Court Civil Appeal – Whether the learned master failed to appreciate that the respondent made no attempt to set aside either the contract or the transfer of Unit C1 conveyed in pursuance of said contract – Whether the learned master failed to appreciate that there was no evidence demonstrating any loss or damage as a consequence of the alleged false misrepresentation which allegedly induced the respondent to enter into the contract for the purchase of Unit B7 – Whether the learned master failed to appreciate that based on the evidence produced at the assessment hearing that there was no proof of loss attributable to the alleged tortious or omission on the part of the appellant, especially as the parties deliberately intended to void the contract related to Unit B7 in favour of the contract re: Unit C1 for which the respondent accepted and retain keys to the said Unit C1 to date – Whether the learned master erred when she purported to construe the terms and conditions of the contract agreed to in relation to Unit B7 and applied same speculatively to the contract made in relation to Unit C1.
Type of Oral Result / Order Delivered (if applicable):		N/A
Result / Order:		[Oral Delivery] 1. The Court reserves its decision. The parties will be given notice of the date of delivery of the decision
Reason:		The court will take time to consider the matter.
Case Name:		Michael Shaw v

		Joseph Hendrickson [SKBMCVAP2012/0010] Michael Shaw v Joseph Hendrickson [SKBMCVAP2012/0011]
Date:		Tuesday, 5th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. David Rawlings
	Respondent:	Mr. Nassibou Butler
Issues:		Magisterial civil appeal – Whether the evidence adduced at the trial below justified and or supported the finding of the learned magistrate that the behaviour of the respondent did not amount to consent, or encouragement or participation in the upgrade to the Blue Horizon – Whether the decision arrived at by the learned magistrate that legal liabilities of the applicant arose out of the lease of the Blue Horizon without taking into consideration well established principles of equity in particular equitable estoppel was erroneous in the absence of the mitigation of equity – Whether the decision arrived at by the learned magistrate was erroneous in law, in fact and based on a wrong principle.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision

Result / Order:		[Oral Delivery] 1. The appeal is dismissed. 2. Costs agreed in the sum of \$1,667.00 to be paid by the appellant to the respondent.
Reason:		This Court can find no reason to disturb the decision of the learned magistrate for the following reasons: 1. The learned magistrate found that the respondent had established its claim to arrears of rent. The learned magistrate noted that the defendant had accepted that the rent was owed. She accepted that the defendant had entered into a lease agreement and that it was binding. It contained a provision that any improvement to the property would be at the costs of the appellant. There was no suggestion that this was varied or changed. This court is of the opinion that it was clear for the learned magistrate to have arrived at her decision as the claim was fully made out and the respondent was entitled to the rent. 2. Counsel raised the issue of estoppel. It is clear to this Court that counsel ought not to have engaged the magistrate's court on the issue of estoppel. This Court is of the opinion that issues of estoppel are not issues which can be properly brought before a magistrate's court but rather the High Court.
Case Name:		Brian Brookes v Shelda Webster [SKBMCVAP2015/0018]
Date:		Tuesday 5th December 2017

Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal The Hon. Mr. Gerard Farara QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Camilla Cato
	Respondent:	Ms. Miselle O'Brien
Issues:		Magisterial civil appeal – Whether the learned magistrate was entitled to find that there was a contract of sale for a motor vehicle between the appellant and the respondent.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed. 2. Costs in the sum of \$750.00 as agreed to be paid by the appellant to the respondent.
Reason:		1. This Court is of the opinion that the learned magistrate found as a fact that there was an offer for the sale of the motor vehicle for \$15,000.00 and acceptance of that offer by the respondent. The said vehicle was transferred to the appellant and the appellant has not paid the money. 2. This Court is of the opinion that there was enough evidence for the learned magistrate to make that finding. In the circumstances this Court can find no reasons to interfere with the decision of the learned magistrate. The law is well settled that this court will not trouble any magistrate's findings of fact, and this Court can find no reason to disturb the learned magistrate's findings.

Case Name:		[1] The Hon. Mark Brantley [2] The Hon. Shawn K. Richards [3] The Hon. Timothy Harris [4] The Hon. Eugene Hamilton v [1] The Constituency Boundaries Commission [2] The Prime Minister of Saint Christopher & Nevis [3] The Attorney General of St. Christopher and Nevis [SKBHCVAP2014/0022]
Date:		Wednesday, 6 th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellants:	Mr. Douglas Mendes, SC leading Ms. Talibah Byron
	Respondents:	Mr. Anthony Astaphan, SC leading Ms. Angelina Gracy Sookoo for the 1 st respondent
		Mrs. Simone Bullen-Thompson for 2 nd and 3 rd respondent
Issues:		High Court Civil Appeal – Withdrawal of cross appeal by 1 st respondent – Application to have the 2 nd and 3 rd respondents removed as parties in the matter filed 14 th September 2017 – Application for leave to withdraw the 3 rd respondent's (Attorney General) notice of cross appeal.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery]

		1. The cross-appeal filed on behalf of the 3rd named respondent is, at the request of the 3rd named respondent, hereby withdrawn with no order as to costs. 2. The application for removal of the 2nd & 3rd respondents as parties to these proceedings is hereby granted pursuant to CPR Part 19 with no order as to costs. 3. The cross-appeal filed by the 1st named respondent is, by the request of the 1st named respondent, hereby withdrawn with no order as to costs. 4. The appellant's appeal is hereby stayed pending the hearing and determination of the proceedings before the Court below in Claim No. SKBHCV2015/0011 with no order as to costs.
Reason:		The parties were in agreement that this was the appropriate course given the pendency of proceedings raising similar issues before the Court below.
Case Name:		[1] Carino Hamilton Development Company Limited [2] Jorn Eivik v Miranda Fellows [SKBHCVAP2015/0022]
Date:		Wednesday, 6th December 2017
Coram:		The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		

	Appellants:	Ms. Nadia Chiesa and with her, Ms. Marlene Uter
	Respondent:	Dr. Henry Browne QC and with him, Mr. John Cato
Issues:		High Court civil appeal – Whether the learned master failed to appreciate that the respondent made no attempt to set aside either the contract or the transfer of Unit C1 conveyed in pursuance of said contract – Whether the learned master failed to appreciate that there was no evidence demonstrating any loss or damage as a consequence of the alleged false misrepresentation which allegedly induced the respondent to enter into the contract for the purchase of Unit B7 – Whether the learned master failed to appreciate that based on the evidence produced at the assessment hearing that there was no proof of loss attributable to the alleged tortious or omission on the part of the appellant, especially as the parties deliberately intended to void the contract related to Unit B7 in favour of the contract re: Unit C1 for which the respondent accepted and retain keys to the said Unit C1 to date – Whether the learned master erred when she purported to construe the terms and conditions of the contract agreed to in relation to Unit B7 and applied same speculatively to the contract made in relation to Unit C1.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed 2. Costs to the respondent in the sum of two

		thirds the amount awarded in the lower court.
Reason:		The learned Justices of Appeal found that the master did not err in the qualification of damages.
Case Name:		Julian Carty v The Commissioner of Police [SKBMCRAP2017/0006]
Date:		Wednesday, 6 th December 2017
Coram:		The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Vaughan Henderson
Issues:		Magisterial Criminal appeal against sentence – Whether the sentence imposed by the learned magistrate was unduly severe – Whether the learned magistrate ought to have imposed a fine rather than a custodial sentence.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed.
Reason:		The Court in considering all the factors found that

		the learned magistrate did not err in law when she imposed a custodial sentence. The Court found that the reason the learned magistrate imposed a custodial sentence was appropriate.
Case Name:		[1] Kauesi Hanley [2] Shakespeare Southwell v The Chief of Police [SKBMCRAP2015/0008A]
Date:		Wednesday, 6 th December 2017
Coram:		The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag]
Appearances:		
	Appellants:	1 st appellant, Mr. Kauesi Hanley in person Dr. Henry Browne QC and with him, Mr. O’Grenville Browne for the 2 nd appellant.
	Respondent:	Ms. Greatess Gordon
Issues:		Magisterial Criminal appeals against conviction – Application by the 1st appellant for an adjournment to seek representation for counsel – Whether there was sufficient evidence to lead to a conviction – Whether the sentence was just in all circumstances
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. Written submissions to be filed by the appellant on or before 22 nd January 2018.

		2. Leave is granted to the respondent to file submissions in reply if necessary, on or before 15th February 2018. 3. The hearing of the appeal is fixed for the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018.
Reason:		Counsel for the 2 nd respondent was not fully prepared and was not aware that the 1 st appellant was without counsel or was an appellant to the claim. The 1 st appellant was not represented and has asked permission to seek legal representation.
Case Name:		Ellia Jeffers v The Chief of Police [SKBMCRAP2015/0015]
Date:		Wednesday, 6 th December 2017
Coram:		The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Natasha Grey
	Respondent:	Ms. Greatess Gordon
Issues:		Magisterial Criminal appeals against conviction – Importation of Cocaine – Whether the legal evidence substantially affecting the merits of the case was rejected by the Court – Whether the decision was unreasonable and cannot be supported having regard to the evidence – Whether the decision was erroneous in law – Whether the sentence passed was based on a

		wrong principle of law – Whether a learned magistrate having regard to all of the circumstances would have made such a decision – Whether the sentence imposed by the learned magistrate was unduly severe.
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. The appellant to file and serve submissions in support of her appeal on or before 31st January 2018. 2. Leave to the respondent to file and serve submissions in reply if necessary on or before 15th February 2018 3. Hearing of the appeal is fixed for the next sitting of the court in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018. 4. This is the final adjournment.
Reason:		1. During the Court of Appeal sitting in the Federation of Saint Christopher and Nevis on 12th June 2017 the appellant's former counsel, Marsha Henderson was granted leave to be removed from the record. 2. The hearing of the appeal was traversed to the sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis commencing on 4th December 2017.
Case Name:		Neil Jeetlall v Sheryl Jeetlall [SKBMCVAP2016/0018]
Date:		Wednesday, 6th December 2017

Coram:		The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Terence Byron
	Respondent:	Ms. Natasha Grey
Issues:		Magisterial Civil appeal – Application to argue additional grounds of appeal and extension of time to file submissions – Whether the maintenance order imposed by the learned magistrate was too excessive given the circumstances of the case – Whether the magistrate had the jurisdiction to order that the father was the punitive father considering that the children involved were children of his marriage to the mother – Whether the Magistrate had jurisdiction to order him to pay maintenance based on the fact that the magistrate deemed him the punitive father.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal is dismissed. 2. Costs agreed in the sum of \$750.00 to be paid by the appellant to the respondent on or before 31st January 2018. 3. The appellant shall pay the sum in arrears within 7 months commencing from the 31st January 2018.
Reason:		1. At the hearing of the appeal leave was granted to withdraw the issue as it related to the jurisdiction of the magistrate to deem the father the punitive father.

		2. The court found that there was adequate evidence as it pertains to the income and earning capacity of the parents, the financial needs of the parents and children. The court found that the learned magistrate took into consideration the education received by the children, the standard of living that they received prior to the separation of the parents and found that the learned magistrate exercised his discretion in regard to all the circumstances. The court found that the maintenance order of \$150.00 per child was reasonable in light of all the circumstances. The court found that the magistrate neither took into consideration any irrelevant factors nor was he wrong in principle.
Case Name:		SKN Choice Times Limited Dwight Cozier v Josephine Huggins [SKBHCVAP2017/0015]
Date:		Thursday, 7th December 2017
Before:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellants:	Mrs. Angela Cozier and with her, Ms. Emily Prentice
	Respondent:	Mrs. Sherry- Ann Liburd-Charles
Issue:		Leave to appeal – Stay of proceedings pending appeal – Whether the 2nd applicant has a realistic prospect of success in his proposed appeal against the decision of the learned master – Whether the learned master made a number of

		errors in law in her judgment and misapprehended the facts in the case – Whether the learned master’s finding in paragraph 36 of her judgment is blatantly wrong because the learned master did not take into account sufficient consideration of the relevant facts that the respondent sued the 2 nd applicant separately in his personal capacity and not solely in his capacity as a director/manager/editor and or shareholder of the 1 st appellant and that the respondent did not sue the 2 nd applicant in his capacity as director of the 1 st appellant – Whether the learned master erred in striking out the case because the 2 nd respondent cannot be sued in his personal capacity.
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The application for leave to appeal on the basis that the master erred in refusing to strike out the claimant’s statement of claim as against the 2nd named defendant/2nd applicant is hereby refused. 2. The Court notes that the learned master did not treat with the 2nd applicant’s request for an extension of time as alternative to striking out the claim for filing his defence and in the circumstances the respondent not opposing, the Court hereby extends time to the 2nd applicant/2nd defendant for filing and serving his defence. The said defence to be filed on or before Monday, 18th December 2017. 3. The application for leave to appeal against the master's decision striking out certain paragraphs of the 1st defendant's defence is likewise refused. 4. In light of the orders made at paragraphs 1 to 3 the stay is hereby refused. 5. Costs of the application to stay shall be costs in the cause below.

Reason:		The Court found that there is no realistic prospect of success.
Case Name:		Akiel Harris v The Director of Public Prosecutions [SKBHCRAP2015/0008]
Date:		Thursday, 7th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Chesley Hamilton appearing amicus
	Respondent:	Mr. Teshaun Vaquez
Issues:		High Court criminal appeals against conviction – Grievous bodily harm – Application for the court to produce a second record of appeal for the appellant.
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Judgment] 1. It is hereby directed that the Registrar provides to counsel, Mr. Chesley Hamilton appearing amicus on behalf of the appellant a further copy of the record of appeal herein free of charge by Monday, 8th January 2018. 2. The appellant shall file and serve written submissions in support of his appeal on or before 5th February 2018. 3. The respondent shall file and serve written submissions in response on or before 5th March 2018.

		4. The appeal shall be heard at the next sitting of the Court of Appeal in the Federation of Saint Christopher and Nevis scheduled to commence on the 12 th March 2018.
Reason:		The appellant misplaced his record of appeal while on remand.
Case Name:		The Director of Public Prosecutions v [1] Amal Whyte [2] Devon Fyfield [SKBHCRA2014/0005]
Date:		Thursday, 7 th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Mr. Teshaun Vasquez
	Respondent:	Ms. Marsha Henderson
Issues:		High Court criminal appeals against conviction – Uphold no case submission – Discontinuance of matter.
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Judgment] 1. The appeal is hereby discontinued.

Reason:		The learned Director of Public Prosecutions filed a Notice of Discontinuance on 4th December 2017.
Case Name:		Murtland Watterton v [1] Nigel Landreth-Smith [2] Wyn Aggregate Ltd. [3] Halcrow Trinidad and Tobago [4] Professional Technologies (Anguilla) Ltd. [5] The Chief Engineer of Public Works [6] The Attorney General of St. Christopher and Nevis [SKBHCVAP2016/0001]
Date:		Thursday, 7th December 2017
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Gerard Farara, QC, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Joseph Serrant, Ms. Marsha Henderson, Ms. Rashida Francis and Mr. Frank Clarke for the claimant/appellant
	Respondents:	No recorded appearances for 1st and 2nd respondents, Nigel Landreth-Smith and Wyn Aggregate Ltd. Ms. Angelina Gracey Sookoo for Halcrow for 3rd respondent, Trinidad and Tobago Mrs. Simone Bullen-Thompson for 5th and 6th respondents, the Chief Engineer of Public Works and the Attorney General for Saint Christopher and Nevis Ms. Miselle O'Brien for 4th respondent, Professional Technologies (Anguilla) Ltd. (with a watching brief)

Issues:		High Court civil appeal – Whether the appellant should be granted relief from sanction by the trial judge – Whether the appellant should have been allowed by the learned trial judge to amend their defence
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The appeal against the judge's decision involving the 5th and 6th applicants to amend their defence is dismissed. 2. The appeal against the decision in the court below on the appellant's application is allowed in part and relief from sanctions granted as it relates to Dr. Wilkinson and Dr. Laws. 3. Each party to bear its own costs.
Reason:		For the witness statements that were not allowed to be filed by the appellant, the court felt that the learned trial judge was correct in that no good explanation was given as to why the witness statements of these witnesses were not filed before the allotted time pursuant to rule 26.8 (2) (b) of the CPR.
Case Name:		Robert Richards v Mervin Powell Doing Business as Mervin's Car Rental [SKBHCVAP2016/0009]
Date:		Thursday, 7 th December 2018
Coram:		The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Gerard Farara, QC, Justice of Appeal

		[Ag.] The Hon. Mr. Michael Fay, QC, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Adrian Daniel and with him, Mr. Brian Barnes
	Respondent:	Mrs. Angela Cozier and with her, Ms. Emily Prentice
Issues:		Magisterial Civil Appeal – Application for an adjournment by the appellant.
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. Based on the request of learned counsel for the appellant for the adjournment and there being no objection by the respondent the order of the Court is that the hearing of this appeal is adjourned and traversed to the next sitting of the court in the Federation of Saint Christopher and Nevis during the week which commences on 12th March 2018.
Reason:		Counsel for the appellant asked for an adjournment due to not being prepared, and stated that more time was needed for a response.
Case Name:		Chaterpaul Singh v Angela Cozier [SKBMCVAP2017/0003]
Date:		Thursday, 7th December 2017

Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mde. Gertel Thom, Justice of Appeal
Appearances:		
	Appellant:	Ms. Emily Prentice
	Respondent:	Mr. Brian Barnes
Issues:		Magisterial Criminal appeals against conviction – Application to amend record of appeal
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. On the prior application of the appellant to correct the record of appeal, which the appellant sought to withdraw and the Court has (with the leave of the Court) allowed the withdrawal of that application and the Court proceedings with the consent of the parties to hear the substantive appeal in this matter, being an appeal raising a single uncomplicated issue. The Court rules that the appeal is allowed. 2. In relation to costs, the Court rules that each party having some success that is, that the appellant having lost on the application to correct the record and the appellant having succeeded on the substantive appeal, the court considers an overall award costs to the appellant to be paid by the respondent in the sum of \$500.00 to be reasonable to be paid on or before Friday, 22nd December 2017.
Reason:		The learned magistrate erred that including a lawyer's fee as between a lawyer and his or her client is limited in the costs awarded by the court. Section 152 is no authority for that principle and in further there is no principle or authority in law limiting the contractual arrangements as between

		a lawyer and his client in respect of a lawyer's fees as between a lawyer and that lawyer's client. Section 52 clearly deals with costs which may be awarded by a court such as the magistrate's court in favour of one party as against another party and has nothing to do with expenses or fees which may be charged as between one party and that party's lawyer.
Case Name:		Razba Matthew v The Director of Public Prosecutions [SKBHCRAP2011/0021]
Date:		Friday, 8th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Marsha Henderson
	Respondent:	Mr. Teshaun Vasquez
Issues:		High Court criminal appeals against conviction – Unlawful Carnal Knowledge – Application for an adjournment by the respondent until the next sitting of the Court of Appeal in the Federation of Christopher and Nevis.
Type of Oral Result / Order Delivered (if applicable):		Directions
Result / Order:		[Oral Delivery] 1. Hearing of this appeal is adjourned to the next sitting of the Court in the Federation of Saint Christopher and Nevis during the week commencing 12th March 2018.

		2. Submissions filed and served by the appellant on the 4th December 2017 are deemed to be duly filed and served. 3. The respondent shall file and serve written submissions in response by 31st January 2018. 4. The appellant shall be at liberty to file and serve written submissions in reply by 17th February 2018
Reason:		The respondent was served late with the appellant's submissions and was unable to file submissions on time.
Case Name:		Cash Wiz Basseterre Ltd. v Dorothy Francis-Jefferson [SKBMCVAP2016/0021]
Date:		Friday, 8 th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Hesketh Benjamin
	Respondent:	Ms. Marsha Henderson
Issues:		Magisterial Criminal appeals– Application for discontinuance of the matter
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery]

		1. Notice of discontinuance filed, the matter is hereby discontinued.
Reason:		Notice of discontinuance was filed on 1 st December 2017.
Case Name:		Nigel Carty v Alston Williams [SKBMCVAP2014/0012]
Date:		Friday, 8 th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Angelina Gracy Sookoo
	Respondent:	Dr. Henry Browne, QC
Issues:		Magisterial civil appeal – Application for the discontinuance
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. The matter is hereby discontinued
Reason:		Notice of discontinuance was filed on 1 st December 2017.

Case Name:		Ezroy Mills v The Queen [SKBHCRAP2013/0009]
Date:		Friday, 8th December 2017
Coram:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mde. Louise Blenman, Justice of Appeal The Hon. Mr. Paul Webster, Justice of Appeal [Ag.]
Appearances:		
	Appellant:	In person
	Respondent:	Mr. Teshaun Vasquez
Issues:		High Court criminal appeals against conviction – Shooting with intent/ assault with intent to commit a felony – Application to withdraw the appeal
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. With the leave of the Court the appeal is hereby withdrawn.
Reason:		The appellant withdraws the appeal.
Case Name:		Lindsay Fitzpatrick Grant v [1] Rupert Herbert [2] Leroy Benjamin [3] Wentford Rogers [SKBHCVAP2012/0001]

Date:		Friday, 8th December 2017
Before:		The Hon. Dame Janice Pereira, DBE, Chief Justice The Hon. Mr. Paul Webster, Justice of Appeal [Ag.] The Hon. Mr. Michael Fay QC, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Teshari John-Sargeant
	Respondents:	Ms. Angelina Gracy Sookoo
Issues:		Civil appeal – Leave to appeal – Appeals to her Majesty in Council in Election petition cases – Whether costs form part of an election petition – Constitution of the Federation of St. Christopher and Nevis
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral Delivery] 1. Notice of Motion dismissed. 2. The applicant is ordered to pay costs agreed in the sum of \$500.00 within 14 days of today's date.
Reason:		These are our reasons for dismissing the Notice of Motion. 1. The factual circumstances of this matter are set out in detail in the judgment of this Court dated 14th July 2017 and no useful purpose is served by repeating them at length in this judgment. In brief, and insofar as is relevant to this Notice of Application, the Court of Appeal held on 14th July 2017 that:

		a. The general rule is that the High Court's jurisdiction to deal with election petitions is a statutory jurisdiction that is separate and distinct from the Supreme Court's ordinary civil jurisdiction. Theberge and another v Phillipe Laudry [1876] 2 AC 106 applied; Devan Nair v Young Kuan Teik [1967] 2 WLR 846 applied; and Patterson v Solomon [1960] AC 579 considered. b. When the Court of Appeal in the Federation of St. Christopher and Nevis hears appeals from the High Court in election proceedings, it occupies a unique position in the court's hierarchy in that it is the final court of appeal. Section 36(1) of the Constitution vests the jurisdiction to hear and determine cases relating to the election of members of the National Assembly in the High Court and subsections (6) and (7) deal with appeals from decisions of the High Court in election cases. The effect of subsections (6) and (7) is that there is a right of appeal to the Court of Appeal from final decisions of the High Court in election cases, and importantly for the purposes of this appeal, there is no right of appeal from decision of the Court of Appeal to Her Majesty in Council. The Court of Appeal is the final court in election proceedings. This affects the principle of stare decisis and how this Court should deal with its previous decisions. Section 36(1) of the Constitution of Saint Christopher and Nevis, Cap. 1.01 Revised Laws of Saint Christopher and Nevis 2009 applied. 2. It is not necessary, for the purposes of the Notice of Motion before us, to consider the judgment dated 14th July 2017 other than to record that the consequence of the majority decision of this Court on 14th July 2017, was that the decision of the first instance judge to
--	--	---

		quantify the costs to be paid by Mr. Grant to Mr. Herbert by determining what costs were reasonable for him to pay rather than by determining the costs in accordance with CPR Parts 64 and 65 was upheld and the appeal 3. The application before us was Notice of Motion filed on 3rd August 2017 by Mr. Grant seeking leave to appeal the decision of this Court dated 14th July 2017 to Her Majesty in Council. 4. Ms. Foreman, who appeared with Mrs. John Sargeant, for Mr. Grant put her case forcibly and with great skill. The difficulty that she faced is found in sections 36(1), (6) & (7) of the Constitution which provide, insofar as is relevant to this matter, as follows: “(1) The High Court shall have jurisdiction to hear and determine any question whether: (a) any person has been validly elected as a Representative (2) (3) (4) (5) (6) An appeal shall lie as of right to the Court of Appeal from any final decision of the High Court determining any such question as is referred to in subsection (1); (7) No appeal shall lie from any decision of the Court of Appeal in the exercise of the jurisdiction conferred by subsection (6) and no appeal shall lie from any decision of the High Court in proceedings under this section other than a final decision determining any such question in subsection (1) of this section.” 5. This Court has already found at paragraph 27 of its judgment dated 14th July 2017 that: “The effect of subsections (6) and (7) is
--	--	---

that there is a right of appeal to the Court of Appeal from final decision of the High Court in election cases, and importantly for the purposes of this appeal, there is no right of appeal from decisions of the Court of Appeal to Her Majesty in Council.”

6. Prima facie that would appear to be fatal to the prospects of the Notice of Motion before us, however, Ms. Foreman seeks to urge us that the costs do not form part of the election petition. Her submission was to the effect that the election petition proceedings were long past, and all that was before the Court was an issue of costs. This submission is not one that appears prima facie attractive, and Ms. Foreman was unable to take us to any authority (whether in an election petition case or any other form of legal proceedings) in which the issue of costs had been held to be a separate proceeding to the substantive proceedings.
7. Ms Foreman also sought to persuade us that the determination of the quantum of costs was not, for the purposes of section 36(6) and (7) a ‘final decision of the High Court determining any such question as is referred to in subsection (1)’ because it was a decision on costs and not a final decision on ‘whether any person has been validly elected as a Representative’.
8. In our view, the incidence and quantification of costs ought to be canvassed as part and parcel of a question arising under section 36(1) as to whether a person has been validly elected as a representative. Moreover, if it was not part of such a question, section 36(7) would operate to preclude any appeal to the Court of Appeal¹ and would mean that the High Court either had no jurisdiction to award costs on a determination of that question, or that the High Court was the final court for the purposes of the incidence and quantification of costs in election proceedings.

		9. However, we do not need to decide that point in order to dispose of this Notice of Motion because, irrespective of whether the incidence and quantification of costs is part of the section 36(1) question, we have no doubt whatsoever that it is part of the election proceedings. Section 36(7) does not provide that there shall be a right of appeal from a decision of the Court of Appeal, whether with leave or not, to Her Majesty in Council. It provides only for an appeal from a final decision of the High Court to the Court of Appeal – it follows that no such leave can be granted. ¹ Absent a statutory power to appeal to the Court of Appeal, there would be no right to any appeal. Order 10. We therefore dismissed the Notice of Motion and Mr. Grant shall pay costs to Mr. Herbert in the agreed sum of EC\$500 within 14 days of today.

.....
Mrs. Janine Harris Lake
Registrar