

COURT OF APPEAL SITTING

ANTIGUA & BARBUDA
Monday, 29th May 2017 to Friday, 2nd June 2017

		<u>JUDGMENTS</u>
Case Name:		Antigua and Barbuda Transport Board v [1] Anderson Carty [2] James Sebastian [3] Anique Francis [ANULTAP2015/0006] [ANULTAP2015/0007] [ANULTAP2015/0008]
Date:		Wednesday, 31st May 2017
Coram:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Hugh Marshall, Jr. with him Ms. Andrea Smithen
	Respondents:	No appearance
Issues:		Civil appeal – Whether the Industrial Court exceeded its jurisdiction in that the court had no jurisdiction to enter a judgment on a trade dispute referred to it under the Industrial Court Act without a hearing – Whether the Industrial Court committed a specific illegality by applying procedures and rules not established in the existing Industrial Court (Procedure) Rules
Result & Reason:		Held: allowing the appeal; setting aside the unless order and default judgment; remitting the References to the Industrial Court for hearing and determination and making

		no order as to costs, that: 1. The Industrial Court was created by the Act and is a creature of statute. Its jurisdiction is strictly regulated by the terms of the Act and rules made under it. The court's jurisdiction is to expeditiously inquire into, investigate and hear every dispute and all matters affecting the merits of such dispute even in absence of a party who has been duly summoned to appear and fails to do so. The Act also provides a general power for the court to give all such directions and to do all such things as are necessary or expedient for the expeditious and just hearing and determination of the trade dispute or any other matter before it. The provisions of the Act oblige the court to hear disputes referred to it and then make a determination. Accordingly, the Industrial Court did not have jurisdiction to determine the References without a hearing and in that respect the court exceeded its jurisdiction. Sections 7, 11 and 16 of the Industrial Court Act, Cap. 214, Revised Laws of Antigua and Barbuda, 1992 applied; Theodore Francis T/A Theo's Tug & Barge v Damon Francis ANUHCVP2015/0009 (delivered 8th March 2017, unreported) applied. 2. The Act gave the court the power to impose fines for contempt consisting of failure to comply with its orders or awards. Where, as in this case, the statute provides a specific remedy for a breach of its orders the party seeking to enforce the breach cannot resort to other remedies not specifically provided in the statute. Additionally, the court's jurisdiction is regulated by rules made under it; the rule applicable to the reference are the 1980 Rules. There are no provisions in the 1980 Rules for ordering pretrial questionnaires nor for entering judgment in default for failing to comply with the court's orders. Accordingly the Industrial Court committed a specific illegality by applying procedures for breaches of its orders that are not contained in the Act or the 1980 Rules.

Case Name:		Kenard Byron v Eastern Caribbean Amalgamated Bank [ANUHCVP2012/0010]
Date:		Wednesday, 31st May 2017
Coram:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Sir Gerald Watt, QC and with him, Dr. David Dorsett and Mr. Jared Hewlett
	Respondent:	Ms. E. Ann Henry, QC and with her, Ms. Tracy Benn-Roberts
Issues:		Civil appeal – Termination of employment by redundancy – Whether severance payment due immediately upon termination – Whether respondent liable for severance payment due to appellant – Sections C40(1) and C42(1) of Antigua and Barbuda Labour Code – Sections 9(1) and 10(3) of Industrial Court Act – Whether exceptional circumstances exist to justify award of costs

Result & Reason:		Held: allowing the appeal save with respect to costs; declaring that the respondent is jointly and severally liable with the Bank of Antigua Limited for the payment of severance to the appellant; ordering that the respondent pay the appellant his severance in respect of his termination for redundancy and making no order as to costs, that: 1. There is no dispute that the appellant was severed on the ground of redundancy. That being the case, he was statutorily entitled to severance upon termination of his employment on 20th February 2009. Sections C40 and C42(1) of the Antigua and Barbuda Labour Code, Cap 27, Laws of Antigua and Barbuda applied. 2. The law is that a term will be implied into a contract if the reasonable reader of the contract knowing all the circumstances, would understand it to be implied provided that the reasonable reader: (i) is treated as reading the contract at the time it was made; and (ii) would consider the term to be so obvious as to go without saying or to be necessary for business efficacy. On the issue of the determination one would take into account factors such as the words used in the contract, the surrounding circumstances known to both parties at the time of the contract, commercial common sense and the reasonable reader or reasonable parties. The parties to the Agreement, reading the Agreement, at the time it was made and knowing all the surrounding circumstances would understand the term to be implied and to be so obvious that it goes without saying. Further, the implied term contented for, would not contradict any express provision of the Agreement. In the circumstances, clause 3 (1) of the Agreement ought to be read with the implied term contented for by the appellant. Attorney General of Belize v Belize Telecom Ltd [2009] 1 WLR 1988 applied. 3. The court in exercising its powers must give effect to the ethos and philosophical approach mandated by section 10(3) of the Industrial Court Act. The
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		Industrial Court was required to make a just and fair award or order and act in accordance with equity, good conscience and the substantial merit of the case. It should have regard to the interests of the persons immediately concerned, the community as a whole and the principles and practices of good industrial relations, particularly the Antigua and Barbuda Labor Code. Adopting that approach, it was open to Industrial Court to make an order in accordance with the guidance given. Such order having regard to justice, fairness, good conscience and the substantial merits of the case would have resulted in the respondent being jointly and severally liable with the Bank of Antigua Limited for payment of redundancy to the appellant. Section 10(3) of the Industrial Court Act, Cap. 214, Laws of Antigua and Barbuda applied. 4. The Agreement was between the Central Bank and the respondent. The Industrial Court was not asked to determine the rights of the parties to the Agreement. The Industrial Court was only asked to consider what was disclosed by the Agreement in the context of what was the respondent's legal obligation to the appellant and the circumstances under which that obligation arose. In the circumstances, the respondent's objection based upon lack of jurisdiction fails. The Industrial Court had jurisdiction in this case. Caribbean Establishment Limited v Harrison (1997) 56 WIR 241 applied. 5. The costs' jurisdiction of the Industrial Court and of the Court of Appeal with respect to appeals from the Industrial Court resides section 10(2) of the Industrial Court Act. The guiding principle being no order as to costs, exceptional reasons are required for the Court to consider it proper to make a costs order. In the circumstances, the reasons advanced do not constitute exceptional reasons to justify a departure from the statutory prohibitions on costs. The claim for costs accordingly fails. Section 10(2) of the Industrial Court Act, Cap. 214, Laws of Antigua and Barbuda applied.
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		<u>STATUS HEARING</u>
Case Name:		Geddis Meyer v Kehvin Dickson [ANUHCVP2014/0005]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Ms. Rhodsha Oliver
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral delivery] This status hearing is adjourned to the next sitting of the Court in Antigua and Barbuda during the week which commences 6th November 2017 in order for an update to be provided by the appellant.
Reason:		The applicant filed submissions based on the notes of evidence but the parties are still awaiting the transcript.

Case Name:		Melvin David Anderson v [1] The Attorney General of Antigua and Barbuda [2] Commissioner of Police [3] Glennis Simon [4] Moncy Duncan [ANUHCVP2013/0018]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondents:	Mrs. Carla Brookes-Harris
Issue:		Status of the matter
Type of Oral Result/Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. The appeal herein shall proceed without the notes of evidence or the transcript in relation to the hearing below. 2. The issue to be determined of the appeal is whether or not at the relevant time the appellant remained a police officer. 3. Leave is granted to the appellant to file and serve skeleton arguments together with authorities on or before 10th September 2017. 4. Leave is granted to the respondent to file and serve skeleton arguments together with authorities on or before 10th October 2017. 5. The hearing of the appeal is scheduled for the sitting

		of the Court in Antigua and Barbuda during the week which commences 6th November 2017.
Case Name:		Port Services Ltd. v Kimberly Grant [ANULTAP2013/0001]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mr. Craig Jacas
	Respondent:	No appearance
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] There having been no personal service on the respondent the appeal stands struck out.
Case Name:		Saffron Limited v Angel Estates Limited

		[ANUHCVP2012/0045]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondent:	Mr. John Fuller
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. Leave is granted to the appellant to file and serve the record of appeal on or before 18th August 2017. 2. The respondent shall file and serve submissions in reply on or before 30th October 2017. 3. The matter is fixed for report on its status during the week which commences on 6th November 2017 when the Court sits in Antigua and Barbuda.
Case Name:		[1] Winston B. Spencer [2] Crusader Publications Broadcasting Ltd. v Lester Bird [ANUHCVP2012/0006]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:		
	Appellants:	Ms. Sherri-Ann Bradshaw
	Respondent:	Mr. Warren Cassell
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] 1. Counsel for the appellants and respondent are to meet within 7 days to agree the notes of evidence in relation to cassette #13. Therefore the parties are to complete the record of appeal on or before 31st July 2017. 2. The status hearing is adjourned to the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017 in order for a report to be provided in relation to the finalisation and completeness of the record of appeal.
Case Name:		[1] Tom Matthews [2] Teresia Matthews v Linde Antigua Limited [ANUHCVP2015/0020]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellants:	Dr. David Dorsett

	Respondent:	Ms. E. Ann Henry, QC.
Issue:		Status of the matter
Type of Oral Result / Order delivered:		Directions
Result / Order:		[Oral delivery] 1. Submissions that were filed by the applicants in the application for leave to appeal are deemed to have been filed by the appellant in support of the notice of appeal. 2. The respondent is granted leave to file and serve written submissions together with authorities on or before 21st July 2017. 3. The applicant is granted if necessary leave to file and serve written submissions in response on or before 30th August 2017. 4. It is an interlocutory appeal, therefore, the appeal is referred to the Chief Registrar for necessary action.
Case Name:		Flat Point Development Limited v Mary Dooley [ANUHCVP2015/0029]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mr. Wesley George
	Respondent:	Mr. Warren Cassell holding papers Ms. Rika Bird

Issue:		Status of the matter
Type of Oral Result/Order Delivered:		Directions
Result/Order & Reason:		This matter is adjourned for further status report on the transcripts by the Registrar of the High Court at the next sitting of the Court in Antigua and Barbuda during the week commencing 6 th November 2017.
Case Name:		Bruce Goodwin v Antigua Commercial Bank [ANUHCVP2015/0024]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Ms. Sherri-Ann Bradshaw
	Respondent:	Ms. Rhodsha Oliver
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] 1. This status hearing is adjourned to the next sitting of

		the Court in Antigua and Barbuda for the Registrar to be able to advise as to the status of the preparation of the transcript. 2. The Registrar of the High Court is to provide status of the preparation of the transcript of the proceedings below at the next sitting of the Court in Antigua and Barbuda. 3. The status hearing is adjourned for further consideration during the week which commences on 6th November 2017.
Case Name:		Michael Josiah v Andrea Joseph [ANUHCVP2015/0031]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Ms. Kema Benjamin
	Respondent:	Ms. Rhodsha Oliver
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] The Record of Appeal together with submissions having been filed the appeal shall proceed in accordance with the Civil Procedure Rules 2000.

Case Name:		Antigua Power Company Limited v [1] Hon. Baldwin Spencer [2] Justin Simon [3] Ambassador David Shoul [4] Esworth Martin [5] Government of Antigua and Barbuda [6] Public Utilities Authority [7] Beijing Construction and Engineering Group [8] Export and Import Bank of China [9] Clarvis Joseph [ANUHCVP2015/0032]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondents:	Dr. David Dorsett
Issue:		Status of the matter
Type of Oral Result / Order delivered:		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] The matter is struck off the list on the basis of want of prosecution.

Case Name:		[1] Robert N. Boyle [2] Patricia Boyle v [1] The Attorney General [2] Commissioner of Police [3] Chief Immigration Officer [ANUHCVP2015/0033]
Date:		Monday, 29 th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellants:	Dr. David Dorsett
	Respondents:	Mrs. Carla Brookes-Harris
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. There is no evidence that a request for transcript was made of the Registrar in the High Court. 2. The appellant is directed to make request for a transcript of the Registrar of the High Court or to take the necessary steps in order to have the transcript prepared within 14 days of this order. 3. The status hearing is adjourned for further consideration at the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017.

Case Name:		Priscilla Leonce v Dean Arthur Richards [ANUHCVP2014/0031]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Ms. Kema Benjamin
	Respondent:	Ms. E. Ann Henry, QC
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The notice of discontinuance having been filed the matter is struck out.
Case Name:		Treetops Garden Centre Limited v St. John's Development Corporation [ANUHCVP2014/0033]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:		
	Appellant:	Mr. Hugh Marshall
	Respondent:	In person
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] This status hearing is adjourned for further consideration at the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017 and to enable the representative of Treetops Garden Centre Limited to advise himself on the way forward.
Case Name:		Fitzroy Knight t/a Knight Enterprises v Patsy Neckles [ANUHCVP2015/0006]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondent:	Mrs. Eleanor Solomon holding papers for Mr. Ralph Francis
Issue:		Status of the matter

Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. The appellant is granted leave to file and serve the record of appeal together with skeleton arguments and authorities on or before 30th June 2017. 2. The respondent is granted leave to file and serve skeleton arguments with authorities on or before 30th August 2017. 3. The hearing of the appeal is fixed for the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		[1] Condace Benjamin [2] Geraldine Bridges v Avery A. Henry [ANUHCVP2015/0003]
Date:		Monday, 29 th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellants:	Mr. John Fuller
	Respondent:	Mrs. Eleanor Solomon holding papers for Mr. Justin Simon, QC. and Mrs. Laurie Freeland-Roberts
Issue:		Status of the matter
Type of Oral Result / Order		Directions

Delivered:		
Result/Order:		[Oral delivery] 1. The Registrar of the High Court is directed to take the necessary steps to provide the notes of evidence of the trial below on or before 31st July 2017. 2. The status hearing is adjourned for further consideration during the week commencing 6th November 2017 when the Court sits in Antigua and Barbuda.
Case Name:		[1] Karl Gardner [2] Moshe Misha Perez v Antigua Commercial Bank [ANUHCVP2015/0017]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellants:	Mr. Clement E.M. Bird
	Respondent:	Ms. Rhodsha Oliver
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		N/A
Result/Order:		[Oral delivery] The status hearing is adjourned to the next sitting of the

		Court in Antigua and Barbuda during the week commencing 6 th November 2017.
Reason:		The parties are still awaiting the transcript in the proceedings below.
Case Name:		Denley Payne v The Supervisory Authority [ANUHCVAP2014/0001]
Date:		Monday, 29 th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mr. Curtis Bird
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] There being no appearance by the appellant, the appeal is struck out for want of prosecution.

Case Name:		Caribbean Developments (Antigua) Limited v Ginger Villa Incorporated [ANUHCVAP2014/0002]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Ms. E. Ann Henry, QC
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The appeal is struck out for want of prosecution.
Reason:		Leave to appeal was granted on 20th February 2014. However, there has been no notice of appeal filed nor has anyone appeared to represent the appellant.
Case Name:		Marcia Logan v Pearl Logan [ANUHCVAP2014/0003]

Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mrs. Eleanor Solomon
	Respondent:	No appearance
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] The appeal is struck out for want of prosecution.
Case Name:		[1] Violet Francis [2] Pauline Gomes v [1] The Attorney General [2] Commissioner of Police [ANUHCVP2014/0012]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellants:	Dr. David Dorsett
	Respondents:	Mrs. Carla Brookes-Harris

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] The status hearing is adjourned for further consideration during the sitting of the Court in Antigua and Barbuda during the week commencing 6 th November 2017.
Reason:		A final adjournment is granted in order for counsel to be able to advise the Court on the further prosecution of the appeal.
Case Name:		Michael Villiers v Edson Browne [ANUHCVP2014/0017]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondent:	No appearance
Issue:		Status of the matter

Type of Oral Result / Order Delivered:		N/A
Result/Order:		[Oral Delivery] The status hearing of the appeal on the issue of costs is adjourned for further consideration during the week commencing 6 th November 2017.
Reason:		In view of the fact that the Court has been advised that there is an assessment of damages hearing scheduled for 13 th June 2017 in accordance with judgment of Justice Claire Henry, the status hearing is adjourned.
Case Name:		Carlisle Bay Resort v Berlinda Dowe [ANUHCVP2015/0002]
Date:		Monday, 29 th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Ms. Kema Benjamin
	Respondent:	Mr. Rushaine Cunningham
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions

Result/Order:		[Oral delivery] 1. Leave is granted to the respondent to file and serve written submissions in answer on or before 30th June 2017 there being no objection by learned counsel for the appellant. 2. Thereafter, the appeal shall proceed in accordance with the Civil Procedure Rules 2000 as amended.
Case Name:		Gerald A. Watt, QC v Dr. Maxwell Francis [ANUHCVP2012/0039]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondent:	Ms. Sherri-Ann Bradshaw holding papers for Mr. Clement Bird
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. The appellant is granted leave to file and serve the record of appeal within 7 days of this order. 2. The appellant submissions that were filed on 26th May 2017 are to be served on the respondent within

		14 days of this order. 3. The respondent shall file and serve written submissions together with authorities on or before 30 th June 2017. 4. Thereafter the appeal shall proceed in accordance with the Civil Procedure Rules 2000.
Case Name:		Glenworth Prince v Laudanskis Joseph [ANUMCVAP2012/0002]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondent:	No appearance
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 request the Chief Magistrate to provide the reasons for the decision on or before 31 st July 2017. 2. Once provided, the Registrar of the High Court shall cause the reasons for the decision to be provided to the appellant and the respondent on or before 31 st August 2017.

		3. The Court notes the antiquity of the appeal which was filed on 5th April 2012. 4. The status hearing is adjourned for further consideration during the week commencing 6th November 2017.
Case Name:		Sherika Henry v The Director of Public Prosecutions [ANUMCVAP2012/0003]
Date:		Monday, 29 th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mr. Craig Jacas
	Respondent:	Mrs. Carla Brookes-Harris
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] A notice of discontinuance was filed on 18th January 2013. Therefore, the appeal stands struck out.
Case Name:		Walsorth Burton

		V Carmen Burton [ANUMCVAP2012/0005]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	No appearance
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] The matter is struck out for want of prosecution.
Case Name:		Ann Granger V Wade Austin McDonald [ANUMCVAP2013/0002]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal

Appearances:		
	Appellant:	Ms. E. Ann Henry, QC.
	Respondent:	No appearance
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] It is hereby ordered that leave to withdraw appeal is granted and accordingly the appeal stands dismissed.
Reason:		Counsel for the applicant requested to withdraw the appeal.
Case Name:		Gervon Archibald v [1] Claudette Barnes [2] The District Magistrate [ANUMCVAP2013/0004]
Date:		Monday, 29 th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondents:	No appearance

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The status hearing is traversed to the next sitting of the Court in Antigua and Barbuda during the week commencing 6 th November 2017 in order for there to be service on the appellant.
Case Name:		Verbin Bowen v Chief Immigration Officer [ANUMCVAP2013/0005]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondent:	Mrs. Carla Brookes-Harris
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order		[Oral delivery]

& Reason:		Leave to withdraw and discontinue the appeal is granted. Accordingly the appeal stands dismissed.
Case Name:		Ruddy Salmon v Evangeline Bird [ANUMCVAP2013/0021]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Ms. E. Ann Henry, QC
	Respondent:	No appearance
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] It is hereby ordered that leave to withdraw the appeal is granted and accordingly the appeal stands dismissed.
Reason:		Counsel for applicant made an oral application to withdraw the appeal.
Case Name:		Neil Jerrick

		v Chief Immigration Officer [ANUMCVAP2014/0001]
Date:		Monday, 29th May 2017
Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Dr. David Dorsett
	Respondent:	Mrs. Carla Brookes-Harris
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The status hearing is adjourned in order for the Crown to advise itself on this appeal in view of the Court's ruling/decisions in similar appeals.
Case Name:		Marlon Ho-Tack v Alice Ho-Tack [ANUMCVAP2015/0002]
Date:		Monday, 29th May 2017

Before:		The Hon. Mde. Louise E. Blenman, Justice of Appeal
Appearances:		
	Appellant:	Mr. Hugh Marshall
	Respondent:	Mr. Warren Cassell holding papers for Mr. Leon Chaku Symister
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		N/A
Result/Order & Reason:		The status hearing is adjourned for further consideration at the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Julian Morgan v The Queen [ANUHCRA2014/0010]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter

Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] It is hereby ordered that: 1. The Registrar of the High Court shall cause the transcript of proceedings to be prepared and the parties notified of its availability on or before 30th August 2017. 2. The appellant shall file and serve submissions in support of his appeal on or before 30th October 2017. 3. The respondent shall file and serve written submissions in response to the appeal on or before 30th October 2017.
Case Name:		Devon Byam v The Queen [ANUHCRA2014/0009]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order		Directions

Delivered:		
Result/Order:		[Oral delivery] 1. Upon the application of Mr. Sherfield Bowen who the Court notes represented the appellant in the court below on assignment by the State for legal aid, in relation to the appeal Mr. Sherfield Bowen is assigned to represent the appellant at the cost of the State. 2. The transcript of the proceedings in the court below now being available, the appellant is ordered to file and serve submissions in support of the appeal on or before 15th July 2017. 3. The respondent is ordered to file and serve submissions in response on or before 30th August 2017. 4. The hearing of the appeal is fixed for the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Chavis Phillip v The Queen [ANUHCRA2014/0007]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral		Directions

Result / Order Delivered:		
Result/Order:		[Oral delivery] The Court having been informed that the transcripts are available, it is hereby ordered that: 1. The appellant shall file and serve submissions in support of his appeal on or before 15th July 2017. 2. The respondent shall file and serve submissions in response to the appeal on or before 30th August 2017. 3. The hearing of the appeal shall be fixed for the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Ryan Cadette v The Queen [ANUHCRA2014/0006]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		N/A

Result/Order:		The matter having already been disposed of in 2014 should not have been listed.
Case Name:		Lasana Riley v The Queen [ANUHCRA2013/0007]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The appellant having indicated his wish to proceed with his appeal and that he is represented in his appeal by Mr. George Lake and the Court having been informed of the availability of the transcripts. It is hereby ordered that: 1. The appellant shall file and serve written submissions in support of the appeal on or before 15th July 2017. 2. The respondent shall file and serve written submissions in response to the appeal on or before

		30 th August 2017. 3. The appeal shall be fixed for hearing at the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6 th November 2017.
Case Name:		Jevorny Richards v The Queen [ANUHCRA2013/0006]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The appellant having indicated his wish to proceed with his appeal and to be represented in his appeal by Mr. Cosbert Cumberbatch and the Court having been informed of the availability of the transcript of proceedings in the court below, it is hereby ordered that: 1. The appellant shall file and serve submissions in support of his appeal on or before 15th July 2017. 2. The respondent shall file and serve submissions in

		response to the appeal on or before 13th August 2017. 3. The hearing of this appeal is fixed for the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Tadj Williams v The Queen [ANUHCRA2013/0002]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Lawrence Daniel
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. Leave is granted to the appellant to amend his notice of appeal against both conviction and sentence. 2. The transcript of the proceedings in the court below now being available the appellant is ordered to file and serve submissions in support of his appeal together with amended notice of appeal on or before 15th July 2017. 3. The respondent is ordered to file and serve

		submissions in response on or before 30th August 2017. 4. The hearing of appeal is fixed to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Kaniel Martin v The Queen [ANUHCRA2012/0001]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The appellant having indicated his wish to proceed with his appeal and that he is represented in his appeal by Mr. Marcus Foster and the Court having been informed of the availability of the transcripts, it is hereby ordered that: 1. The appellant shall file and serve submissions in support of his appeal on or before 15th July 2017. 2. The respondent shall file and serve submissions in support of the appeal on or before 13th August 2017.

		3. The hearing the appeal is fixed for hearing at the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6 th November 2017.
Case Name:		Edwin Gomez v The Queen [ANUHCRAP2014/0012] Isiah Benjamin v The Queen [ANUHCRAP2014/0013]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellants:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. Criminal appeals ANUHCRAP2014/0012 and ANUHCRAP2014/0013 are hereby consolidated.

		2. The appellants are ordered to file and serve written submissions in support of their appeal on or before 30th July 2017. 3. The respondent is ordered to file and serve written submissions in response to the appeal on or before 15th September 2017. 4. The hearing of this appeal is set down for the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Darnell Azille v The Queen [ANUHCRA2015/0003]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The Court having been informed that the transcript of the proceedings in the court below will be available within 3 months from the date of this order, it is hereby ordered that:

		1. The appellant is ordered to file and serve submissions in support of his appeal on or before 30th September 2017. 2. The respondent is ordered to file and serve submissions in response to the appeal on or before 30th October 2017. 3. The hearing of the appeal is fixed for the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Darryl Wilson v The Queen [ANUHCRA2015/0002] Melville Samuel v The Queen [ANUHCRA2015/0013]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellants:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions

Result/Order:		[Oral delivery] 1. Criminal Appeals ANUHCRA2015/0002 and ANUHCRA2015/0013 are hereby consolidated to be heard together. 2. The transcripts of proceedings now being available the appellants shall file and serve in support of their appeals on or before 30th July 2017. 3. The appellant Melville Samuel shall file and serve a notice of appeal on or before 13th June 2017. 4. The respondent shall file and serve submissions in response on or before 15th September 2017. 5. The hearing of the consolidated appeal is fixed for the next sitting of the Court of Appeal in Antigua and Barbuda commencing the week of 6th November 2017.
Case Name:		Terry Herbert v The Queen [ANUHCRA2015/0012]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order		Directions

Delivered:		
Result/Order:		[Oral delivery] 1. The appellant shall file and serve a notice of appeal in this matter on or before 13th June 2017. 2. The Registrar of the High Court is directed to cause to be prepared the transcript of the proceedings in the court below within 3 months of the date of this order and notify the parties of its availability. 3. The appellant shall file and serve submissions in support of his appeal on or before 30th September 2017. 4. The respondent shall file and serve submissions in response within one month of receipt of the appellant's submissions. 5. The appeal shall be fixed for hearing at the sitting of Court of Appeal in Antigua and Barbuda to be fixed at the court's office.
Case Name:		Georgette Aaron v The Queen [ANUHCRA2014/0014]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen holding papers for Mr. Ralph Francis
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter

Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] The transcript of proceedings in the court below now being available it is ordered that: 1. The appellant shall file and serve submissions in support of her appeal on or before 15th July 2017. 2. The respondent shall file and serve submissions in response to the appeal on or before 15th October 2017. 3. The hearing of the appeal shall be fixed to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Kerry Oliver v The Queen [ANUHCRA2015/0010]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order		Oral Judgment or Decision

Delivered:		
Result/Order:		[Oral delivery] 1. The appeal against conviction is withdrawn and accordingly dismissed. 2. The appeal against sentence is allowed. 3. The sentence imposed by the learned judge is set aside and replaced by time already served.
Reason:		The appellant had a remainder of 35 days remaining on his sentence. The appellant posited in an affidavit filed on the 6th March 2015 where he states that in the trial below he was unrepresented and at the beginning of the trial, the prosecution made an application to amend the charges. The appellant was not put on notice and had to defend himself against a new charge which jeopardized his right to that of a fair trial.
Case Name:		Luke Pressley v The Queen [ANUHCRA2014/0016]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	In person
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral		Directions

Result / Order Delivered:		
Result/Order:		[Oral delivery] 1. The transcript of proceedings in the court below now being available, the appellant shall file and serve submissions in support of his appeal on or before 15th July 2017. 2. The respondent shall file and serve submissions in response to the appeal on or before 15th October 2017. 3. The hearing of this appeal shall be fixed for the next sitting of the Court of Appeal in Antigua and Barbuda during the week of 6th November 2017.
Case Name:		Keyon Bronille Hamilton v The Queen [ANUHCRA2015/0002]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Lawrence Daniel
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions

Result/Order & Reason:		[Oral delivery] The Court having been informed that the appellant wishes to proceed with the hearing and determination of the appeal against conviction and sentence and that the transcript of proceedings in the court below is not yet available, it is hereby ordered that: 1. The Chief Magistrate is directed to cause the transcript of the proceedings before the Magistrate to be prepared and filed within 3 months of this order. 2. Further status hearing is fixed for the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Floyd Thompson v The Attorney General [ANUMCRAP2011/0003]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision

Result/Order:		The appeal is dismissed for want of prosecution.
Reason:		This is an appeal that was filed on 2nd November 2011. No attempt has been made to progress this appeal.
Case Name:		Carlton Bailey v Chief Magistrate District “A” [ANUMCRAP2011/0004]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The appeal is dismissed for want of prosecution.
Reason:		The appeal has not been addressed since 16th November 2011.

Case Name:		Aliscia Katicia Glen v [1] The Attorney General [2] Chief Immigration Officer [ANUMCRAP2012/0003]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondents:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The appeal is dismissed for want of prosecution.
Reason:		This is a notice of appeal filed on 9th March 2012. There is no indication of any attempt to progress this matter since the filing of the appeal.
Case Name:		[1] Nedwell Payne [2] Denise Fuller [3] Amanda Payne (a minor) by her next friend,

		Nedwell Payne and Denise Fuller v Chief Immigration Officer [ANUMCRAP2012/0004]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellants:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The appeal is dismissed for want of prosecution.
Reason:		This appeal was filed in April 2012 and there is no indication or reason why the matter should remain on the list since the matter has not been processed since the day the appeal was filed.
Case Name:		Patrick Tittle Jr. v The Commissioner of Police [ANUMCRAP2012/0007]

Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The appeal is dismissed for want of prosecution.
Reason:		This is an appeal against sentence filed on 3rd September 2012. The sentence imposed on 27th August 2012. The matter has not progressed since the date of filing the notice of application.
Case Name:		Donald Sylvester Lumsden v The Commissioner of Police [ANUMCRAP2013/0002]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal

Appearances:		
	Appellant:	Mr. John Fuller
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] Upon application for an adjournment by counsel for the appellant with no objection by counsel for the respondent, this appeal is fixed for further status hearing during the sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6 th November 2017.
Case Name:		Kareem Gardiner v The Commissioner of Police [ANUMCRAP2013/0004]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens

Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The appellant not having appeared in the matter and there being no indication from the Court's file as to whether the appellant was served with notice of the status hearing of this matter or whether he has served his sentence if appealing, it is hereby ordered that: 1. The Chief Magistrate is directed to cause a transcript of the proceedings in the court below to be prepared and filed within 3 months of the date of this order. 2. Further status hearing of the appeal shall be filed for the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Dorian Marshall v The Commissioner of Police [ANUMCRAP2013/0005]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter

Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. The Chief Magistrate is directed to cause the transcript of the proceedings in the court below to be prepared and filed within 3 months of the date of this order. 2. Further status hearing of this appeal is set down for the next sitting of the Court of Appeal in Antigua and Barbuda during the week of 6th November 2017.
Case Name:		Keimiah George v The Commissioner of Police [ANUMCRAP2013/0006]
Date:		Tuesday, 30 th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		N/A

Result/Order:		[Oral delivery] Further status hearing of this appeal is set down for the next sitting of the Court of Appeal in Antigua and Barbuda during the week of 6 th November 2017.
Case Name:		Chantal Sibblis v The Commissioner of Police [ANUMCRAP2014/0003]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The appeal is dismissed for want of prosecution.
Reason:		This is an appeal filed on 28th March 2014 against the sentence of the Chief Magistrate after a conviction of housebreaking and larceny. The applicant was sentenced to be deported to Jamaica on the first available flight. It is either likely that the applicant has taken that flight or

		another and as such could not be served for today's status hearing.
Case Name:		Judah Benjamin v The Chief Magistrate [ANUMCRAP2015/0001]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] It is hereby ordered that: 1. A notice of application is to be filed on behalf of the appellant on or before 13th June 2017. 2. Leave is given to counsel for the appellant to compile his notes of the proceedings in the court below to settle with counsel for the respondent the record of appeal to be filed in the matter by 30th June 2017.

Case Name:		Keyon B. Hamilton v The Chief Magistrate [ANUMCRAP2015/0002]
Date:		Tuesday, 30th May 2017
Before:		The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	No appearance
	Respondent:	Mrs. Shannon Jones-Gittens
Issue:		Status of the matter
Type of Oral Result / Order Delivered:		Directions
Result/Order & Reason:		[Oral delivery] The Court having been informed that the appellant wishes to proceed with hearing and determination of the appeal against conviction and sentence and that the transcripts of the proceedings in the court below are not yet available, it is hereby ordered that: 1. The Chief Magistrate is directed to cause the transcript of the proceedings before the Magistrate to be prepared and file within 3 months of this order. 2. Further status hearing is fixed for the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2011.

		<u>APPLICATIONS AND APPEALS</u>
Case Name:		Caribbean Developments (Antigua) Limited v Pierre Imfeld [ANUHCVAP2016/0008]
Date:		Monday, 29th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Applicant:	No appearance
	Respondent:	No appearance
Issues:		Application for leave to appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] The application is struck out due to the non-appearance of the applicant to prosecute the appeal.
Case Name:		Ronald Samuel v The Queen

		[ANUHCRA2015/0014]
Date:		Monday, 29th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Dr. Henry Brown with him, Mr. John Kato and Mr. Sherfield Bowen
	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecution with him Mrs. Shannon Jones-Gittens
Issue:		Application to amend grounds of appeal
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] The appeal against sentence and conviction is quashed.
Reason:		The respondent has conceded the appeal.
Case Name:		The Board of Trustees Sunnyside Tutorial School v Irene Bowen [ANULTAP2016/0016]
Date:		Monday, 29th May 2017

Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Kamilah Roberts
	Respondent:	Ms. Jan Peltier
Issue:		Application to strike out appeal
Type of Oral Result / Order Delivered (if applicable):		Oral Judgment or Decision
Result/Order & Reason:		[Oral delivery] The notice of discontinuance having been filed, an application to strike out is dismissed with costs to the respondent to the application of agreed costs of \$1500.00.
		Alexis Thomas v The Queen [ANUHCRA2015/0017]
Date:		Monday, 29 th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Lawrence Daniel

	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecutions with him, Mrs. Shannon Jones-Gittens
Issues:		Appeal against conviction – Armed Robbery – Application for an adjournment
Type of Oral Result /Order Delivered:		Directions
Result/Order:		[Oral Delivery] 1. The hearing of this matter is adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017. 2. The respondent is to file and serve skeleton submissions on or before 31st July 2017.
Case Name:		Anthony Browne v The Commissioner of Police [ANUMCRAP2012/0005A]
Date:		Monday, 29th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Justin Simon, QC
	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecutions

Issues:		Appeal against conviction – Larceny – Application for an adjournment
Type of Oral Result / Order Delivered:		Directions
Result/Order:		[Oral delivery] The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Reason:		Having received the certificate dated 20th March 2017 which was not served on either party and as such counsel made an application for an adjournment.
Case Name:		Garfield Morrison v [1] The Chief Magistrate [2] Ivan Walters [3] Commissioner of Police [ANUMCRAP2010/0002]
Date:		Monday, 29th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Warren Cassell
	Respondents:	Mr. Anthony Armstrong, Director of Public Prosecutions

Issues:		Appeal against conviction – Possession of firearm and ammunition
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] 1. The appeal is accordingly allowed. 2. The conviction and sentence are quashed.
Reason:		Having regard to the application, the Court is of the view that the Chief Magistrate acted outside of her jurisdiction when the matter was tried in District A instead of District B.
Case Name:		Sundry Workers (Represented by the Antigua Trades and Labour Union) v State Insurance Corporation [ANULTAP2013/0002]
Date:		Tuesday, 30th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Cosbert Cumberbatch
	Respondent:	Mrs. Cherissa Roberts-Thomas
Issues:		Application to revoke order of Michel JA as a single judge

		– Application to dismiss appeal – Application for an adjournment
Type of Oral Result/ Order Delivered:		N/A
Result / Order:		[Oral delivery] The appeal is traversed to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6 th November 2017.
Reason:		The respondent has instructed Mr. Roger Ford, QC. who is currently before the Court of Appeal in Barbados.
Case Name:		George Baron v The Queen [ANUHCRA2015/0015]
Date:		Tuesday, 30 th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecutions
Issue:		Appeal against conviction – Incest with a female under the age of 14

Type of Oral Result/Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] The appeal is allowed. The sentence of 30 years is varied and a sentence of 13 years is substituted on each count to run concurrently.
Reason:		This is an appeal against the sentence of 30 years that was imposed by the learned trial judge against the appellant on three counts of incest committed on his biological daughter. The Court has heard submission from both counsel and is of the unanimous view that the sentence of 30 years imposed by the trial judge was excessive. The Court is of the view that, after taking into account the circumstances of the offence and offender, the aggravating circumstances outweigh the mitigating circumstances. The Court is of the view that the appropriate sentence to be imposed is that of 13 years in prison on each count. The Court is of the firm view that the appellant needs to be deterred and the sentence should reflect same. The appellant has a predisposition for this type of offence as there were 3 separate occasions for each serious nature of the offence against his biological daughter.
Case Name:		Johnny Charles v The Queen [ANUHCRA2016/0005]
Date:		Tuesday, 30th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]

Appearances:		
	Appellant:	Mr. Lawrence Daniel
	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecutions
Issues:		Criminal appeal against conviction – Assault with intent to rob
Type of Oral Result/Order delivered:		Directions
Result / Order:		[Oral delivery] 1. The appellant is granted leave to file additional grounds of appeal. The grounds are to be filed on or before 15 th July 2017. 2. The appellant is to file and serve skeleton submissions with authorities on or before 15 th July 2017. 3. The respondent is to file and serve skeleton submissions with authorities on or before 31 st August 2017. 4. The appeal is traversed to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Case Name:		Joseph Charles v The Queen [ANUHCRA2016/0001]
Date:		Tuesday, 30th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]

Appearances:		
	Appellant:	Mr. Cosbert Cumberbatch
	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecutions
Issues:		Criminal appeal against conviction – Indecent Assault
Type of Oral Result/Order delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] The appeal against conviction and sentence is allowed. The appeal against sentence and conviction is quashed.
Reason:		The Crown conceded the appeal.
Case Name:		Gregory Gordon v Jacqueline Havener [ANUHCVP2015/0030]
Date:		Tuesday, 30th May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Samantha May
	Respondent:	Mr. Dane Hamilton, QC

Issues:		Application for an adjournment
Type of Oral Result/Order delivered:		N/A
Result / Order:		[Oral Delivery] The matter is adjourned to 31st May 2017.
Reason:		Counsel for the appellant made an oral application for an adjournment as counsel who leads the appeal is currently en route to Antigua.
Case Name:		Gregory Gordon v Jacqueline Havener [ANUHCVP2015/0030]
Date:		Wednesday, 31st May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mr. Vashti Marahaj with him, Ms. Samantha May
	Respondent:	Mr. Dane Hamilton, QC
Issues:		Civil Appeal – Whether there was an intention to create legal relations – Whether the learned trial judge wrongly considered an issue of monies as consideration rather than failing to perform agreement – Whether the learned trial judge wrongly declined to consider the case in equity

		under a false premise in law – Whether the respondent did not have an honest belief in the promise made by the appellant – Whether the respondent owned the land
Type of Oral Result/Order delivered:		N/A
Result / Order:		[Oral Delivery] 1. Judgment reserved. 2. Submissions are to be filed and served with authorities on the cost and appropriate remedy issue within 6 weeks of this order.
Case Name:		David Daniel v The Queen [ANUHCRA2015/0016]
Date:		Wednesday, 31 st May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellant:	Mr. Sherfield Bowen
	Respondent:	Mrs. Shannon Jones-Gittens with her, Mr. Anthony Armstrong, Director of Public Prosecutions
Issue:		Criminal appeal against sentence – Serious indecency
Type of Oral Result/Order		Oral Judgment or Decision

delivered:		
Result / Order:		[Oral delivery] The appeal is allowed only to the extent that the sentence that was imposed by the learned trial judge is varied to a concurrent sentence but the years of imprisonment given remain the same.
Reason:		This is an appeal in which the appellant pursues the ground dealing with excessive sentence. Having heard and read submissions from learned counsel and prosecutor, the Court is of the unanimous view that the sentence imposed by the learned trial judge is excessive in the circumstances and the Court is of the view that the sentence imposed should be substituted by a concurrent sentence.
Case Name:		Dave Roacher v The Queen [ANUHCRA2015/0008]
Date:		Wednesday, 31st May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Applicant:	Mr. Lawrence Daniel
	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecutions with him, Mrs. Shannon Jones-Gittens
Issues:		Criminal appeal against conviction – Armed Robbery –

		Application for an adjournment
Type of Oral Result/Order Delivered:		Directions
Result/Order:		[Oral delivery] 1. Leave is granted to the respondent to file and serve skeleton submissions in response on or before 31st October 2017. 2. The hearing for this appeal is traversed to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing 6th November 2017.
Reason:		Counsel for the appellant filed submissions late on 25th May 2017, not providing counsel for the respondent sufficient time to respond.
		Verbin Bowen v The Queen [ANUHCRA2014/0005]
Date:		Wednesday, 31st May 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Applicant:	Mr. Dane Hamilton, QC
	Respondent:	Mr. Anthony Armstrong, Director of Public Prosecutions

Issues:		Criminal appeal against conviction – Rape – Whether the learned trial judge failed to give proper direction to the jury regarding credibility and good character
Type of Oral Result/Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] 1. Leave to withdraw the appeal against conviction is granted. 2. Accordingly, the appeal against the conviction is dismissed and the conviction is affirmed. 3. Based on the concession of the Crown that the sentence was excessive, the appeal against sentence is allowed to the extent that the sentences that were imposed by the learned judge to run consecutively are set aside and substituted therefore that the sentence in relation to all of the counts are to run concurrently.
Reason:		It is the Court's view that the judge did not properly direct the jury on credibility and in the circumstances the conviction is unsafe.
Case Name:		[1] Xavier Mason [2] Cornell Humphreys [3] Colin Barnes [4] Cameron Thomas [5] Lyndon Greene v Antigua Port Authority [ANUHCVP2014/0027]
Date:		Wednesday, 31st May 2017

Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal
Appearances:		
	Appellants:	Mr. Kendrickson Kentish with him, Ms. Amaya Athill and Ms. Kathleen Bennett
	Respondent:	Mr. Craig Jacas
Issues:		Whether the learned trial judge erred in failing to order premium pay – Whether the learned judge failed to consider whether the employees could waive entitlement to premium pay
Type of Oral Result/Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] 1. The appeal is dismissed. 2. No order as to costs.
Reason:		This is an appeal against the judgment of the Industrial Court in which the court dismissed the appellants' claim for overtime pay with interest from September 2002 to the date of their claim. The court found that there was no evidence that the appellants had worked overtime between September 2002 and the date of claim and so no payment was due to them for overtime. The appellants appealed against the judgment of the Industrial Court on 7 grounds contained in a notice of appeal filed on 27th July 2011. At the hearing of the appeal learned counsel for the appellant abandoned three grounds of the appeal leaving the following four grounds: 1. The court erred in failing to determine whether any purported waive of the right to premium pay by the appellant employees was indeed unlawful and void. 2. The court erred in failing to assess the loss suffered and the compensation due to the appellant employees as a result of unlawfully withholding

premium pay by the respondents. 3. The court erred in holding that the appellants were not entitled to premium pay. Paragraph 7 stated that the employee receives increases in salary of 68%, 70%, 68%, 70%, 85% and 58% respectively. The appellants did not however argue the fourth ground conceding that the finding challenged in this fourth ground was of no relevance to the outcome of the case whether here or in the court below.

In terms of the first of the three grounds of the appeal which were pursued by the appellant, the appellants' argument was essentially that they had statutory right to overtime payment arising from section C 27 of the Labour Code which right could not be waived by them and any purported waiver of it was unlawful and void. In terms of the second ground, the appellants' argument in essence was that the Industrial Court should have found that the appellants' right to overtime payment was breached by the respondent by entering into a collective agreement with the appellants which sought to abrogate the appellants' right to overtime pay and that this was a loss suffered by the appellants for which they were entitled to compensation. In terms of the third ground, the appellant asserted that the Industrial Court erred in holding that they were not entitled to overtime pay. There were other peripheral issues argued by the appellants which did not arise from the grounds of appeal by the admissibility of the revised collective agreement entered into in July 2008, between the respondent and the trade union representing the appellants and the alleged nullified days of the respondent. However, this does not impact the outcome of the appeal and need not be further addressed.

The respondent answered the appellants' first ground of appeal by conceding that the appellants had a statutory right by virtue of section C 27 of the Labour Code to overtime pay for any time worked in excess of 8 hours on any day or beyond 48 hours in any week, but as found by the Industrial Court, there is no evidence of any overtime worked by any of the appellants from September 2002 to the date of their claim. The respondent accordingly argued that no issue of waiver of the appellants' right to be paid for overtime work could arise when there was no evidence of overtime work. All of the employees having given evidence before the Industrial Court and none having given evidence of working any overtime between September 2002 and the date of the claim. We are in agreement with the

		submissions of the respondent on this issue and can find no basis to interfere with the finding of the Industrial Court that there being no evidence of appellants having worked any overtime, the appellants could not then be entitled to overtime pay. We accordingly dismiss the first of the appellants' argued grounds of the appeal. The respondent answered the appellants' second ground of appeal by submitting that the collective agreement did not breach section C 27 of the Labour Code because it could not and therefore did not take away the appellants' right to overtime for any time worked in excess of 8 hours per day or 48 hours per week but only their right to overtime pay for work performed outside of the normal working times that is from 6 a.m. to 10 p.m. which does not engage section C 27 of Labour Code. The respondent argued that even if the collective agreement had purporting to abrogate the appellants right to overtime in accordance with section C 27 that provision or the portion of any provision which purported to do so would be invalid but its invalidity would not give rise to any entitlement of the appellants to payment for overtime not work or to any compensation. The Court is in agreement with the submissions of the respondent on this issue and here again we find no basis to interfere with the Industrial Court's refusal to make the order sought by the appellants in that regard. We accordingly dismiss the second of the appellants argued grounds of appeal. The respondent answered the appellants third ground by submitting that on the relevant facts and the applicable law, the appellants had no entitlement to overtime pay and the Industrial Court could not but so find. Once again, the Court agrees with the respondent's submissions on this issue and can find no basis to interfere with the ruling of the Industrial Court on the issue. The appellants third ground of appeal is also dismissed. All three grounds of appeal which were pursued by the appellants having been dismissed, the appeal is accordingly dismissed with no order as to cost. This is the unanimous judgment of the Court.
Case Name:		Titus G. T. Francis v

		Noreen N. Francis
		[ANUHCVP2014/0032]
Date:		Thursday, 1st June 2017
Coram:		The Hon. Mr. Davidson K. Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Dr. David Dorsett with him, Mr. Jarid Hewlett
	Respondent:	Mr. Rushaine Cunningham
Issues:		Application for extension of time to file a counter notice of appeal/relief from sanctions – Whether the learned trial judge erred in holding that the cause of action accrued at the earliest (under the Limitation Act) when the divorce was granted
Type of Oral Result/Order Delivered:		Oral Judgment or Decision
Result/Order:		[Oral delivery] 1. The appeal is allowed. 2. No order as to costs.
Reason:		This is an appeal against a decision of Henry J handed down on November 14th 2004, which was centered on the application of a Limitation Act 1997 (“the Act”), the Act to an action brought by the Respondent. The parties to the matter are former spouses. The fixed date claim form filed on 16th May 2013 the respondent sought a declaration that the appellant held certain parcels of real property on trust for both parties in equal shares or such other shares as the court deems just. A declaration that immediately prior to its transfer to a third party in May 1996. The respondent held certain real property on trust for the parties in equal

		shares or in such shares as the court deems just. An account of the value of the parcel sold in 1996 as at the time of its sale; an order for the sale of the two retained parcels and the proceeds to be divided equally or in such shares as the court deems just. Alternatively that the appellant pay the respondent the amount representing one-half of the current value of the two retained properties or such other amount as the court deem just and order that the appellant pay the respondent in the amount representing one-half of the aforesaid 1996 value of the sold property or such other amounts as the court deems just, interest and cost. Prior to the matter coming on for hearing the appellant filed an application seeking an order that the statement of case be struck out. The appellant argued that it disclosed no reasonable ground for bringing the action and constituted an abuse of process of the court as it was barred by section 17 of the Act. Section 17 of the Act provided that an action to recover land cannot be brought after the expiration of 12 years from the day on which the right to action accrued. Both parties agreed in the court below that Section 17 applies to the respondent's action. The appellant's position was that the parties lived separate and apart since 1992 thus the limitation period should commence from 1993 and that 12 years would have expired in 2005. The respondent's position in the court below is that the right of action in this matter arose from the earliest, at the date of dissolution of the marriage on the 20th October 2002 and not sooner; or alternatively when the appellant later disputed the respondent's entitlement to an interest in the properties and not at the point of separation which was sometime in 1992. This would have brought the institution of the respondent's claim within the limitation period established by section 17. The court below disagreed with the appellant that the right accrued on the separation of the parties. The court held that the respondent's claim to an interest in the properties arose by virtue of her rights required during her marriage to the appellant. Her property rights were therefore to a great extent pegged to her marital status. The court reasoned that separation does not terminate a marriage, only divorce. When a marriage is legally terminated, property rights acquired during the marriage are subject to determination and that the question of providing a remedy
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		does not arise until those rights have been infringed. Based on that analysis, the court concluded that the right of action accrued on the divorce of the parties. The court considered that at the time of filing the action the limitation period had not expired and the respondent was therefore able to name the action as there was no abuse of process. The appellant being dissatisfied appealed the High Court decision on the sole ground that the judge erred in law in holding that the earliest to right of action accrued (in the instant case considered below of the right to recover land) was upon the divorce of the parties the in 2002. The respondent opposed the appealed and filed an application for an extension of time to file a counter notice of appeal. This was to facilitate the respondent's desire to argue that the decision of the High Court should be upheld on the alternative ground that pursuant to section 23 (1)(b) of the Act, no limitation period prescribed by this Act shall apply to an action against the trustee for the recovery of trust property and that this was such an action. Upon consideration of that application, the court determined that pursuant to section (33)(1) and (2) of the Eastern Caribbean Supreme Court Act, the Court of Appeal possesses the necessary power to confirm the decision of the court below on a ground other than that actually argued before and relied upon in the court below and whether or not a counter notice have been filed in relation thereto. Consequently, the application for an extension of time to file a counter notice for the purpose indicated was considered unnecessary and was denied and the respondent was left to argue the section 23 1 (b) point within the appeal brought by the appellant. Dr. Dorsett appeared for the appellant and in essence his main argument for the appeal were as follows: 1. The action to recover land was not contingent on one's marital status, that is, status of marriage did not preclude the spouse from making any application to the court for a determine of property rights. It was therefore incorrect for the judge to conclude that the right of action accrued only on the divorce of the parties. The respondent had lodged cautions in 1993 and made the need to institute some action then to secure her interests. This submission was in direct answer to the judge's particular determination of when the cause of action arose. 2. That this was an action for recovery of land, the phrase
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		"land" is defined in the Act to include laches and any legal or equitable estate or interest therein. Therefore even if the respondent wished to categorize the assets under dispute which she sought to recover, as being subject to a trust in which she had claimed an equitable interest this was still an action for recovery of an interest in land and was therefore subject to the limitation period of 12 years set in section 17. 3. That even if the action was one considered to be exempted from the application of any limitation period by virtue of section 23 (1) (b) of the Act, it was still subject to the doctrine of laches due to the delay by the respondent who had waited some 20 years before filing the claim. Equity would not allow an action to be brought after a 20 year delay. Also it was necessary to look at the action in equity to ascertain whether it is analogous to any action of law for which a limitation period was applicable in the act and that equity would seek to apply that limitation period. Dr. Dorsett submitted that if this was a claim in equity it was analogous to the claim for recovery of land and that 12 year limitation period should apply. In response to Dr. Dorsett, Mr. Cunningham who appeared for the respondent argued as follows: 1. That the action of the court below was in essence an action against the trustee to recover trust property in the trustee's possession to which no limitation period applies by virtue section 23 (1) (b) of the Limitation Act. Section 23 (1)(b) reads as follows: No period of limitation prescribed by this Act shall apply to an action by beneficiary under a trust in an action to recover trust property in the possession of the trustee or property received by the trustee and converted to his own use. Similarly in relation to an action for accounting section 25 of the Limitation Act provides that an action for an account shall not be brought after the expiration of any time limit set under the Act which is applicable to the claim which is the basis for the duty to account. There being no time limit for the main recovery action under section 23 (1) (b) no time limit should apply to the accounting action for the purposes of the Act. Trust and Trustee are defined as attracting the same meaning as in the United Kingdom Trustee Act 1925. In that Act, trust is defined to include constructive trust. Consequently, the mechanism of constructive trust is not excluded under the rubric of section 23. This being a case of a constructive trust claim by the respondent no limitation period therefore applies.
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		2. That the equitable constructive trust is of purely equitable remedy and not having any analogous remedy in law and so no limitation period can apply by analogy. 3. In relation to the assertion of laches that at all material times the respondent was taking active steps to pursue her interest and that any delay is attributed to court administration. 4. That by virtue of section 19 of the Married Women's Property Act there is an implication that for the duration of the marriage, time does not begin to run in relation to property claims. The effect of section 17 is to provide a suspension of the running of time which provided according to Mr. Cunningham a cloak of protection which could not be removed without express legislative provision by parliament. Although this was not an action under the Married Women's Property Act that so called cloak of protection extended to the present case, because during the period of marriage, that is, up until divorce the property in question remained trust property. Analysis: The Court has considered the submissions in oral argument of the parties and determines as follows 1. The Court does not agree with the decision of the court below that in the case of action for the recovery of land by a wife to which section 17 is (presumed to be) subject (the parties there having agreed and the court having acted on the agreement that the action was governed by section 17) accrues only upon the divorce of the parties. No authorities were cited by the judge for that proposition and the Court can see no good reason to sustain it. The Court also disagrees with the respondent that the effect of section 19 of the Married Women's Property Act was to provide the respondent's counsel with a cloak of protection that prevented the time from running. Consequently, the respondent's argument that there is a similar benefit that could be extrapolated therefrom and be applied to a property claim made outside the Married Women's Property Act necessarily fails. This Court agrees with the appellant that the marital status does not infringe upon the right of the spouse to bring an action for a declaration for any interest in land the appellant would therefore succeed in relation to his sole ground. 2. Under section 33 (1) of the Eastern Caribbean Supreme
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Court Act on the hearing of an appeal in any civil court this Court is empowered to confirm, vary, amend or set aside the order made; or to make such order the High Court might have made or to make any order which ought to have been made and to make any such or further order as the nature of the case may require. Under section 33(2) the aforesaid powers may be exercised notwithstanding there is no notice of appeal or respondent's notice in respect of any particular part of the decision of the High Court or that any ground for allowing the appeal or affirming or varying the decision of the High Court is not specified in such notice. This Court is entitled to make any order in terms as it thinks just to ensure the determination of the merits of the real questions in controversy between the parties. This Court permitted the respondent to advance the argument that the decision of court below should be sustained on the premise that no limitation period applies to an action for recovery of trust property in the hands of trustees or where such was received by a trustee has been converted for his own use by virtue of section 23 1(b) of the Limitation Act. This was a matter of pure law. This Court agrees that this section applies to case at bar and therefore no limitation period applies to an action by the respondent. Section 23 1 (b) applies to an action by a beneficiary under a trust. Trust is defined by reference to definition in the 1925 United Kingdom Trust Act. In the Williams v Central Bank of Nigeria [2014] UKSC 10, it was confirmed that the constructive trusts were real trusts as against constructive trust of the remedial type included in the definition of trust as imported into Limitation Act. The type of trust claimed in this case is one based on the common intention of the parties and is a real trust and not a remedial trust. Consequently, no limitation period would apply to this claim.

3. We do not consider that any proper issue of laches or acquiescence arises. In an affidavit of the appellant filed on November 20th 2014 the appellant himself stated that "my wife and I separated in 1992 from that time until present the respondent has sought to have the court declare or otherwise grant her an interest in my land." A chronicle of the actions by the respondent is well detailed in the judgment given by Justice Michel as he then was, dated 14th December 2011. Further no evidence of any imbalance or prejudice has been shown to have been caused to the appellant making it insufficient to ground laches. See Lindsay Petroleum Co. v Hurd (1874) LR 5 PC

		221. 4. The Court considers that this is a claim that falls squarely under section 23 (1) (b). It is not a claim to recover land simpliciter. It is a claim to recover trust property against a trustee for which a specific statutory exemption from any limitation is provided by section 23 (1)(b) and it is therefore not captured by section 27. If section 27 were to apply it would leave a gaping hole in section 23 (1) (b) which could not have been intended. It would run contrary to the common law rule that deprives trustees of the right to raise limitation actions. Here (in relation to property case) which was given statutory effect in the Limitation Act. On this see Lord Sumption in Williams and Central Bank of Nigeria at paragraph 21. 5. On the issue of limitation by analogy, the traditional position appears to be that set out by Lord Sumption in Williams at paragraph 12 state and I quote, "by way of exception statutory limitation period were not applied even by analogy to claims by a beneficiary against a trustee for breach of trust. Trustees were accountable to the beneficiaries without limitation of time." In conclusion, although Dr. Dorsett succeed in relation to his sole ground of appeal, this Court confirms the decision of the High Court that there is no abuse of process and the respondent can maintain the action filed by her or on the alternative basis by virtue of section 23 (1) (b) of the Limitation Act; no limitation period applies to the action brought. Due to the basis on which the High Court decision is upheld we think that the proper order is that there be no order as to costs. That is decision of the Court.
Case Name:		Antigua Commercial Bank v Denise Armstrong [ANUHCVP2016/0002]
Date:		Thursday, 1st June 2017

Coram:		The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Kamilah Roberts
	Respondent:	Mr. Justin L. Simon, QC. with him, Mr. Kwame L. Simon
Issues:		Interlocutory appeal – Whether the Industrial Court erred in the application of the criteria on interim payments – Whether the Industrial Court failed to take into account the distinction between of the meaning of severance under the Antigua and Barbuda Labour Code; an agreement to pay an amount equivalent to severance under a voluntary separation agreement and the payment of the amount equivalent to severance for unfair dismissal – Whether the Industrial Court failed to consider the lack of consensus between the parties on whether or not there was a voluntary separation agreement – Whether the decision of the Industrial Court was based on an erroneous view of the severance entitlement as an inevitable result of the proceedings
Type of Oral Result/Order Delivered:		N/A
Result / Order:		Judgment reserved.
Case Name:		Special Security Services v Jamiel Jashon McDonald

		[ANUHCVP2017/0001]
Date:		Thursday, 1st June 2017
Coram:		The Hon. Mde. Louise E. Blenman, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Fiona Murphy
	Respondents:	No appearance
Issue:		Interlocutory appeal
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral delivery] 1. The hearing of this appeal is adjourned and traversed to the next sitting of the Court in Antigua and Barbuda during the week commencing 6th November 2017. 2. The Registrar of the High Court shall cause a Notice of Adjourned Sitting to be served on the respondent within 21 days of this order. 3. The Registrar of the High Court shall furnish the Court of Appeal with proof of service.
Reason:		The respondent was not served with notice of the hearing of the appeal.

Case Name:		Andre Michael v Kenneth Providence [ANUHCVP2016/0018]
Date:		Friday, 2nd June 2017
Coram:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Ms. Kamilah Roberts
	Respondent:	In person
Issue:		Application for an adjournment
Type of Oral Result / Order Delivered:		Directions
Result / Order:		[Oral delivery] The hearing of this appeal is adjourned to the next sitting of the Court of Appeal in Antigua and Barbuda during the week commencing the 6th November 2017.
Reason:		Having regard to the very short service on the respondent at 8:40 a.m. of the appeal hearing today, the respondent asked for an adjournment as he would be at a disadvantage.
Case Name:		Jehu Hand

		V Keith Mazer [ANUHCVP2016/0002]
Date:		Friday, 2 nd June 2017
Coram:		The Hon. Mr. Davidson Baptiste, Justice of Appeal The Hon. Mr. Mario Michel, Justice of Appeal The Hon. Mr. Anthony Gonsalves, QC., Justice of Appeal [Ag.]
Appearances:		
	Appellant:	Mrs. Janice Young-Christopher with her, Ms. Adonna Greenaway
	Respondent:	Mr. John Fuller
Issues:		Interlocutory appeal – Appeal against an unless order
Type of Oral Result / Order Delivered:		Oral Judgment or Decision
Result / Order:		[Oral delivery] 1. The appeal is dismissed. 2. No order as to costs.
Reason:		This is an appeal against an order by Justice Henry made on 2 nd December 2016. The order was made upon an application by the appellant who was the defendant in the court below to strike out the respondent's claim. The respondent being the claimant in the court below. The learned judge declined to make the application to strike out the claim at that particular time and instead she made an unless order that if the respondent, failed to meet his obligations on the previous order then his claim would have been struck out and she gave 14 days for him to comply. The learned judge adjourned further hearing of the matter. The respondent appeared to have complied in full with the terms of the unless order. The appellant

		appealed against the judge's order by notice of appeal filed on March 10th 2017. If this Court were to allow the appeal the consequence would be that a matter came before the judge, the judge considered the matter made an unless order, the unless order was complied with and following these events this Court is being asked to overturn that notwithstanding the compliance with an order to overturn it ab initio. Unfortunately we do not have to involve ourselves in that particular conundrum. The fact is the judge made an unless order which was an exercise of her discretion having the facts and information before her and clearly made a discretionary order declining to set aside the claim and instead allowing for an extension of time within which the respondent must comply with his obligations.
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		Nothing which has been presented before us whether this morning in oral argument or in the papers previously filed for this appeal have given us any basis upon which we could overturn the exercise of a discretion by the judge. The basis upon which the Court can so do has been clearly set out enumerable times in this and other courts, that the Court must be satisfied that the judge failed to consider matters that she ought to have considered or considered matters that she ought not to have considered and in so doing arrived at a position which was blatantly wrong. Nothing presented to this Court now or previously enables us to make such a finding. We therefore find no basis upon which we can upset, interfere with, overturn, set aside the discretionary order made by Justice Henry and we accordingly dismiss the appeal it. No order as to costs.
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