

**EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA**

IN THE COURT OF APPEAL

HCVAP 2010/042

BETWEEN:

**[1] SHOPPERS PHARMACY
[2] ROMANETA FRANCIS**

Appellants

and

PUBLIC UTILITIES AUTHORITY

Respondent

Before:

The Hon. Mr. Don Mitchell

Justice of Appeal [Ag.]

On written submissions:

The Appellants in Person

2012: February 20;
May 22.

Civil appeal – Interlocutory appeal – Service of notice of appeal – Leave to file notice of appeal

JUDGMENT

[1] **MITCHELL JA [AG]:** This is an appeal against an award of costs which comes up before me for determination as an interlocutory appeal. Interlocutory appeals are generally determined on paper by a single judge of the court pursuant to rule 62.10 of the **Civil Procedure Rules 2000**.

- [2] There is no indication that the Notice of Appeal was ever served on the respondents. Service on the other side is an essential pre-requirement for an appeal to be heard fairly. Nor is there any indication on the file that the appellants ever applied for or obtained the leave of the court below or of this court to file this appeal. An appeal against a costs order always requires leave under the provisions of section 26 of the **Eastern Caribbean Supreme Court Act**.¹
- [3] No such leave having been obtained, the Notice of Appeal is struck out as a nullity.

Don Mitchell
Justice of Appeal [Ag.]

¹ Cap. 143, Laws of Antigua and Barbuda.