

CHAMBER HEARING

November 2013

MATTERS DEALT WITH ON PAPER

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

Case Name: Clive Hodge
(as administrator of the Estate of the Late
Rupert Hodge, deceased)
v
Elfrida Alethea Hughes
(in a personal capacity and as Administratrix
of the
Estate of Leopold Bomont Hodge, deceased)
[AXAHCVAP2013/0005]
(Anguilla)

Date: Tuesday, 19th November 2013

On paper:

Appellant: Jenny Lindsay & Associates

Respondent: Caribbean Juris Chambers

Issues: Application for leave to appeal – Application for relief from sanctions – Application for extension of time – Injunction

Result / Order: IT IS HEREBY ORDERED THAT:
The application for injunctive relief amongst other relief is referred to the Full Court of Appeal sitting in Anguilla during the week of 2nd December 2013.

Case Name:

**IN THE MATTER of the Registered Land
Act, Revised Statutes of Anguilla, Chapter
R30, Section 147**

AND

**IN THE MATTER of an Appeal by Collins
Richardson, Carolyn Richardson
(Administrator of the Estate of John Samuel
Richardson); Boswell Richardson; Calvin
Richardson; Leslie Richardson as
Administrator of the Estate Alma Richardson;
Margie Hughes as Administrator of the Estate
of Evangeline Hughes; Estell Hughes as
Administrator of the Estate of Samuel
Benjamin Richardson; Calvin Richardson as
Administrator of the Estate of Victor
Richardson; Robert Austin Richardson as
Administrator of the Estate of Eneria
Richardson; Royston Richardson as
Administrator of the Estate of James
Richardson; Oliver MacDonna as
Administrator of the Estate of Jane Rebecca
Richardson and Sybil Ryhmer as the
Administrator of the Estate of Florence
Richardson against a decision of the
Registrar of Lands dated 28th September 2010
and 7th July 2011
[AXAHCVAP2013/0008]
(Anguilla)**

Date:

Tuesday, 19th November 2013

On paper:

**Applicant / Intended
Appellant: Mr. Clyde Williams**

**Respondent: Joyce Kentish & Associates for first, second, third
and fourth respondents**

Chancery Lane Chambers for seventh respondent

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

Result / Order: IT IS HEREBY ORDERED THAT:
Leave to appeal and stay are granted

Reason: The Court noted that the applicant has met the threshold required for the grant of leave to appeal and stay of execution and the Court was satisfied that the applicant had a good prospect of success and if the stay was not granted there was a real risk of injustice to the applicant.

Case Name:

**[1] BRILLA CAPITAL INVESTMENT MASTER
FUND SPC LIMITED (A Cayman Islands
segregated portfolio company, for and on
behalf of Brilla Cap Juluca Segregated
Portfolio M, a segregated portfolio thereof)**
[2] ANGUILLA HOTEL INVESTORS II LIMITED
[3] BRIDGE FUNDING LIMITED
v
**[1] JOHN GREENWOOD (Acting as Liquidator
appointed to Leeward Isles Resorts Limited
(In Liquidation) by Order dated 4 May 2012**
**[2] LEEWARD ISLES RESORTS LIMITED (IN
LIQUIDATION)**
[3] CAP JULUCA L&C LIMITED
[4] CAP JULUCA L&C PROPERTIES LTD
[5] CHARLES & LINDA HICKOX
**[6] ANGUILLA SOCIAL SECURITY BOARD
(AXAHCVAP2013/0007)
(Anguilla)**

Date: Tuesday, 19th November 2013

On paper:

Appellant: Chancery Lane Chambers

Respondent: Daniel Brantley & Associates

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

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal and stay is referred to the Full Court for consideration in Anguilla during the week of 2nd December 2013.

Case Name:

**Sea Sports Limited
v
Xtreme Marine Limited**

**[ANUHCVP2013/0020]
(Antigua & Barbuda)**

Date: Tuesday, 19th November 2013

On paper:

Appellant: Rika Bird & Associates

Respondent: Hill & Hill Chambers

Issues: Application for extension of time to file a notice of appeal – Application for notice to be deemed properly filed

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is to comply with Practice Directions Nos. 2 and 3 of 2008.

Reason: The Court noted that no notice of appeal has been

filed as indicated in the application.

Case Name:

Blandina Francis Negga

v

**The Registered Proprietors of Lands
Contained in Registration Section Hodges
Bay & Thibou's Block 43 21978 Parcel 157,
Jeff Hadeed**

**[ANUHCVAP2007/0024]
(Antigua & Barbuda)**

Date:

Tuesday, 19th November 2013

On paper:

Appellant:

St. Mary's Chambers

**Respondent
Applicant:**

/ Mr. John Fuller

Issue:

Application to strike out appeal

**Result / Order /
Reason:**

IT IS HEREBY ORDERED:

**The notice of appeal filed on 24th August 2007 having
been filed out of time is struck out due to non-
compliance with Part 62.5 of CPR 2000 as amended.**

Case Name:

Doris Francis

v

**Althea James, Attorney for Vincent Benjamin,
George Benjamin
Meme Ben Watson, Hazel Downes, Gordon
Benjamin and Kathleen Irvine**

[ANUHCVAP2013/0021]

(Antigua & Barbuda)

Date: **Tuesday, 19th November 2013**

On paper:
Applicant / Intended Appellant: **Watt, Dorsett & Co.**

Issue: **Application for leave to appeal**

Result / Order: **IT IS HEREBY ORDERED THAT:**
1. Leave is granted to the applicant to appeal against the Order of Her Ladyship the Honourable Justice Clare Henry made on 18th October 2013.
2. The notice of appeal be filed within 21 days of this order.
3. The costs of this application be costs in the appeal.

Reason: **The Court was satisfied that the applicant has a real prospect of success.**

Case Name: **[1] Michael Simpson Roberts**
v
[1] Mona Johnson
[2] Theresa Groton
[Commonwealth of Dominica]
[DOMHCVAP2013/0024]

Date: **Tuesday, 19th November 2013**

On paper:
Applicant / Intended Appellant: **Harris & Harris**
Respondent: **Heather Felix-Evans Chambers**

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is granted leave to appeal the order of Thomas J made on 11th October 2013.

Reason: The Court was of the opinion that the applicant has shown that he has a realistic prospect of success.

Case Name: Selwyn Augustus Marshall
v
Curtis Marshall
[GDAHCVAP2013/0027]
(Grenada)

Date: Tuesday, 19th November 2013

On paper:

Appellant:	Mr. Grant Joseph
Respondent:	Ms. Kim George

Issue: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for stay of execution of the Order of Hon. Madam Justice Paula Gilford dated 24th October 2013 is granted.
2. There is no order as to costs.

Reason: The court noted that the applicant has a real prospect of success and that there was a risk of injustice to the applicant if the stay was refused. Further, the Court was of the opinion that the

applicant has met the threshold requirements for the grant of a stay.

Case Name:

**Phillip Andrew
(Administrator of the Estate of Rosanna
Andrew, deceased)
v
James Andrew
[GDAHCVAP2013/0006]
(Grenada)**

Date:

Tuesday, 19th November 2013

On paper:

**Appellant /
Applicant:**

Ciboney Chambers

Respondent:

Ms. Denise Campbell

Issue:

Application for extension to file and serve notice of appeal

Result / Order:

**IT IS HEREBY ORDERED THAT:
The application for extension of time to file the notice of appeal is dismissed.**

Reason:

The Court was of the opinion that, notwithstanding the correspondence received from Ms. Denise Campbell, legal practitioner for the Respondent, which indicated that the respondent does not intend to oppose the application for extension of time to file and serve a notice of appeal, the applicant has not satisfied the criteria for the grant of an extension of time as set out in the case of John Cecil Rose v Anne Marie Uralis Rose (St. Lucia, SLUHCVP2003/0019, delivered September 2003, unreported).

Byron CJ in John Cecil Rose v Anne Marie Uralis Rose held that granting an extension of time is a discretionary power of the Court, which will be exercised in favour of the applicant for good and substantial reasons. The matters which the Court will consider in the exercise of its discretion are: (1) the length of the delay; (2) the reasons for the delay; (3) the chances of the appeal succeeding if the extension is granted; and (4) the degree of prejudice to the respondent if the application is granted.

The applicant in this case failed to satisfy the criteria as laid down by Byron CJ.

Case Name:

**[1] Denzil Edgecombe
v
[1] The Premier
[2] The Attorney General
[MNIHCVAP2013/0003]
(Montserrat)**

Date:

Tuesday, 19th November 2013

On paper:

**Appellant: Dr. David Dorsett
Respondent: Ms. Karen Reid**

Issue:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for leave to appeal is referred to the Full Court to be heard during the sitting of the Court in Montserrat scheduled for the week commencing 2nd December 2013.**
- 2. The applicant is to file a copy of the Order made on 25th September 2013.**

Reason: The Court was minded to refuse leave as such it made an order pursuant to rule 62.2(5) of the Civil Procedure Rules 2000.

Case Name: [1] Caribbean Building Systems (St. Kitts) Ltd.
[2] Adam Bilzerian
v
[1] First Caribbean International Bank (Barbados) Limited
[SKBHCVAP2013/0007]
(Saint Christopher and Nevis)

Date: Tuesday, 19th November 2013

On paper:

Applicant / Intended Appellant: Mr. John Thyme

Respondent: Kelsick, Wilkin & Ferdinand

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

Result / Order: IT IS HEREBY ORDERED THAT:
1. The applications for leave to appeal and the stay are struck out due to non-compliance with Part 62.2 of CPR 2000 Rules as amended.
2. Costs awarded to the respondents in the sum of \$1,000.00.

Reason: The Court noted that the applicants have failed to provide the Court with a copy of the order in relation to which leave is being sought to appeal.

Case Name: [1] Caribbean Building Systems (St. Kitts)
Ltd.
[2] Adam Bilzerian
v
[1] First Caribbean International Bank
(Barbados) Limited

[SKBHCVAP2013/0011]
(Saint Christopher and Nevis)

Date: Tuesday, 19th November 2013

On paper:

**Applicant / Intended
Appellant:** Mr. John Thyme

Respondent: Kelsick, Wilkin & Ferdinand

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

Result / Order: IT IS HEREBY ORDERED THAT:
The applications be heard by the Full Court at its
sitting in the Federation of St. Kitts and Nevis during
the week commencing 10th February 2014.

Reason: The Court was minded to refuse leave as such it
made an order pursuant to rule 62.2(5) of the Civil
Procedure Rules 2000.

Case Name: [1] Carmel Bernadette Agnes McGill
[2] Laszlo Stephen Siegmund
v
[1] The Attorney General of St. Christopher

**and Nevis
[2] KHT Land Holdings Limited**

**[SKBHCVAP2013/0022]
(Saint Christopher and Nevis)**

Date: Tuesday, 19th November 2013

On paper:

Appellant: Mr. E. Anthony Ross, QC

Respondent: Attorney General Chambers for the first respondent
Kelsick, Wilkin & Ferdinand for the second respondent

Issue: Application for leave to appeal

Result / Order / Reason: IT IS HEREBY ORDERED THAT:
Leave to appeal is granted on the basis that the Court is satisfied that the applicant has met the required threshold.

Case Name: Coecilia St. Romaine
v
The Attorney General

**[SLUHCVAP2012/0019]
(Saint Lucia)**

Date: Tuesday, 19th November 2013

On paper:

Appellant: Mr. Martinus Francois

Respondent: Attorney General Chambers

Issue: Application for matter to be set for St. Lucia sitting

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for the respondent to file and serve submissions and authorities in response is granted, such submissions to be filed and served on or before 29th November 2013.
2. The matter is to be listed for case management at the sitting of the Court of Appeal in Saint Lucia during the week commencing 16th December 2013.

Case Name:

Bryan James

v

The Attorney General

[SLUHCVAP2013/0023]

(Saint Lucia)

Date:

Tuesday, 19th November 2013

On paper:

Appellant:

Mr. Horace Fraser

Respondent:

Attorney General's Chambers

Issue:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

The application for leave to appeal the decision of Taylor-Alexander M dated delivered 10th October 2013 is granted.

Reason:

The Court was of the opinion that the applicant has a real prospect of success.

Case Name: **James Enterprises Limited**
v
The Attorney General
[SLUHCVAP2013/0024]
(Saint Lucia)

Date: **Tuesday, 19th November 2013**

On paper:

Appellant: **Mr. Horace Fraser**

Respondent: **Attorney General's Chambers**

Issue: **Application for leave to appeal**

Result / Order: **IT IS HEREBY ORDERED THAT:**
The application for leave to appeal the decision of
Taylor-Alexander M dated delivered 10th October
2013 is granted.

Reason: **The Court was of the opinion that the applicant has a**
real prospect of success.

Case Name: **Kimran Gaston**
v
West Indies General Insurance Company
Limited
[SLUHCVAP2013/0020]
(Saint Lucia)

Date: **Tuesday, 19th November 2013**

On paper:

Appellant: Ms. Lydia Faisal with her Mrs. Petra Nelson

Respondent: Mr. Eghan Modest

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant is directed to forward a copy of the perfected order of Wilkinson J dated 3rd September 2013 to the Court's headquarters and to serve a copy of the order on the respondent within 7 days of this order.
2. The applicant is directed to obtain a copy of the transcript of the hearing of Wilkinson J and the decision and transmit to the Court of Appeal within 7 days of this Order.
3. The applicant shall serve a copy of the transcript of hearing before Wilkinson J and the decision of Her Ladyship on the respondent within 7 days of this order.
4. The applicant is granted leave to file and serve further submissions, if necessary on or before 29th November 2013.
5. The respondent is granted leave if necessary to file and serve further submissions on or before 6th December 2013.
6. The application is adjourned for consideration by the Court at its sitting in Saint Lucia during the week of 16th December 2013.

Case Name:

**William Clerfond
v
Foshland Incorporated
[SLUHCVAP2013/0027]
(Saint Lucia)**

Date:

Tuesday, 19th November 2013

On paper:

Appellant: Fraser and Company

Respondent: Green, Nelson & Associates

Issues: Application for leave to appeal – Application for stay pending appeal

Result / Order / Reason:

IT IS HEREBY ORDERED THAT:

1. No leave being required in so far as this is a final order.
2. The application for leave to appeal is refused.
3. Costs in the sum of \$1,000.00.

Case Name:

[1] Lazarus Paul

v

[1] Raquel Willie-Trotman

[2] Douglas Trotman

[3] Teferi Trotman

(minor acting herein and represented by his mother Raquel Willie-Trotman)

[SLUHCVP2013/0028]

Date:

Tuesday, 19th November 2013

On paper:

Applicant / The Law Offices of Gerard R. Williams
Appellant:

Respondent: Ms. Wauneen Louis-Harris

Issues: Application for leave to file notice of appeal – Application to stay order for committal proceedings

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall transmit to the Court of

Appeal and serve a copy of the order of 21st October 2013 within 7 days of this order. The applicant is to provide the Court of Appeal with the Judge's reasons for the decision. Alternatively, the applicant is to transmit the certified copies of the transcript of the hearing to the Court of Appeal within 7 days of this order.

2. The applicant is granted leave to file and serve further submissions, if necessary within 7 days of this Order.
3. The respondent is granted leave if necessary, to file and serve further submissions on or before 6th December 2013.
4. The applications are adjourned for further consideration by the Court during the week commencing 16th December 2013.

Reason:

The appellant failed to transmit to the Court a copy of the order of 21st October 2013 and the reasons for the decision appeal against.

Case Name:

[1] Rhona a.k.a. Lorna Mary Cox

v

[1] Cecile Beryl Ryan Cox

[2] Theobald Cox

[SLUHCVAP2013/0003]

(Saint Lucia)

Date:

Tuesday, 19th November 2013

On paper:

**Applicant
Appellant:**

/ Gordon, Gordon & Co.

Respondent:

Winston, Hinkson & Associates

Issue:

Application for extension of time to file record of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for extension of time to file the record of appeal is granted to 24th October 2013.
2. The record of appeal filed on 24th October 2013 is deemed properly filed.

Reason:

The Court was satisfied that the applicant has met the prerequisites for the favorable exercise of the Court's discretion.

Case Name:

**Valentine James
v
The Bank of Nova Scotia
[SLUHCVAP2013/0029]
(Saint Lucia)**

Date:

Tuesday, 19th November 2013

On paper:

**Applicant / Intended
Appellant: Ms. Wauneen Louis-Harris**

Respondent: McNamara & Co.

Issues:

Application for leave to appeal – Application for stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall serve a copy of the application for leave and stay of execution and supporting documents filed on 8th November 2013 on the respondent within 7 days of this order.
2. The respondent shall thereafter comply with Practice Directions Nos. 2 and 3 of 2008.
3. The application is adjourned to the next chamber

hearing in Saint Lucia scheduled for 21st January 2014.

Reason: The Court noted that the applications filed on the 8th November 2013 were not served on the respondent.

Case Name: Junior Miller
v
The Commissioner of Police
[SVGMCRAP2013/0025]
(Saint Vincent and the Grenadines)

Date: Tuesday, 19th November 2013

On paper: Applicant / In person
Appellant:
Respondent: Office of the Director of Public Prosecutions

Issue: Application for bail

Result / Order / Reason: IT IS HEREBY ORDERED THAT:
The application for bail is refused since the applicant has failed to provide any exceptional circumstances upon which the court can exercise its discretion in his favour.

Case Name: James Gordon
v
The Queen
[SVGHCRAP2013/0010]

(Saint Vincent and the Grenadines)

Date: Tuesday, 19th November 2013

On paper:
Applicant / **In person**
Appellant:

Respondent: Office of the Director of Public Prosecutions

Issue: Application for bail

Result / Order: IT IS HEREBY ORDERED THAT:
The application for bail is refused.

Reason: The Court noted that the applicant has failed to provide any exceptional circumstances upon which the Court could have exercised its discretion.

Case Name: Calvert Rodney
v
The Queen

[SVGHCRA2013/0004]
(Saint Vincent and the Grenadines)

Date: Tuesday, 19th November 2013

On paper:
Appellant: In person

Respondent: Office of the Director of Public Prosecutions

Issue: Application for bail

Result / Order / IT IS HEREBY ORDERED THAT:

Reason: The application for bail is refused since the applicant has failed to provide any exceptional circumstances upon which the court can exercise its discretion in his favour.

Case Name: Cosmos Hackshaw
v
The Queen
[SVGHCRA2012/0025]
(Saint Vincent and the Grenadines)

Date: Tuesday, 19th November 2013

On paper:
Applicant / Frederick Attorneys
Appellant:
Respondent: Office of the Director of Public Prosecutions

Issue: Application for counsel to be removed record

Result / Order: IT IS HEREBY ORDERED THAT:
The application to be removed from the record as Counsel for the appellant is granted.

Reason: The Court was satisfied that the applicant provided good reasons for the exercise of the Court's discretion.

Case Name: [1] Velda Charles
v
[1] Elizabeth Cain
[2] Adina Latham

(by their Attorney on Record Elmore Cain)

**[SVGHCVAP2013/0010]
(Saint Vincent and the Grenadines)**

Date: **Tuesday, 19th November 2013**

On paper:

Appellant: **Mrs. Kay Bacchus-Browne**

Respondent: **Marks and Marks**

Issue: **Application for stay of execution and all further proceedings**

Result / Order: **IT IS HEREBY ORDERED THAT:
The application for a stay of execution of the judgment of Her Ladyship, Madam Justice Gertel Thom dated 26th August 2013 and all further proceedings on the order pending the hearing and determination of the appeal is granted.**

Reason: **The Court was satisfied that the applicant met the threshold requirements for the grant of a stay.**