

CHAMBER HEARING

21st October 2014

Before:		The Hon. Mr. Davidson Kelvin Baptiste, Justice of Appeal
		<u>MATTERS DEALT WITH ON PAPER</u>
Case Name:		Remy Lawrence t/a Rejens Services v Willem Nico aka Wilco Brouwer [DOMHCVAP2014/0014] (Commonwealth of Dominica)
Date:		Tuesday, 21st October 2014
On paper:		
	Appellant:	Mr. Lennox Lawrence (Lennox Lawrence Chambers)
	Respondent:	Ms. Heather F. Felix-Evans (Heather F. Felix-Evans Chambers)
Issues:		Application for stay of execution
Result / Order:		IT IS HEREBY ORDERED THAT: That the application for a stay of execution of the Order of Thomas J dated 2nd May 2014 is refused.
Reason:		The court was of the view that the applicant made bold assertions in respect of personal and financial jeopardy but did not provide the evidential basis in support. The court could not conclude that the applicant would face ruination or that the appeal would be rendered nugatory if the stay was not

		granted. Further, the applicant's affidavit evidence was not full and frank and no evidence was provided as to his income, assets and liabilities. The court noted that the mere existence of an arguable ground of appeal is not of itself a good reason to deprive a successful party of his right to enforce a judgment. The court further noted that, although the applicant was served with the respondent's affidavit in opposition to the application for a stay on 5th September 2014 deposing to, inter alia, further court proceedings directly impacting on the application for a stay, the applicant made no attempt to address the various orders made subsequently to his application being filed, which orders directly impacted on his application for a stay. The court was also of the view that the affidavit evidence did not demonstrate a risk of injustice to the applicant if the stay was refused.
Case Name:		Steven Joseph v The State [DOMHCRAP2014/0003] (Commonwealth of Dominica)
Date:		Tuesday, 21st October 2014
On paper:		
	Applicant:	In person
Issue:		Application for leave to appeal conviction and sentence
Result / Order:		IT IS HEREBY ORDERED THAT: The application for leave to appeal is refused.

Reason:		The application for leave was not filed within the time prescribed by section 46 of the Eastern Caribbean Supreme Court (Dominica) Act and no application for extension of time was filed.
Case Name:		Fitzgerald Winston v J. Astaphan & Co. (1970) Ltd [DOMHCVAP2014/0022] (Commonwealth of Dominica)
Date:		Tuesday, 21 st October 2014
Appearances:		
	Applicant:	Joshua Francis Chambers
Issues:		Application for leave to appeal
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The applicant shall furnish a copy of the Order being appealed on or before 31 st October 2014. 2. The application for leave to appeal is adjourned to the next Chamber Hearing on 18 th November 2014.
Reason:		The court noted that the application for leave referred to an affidavit accompanying the said application but none was attached. The court further noted that the Order of Thomas J being appealed was not provided.

Case Name:		Yoland Jno. Jules Valantine Joseph Anselm James Leblanc John Augustine v Emmanuel Royer Mona Virginia Royer [DOMHCVAP2011/0026] (Commonwealth of Dominica)
Date:		Tuesday, 21st October 2014
On paper:		
	Appellants/ Applicants:	Ms. Noelize N. Knight Didier (Harris & Harris)
Issue:		Application for 2nd respondent to be appointed representative for 1st respondent and for service to be effected – Application for extension of time for service of appeal
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The 2nd respondent be appointed, and served with all documents in these proceedings, as the representative of the 1st respondent for the purpose of these proceedings pursuant to rule 21.7(1) of the Civil Procedure Rules. 2. All documents in these proceedings be served on the 2nd respondent by registered post at her last known residence at 48 Old Street, Roseau, Commonwealth of Dominica. 3. The time for service of the notice of appeal is extended to 5th November 2014.

Reasons:		The court was satisfied that the requirements for the appointment of a representative pursuant to rule 21.7(1) of the Civil Procedure Rules 2000 were met.
Case Name:		Mc Laren Pemberton v Chief of Police [SKBMCRAP2014/0013] (Saint Christopher and Nevis)
Date:		Tuesday, 21 st October 2014
On paper:		
	Applicant:	Mr. Hesketh W. Benjamin
Issue:		Application for leave to appeal and extension of time to file appeal
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The applicant is granted leave to file a notice of appeal out of time. 2. The notice of appeal is to be filed and served within 7 days' of the date of this Order.
Reason:		The court was satisfied that the requirements for the grant of leave and the requirements for an extension of time were met.

Case Name:		Nagico Insurance Company Limited v Travia Douglas Shivoughn Warde Dwight Warde [SKBHCVAP2014/0007] (Saint Christopher and Nevis)
Date:		Tuesday, 21st October 2014
Appearances:		
	Applicant:	Kelsick, Wilkin & Ferdinand
Issues:		Application for extension of time to file notice of appeal
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The application for extension of time to file a notice of appeal is granted. 2. The notice of appeal is to be filed within 7 days of the date of this Order.
Reason:		The court noted the order of Blenman JA dated 24th July 2014 and the order of Michel JA dated 23rd September 2014 and that there was compliance by the applicant with the said orders. Further, the court was of the opinion that the applicant satisfied the requirements as set out in John Cecil Rose v Anne Marie Rose SLUHCVAP2003/0019 for the grant of extension of time. The court found that the applicant had shown that despite the length of the delay, they had good reasons for the delay in filing the appeal, that there would be no prejudice to the respondents and that the appeal had a good chance of success.

Case Name:		Indra Hariprashad-Charles v Bank of Nova Scotia [SLUHCVAP2014/0015] (Saint Lucia)
Date:		Tuesday, 21st October 2014
On paper:		
	Applicant:	Mr. Gerard Williams (The Law Offices of Gerard R. Williams)
	Respondent:	Mr. Colin J. K. Foster
Issues:		Application to deem submissions in opposition properly filed
Result / Order:		IT IS HEREBY ORDERED THAT: The submissions of the respondent filed on 19th September 2014 are deemed properly filed.
Reasons:		The court was satisfied that the requirements for the grant of an extension of time were met.
Case Name:		Francis Maurice v Marlene Briere-Cherry [SLUHCVAP2014/0009] (Saint Lucia)
Date:		Tuesday, 21st October 2014
On paper:		

	Appellant/Applicant :	Mr. Alvin St. Clair (Alvin St. Clair & Associates)
	Respondent:	Mr. Horace Renison Fraser (Fraser & Company)
Issues:		Application for stay of execution
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The application for a stay of execution of the Order of Belle J dated 24 th February 2014 is refused as the threshold requirements have not been met. 2. The appellant/applicant is to pay costs in the sum of \$1000.00 to the respondent.
Reason:		The court found that the applicant had not shown grounds for the grant of a stay, in particular, how the refusal of a stay would cause him ruin.
Case Name:		Brennetta Dublin v Rainnay Blake [SVGMCVAP2014/0005] (Saint Vincent and the Grenadines)
Date:		Tuesday, 21st October 2014
On paper:		
	Applicant:	In person
Issues:		Application for extension of time to appeal

Result / Order:		IT IS HEREBY ORDERED AND DIRECTED THAT: 1. The Registrar is to serve a copy of the Order of 23 rd September 2014 and a copy of this Order on the applicant and respondent and provide evidence of service on or before 10 th November 2014. 2. The applicant shall comply with the Order of 23 rd September 2014 on or before 17 th November 2014, otherwise the application for extension of time shall stand dismissed.
Reason:		The court noted that the appellant had not provided reasons for the delay in making the application. The court further noted the order of Michel JA dated 23 rd September 2014 and that that the applicant had not complied with the said Order.
Case Name:		Sjada Daniel v The Commissioner of Police [SVGMCRAP2014/0013] (Saint Vincent and the Grenadines)
Date:		Tuesday, 21st October 2014
On paper:		
	Applicant:	In Person
Issues:		Application for extension of time to appeal
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The applicant is granted a further period of 14 days from the date of this Order within which to

		file and serve a notice of appeal. 2. The notice of appeal is to be filed on or before 5th November 2014.
Reason:		The court was satisfied that the applicant met the requirements for the grant of an extension of time.
Case Name:		Gailene Simmons v Uranus Jordan [SVGMCVAP2014/0014] (SAINT VINCENT)
Date:		Tuesday, 21 st October 2014
On paper:		
	Appellant:	Mr. Olin J. B. Dennie (Olin J. N. Dennie Law Chambers)
Issues:		Application for extension of time to appeal
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The applicant shall serve the application and supporting documents on the respondent on or before 7th November 2014. 2. The application for extension of time to appeal is adjourned to the next Chamber Hearing on 18th November 2014.
Reason:		The court observed that there was no evidence of service on the respondent.

Case Name:		[1] Ayton Limited [2] Corporate Directors Limited [3] St Vincent Trust Service Limited [4] Lex Services Limited v Andrew Popely [SVGHCVAP2012/0007] (Saint Vincent and the Grenadines)
Date:		Tuesday, 21st October 2014
On paper:		
	Appellants/ Respondents:	Mr. G. Grahame Bollers (Regal Chambers)
	Respondent/ Applicant:	Ms. Keisal Peters (Elizabeth Law Chambers)
Issues:		Application to strike out appeal for want of prosecution
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The respondent/applicant shall provide evidence of service of the application on the 1 st appellant on or before 7 th November 2014 and provide evidence of such service. 2. The application to strike out the notice of appeal is adjourned to the Chamber Hearing on 18 th November 2014.
Reason:		The court noted the affidavit of service filed on 7th October 2014 and observed that service was effected on appellants 2 – 4 but not on appellant 1.

Case Name:		Cameron Balcombe v Rawlston Stewart [SVGMCVAP2014/0013 (Saint Vincent and the Grenadines)
Date:		Tuesday, 21st October 2014
On paper:		
	Appellant:	Dr. Linton A. Lewis (Dr. Lewis Law Chambers)
	Respondent:	Marks & Marks
Issues:		Application for leave to appeal and extension of time to appeal out of time
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The applicant shall provide a copy of the judgment or order being appealed on or before 7th November 2014. 2. Consideration of the application for leave to appeal out of time is adjourned to the next Chamber Hearing on 18th November 2014.
Reasons:		A copy of the judgment or order being appealed was not provided to the court.
Case Name:		Annella Marella James v [1] Tyrone Burke

		[2] The Attorney General [3] The Accountant General [SVGHCVAP2014/0006 (Saint Vincent and the Grenadines)
Date:		Tuesday, 21st October 2014
On paper:		
	Applicant:	In person
	Respondent:	Richard Williams (Williams & Williams)
Issue:		Application for extension of time to appeal – Application to adduce fresh evidence
Result / Order:		IT IS HEREBY ORDERED THAT: The application for extension of time within which to file a notice of appeal and to adduce fresh evidence is adjourned for hearing to the next sitting of the Court of Appeal in St. Vincent and the Grenadines scheduled for the week 9th to 13th February 2015.
Case Name:		Sheikh Mohamed Bin Issa Al Jaber v Unicredit Bank Austria AG Registrar of Corporate Affairs Immoconsult ares Leasingggellschaft MBH Charlotte Caulfield Galeana Telecommunications Investments Inc [BVIHCMAP2013/0021] (Territory of the Virgin Islands)

Date:		Tuesday, 21st October 2014
On paper:		
	Respondent/Appellant:	Sabals Law
	Respondents:	
	Applicant/Respondent	Forbes Hare (for Galeana Telecommunications Investments Inc.)
Issues:		Application to strike out notice of appeal/permission to amend the notice of appeal/extension of time to comply with rule 62.10 of the Civil Procedure Rules 2000 – Permission to file and serve an amended notice of appeal – Extension of time to service notice of appeal and submissions
Result / Order:		IT IS HEREBY ORDERED THAT: 1. In the exercise of the Court's discretion, the appellant is granted permission to file and serve an amended notice of appeal to add the heading "Interlocutory Appeal interlocutory made under Rule 62.10 of the Civil Procedure Rules" within 7 days of the date of this Order. 2. The appellant is granted an extension of time to serve the notice of appeal on the respondents and interested parties and the service effected on the parties is deemed good service. 3. Time is extended for the filing and service of submissions and bundle of documents and such service as has been effected on the parties shall be deemed good service. 4. The respondents shall file submissions in response to the appeal within 14 days of the date of this Order, if necessary. 5. The hearing of this interlocutory appeal shall be scheduled for the next sitting of the Court of Appeal in the Territory of the Virgin Islands in January 2015. 6. The application to strike out the notice of appeal is accordingly refused. 7. The applicant/respondent shall pay costs of the application to strike out to the appellant in the

		sum of \$1000.00.
Reason:		The court noted that the overriding objective of the case demanded that the court exercise its discretion to put matters right and that there is no sanction under CPR 62.10 for not filing submissions along with the notice of interlocutory appeal and therefore there would be no need for the provisions of CPR 26.8 to be complied with. The court further noted that that the appellants attempted to remedy the procedural defects of their appeal by seeking extensions of time and have now filed the required documents to allow the appeal to move forward and the court was also of the opinion that the appeal has a real prospect of success.
Case Name:		[1] Zorin Sachak Khan [2] Afaque Ahmed Khan [3] Sasheen Anwar v [1] Gany Holdings (PTC) SA [2] Asif Rangoonwala [BVIHCMAP2014/0018] (Territory of the Virgin Islands)
Date:		Tuesday, 21 st October 2014
On paper:		
	Appellants/ Respondents:	Mr. Robert Christie (Ogier)
	Respondents/ Applicants:	Ms. Arabella di Iorio (Maples and Calder – for the first respondent) Mr. Jonathan Ward (Appleby for – the 2 nd respondent)
Issues:		Application for security for costs

Result / Order:		IT IS HEREBY ORDERED THAT: 1. The appellants shall provide to the first respondent and second respondent the sum of US\$300,000.00 each as security for costs which will be incurred by the respondents in defending the appeal within 14 days of the date of this Order. 2. The said sums are to be paid into a joint account held in the names of the legal practitioners for the respondents. 3. In the event that the security is not provided in the amount, in the manner and by the time ordered, the appeal shall stand dismissed with costs to be assessed if not agreed within 21 days. 4. The costs of these applications shall be costs in the appeal.
Reason:		The court was of the view that the applicants have satisfied the requirements for the grant of the application for security to be provided by the appellants in this appeal. The court was also of the view that despite the fact that the appellants have shown that they have ATE Insurance coverage, this coverage is subject to many provisions which may lead to the cancellation of the policy, leaving the respondents exposed in the event that the appellants are unable to pay costs.
Case Name:		Unicorn Worldwide Holdings Limited v Bluestone Securities Limited [BVIHCMAP2014/0021] (Territory of the Virgin Islands)
Date:		Tuesday, 21st October 2014
On paper:		
	Appellant:	Mr. Kissock Laing (Harney Westwood & Riegels)

Issues:		Application for leave to appeal
Result / Order:		IT IS HEREBY ORDERED THAT: 1. The applicant is hereby granted leave to appeal the Judgment and Order of the Honourable Justice Edward Bannister QC, dated 24 th October 2014 (the Order), in the Commercial Division of the High Court claim number BVIHC (COM) 0069 of 2011 striking out the Originating Application filed on 13 th June 2014 by Unicorn Worldwide Holdings Limited (the Applicant) by which the Applicant was seeking the appointment of liquidators over Bluestone Securities Limited (the Respondent). 2. Costs of the Applicant's application for leave to appeal are to be costs in the appeal.
Reasons:		The court was satisfied that the requirements for leave to appeal were met.
Case Name:		Basab Inc. v [1] Accufit Investment Inc. [2] Double Key International Limited [BVIHCMA2014/0020] (Territory of the Virgin Islands)
Date:		Tuesday, 21st October 2014
On paper:		
	Appellant:	Mr. Rene A. Butcher (Hunte & Co Law Chambers)
Issues:		Application for leave to appeal

Result / Order:		IT IS HEREBY ORDERED THAT: The application for leave to appeal the judgment of Bannister J [Ag.] dated 22 nd September 2014 is granted.
Reason:		The court was satisfied that the requirements for the grant of leave were met.
Case Name:		James Roach v The Queen [MNIHCRAP2014/0003] (Montserrat)
Date:		Tuesday, 21st October 2014
On paper:		
	Appellant:	In person
Issues:		Application for leave to appeal against sentence
Result / Order:		IT IS HEREBY ORDERED THAT: The application for leave to appeal against sentence is refused.
Reason:		The court noted that the applicant had not provided any evidence to show why his application for leave to appeal was not filed within the time stipulated by the law nor had he applied for an extension of time within which to file the application for leave. The court was also of the opinion that in the absence of

		good reason for the delay and an application for extension of time, the said application for leave to appeal ought not to be granted.
Case Name:		Sylvester Solomon v His Honour Senior Magistrate Robert Shuster [MNIHCVAP2014/0004] (Montserrat)
Date:		Tuesday, 21 st October 2014
On paper:		
	Applicant:	Dr. David Dorsett
Issues:		Application for leave to appeal
Result / Order:		IT IS HEREBY ORDERED THAT: The application for leave to appeal against the ruling of Redhead J made on 18th July 2014 is granted.
Reason:		The court was satisfied that the requirements for the grant of leave were met.