

COURT OF APPEAL SITTING

**SAINT LUCIA
14th – 18th July 2014**

JUDGMENTS

Case Name:

**Lyndon Duncan
v
Edison Baird**

**[AXAHCVAP2012/0008]
(Anguilla)**

Date:

Monday, 14th July 2014

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

**Mr. Andie George, holding papers for counsel for the
appellant**

Respondent:

**Mr. Bota McNamara, holding papers for counsel for
the respondent**

Issues:

**Civil appeal – Defamation – Libel and slander – Fair
comment – Qualified privilege – Whether words
complained of could be reasonably considered as
comment – Whether words attract qualified privilege**

**Result and
Reason:**

**Held: allowing the appeal and awarding prescribed
costs in the appeal and in the court below, that:**

- 1. A comment may contain an opinion, but it is not
itself necessarily an opinion and there may be
words spoken or written which constitute
comment but which are neither expressions of
opinion nor assertions of fact. A comment is often**

distinguished by the use of metaphors. The use of metaphors throughout the words complained of distinguish the words as comment and not statements of fact.

2. It is a defence to a claim of defamation that the words complained of are fair comment on a matter of public interest. It was an established fact that there was a proposed cut in Ministers' salaries by the AUM-led Government. Additionally, the respondent had conceded that he did not agree to the proposed salary cut. Having regard to the factual basis of the comment, the appellant's comment was one which might fairly be made out.
3. Defamatory words spoken or written in circumstances which attract qualified privilege and which were not proven to be actuated by malice are protected from liability. A privileged occasion is an occasion where the person who makes a communication has an interest, or a duty – legal, social or moral – to make it to the person to whom it is made, and the person to whom it is so made has a corresponding interest or duty to receive it. Having regard to the fact that the appellant was a member of the AUM who had an interest in the behaviour and performance of the respondent as a Legislator and Minister and had spoken words which were not proven to be actuated by malice, and having regard to the interest which party supporters and members of the Anguillan public who are likely to listen to speeches delivered at political rallies would have in the behaviour and performance of the respondent as Legislator and Minister, the occasion of the making of the statements by the appellant at the political rally would attract qualified privilege and the appellant would be protected by qualified privilege from liability for defamation.

Adam v Ward [1917] AC 309 at 334 applied.

Case Name:

**[1] Staray Capital Limited
[2] Marlon Ray Chen
v
Cha, Yang (also known as Stanley)**

**[BVIHCMAP2013/0009]
(Territory of the Virgin Islands)**

Date:

Monday, 14th July 2014

Coram:

**The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Peter Foster, QC holding papers for counsel for the appellants

Respondent: Mr. Bota McNamara holding papers for counsel for the respondent

Issues:

Amendment to company's articles of association by shareholders' resolution – Compulsory redemption of shares pursuant to shareholders' resolution – Whether resolution in interests of company – Applications to adduce fresh evidence

Result and Reason:

Held: dismissing both the appeal and counter appeal and ordering that the appellants pay the respondent's costs of the appeal fixed at two-thirds of the costs in the court below, that:

- 1. The learned judge correctly applied the relevant legal principles in coming to a determination on whether the amendment to Staray's articles of association was valid. Even if an amendment to a company's articles of association operates to the disadvantage of a minority shareholder, this does not automatically mean that the resolution which amended the articles was passed in bad faith. The learned judge considered whether the amendment**

was so oppressive as to cast doubt on the bona fides of Mr. Chen and found that it was not. This was a finding which was open to the learned judge on the facts, having regard to the nature of the amendment and the fact that Mr. Cha could only be affected by it if he had acquired his shares by making material misrepresentations which were fraudulent or negligent or had committed some act that may have resulted in Staray suffering detriment which it might not otherwise have suffered. Further, the amendment did not only apply to Mr. Cha, but equally to all shareholders of Staray.

Citco Banking Corp NV v Pusser's Ltd and another [2007] UKPC 13 applied; *Allen v Gold Reefs of West Africa, Limited* [1900] 1 Ch 656 applied; *Shuttleworth v Cox Brothers and Company (Maidenhead), Limited, and Others* [1927] 2 KB 9 applied.

2. The learned judge's finding that Mr. Chen did not rely on the representations made by Mr. Cha in agreeing for Mr. Cha to acquire shares in Staray was a finding of fact and thus, an appellate court would only interfere with such a finding in special circumstances, such as where it was based on a misapprehension of the evidence. The learned judge having heard all of the evidence and having had the distinct opportunity to observe the witnesses, it was open to him, on the evidence which was before him, to make the findings that he made. No compelling grounds have been shown to justify reversing these findings of the learned judge.

Chiverton Construction Limited et al v Scrub Island Development Group Limited (Territory of the Virgin Islands High Court Civil Appeal BVIHCVAP2009/0028 (delivered 19th September 2011, unreported)) followed.

3. For Staray to redeem its shares held by Mr. Cha under the new Article 3.8 which had been inserted by the shareholders' resolution, the appellants would have been required to show firstly, that Mr.

Cha committed an act; secondly, that that act may have resulted in the company suffering one or more of the consequences outlined in the article; and thirdly, that Staray might not otherwise have suffered or incurred such consequences. The appellants were required to adduce evidence to discharge this burden; it was not sufficient for them to simply state an act or acts committed by Mr. Cha. They needed to go further and show that the act or acts of Mr. Cha may have resulted in Staray suffering one or more of the consequences and also that Staray might not otherwise have suffered the consequences. The learned judge found that there was no evidence sufficient to show this. There is therefore no basis to interfere with the findings of the learned judge on this issue.

4. The appellants' failure to prove all of the requirements of Article 3.8 does not amount to a breach of the terms of Staray's articles of association, nor does it amount to using the provisions of the articles in a manner which equity would regard as contrary to good faith. The redemption notice issued pursuant to Article 3.8(b), being an invalid notice, was of no effect and therefore, Mr. Cha would not have suffered any prejudice. In such circumstances, a court would not exercise its discretion under section 184I(2) of the BVI Business Companies Act, 2004, to grant any of the reliefs outlined in that subsection. The role of the section 184I jurisdiction is to protect shareholders against the breach of the terms on which they agreed the affairs of the company should be conducted, and against inequity resulting from the exercise of strict legal power of those conducting the affairs of the company. Neither of these two situations were present in this case. There is therefore no basis to interfere with the finding of the learned judge that Mr. Cha had failed to establish that service of an invalid notice was unfair within the meaning of section 184I.

STATUS HEARING

Case Name:

**Bonny Charles
v
PC 114 Roy Busby**

[SLUMCRAP2005/0000]

Date:

Monday, 14th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: No appearance

Respondent: Mr. Leon France

Issues:

Status of matter

Result / Order:

[Oral delivery]

IT IS DIRECTED THAT:

- 1. The appeal is adjourned for status hearing to a date to be fixed by the Chief Registrar.**
- 2. Notice of status hearing be served on the appellant by publication in two consecutive issues of a newspaper in general circulation in Saint Lucia. The notice is to include the name of appellant, the address of appellant, number of appeal, if any, and the date the magistrate pronounced the decision against the appellant.**
- 3. The appellant shall be required to attend the hearing on the date, time and place as specified in the notice.**
- 4. The publication of the notice in the newspaper shall be deemed to be good service on the appellant of the status hearing.**

Reason:

There was no appearance of or on behalf of the appellant.

Case Name: Simon Gaetan
v
The Commissioner of Police
[SLUMCRAP1999/0009]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Ms. Tamara Foster-Calderon

Issues: Status of matter

Result / Order: [Oral delivery]
The hearing of this matter is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.

Reason: There was no appearance of or on behalf of the appellant.

Case Name: Leonus Leriche
v
PC 122 Lamontagne
[SLUMCRAP2006/0000]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Shawn Innocent
Respondent: Mr. Leon France

Issues: Status of matter

Result / Order: [Oral delivery]
1. The Court Administrator shall cause the record of the proceedings in the court below to be prepared and filed in the Registry of the High Court.
2. The Registrar shall cause the record of proceedings to be served on the parties.
3. Thereafter, the appeal shall proceed in accordance with Part 62 of CPR 2000.

Reason: The record of proceedings had not been prepared as yet.

Case Name: Andra Edwide
v
PC 684 Hamish Alexander
[SLUMCRAP2009/0000]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Jeannot-Michel Walters
Respondent: Ms. Tamara Foster-Calderon

Issues: Status of matter – Directions

**Result / Order
& Reason:**

[Oral delivery]

- 1. The Court Administrator shall cause the record of the proceedings in the court below to be prepared and filed in the Registry of the High Court.**
- 2. The Registrar shall cause the record of proceedings to be served on parties.**
- 3. Thereafter, the appeal shall proceed in accordance with Part 62 of CPR 2000.**

Reason:

The record of proceedings had not been prepared as yet.

Case Name:

**Sheldon Peter
v
WPC 365 Faucher**

[SLUMCRAP2006/0000]

Date:

Monday, 14th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Jeannot-Michel Walters

Respondent: Mr. Leon France

Issues:

Status of matter

Result / Order:

[Oral delivery]

The matter is stood down until Thursday at 9:00 a.m.

Reason:

To allow Mr. Walters (counsel for the appellant) to take instructions from the appellant on how he intended to proceed with the appeal.

Case Name:

**Justin John
v
The Commissioner of Police
[SLUMCRAP1999/0008]**

Date:

Monday, 14th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant:

No appearance

Respondent:

Ms. Tamara Foster-Calderon

Issues:

Status of matter

Result / Order:

**[Oral delivery]
The appeal is adjourned for status hearing to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.**

Reason:

There was no appearance of or on behalf of the appellant.

Case Name:

**Dauley Jean
v
SPC 11 Fontinelle**

[SLUMCRAP20006/0000]

Date:

Monday, 14th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Mr. Leon France

Issues: Status of matter

**Result / Order
& Reason:** [Oral delivery]
1. Notice of the hearing of this appeal having been served on the appellant by newspaper publication pursuant to an order of the Court dated 3rd March 2014 and the appellant being absent, the appeal is dismissed for want of prosecution.
2. The Registrar of the Court shall serve on the magistrate the certificate of the result of this appeal.

Case Name: Thomas Joseph
v
PC 570 Hugh Darcheville
[SLUMCRAP2007/0000]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Ms. Tamara Foster-Calderon

Issues: Status of matter

**Result / Order
& Reason:** [Oral delivery]
1. Notice of the hearing of this appeal having been served on the appellant by newspaper publication pursuant to an order of the Court dated 3rd March

- 2014 and the appellant being absent, the appeal is dismissed for want of prosecution.
2. The Registrar of the Court shall serve on the magistrate a certificate of the result of this appeal.

Case Name: Theresa Marville
v
The Queen
(PC 667 Smith)
[SLUMCRAP2005/0000]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant:	No appearance
Respondent:	Mr. Leon France

Issues: Status of matter

Result / Order & Reason: [Oral delivery]
1. Notice of the hearing of this appeal having been served on the appellant by newspaper publication pursuant to an order of the court dated 3rd March 2014 and the appellant being absent, the appeal is dismissed for want of prosecution.
2. The Registrar of the court shall serve on the magistrate a certificate of the result of this appeal.

Case Name: Thomas Nicholas Wilfred
v
PC 708 Shervon Matthew

[SLUMCRAP2007/0009]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: No appearance

Respondent: Ms. Tamara Foster-Calderon

Issues: Status of matter

**Result / Order
& Reason:** [Oral delivery]

1. Notice of the hearing of this appeal having been served on the appellant by newspaper publication pursuant to an order of the Court dated 3rd March 2014 and the appellant being absent, the appeal is dismissed for want of prosecution.
2. The Registrar of the Court shall serve on the magistrate a certificate of the result of this appeal.

Case Name: Jeannette Augustin
v
Cassius Randolph Constable 663

[SLUMCRAP2009/0000]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Ramon R. Raveneau

Respondent: Mr. Leon France

Issue:	Status of matter
Result / Order:	[Oral delivery] The matter is adjourned to Wednesday, 16 th July 2014 at 9:00 a.m.
Reason:	Mr. Raveneau (counsel for the appellant) requested the adjournment so that he could contact the appellant to ascertain how to proceed with the appeal.
Case Name:	Latoya Simpson v Dorna Francis WPC 351 [SLUMCRAP2009/0000]
Date:	Monday, 14th July 2014
Before:	The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]
Appearances:	
Appellant:	No appearance
Respondent:	Ms. Tamara Foster-Calderon
Issues:	Status of matter
Result / Order & Reason:	[Oral delivery] 1. Notice of the hearing of this appeal having been served by newspaper publication pursuant to an order of the Court dated 3 rd March 2014 and the appellant being absent, the appeal is dismissed for want of prosecution. 2. The Registrar of the Court shall serve on the magistrate the certificate of the result of this appeal.

Case Name: Sheldon Innocent
v
Christophe Joseph PC#318
[SLUMCRAP2004/0000]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Mr. Leon France

Issues: Status of matter

**Result / Order
& Reason:** [Oral delivery]
1. Notice of the hearing of this appeal having been served on the appellant by newspaper publication pursuant to an order of court dated 3rd March 2014 and the appellant being absent, the appeal is dismissed for want of prosecution.
2. The Registrar of the Court shall serve on the magistrate a certificate of the result of this appeal.

Case Name: Calixte Edward
v
Walt Lucien PC 494
[SLUMCRAP2005/0000]

Date: Monday, 14th July 1024

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Ms. Tamara Foster-Calderon

Issues: Status of matter

**Result / Order
& Reason:** [Oral delivery]
1. Notice of the hearing of this appeal having been served on the appellant by newspaper publication pursuant to an order of court dated 3rd March 2014 and the appellant being absent, the appeal is dismissed for want of prosecution.
2. The Registrar of the Court shall serve on the magistrate the certificate of the result of this appeal.

Case Name: Angus Augustin
v
Murton Donelly PC 493
[SLUMCRAP2000/0000]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Mr. Leon France

Issues: Status of matter – Directions

Result / Order: [Oral delivery]
IT IS DIRECTED THAT:
1. The appeal is adjourned for status hearing to a

date to be fixed by the Chief Registrar.

2. Notice of status hearing be served on the appellant by publication in two consecutive issues of a newspaper in general circulation in Saint Lucia. The notice is to include the name of the appellant, the address of the appellant, number of appeal, if any, and the date the magistrate pronounced the decision against the appellant.
3. The appellant shall be required to attend the hearing on the date, time and place as specified in the notice.
4. The publication of the notice in the newspaper shall be deemed to be good service on the appellant of the status hearing.

Reason:

There was no information on the case file to indicate whether the appellant had been served with notice of the day's hearing.

Case Name:

**James Doxilly
v
Sean Alexander Corporal 476
[SLUMCRAP2006/0007]**

Date:

Monday, 14th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Horace Fraser (amicus curiae)

Respondent: Ms. Tamara Foster-Calderon

Issues:

Status of matter

Result / Order:

The matter is stood down.

Reason: It appeared from the case file that the record of appeal had already been prepared. The matter was stood down to confirm this.

Case Name: Timothy Dupres
v
Corporal 398 George
[SLUMCRAP2008/001B]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: No appearance
Respondent: Mr. Leon France

Issues: Status of matter

Result / Order: [Oral delivery]
1. The appeal is adjourned for status hearing to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.
2. The appellant is to be served with the notice of hearing of the appeal by the respondent, Corporal 398 George.

Reason: To allow the appellant to be served with notice of the hearing of the appeal. The Court noted that no steps had been taken by the appellant for the due prosecution of the appeal.

Case Name: Thierry Tadrille Bryan
v
PC 666 Simeon
[SLUMCRAP2004/001E]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant:	No appearance
Respondent:	Ms. Tamara Foster-Calderon

Issues: Status of the matter

Result / Order: The matter is stood down.

Reason: To determine whether service had been effected.

Case Name: Vincent Jean
v
The Queen
[SLUMCRAP2004/001A]

Date: Monday, 14th July 2014

Before: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant:	No appearance
Respondent:	Mr. Leon France

Issue: Status of matter

Result / Order:

[Oral delivery]

- 1. The appeal is dismissed for want of prosecution.**
- 2. The Registrar shall serve the Magistrate with a copy of the certificate of result of this appeal.**

Reason:

The appellant was served with notice of the hearing of this appeal but failed to appear to prosecute the appeal.

Case Name:

**James Doxilly
v
Sean Alexander Corporal 476
[SLUMCRAP2006/0007]**

Date:

Monday, 14th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant:

Mr. Horace Fraser

Respondent:

Ms. Tamara Foster-Calderon

Issue:

Status of matter

Result / Order:

[Oral delivery]

- 1. The record of appeal having been filed, the parties shall comply with rule 62.11 of CPR 2000.**
- 2. The hearing of the appeal is set for the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.**

Case Name:

Thierry Tadrille Bryan

v

PC 666 Simeon

[SLUMCRAP2004/001E]

Date:

Monday, 14th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant:

No appearance

Respondent:

Ms. Tamara Foster-Calderon

Issues:

Status of matter

Result / Order:

[Oral delivery]

- 1. The respondent shall make further inquiries from the French Embassy in relation to the status of service on the appellant and shall report to the Registrar of the High Court.**
- 2. The matter is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.**
- 3. The Registrar of the Court shall serve a copy of this order on the French Embassy with a request for service on the appellant of a notice of hearing of this matter at the next sitting of the Court of Appeal in Saint Lucia commencing during the week of 26th January 2015.**

APPLICATIONS AND APPEALS

Case Name:

River Doree Holdings Limited

v

Attorney General of St. Lucia

[SLUHCVAP2012/0028]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant / Respondent:	Ms. Kimberley Roheman
Respondent / Applicant:	Ms. Jan Drysdale

Issues: Final leave to appeal to Her Majesty in Council

Result / Order: [Oral delivery]
The application for final leave to appeal to Her Majesty in Council is granted.

Reason: The Crown had complied with the terms of the conditional leave order. The respondent did not oppose the Crown's application for final leave to appeal.

Case Name:

**Richard Frederick
v
Kenny D. Anthony**

[SLUHCVAP2013/0002]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal

[Ag.]

Appearances:

Petitioner: Mr. Horace Fraser

Respondent: Mr. Peter Foster, QC, with him, Ms. Alana-J Joseph

Issues:

Conditional leave to appeal to Her Majesty in Council pursuant to section 108(2) of the Saint Lucia Constitution Order 1978 – Appeal against order of single judge of Court of Appeal refusing leave to appeal against learned judge’s decision to extend time to file witness statements – Whether appeal involved question of great general or public importance – Whether learned judge exercised a discretion to grant respondent relief from sanctions without first confirming that preconditions set out in rule 26.8 of the Civil Procedure Rules 2000 had been satisfied – Whether there had been a change of the law in relation to the application of CPR 26.8

Result / Order:

[Oral delivery]

1. The application for leave to appeal to Her Majesty in Council is refused.
2. Costs to the respondent in the sum of \$2,000.00.

Reason:

The Court was of the view that there was no issue arising of great general public importance. The Court was also of the view that there had been no change in the law in relation to the application of rule 26.8 of the Civil Procedure Rules 2000 or no conflict arising on the manner of its application.

Case Name:

**First Caribbean International Bank (Barbados)
Limited formerly Barclays Bank Plc**

v

**[1] The Roserie Company Limited (whose
registered office is situate at Vieux Fort**

**Industrial Estate, Vieux Fort)
[2] Thomas Roserie (of Vieux Fort)
[3] Sonia Roserie (of Vieux Fort)
[4] Chemical Manufacturing Investment
Company Limited (whose registered office is
situate at Vieux Fort)**

[SLUHCVAP2014/0008]

Date: **Monday, 14th July 2014**

Coram: **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]**

Appearances:
Applicant: **Mr. Bota McNamara, with him, Ms. Zinaida McNamara**
Respondent: **Ms. Cynthia Hinkson-Ouhla**

Issues: **Application for leave to appeal decision of learned master – Defence filed but not served on applicant – Defence not filed in correct claim and not included in case file – Whether these factors should have precluded learned master from treating defence as being properly before her – Whether learned master erred in exercising her case management powers**

Result / Order: **[Oral delivery]
1. The application for leave to appeal is dismissed.
2. Costs are awarded to the respondents in the sum of \$1,000.00.**

Reason: **The Court was not satisfied that the master had erred in law or in principle, or took into account irrelevant matters in exercising her discretion in relation to whether to treat the respondent's defence (which was filed but had neither been served nor included in the case file) as being properly before her. There was no basis upon which the Court would interfere with the decision of the learned master.**

Case Name:

Angus Jn. Baptiste

v

Oliver Sampson

[SLUMCVAP2013/0001]

Date:

Monday, 14th July 2014

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]**

Appearances:

Applicant:

Mr. Alfred Alcide

Respondent:

In person

Issues:

Application to set aside decision of single judge

Result / Order:

[Oral delivery]

- 1. Leave is granted to the appellant to file and serve submissions no later than 14th August 2014.**
- 2. Leave is granted to the respondent to file submissions, if necessary, on or before 14th September 2014.**
- 3. The hearing of the application is traversed to the next sitting of the Court of Appeal in Saint Lucia scheduled for the week commencing 26th January 2015.**

Reason:

To allow counsel for the appellant sufficient time to file his written submissions. In coming to the above decision, the Court had regard to the fact that this was the first time that this matter had come before the Full Court.

Case Name:

Fire Service Association

v

Attorney General

[SLUHCVAP2013/0011]

Date:

Monday, 14th July 2014

Coram:

The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

The Hon. Mr. Mario Michel, Justice of Appeal

**The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]**

Appearances:

Applicant:

Ms. Cynthia Hinkson-Ouhla

Respondent:

Mr. Dwight Lay, with him, Ms. Jan Drysdale

Issues:

**Application for extension of time to file notice of
appeal – Application for leave to appeal – Request for
an adjournment**

Result / Order:

[Oral delivery]

**The hearing of the application is traversed to the next
sitting of the Court of Appeal in Saint Lucia
scheduled for the week commencing 26th January
2015.**

Reason:

**The applicant's counsel indicated to the Court that
she felt physically unwell, and would not be able to
proceed with the delivery of her submissions. She
requested an adjournment of the matter on this basis.
The respondent had no objection to the adjournment
being granted.**

Case Name:

**Terry Charles
v
The Police (PC 56 Prospere)**

[SLUMCRAP2011/0019]

Date:

Monday, 14th July 2014

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]**

Appearances:

Applicant:

Mr. Colin Foster

Respondent:

**Ms. Victoria Charles-Clarke, Director of Public
Prosecutions, with her, Ms. Tina Mensah**

Issues:

**Final leave to appeal to Her Majesty in Council –
Whether Court of Appeal had jurisdiction to entertain
notice of motion to appeal to Her Majesty in Council
made pursuant to section 108(3) of Saint Lucia
Constitution Order 1978**

Result / Order:

[Oral delivery]

**The application for leave to appeal to Her Majesty in
Council is refused.**

Reasons:

**The application for leave was made pursuant to
section 108(3) of the Saint Lucia Constitution Order
1978, which pertains to appeals to Her Majesty in
Council with the special leave of Her Majesty. Such
applications for special leave, however, have to be
made directly to Her Majesty in Council. The Court of
Appeal had no jurisdiction in the matter.**

Case Name:

Rafael Sanchez Valera

V
PC 611 Kieran Thompson

[SLUMCRAP2013/0017]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Jeannot-Michel Walters

Respondent: Mr. Stephen Brette

Issues: Appeal against conviction – Prohibited immigrant

**Result / Order
& Reason:** [Oral delivery]
The appeal, having been withdrawn, is accordingly dismissed.

Case Name: Luis Osmel Oliva Vasquez
V
PC 611 Kieran Thompson

[SLUMCRAP2013/0018]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Jeannot-Michel Walters

Respondent: Mr. Stephen Brette

Issues: Appeal against conviction – Prohibited immigrant

**Result / Order
& Reason:** [Oral delivery]
The appeal, having been withdrawn, is accordingly dismissed.

Case Name: Iris Naydis Leyva Vazquez
v
PC 611 Kieran Thompson
[SLUMCRAP2013/0014]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: Mr. Jeannot-Michel Walters
Respondent: Mr. Stephen Brette

Issues: Appeal against conviction – Prohibited immigrant

**Result / Order
& Reason:** [Oral delivery]
The appeal, having been withdrawn, is accordingly dismissed.

Case Name: Bryan James

v
The Attorney General

[SLUHCVAP2013/0023]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:

Applicants: Mr. Horace Fraser

Respondent: Ms. Jan Drysdale holding papers for Mr. Deale Lee

Issues: Application for extension of time to file notice of appeal against decision of single judge

Result / Order: [Oral delivery]
The application for extension of time to file a notice of appeal against the decision of the single judge is traversed to the next sitting of the Court of Appeal in Saint Lucia scheduled for the week commencing 26th January 2015.

Reason: Ms. Drysdale requested an adjournment of the matter on behalf of Mr. Lee, who, because of a family emergency, was unable to attend the day's hearing. The respondent had no objection to the matter being adjourned.

Case Name: James Enterprises Limited
v
The Attorney General
[SLUHCVAP2013/0024]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:

Applicants: Mr. Horace Fraser

Respondent: Ms. Jan Drysdale holding papers for Mr. Deale Lee

Issues: Application for extension of time to file notice of appeal against decision of single judge

Result / Order: [Oral delivery]
The application for extension of time to file a notice of appeal against the decision of the single judge is traversed to the next sitting of the Court of Appeal in Saint Lucia scheduled for the week commencing 26th January 2015.

Reason: Ms. Drysdale requested an adjournment of the matter on behalf of Mr. Lee, who, because of a family emergency, was unable to attend the day's hearing. The respondent had no objection to the matter being adjourned.

Case Name: Bernard Monrose
v
SPC 513 Lucas Small

[Magisterial Criminal Appeal No.
BSLU 10 of 2003]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: Mr. Shawn Innocent
Respondent: Ms. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: Matter delayed because of administrative issues – Application (oral) for leave to amend grounds of appeal to appeal against conviction (in addition to sentence) – Application for adjournment

Result / Order: [Oral delivery]
1. The application by the appellant for an extension of time to file the notice of appeal against conviction and additional grounds of appeal is granted.
2. The additional grounds of appeal filed on 11th July 2014 are hereby deemed to have been duly filed.
3. Leave is granted to the respondent to file and serve submissions in response to the submissions filed on 14th July 2014 by the appellant, the submissions to be filed on or before the 14th day of August 2014.
4. The hearing of the appeal is adjourned to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.

Reason: To allow the parties sufficient time to make preparations for the appeal.

Case Name: Ashton Cherubin
v
PC 575 Clive

[SLUMCRAP2013/0006]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant: In person

Respondent: Ms. Victoria Charles-Clarke, Director of Public Prosecutions

Issues: Appeal against sentence – Stealing

Result / Order: [Oral delivery]
The appeal, having been discontinued, is accordingly dismissed.

Reason: The appellant indicated to the Court that he wished to discontinue the appeal.

Case Name: Peter Charles
v
WPC 131 Edmund

[SLUMCRAP2013/0001]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:

Appellant: Mr. Alfred Alcide
Respondent: Mr. Stephen Brette

Issues: Appeal against conviction – Possession of controlled drug – Cultivation of controlled drug – Possession with intent to supply

Result / Order: [Oral delivery]
1. The application to adjourn the matter is granted.
2. The appellant is to file and serve skeletal submissions and authorities on or before 15th August 2014.
3. The respondent is to file and serve skeletal submissions in reply if necessary on or before 15th September 2014.
4. The hearing is adjourned to the week commencing 26th January 2015 during the sitting of the Court of Appeal in Saint Lucia.

Reason: Counsel for the appellant was not ready to proceed with the appeal and requested some additional time for him to file submissions.

Case Name: Cyprian Yarde
v
PC 398 Louinus George
[SLUMCRAP2000/0008]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: In person

Respondent: Mr. Stephen Brette with Ms. Victoria Charles-Clarke,
Director of Public Prosecutions

Issues: Appeal against conviction – Traffic offence – Failure to comply with traffic sign – Not wearing seatbelt – Appellant convicted over 14 years ago – Appellant not present at hearing (in traffic court) – Magistrate’s reasons not forming part of record of appeal – Challenge to findings of fact made by learned magistrate

Result / Order: [Oral delivery]
1. The appeal is allowed.
2. The conviction and sentence is quashed.

Reason: The Crown indicated that it did not intend to defend the appeal, there being no reasons for the magistrate’s decision in the record of appeal and also, little hope of obtaining these reasons, 14 years after the appellant was convicted.

Case Name: Eldon Simon
v
PC 570 Hugh Darcheville
[SLUMCRAP2004/001C]

Date: Monday, 14th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]

Appearances:
Appellant: No appearance (Deceased)
Respondent: Mr. Stephen Brette with Ms. Victoria Charles-Clarke,

Director of Public Prosecutions

Issues: **Appeal against conviction and sentence – Stealing**

**Result / Order
& Reason:** **[Oral delivery]
The appeal is dismissed for want of prosecution.**

Reason: **The appellant was deceased.**

Case Name: **Mariander Tisson
v
Sabrina Mangal WPC 816
[SLUMCRAP2013/0021]**

Date: **Tuesday, 15th July 2014**

Coram: **The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]**

Appearances:
Appellant: **Mr. Alfred Alcide**
Respondent: **Mr. Leon France**

Issues: **Criminal appeal against sentence – Indecent assault –
Ability of appellant to put forward defence limited by
learned magistrate – Appellant repeatedly advised by
magistrate to cross-examine witnesses only on
evidence given in examination in chief – Fairness of
trial**

Result / Order: **[Oral delivery]
1. The appeal is allowed.
2. The conviction is quashed and the sentence is set
aside.**

Reason:

In the court below, the appellant had been advised repeatedly by the learned magistrate to cross-examine witnesses solely on the evidence which had been given in examination in chief. At paragraph 5 of her reasons for the decision, the learned magistrate said:

“The Defendant despite being guided by the court persisted in exploring a Defence involving another party and incident which occurred between the 17th and 18th of May, 2013 and dismissed the evidence of the virtual complainant as mere lies.”

She also said, at paragraphs 8-9:

“The Defendant on more than one occasion was advised by the Court during the course of the trial to cross-examine witnesses based on the evidence given in the examination-in-chief.

“He insisted in [sic] cross examining on the time and incident which occurred outside the time period of the alleged offence. The Defendant insisted on leading evidence about matters which occurred on the 17th and 18th of May, 2013 despite guidance from the court.”

The Court opined that the learned magistrate’s comments appeared to impact adversely on the fairness of the trial, insofar as improper limitations were placed on the ability of the appellant to put forward his defence and to seek to undermine the case against him. The learned magistrate erred in restraining the appellant from leading his defence and cross-examining witnesses in a manner that he saw fit.

Case Name:

**Wayne Philogene
v
WPC 210 Emmanuel**

[SLUMCRAP2012/0002]

Date: Tuesday, 15th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Alfred Alcide

Respondent: Ms. Tamara Foster-Calderon, with her, Ms. Tina Mensah

Issues: Appeal against conviction – Driving without due care and attention – Application (by respondent) to strike out appeal based on failure of appellant to file submissions

Result / Order & Reason: [Oral delivery]
The appeal is dismissed for want of prosecution.

Case Name: Ignatius Gedeon
v
Trevor Naitram

[SLUHCVAP2013/0021]

Date: Tuesday, 15th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Ms. Carol Gedeon-Clovis

Respondent: Ms. Patricia Augustin

Issues: Breach of contract – Appeal against findings of fact – Whether facts as found by judge supported by evidence

Result / Order: [Oral delivery]
1. The appeal is dismissed and the cross appeal is also dismissed.
2. Each party shall bear its own costs.

Reason: This was an appeal against the judgment of the trial judge in which she awarded damages to the respondent in the sum of \$54,000.00 and ordered a refund of a deposit of \$46,000.00. The appellant contended that the learned trial judge erred in so doing, and challenged various findings of fact made by the judge. The appellant argued that: (1) the judge erred in finding as a fact that the appellant was to pay damages to the respondent in the sum of \$54,000.00 covering a period of 45 days, there being no proper basis for this finding; and (2) the judge erred in finding that the appellant was to refund the respondent the sum of money as money had and received as deposit. The appellant contended that these findings were against the weight of the evidence presented to the court. He also contended that the money was to benefit the respondent, and that the respondent indeed benefited from those monies.

The Court, having read the written submissions of both sides and listened to the oral submissions presented by counsel, found that no compelling grounds had been advanced by the appellant to disturb the order of the learned judge. The judge had the benefit of seeing and hearing witnesses as they gave their evidence, and this was an advantage that the appeal court lacked. The Court was not of the view that the trial judge misused the advantage which she possessed. The judge made findings of primary fact based on the evidence that was before her. She was in a position to make such findings, and she made proper use of this position.

The Court noted that the appellant, in oral submissions, intended to assail various other findings made by the trial judge but it was very clear that these findings had not been set out in the notice of appeal.

There was also a counter notice of appeal by the respondent in which the respondent appealed the order that damages were to be assessed and the appellant was to pay \$1,200.00 over 45 days to a total of \$54,000.00. It was contended firstly, that the judge erred in law or misdirected herself in finding that 45 days was adequate to compensate the respondent, and secondly, that the judge misdirected herself in holding that the appellant was only liable to pay damages for 45 days at a sum of \$54,000.00.

The Court stated that the principles upon which an appellate tribunal would upset or interfere with the assessment of the damages of the lower court are well set out in the case of *Alphonso and Others v Deodat Ramnath* (1997) 56 WIR 183. There was nothing advanced by the cross-appellant to convince the Court that it ought to disturb the quantum of damages awarded by the court below. The fact that the appellate court may have awarded a lower or higher sum is not of importance. Rather, the question is whether the trial judge erred in the exercise of her discretion in awarding the quantum indicated. The Court accordingly held that it could find no basis to disturb the sum awarded in damages by the learned trial judge.

Case Name:

**Cameron Ernest
v
PC 490 George Leopold**

[Case Nos. 147 & 148 of 2002]

Date:

Tuesday, 15th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Andie George, with him, Ms. Isa Cyril

Respondent: Mr. Leon France with Ms. Victoria Charles-Clarke,
Director of Public Prosecutions

Issues: Appeal against conviction – Possession of firearm
and ammunition without licence

Result / Order: The matter is stood down.

Reason: To try to locate the appellant.

Case Name: David Christopher
v
PC 683 Charlemagne
[SLUMCRAP2012/0005]

Date: Tuesday, 15th July 2014

Coram: The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Horace Fraser

Respondent: Ms. Tina Mensah with Ms. Victoria Charles-Clarke,
Director of Public Prosecutions

Issues: Appeal against conviction – Possession of firearm
and ammunition without licence – Appellant seeking
to introduce new affidavit to supplement certain

deficiencies in appeal record without making application in writing – Necessary to do so by written application as mandated by section 748 of the Criminal Code, Cap. 3.01, Revised Laws of Saint Lucia 2008.

Result / Order:

[Oral delivery]

The matter is traversed to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.

Reason:

To allow the appellant to make the necessary application (as prescribed by section 748 of the Criminal Code (Cap. 3.01, Revised Laws of Saint Lucia 2008)) to properly introduce a new affidavit to supplement the record of appeal.

Case Name:

**Cameron Ernest
v
PC 490 George Leopold**

[Case Nos. 147 & 148 of 2002]

Date:

Tuesday, 15th July 2014

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]**

Appearances:

Appellant:

Mr. Andie George, with him, Ms. Isa Cyril

Respondent:

**Mr. Leon France with Ms. Victoria Charles-Clarke,
Director of Public Prosecutions**

Issues:

**Appeal against conviction – Possession of firearm
and ammunition without licence**

Result / Order: [Oral delivery]
The matter is traversed to the next sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.

Reason: Counsel for the appellant informed the Court that, despite his best efforts, he was unable to locate the appellant.

STATUS HEARING

Case Name: Jeannette Augustin
v
Cassius Randolph Constable 663

[SLUMCRAP2009/0000]

Date: Wednesday, 16th July 2014

Coram: The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:
Appellant: Mr. Ramon R. Raveneau
Respondent: Mr. Leon France

Issues: Status of matter

Result / Order: [Oral delivery]
1. The Court Administrator shall cause the record of proceedings in the court below to be prepared and filed with the Registry of the High Court.
2. The Registrar shall cause the record of proceedings to be served on the parties.
3. The appeal is to proceed in accordance with rules 62.11 and 62.13 of CPR 2000.
4. The hearing of the appeal is adjourned to the next

sitting of the Court of Appeal in Saint Lucia during the week commencing 26th January 2015.

APPLICATIONS AND APPEALS

Case Name: 1st National Bank St. Lucia Limited
v
St. Honore de Sainte Lucie Limited (In Receivership)
[SLUHCVAP2013/0030]

Date: Wednesday, 16th July 2014

Coram: The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Geoffrey DuBoulay, with him, Ms. Sardia Cenac-Prospere

Respondent: Mr. Sydney Bennett, QC, with him, Mr. Anthony Bristol

Issues: Company in receivership – Sale of immovable property by receiver – Agency – Whether receiver acting as agent for company which owns property – Whether a company or its agent can overreach right which junior hypothecary creditor holds – Property sold by receiver for price lower than value of property after one year of marketing it – Whether receiver obligated to sell property for the price it is valued at unless otherwise agreed by junior hypothecary creditors – Whether learned trial judge erred in cancelling judicial hypothec

Result / Order:

The decision is reserved.

Case Name:

**In the Matter of the Legal Profession Act No.
25 of 2011**

AND

**In the Matter of the Council of Legal
Education Act Cap. 71 of the 2010 Edition of
the Revised Laws of Grenada**

AND

**In the Matter of an Application by Joseph
Ewart Layne to be Admitted to Practice as an
Attorney-at-Law of the Supreme Court of
Grenada and the West Indies Associated
States**

[GDAHCVAP2013/0036]

Date:

Wednesday, 16th July 2014

Coram:

**The Hon. Mde. Louise E. Blenman, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mr. Paul Webster, QC, Justice of Appeal
[Ag.]**

Appearances:

Appellant:

Mr. Ruggles Ferguson, with him, Ms. Claudette Joseph, Ms. Deborah St. Bernard, Ms. Deborah Mitchell, Mr. Peter David, Ms. Luan Harford (everyone, except Mr. Ferguson, by video link from Grenada)

Respondent:

Mr. Dwight Horsford, Solicitor General, with him, Mr. Adebayo Olowu (all by video link)

Other:

Mr. Alban John (appearing for The Grenada Bar Association), with him, Ms. Kim George, and Mr.

Rohan Phillip

Issues:

Whether learned judge erred in refusing appellant's application to be admitted to Grenada Bar Association – Appellant having necessary academic qualifications to be admitted to Grenada Bar – Appellant previously convicted of murder – Challenge to exercise of discretion of learned judge – Whether learned judge accorded too much weight to appellant's past and insufficient weight to his present good character

Result / Order:

[Oral delivery]

Application to Extend Time to Comply with Court Order and Application to be Joined as Intervener

- 1. The submissions filed on 20th June 2014 are deemed properly filed.**
- 2. The application for joinder is withdrawn and discontinued.**

Substantive Appeal

Judgment is reserved.

STATUS HEARING

Case Name:

**Sheldon Peter
v
WPC 365 Faucher**

[SLUMCRAP2006/0000]

Date:

Thursday, 17th July 2014

Before:

The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]

Appearances:

Appellant: Mr. Jeannot-Michel Walters

Respondent: Ms. Tamara Foster-Calderon

Issues:

Status of matter

Result / Order:

[Oral delivery]

- 1. The Court Administrator shall cause the record of the proceedings in the court below to be prepared and filed in the Registry of the High Court.**
- 2. The Registrar shall cause the record of proceedings to be served on the parties.**
- 3. Thereafter, the appeal shall proceed in accordance with Part 62 of the Civil Procedure Rules 2000.**
- 4. The appeal is adjourned to the next Court of Appeal sitting in Saint Lucia during the week commencing 26th January 2015.**

Reason:

Counsel for the appellant informed the Court that the appellant was out of State, seeking employment opportunities on a cruise ship. The appellant did however intend to prosecute the appeal.

APPLICATIONS AND APPEALS

Case Name:

**Kenneth Kryz
(as Liquidator of Fairfield Sentry Limited)**

[BVIHCVAP2013/0014]

Date:

Thursday, 17th July 2014

Coram:

**The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
The Hon. Mr. Mario Michel, Justice of Appeal
The Hon. Mde. Gertel Thom, Justice of Appeal [Ag.]**

Appearances:

Appellant: Mr. Gabriel Moss, QC on behalf of the Liquidator,
Kenneth Kryz

Respondent: Ms. Sue Prevezer, QC on behalf of Farnum Place LLC,
with her, Mr. Richard Evans

Issues:

**Appeal against exercise of trial judge's discretion –
Whether learned judge erred in not sanctioning
appeal by liquidator to US Federal court – Liquidator
having right of appeal to US Federal court – Whether
liquidator pursuing appeal improper in light of
existence of conditional contract between parties**

Result / Order:

Judgment is reserved.