

CHAMBER HEARING

May 2013

MATTERS DEALT WITH ON PAPER

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

Case Name: Verna Hodge
(as representative of the Estate of
Christopher Hodge, deceased)
v
John Hodge

**[AXAHCVP2013/0001]
(Anguilla)**

Date: Tuesday, 21st May 2013

On paper:

Applicant / Intended Appellant:	Ms. Jenny Lindsay & Associates
Respondent:	Ms. Keesha Carty

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application for leave to appeal is referred for hearing to the Full Court sitting of the Court of Appeal in Anguilla scheduled for the week commencing 2nd December 2013.

Reason: The Court was minded to refuse leave so it acted in accordance with Part 62.2(5)(a) and (b) of CPR 2000.

Case Name:

**Savita Indira Salisbury
v
The Director of the ONDCP**

**[ANUHCVAP2012/0044]
(Antigua & Barbuda)**

Date:

Tuesday, 21st May 2013

On paper:

Appellant:

Rika Bird & Associates

Respondent:

Attorney General Chambers

Issue:

Application for extension of time to file notice of appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The application for the extension of time to file a notice of appeal is granted.**
- 2. The notice of appeal with submissions and authorities filed on 26th April 2013 is deemed to be properly filed.**
- 3. The respondent is to file and serve submissions in reply within 14 days of today's date.**
- 4. The appellant is to file and serve submissions in response, if any, within 7 days of service by the respondents.**
- 5. The appeal is to be heard by the Full Court during the sitting of the Court in Antigua & Barbuda during the week commencing 24th June 2013.**

Reason:

The Court noted the respondent's opposition to the appellant's application for an extension of time. However the application for the extension of time was made within the time for filing of the notice of appeal.

Case Name:

**Janice Reynolds-Greene
v
Community First Cooperative Credit Union
Limited**

**[ANUHCVAP2013/0006]
(Antigua & Barbuda)**

Date:

Tuesday, 21st May 2013

On paper:

**Applicant /
Appellant:**

In person

Respondent:

Henry & Burnette

Issue:

Application for stay pending appeal

**Result / Order /
Reason:**

IT IS HEREBY ORDERED THAT:

- 1. The application for a stay pending the determination of the appeal is dismissed, the applicant not having met the threshold requirements for the grant of a stay.**
- 2. The application to strike out the appeal is referred to the Full Court for hearing at the next sitting of the Court in Antigua & Barbuda scheduled for the week commencing 24th June 2013.**

Case Name:

**C.O. Williams Construction Ltd.
v
Adrien Mitchel**

**[DOMHCVAP2013/0008]
(Dominica)**

Date:

Tuesday, 21st May 2013

On paper:

Applicant / Intended Appellant: Gerald Burton Chambers

Respondent: Dyer & Dyer

Issues: Application for stay of execution – Application for extension of time to apply for leave to appeal – Application to strike out appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The application for stay of execution of the Order of Master Charlesworth Tabor [Ag.] dated 11th March 2013 is refused.
2. The application to strike out the notice of appeal filed on 18th March 2013 is granted.
3. The application for extension of time for leave to appeal, leave to appeal, relief from sanctions, that the application for leave to appeal is deemed properly filed and that the notice of appeal be deemed properly filed is refused.
4. Costs to the respondent in the sum of \$1,500.00.

Reason: The respondent opposed the application for a stay of execution.

Additionally, the notice of appeal filed on 18th March 2013 was an appeal from an interlocutory order and therefore required the leave of the court. The notice of appeal was filed without obtaining the leave of the court; this made the appeal a nullity.

Further, the application for an extension of time for leave to appeal did not give any good reason for the delay in making the application.

Case Name:

[1] Felixia Colaie
v
[1] Augustus Samuel Colaie
[2] Felixia James

**[DOMHCVAP2008/0012]
(Dominica)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: DeFreitas & DeFreitas & Baron

Respondent: Dyer & Dyer

Issue: Application to strike out appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The hearing of the application to strike out the appeal is adjourned to the Chamber hearing schedule for 20th June 2013.

Case Name: [1] The Prime Minister of the Commonwealth
of Dominica
[2] The Speaker of the House of Assembly of
the Commonwealth of Dominica
[3] The Attorney General of the
Commonwealth of Dominica
v
[1] Hector John (Leader of the Opposition)

**[DOMHCVAP2013/0006]
(Dominica)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: Mr. Lennox Lawrence

Respondent: Gildon Richards Chambers

Issue: Application for stay pending appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for stay of execution of the directions of the Judge dated 22nd February 2013 is refused.
2. No order as to costs.

Reason:

The Court was of the opinion that the appellants did not satisfy the requirements for the grant of a stay.

Further, the order of Pereira CJ dated 3rd May 2013 was not complied with.

Case Name:

[1] Samuel Charles
[2] Wendy Charles
v
[1] Bernadette Sampson
[GDAHCVAP2012/0015]
(Grenada)

Date:

Tuesday, 21st May 2013

On paper:

Appellant:

Ms. Denise Campbell

Respondent:

George E. D. Clyne Chambers

Issue:

Application for stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for an order that execution and all further proceedings on the judgment of Ellis J dated 17th August 2012 be stayed pending the hearing of the appeal is refused.
2. Costs to the respondent in the sum of \$750.00.

Reason: The appellant did not satisfy the threshold requirements for the grant of a stay of execution.

Case Name: Phillip Andrew (Administrator of the Estate of
Rosanna Andrew, Deceased)
v
James Andrew
[GDAHCVAP2012/0006]
(Grenada)

Date: Tuesday, 21st May 2013

On paper:

Applicant / Intended Appellant: Ciboney Chambers

Respondent: Ms. Denise Campbell

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
1. The application for leave to appeal is granted.
2. The appellant is to file and serve the notice of appeal within 21 days of this order.

Reason: The applicant/intended appellant satisfied the requirements for leave to appeal.

Case Name: Grenada Technical and Allied Workers Union
v
Liberty Club Limited (Trading as La
sfdSource)

**[GDAHCVAP2012/0010]
(Grenada)**

Date: Tuesday, 21st May 2013

On paper:

**Applicant / Intended
Appellant:** Mr. Grant Joseph

Respondent: Mr. George E. D. Clyne

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for leave to appeal is granted.
2. The appellant is to file and serve the notice of appeal within 21 days of this order.

Reason: The appellant satisfied the requirements for leave to appeal.

Case Name:

[1] Geraldine Cabey

v

[1] His Excellency the Governor of Montserrat

[2] The Attorney General

**[MNIHCVAP2012/0009]
(Montserrat)**

Date: Tuesday, 21st May 2013

On paper:

**Appellant /
Applicant:** Kelsick & Kelsick Chambers

Respondent: Attorney General's Chambers

Issue: Application for extension of time to file skeleton arguments

Result / Order: IT IS HEREBY ORDERED THAT:
1. The applicant is granted an extension of time to file skeleton arguments and chronology of events.
2. The appellant is to file and serve the skeleton arguments and chronology of events within 14 days of today's date.

Reason: The respondents did not oppose the application for the extension of time.

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

Date: Tuesday, 21st May 2013

On paper:
Applicant / Intended Appellant: Mr. John Tyme

Respondent: Kelsick, Wilkin & Ferdinand Chambers

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

Result / Order / IT IS HEREBY ORDERED THAT:

Reason:

1. The applicant is to file the order of the master being appeal within 7 days of today's order.
2. The applications are adjourned to the Full Court sitting in St. Kitts during the week commencing 10th June 2013.

Case Name:

Conroy Tomlinson

v

Elverna Dupont

**[SKBMCVAP2012/0008]
(Saint Christopher & Nevis)**

Date:

Tuesday, 21st May 2013

On paper:

Appellant:

Mr. John Cato

**Respondent /
Applicant:**

Gonsalves Hamel-Smith

Issue:

Application for removal from record

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant is to serve the application on the respondent within 14 days of this order and to provide the evidence of service.
2. The matter is adjourned to the next chamber hearing schedule for 20th June 2013.

Reason:

Counsel for the respondent did not comply with rule 63.6(2) and (3) of the CPR 2000 which requires that the application must be on notice to the respondent and that the application must be supported by evidence on affidavit which must be served on the respondent.

Case Name:

**[1] Pizarro Company Limited
[2] David James
[3] Peter Miller
[4] Maxwell Dickson
[5] Galahad Company Limited
v
[1] Jennifer Diane Connah**

**[SKBHCVAP2013/0004]
(Saint Christopher & Nevis)**

Date:

Tuesday, 21st May 2013

On paper:

**Applicant / Intended
Appellant: Byron & Byron**

Respondent: Brantley & Associates

Issue:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is to file the order/judgment being appealed and send to Court of Appeal headquarters within 7 days of today's date.**
- 2. The matter is adjourned to the next sitting of the Court in St. Kitts & Nevis scheduled for the week commencing 10th June 2013.**

Reason:

The order being appealed against was not appended to the application for leave to appeal.

Case Name:

**Angus Jn. Baptiste
v**

Oliver Sampson

**[SLUMCVAP2013/0001]
(Saint Lucia)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: Mr. Alexis Alcide

Respondent: In person

Issue: Application for extension of time to appeal

**Result / Order /
Reason:**

IT IS HEREBY ORDERED THAT:

1. The appellant is to provide proof of service and a copy of the order being appeal within 14 days of this Order.
2. The application is adjourned to the next chamber hearing schedule for 20th June 2013.

Case Name:

**[1] Rhona aka Lorna Mary Cox
v
[1] Cecile Beryl Ryan-Cox
[2] Theobald Cox**

**[SLUHCVAP2013/0003]
(Saint Lucia)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: Gordon, Gordon & Company

Respondent: Winston Hinkson & Associates

Issue: Application for stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

The application for a stay of execution pending the determination of the appeal is granted with no order as to costs.

Reason:

The respondent did not oppose the application.

Case Name:

- [1] David Bray
- [2] Caroline Bray
- [3] Mark Stewart Hutton
- [4] Henry Magrill
- [5] Rachel Magrill
- [6] Ermanno Zanghirella
- [7] Mirella Strbac
- [8] Gerald Irwin
- [9] Bruce Anthony Gill
- [10] Donald James Scarborough
- [11] Betty Jane Scarborough
- [12] Adrian Chappell
- [13] Stephanie Chappell
- [14] Sandeep Bhatia
- [15] Alastair Quinn Taylor
- [16] Nichola Quinn Taylor
- [17] James Mc. Dougall
- [18] Angella Mc. Dougall
- [19] Julian Bernard Nutbrown
- [20] Natalie Ann Nutbrown
- [21] John Jackson Miller
- [22] Stuart Sells
- [23] Ann Sells
- [24] William Rose
- [25] Jane Rose
- [26] Sean David McMurran
- [27] Jane Emma Louise McMurran
- [28] Lawrence Bailey
- [29] Latchmie Bailey

**[30] David Rushmer
[31] Linda Carey-Rushmer
[32] Graham Fender
[33] Elizabeth Fender
[34] William Burt
[35] Jennifer Thompson**

v

**[1] Sunset Village Inc. (in Liquidation)
[2] First Caribbean International Bank
(Barbados) Limited
[3] Oliver Jordan (Liquidator)**

**[SLUHCVAP2013/0004]
(Saint Lucia)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: Mr. Thaddeus Antoine

Respondent: Peter I. Foster & Associates

Issues: Application for special leave to appeal – Directions

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is to file and serve submissions in reply to the respondents' submissions within 14 days of today's order.**
- 2. The matter is adjourned to the next chamber hearing on 20th June 2013.**

Case Name:

**Prudence Robinson
v
Sagicor General Insurance Inc.**

**[SLUHCVAP2013/0009]
(Saint Lucia)**

Date: **Tuesday, 21st May 2013**

On paper:

**Applicant / Intended
Appellant:** **Ms. Lydia Faisal**

Respondent: **McNamara & Company**

Issue: **Application for leave to appeal**

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant is to file the order being appeal on or before 31st May 2013.**
- 2. The respondent is to file and serve submissions in response within 21 days of this order.**
- 3. The matter is adjourned to the next chamber hearing on 20th June 2013.**

Reason:

The appellant did not file the order appeal against with the application for leave to appeal.

Case Name:

[1] Neil Alvin Peter

v

[1] The Director of Public Prosecutions

**[2] The Director of The Bordelais Correctional
Facility**

**[3] Sergeant 361 Aidan Marcion, The
Information Technology Unit, The Royal Saint
Lucia Police Force**

**[SLUHCVP2013/0001]
(Saint Lucia)**

Date: **Tuesday, 21st May 2013**

On paper:

Appellant: **Mr. Leslie Prospere**

Respondent: Office of the Director of Public Prosecutions

Issue: Application to appoint legal aid

**Result / Order /
Reason:**

IT IS HEREBY ORDERED THAT:

1. Pursuant to section 46 of the ECSC Saint Lucia Chap 2:01 and Rules as amended the Court directs that legal aid be given to the appellant for the hearing or preparation of the hearing of appeal.
2. That Mr. Leslie Prospere is appointed counsel for the appellant for the purpose of prosecuting the appeal for the appellant.
3. Pursuant to section 50(2) of the ECSC (Saint Lucia) Act Chap 2:01 and Rules 48(10) and 47(2) of the Court of Appeal Rules 1968, a copy of the transcript of proceedings and summing up shall be supplied free of charge to the appellant.

Case Name:

**Joseph Rosan
v
Valerie Stephens**

**[BVIHCVAP2013/0009]
(Territory of the British Virgin Islands)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: Rosan Law

Respondent: Farara Kerins

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

The application for leave to appeal is adjourned to the Full Court sitting in Tortola during the week commencing 16th September 2013.

Reason: The Court was minded to refused leave; therefore it acted in accordance with rule 62.2(5)(a) and (b) of the CPR 2000.

Case Name: Westmore Gaymes
v
The Commissioner of Police
[SVGMCRAP2013/0006]
(Saint Vincent and the Grenadines)

Date: Tuesday, 21st May 2013

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

Issue: Application for extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
1. The applicant is granted an extension of time to file a notice of appeal.
2. The notice of appeal is to be filed and served within 14 days of today's date.

Case Name: Philemon Bobb
v
The Commissioner of Police

**[SVGMCVAP2013/0008]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: In person

Respondent: Office of the Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The applicant is to file the record of conviction and produce evidence of medical certificate of his illness within 21 days of this order.

Reason: The Court noted that the reason for the appellant's delay was illness of the appellant.

Case Name: Denzil Sam
v
The Commissioner of Police

**[SVGMCRAP2013/0009]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: In person

Respondent: Office of the Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to file a notice of appeal.
2. The appellant is to file and serve the notice of appeal within fourteen (14) days of this order.

Case Name:

**Colly Lowman
v
The Commissioner of Police**

**[SVGMCRAP2013/0010]
(Saint Vincent and the Grenadines)**

Date:

Tuesday, 21st May 2013

On paper:

Appellant: In person

Respondent: Office of the Director of Public Prosecutions

Issue:

Application for extension of time to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to file a notice of appeal.
2. The appellant is to file and serve the notice of appeal within fourteen days (14) of this order.

Case Name:

**Lenny Barnes
v
The Commissioner of Police**

**[SVGMCRAP2013/0011]
(Saint Vincent and the Grenadines)**

Date: Tuesday, 21st May 2013

On paper:

Appellant: In person

Respondent: Office of the Director of Public Prosecutions

Issue: Application for extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted an extension of time to file a notice of appeal.
2. The notice of appeal is to be filed and served within fourteen (14) days of today's date.

Case Name:

[1] Stanley DeFreitas (Trading as DeFreitas and Associates)

v

[1] Transglobal Inc. (In Liquidation)

[2] International Financial Service Authority

[3] Horizon Bank International Limited (In Liquidation)

[SVGHCVAP2013/0007]
(Saint Vincent and the Grenadines)

Date: Tuesday, 21st May 2013

On paper:

Appellant: Caribbean International Law Firm

Issue: Without notice application for permission to use alternative method of service

Result / Order: IT IS HEREBY ORDERED THAT:

1. The applicant is granted permission to serve the

notice of appeal out of the jurisdiction and to use an alternative method of service of the notice of appeal on Marcus A. Wide (the liquidator) for 1st and 2nd respondents.

2. The alternative method of service is by way of registered mail to Marcus A. Wide (the liquidator) for 1st & 2nd respondents at the following address:

Marcus A. Wide
Liquidator
Pricewaterhouse Coopers LLP
Summit Place
1601 Lower Water Street, Suite 400
Halifax, Nova Scotia
Canada B3J 3P6

TELECONFERENCE

Case Name:

[1] Charmaine Rosan-Bunbury

v

**[1] The Judicial and Legal Services
Commission**

**[2] Governor of the British Virgin Islands
William Boyd McCleary**

[3] Senior Magistrate Valerie Stephens

**[4] Permanent Secretary in the Deputy
Governor's Office David Archer**

[5] Additional Magistrate Tamia Richards

**[6] The Attorney General of the British Virgin
Islands**

[BVIHCVAP2011/0072]

(Territory of the British Virgin Islands)

Date:

Tuesday, 21st May 2013

On paper:

Appellant:

**Ms. Avril Trotman-Joseph with her Dr. Francis
Alexis, QC**

Respondent:

Ms. Maya Barry

Issue:	Case management				
Result / Order:	IT IS HEREBY ORDERED THAT: Matter adjourned to 10 a.m. on Thursday, 23rd May 2013.				
Reason:	Counsel indicated that the draft directions from the appellant were not received as yet.				
Case Name:	[1] Charmaine Rosan-Bunbury v [1] The Judicial and Legal Services Commission [2] Governor of the British Virgin Islands William Boyd McCleary [3] Senior Magistrate Valerie Stephens [4] Permanent Secretary in the Deputy Governor's Office David Archer [5] Additional Magistrate Tamia Richards [6] The Attorney General of the British Virgin Islands [BVIHCVAP2011/0072] (Territory of the British Virgin Islands)				
Date:	Thursday, 23rd May 2013				
On paper:	<table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;">Appellant:</td> <td>Ms. Avril Trotman-Joseph with her Dr. Francis Alexis, QC</td> </tr> <tr> <td style="vertical-align: top;">Respondent:</td> <td>Ms. Maya Barry</td> </tr> </table>	Appellant:	Ms. Avril Trotman-Joseph with her Dr. Francis Alexis, QC	Respondent:	Ms. Maya Barry
Appellant:	Ms. Avril Trotman-Joseph with her Dr. Francis Alexis, QC				
Respondent:	Ms. Maya Barry				
Issues:	Case management – Directions				

Result / Order:

IT IS HEREBY ORDERED THAT:

1. Within 21 days of today's date, the respondent is to inform the appellant of the documents it wishes to include in the core bundle or in the record.
2. The parties are to agree on a core bundle for use at the trial. The appellant is to file omitted documents to be laid over for the trial.
3. Within 28 days of today's date the appellant must file with the court office and serve on the respondent a revised skeleton argument:
 - (a) Setting out concisely the nature of the appellant's argument on each ground of appeal;
 - (b) In the case of a point of law, stating the point of law and citing the principal authorities in support with references to the particular pages where the principle concerned is set out;
 - (c) In the case of a question of fact, stating briefly the basis on which it is contended that the court can interfere with the finding of fact concerned, with cross references to the passages in the transcript or notes of evidence which bear on the point.
4. The appellant's skeleton arguments must be accompanied by a written chronology of events relevant to the appeal, cross referenced to the core bundle or record.
5. Within 28 days of service of the appellant's skeleton arguments, the respondent must file skeleton arguments and serve a copy on the appellant.
6. The appellant may file and serve a skeleton argument in reply within 14 days of service of the skeleton argument of the respondent.
7. The appellant is to prepare and file with the court office 6 sets of record for the use of the Court comprising a copy of affidavits (with exhibits) which were put in evidence before the court below; transcript of proceedings in the court below and the judgment, skeleton arguments and chronology.
8. The parties are to agree and file a statement of the issues for the appeal. In the case of disagreement each party is to file and serve its

own statement of issues for the appeal.

9. Estimated length of hearing of the appeal is 2 hours.
10. Appeal is to be heard at the next sitting of the Court of Appeal in the Territory of the Virgin Islands during the week commencing 16th September 2013.