

CHAMBER HEARING

June 2013

HEARING **(ST. LUCIA)**

Before: The Hon. Mr. Mario Michel, Justice of Appeal

Case Name: Eastern Caribbean Collective Organisation
for Music Rights (ECCO) Inc.
v
Mega-Plex Entertainment Corporation
[SLUHCRA2013/0012]

Date: Friday, 21st June 2013

On paper:

Appellant: Mr. Thaddeus M. Antoine

Respondent: Mr. Hilford Deterville, QC with him Mr. Gregory
Delsin and Ms. Debra Bowers

Issues: Application for leave to file notice of appeal out of
time – Application for relief from sanctions –
Whether Court ought to hear appellant's application
as the respondent was never served with an
application for leave to appeal

Result / Order: [Oral delivery]
1. Written submissions to be filed by the parties on
or before 31st July 2013.
2. Judgment reserved.

MATTERS DEALT WITH ON PAPER

Case Name:

Police Service Commission

v

Clifford Jackson

[ANUHCVAP2012/0028]

(Antigua and Barbuda)

Date:

Thursday, 20th June 2013

On paper:

Appellant:

Watt, Dorsett & Company

Respondent:

Ms. Samantha Marshall

Issues:

Application for relief from sanctions – Application for extension of time to file and serve submissions

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. Time is extended to 26th July 2013 for the respondent to file and serve skeleton arguments and authorities.**
- 2. The respondent is granted relief from sanctions for failing to comply with Part 62.11 of the CPR 2000.**
- 3. The appellant is to file and serve skeleton arguments in response, if any, on or before 23rd August 2013.**
- 4. The appeal is to be listed for the next sitting of the Court of Appeal in Antigua during the week commencing 25th November 2013.**

Case Name:

Stuart Coleman

v

Caribbean Developments (Antigua) Limited

[ANUHCVAP2013/0011]

(Antigua & Barbuda)

Date: Thursday, 20th June 2013

On paper:

Applicant / Intended Appellant: Henry & Burnette Company

Respondent: Simon Rogers Murdoch

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The applicant shall provide evidence of service of the application on the respondent on or before 5th July 2013.
2. The applicant shall file a copy of the order being appealed on or before 5th July 2013.
3. The respondent shall file and serve submissions in response to the application on or before 19th July 2013.
4. The application is adjourned to the chamber hearing scheduled for 23rd July 2013.

Reason:

The applicant failed to file copy of the order being appealed against and evidence of service of the application on the respondent.

Case Name:

Esmond James

v

**Mark Anthony t/a M.D.A. Trucking &
Equipment Services**

**[ANUHCVP2013/0012]
(Antigua & Barbuda)**

Date: Wednesday, 26th June 2013

On paper:

**Applicant / Intended
Appellant:** Marshall & Co.

Respondent: Peyton J. V. Knight & Associates

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
1. The applicant is to file the order being appealed within 14 days of this order.
2. The application is adjourned to the next chamber hearing scheduled for 23rd July 2013.

Reason: The order being appealed was not appended to the application.

Case Name: Charles Joseph
v
Antigua Commercial Bank
[ANUHCVP2013/0013]
(Antigua & Barbuda)

Date: Thursday, 20th June 2013

On paper:
**Applicant / Intended
Appellant:** Roberts & Co.

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED:
The application is adjourned to the Full Court sitting in Antigua during the week commencing 25th to 29th November 2013.

Reason: The Court was minded to refuse leave therefore it acted in accordance with CPR 2000 62.2 (5).

Case Name: FBO 2000 Antigua Limited
v
Eastern Caribbean Civil Aviation Authority
[ANUHCVP2013/0008]
(Antigua & Barbuda)

Date: Thursday, 20th June 2013

On paper:

Appellant:	Lake & Kentish
Respondent / Applicant:	Roberts & Co.

Issues: Application for notice of appeal to be dismissed – Directions

Result / Order: IT IS HEREBY ORDERED THAT:

1. The appellant is to file and serve submissions in response to the respondent's application to strike out the appeal on or before 12th July 2013.
2. The respondent shall file and serve submissions in response, if any, by 19th July 2013.
3. The application is adjourned to the next chamber hearing scheduled for 23rd July 2013.

Case Name: [1] Felixia Colaie
v
[1] Augustus Samuel Colaie
[2] Felixia James

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

Date: Thursday, 20th June 2013

On paper:

Appellant: DeFreitas & DeFreitas & Baron

Respondent: Dyer & Dyer

Issue: Application to strike out appeal

Result / Order: IT IS HEREBY ORDERED THAT:

1. The Registrar is to inform the Chief Registrar in writing as to the status of the preparation of the transcript of proceedings in this matter on or before 16th August 2013.
2. Consideration of the application to strike out is adjourned to the next Chamber Hearing scheduled for 24th September 2013.

Reason: The Court did not have any information regarding the status of the transcript of proceedings.

Case Name:

**[1] Francis St. Romain
[2] Kenrick Yearwood
v
[1] Louis Copiel C/O Customs and Excise
Division**

**[DOMMCVAP2013/0007]
(Dominica)**

Date: Thursday, 20th June 2013

On paper:

Appellant: Dyer & Dyer

Respondent: Office of the Director of Public Prosecutions

Issue: Application for extension of time to file recognizance

Result / Order: IT IS HEREBY ORDERED THAT:
The application is adjourned to the next Chamber Hearing on 23rd July 2013 to permit compliance with Practice Directions 2 and 3.

Reason: There was no evidence of service of the application on the respondent.

Case Name: Mervin Henderson
v
The Police

[DOMMCRAP2013/0020]
(Dominica)

Date: Thursday, 20th June 2013

On paper:

Appellant: Ms. Diana Vincia Auguiste

Respondent: Office of the Director of Public Prosecutions

Issue: Application for notice of appeal to be deemed properly filed

Result / Order: IT IS HEREBY ORDERED THAT:
The appellant/applicant shall comply with Practice Directions 2 and 3.

Reason: The Court noted that the application was not served

on the respondent.

Case Name: Emmanuel Parillon
v
Jonathan Joseph
[DOMHCVAP2011/0027]
(Dominica)

Date: Thursday, 20th June 2013

On paper:
Appellant: Dyer & Dyer
Respondent: Mr. Michael Bruney

Issue: For report

Result / Order: IT IS HEREBY ORDERED THAT:
1. The Registrar of the High Court shall notify the Chief Registrar on or before 12th July 2013 of the status of the transcript of the proceedings in DOMHCV2010/0350.
2. The matter is adjourned to the next Chamber Hearing scheduled for 23rd July 2013.

Reason: The Registrar did not comply with paragraph 2 of the order of Baptiste JA dated 8th April 2013.

Case Name: Merlyn Thomas Mann
v
Marie Jules Thomas
[DOMHCVAP2013/0012]

(Dominica)

Date: Thursday, 20th June 2013

On paper:

**Appellant /
Applicant:** Ms. Singoalla Blomqvist Williams

Respondent: Heather F. Felix-Evans Chambers

Issue: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:
3. The application for stay of execution of the judgment of Cottle J dated 15th May 2013 pending the decision of the Court of Appeal is granted.
4. No order as to costs.

Reason: The Court was of the opinion that the appellant/applicant satisfied the threshold requirements for the grant of a stay.

Case Name: [1] Stressman Thomas
[2] Edzil Thomas
[3] Guy Alexander
v
[1] Clarence Ferguson
[GDAHCVAP2011/0031]
(Grenada)

Date: Thursday, 20th June 2013

On paper:

Appellant: Mr. Francis Banfield

Respondent: Mr. Ruggles Ferguson

Issue: Application for extension of time to file record of appeal and skeleton arguments

Result / Order: IT IS HEREBY ORDERED THAT:

1. The time for filing the record of appeal and appellant's skeleton arguments is extended to the 20th day of June 2013.
2. The record of appeal and core bundle, which contains the appellant's skeleton arguments, filed herein on the 14th day of May 2013 and served on the respondent on the 16th day of May 2013 are deemed to have been properly filed and served.
3. The appellant is relieved from sanctions arising from the late filing of the record of appeal and the skeleton arguments.

Reason: The Court accepted the explanation given on behalf of the applicants/appellants for the late filing of the record of appeal and skeleton arguments and considered that the justice of the case would best be served by deeming the record of appeal and skeleton arguments filed to have been properly filed.

Case Name:

[1] Jester Emmons
[2] Jerry Emmons
[3] Godwin Emmons
v
[1] Incorporated Trustees of the Seventh Day Adventist Church

[GDAHCVAP2013/0012]
(Grenada)

Date: Monday, 29th July 2013

On paper:

Appellant: George E. D. Clyne Chambers

Respondent: Henry, Henry & Burnette

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

Result / Order: IT IS HEREBY ORDERED THAT:
Pursuant to CPR 62.2(5), the application for leave to appeal is adjourned to the Full Court at its next sitting in Grenada during the week commencing 28th October 2013.

Reason: The Court was minded to refuse leave; hence it acted in accordance with CPR 62.2(5).

Case Name: Jean McNeilly
v
Jacqueline Charles
(Administratrix of the Estate of Joshua Thorne, deceased)

[GDAHCVAP2013/0013]
(Grenada)

Date: Friday, 21st June 2013

On paper:

Appellant: Ciboney Chambers

Respondent: Amicus Attorneys

Issue: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:
The execution on the judgment and order of Mohammed J dated the 22nd day of May 2013 is stayed pending the hearing and determination of the

appeal.

Reason: The applicant satisfied the requirements for the grant of a stay.

Case Name: Fire Service Association
v
Attorney General
[SLUHCVAP2013/0011]
(St. Lucia)

Date: Friday, 21st June 2013

On paper:

Appellant: Ms. Cynthia Hinkson-Ouhla

Respondent: Attorney General Chambers

Issue: Application for extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application is adjourned to the sitting of Full Court in Saint Lucia during the week commencing 8th July 2013.

Reason: Counsel for the parties requested an adjournment of the matter.

Case Name: Angus Jn. Baptiste
v
Oliver Sampson

**[SLUMCVAP2013/0001]
(St. Lucia)**

Date: Thursday, 20th June 2013

On paper:

Appellant: Mr. Alfred Alcide

Respondent: In person

Issue: Application for extension of time to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application is adjourned to the next chamber hearing scheduled for the 23rd day of July 2013.

Reason: The applicant had not yet complied with the previous order of the Court directing him to file a copy of the order being appealed.

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]
(St. Lucia)

Date: Friday, 30th August 2013

On paper:

**Appellant /
Applicant:** Mr. Thaddeus Antoine

Respondent: Peter I. Foster & Associates

Issues: Application for special leave to appeal – Whether a person who was not a party to proceedings can appeal against judge’s order

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for an extension of time to file an appeal against the order of Wilkinson J dated 8th November 2012 is hereby declined.
2. Costs of \$1,000.00 payable to the first and third respondents by the applicants.
3. No order for costs of the second respondent.

Reason:

The applicants were never joined as parties to the proceedings leading to the order of Wilkinson J and were therefore not parties to the proceedings. As such the applicants did not earn for themselves the right to appeal against Wilkinson's J order of 8th November 2012.

Case Name:

Marie Delaire Biscette

v

Joseph Biscette

**[SLUHCVAP2012/0030]
(St. Lucia)**

Date:

Friday, 21st June 2013

On paper:

Appellant: Ms. Sylma Finisterre

Respondent: Ms. Lydia Faisal

Issue:

Application for stay of execution

Result / Order:

IT IS HEREBY ORDERED THAT:

The execution on the judgment and order of Georges J [Ag.] dated the 24th day of August 2012 is stayed pending the hearing and determination of the appeal.

Reason:

The applicant satisfied the criteria for the grant of a

stay.

Case Name: [1] George Belmar
v
[1] The Cabinet of St. Lucia
[2] The Chief Surveyor
[3] The Attorney General

[SLUMCRAP2013/0004]
(St. Lucia)

Date: Wednesday, 17th July 2013

On paper:

Appellant: Peter I. Foster & Associates

Respondent: Attorney General Chambers

Issue: Application to substitute appellant

Result / Order: IT IS HEREBY ORDERED THAT:
1. The applicant is to file and serve written consents of the intended substitute appellants on or before 30th August 2013.
2. Hearing of the application is adjourned to the next chamber hearing of the Court scheduled for 24th September 2013.

Reason: The Court noted that CPR 19.3(4) requires the filing of written consent of the person to be substituted.

Case Name: George Alexander
v
Police Corporal 483 Bernard Gaston

**[SLUMCRAP2013/0004]
(St. Lucia)**

Date: Monday, 29th July 2013

On paper:

Appellant: Fraser & Company

Respondent: Office of the Director of Public Prosecutions

Issue: Application for an 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 applicant shall file and serve the notice of appeal no later than 30th August 2013.**

Reason:

Although over three years elapsed between the decision of the Magistrate and the application for extension of time to appeal against it, the Court accepted that the applicant/appellant only became aware of the decision of the Magistrate when he was arrested and detained by the police for non-payment of a fine over three years after the fine was imposed.

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: Friday, 2nd August 2013

On paper:

Applicant / Intended Appellant: Byron & Byron

Respondent: Brantley & Associates

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
The application is adjourned to be heard by teleconference before a single judge of the at the Headquarters of the Eastern Caribbean Supreme Court in Saint Lucia on Monday, 23rd September 2013 at 10:00 a.m. in the forenoon.

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

Case Name: [1] Kareem Vinton Glasford
v
[1] First Caribbean International Bank
(Barbados) Limited
[2] Bronwen Glasford

[SKBHCVAP2013/0012]
(Saint Christopher & Nevis)

Date: Thursday, 20th June 2013

On paper:

Appellant: In person

Respondent: Kelsick, Wilkin & Ferdinand for first respondent

Grant Powell & Company for second respondent

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 during the week commencing 14th October 2013.**

Reason: **The Court was minded to refuse leave therefore it acted in accordance with CPR 62.2(5).**

Case Name: **[1] Ciban Management Corporation
v
[1] Citco (BVI) Limited
[2] Tortola Corporation Company Limited
(Applicant)**

**Albert Jackson Byington Neto
(Additional Respondent)**

**[BVIHCVAP2013/0001]
(Territory of the Virgin Islands)**

Date: **Thursday, 20th June 2013**

On paper:

Appellant: **Martin Kenney & Co.**

Respondent: **Harney Westwood & Riegels**

Issue: **Application for security of costs**

Result / Order: **IT IS HEREBY ORDERED THAT:
1. The appellant, Ciban Management Corporation, is to file and serve submissions in response to the**

appellant's application for security for costs by 10th July 2013.

2. The applicant/respondent is to file and serve submissions in response on or before 18th July 2013.
3. The application is adjourned to the next chamber hearing scheduled for 23rd July 2013.

Case Name:

Sylmord Trade Inc.

v

Inteco Beteiligungs Ag

[BVIHCVAP2013/0003]

(Territory of the Virgin Islands)

Date:

Thursday, 20th June 2013

On paper:

Appellant:

Appleby

Respondent:

Maples and Calder

Issue:

Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

1. The application for extension of time to file the notice of appeal is granted.
2. Time is extended to 4th June 2013 to file the notice of appeal.
3. The notice of appeal filed on 4th June 2013 is deemed to be properly filed.
4. The interlocutory appeal is fixed for hearing during the Court of Appeal sitting in Tortola during the week commencing 16th September 2013.
5. The parties are to comply with the requirements of CPR 62.10.

Reason: The notice of appeal was filed one week after the time stipulated and the reason given for the late filing was considered acceptable.

Case Name: [1] Nanjing Ocean (BVI) Co. Limited
v
[1] Gao Chunhe
[2] Nasbulk Limited
[BVIHCVAP2013/0005]
(Territory of the Virgin Islands)

Date: Monday, 29th July 2013

On paper:

Appellant: Appleby

Respondent: Conyers Dill & Pearman

Issue: Application for leave to appeal

Result / Order: IT IS HEREBY ORDERED THAT:
1. The respondent shall file and serve written submissions in opposition to the application for leave to appeal within 14 days of today's date.
2. The applicant shall file and serve written submissions in response if any, within 7 days of service of the respondents' submissions.
3. The application for leave to appeal and stay of execution is adjourned to the Full Court at its next sitting in the Territory of the Virgin Islands during the week commencing 16th September 2013.

Case Name: [1] Chang Ho Kwok David
v

**[1] Winbless Inc
[2] Amazing Inc**

**[BVIHCVAP2013/00018]
(Territory of the Virgin Islands)**

Date: Thursday, 20th June 2013

On paper:

Appellant: Harney Westwood & Riegels

Respondent: Sabals Law for the first respondent

Issue: Application for leave to appeal

Result / Order:

IT IS HEREBY ORDERED THAT:

- 1. The applicant/appellant shall serve the application for leave to appeal together with the supporting documents on the respondents by 5th July 2013.**
- 2. The respondents shall file and serve submissions in response to the application by 12th July 2013.**
- 3. The applicant/appellant shall file and serve submissions in response, if any, on 19th July 2013.**
- 4. The application is adjourned to the next chamber hearing scheduled for 23rd July 2013.**

Case Name:

**[1] Gregory Browne
[2] Shelly-Ann Sutherland**

v

**[1] Pomme-Granate Limited formerly
(CPCTI SVG Ltd.) Acting through its
director Ingrid Punnett**

**[SVGHCVAP2013/0009]
(St. Vincent & the Grenadines)**

Date: Thursday, 20th June 2013

On paper:

Appellant: Dougan & York and Company

Respondent: Marks & Marks

Issue: Application for stay of execution

Result / Order: IT IS HEREBY ORDERED THAT:
The application for a stay of execution is refused.

Reason: The Court was of the opinion that the application did not satisfy the criteria for granting a stay of proceedings.

Case Name:

Jemark Jackson
v
The Commissioner of Police

[SVGMCRAP2013/0021]
(St. Vincent & the Grenadines)

Date: Wednesday, 26th June 2013

On paper:

Appellant / Applicant: 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 application for extension of time to file the notice of appeal is granted.

2. The applicant is to file and serve the notice of appeal within 21 days of this order.

Reason:

The reason given by the applicant/appellant in his application for an extension of time to appeal was considered to be satisfactory.