

IN OPEN COURT
SAINT LUCIA
Wednesday, 7th March 2012

APPLICATIONS AND APPEALS

Case Name: Sonia Hippolyte v Cletus Hippolyte
[High Court Civil Appeal No. 31 of 2011]

Coram: The Hon. Mr. Hugh A. Rawlins, Chief Justice
The Hon. Mde. Janice M. Pereira, Justice of Appeal
The Hon. Mr. Davidson K. Baptiste, Justice of Appeal

Appearances:

Appellant / Applicant:	Mr. Horace Fraser
Respondent:	Mr. Dexter Theodore

Issues: Application to set aside order of this court dated 15th February 2012 striking out appeal – Divorce proceedings

Result / Order: [Oral delivery]
1. The application to set aside the Order which the Court gave on 15th February 2012 to strike out the appeal herein is granted.
2. The appeal is accordingly restored to the Court of Appeal's list for the next sitting in St. Lucia in June 2012.
3. Counsel for the applicant shall pay \$500.00 costs to the respondent.

Reason: Counsel for the applicant, Mr. Fraser, indicated that the reason for his non-appearance at court on 15th February 2012 when his matter was called, was that he had been engaged in another matter in the magistrates' court that morning. He further indicated that he had informed the appellant that it was not necessary for her to come to court until later that

morning, which turned out to be well after the matter had been called.

The Court pointed out to counsel that appellate matters should always take precedence over magisterial matters. However, the circumstances did not warrant a refusal to have the appeal restored. It was held that the matter could be remedied by awarding costs to the respondent, which Mr. Fraser indicated he was prepared to bear personally. In coming to a decision on the size of the costs award, the Court noted that this matter did not necessitate the preparation of lengthy submissions.

Case Name:	Cage (St. Lucia) Limited v Treasure Bay (St. Lucia) Limited and Others [High Court Civil Appeal No. 45 of 2011]
Coram:	The Hon. Mr. Hugh A. Rawlins, Chief Justice The Hon. Mde. Janice M. Pereira, Justice of Appeal The Hon. Mr. Davidson K. Baptiste, Justice of Appeal
Appearances:	
Appellant:	Mr. Garth Patterson, QC, with him, Ms. Alana Gore, Ms. Candace Polius and Ms. Eugenia Dickson
Respondent:	Mr. Anthony Astaphan, SC, with him, Ms. Renee St. Rose (for the 1st respondent, Treasure Bay (St. Lucia) Limited) Mr. Raulston Glasgow, Solicitor General (for the 3rd respondent, The Attorney General, holding a watching brief) Mr. Vern Gill (for the 4th respondent, The National Lotteries Authority, holding a watching brief)
Issues:	Civil appeal – Whether the learned trial judge erred in holding that Cage (St. Lucia) Limited was not to be joined as a party to judicial review proceedings which were ongoing in the court below under Part 19 of the Civil Procedure Rules 2000 (“CPR”)

Result / Order:

[Oral delivery]

- 1. The appeal is allowed and the decision by the learned trial judge refusing to join Cage (St. Lucia) Limited as a party to the proceedings in the High Court is set aside.**
- 2. Cage (St. Lucia) Limited shall be joined in the High Court proceedings as an interested party, and, accordingly the claim form shall be amended and all subsequent documents shall have the following title:**

Treasure Bay (St. Lucia) Limited

Claimant

and

**The Gaming Authority
The Attorney General
The National Lotteries Authority**

Respondents

and

Cage (St. Lucia) Limited

Interested Party

- 3. Treasure Bay (St. Lucia) Limited shall serve the claim form and affidavits in support, as well as all other documents filed by Treasure Bay (St. Lucia) Limited in the proceedings on Cage (St. Lucia) Limited within 14 days of today's date.**
- 4. The other parties in the proceedings shall serve all documents filed by them on Cage (St. Lucia) Limited within 14 days of today's date.**
- 5. Cage (St. Lucia) Limited shall file and serve affidavit evidence on or before the 4th of April 2012.**
- 6. All other parties may file and serve affidavits in response on or before 30th April 2012.**
- 7. This case is remitted to the High Court for Pretrial Review which shall be scheduled during the first half of May 2012 with a view to giving such further directions as may be necessary for the trial of this case.**
- 8. The respondent Treasure Bay (St. Lucia) Limited shall pay the \$7,500.00 costs in the court below and \$5,000.00 in these proceedings to the**

Interested Party/Appellant, Cage (St. Lucia) Limited.

Reason:

The learned judge erred when she did not further consider the extent to which the claims made and the reliefs sought by Treasure Bay (St. Lucia) Limited ("Treasure Bay") in the claim form, as well as the interim relief which they sought, would impact on the interests of Cage (St. Lucia) Limited ("Cage"). The claim indeed had substantial administrative reliefs which were directly referable to Cage, notwithstanding that it was a decision of Cabinet which was the subject of the judicial review proceedings. In the circumstances it would have been particularly inimical to natural justice to prevent Cage from being joined as a party in the proceedings.

Cage should be joined as an interested party in the judicial review proceedings. In this regard the Court noted that Cage's position in this matter was similar to that of Quorum Island (BVI) Limited in the case of Quorum Island (BVI) Limited v Virgin Islands Environmental Council and Another, Territory of the Virgin Islands HCVAP 2009/021 (delivered 12th August 2011, unreported).