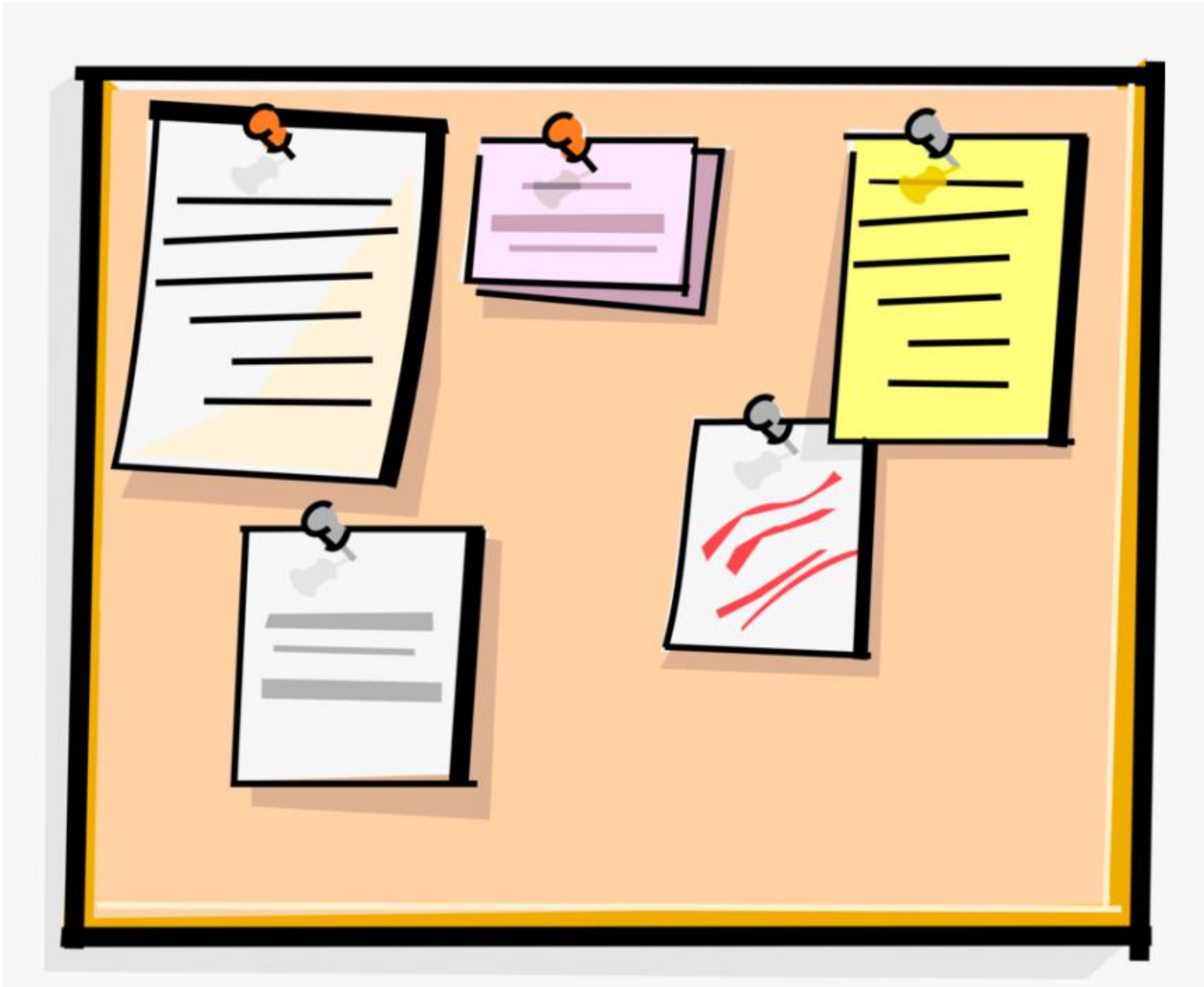


# CURRENT AWARENESS BULLETIN

January – March 2015



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## INTRODUCTION

This publication is designed to inform users of acquisitions by the library within the stated period, and will appear quarterly until further notice.

Under **TREATISES, DIGESTS, ETC.**, the classification number for the location of the publication on the shelves, is included to the right of the listing.

Under **LEGISLATION**, the abbreviation “G.S.” means - Jamaica Gazette Supplement Bills and Acts.

Judgments are arranged by country, then listed alphabetically by names of parties, followed by the court and date of decision. Abbreviations for the courts are as follows:

P.C. Privy Council  
C.A. Court of Appeal  
S.C. Supreme Court  
R.C. Revenue Court  
F.C. Full Court

Jamaican judgments have been broadly classified to facilitate the user. Headings are indicated in bold letters appearing after the date of decision for each judgment.

Publications of other Caribbean territories are included as and when received.

**Comments:** As we begin to adapt to the new normal, John Gould asks whether it’s time to adopt a new approach to ethics

**Specialist:** Employment Ian Smith takes a gender at short, precise, but nonetheless important aspects of both common & statutory

**Procedure and Practice:** Standard of Proof **Adrian Keane** considers jurors should be given a fuller & more accurate direction before returning their verdict.

**Inside Court:** Law Digest

**Profession: Expert Witness-** Expert witnesses at a conference with counsel- a practical guide- compiled by Mark Solon.

conversion in the digital age

**JUDGMENTS**

<THE> ADMINISTRATOR-General for Jamaica v Glen Muir

JMCA 06.02.2015

**CIVIL PROCEDURE AND PRACTICE - Appeal - Application for permission to appeal - Whether learned judge erred in law by proceeding to hear claim against defendant where no personal representative previously appointed - No grant of administration issued in deceased defendant's case - Action in personam where there is no person in law natural or artificial against whom claim order could be made - Court of Appeal Rules 2002, Rule 1.8(9) - Civil Procedure Rules 2002, Rule 217 - Administrator-General's Act, S.12 - Application granted**

ADVANTAGE GENERAL Insurance Company Limited v Lloyd Heman

JMCA 26.02.2015

**INSURANCE LAW - Motor vehicle accident - Non-disclosure of material fact - Whether learned judge erred in failing to take into consideration provisions of section 18(1) of the Act - Res judicata - Whether appellant entitled to avoid liability under terms of Act - Whether lower court had properly made Orders it made that declarations in declaration claim not set aside - Whether court below could have properly awarded respondent commercial interest in claim - Motor Vehicle Insurance (Third-Party Risks) Act, s. 18(3)**

ALLEN, Gladstone v Donald Allen

JMSC 19.12.2014

**PROPERTY DISPUTE — Claim for declaration of beneficial interest in estate property — Claim for sale of estate property — Application for injunctive relief**

BAILEY-LATIBEAUDIÈRE, Viralee v The Minister of Finance and Planning and The Public Service and The Financial Secretary and The Public Service Commission and The Attorney General of Jamaica

JMCA 13.02.2015

**CIVIL PROCEDURE AND PRACTICE - Judicial Review - Application for leave to apply for - Whether threshold test required for grant of leave for judicial review - Whether certiorari against Minister - Termination of contracts of public service employees - Disciplinary hearing/procedure pursuant to the Public Service Regulations - Whether discretionary bar arose - Whether injunctive relief applicable - Whether matter of public or general importance and falls within the Civil Procedure Rules 2002, Rules 56.3(1),(2),(4), 56.4(1),(2),(3), 56.4(12) and 56.6 - Constitution of Jamaica, S. 110(1)(a) - Application refused**

BARNES, Jermaine v R

JMCA 16.02.2015

**CRIMINAL LAW - Illegal possession of firearm - Robbery with aggravation - Whether sentence manifestly excessive in light of guilty plea - Appeal refused**

BLAIR, ADASA and Cathlyn Hay and Justin Blair and Ensert Blair and Udencia White and Gladstone Blair and Hyacinth Blair and Ashburn Blair and Hubert Blair and Amos Blair and Laundry Blair v Neville Blair and Brown's and Son Funeral Parlour Ltd.

JMSC 21.01.2015

**INJUNCTION — Without notice application to stop funeral**

BLAKE, Prudence v Hughroy Blake  
JMJC 28.11.2014

**MATRIMONIAL PROPERTY – Separation of Parties – Division of Matrimonial Property – Family Home – Equal Share Rule – Property (Rights of Spouses) Act**

BUILD-RITE Construction Company Limited and GM and Associates Limited v NIF Resort Management Company Limited and The Attorney General of Jamaica

JMSC 19.02.2015

**ADMINISTRATIVE LAW- Application for leave to apply for judicial review**

IN THE MATTER OF AN application by Constable **Pedro Burton** for extension of time within which to apply for leave to apply for Judicial Review and In the Matter of leave to apply for Judicial Review and In the Matter of the **Commissioner of Police November 17, 2011**

JMSC 21.11.2014

**JUDICIAL REVIEW — Application for leave to apply for judicial review — Application to extend time to apply for leave — Reasons for delay — Whether good reasons exist to extend time — Whether arguable ground having a realistic prospect of success — Considerations for court's discretion — CPR 2002**

CARIBBEAN CEMENT Company Limited v Freight Management Limited

JMCA 16.01.2015

**WHETHER TENDER WAS ACCEPTED - Whether there is a concluded contract - Whether defendant is estopped by its conduct from relying on certain clauses - Whether claimant entitled to damages - Whether the fact that vessel is not owned by claimant precludes a claim for damages - Whether claim for interest pursuant to the Law Reform (Miscellaneous Provisions) Act must be pleaded - Whether court has jurisdiction to entertain claim for interest after judgment delivered**

CARR, Bertram v Von's Motor & Company Ltd.

JMCD 30.01.2015

**CIVIL PROCEDURE AND PRACTICE - Summary judgment - Application for permission to appeal - Sale of defective vehicle - Loss - Damage - Whether Limitation period had expired - Time of calculating limitation period in sale of goods - Court of Appeal Rules 2002, R. 1.8(9)**

CHRISTIAN, GLENFORD and Marva Christain v Weststar International Ltd. and Ryland T. Campbell and First Caribbean International Bank (Jamaica) Limited and Weststar Group Limited and Weststar Finance Limited

JMCC 13.01.2015

**CIVIL PROCEDURE AND PRACTICE - Applications for court orders — Applications made pursuant to a liberty to apply clause in a consent order — Whether application for disclosure and verification of sums a variation of the consent order — No requirement for disclosure or verification in the relevant paragraph of the consent order — Whether the liberty to apply clause may be used for such applications — No fraud, misrepresentation or change of circumstances**

COKE, Igol v Nigel Rhooms and Adrian Anderson and The Attorney General for Jamaica

JMCA 19.12.2014

**NEGLIGENCE - Motor vehicle accident - Whether learned judge misdirected on burden of proof in motor vehicle accidents - Whether the doctrine of res ipsa loquitor was applicable - Whether the judge erred in the approach to no-case submissions - Order for new trial**

COLE, Lloyd v Hyacinth Hue

JMCA 16.01.2015

**REAL PROPERTY - Trespass to land - Counterclaim filed - Whether Court of Appeal has jurisdiction to hear matter - Evidence Act, s. 22 and 31F(b) - Judicature (Resident Magistrates) Act, s. 251 - Judicature (Appellate Jurisdiction) Act, s. 10**

COLE, Deter v Lissa Pinkney

JMSC 05.12.2014

**NEGLIGENCE – Bicycle Rider – Duty of Motor vehicle exiting premises onto roadway – Whether cross examiner can raise issue not raised in pleadings or witness Statement – Whether Loss of Earning Capacity and Loss of Earnings are the same head of damage**

CONSTRUCTION DEVELOPERS Associates v Urban Development Corporation

JMCC 05.12.2014

**CONSTRUCTION CONTRACT - Breach of contract - Whether contract required parties to arbitrate – Whether architect had authority to certify claim – Effect of architect’s interim and final certificates - Whether sum due on earlier certificate can be paid on later certificate - Whether payment made gratuitously - Whether oral contract is ‘Cost Plus’- Whether claimant entitled to compound interest - Whether claim ought to be determined on quantum meruit basis - whether claim statute barred**

CONSTRUCTION DEVELOPERS Association Limited and The Attorney General of Jamaica

JMSC 12.11.2014

**APPLICATION FOR JUDGMENT IN THE FORM OF DECLARATORY RELIEF — Whether defendant/respondent to be given extension of time to plead the Limitation of Actions Act as a defence — Whether Supreme Court can extend time limited by the Court of Appeal**

CREIGHTON, Cheddi v R

JMCA 19.12.2014

**CRIMINAL LAW - Negligent loss of firearm - Breach of Firearms Act - Whether the appellant was negligent in the safe keeping of his firearm**

DALEY, Perrie v Attorney General

JMCA 20.02.2015

**CIVIL PROCEDURE AND PRACTICE -Procedural appeal - Whether questions posed by respondent are in accordance with Civil Procedure Rules 2002, Rule 32.8 - Whether questions went beyond scope of seeking to clarify medical report - Whether learned Master erred by allowing questions to stand when out of time - No proper application made for extension of time - Appeal allowed**

DIGICEL JAMAICA Limited and Oceanic Digital Jamaica v Fair Trading Commission and Cable & Wireless Jamaica Ltd.

JMCA 19.12.2014

**AGREEMENTS - Stock purchase agreement - Whether the Fair Competition Act applicable to stock purchase agreements - Telecommunications Act, s. 17 - Mergers and acquisitions - Fair Competition Act, s. 17**

FIRST GLOBAL Bank Ltd. v D'Oyen Williams and Tracy Ann Williams

JMSC 06.02.2015

**CIVIL PROCEDURE AND PRACTICE- Charging Order - Application for final Charging Order - Jointly held property - Civil Procedure Rules 2002, Rule 48 - Order granted for final Charging Order on the basis that such is not barred by law**

FORTE, Leon v Twin Acres Development Ltd.

JMCD 09.02.2015

**APPLICATION FOR PERMISSION TO BRING DERIVATIVE ACTION-whether ancillary claim permissible- Section 212 Companies Act – Whether good faith – purpose to ensure Company able to pay debt to the Claimant**

HAMILTON, O'Neil v R

JMCA 05.12.2014

**CRIMINAL LAW-Indecent Assault**

HARVEY, Raymond v Sports & Divers Club Limited and Desmond Downer

JMSC 19.12.2014

**NEGLIGENCE – Boat Accident – spear fisher in water – whether Boat Captain failed to keep proper lookout – whether spear fisher contributorily negligent**

HARVEY, Vastney v R

JMCA 19.12.2014

**CRIMINAL LAW - Assault with intent to rape - Whether the appellant was denied a fair trial - Whether judge erred in rejecting the defence of alibi**

HENLON, Claudia v Sharon Martin Pink and Jeremy Davy and Wendel Abrahams and Richard Williams

JMCA 23.01.2015

**CIVIL PROCEDURE AND PRACTICE- Procedural appeal - Learned judge refused to enter judgment in default of acknowledgment of service on one part - Order that matter should be heard in chambers - Whether learned judge should have allowed counsel to speak on respondent's behalf when no acknowledgment of service was filed - Adjournment and basis of adjournment - Court of Appeal Rules 2002, R.2.4 - Civil Procedure Rules 2002, R. 12.9(2)(b), 39.5, 39.6**

HILL, BRENDA and Administrator General of Jamaica v The Attorney General of Jamaica

JMSC 19.12.2014

**ASSESSMENT OF DAMAGES – Fatal Accident – Damages under the Law Reform (Miscellaneous Provisions) Act**

HUGH SAM, Suzette Ann-Marie v Quentin Ching Chong Hugh Sam

JMSC 09.12.2014

**MAINTENANCE – spousal maintenance; application made before grant of decree nisi; whether final maintenance order can be made; lump sum and periodic payment orders; Matrimonial Causes Act SS.20 and 22; Maintenance Act SS.5 and 14(4).**

HUGH SAM, Suzette Ann Marie v Quentin Chin Chong Hugh Sam

JMMD 16.01.2015

**MAINTENANCE – spousal maintenance; application made before grant of decree nisi; whether final maintenance order can be made; lump sum and periodic payment orders; Matrimonial Causes Act SS.20 and 22; Maintenance Act SS.5 and 14(4).**

ISLAND CAR Rentals Ltd. (Montego Bay) v Headley Lindo

JMCA 21.01.2015

**DAMAGES - Motor vehicle - Negligence - Vehicle on contract for hire involved in accident causing injury to respondent - Whether applicant negligently allowed vehicle which it knew to be defective to be on public roadway - Application for permission to appeal - Res ipsa loquitor doctrine - Whether application has real prospect of success**

JAMAICA PUBLIC Service v Dennis Meadows and Betty-Ann Blaine and Cyrus Rousseau and The Attorney General

JMCA 16.01.2015

**INTERPRETATION - Licence - Electricity - Exclusivity - Whether regulation and condition of Licence precludes Minister's right to issue other Licences - Whether 'area' encompasses the entire island - Whether exclusivity of Licence inconsistent with its validity - Whether the Office of Utilities Regulation recommended inclusion of exclusivity claims in Licence - Costs - Electric Lighting Act, sections 3 and 4 - Jamaica Public Service All-Island Electricity Licence 2001**

<THE> JAMAICAN BAR Association v The Attorney General and The General Legal Council  
JMJC 04.11.2014

**CONSTITUTIONAL LAW — Interim injunction or stay — Whether supreme court has power to stay act of parliament and regulations made under act or exempt persons from law until Constitutionality of law decided — Sections 91a, 94, 95, 104, 105, 117 of the Proceeds of Crime Act**

JAMAICANS FOR Justice v Police Service Commission and The Attorney General  
JMCA 26.02.2015

**CONSTITUTIONAL LAW - Judicial review - Police officer - Duty of Public Service Commission to ensure independent, thorough and impartial investigations are carried out into allegations of serious misconduct and possible breach of constitutional right of citizens - Wednesbury unreasonableness principle - Difference between disciplinary process and promotional process - Role of INDECOM - Public dimension of decision - Public Service Regulations 1961**

JOHNSON, ANITA Valaree v James Jackson T/A Negril Tree House Resort and Love Negril Ltd. T/A Negril Tree House Resort  
JMJC 19.12.2014

**APPLICATION TO EXTEND TIME TO FILE DEFENCE — Rule 10.3(9) Civil Procedure Rules (CPR) — Factors to be considered**

JUCI BEEF Limited (T/A Juici Patties) v The Industrial Disputes Tribunal and Donnette Benjamin  
JMJC 19.12.2014

**JUDICIAL REVIEW – Application for leave to apply.**

KANDEKORE, Liyasu M. v COK Sodality Co-operative Credit Union Limited and Deidre Daley and Donnovon Ward  
JMJC 24.11.2014

**APPLICATION FOR INTERIM ORDER FOR RETURN OF SEIZED CAR WHICH WAS SECURITY FOR A LOAN – Order sought would contain both mandatory and prohibitory aspects – Construction of Loan Agreement and Bill of Sale – Factors to be taken into account in determining whether or not to grant order**

KAVANAUGH, Peter v The Attorney General and Det. Inspector Carey Lawes  
JMCA 06.02.1015

**APPEAL - Consent Agreement - Application for stay of orders pending hearing of appeal - Whether Civil Procedure Rules (CPR) require Consent Agreement to be filed with defence - Does failure to file Consent Agreement with defence mean defence not properly filed and served - Whether defence rendered invalid for failure to comply strictly with CPR 3.12(8)(a) - Whether learned judge erred in removing 2nd respondent from claim**

Kennedy, Paul v R  
JMCA 26.01.2015

**CRIMINAL LAW - Illegal possession of ammunition - Illegal possession of firearm - Transporting firearm and ammunition - Whether learned trial judge accepted witness for prosecution for purpose of conviction and rejected applicant's testimony for purpose of sentencing him - Whether sentence manifestly excessive - Firearms Act, s. 20(1)(b) - Application refused**

LEDGISTER, JOHN and Sunnycrest Enterprises Limited v Jamaica Redevelopment Foundation Inc.  
JMJC 15.01.2015

**CIVIL PROCEDURE AND PRACTICE- Application for court orders — Request for specific disclosure — Application previously made and orders granted by the court — whether the same application may be heard again by a different court for the same orders — part 28 of the Civil Procedure Rules (cpr) 2002 part 28 and 34.**

LOPEZ, Annie v Dawkins Brown and Glen Brown  
JMCA 27.01.2015

**REAL PROPERTY - Specific performance - Rules of Court providing timetable for conduct of litigation - Noncompliance with court's timetable - Discretion to extend time - Degree of prejudice to other party if time is extended - Whether there is an arguable case for appeal - Proprietary estoppel**

MCINTOSH, Paulette Dianna v Eric George Campbell  
JMSC 09.12.2014

**PROPERTY (RIGHTS OF SPOUSES) ACT, SECTION 13(2) — Fixed Date Claim Form (FDCF) filed outside of limitation period — Application for extension of time to bring Claim Application to strike out FDCF**

MENDEZ, Rasheme and Tio Bamberry v R  
JMCA 06.02.2015

**CRIMINAL LAW - Murder - Application to appeal conviction and sentence - Identification - Credibility and alibi - Whether judge misdirected jury on good character evidence - Whether there was miscarriage of justice - Evidence not adduced - Issue with summation - Whether sentence manifestly excessive - Application refused**

MICHEL, STANLEY Gabriel Marzo v Bonnetta Banton and Desroy Reid  
JMSC 28.11.2014

**APPLICATION FOR INTERIM PAYMENT — Application for summary judgment — contested issues of fact between opposing defendants who have counterclaimed against each other — Contested issues of fact between defendants and claimant — Legal principles to be applied**

MILLER, Carlene v Harold Miller  
JMSC 13.02.2015

**DISSOLUTION OF MARRIAGE IN FOREIGN COURT — Separation Agreement Incorporated in Dissolution judgment — Provision in Separation Agreement to Establish Trust over land in Jamaica — Consequential Orders made by Foreign court — Trust and Conveyancing Deeds executed by Foreign Court in name of absent Defendant — Whether foreign judgment and/or Orders in personam or rem — Whether foreign judgment enforceable in Jamaica — Whether Separation Agreement enforceable in Jamaica**

<THE> MINISTRY of Agriculture v DYC Fishing Limited  
JMCA 27.01.2015

**JUDICIAL REVIEW - Leave - Application to appeal decision of the Minister - Factors to be considered - Civil Procedure Rules 2002, Rules 56.3(1), 56.4(12), 56.4(6), 56.5(6), 56.9(1)(a) and 56.9(2)**

MOODY, Ricardo v National Solid Waste Management Authority  
JMSC 27.02.2015

**DAMAGES - Motor vehicle accident - Personal injuries - Assessment of damages - Award for general damages for pain and suffering and loss of amenities - Award for special damages - Loss of future earnings and loss of earning capacity**

MORALES, Seymour v St. Mary Parish Council and Attorney General of Jamaica  
JMSC 21.11.2014

**CLAIM FOR POSSESSORY TITLE — Limitation of Actions — Bus Park — whether Claimant occupied in his own right and had animus possidendi — Whether Claimant was in possession for 12 years**

MORGAN, Lowell v Sentry Services Company Ltd. and SGB Maintenance Limited  
JMSC 06.02.2015

**NEGLIGENCE — Breach of Contract — Burglary — whether First Defendant security provider negligent — Whether Second Defendant property manager in breach of duty of care — whether**



**Claimant aware of danger — whether Claimant contributed to or caused his own loss — whether hearsay objection in witness statement best taken at Pre-trial Review — Damages in the absence of Documentary proof.**

NCB INSURANCE COMPANY Limited v Claudette Gordon-McFarlane  
JMCA 19.12.2014

**EMPLOYMENT LAW - Employment contract - Interpretation - Whether respondent entitled to performance reward and profit share**

NATIONAL COMMERCIAL Bank Jamaica Limited v International Asset Services Limited  
JMCA 23.01.2015

**CIVIL PROCEDURE AND PRACTICE- Striking out - Application to strike out sentence in claim - Whether appellant was erroneously added to claim - Whether court should permit party to be added - Duty of court to give reason**

NEMBHARD, Mendoza v Rafel Levy  
JMCA 19.12.2014

**REAL PROPERTY - Recovery of possession - Whether order for possession rightfully granted by learned magistrate - Statute of Limitations - Whether the appellant had the better right to possession**

NORTHOVER, Benkley v Eric Northover and Rohan Northover and Godfrey Dixon and Winston G. Northover Associates Limited.  
JMCC 19.12.2014

**COMPANY LAW — Private company — directors power to allot shares — whether share allotment by one of two existing directors valid-shares allotted for improper purpose — whether breach of pre-emption rights — effect of improper allotment.**

**COMPANY LAW-REMEDIES-OPPRESSION REMEDY-Majority shareholder claiming unfair prejudice and oppression-whether majority shareholder can bring action-whether acts complained of amounted to oppression or undue prejudice-powers of the court to remedy-companies act s 213a.**

NORTHOVER, KAON and K Ann Jsa v Minett Lawrence  
JMSC 22.01.2015

**PROPOSED EXTENSION OF FREEZING INJUNCTION EARLIER GRANTED BY THE COURT IN FAVOUR OF THE CLAIMANTS — Application for ex parte disclosure order made by court to be set explanation of what is an ex parte hearing — distinction between ex parte and inter partes hearing — disclosure order — application to set aside disclosure order — definition of “relevant property or assets”**

PHILLIPS, Joy Aitken v Donovan Phillips  
JMSC 26.01.2015

**CIVIL PROCEDURE AND PRACTICE- Application by claimant and defendant to strike out each other's claim - Application for such further and or other relief as may be just.**

POWELL, Clayton v The Industrial Disputes Tribunal and Montego Bay Marine Trust  
JMSC 05.12.2014

**JUDICIAL REVIEW – Fixed term contract of employment - Reinstatement - Determination of compensation where reinstatement is not Ordered-Section 12 (5) of the Labour Relations and Industrial Disputes Act**

RBTT Securities Jamaica Limited v Yvonne Powell  
JMCA 30.01.2015

**INVESTMENT - Negligent advice - Damages - Whether there was a breach of contract - Whether breach amounted to tort**

RECREATIONAL HOLDINGS (Jamaica) Limited v Carl Lazarus and The Registrar of Titles  
JMCA 27.01.2015

**LIMITATION OF ACTION - Adverse possession - Limitation of Actions Act, s. 30 - Whether the respondent had been in open and undisturbed possession in excess of 12 years**

REECE, Stevon v R  
JMCA 19.12.2014

**CRIMINAL LAW - Illegal possession of firearm - Firearms Act, s. 20 - Whether the verdict unreasonable having regard to the evidence - Unfair trial**

REID, CHRISMORE and Andrae Aarons v Warren Wilson and Steadman Wright  
JMCA 23.01.2015

**NEGLIGENCE — Breach of Statutory Duty — General Damages — Special Damages**

Reid, Wayne v Jentech Consultants Ltd.  
JMCA 23.01.2015

**CIVIL PROCEDURE AND PRACTICE- - Order - Discharge of - Application for - Application for grant of stay of execution - Appeal filed out of time - Whether there is a valid appeal**

ROBINSON, Clover v National Commercial Bank Jamaica Limited and Desna may Williamson and Janet Elizabeth Barnett  
JMCA 16.01.2015

**TRUSTS - Survivorship - Bank account - Appellant's name added five days before deceased's death - Right of survivorship - Whether there was a resulting trust**

ROBINSON, LEON COURTNEY (Executor of the Estate of Herman L. Denton, deceased) v Michelle Chen and Thelma Agatha Chen and Errol Alphanso Chen  
JMCA 19.12.2014

**DAMAGES - Specific Performance - Damages to be awarded in lieu of - Method by which damages should be computed**

ROWE, George v Robin Rowe  
JMCA 05.12.2014

**TRESPASS - Damages - Claim for damages for trespass to land and injunction to prevent further trespass - Whether there was an interference with possession**

SHIM, Elonia v Miguel Shim  
JMCA 17.12.2014

**HUSBAND AND WIFE — Whether property is matrimonial property — Couple married and lived in England — Subsequently returning to Jamaica — Defendant inheriting property — Application for division of property — Last will and testament of defendant disposing of contested property — Prior will naming Claimant as beneficiary — Divorce proceedings by Defendant aborted**

SMITH, Alexley v R  
JMCA 30.01.2015

**CRIMINAL LAW - Unlawful wounding - Good cause - Whether appeal should be deemed to be abandoned - Offences Against the Person Act, s. 22 - Judicature (Resident Magistrates) Act, s. 296(1) - Appeal dismissed**

SMITH, Dayne v William Hylton and Annmarie Hylton  
JMCA 05.12.2014

**NEGLIGENCE - Motor vehicle accident - Damages for personal injuries - Assessment of damages**

STEWART, ADAM and Andrew Desnoes and Frederick Moe and Jaime Stewart McConnell and Mark McConnell v The Gleaner Company Limited  
JMCA 20.02.2015

**INDEPENDENT' CLAIM FOR DISCLOSURE — Connected Defamation Action — Application for Disclosure of Name of Alleged Joint Tort-feasor — Defence in Connected Claim of Qualified Privilege and Fair Comment on a Matter of Public Interest — The 'Newspaper Rule'— Whether Applicable — Rule 69.7 of the Civil Procedure Rules (CPR) — The Defamation Act, 2013 — Whether Retrospective.**

STEWART, Andrew v R  
JMCA 26.02.2015

**CRIMINAL LAW - Illegal possession of firearm - Shooting with intent - Application for leave to appeal - against conviction and sentence - Whether complainant's evidence properly assessed by learned trial judge - Judge's treatment of inconsistencies - Judge's alleged non-direction - Verdict and sentence set aside - Verdict of acquittal entered**

TPL Limited v Thermo-Plastics (Jamaica) Limited  
JMCA 19.12.2014

**INJUNCTIONS - Interlocutory injunction - Whether there were serious issues to be tried - Injunction restraining the appellants from disposing of lands - Whether damages were an adequate remedy - Civil Procedure Rules 2002, Rule 17.4**

TAYLOR, LORNA (Administratrix of estate Wilbert Taylor dec'd) v Eric Williams and Marvalyn Stephens and Esmin Lewis and Owen Robinson and Millicent Clayton and Calvin Johnson  
JMCA 19.12.2014

**REAL PROPERTY - Recovery of possession - Claim for orders of specific performance of agreements to purchase parcels of land - Whether there was sufficient evidence for the learned magistrate to have given judgment**

THOMAS, Dewayne v Commissioner of Police  
JMCA 26.02.2015

**JUDICIAL REVIEW - Delay - Application for leave to apply for judicial review - Four-year delay in making application - Whether application can be granted once good reasons presented for the delay**

**APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW-FOUR (4) YEAR DELAY-whether application can be granted once good reasons are presented.**

THOMPSON, Assan v R  
JMCA 19.12.2014

**CRIMINAL LAW - Corruption - Breach of Corruption Prevention Act - Whether magistrate erred in rejecting the no-case submission -Whether the magistrate erred in treating the offence as one of strict liability**

THOMPSON, Rona v City of Kingston Sodality Co-operative Credit Union Limited  
JMCA 10.02.2015

**INJUNCTIONS - Loans - Default - Exercise of powers of sale in mortgage threatened - Appeal - Application for grant of injunction pending trial of appellant's claim - Whether there are serious issues to be raised on appeal - Whether damages an adequate remedy - Balance of convenience - Appeal allowed**

TIKAL LIMITED AND Wayne Chen and Richard Chen v Amalgamated (Distributors) Limited  
JMCA 06.02.2015

**CIVIL PROCEDURE AND PRACTICE -- Extension of time - Application for, to apply for permission to appeal - Settlement Agreement - Whether judge erred in failing to construe Settlement Agreement strictly - Whether there was a real prospect of defending claim**

UC RUSAL Alumina Jamaica Limited and others v Wynette Miller and others  
UKPC 26.11.2014

**PENSIONS LAW-SURPLUS DISTRIBUTION-Allocation of a surplus on the winding-up of a scheme established to provide pensions and other benefits for employees of certain companies-The court had to decide whether a clause in the scheme regarding distribution of assets was void and how the surplus in the fund should be distributed-The court also addressed whether Company R's refusal of consent for a proposal by the trustees to grant an inflation uplift out of a surplus was legitimate under the scheme**

WATSON, Nathan v The Attorney General of Jamaica  
JMJC 30.01.2015

**NEGLIGENCE — Collision at intersection controlled by traffic signals — Whether defendant liable — Assessment of cost of caregiver — National Minimum Wage used as a guide to estimate cost of care to accident victim — Minimum Wage Act S.3 — Interpretation Act S.21**

WILLIAMS, Arthur v Andrew Holness  
JMFC 06.02.2015

**CONSTITUTIONAL LAW — Parliament — the senate — Appointment of senator — Resignation of senator — removal of senator — pre-signed and undated letters of resignation and authorization given to leader of opposition by senator at time of appointment — to use letters at his sole discretion to effect resignation of senator — senator refusing to resign — use of the letters by the leader of the opposition to effect resignation of the senator — whether authority to use letters revoked — whether letters unconstitutional — whether the request for and use of the letters by the leader of opposition unconstitutional — whether fundamental human rights of senator infringed by leader of the opposition — The Jamaica (Constitution) ORDER IN COUNCIL 1962, SS. 13, 19, 35, 41, 44 (1) & 137 — THE CIVIL PROCEDURE RULES 2002 ('THE CPR'), RULE 56.9(1), (2), (3).**

WOOLCOCK, PATRICK and The Bungalow Hotel v David Geoffrey Sykes and Audrey Louise Sykes  
JMCA 9.12.2014

**TRESPASS - Public nuisance - Damages - Whether there was insufficient evidence of private nuisance - Whether the sum awarded as damages for trespass and nuisance were not supported by the evidence**

WRIGHT, CEBERT (Executor, Estate of Clarice Findlay) and Olive Hopwood (Executrix, Estate of Clarice Findlay) v Vecas Pennycooke and Cordey Pennycooke and Iswell Pennycooke and Mary Pennycooke and Pauline Pennycooke and Roy Levy  
JMCA 02.02.2015

**CIVIL PROCEDURE AND PRACTICE -- Extension of time - Application for extension of time to file notice and grounds of appeal - Prospect of success - Entitlement to possession - Probated will not placed in evidence - Credibility - Application refused**

## LEGISLATION

### Bahamas

#### Acts

47/2014

Abolition of Mandatory Minimum Sentences Act

49/2014

<The> Bahamas Public Parks and Public Beaches Authority Act

45/2014

Bail (Amendment) Act

48/2014	Coroners (Amendment) Act
46/2014	Evidence (Amendment) Act
39/2014	Exempted Limited Partnership (Amendment) Act
42/2014	Financial Transactions Reporting (Amendment) Act
40/2014	Gaming Act
44/2014	Juries (Amendment) Act
43/2014	Local Government (Amendment) Act
50/2014	Ministry of Foreign Affairs Act
41/2014	Proceeds of Crime (Amendment) Act

#### **Island of Nevis**

##### **Ordinance**

2/2014	Nevis Appropriation (2015) Ordinance
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#### **Jamaica**

##### **Acts**

22/2014	Anti-Doping in Sport Act
16/2014	General Consumption Tax (Amendment) (No. 2) Act
19/2014	Mortgage Insurance (Amendment) Act
20/2014	Power of Faith Ministries International (Incorporation and Vesting) Act
18/2014	Quarantine (Validation and Indemnification) Act
21/2014	Representation of the People (Amendment) Act
23/2014	Securities (Amendment) Act
17/2014	Timeshare Vacations Act
24/2014	Transfer Tax (Amendment) Act

#### **St. Christopher and Nevis**

##### **Acts**

23/2014	Appropriation (2015), 2014 Act
19/2014	Customs Act
16/2014	Housing and Social Development Levy (Amendment) Act

### **LAW REPORTS**

<The> Cayman Islands Law Reports	2014	Vol. 1
Law Reports of the Commonwealth	2015	Vol. 1
New Zealand Law Reports	2014	Vol. 1

### **TREATISES, DIGESTS ETC.**

Atkin's Court Forms. 2 <sup>nd</sup> ed.	2015 issue
Vol. 9(Pts. 1,2,&3)	Companies – Insolvency
Vol. 13(3)	Court system and claims procedure
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