

CURRENT AWARENESS BULLETIN

January – March 2019



COUNCIL OF LEGAL EDUCATION NORMAN
MANLEY LAW SCHOOL LIBRARY

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

JANUARY – MARCH 2019

JUDGMENTS

JAMAICA

ABRAHAMS, Eric Jason v Cable and Wireless Jamaica Limited
JMCC 03.10.2018

COMPANY LAW – Application for permission to bring a derivative action outside the jurisdiction – Preliminary point as to jurisdiction – Whether s. 212 of the Companies Act applies only to actions in Jamaica – Whether application ought to be by Fixed Date Claim

<THE> ADMINISTRATOR GENERAL OF JAMAICA (Administrator of Estate Tyrone Powell, deceased) v Vince Edwards and The Attorney General of Jamaica
JMCA 20.11.2018

NEGLIGENCE – Fatal shooting – Whether Crown vicariously liable

ALEXANDER HOUSE Limited v Reliance Group of Companies Limited
JMCA 06.07.2018

INTERLOCUTORY INJUNCTION – Mortgage - Power of sale- Whether contract illegal - Whether condition for payment into court ought to be imposed.

ALLEN, Nario v R
JMCA 28.09.2018

CRIMINAL-Murder

ANDERSON, Major General Anthony, Chief of Defence Staff and Jamaica Defence Board v Independent Commission of Investigations
JMFC 30.07.2018

JUDICIAL REVIEW – Retrospectivity of the INDECOM Act – Legislative Interpretation – INDECOM Act – Official Secrets Act – Public interest immunity – INDECOM's jurisdiction – Disclosure – Warrants and notices issued under the INDECOM Act

ANDERSON, Jennes v Eileen Boxill (A member of the General Legal Council)
JMCA 31.07.2018

DISCIPLINARY COMMITTEE of the General Legal Council- the Legal Profession (Accounts and Records) Regulations

ANSLIP, Ryan v North East Regional Health Authority
JMCA 31.07.2018

**EMPLOYMENT – DISMISSAL – Fixed term contract providing for dismissal and for termination of engagement with notice engagement with notice or salary in lieu of notice – Claimant's employment terminated without notice – Salary in lieu of notice and additional payments given – Whether Claimant dismissed for cause
No evidence presented in support of defence – Whether court obliges to accept Claimant's account**

<THE> ATTORNEY GENERAL of Jamaica v Claudette Clarke (as Administratrix of the Estate of Keith Clarke, deceased, intestate, and in her own right) and Brittani Clarke
JMCA 13.07.2018

CONSTITUTIONAL LAW – Constitutionality and validity of good faith certificates – Whether good faith certificates infringe the doctrine of separation of powers – Whether good faith certificates supersede the prosecutorial powers of the Director of Public Prosecutions – Whether good faith certificates which were issued outside of the period of emergency are ultra vires, null and void – The Jamaica (Constitution) Order in Council, 1962, Emergency Powers Act, section 3, Emergency Powers Regulations, 2010, regulations 45 and 46

AUSTIN, Dale v The Public Service Commission and The Attorney General of Jamaica
JMSC 15.11.2018

UNLESS ORDER – Striking out defendant’s statement of case – Whether defendants whose case has been struck out can participate in assessment of damages hearing – To what extent can the defendants whose case has been struck out, participate in an assessment of damages – Fundamental rights of defendant – Proportionality of restriction on defendants’ rights to objective of striking out the defendants’ statement of case

BARRETT, Clive v R
JMCA 02.07.2018

CRIMINAL LAW-Manslaughter

BISHOP, Claudine and Leonard Bishop v Sharon Beverley Brissett and Scotia Jamaica Building Society
JMSC 23.07.2018

PROPERTY LAW-Mortgage

BLAKE, Carol v University Hospital Board of Management
JMSC 12.06.2018

NEGLIGENCE – Medical negligence – Negligence not establishes on the evidence

BRISSETT, Courtney v Carlton Dixon
JMCA 27.07.2018

RECOVERY OF POSSESSION

Brown, Paul v R
JMCA 08.02.2019

CRIMINAL LAW-Sentencing-Murder-Gunshot wounding

Cameron, Mervin v Attorney general of Jamaica
JMFC 28.09.2018

CONSTITUTIONAL LAW – Violation of right to trial within a reasonable time – Order for constitutional damages as compensation – Components and level of compensation – Charter of Fundamental Rights and Freedoms, Sections 14(3) Time at which it is most appropriate for assessment to be undertaken

CAMPBELL, Errol v Patricia Johnson and PJ’s Distributors Limited
JMCA 08.02.2019

EMPLOYMENT LAW-Termination and Redundancy Payments

CARICOM HOME Builders Company Limited v Dinsdale Palmer
JMCA 05.10.2018

BREACH OF CONTRACT-Sale of two Apartments - What were the terms of the contracts - Two documents containing contractual terms - Which Document contains the terms of the contracts - Whether one of the Document was forged- Whether expenditure was incurred customizing one apartment - Whether the full contract price should be recovered – Damages - Whether damages are proven or the award should be nominal.

CARICOM INVESTMENTS Limited and Caricom Hotels Limited and Caricom Properties Limited v National Commercial Bank Jamaica Limited and Rio Blanco Development Limited (in receivership) and Estate of Karl Aird (deceased) (former receiver of Rio Blanco Development Limited)
JMCA 27.09.2018

CIVIL PRACTICE AND PROCEDURE - Application for permission to further amend Claimant's statement of case prior to re-trial of the claim pursuant to an order of the Court of Appeal – Factors to be considered in exercise of Court's discretion

CEAC SOLUTIONS Limited v National Works Agency and Attorney General of Jamaica
JMCC 13.07.2018

CONTRACT – Variations – Whether work done – Evidence by video link – Whether witness to affirm

CHEN-YOUNG, Paul and Ajax Investments Limited and Domville Limited v Eagle Merchant Bank Jamaica Limited and Crown Eagle Life Insurance Company Limited and The Attorney General for Jamaica
JMCA 31.10.2018

BANKING-Damages

CLARKE, Natasha v Jacinth Morgan-Collie and Shawn Collie
JMCA 22.06.2018

NEGLIGENCE – Motor vehicle accident – Inevitable accident – Contributory negligence – personal injuries – Damages

COCKINGS, Herbert v Grace Gertrude Cockings
JMCA 29.06.2018

MATRIMONIAL PROPERTY - Claim for 50% share in house and land -Limitation of Actions Act - Whether property rights extinguished - Severance of joint - Tenancy - Effect of unregistered transfer of title -Illegal purpose of transfer - Whether illegality a bar to resulting trust.

CONCEPT DEVELOPERS Limited v First Regional Co-operative Credit Union Limited (Formerly Saint Mary Co-operative Credit Union Limited)
JMCA 07.12.2018

CIVIL PRACTICE AND PROCEDURE – Unless Order made in respect of security for costs – Claimant in breach of unless Order – Claimant's claim struck out – Notice of application for relief from sanctions – Rules 26.7(2) and 26.8 of the Civil Procedure Rules

CONSTRUCTION DEVELOPERS Associates Limited v Urban Development Corporation
JMCC 15.06.2018

CIVIL PRACTICE AND PROCEDURE – Default Costs Certificate – Rule 65.22 of the Civil Procedure Rules – Application to set aside – Whether paying party entitled to set aside default costs certificate – Both parties in technical breach of the rules – Good reason – Points of dispute

CROOKS, Nelda v Conroy Whitelock
JMCA 09.02.2018

TRESPASS – Who may bring claim – Registered title by description – Construction of descriptive words in context of other evidence

D, MR. v Mrs. D
JMCA 23.01.2018

FAMILY LAW – Custody of children – Application to vary of order – Change in circumstances – Custodial parent no longer resident in the jurisdiction

DABDOUB, Abraham and Raymond Clough v The Disciplinary Committee of the General Legal Council (ex parte Dirk Harrison, Contractor General of Jamaica)

JMCA15.11.2018
COSTS- prima facie

DAVIS, Dawn v Delrose Gray
JMJC 21.11.2018
LAND LAW – Joint tenancy – Extinction of title of registered owner – Limitation of Actions Act, 188, sections 3, 4, 14 and 30.

DAVIS, Devon Mark v Karen Marajah
JMJC 11.01.2019
CIVIL PRACTICE AND PROCEDURE – Notice of application to file defence and counterclaim out of time – Rules 10.3(1), 10.3(9), and 26.1(2) (c) of the Civil Procedure Rules – Factors to be considered by the Court in deciding whether to grant an extension of time

DAVIS, Marlene v Hugh Ashley Davis
JMJC 29.06.2018
DATE OF SEPARATION – Division of family home – Equal share rule – Partnership of equals – Variation of equal share rule – Unjust – Unreasonable – Factors to be considered – What is fair and just in the circumstances – Contribution – Other factors – Ownership of other property – Burden of proof – Division of property other than family home – Occupation rent – mense profit – definition of property – Inherent jurisdiction

DAWKINS, Ray Damion Silvera
JMCA 26.10.2018
COSTS-Struck out due to failure to serve witness statement within the court ordered time

DOWNER, Denton v Solid General Insurance Brokers Limited and Advantage Insurance Company v Solid Life General and Advantage General Insurance Company v AIM Financial Corporation
JMJC 24.05.2018
APPLICATIONS FOR RELIEF FROM SANCTION TRIAL COMMENCED – At trial judge ruled statements of case had been struck out – trial aborted – Applications made after trial – Whether delay inordinate, whether there are good explanations for the delay – Rule 26.8

DUNBAR, Millard v Saint Catherine Co-operative Credit Union Limited
JMCC 31.07.2018
APPLICATION FOR PAYMENT OF MONEY HELD AS SECURITY – Injunction discharged – Whether undertaking as to damages implied – Whether damage of loss is to be set off against money held as security – Foreclosure – Whether mortgage entitled to refund of money held as security

DUNBAR, Robert v R
JMCA 08.02.2019
JUDICIAL REVIEW-Money Laundering

DUNKLEY, Olga v Oswald James Dunkley
JMJC 26.04.2018
MATRIMONIAL HOME – Consent order filed that parties are joint tenants of subject property – Order that property to sold and net proceeds of sale be distributed between parties equally – Ordered that either party can elect to purchase property – neither party electing to purchase property – which party is to have first option to purchase property

EVANS, Nadine v University Hospital of the West Indies and Administrator-General of Jamaica
JMJC 28.08.2018
WILLS AND PROBATE-Sections 22, 24, 32, 35 and 36 of the Registration (Births and Deaths) Act – Section 6 of the Coroners Act – Whether the University Hospital of the West Indies has any legal basis for refusing to release the body of the deceased to her next of kin

FINZI, Winston and Mahoe Bay Company Limited v JMMB Merchant Bank Limited
JMCA 31.07.2018

MORTGAGE - Exercise of power of sale - Whether loan repaid - Whether money paid by guarantor on one loan can be applied by lender to another loan - Whether defendants entitled to an account from creditor

FOREIGN OPTIONS Ltd. v Jennifer Messado and Reliance Group of Companies Limited and Gordon Rewani
JMCC 12.11.2018

INJUNCTION – Principles to be applied – Application registered legal owner – Party against whom injunction is sought is a mortgagee – Payment into court by mortgagor under ‘Marbella principle’ – Exceptions to applicability of the principle

FRECKLETON, Jerome v The Attorney-General of Jamaica and Det. Sgt. Maurice Puddie
JMSC 31.07.2018

TORT – Malicious prosecution – Whether claimant proved damage – Claimant identified while in holding area – Whether reasonable and probable cause to prosecute. False imprisonment – Whether initial arrest lawful – Claimant taken before court several days after being charged – Whether detention unduly long and unexplained. Assault – Claimant not cross-examined – Effect of failure to cross-examine

FROOME, Nevilline v Orville Froome
JMSC 02.08.2018

FAMILY LAW – Division of property – Matrimonial property – Family home – Other property – Property (Rights of Spouses) Act – Sections 4, 6, 14 and 15

GM AND ASSOCIATES Limited v Sabal PH 1200 Limited
JMCC 17.04.2018

APPLICATION FOR STAY PENDING ARBITRATION – Whether request for arbitration – Whether words “Notice is imminent” negates request – Whether filing legal action amounts to election not to arbitrate

GAMMON, Oral v R
JMCA 17.10.2018

CRIMINAL LAW- Grievous bodily harm with intent.

GAYLE, David v SOL Petroleum Jamaica Limited
JMCC 22.10.2018

CONTRACT – Contract of employment – Whether period of probation was extended – Whether sufficient notice of termination – Whether there is an implied term of trust and confidence in an employment agreement – Whether breach of such a term can override an express contractual term specifying the appropriate period of notice

GAYLE, Dwight v R
JMCA 28.09.2018

CRIMINAL LAW-Murder

GAYLE, Jessie v R
JMCA 24.01.2018

CRIMINAL LAW- Illegal possession of firearm and shooting with intent

GOLDSON, Lloyd v Devon Evans and North American Holdings Company Limited and National Commercial Bank Limited
JMSC 31.07.2018

APPLICATION FOR SUMMARY JUDGMENT AND TO DISPENSE WITH MEDIATION – Whether the bank is entitled to retain the duplicate certificate of title to the property purchased by bona fide purchaser – Whether the interest of the mortgagee is superior to that of the bona fide purchaser – estoppels by conduct – Real Estate Board charge whether it ranks in priority over that of the mortgagee – Whether there is a real prospect of success – Rules 15.2 and 74.4(1) Civil Procedure Rules – Sections 26, 31, 33 Real Estate (Dealers and Developers) Act, section 70, Registration of Titles Act

GORDON, Errol v Lorna June Gordon (nee Forsythe)
JMSC 18.05.2018

DIVISION OF MATRIMONIAL PROPERTY – Family home – Other property – Proceeds of sale of family home used to purchase other property – Other property registered solely to one spouse – Beneficial interest of spouse – Rent

GREY, Curtis and Toussaint Solomon v R
JMCA 12.10.2018

CRIMINAL LAW- offences of illegal possession of firearm- illegal possession of ammunition- robbery with aggravation-shooting with intent and assault.

GREY, Olive v Robert Grey
JMSC 22.03.2018

EQUITY – Proprietary estoppel – misconduct on the part of claimant

HENRY, Joel v R
JMCA 31.07.2018

CRIMINAL LAW-Rape

HENRY, Keisha v Sandals Ochi Rios Limited
JMSC 13.07.2018

NEGLIGENCE – Employer’s Liability – Occupiers’ Liability – Safe system of work – Defendant’s witness statement admitted as hearsay pursuant to section 31E(4) of the Evidence (Amendment) Act – Credibility of witness

Henry, Mervin v R
JMCA 13.09.2018

CRIMINAL LAW-Obstructing Traffic- Corporate Area Traffic Court-Traffic Ticket Management System

HEW, Natalee Kemorine v Raymond Anthony Hew
JMSC 02.08.2018

Family Law – Division of matrimonial property – Shares – Joint shares account – Property (Rights of Spouses) Act, 2006 – Section 14

HUTCHINSON, Leonie Agatha v Johnette George Hutchinson
JMSC 03.12.2018

CLAIM FOR ENTITLEMENT TO PROPERTY – Property (Rights of Spouses) Act – Claim for maintenance – Maintenance Act

Imperial Suits Hotel Limited v Leroy Johnson
JMSC 15.01.2019

APPLICATION FOR STRIKING OUT DEFENCE AND /OR SUMMARY JUDGMENT – whether there exists reasonable grounds for defencing the claim pursuant to rule 26.3(1)(c) of the Civil Procedure Rules or a real prospect of successfully defending the claim pursuant to rule 15.2(b) of

the Civil Procedure Rules – Defence lacking locus standi as either shareholder or creditor of company to defend action on behalf of company – The company was the mortgagor and has a separate personality – Only the company has the legal standing to challenge the transfer of title pursuant to mortgagee’s power of sale – Allegation that property sold at an undervalue – Remedy for mortgagor lies in damages against the mortgagee under s. 106 of the Registration of Titles Act – Mortgagor company now non-existent – Indefeasibility of Certificate of Title except where there is fraud pursuant to s. 70 of the Registration of Titles Act – General and vague allegations insufficient for the purposes of establishing fraud – Robust statutory protection of the bona fide purchaser for value of property by virtue of sections 68 and 106 of the Registration of Titles Act – Purchaser not required to be concerned about manner in which the mortgagee came by Registered Title pursuant to s. 71 of the Registration of Titles Act – Circumstances do not disclose claimant was or could subsequently be shown to be a party to a “continuing fraud” – Absent “continuing fraud” right to pursue action for fraud extinguished by the Limitation of Actions Act see sections 27, 30 and 46 and Interpretation Act section 41

Latouche, Larkland v June Chung and Orville Pollock and Albert Trowers
JMSC 04.05.2018

NEGLIGENCE – Servant and/or agent – Agency – Vicarious liability – Motor vehicle accident – Transfer of motor vehicle

Levy, Ian and Cecelia Levy v Julie Atherton and Richard Atherton and Refreshing Ideas LLC
JMCC 23.03.2018

CONTRACT – Dispute as to nature and validity of contract – Contract referring to loan/equity – Whether monies advanced was for a loan or an equity investment – Whether the written contract was so ambiguous as to call into question the contra proferentem rule – Whether contract in breach of the money lending Act

CONTRACT – Sums paid under an earlier agreement – Later agreement superseding the earlier agreement but incorporating its terms – Whether consideration past

LYN’S FUNERAL Home v Paul Fearon
JMSC 31.07.2018

DEFENDANT’S APPLICATION TO SET ASIDE DEFAULT JUDGMENT – Whether or not default judgment was regularly obtained – Whether applicant can plead inconsistent alternative grounds in support of application – Whether the failure to serve accompanying documents along with the claim form and particulars of claim renders the claims a nullity – How to properly dispute the court’s jurisdiction to try the claim

MCDERMOTT, O’Brian v R
JMCA 20.06.2018

CRIMINAL LAW-Murder

MILLS, Roger v The Attorney-General of Jamaica
JMSC 03.10.2018

JUDGMENT ON ADMISSION – Assessment of damages – Personal injury – Gunshot wound – Loss of future earning capacity

MILLS, Ziggy v R
JMCA 28.09.2018

CRIMINAL LAW-Murder

MODERN VARIETY Jamaica Limited v Tax Administration Jamaica (TAJ)
JMRC 08.01.2019

REVENUE APPEAL – Time within which to file appeal in the Revenue Court has expired – Notice of Application for extension of time – Factors the Court should consider in granting an extension of time – Whether extension of time to file appeal should be granted.

National Commercial Bank Jamaica Limited v Surrey Hotel Management Limited
JMCA 15.11.2018

CIVIL PROCEDURE AND PRACTICE– Rule 20.1 of the Civil Procedure Rules - Originating statement of case not served before amendment – Whether amended statement of case served after contractual limitation period – Whether Consumer Protection Act, 2005 applicable.

NATIONAL EXPORT- Import Bank of Jamaica Limited v Knockalva Enterprises Limited and M.K. Holdings Limited and Patrick Smellie and Hansel Beckford and Steadman Keith
JMCC 01.05.2018

APPLICATION FOR SUMMARY JUDGMENT – No dispute of fact – Whether Guarantor who signed as director of principal borrower privy to change of contract agreement – Whether liable in his capacity as Guarantor – Whether Consumer Protection Act applicable

NATIONAL EXPORT-IMPORT Bank of Jamaica Limited v Somerset Enterprises Limited and Lindeearth Powell
JMCC 14.06.2018

APPLICATION FOR SUMMARY JUDGMENT – Whether defence has real prospect of success – Loan – Guarantee and Indemnity – Whether misrepresentation about time of disbursement – Application postdates misrepresentation – Whether guarantor’s error exculpatory

NATIONAL HOUSING Trust v Treebros Holdings Limited
JMCA 27.05.2018

DAMAGES - Nuisance - Negligence - Trespass - Flood Water Act - Aggravated damages - Commercial interest - Special costs certificate -Indemnity costs.

NATIONAL SOLID WASTE Management Authority v Louie Johnson and Joya J. Hylton and Lamoy Malabre (Sues by his mother and next friend Phyllipa Blake) and Ernest Sandcroft
JMCA 27.07.2018

DAMAGES-Costs-Environmental abuse

Patrick-Gardener, Deborah v Jacqueline Mendez and Public Service Commission
JMFC 19.04.2018

ADMINISTRATIVE LAW – Judicial review – Constitutional relief – The Public Service – Compulsory retirement – Retirement on the grounds of re-organization – redeployment – Whether public servant has the right to be heard prior to compulsory retirement – Whether the Judicature (Supreme Court) (Amendment) Act, 2016 is unconstitutional – Separation of powers – Jamaica (Constitution) Order in Council, 1962 – The Pensions Act – The Public Service Regulations, 1961 – Locus standi – Certiorari – Order of prohibition – Permanent injunction – Damages in public law – Declarations

PERRY, Tanisha v The Commissioner of Police and The Attorney General of Jamaica
JMSC 31.07.2018

CIVIL PROCEDURE AND PRACTICE– Application to strike out claim – Principles to be applied

ADMINISTRATIVE ORDERS – Whether application for a declaration is subject to the same considerations as an application for judicial review – Whether the purpose to which the declaration will be put is a relevant consideration

PETROJAM LIMITED v The Industrial Disputes Tribunal and Minister of Labour & Social Security
JMSC 14.12.2018

CIVIL PRACTICE AND PROCEDURE – Notice of application for permission to intervene and to set aside Order – Whether Intervener/Interested party directly affected by the proceedings – Rules 56.11(1), 56.11(4), 56.11(7), 56.13 and 56.15(1) and (2) of the Civil Procedure Rules – Permission to appeal

POWELL, Genia v The Board of Management of John Mills Primary and Junior High School and Ministry of Education and The Attorney General of Jamaica

JMSC 25.06.2018

APPLICATION FOR EXTENSION OF TIME TO APPLY FOR LEAVE FOR JUDICIAL REVIEW – Whether the application was made promptly – Whether there is good reason to grant the extension of time – Where there be substantial hardship or prejudice to the rights of any person – whether there is an arguable case for legitimate expectation – whether there will be detriment to good administration

POWELL, Omar v R

JMCA 28.09.2018

CRIMINAL LAW-Chopped-injury to right hand

<THE> PUBLIC DEFENDER v Attorney General of Jamaica and Maurice Tomlinson

JMCA 09.11.2018

ADMINISTRATIVE LAW - Application to be heard – Factors to be considered - Whether applicants having sufficient interest – Effect of possible prejudice to Claimant - Extent of participation to be permitted - Whether intervention of Public Defender’s supported by statutory remit.

QUALLO, Valrie June v Alford Hanson Quallo

JMSC 23.11.2018

MATRIMONIAL PROPERTY – Claimant’s entitlement to an interest in the family home – Whether – claimant’s interest in family home has been extinguished – Property (Rights of Spouses) Act, 2004, section 6, Limitation of Actions Act, 1881, sections 3, 4, 14 and 30

<THE> QUEEN v Kimeo Green

JMSC 07.11.2018

THE EVIDENCE (SPECIAL MEASURES) ACT 2012 – The Evidence (Special Measures) (Criminal Jurisdiction) (Judicature) (Supreme Court) Rules 2016 – Application for main witness to give evidence by live link – Appropriate circumstances for use of special measure of live link – Definition of vulnerable witness – Witness said to be in fear but no allegation of actual threat – Right of accused to a fair trial – Credibility significant issue – Risk of incurable prejudice to the accused – Overall interests of the administration of justice

ROBINSON, Christopher v Rodney Garvey

JMCA 07.11.2018

LAND LAW- Recovery of possession of land

ROBINSON, Dwight v R

JMCA 28.09.2018

CRIMINAL LAW-Illegal possession of firearm, illegal possession of ammunition and assault

ROSE, Esther Rebecca v Kenneth Manley Rose

JMSC 20.07.2018

FAMILY LAW – Section 13 of the Property (Rights of Spouses) Act – Fixed Date Claim Form filed seeking division of matrimonial home and an extension of time to make claim out of time – No separate application filed seeking an extension of time – Validity of Fixed Date Claim Form

ROSE, Keith and Colleen Rose v First Caribbean International Bank (Jamaica) Limited

JMSC 05.10.2018

MORTGAGE – Bridging loan – Negligence – Fiduciary duty – Nature of the relationship between mortgagee and mortgagor – Responsibilities of mortgagee – Classification of client’s loan account – Method of calculation of interest rate – Legal costs incurred before commencement of claim

SADLER, Canute and Michelle Sadler v Derrick Michael Thompson and Lori-Ann Thompson
JMJC 25.01.2019

CIVIL PRACTICE AND PROCEDURE – Costs – Default costs certificate obtained against the defendants – Defendants’ notice of application to set aside default costs certificate – Rule 65.22 of the Civil Procedure Rules – Factors the court should consider in setting aside default costs certificate

SANDALS RESORTS International Limited v Neville Daley & Company Limited
JMCA 31.07.2018

DAMAGES- application for the claim to be completely struck out

SENIOR, Donovan and Alma Senior v Jamaica Public Service Company Limited
JMJC 22.11.2018

NEGLIGENCE – Breach of duty of care – Breach of statutory duty – *Res ipsa loquitur*

SENIOR-SMITH, Oswest v General Legal Council and Lisa Palmer Hamilton
JMCA 09.11.2018

DISCIPLINARY COMMITTEE (the Committee) of the General Legal Council- professional Misconduct

SHORTRIDGE, Demar v R
JMCA 31.07.2018

CRIMINAL LAW-Murder

SIMPSON, Reuben v Sanmerna Paper Products Limited
JMJC 30.07.2018

NEGLIGENCE – Motor vehicle collision – Credibility – Liability – Personal injury

SMITH, Cheavela (By her mother & next friend Sharon Martin) v The University Hospital Board of Management
JMJC 09.02.2018

MEDICAL NEGLIGENCE – Obstetrics – Whether decision to deliver baby by caesarean section made too late – Whether delivery by Caesarean section caused injury to claimant

SPUR TREE SPICES Jamaica Limited v The Minister of Labour and Social Security
JMJC 17.07.2018

ACCUSATION OF THEFT – Summary dismissal of employees – Failure to comply with the Labour Relations Code – Offer of reinstatement – Meaning of reinstatement in fact and law – Disciplinary hearings on same facts which triggered improper dismissals – Propriety of condition subsequent to reinstatement – Definition of industrial dispute – Whether there was an extant industrial dispute at time of Minister’s referral – Need for second complaint after second dismissal – Minister’s referral *ultra vires* s.11A Labour Relations and Industrial Disputes Act

SUPREME VENTURES Limited v Camiele Bisseney (t/a Camiele’s One Stop)
JMCC 25.10.2018

**CONTRACT – Agent’s failure to pay sums due under contract
Evidence – Whether sufficient evidence of the integrity of the system which is being relied upon to establish debt**

TELEVISION JAMAICA Limited v Linscom Network Limited

JMCC 29.06.2018

COPYRIGHT – Cable Television – Whether defendant infringed copyright by broadcasting Diamond League event – “overspill” – Whether defendant liable – Statutory construction – Copyright Act sections 31(5), 31(1), 32(3)

THOMAS, Christopher v R

JMCA 31.07.2018

CRIMINAL LAW-murder-hung jury

THOMPSON, Kerry-Ann Neisha v Glenroy Carl Smith

JMSC 20.07.2018

MATRIMONIAL PROPERTY – Division of matrimonial property – Variation of the equal share rule – The Property (Rights of Spouses) Act

TURNER, Grace v University of Technology

JMCA 15.11.2018

AN ORDER SETTING ASIDE THE SAID JUDGMENTS OF THIS COURT-BREACH OF CONDITION- Breach of the Constitution of Jamaica (the Constitution)

UNITED GENERAL Insurance Company v Marilyn Hamilton

JMCA 25.07.2018

WRIT OF SEIZURE AND SALE - Application for stay - Appeal against issue of writ of seizure and sale for a default costs certificate - Whether Civil Procedure Rules require execution of a money judgment - Whether defendant entitled to 14 days after default costs certificate is issued - PRO Rules 46.4(1) and 65.12(b) - Whether risk of injustice.

WADE, Alpheus v Regina

JMCA 31.07.2018

SENTENCE: PLEA – Guilty – Murder (2 counts) – Illegal possession of firearm

WALKER, Ivor v Ramsay Hanson

JMCA 13.07.2018

PROPERTY LAW-Costs- inter alia

WALKER, Joel v JN General Insurance Company Ltd.

JMSC 03.01.2018

REMEDIES

WALTERS, Isolyn v Jamaica Bauxite Mining Limited

JMCC 29.06.2018

CONTRACT – Lease – Representations – Whether oral collateral agreement that lease would be renewed – Whether oral collateral agreement that tenant would be compensated – Estoppel – Whether landlord stopped from exercising legal rights under terms of the lease – Expert evidence – Whether replacement cost at date of claim relevant

WELCH, Damion v Roxneil Thompson and Tyrone Brown

JMSC 03.12.2018

CIVIL PROCEDURE AND PRACTICE– Substituted service – Application by insurance company to set aside Order for substituted service – Tests to be applied

WHITE, Joyce v Discovery Bay Beach Club Ltd.

JMCA 01.06.2018

CIVIL PROCEDURE AND PRACTICE-Land Law-Thee Constitution of Jamaica-Fresh Evidence- Lease Agreement-Recovery of Possession

WILLIAMS, Grenville and Petro Green and Kenneth Daley and Francis Rennals and David Hutchinson and Devon Noble and Orette Williamson (deceased) and Marcel Dixon v R
JMCA 18.01.2019

CRIMINAL LAW-Failure to comply- lawful requirement- Independent Commission of Investigations (INDECOM)- statement, questioning

WILLIAMS, Hylton v David Allen and Richard Freckleton
JMSC 12.06.2018

NEGLIGENCE – Motor vehicle accident – motor car and pedal cyclist – credibility of parties – Whether claimant contributorily negligent – Damages – Assessment – Personal injury

WILLIAMS, Norda v Juci Patties Limited and CMK Bakery Limited
JMSC 25.09.2018

CIVIL PROCEDURE AND PRACTICE – Application for relief from sanctions – Civil Procedure Rules – Rule 26.8 – Whether application was made promptly – Attorney’s failure to inform client of case management conference – Defence under the Limitation of Actions Act

WILLIAMS-PHILLIPS, Dr. Sandra v University Hospital Board of Management
JMSC 09.02.2018

CONTRACT LAW – Claim for arrears of salary based on terms stated in employment contract – Whether term was a mistake – Whether the doctrine of unilateral mistake is applicable

EMPLOYMENT LAW – Wrongful dismissal – Whether claimant is an employee or independent contractor

LEGISLATION

Bahamas

Acts

28/2018	Economic Empowerment Zones Act
29/2018	Fiscal Responsibility Act

Commonwealth of Dominica

Acts

16/2018	Climate Resilience Act
17/2018	Tax Information Exchange (Amendment) Act
3/2019	Fiscal Incentives (Amendment) Act
2/2019	International Business Companies (Amendment) Act
1/2019	Offshore Banking (Amendment) Act

Jamaica

Acts

17/2018	Financial Institutions (Vesting of Assets in Pan Caribbean Merchant Bank Limited) (Order, 2000) (Validation) Act
18/2018	Fisheries Act
19/2018	Income Tax (Amendment) Act
20/2018	Road Traffic Act
16/2018	Telecommunications ((Spectrum Regulatory Fees) (Validation and Indemnity) Act
15/2018	Transport Authority (Validation and Indemnity) Act

Saint Christopher and Nevis

Acts

7/2018	Common Reporting Standard (Automatic Exchange of Financial Account Information) (Amendment) Act
11/2018	Credit Reporting Act
10/2018	Police (Amendment) Act

LAW REPORTS

<The> Cayman Islands Law Reports	2017	Vol. 2
<The> Cayman Islands Law Reports	2018	Vol. 1
Law Reports of the Commonwealth	2018	Vol. 5
Law Reports of the Commonwealth	2019	Vol. 1
New Zealand Law Reports	2018	Vol. 3

TREATISES, DIGESTS ETC.

Atkin's Court Forms. 2 nd ed.	2018 issue
Vol. 6(1)	Auction, Bailment and Banking and Bills of Exchange
Vol. 8(1)	Bills of Sale, Bonds, Carriers and Civil Aviation
Vol. 11(1)	Confidence, Privacy and Data protection, Co-ownership of Property
Vol.26(2&3)	Mental Health and Incapacity – Court of Protection
Vol. 32(1)	Probate and Family Provision
<The> Digest. 2018	4 th Reissue
Vol. 43 (2&3)	Shipping and Maritime Law
<The> Encyclopaedia of Forms and Precedents. 5 th ed.	2018 Reissue
Vol. 9(1)	Companies
Vol. 14(2)	Environment
Vol. 30(3)	Partnership - Limited Liability partnership, Joint Ventures and Alternative Business Structures
Vol. 38&3	Sale of Land (Commercial Property)

SERIALS

ABA Journal Vol. 104 No. 11 November 2018

President's message

Our nation confronts frequent challenges, but our institutions sustain us

Bob Carlson

Opening statements

A book about Jewish lawyers targeted in Nazi Germany resonates today

Liane Jackson

A public defender's crowd funding campaign brings books to a Texas jail

Kate Silver

10 questions Ramsey Clark's 70 years of political and legal activism are memorialized on film

Jenny B. Davis

MAKING IT WORK: Erin Johnson of Kirkland & Ellis focuses on doing better and seeking help in her career
Erin Johnson

Docket

NATIONAL PULSE: Programs around the country are taking the courthouse to the streets to help the homeless clear cases
Julianne Hill

A quirk in Florida law has set up a political showdown over upcoming state supreme court appointments
Lorelei Laird

SUPREME COURT REPORT: Justices to consider a challenge to cy pres remedies to settle class actions
Mark Walsh

Practice

STORYTELLING: How stories can influence the law
Philip N. Meyer

WORDS: Try our quiz to evaluate your knowledge of modern word usage – and take the online version with 10 additional questions
Bryan A. Garner

ON WELL-BEING: Female lawyers on balancing motherhood or choosing a child-free life
Jeena Cho

TIPS: ABA members offer their best tips for being a young lawyer or a solo lawyer
Kathy Wallis

Business of Law

SPECIAL EDITION: DIGITAL DANGERS

As state actors continue to wage cyberwar on the United States, they have a powerful ally – gaps and ambiguities in the law
Harvey Rishikof et al.

TECHNOLOGY: With the rise of cryptocurrency, estate lawyers caution it shouldn't be treated like other assets
Angela Morris

TECHNOLOGY: Any piece of technology that stores information could be compromised – even obsolete devices that get thrown out with the garbage
Jason Tashea

Your ABA

MEMBERS WHO INSPIRE: Olympic medal-winning attorney fights sexual abuse and discrimination in athletics
Lyle Moran

ABA pilot project tests tools to help police deliver effective *Miranda* warnings in Spanish
Jason Tashea

REPORT FROM GOVERNMENTAL AFFAIRS: The Department of Labour reverses course on "persuader rule" change after ABA lobbying
Rhonda McMillion

Precedents

The first Teapot Dome criminal trial begins
Allen Pusey

California Western International Law Journal Vol. 49 No. 1 Fall 2018

Stolen or lawful? A case review of an Indian tribe's claim to aboriginal land in California
Hon. Barbara A. McAuliffe

A review of the State of Israel's land disputes with the Bedouin Community
Hon. Rachel Barkai
Indigenous People's land: The case of Bedouin Land in Israel *Morad Elsana*
Negev Bedouins and the State of Israel: Social conflict and territorial dispute
Tamar Ariele

Columbia Journal of Law and Social Problems **Vol. 52 No. 2** **Winter 2019**

Tiebreaker: An antitrust analysis of esports *Max Miroff*
Least restrained environment: Amending the IDEA to require positive behavioral interventions and supports in IEPs *Helin Azizoglu*
The regulatory leash of the one-year refugee travel document *Paulina Sosa*
Intersex in 2018: Evaluating the limitations of informed consent in medical malpractice claims as a vehicle for gender justice *Caroline Lowry*

International Review of the Red Cross **Vol. 99 No. 905**

Management of the dead from the Islamic law and international humanitarian law perspectives: Considerations for humanitarian forensics *Ahmed Al-Dawoody*
Adoption of the additional protocols of June 8, 1977: A milestone in the development of international humanitarian law *Francois Bugnion*
Strengthening resilience: The ICRC's community-based approach to ensuring the protection of education *Geoff Loane & Ricardo Fal-Dutra Santos*

New Law Journal **Vol. 168 No. 7818** **November 23, 2018**

Comment
Brexit is likely to launch a thousand writs, no matter the outcome, says *David Greene*
Employment: *Charles Pigott* reports on the ongoing pursuit of clarity in the latest vicarious liability case
Family: A warning to couples who marry overseas from *Caroline East & Ellie Hampson-Jones*

New Law Journal **Vol.168 No. 7819** **November 30, 2018**

Comment
Theresa in the desert: *Steve Hynes* examines the gaps in legal aid coverage close to top MPs' homes
Speakers' corner
Is there anything to fear from advising family? *Peter Thompson QC* considers what's permissible & where to exercise caution
Insurance/RTAs: Who's at the wheel? *Nicholas Bevan* reports on the difficulties of regulating automated vehicles
Family: *David Burrows* examines the latest developments in evidence in family proceedings

Crime: *Alex Samuels* explores the 'loss of control' defence in homicide cases

Advertorial/ Personal injury: A multi-disciplinary approach to occupational & industrial disease claims is the best way forward, says *Laura Martin*

New Law Journal **Vol. 168 No. 7820** **December 7, 2018**

Comment

Discretionary or fundamental? *Jon Robins* questions Lord Sumption's views on civil legal aid schemes

Personal injury: *Vijay Ganapathy* provides a rundown of industrial disease & vicarious liability cases

Discrimination: Half baked: *Michael Arnheim* highlights the illogicalities of the 'gay cake' case

Public: All's fair in public law? *Nicholas Dobson* on substantive unfairness

Media: *Athelstane Aamodt* looks at blasphemy law in action

New Law Journal **Vol. 168 No. 7821** **December 14, 2018**

Comment

With splits emerging between commercial & consumer firms over their adaption to technology, *Roger Smith* advises the smaller outfits to keep an eye on the competition

Speakers' corner

Have the Royals succeeded in moving closer to the common folk? *Michael Nash* explores how far they've come

Employment: *Ian Smith* rounds off the year in his December brief & leaves a few treats under the tree

Charity: *Bethan Walsh* provides a guide to the reporting of serious incidents for charities

Wills & probate: What constitutes a gift with reservation of benefit? *George Hogan* reports on the lessons from *Viscount Hood v HMRC*

New Law Journal **Vol. 169 No. 7824** **January 18, 2019**

Speaker's Corner

The state of foodbanks & the devastating impact of universal credit: *Jon Robins* investigates

Comment

Some litigation leopards never change their spots, says *Dominic Regan*

Property: *Andrew Bruce* examines restrictive covenants & modifying the benefit

Property: The beast from the east: *Alex Samuels* offers a stark warning on Japanese knotweed

Crime: *Dr. Karen Brennan & Dr. Emma Milne* explore the socio-historical context behind the infanticide law

Public: *Nicholas Dobson* takes to the highway & unravels some uncertainties

New Law Journal **Vol. 169 No. 7825** **January 25, 2019**

Speakers' Corner

Geoffrey Bindman examines the false economy behind legal aid cuts

Comment

Brexit is taking the UK constitution into uncharted territory, says *David Greene*

Family: *Kim Beatson & Victoria Brown* share an update on child relocation & recent case law

Commercial: *Alison Padfield QC & Diarmuid Laffan* analyse the obligations of SIPP providers

New Law Journal **Vol. 169 No. 7826** **February 1, 2019**

Comment

Defining abuse: *David Burrows* reports on the key aspects of the draft Domestic Abuse Bill

Property: *Nicholas Roberts & Gary Bennett* discuss the Law Commission's plan for reinvigorating common hold

Privilege: Testing the limits: is evidence which discloses iniquity still privileged? *Shane Crawford* investigates

Crime: *Alex Samuels* examines the pros & cons of the limitation period

Family: Causing a diversion: *Matilda Kingham* investigates the tactics to avoid payment of child maintenance

New Law Journal **Vol. 169 No. 7828** **February 15, 2019**

Speakers' corner

David Burrows looks at the EU withdrawal process through the prism of family law

Comment

Frozen out justice: *Jon Robins & Geoffrey Bindman QC* put the LASPO review under the microscope

Employment: When should the justice of case proceedings prevail over hardnosed case management, asks *Shane Crawford*

Commercial/Tax: *Peter Vaines* critiques HMRC's one-size-fits-none approach of treating everyone like a tax cheat in pursuit of compliance

New Law Journal **Vol. 169 No. 7829** **February 22, 2019**

Comment

#WeToo: It's time for lawyers to contribute to the debate on confidentiality agreements, says *Juliet Carp*

Wills & probate: Are online probate applications a sign of things to come? *Andrew Wilkinson* weighs the pros & cons

Crime: *David Wolchover & Anthony Heaton- Armstrong* examine the revision of rules on conferring by police officers in their post-event accounts

University of Pittsburgh Law Review Vol. 79 Issue 4 Summer 2018

Multiple representation meltdown: “Penn State Three” case illustrates entity representation pitfalls for both criminal defence counsel and prosecutors – and the need for service

Lance Cole

Imagining things: copyright for useful articles after *Star Athletica v Varsity Brands*

Robert C. Denicola

Regulating in the era of fake news: Anti-vaccine activists respond to the CDC Quarantine Rule

Dorit Rubinstein Reiss

University of Pittsburgh Law Review Vol. 80 Issue 1 Fall 2019

Are two clauses really better than one? Rethinking the religion clause(s)

Donald L. Beschle

Nation-states and their cyber operations in planting of Malware in other countries: Is it legal under international law?

John J. Chung

Racial justice demands truth & reconciliation

Michael A. Lawrence

Small hydropower toolkit: Considerations for improving global development and an accompanying case study for Pakistan

Gina S. Warren