



**134 HENRY STREET
PORT OF SPAIN
REPUBLIC OF TRINIDAD AND TOBAGO**
Telephone: (868) 623-2CCJ Fax: (868) 624-4710
Website: www.ccj.org

MEDIA RELEASE
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CCJ REFUSES APPEAL IN BELIZE CONSTRUCTIVE DISMISSAL CASE

Port of Spain, Trinidad and Tobago. In a judgment released today, the Caribbean Court of Justice (CCJ) dismissed the appeal and affirmed the decision of the Court of Appeal of Belize in the matter of *Bay Trust Corporate Services Limited v Karen Acosta Longsworth [2020] CCJ 8 (AJ) BZ*. The Court also ordered that the Appellant pay the Respondent the costs of this appeal.

On July 16, 2011, Mr. Glen Wilson, the majority shareholder and Chairman/President of the Appellant company and a sister company, sent an email to the Respondent, Ms. Longsworth. The email informed her that he had taken over management of both companies. Ms Longsworth was at that time the Managing Director of the two companies. Ms Longworth met with Mr. Wilson on July 18, 2011, after which she sought legal advice and never returned to work. Instead, she commenced proceedings for constructive dismissal in the Supreme Court of Belize.

The Supreme Court found that Mr. Wilson's plan of action was designed to strip Ms. Longsworth of her management of the company and went to the root of her contract. However, in the absence of a resolution of the Board of Directors of the company, his plan was only a proposal so that the company could not be held responsible. The company thus succeeded on its counterclaim that Ms. Longsworth had abandoned her employment and breached her contract. The Court of Appeal allowed the appeal, finding that Mr. Wilson's acts must be attributed to the company, as he was the directing and controlling mind and will of the company. Since his acts made it unreasonable to expect Ms. Longsworth to continue the employment relationship, it therefore amounted to constructive dismissal of Ms. Longsworth under Section 42A of the Belize Labour Act 2011.

The CCJ agreed that Mr. Wilson was an agent of the company and that liability for his actions might in certain circumstances rest with the company. The CCJ also noted that this was different from saying that Mr. Wilson's conduct could be treated as the conduct of the company for the purposes of Section 42A of the Act. The CCJ also found that the purpose of Section 42A was to merge the liability of a company with an identifiable official of the company, and for that reason, it was unnecessary to determine whether such an official was the controlling mind and will of the company.

The CCJ found it necessary to fashion a special rule of attribution in the circumstances of this case to fulfil the purpose of Section 42A. As Mr. Wilson was undoubtedly an identifiable official of company, the CCJ

found that his acts were to be taken as the conduct of the company for the purposes of Section 42A. Consequently, the company was liable for the constructive dismissal of Ms. Longsworth.

The Judgment was delivered jointly by the Honourable Mme Justice Maureen Rajnauth-Lee and the Honourable Mr Justice Andrew Burgess on behalf of the panel, which also comprised CCJ President, the Honourable Mr Justice Adrian Saunders, and the Honourable Messrs. Justice Winston Anderson and Justice Peter Jamadar. Mr Rodwell Williams, SC, Ms. Lissette Staine and Mr. Alder Wright appeared for Bay Trust Corporate Services Limited. Mr. Eamon Courtenay, SC and Ms. Naima Barrow appeared for Ms. Karen Acosta Longsworth.

The full judgment of the Court and a judgment summary are available on the Court's website at www.ccj.org.

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About the Caribbean Court of Justice

The Caribbean Court of Justice (CCJ) was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Original Jurisdiction, the CCJ is critical to the CSME and all 12 Member States which belong to the CSME (including their citizens, businesses, and governments) can access the Court's Original Jurisdiction to protect their rights under the RTC. In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana. However, by signing and ratifying the Agreement Establishing the Caribbean Court of Justice, Member States of the Community have demonstrated a commitment to making the CCJ their final court of appeal. The Court is the realisation of a vision of our ancestors, an expression of independence and a signal of the region's coming of age.

For more information please contact:
The Public Education & Communications Unit
Tel: (868) 623-2225 exts. 2296, 2246
Email: pecu@ccj.org