



CARIBBEAN COURT OF JUSTICE

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MEDIA RELEASE
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CCJ Refuses Special Leave Application filed by Company Director

Port of Spain, Trinidad and Tobago. On Friday, 18th August 2023, the Caribbean Court of Justice (CCJ) refused to grant permission to Mr Graham Bethell to appeal a decision of the Court of Appeal of Barbados. That Court had dismissed his attempts to appeal a trial judge's decision to enter summary judgment against him and had also dismissed his counterclaim filed against Royal Bank of Canada (Barbados) Limited.

In May 2012, the Bank had claimed the sum of BDS\$1,040,583.67 against Mr Bethell. This was the sum owed to it under a Guarantee and Postponement of Claim signed by Mr Bethell and other company directors of ISIS Development Limited in March 2005. Mr Bethell had allegedly agreed to guarantee the sum of BDS\$ 1 million, together with interest. In August 2020, a High Court judge entered summary judgment against him, on the basis that he had no real prospect of success in defending the claim nor maintaining his counterclaim. Mr Bethell was ordered to pay BDS\$1 million plus interest, and costs.

Mr Bethell filed an application in the Court of Appeal for leave to appeal the order of summary judgment. In July 2021, that court dismissed this application on the basis that he did not need leave to appeal, as he had been granted unconditional leave to defend by the High Court. In August 2021, he filed an application for leave to appeal out of time against the trial judge's decision to dismiss his counterclaim. The Court of Appeal clarified that this application was really an application for leave from the Court of Appeal to extend the time required to file a notice of appeal against the decision dismissing the counterclaim. The court, focusing on the constraints of time in which a litigant can file appeals set out in the Supreme Court (Civil Procedure Rules) 2008 and its discretion to depart from those rules, dismissed this application, as not being in the interests of justice. The court also dismissed the appeal against the order of summary judgment for having been filed out of time, there being no special reason to permit the appeal. He then sought special leave to appeal these decisions to the CCJ.

In a judgment authored by Mr Justice Barrow, with whom Messrs Justices Anderson and Burgess concurred, the CCJ agreed with the Court of Appeal's decision. The Court found that Mr Bethell had once again failed to present the necessary criteria, as required by the Supreme Court (Civil Procedure) Rules 2008, which could enable the Court to depart from the rules on time for filing appeals. Instead of addressing the requirements, which were outlined in a number of decisions examined by the Court of Appeal, Mr Bethell's application simply argued that the Court of Appeal erred in concluding that special reasons had not been shown. As a consequence of failing to address

the required factors needed to satisfy the Supreme Court (Civil Procedure) Rules 2008, Mr Bethell's application failed to identify what factors the Court of Appeal failed to consider in making its decision. On these bases, the application for special leave was dismissed.

The application was determined by the Honourable Messrs Justices Winston Anderson, Denys Barrow and Andrew Burgess.

Mr Bryan Weekes represented the Applicant and Mr Garth Patterson KC represented Royal Bank of Canada (Barbados) Limited.

The full judgment of the Court is available on the CCJ'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 Saint Lucia, 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.

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