IN THE CARIBBEAN COURT OF JUSTICE
APPELLATE JURISDICTION

ON APPEAL FROM THE COURT OF APPEAL OF BELIZE

CCJ Application No BZ/A/CV2025/003
BZ Civil Appeal No 6 of 2025

BETWEEN

JEREMY ENRIQUEZ

APPLICANT

AND

THE ATTORNEY GENERAL OF BELIZE **RESPONDENT**
THE ELECTIONS AND BOUNDARIES COMMISSION **INTERESTED PARTY**

And

CCJ Application No BZ/A/CV2025/004
BZ Civil Appeal No 9 of 2025

BETWEEN

ANAND RAMLOGAN **APPLICANT**

AND

THE ATTORNEY GENERAL OF BELIZE **RESPONDENT**
THE ELECTIONS AND BOUNDARIES COMMISSION **INTERESTED PARTY**

And

CCJ Application No BZ/A/CV2025/005
BZ CV Application No 3 of 2025

BETWEEN

JEREMY ENRIQUEZ **APPLICANT**

AND

THE ATTORNEY GENERAL OF BELIZE **RESPONDENT**
THE ELECTIONS AND BOUNDARIES COMMISSION **INTERESTED PARTY**

[Heard together on 12 March 2026]

Before: **Mr Justice Anderson, President**
Mme Justice Rajnauth-Lee
Mr Justice Jamadar
Mme Justice Ononaiwu
Mr Justice Eboe-Osuji

Date of Reasons: **7 July 2026**

Appearances

Mr Anand Ramlogan SC, Mr Peter Knox KC, Dr. Christopher Malcolm, Ms Sheena Pitts, Mr Cecil Ramirez, Mr Godwin Haylock and Mr Vishaal Siewsaran for the Applicants

Mr. Eamon H. Courtenay SC and Ms Iliana N Swift for the Respondent

Mr Hector D Guerra and Mr Edgar G Lord for the Interested Party

Practice and Procedure — Time for filing notice of appeal — Statutory interpretation — Intention of Parliament — Purpose and context of legislation — Access to justice — Whether the words 'signed, entered or otherwise perfected' in s 202(1) of the Senior Courts Act 2022 operate disjunctively — Whether notice of appeal filed after signing of order by judge and parties, but before signature and sealing by Registrar is a nullity — Curative power of the Court of Appeal — Overriding objective — Senior Courts Act 2022, s 202(1) — Senior Courts (Civil Procedure) Rules 2025, rr 42.5(1), 42.8.

Practice and Procedure — Wasted costs order — Due process and natural justice — Protection of the law — Right to a fair hearing — Constitutional conformity in statutory interpretation — Whether leave required to appeal — Whether wasted costs order is a 'final order' — Whether wasted costs order is an 'order as to costs' — Senior Courts Act 2022, ss 201(1)(a), 201(1)(i), 201(1)(j), 201(3)(b) — Senior Courts (Civil Procedure) Rules 2025, Pt 63, rr 63.8(2), 63.9 — Constitution of Belize, CAP 4.

Practice and Procedure — Liberty to apply — Ex parte order made by judge on own motion — Whether proper course is to apply to judge below, or to another High Court judge, to discharge or vary order before appealing — Senior Courts (Civil Procedure) Rules 2025, r 11.21.

SUMMARY

The Applicants brought three related applications for special leave to appeal three oral decisions of the Court of Appeal of Belize, each arising from rulings of Hondora J in proceedings challenging the failure of the State to redefine the electoral boundaries of Belize in accordance with the proposals of the Elections and Boundaries Commission. In the High Court, the judge dismissed an

application for urgent interim relief and made directions personally against counsel for the Applicants. He thereafter issued a wasted costs order requiring counsel to pay personally half of the legal costs incurred by the Attorney General. Further, of his own motion and without hearing the parties, the judge made an *ex parte* order restraining publication and requiring further information from counsel. The Court of Appeal upheld preliminary objections in each matter, striking out two notices of appeal as nullities and denying leave in the third.

In BZ/A/CV2025/003, the issue was the validity of the notice of appeal filed against the High Court's order dismissing the application for interim relief. The Court of Appeal, by a majority, had held that an order is perfected only when signed and sealed by the Registrar, such that the notice of appeal, filed before that step, was a nullity. This Court held that the words 'signed, entered or otherwise perfected' in s 202(1) of the Senior Courts Act operate disjunctively: any one of those steps is a sufficient statutory trigger for the filing of an appeal. Applying a purposive approach to statutory construction, the Court reasoned that the purpose of s 202(1) is to prescribe a time limit beyond which an appeal may not be filed, and that Parliament could not have intended to preclude or thwart the filing of appeals in circumstances where the order has been signed by the parties and the judge but has not been signed and sealed by the Registrar. The Court further observed that access to justice is a fundamental concept deeply rooted in the constitutional principles of the rule of law and the protection of the law. The majority of the Court of Appeal was accordingly held to have fallen into error in unduly restricting access to justice in this case. The order signed by the parties and the judge thus satisfied s 202(1). At its highest, this was an appeal filed prematurely, and the Court of Appeal could have invoked its curative power, consistent with the overriding objective of dealing with cases justly and allow the hearing of the appeal to proceed.

In BZ/A/CV2025/004, the issue was whether leave was required to appeal the wasted costs order made personally against counsel for the Applicants. The Court of Appeal had held that a wasted costs order was an 'order as to costs' within s 201(1)(i) of the Senior Courts Act, or, alternatively, fell within the residual category in s 201(1)(j), in either case requiring leave to appeal under s 201(3)(b). This Court held, first, that the wasted costs order was a final order within s 201(1)(a) since it finally adjudicated the question of the Appellant's liability to pay those costs, and that no leave was therefore required. Second, examining the substance of the order, the Court found that

a wasted costs order against a legal practitioner is a disciplinary order relating to the practitioner's conduct, and not in the nature of an 'order as to costs' within s 201(1)(i). Third, the procedure adopted by the judge, who proceeded on his own motion without setting out the grounds on which he was minded to make the order, without convening a show-cause hearing, and without giving seven days' notice of that hearing, as required by r 63.9 of the Senior Courts (Civil Procedure) Rules 2025 ('CPR'), raised serious questions as to whether the judge respected the Appellant's due process and natural justice rights, which are embedded in constitutional guarantees of protection of the law and the right to a fair hearing. An interpretation of the Senior Courts Act requiring leave to appeal a final order made in such circumstances would not be consistent with the Constitution of Belize.

In BZ/A/CV2025/005, the issue was whether the Applicant was required first to apply to the High Court judge to vary or discharge the *ex parte* order made against him before appealing to the Court of Appeal, notwithstanding his allegation that the judge was obviously biased. This Court found no reason to deviate from *WEA Records Ltd v Visions Channel 4 Ltd*: the proper course was to apply to the judge who made the order, or to another High Court judge under r 11.21 of the CPR, to discharge or vary it, and to appeal only after that application had been heard and determined. The Court was fortified by the express provision in the order granting liberty to apply. The application presented no realistic chance of success.

Accordingly, special leave was granted and the appeals allowed in BZ/A/CV2025/003 and BZ/A/CV2025/004, with costs to the Appellants in this Court and in the Court of Appeal; and the application for special leave was dismissed in BZ/A/CV2025/005, with costs to the Respondent and the Interested Party in this Court and in the Court of Appeal, in each case to be assessed if not agreed.

Cases referred to:

Allen v Byfield JM 1964 CA 73 (CARILAW), (30 July 1964); *Bank of Nova Scotia v Comptroller of Inland Revenue* [2025] CCJ 13 (AJ) LC; *Barbados Rediffusion Service Ltd v Mirchandani (No 1)* [2005] CCJ 1 (AJ) (BB), (2005) 69 WIR 35; *Cara Investments Ltd v Ram* [2026] CCJ 5 (AJ) GY; *Commissioner of Police v Alleyne* [2022] CCJ 2 (AJ) BB, [2022] 2 LRC 590; *Enriquez v A-G of Belize* (BZ CA, 20 January 2026); *Enriquez v A-G* (BZ HC, 12 February 2025); *Etna v Arif* [1999] 2 VR 353; *Greater Sail Ltd v Nam Tai Property Inc* VG 2022 CA 014 (CARILAW), (21

June 2022); *Guyana Geology and Mines Commission v BK International Inc* [2021] CCJ 13 (AJ) (GY), [2022] 2 LRC 491; *Guyana Sugar Corp Inc v Dhanessar* [2015] CCJ 4 (AJ) (GY), GY 2015 CCJ 1 (CARILAW); *Helsby, ex p Trustee, Re* [1894] 1 QB 742; *Ison v Francis* (1958) 1 WIR 57; *Land and Property Trust Co plc, Re* [1991] 3 All ER 409; *Lant v Lant* [1964] 2 All ER 608; *Mahitani v Castillo* BZ 2010 CA 8 (CARILAW), (19 March 2010); *Marin v R* [2021] CCJ 6 (AJ) BZ, BZ 2021 CCJ 001 (CARILAW); *Muriniti v Mercia Financial Solutions Pty Ltd* [2021] NSWCA 180; *OO v BK* [2023] CCJ 10 (AJ) BB, (2023) 103 WIR 36; *R v Flowers* [2020] CCJ 16 (AJ) BZ, [2020] 5 LRC 628; *Ramlogan v A-G of Belize* (BZ CA, 20 January 2026); *Sankar v Guyana Rice Development Board* [2019] CCJ 11 (AJ) (GY); *Smith v A-G of Belize* BZ 2024 SC 070 (CARILAW), (8 August 2024); *Smith v Selby* [2017] CCJ 13 (AJ) (BB), (2017) 91 WIR 70; *St John's Trust Co (PVT) Ltd v Watlington* (BM SC, 24 February 2021); *Thompson v Fraser* [1986] 1 WLR 17; *Titan International Securities Inc v A-G of Belize* [2018] CCJ 28 (AJ) (BZ), (2019) 94 WIR 96; *Trust Co (Guyana) Ltd v Guyana Securities Council* [2021] CCJ 11 (AJ) GY, (2021) 99 WIR 422; *WEA Records Ltd v Visions Channel 4 Ltd* [1983] 1 WLR 721; *Wilkinson v Kenny* [1993] 1 WLR 963.

Legislation referred to:

Belize − Constitution of Belize, CAP 4, Senior Courts Act 2022, Senior Courts (Civil Procedure) Rules 2025; **United Kingdom** − Bankruptcy Rules 1886, Supreme Court Act 1981, West Indies Court of Appeal Rules 1945.

Other Sources referred to:

Bailey D and Norbury L, *Bennion, Bailey and Norbury on Statutory Interpretation* (8th edn, LexisNexis 2020); Belle Antoine R B, *Commonwealth Caribbean Law and Legal Systems* (Routledge 2008).

REASONS FOR DECISION

Reasons:

Introduction

[1] On 25 February 2026, this Court heard three related applications for special leave to appeal, each arising from a common factual matrix and concerning a decision of the Court of

Appeal of Belize delivered orally on 10 October 2025. The applications are: (i) BZ/A/CV2025/003, filed by Mr Jeremy Enriquez, against the striking out of his notice of appeal challenging the dismissal of an application for urgent interim relief;[1] (ii) BZ/A/CV2025/004, filed by Mr Anand Ramlogan SC, against the striking out of his notice of appeal challenging a wasted costs order made against him personally;[2] and (iii) BZ/A/CV2025/005, filed by Mr Enriquez, against the dismissal of his application for leave to appeal an *ex parte* order of the High Court.[3] Given the common factual background, the Court heard these applications together.

[2] On 23 March 2026, the Court made the following orders with reasons to follow:

(a) In BZ/A/CV2025/003, special leave to appeal is granted; the appeal is allowed; costs to the Appellant in this Court and in the Court of Appeal, to be assessed if not agreed between the parties.

(b) In BZ/A/CV2025/004, special leave to appeal is granted; the appeal is allowed; costs to the Appellant in this Court and in the Court of Appeal, to be assessed if not agreed between the parties.

(c) In BZ/A/CV2025/005, the application for special leave to appeal is dismissed; costs to the Respondent and the Interested Party in this Court and in the Court of Appeal, to be assessed if not agreed between the parties.

[3] These are the reasons of the Court.

Procedural Background

[4] On 10 February 2025, Mr Enriquez, together with two co-claimants, filed a fixed date claim form in the High Court of Belize alleging breaches of their constitutional rights arising

[1] CCJ Application No BZ/A/CV2025/003, on appeal from BZ Civil Appeal No 6 of 2025.
[2] CCJ Application No BZ/A/CV2025/004, on appeal from BZ Civil Appeal No 9 of 2025.
[3] CCJ Application No BZ/A/CV2025/005, on appeal from BZ CV Application No 3 of 2025.

from the failure of the State to ensure that the electoral boundaries of Belize were redefined in accordance with the proposals of the Elections and Boundaries Commission. The claim was brought by Mr Enriquez in his own right and in the public interest on behalf of the citizenry of Belize. At the same time, Mr Enriquez applied for injunctive orders requiring, *inter alia*, the Attorney General to notify the claimants of any decision to dissolve Parliament and fix a date for a general election. An undertaking to that effect was sought from the Prime Minister but was not forthcoming.

[5] Two further applications for urgent interim relief were filed on 11 February 2025, aimed at preventing the dissolution of Parliament and the appointment of a general election date. That same day, the Prime Minister's office issued a press release stating that the Governor General had been advised to dissolve the National Assembly and issue writs for a general election on 12 March 2025. Mr Enriquez was represented by Mr Ramlogan SC, who is based in Trinidad and Tobago and authorised to practise in Belize.

Proceedings in the High Court

(a) *Hybrid Hearing*

[6] On 12 February 2025, the applications came urgently before Hondora J in the High Court as a hybrid hearing, with Mr Enriquez in court and Mr Ramlogan and his associates attending by video link. According to the Applicants' evidence, during the recess the judge failed to mute his microphone and was overheard by one of Mr Ramlogan's associates stating that he had already made up his mind about the application and was proceeding only in order to teach counsel and Mr Enriquez 'a lesson'. The allegation was raised by Mr Ramlogan after the recess but was denied by the judge, who proceeded to hear and refuse the application.

[7] In subsequent reasons delivered on a recusal application, Hondora J acknowledged that during the recess he had consulted Nabie J about her decision in an unrelated redistricting

matter, *Smith v Attorney General of Belize*,[4] relied upon by counsel for the Applicants in his submissions, and that Nabie J had 'graciously provided' him a copy of her decision. The Applicants' evidence is that the *Smith* judgment was already before the judge and was being extensively cited in counsel's submissions, that the judge did not indicate to the parties that he lacked a copy, and that he did not share with the parties the copy given to him by Nabie J.

(b) *The Dismissal of the Application for Interim Relief*

[8] On 12 February 2025, Hondora J delivered written reasons dismissing the application for interim relief based on several procedural deficiencies and alleged failures to comply with the Senior Courts (Civil Procedure) Rules 2025 ('the CPR').[5] The Applicants submit that none of those deficiencies had been raised at the hearing and that no opportunity had been afforded to them to respond. At [116] of the judgment, Hondora J made directions against Mr Ramlogan personally, requiring him to provide detailed explanations to the Registrar concerning his practice in Belize, his arrangements with local attorneys, and the use of digital signatures attributed to Mr Enriquez and another deponent. None of these matters had been raised at the hearing.

[9] No order was affixed to the judge's reasons, and no direction was given under r 42.5(1) of the CPR requiring a party to draft one. On 19 February 2025, the Applicants' attorneys sought an urgent perfected order. On 20 February 2025, the Registrar responded stating that the parties must both sign off on the draft order before submitting it to the court, upon receipt of which 'the judge will perfect accordingly'. By 21 February 2025, the parties had signed the draft order and forwarded it to the Registrar. Later that day, a representative of the Office of the Chief Justice sent an order signed by the judge in the same terms as the agreed draft. On 21 February 2025, Mr Enriquez filed a notice of appeal (BZ Civil Appeal No 6 of 2025).

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[4] BZ 2024 SC 070 (CARILAW), (8 August 2024).
[5] *Enriquez v A-G* (BZ HC, 12 February 2025).

(c) *The Wasted Costs Order*

[10] On 20 February 2025, Mr Ramlogan wrote to the Registrar responding to the directions given at [116] of the judgment of Hondora J. The judge refused his request for a one-day extension of time to file submissions on costs. No further costs submissions were filed by any party. On 6 March 2025, Hondora J delivered a further judgment ordering Mr Ramlogan personally to pay, as wasted costs, half of the legal costs incurred by the Attorney General in relation to the three interim relief applications, to be taxed by the Registrar in default of agreement. Mr Ramlogan's evidence is that there had been no application for wasted costs by the Respondent or the Interested Party, no hearing on the subject, no adequate notice under r 63.9(4) of the CPR, and no show-cause hearing under rr 63.9(5)–(6). On 27 March 2025, Mr Ramlogan filed a notice of appeal (BZ Civil Appeal No 9 of 2025).

(d) *The Ex Parte Order of 12 May 2025*

[11] On 2 May 2025, Mr Enriquez applied to the High Court for Hondora J to recuse himself on the grounds of apparent bias, founded on the judge's conduct during the hearing on 12 February 2025 and on a complaint filed on 23 April 2025 by Mr Enriquez with the Judicial and Legal Services Commission. On 12 May 2025, without hearing the parties and of his own motion, Hondora J issued an *ex parte* order with accompanying reasons. The order barred publication of the court's orders without permission and required Mr Ramlogan to provide information about whether audio or video of the hearing on 12 February 2025, had been published in the media, on social media, or on WhatsApp groups. On 20 May 2025, Mr Enriquez filed an application in the Court of Appeal for leave to appeal and for a stay of execution (BZ CV Application No 3 of 2025).

Proceedings in the Court of Appeal

[12] The Respondent and the Interested Party raised preliminary objections to each of the three appeals. On 10 October 2025, the Court of Appeal heard all three preliminary objections and upheld each by separate oral decisions of the same date. No written reasons were

delivered at the time, though counsel for the Applicants requested them. Written reasons were subsequently delivered on 20 January 2026.

[13] In BZ Civil Appeal No 6 of 2025, the objection was that Mr Enriquez's notice of appeal was a nullity because, at the time of its filing, the order of the High Court had not been 'signed, entered or otherwise perfected' within the meaning of s 202(1) of the Senior Courts Act 2022 of Belize ('Senior Courts Act'). The Respondent and the Interested Party relied on *Mahitani v Castillo*,[6] for the proposition that a notice of appeal filed before perfection of the order is a nullity, and on affidavits from members of the registry filed on 18 July 2025. Mr Enriquez submitted that s 202(1) provides a deadline and not a starting point; that the phrase 'signed, entered or otherwise perfected' is disjunctive; and that the order had in any event been perfected when signed by the judge and issued to the parties. The Court of Appeal struck out the notice of appeal.

[14] In BZ Civil Appeal No 9 of 2025, the objection was that Mr Ramlogan required leave to appeal the wasted costs order as an 'order as to costs' under s 201(1)(i) of the Senior Courts Act, and that the notice of appeal filed without such leave was a nullity. Mr Ramlogan relied on *Thompson v Fraser*,[7] *Re Land and Property Trust Co plc*,[8] and *Wilkinson v Kenny*,[9] for the proposition that a wasted costs order against an attorney is not 'an order as to costs' and, in the alternative, submitted that the Court of Appeal could and should have intervened without leave. The Court of Appeal struck out the notice of appeal and reinstated the wasted costs order.

[15] In BZ CV Application No 3 of 2025, the objection was that the application for leave to appeal was an abuse of process because Mr Enriquez had not first applied to Hondora J to vary or discharge the *ex parte* order, relying on *WEA Records Ltd v Visions Channel 4 Ltd*.[10] Mr Enriquez submitted that the rationale in *WEA Records* did not apply as the order had been made of the judge's own motion, had not been sought by any party, and had been

[6] BZ 2010 CA 8 (CARILAW), (19 March 2010).
[7] [1986] 1 WLR 17.
[8] [1991] 3 All ER 409.
[9] [1993] 1 WLR 963.
[10] [1983] 1 WLR 721.

intended, on the Applicant's case, as a response to the recusal application and the complaint to the Commission, such that an application to the same judge to revisit it would be pointless. The Court of Appeal denied leave and lifted the stay of execution.

Notices of Application to Appeal to this Court

[16] By three Notices of Application for Special Leave to Appeal filed on 29 October 2025, the Applicants sought special leave and consequential relief, including that the hearing be treated as the hearing of the substantive appeal and that the need for the Court of Appeal's written reasons be dispensed with.

[17] In BZ/A/CV2025/003, Mr Enriquez contended that the Court of Appeal erred in interpreting s 202(1) of the Senior Courts Act as providing a starting point, and not merely a deadline, for the filing of a valid notice of appeal, and in failing to appreciate that the phrase 'signed, entered or otherwise perfected' is disjunctive ('Validity of Notice to Appeal Order'). In BZ/A/CV2025/004, Mr Ramlogan contended that a wasted costs order is not 'an order as to costs' within the meaning of s 201(1)(i) of that Act and that, even if leave had been required, the Court of Appeal ought to have intervened without leave ('Wasted Costs Order'). In BZ/A/CV2025/005, Mr Enriquez contended that the Court of Appeal erred in treating the *ex parte* order as a standard interlocutory decision, in failing to appreciate its unusual nature, and in relying on justifications for the order that had not been offered by the judge ('Ex Parte Application Order').

Test for Special Leave

[18] The test for the granting of special leave to appeal is well established. This Court in *Sankar v Guyana Rice Development Board*,[11] confirmed its jurisprudence 'on granting special leave to appeal, pursuant to s 8 of the Caribbean Court of Justice Act, as being that the applicant must establish a real prospect of success on appeal or that an egregious error of law appears to have been committed by the court below or there is apparently a substantial miscarriage of justice to be corrected.' Additionally, in *Barbados Rediffusion Service Ltd v*

[11] [2019] CCJ 11 (AJ) (GY) at [63].

Mirchandani (No 1),[12] de la Bastide P laid down a two-stage test that requires this Court to ascertain the circumstances in which the application was made (such as whether the application is made directly to the Court as of right, or if the Court of Appeal refused leave to appeal); and then determine whether there is some special feature which would warrant the Court giving special leave. The test that this Court has applied in determining the presence of a special feature is whether there is a realistic prospect of success. The appearance of an egregious error of law or possible miscarriage of justice are two indicators of a real prospect of success in considering whether the test has been satisfied.

A. *BZ/A/CV2025/003 ('Validity of Notice to Appeal Order')*

[19] This application concerns the interpretation of s 202(1) of the Senior Courts Act. The key issue is whether an order which is signed by counsel for the parties, and by the judge, complies with the requirements of s 202(1) of the Senior Courts Act, and can be the subject of a valid appeal.

[20] Subsequent to the filing of the notice of appeal in the Court of Appeal, the Attorney General responded by filing a notice of preliminary objection dated 17 June 2025 contending that after the trial judge's dismissal of the application for interim relief on 18 February 2025, the draft order was drawn up and later approved by counsel for the Appellant on 20 February 2025. On 21 February 2025, counsel for the Attorney General and the Interested Party, and the trial judge, approved the draft order. The Attorney General contended that in the circumstances, the order of the High Court against which there was an appeal filed on 21 February 2025 was not signed, entered or otherwise perfected as required by s 202(1) of the Senior Courts Act. It was therefore contended that the Notice of Appeal was a nullity, and accordingly, there was no appeal before the Court of Appeal.

[21] The Interested Party sought to rely on the Attorney General's preliminary objections and contended that the appeal was invalid and a nullity since the Notice of Appeal was filed before the perfection of the order of 18 February 2025 as required by s 202(1) of the Senior

[12] [2005] CCJ 1 (AJ) (BB), (2005) 69 WIR 35.

Courts Act. Accordingly, the Interested Party argued that the appeal should be struck out as premature, incompetent and an abuse of process.

[22] The Court of Appeal, by a majority judgment delivered by Hafiz Bertram P (with Minott-Phillips JA concurring), upheld the preliminary objections. The Appellant had contended that the draft order was signed by all the parties and the judge, and that that was sufficient for perfection. The majority disagreed. They were of the view that a perfected order was one that was signed and sealed by the Registrar in accordance with s 202(1) of the Senior Courts Act. As such, the majority held that the appeal filed by the Appellant was a nullity and accordingly it was struck out.

[23] In a concurring opinion, Minott-Phillips JA expressed concern that under s 202(1) of the Senior Courts Act the time for appealing could be automatically lengthened by the non-perfection of the order, the subject of the appeal. The judge suggested that her concern could only be addressed by an amendment to the relevant section of the Senior Courts Act. An example of such an amendment, she proposed, would be to make the period of twenty-one days run from the date the order takes effect, rather than from the date of the perfection of the order. She also noted that such an amendment would make s 202(1) consistent with the CPR r 42.8 which states that: 'A judgment or order takes effect from the day it is given or made, unless the court specifies that it is to take effect on a different date.'

[24] Woodstock-Riley JA delivered a dissenting opinion, in which she rejected the preliminary objections advanced by the Attorney General and the Interested Party. In her view, s 202(1) prescribes a time limit beyond which an appeal cannot be filed but does not impose on the Appellant a requirement that all three conditions – signing, entering and perfecting – must be satisfied before an appeal could be filed. She accepted the Appellant's submission that nothing in s 202(1) precludes the filing of an appeal unless each of those steps has been taken. She placed emphasis on the use of the term 'or otherwise perfected' rather than 'and perfected' indicating that an order may be perfected by signing, entering or by some other means. Further, she considered that, in the present case, the judgment having been delivered

in writing and the order having been signed by the parties and the judge, it could properly be regarded as 'otherwise perfected'.

[25] Having regard to the written and oral submissions of the parties, the Court was satisfied that the test for special leave set out at [18] above was met by the Applicant (now 'Appellant') and therefore proceeded to hear the substantive appeal.

Statutory Framework

[26] The central statutory provision in this appeal is s 202(1)(i) of the Senior Courts Act. This provides as follows:

> Where a person desires to appeal under this Part to the Court he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within twenty-one days from the date on which the order of the High Court or a judge thereof was signed, entered or otherwise perfected.

Analysis

[27] This Court in *OO v BK*[13] reiterated that the object of the court in the exercise of statutory interpretation is to give effect to the intention of Parliament. The Court noted that various approaches can be employed, including the literal and natural and ordinary meaning approach and the purposive approach. The various approaches should in most cases lead to the same result and assist the court in its primary task of giving effect to the intention of Parliament.[14] In *Bank of Nova Scotia v Comptroller of Inland Revenue*,[15] this Court emphasised that 'the correct approach to statutory interpretation is always to keep an eye on the purpose and the context of the statute in trying to make appropriate sense of its composite words and phrases.'

[28] In *OO v BK,*[16] this Court observed that the literal interpretation or ordinary/plain meaning rule asserts that the interpretation of a statute should be based on the ordinary, literal and

[13] [2023] CCJ 10 (AJ) BB, (2023) 103 WIR 36 at [49].
[14] See also *Smith v Selby* [2017] CCJ 13 (AJ) (BB), (2017) 91 WIR 70 at [7]; *Titan International Securities Inc v A-G of Belize* [2018] CCJ 28 (AJ) (BZ), (2019) 94 WIR 96.
[15] [2025] CCJ 13 (AJ) LC at [73].
[16] *OO v BK* (n 13) at [52].

grammatical words used in the statute by the legislature to discern Parliament's intention from the words used.[17] Furthermore, where an enactment is grammatically capable of only one meaning (whether generally or in relation to the facts of the instant case), and, on an informed interpretation, the interpretative criteria do not raise any real doubt as to that meaning, the enactment is to be given its grammatical meaning.[18]

[29] In light of the ordinary grammatical meaning of the words used in s 202(1)(i) of the Senior Courts Act, that is to say, 'within twenty-one days from the date on which the order of the High Court or a judge thereof was signed, entered or otherwise perfected', it is clear that Parliament intended the expressions 'signed, entered or otherwise perfected' to operate disjunctively. The Senior Courts Act does not define these terms. The majority judgment of the Court of Appeal suggests that, in Belize, an order must be signed and sealed by the Registrar to be regarded as perfected,[19] but that may simply reflect local practice. In the view of this Court, the statutory language makes clear that any one of these disjunctive options, that is, the signing or entering or otherwise perfecting of the order of the High Court or a judge, constitutes a sufficient trigger for the filing of an appeal or an application for leave to appeal pursuant to s 202(1).

[30] Furthermore, we agree with Woodstock-Riley JA regarding the significance of the terminology employed by Parliament. The statutory language does not require that the order must be 'signed, entered and perfected'. Rather, as Woodstock-Riley JA observed, the provision refers to an order being 'signed, entered *or otherwise perfected*' (emphasis added). This formulation reflects a clear legislative intention that an order may be perfected by any one of these means - whether by signing, by entering, or through some other procedure or method capable of rendering the order perfected. In this regard, we accept the Appellant's submission that had Parliament intended to impose a requirement that an appeal be filed only on the issuance of a perfected order, it would have stated so in clear and express terms.

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[17] *Smith v Selby* [2017] CCJ 13 (AJ) (BB), (2017) 91 WIR 70; *R v Flowers* [2020] CCJ 16 (AJ) BZ, [2020] 5 LRC 628.
[18] Diggory Bailey and Luke Norbury, *Bennion, Bailey and Norbury on Statutory Interpretation* (8th edn, LexisNexis 2020) s 11.9. See interesting perspectives set out in Rose-Marie Belle Antoine, *Commonwealth Caribbean Law and Legal Systems* (Routledge 2008) 245–250.
[19] *Enriquez v A-G of Belize* (BZ CA, 20 January 2026) at [24] (Hafiz Bertram P).

[31] The Court's interpretation of s 202(1) is reinforced by the decision of *Re Helsby, ex p Trustee*[20] which was cited before us. In that case, the English Court of Appeal considered r 130 of the Bankruptcy Rules 1886, containing wording similar to s 202(1) of the Senior Courts Act, in the context of calculating time for the filing of an appeal. Lord Halsbury LC, delivering the judgment of the court, (with whom Lopes and Davey LJJ agreed) observed that the words 'signed, entered, or otherwise perfected' were likely intended to comprehend by their generality the great variety of the forms of procedure employed across various courts. Accordingly, he noted, time was to be calculated from the day when the order appealed against was 'signed, entered, or otherwise perfected', that is to say, from the date when it was perfected, whether that was done by signing it, or by entering it, or by whatever other means it may have been perfected. In the circumstances, the court held that the notice of appeal filed more than twenty-one days after the order was signed and sealed, and delivered to the parties, was out of time.

[32] We are further fortified in our view by the case of *Ison v Francis*,[21] a decision of the Federal Supreme Court of the West Indies Federation exercising its Civil Appellate Jurisdiction. In that case, the notice of appeal was filed after the judgment had been pronounced but before it was signed, entered or otherwise perfected. Rule 4(2) of the West Indian Court of Appeal Rules provided that the prescribed period for appealing shall be calculated from the time at which judgment is signed, entered or otherwise perfected. The court held that the notice of appeal was valid, observing that the rule, in allowing forty-two days from the date of perfection, prescribed the last day by which a notice of appeal must be filed. It did not however preclude the filing of a notice of appeal after the pronouncement of judgment and before its formal perfection.

[33] It is noteworthy that the Interested Party contended that *Ison v Francis* could not displace Belizean authority as it arose within a different appellate regime and that Belize's statutory scheme, together with its settled jurisprudence, pointed firmly to a 'perfection-first' model. In this regard, reliance was placed on *Mahitani v Castillo*,[22] a decision of the Court of

[20] [1894] 1 QB 742.
[21] (1958) 1 WIR 57.
[22] *Mahitani* (n 6). See also *Allen v Byfield* JM 1964 CA 73 (CARILAW), (30 July 1964); *Lant v Lant* [1964] 2 All ER 608.

Appeal of Belize that considered s 16(1) of the now-repealed Court of Appeal Act which contained wording similar to s 202(1). In that case, the court expressed the view that the appellant was not permitted to file an appeal prior to the signing, entering or perfecting of the order. Accordingly, the court held that the notice of appeal filed before the judgment was perfected was not valid.

[34] The Court of Appeal in the present case noted[23] the Appellant's submission that *Mahitani* ought to be distinguished, on the basis that it turned on the absence of any of the statutory triggers. It was further submitted that the judgment in *Mahitani* did not indicate that the order was either signed by the judge or entered prior to the filing of the appeal. In our view, these submissions are well-founded. We are unable to agree with the Court of Appeal that the signing of the draft order by the judge was not a sufficient statutory trigger, that the order remained merely a draft until formally perfected, or that, absent the signature and sealing by the Registrar, the order signed by the judge could not satisfy the requirements of s 202(1).

[35] Further, it cannot be overlooked that the Parliament of Belize intends its legislation to be interpreted purposively, in a manner that gives effect to the fundamental objectives of the statute. Applying a purposive approach to the interpretation of s 202(1), therefore, it follows that s 202(1) must be construed in a coherent and meaningful manner. This gives rise to the question: Why would Parliament seek to prevent or block the filing of an appeal in circumstances where the court or the judge has already pronounced the order, and signified approval by signing it?

[36] In our view, consistent with the reasoning of Woodstock-Riley JA, the purpose of s 202(1) is to prescribe a time limit beyond which an appeal may not be filed. In other words, a party cannot file an appeal beyond the twenty-one days after the order is signed, entered or otherwise perfected. It cannot, however, be a proper construction of s 202(1) that Parliament intended to preclude or thwart the filing of appeals or applications for leave, in

[23] *Enriquez* (n 19) at [32].

circumstances where the order has been signed by the parties and the judge but has not been signed and sealed by the Registrar.

[37] We are therefore of the view that Parliament cannot have intended the interpretation of s 202(1) adopted by the majority of the Court of Appeal. In reaching this conclusion, we bear in mind that the purposive approach to statutory interpretation must give effect to the underlying objectives of the Senior Courts Act, pt III, sub-pt 2, and in particular, s 202(1), that is to say, to provide for and facilitate the filing of appeals in Belize, including the time for filing appeals.

[38] In answer to the question posed at [35], therefore, the Court concludes that Parliament could not have intended to preclude the filing of appeals or applications for leave to appeal, in circumstances where the order has been signed by the parties and the judge but has not been signed and sealed by the Registrar. Accordingly, an order signed by counsel for the parties, and by the judge, as in the instant case, satisfies the requirements of s 202(1) of the Senior Courts Act, and can be the subject of a valid appeal.

[39] In closing, we wish to underscore, in line with the reasoning of Woodstock-Riley JA,[24] that it remained open to the Court of Appeal to secure compliance with s 202(1) if, as the majority concluded, the Appellant had not satisfied its requirements. Such compliance could readily have been achieved at the hearing of the appeal. The Registrar could have been requested to attend before the Court of Appeal to sign and seal the order, or the matter could have been stood down, with appropriate instructions to the Registrar to sign and seal the order.

[40] In these circumstances, we agree that for the Court of Appeal to treat the appeal as a nullity and to strike it out on that basis, was neither appropriate nor the most efficient course, particularly given the Appellant's substantive compliance. We further agree with Woodstock-Riley JA that at its highest, this was simply a case of an appeal filed prematurely. Accordingly, this was an appropriate case for the Court of Appeal, if

[24] ibid at [51].

concerned about any procedural irregularity, to invoke its curative power, consistent with the overriding objective of dealing with cases justly,[25] and to allow the hearing of the appeal to proceed.

[41] It must further be recognised that access to justice is a fundamental concept, deeply rooted in the constitutional principles of the rule of law and the protection of the law. In our view, the relevant statutory provision was not viewed, interpreted or applied in a manner consistent with Belize's constitutional obligation to uphold the fundamental principle of access to justice. In these circumstances, we are satisfied that the majority of the Court of Appeal fell into error in unduly restricting access to justice in this matter.

B. *CCJ Application No BZ/A/CV2025/004 ('Wasted Costs Order')*

[42] The issue raised by this application was whether leave was required for Mr Ramlogan to appeal to the Court of Appeal the wasted costs order made against him personally by Hondora J on 6 March 2025. The Court of Appeal had struck out, as a nullity, the notice of appeal that the Appellant had filed on 27 March 2025 against the wasted costs order, without leave of the court. This Court was satisfied that the Applicant (now Appellant) met the test for special leave to appeal the Court of Appeal's decision and proceeded to determine the substantive appeal.

[43] This Court found that the Court of Appeal erred in striking out the appeal because, for several reasons, the Appellant could appeal the wasted costs order without first obtaining leave to appeal. First, the wasted costs order was a 'final order' within s 201(1)(a) of the Senior Courts Act; consequently, no leave was required to appeal such an order. Second, a wasted costs order based on the conduct of an attorney is not in the nature of an 'order as to costs' within s 201(1)(i) of the Senior Courts Act, in respect of which leave is required pursuant to s 201(3)(b) of the Act. Third, the procedure by which the challenged wasted costs order was issued raises serious questions as to whether the judge respected the Appellant's due process/natural justice rights that are embedded in constitutional

[25] See Senior Courts (Civil Procedure) Rules 2025 ('CPR'), pt 1.

guarantees. An interpretation of the Senior Courts Act that requires an attorney to obtain leave to appeal a final order made in such circumstances would be inconsistent with the Constitution of Belize.

Statutory Jurisdiction of the Court of Appeal

[44] The jurisdiction of the Court of Appeal is conferred by statute. Section 199 of the Senior Courts Act prescribes the jurisdiction of the court with respect to civil appeals from the High Court. Section 199(1) provides:

> Subject to this Part and to rules of court, the Court shall have jurisdiction to hear and determine appeals from judgments and orders of the High Court given or made in civil proceedings and for all purposes of and incidental to the hearing and determination of any such appeal.

[45] As the Court of Appeal has stated, 'the right [to appeal] is entirely statutory and must therefore be exercised in accordance with the provisions of the [Senior Courts Act].'[26] Section 201 of that Act prescribes when appeals lie to the Court of Appeal, when appeals shall not lie to the court and when leave is required to file an appeal. For present purposes, the relevant parts of s 201 are set out below:

> (1) An appeal shall lie to the Court in any cause or matter from any order of the High Court or a judge thereof where such order is –
>
> (a) final and is not such an order as is referred to in paragraph (f) or (g);
> …
> (f) an order upon appeal from any other court, tribunal, body or person;
> (g) a final order of a judge of the High Court made in Chambers;
> …
> (i) an order as to costs;
> (j) an order not referred to elsewhere in this subsection.
>
> …
>
> (3) No appeal shall lie from any order referred to in sub-section (1)(g) to (j) –
> …
> (b) in any other case, except with the leave of a single judge of the Court or, if that judge refuses, with the leave of the Court.

[26] *Mahitani* (n 6) at [19].

[46] Section 201(1) sets out when an appeal shall lie to the Court of Appeal from an order from a judge of the High Court. However, s 201(3)(b) stipulates that leave is required to appeal certain orders, including 'an order as to costs' within s 201(1)(i) and the residual category within s 201(1)(j) of orders 'not referred to elsewhere in this subsection'. Where the Act permits an appeal to the Court of Appeal but does not stipulate a leave requirement, the appeal can be lodged without first obtaining leave.

No Leave Requirement to Appeal the Wasted Costs Order

[47] In upholding the preliminary objections of the Attorney General and the Interested Party to the notice of appeal filed by the Appellant, the Court of Appeal agreed with their submission that leave is required to appeal a wasted costs order based on the conduct of an attorney. The court reasoned that a wasted costs order is an 'order as to costs' within s 201(1)(i) of the Act, or alternatively, would fall under the residual category under s 201(1)(j).

Wasted Costs Order is a Final Order

[48] A core contention of the Appellant was that the Court of Appeal erred in law because the judge's wasted costs order was a 'final order' within s 201(1)(a) of the Act, for which leave to appeal was not required. The Appellant maintained that the wasted costs order imposed upon him an irreversible obligation (subject only to appeal) to pay the amount awarded. Further, with reference to the 'application test' for determining whether an order is final or interlocutory, the Appellant argued that whichever way the application (or more precisely, the instigation by the judge) was decided, the matter would be concluded by a finding of liability or not to pay wasted costs. The Appellant reasoned that since there is no express carve out from s 201(1)(a) of orders as to costs within sub-s (1)(i) (as is done for orders referred to in sub-ss (1)(f) and (g)), the legislature did not intend for wasted costs orders to be excluded from the scope of s 201(1)(a). Since a wasted costs order was a final order within s 201(1)(a), the Appellant argued that there was no basis for the Court of Appeal's assertion that a wasted costs order could fall within s 201(1)(j) as 'an order not referred to elsewhere in this subsection'.

[49] We agree that, although made at an interlocutory stage, the judge's wasted costs order was a final order within s 201(1)(a) since it finally adjudicated the question of whether the Appellant was liable to pay those costs. On that basis, there would be no need for the Appellant to first obtain leave to appeal the wasted costs order.

Wasted Costs Order is not an 'Order as to Costs'

[50] While accepting that the wasted costs order was a final order, the Attorney General nonetheless argued that the Court of Appeal's decision was correct because a wasted costs order fell within the scope of s 201(1)(i), which was specifically directed at costs orders. The Interested Party advanced a similar submission.

[51] The Court of Appeal found that 'an order as to costs' applies to costs orders, including wasted costs orders against an attorney. It noted that while the term 'costs' was not defined in the Senior Courts Act, pt 63 of the CPR provides the 'general rules about costs and the entitlement of costs', including wasted costs, and r 63.8(2) expressly defines 'wasted costs' as costs incurred by a party. The court further noted that the Act did not create an exception for wasted costs under s 201(1)(i) and opined that there is no distinction between wasted costs and compensatory costs. In the court's view, the words 'an order as to costs', should be given their plain, natural and ordinary meaning as the language was clear and unambiguous.

[52] The Court of Appeal did not consider to be relevant to the interpretation of 'an order as to costs' in the Belize Act authorities which interpreted s 18(1)(f) of the Supreme Court Act 1981 of the United Kingdom ('UK'), now repealed, that required leave to appeal from any order 'relating *only to costs* which are by law left to the discretion of the court or tribunal'. The court noted authorities relied on by the Appellant, such as *Thompson v Fraser,*[27] *Re Land and Property Trust Co plc*,[28] and *Wilkinson v Kenny,*[29] which found that leave was not required under the UK Act to appeal costs orders against an attorney or other non-party as those orders did not relate 'only to costs' in the terms of s 18(1)(f). The court also noted

[27] *Thompson* (n 7).
[28] *Re Land and Property Trust* (n 8).
[29] *Wilkinson* (n 9).

authorities from other common law jurisdictions, such as *St John's Trust Co (PVT) Ltd v Watlington*[30] and *Muriniti v Mercia Financial Solutions Pty Ltd*,[31] on which the Appellant had similarly relied to support his view that appeals against wasted costs orders are not subject to the leave requirement that applies to appeals against routine costs orders pursuant to s 201(3)(b) of the Belize Act. The court assigned importance to the difference in wording between the Belize Act and the statutes in other jurisdictions and considered that, in interpreting the provisions of Belize's Act and the CPR, 'authorities from jurisdictions with different wording are of limited assistance (if any)'.[32]

[53] We agree with the Appellant that, in determining whether a wasted costs order is 'an order as to costs' within s 201(1)(i) of the Act, it is critical to examine the substance of a wasted costs order. While a wasted costs order concerns costs, it is far more than just an order as to costs. Notwithstanding the difference in the wording of the Belize Act, authorities from other common law jurisdictions which were cited by the Appellant are useful because they emphasise that a wasted costs order made against a legal practitioner is a disciplinary order that relates to the practitioner's conduct, and is not a mere costs order that relates to the outcome of the proceedings. In *Thompson,* Sir John Donaldson MR expressed the unanimous view of the Court of Appeal of England and Wales that an order that a solicitor pay a party's costs personally does not relate 'primarily to costs; it relates to the conduct of the solicitor'.[33] Nicholls LJ, in *Re Land and Property Trust Co plc,* observed that costs orders against persons who were not parties to the relevant proceedings 'necessarily related to matters other than merely the outcome of the proceedings', that is, 'some conduct by the non-party which makes it just that he should bear the costs of the litigation to which he was not a party'.[34] In *St John's Trust Co (PVT) Ltd,* a case from the Supreme Court of Bermuda, Hargun CJ observed that an appeal against a wasted costs order against a barrister and attorney is concerned 'inevitably with the conduct' of the barrister and attorney.[35] In *Muriniti ,*[36] the New South Wales Court of Appeal cited with approval the decision of the

[30] (BM SC, 24 February 2021).
[31] [2021] NSWCA 180.
[32] *Ramlogan v A-G of Belize* (BZ CA, 20 January 2026) at [21].
[33] *Thompson* (n 7) at 17.
[34] *Re Land and Property Trust* (n 8) at 412.
[35] *St John's Trust* (n 30) at [49].
[36] *Muriniti* (n 31) at [24].

Victoria Supreme Court of Appeal in *Etna v Arif*,[37] in which Batt JA observed that an order that a solicitor personally pay costs is an order in the disciplinary jurisdiction of the court.[38]

[54] We also agree with the Appellant that the fact that a wasted costs order against a legal practitioner is a different species of order than a mere costs order is evidenced by the separate definition of 'wasted costs' and the separate procedure governing wasted costs orders under pt 63 of the CPR. The definition of 'wasted costs' under r 63.8(2)(a) covers any costs incurred by a party 'as a result of any improper, unreasonable or negligent act or omission on the part of any legal practitioner or any employee of such legal practitioner'. Rule 63.9 sets out the procedure that must be followed before the court can issue a wasted costs order against a legal practitioner, either on the basis an application by a party or the court's own motion. It should be noted that a wasted costs order is determined by a hearing that is separate from the underlying proceedings and, as discussed below, there are prescribed due process safeguards for the legal practitioner which must be respected.

[55] Accordingly, the Court finds that a wasted costs order against a legal practitioner cannot properly be construed as an 'order as to costs' within s 201(1)(i) of the Senior Courts Act. A wasted costs order is a final order within s 201(1)(a), in respect of which there is a right of appeal. We see no reason for removing that right of appeal by categorising a wasted costs order as just an 'order as to costs' under s 201(1)(i).

Statutory Interpretation consistent with the Constitution

[56] As noted above, r 63.9 of the CPR prescribes mandatory due process safeguards for the legal practitioner where a party makes an application for a wasted costs order or the court is considering whether to make a wasted costs order. The legal practitioner must be given notice of the party's application or, if the court is considering making such an order, of the fact that the court is minded to make the order.[39] Such notice must set out the grounds on which the party is seeking the order or the court is minded to make the order.[40] The notice

[37] [1999] 2 VR 353.
[38] ibid at [69].
[39] CPR (n 25) r 63.9(2)–(3).
[40] ibid r 63.9(2), (4).

must also state a date, time and place at which the legal practitioner may attend to show cause why the order should not be made.[41] Further, seven days' notice of the hearing must be given to the legal practitioner against whom the costs order is sought and to all parties to the proceedings.[42] We note that these procedural requirements also sound in basic constitutional entitlements to protection of the law[43] and the right to a fair hearing[44] in Belize.

[57] The wasted costs order against the Appellant was not made further to an application by a party but rather the judge's own motion. As counsel for the Attorney General and the Interested Party accepted, the judge did not fully observe the due process/natural justice requirements of r 63.9 prior to making the wasted costs order.

[58] At [114] of the written reasons delivered by the judge, on 12 February 2025, for dismissal of the application for interim relief, he invited the parties and Mr Ramlogan to make submissions on costs, as follows:

> Although the parties have made some submissions on costs, those predated my decision. In the circumstances and with a view to giving the parties an opportunity to fully address the court on this issue, I order the parties to file additional written submissions on costs by end the end of the day on Monday, 24 February 2025 or indicate by the same date that they are satisfied with the submissions already made. *Mr Ramlogan is invited to make submissions on why costs should not be issued pursuant to CPR 63.8(a) or (b)*.[45]

[59] It is troubling that the Court of Appeal considered the words in emphasis in this paragraph of the judge's written reasons to 'satisfy the notice requirement set out in r 63.9'.[46] Even if the judge's invitation directed to the Appellant could be understood as notice of the fact that the court was minded to issue a wasted costs order against him, it clearly does not satisfy the other notice requirements under r 63.9. It does not set out the grounds on which the court was minded to make the wasted costs order against the Appellant. It does not state

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[41] ibid r 63.9(5).
[42] ibid r 63.9(6).
[43] Preamble to the Constitution of Belize 1981, cl (d), s 3(a), s 6(1).
[44] ibid s 6(7).
[45] *Enriquez v A-G* (n 5) (emphasis added).
[46] *Ramlogan* (n 32) at [5].

a date, time and place at which the Appellant may attend to show cause why the wasted costs order should not be made. Of even greater concern, the judge did not convene a hearing on the matter (far less give seven days' notice thereof) prior to handing down his decision on 6 March 2025 that ordered the Appellant to personally pay half of the legal costs incurred by the Attorney General in relation to Mr Enriquez's three interim relief applications.

[60] This Court[47] has affirmed, on several occasions, that constitutional democracies function under the rule of law and within a framework of constitutional supremacy, wherein constitutional principles and values inform and guide the interpretation and application of statutory provisions and the common law. Accordingly, in a constitutional democracy such as Belize, statutory interpretation must entail a consideration of whether the law can be interpreted in a manner that is consistent with the Constitution.

[61] The procedure by which the judge issued the wasted costs order against the Appellant raises concerns about not only whether the judge observed the mandatory procedural fairness safeguards under r 63.9 of the CPR but also whether the judge upheld the court's duty to respect the Appellant's fundamental rights and freedoms under the Constitution. In interpreting the Senior Courts Act as requiring the Appellant to obtain leave to appeal a final order that was a wasted costs order issued against him in such circumstances, the Court of Appeal did not construe and give effect to the statute in a manner consistent with the Constitution.

C. *CCJ Application No BZ/A/CV2025/004 (Ex Parte Application Order)*

[62] The central issue raised by this application was whether the Applicant was required first to apply to the High Court Judge to vary or discharge the *ex parte* order made against him before appealing to the Court of Appeal notwithstanding that the allegation by the

[47] See *OO v BK* (n 13) at [67] (Rajnauth-Lee J). See also *Guyana Sugar Corp Inc v Dhanessar* [2015] CCJ 4 (AJ) (GY), GY 2015 CCJ 1 (CARILAW) at [48] (Wit J); *Trust Co (Guyana) Ltd v Guyana Securities Council* [2021] CCJ 11 (AJ) GY, (2021) 99 WIR 422 at [45] (Rajnauth-Lee J); *Commissioner of Police v Alleyne* [2022] CCJ 2 (AJ) BB, [2022] 2 LRC 590 at [23] (Jamadar J). See also *Cara Investments Ltd v Ram* [2026] CCJ 5 (AJ) GY at [119]-[132] (Jamadar J); *Marin v R* [2021] CCJ 6 (AJ) BZ, BZ 2021 CCJ 001 (CARILAW) at [27]–[46]; *Guyana Geology and Mines Commission v BK International Inc* [2021] CCJ 13 (AJ) (GY), [2022] 2 LRC 491 at [54]–[56], [72]–[79], [82]; see also *A-G v Dumas* (2017) 90 WIR 507 (TT) (Jamadar JA).

Applicant that the judge was obviously biased against him. For reasons which will appear we are not convinced that the Applicant cleared the initial hurdle of the test for special leave to appeal.

[63] It is well established that an *ex parte* order may be set aside or varied upon application to the court which made the order. The CPR provides:

> 11.21 (1) A party who was not present when an order was made may apply to set aside or vary the order.
>
> (2) The application must be made *not more than 14 days after the date on which the order was served on the applicant.*
>
> (3) The application to set aside the order must be supported by evidence on affidavit showing–
>
> (a) a good reason for failing to attend the hearing; and
>
> (b) that it is likely that had the applicant attended some other order might have been made.
>
> (4) *In any event, the court may set aside an order made in the absence of a party if the applicant satisfies the court that there are exceptional circumstances* (emphasis added).

[64] In *WEA Records Ltd*,[48] the court held that although the Court of Appeal had jurisdiction under s 16(1) of the Supreme Court Act 1981 to entertain appeals from any order made by the High Court on an *ex parte* application, the Court of Appeal would not hear an application to set aside an *ex parte* order because *ex parte* orders were by their nature provisional. It was to be expected that such an order would be revised by the judge who made the order or another High Court judge in the light of subsequent evidence and argument. Furthermore, there was no power which enabled a judge of the High Court merely to adjourn an *ex parte* application to the Court of Appeal for it to make an original order. It followed that the proper course for an applicant seeking to challenge an *ex parte* order was to apply to the judge who made the order or to another High Court judge to

[48] *WEA Records* (n 10) at 727.

discharge or vary it, and to appeal to the Court of Appeal only after that application had been heard and determined.

[65] The Appellant submits that the authorities of *WEA Records Ltd*,[49] and *Greater Sail Ltd v Nam Tai Property Inc*,[50] do not establish a principle that in all circumstances an appeal of an *ex parte* order filed without first approaching the trial judge is an abuse of process. The Appellant contends these authorities turned on their own facts, and ultimately that the failure to approach the trial judge was an abuse of process in the specific circumstances of those cases. Those circumstances do not arise here because: (a) the orders were not sought by any party, and not provisional or made with the expectation of fuller legal argument at a later stage; (b) they were unusual, made of the judge's own motion, and for his own benefit rather than for the benefit of any party, asking the judge to revisit them would be asking him to hear an appeal from himself; (c) the orders have not already been executed; and (d) for the Applicant to ask the judge to revisit the orders that he made of his own initiative and without hearing any argument would be pointless, and would only serve to increase both costs and delay.

[66] The Respondent submits that since the Order was granted on an *ex parte* basis, it is an abuse of process for the Applicant to seek to appeal without first seeking to vary or set aside the Order. Relying on *WEA Records* and the recent application by the Eastern Caribbean Court of Appeal in *Greater Sail Ltd*, where Smith JA reasoned: 'There is no reason why this Court should adopt a different approach. To do otherwise could seriously undermine the structure for dealing with interim applications and open the floodgates for leapfrogging over inter partes hearings directly to the Court...'[51] The Respondent further submits that the judge expressly reserved to the parties the liberty to apply, retaining jurisdiction to revisit the case management orders on the motion of any party.

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[49] ibid.
[50] VG 2022 CA 014 (CARILAW), (21 June 2022).
[51] *Greater Sail* (n 50) at [16].

[67] This Court finds no reason to deviate from *WEA Records Ltd*[52] The proper course for the Applicant was to apply to the judge who made the order or to another High Court judge under r 11.21 of the CPR to discharge or vary it, and to appeal to the Court of Appeal only after that application had been heard and determined. The Court is fortified in this view by reference to the express provision in the order granting liberty to apply. To carve out an exception in this case would be to accede to the Applicant's allegation of bias against the judge which was not proven on the record before us. In the circumstances the Court finds that the application presents no realistic chance of success and therefore refuses the grant of leave.

Disposition

[68] For the foregoing reasons the Court disposed of the applications as set out at [2].

/s/ W Anderson

Mr Justice Anderson (President)

/s/ M Rajnauth-Lee

Mme Justice Rajnauth-Lee

/s/ P Jamadar

Mr Justice Jamadar

/s/ C Ononaiwu

Mme Justice Ononaiwu

/s/ C Eboe-Osuji

Mr Justice Eboe-Osuji

[52] *WEA Records* (n 10) at 727.