

# THE WORK OF THE COURT

## COURT PERFORMANCE AND STATISTICS

### APPELLATE JURISDICTION

For the period August 1, 2014 to July 31 2015, a total of eighteen cases were filed under the Appellate Jurisdiction of the Court. Of these, thirteen were notices of applications for special leave to appeal and five were notices of appeals.

### COURT SITTINGS

During the period under review, the Court sat forty-four times. Below is a table showing the number and type of hearings.

Court Terms	Special leave to appeal	Special leave to appeal as poor person	Interlocutory Application	Case Management Conferences	Appeals	Judgments
First	1	1		11	4	2
Second	1	1	2	4		3
Third	2			1	2	2
	4	2	2	16	6	7

In the second term, one of the appeals heard at the headquarters in Trinidad was also heard simultaneously in Guyana by video conference.

### ITINERANT SITTING IN BELIZE

The Court, in fulfilment of its itinerant obligation, journeyed to Belize for Court hearings from 20 April, 2015 to 23 April, 2015. While in Belize, the Court conducted 2 case management conferences, heard 2 appeals, one in which judgment was given orally on the date of hearing. The Court also heard an application for special leave and leave to appeal as a poor person.

As happens in the Seat of the Court, the Judges were able to hear one of its appeals both at the court in Belize and by video conference from Belize to Guyana.

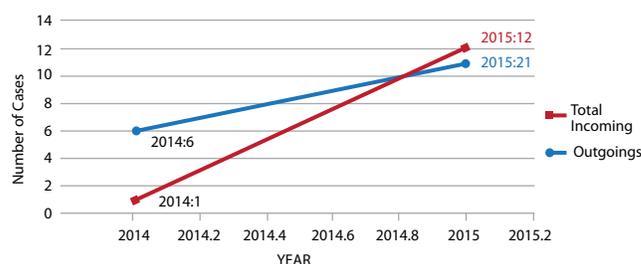
### APPLICATIONS

#### Clearance Rates

Of the thirteen applications for leave to appeal brought to this Court, seven were filed from the Court of Appeal in Barbados, two from the Belize Court of Appeal and four from the Court of Appeal of Guyana.

Seventeen applications were disposed of during the period under review, six of which were from 2014 and eleven from 2015. The disposition of those cases caused an increase in the Court's clearance rate from 106 percent to 133 percent, an increase of 27 percent over the last reporting period.

### INCOMING & OUTGOING APPLICATIONS

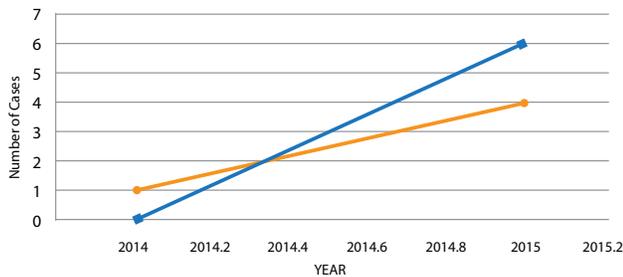


*Ms. Carlene Cross, Information Systems Manager, demonstrates the CCJ's courtroom technology to a group of visitors to the Court.*

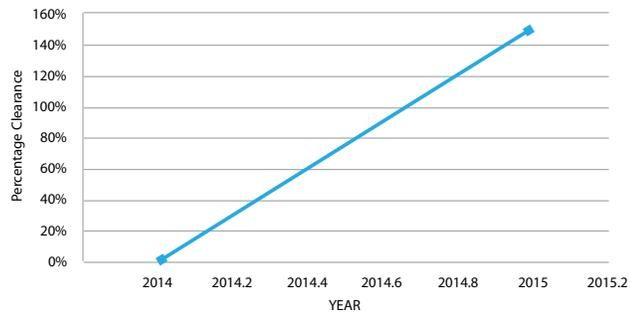
## APPEALS

As indicated above, a total of five appeals were filed during the period 1 August, 2014 to 31 July, 2015. However, six appeals were disposed of during that period. The average clearance rate of Appeals recorded for the period under review equates to 120 percent, a 67 percent increase over the last year.

### INCOMING AND OUTGOING APPEALS



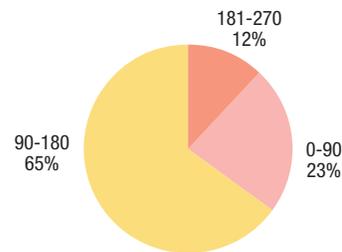
### CLEARANCE RATE OF APPEALS



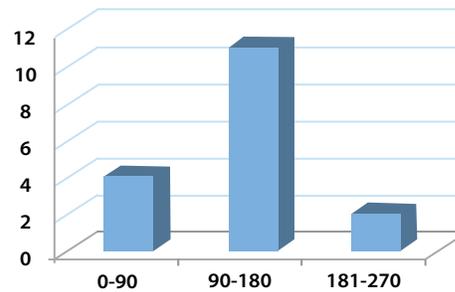
## TIME TO DISPOSITION

### Applications

#### DISPOSED APPLICATIONS AND APPEALS



#### NUMBER OF APPLICATIONS DISPOSED



## 10th Anniversary Memories

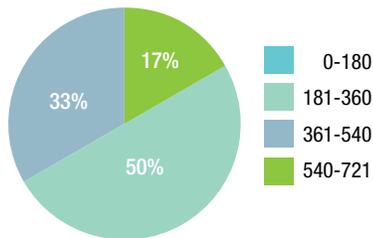
“I was elated that I was the first Guyanese junior staff (member) to be a part of this prestigious regional institution.”



Wendy Mitchell  
Secretary

## TIME TO DISPOSITION - APPEALS

### DISPOSITION - APPEALS



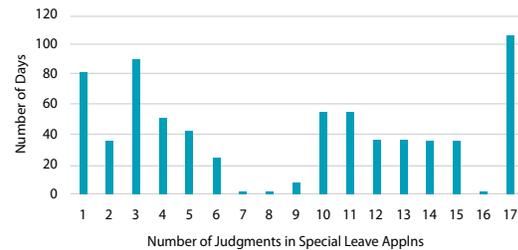
## JUDGMENTS

During the period under review, the Court delivered 23 decisions, 17 decisions on applications and 6 decisions on appeals. The charts below give an indication of the length of time it took to deliver a reserved decision in an application or an appeal.

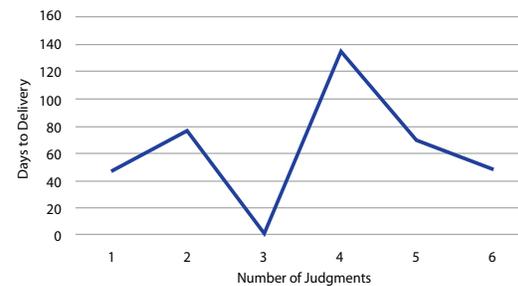
In some instances a judgment can be given immediately based on the simple nature of the matter before the Court. These judgments are normally given orally with written reasons to follow. Based on the complexity of other types of matters, decisions may take between 90-180 days for delivery.

You will recognize that in the case of an application, the longest period for the delivery of a judgment was 105 days and in the case of an appeal, 135 days.

## TIME FOR JUDGMENT DELIVERY – APPLICATIONS



## TIME FOR JUDGMENT DELIVERY – APPEALS



## ORIGINAL JURISDICTION

No new applications were filed in the original jurisdiction for the year 2014-2015; however, 2 matters were heard and are awaiting judgments.



*The CCJ was pleased to welcome interns from The Barcam to the Court. The Barcam is an organisation, based in Trinidad and Tobago, is primarily involved in the development of youth, communities and corporate entities.*

# THE WORK OF THE COURT

## JUDGMENT SUMMARIES

### SUMMARIES OF CASES BEFORE THE CARIBBEAN COURT OF JUSTICE (CCJ) FOR THE PERIOD: 1ST AUGUST 2014 TO 31ST JULY 2015

#### **System Sales Ltd v Browne-Oxley** [2014] CCJ 16 (AJ)

Special leave was sought to enforce a contract for sale of land with no accompanying plan. The CCJ determined that the Applicant, having been involved in land development for some 35 years, had erred in not correctly identifying the parcel of land by a plan and further aggravated its own losses by rejecting the Respondent's plan in favour of its own plan. As such, the application was dismissed for having no realistic prospect of success.

#### **Blackman v Gittens-Blackman** [2014] CCJ 17 (AJ)

The Respondents, in their capacity as successors in title, brought an action in the Barbados High Court against the Applicant for possession of a house and land, which was being occupied by the Applicant. The deceased and Applicant's mother had purchased the disputed land as joint tenants. The High Court determined that the Respondents were entitled to possession as no severance of the joint tenancy had occurred. The Applicant's appeal of this decision was denied by the Court of Appeal. The CCJ, upholding the rulings of the lower courts, stated that since the appeal was filed outside the time limit as prescribed within its Rules and no application for extension of time was further made by the Applicant, the Court had no jurisdiction to entertain the application.

#### **Sooknanan v Medical Council of Guyana** [2014] CCJ 18 (AJ), (2014) 85 WIR 394

A medical doctor sought to challenge the Medical Council's decision to remove his name from the Register of Medical Practitioners based on his gross negligence that contributed to a patient's death. The Guyana High Court quashed the Council's decision, and after a rehearing of the matter by the Council's invitation, the doctor was successful at first instance but unsuccessful in the subsequent appeal. In denying the doctor's appeal, the CCJ held that, since the Council had given the doctor an undertaking that it would not pursue further disciplinary against him, the appeal was academic and there was no arguable case to justify the grant of leave to appeal.

#### **Lovell v The Queen** [2014] CCJ 19

The Applicant sought to appeal his manslaughter conviction that earned him imprisonment for 22 years. His applications for special leave to appeal and for leave to appeal as a poor person were both filed out of time with no request for extension. The CCJ dismissed the appeal as the Applicant failed to provide a convincing explanation for his delay and did not demonstrate the possibility of a miscarriage of justice.

#### **Darnley v Reid** [2014] CCJ 20 (AJ)

A stay of execution was granted by the Full Court in respect of an appeal pending before it from the High Court. The Full Court subsequently granted leave to appeal that refusal to the Court of Appeal, which in turn declined to hear the appeal for lack of jurisdiction. The CCJ granted the application for special leave holding that the Court of Appeal did have jurisdiction under section 6(4) of the Court of Appeal Act and directed that Court to hear the appeal with expedition.

The CCJ considered the circumstances under which the Guyana Court of Appeal could hear appeals of matters that were before the Full Court. Adopting a broad interpretation, the Court determined that the words "upon appeal" in the Court of Appeal Act applied not only to substantive appeals but also interlocutory decisions. The Court of Appeal therefore did have such jurisdiction and was ordered to set a hearing date for the Applicant's appeal as soon as possible.

### **System Sales Ltd v Brown-Oxley** [2015] CCJ 1 (AJ)

The CCJ in its earlier decision in [2014] CCJ 16 (AJ) rejected the Applicant's appeal for having no realistic prospect of success. The Applicant then sought an extension of time for applications under either section 6 or 7 of the CCJ Act. The Court held that it had no jurisdiction to grant leave to appeal under either section as this was the exclusive jurisdiction of the Court of Appeal.

### **Belize Natural Energy Ltd v Maranco** [2015] CCJ 2 (AJ)

In this case, the CCJ specified that courts should be wary of interfering with the decisions of arbitral tribunals where the parties have agreed to this mode of dispute settlement. The CCJ, examining the Belize Arbitration Act, determined that, barring injustice, courts' interference in arbitration proceedings should be minimal; and in this case, there was no good reason to interfere by remitting the award for reconsideration. Accordingly, the arbitrators in this case had acted within their powers under the Belize Arbitration Act in awarding costs against the Applicant Company.



*Ms. Annette Tjon Sie Fat, Chair of the Advisory Committee of the Caribbean Regional Information and Translation Institute (CRITI) hands over a translated copy of the Revised Treaty of Chaguaramas Development Authority to the CCJ President, the Rt. Hon. Sir Dennis Byron. The document was translated into French.*

### **Battaleys (Barbados) Ltd v Kaupthung Singer & Friedlander Ltd** [2015] CCJ 3 (AJ)

The CCJ refused to extend the time for the Applicant's application which was filed a day out of time. The Court explained that such extensions are granted in cases which have a real prospect of succeeding. This appeal was without merit and the explanations offered for the delay were all foreseeable circumstances.

### **Guyana Sugar Corporation Inc. v Dhanessar** [2015] CCJ 4 (AJ)

Mr. Dhanessar was summarily dismissed following an altercation with his supervisor. The Applicant sought to challenge the Court of Appeal's ruling that Mr. Dhanessar's conduct was not serious enough to justify summary dismissal. While the CCJ agreed that there was sufficient cause for dismissal, it found that the payment of severance benefits to Mr. Dhanessar was excluded under the relevant legislation. As such, the CCJ set aside the award of the severance benefits but left intact the award of one month's salary in lieu of notice.

### **Attorney General of Guyana v NH International Ltd** [2015] CCJ5 (AJ)

In this case, the CCJ proclaimed that nothing precludes a Judge in Chambers from hearing an application for leave to enforce an arbitral award and, further, that the relevant rules did not provide for a direct appeal from that hearing to the Court of Appeal.

### **Lucas and Carillo v Chief Education Officer** [2015] CCJ 6 (AJ)

An administrative dispute resulted in the Principal and Vice Principal of a school being sent on leave. Despite the suspensions being eventually set aside, the Appellants alleged a breach of their fundamental rights and sought damages. The majority of the CCJ determined that no such breach occurred and the public nature of the offices rendered damages inappropriate. The minority judgment, on the other hand, concluded that the Appellants' right to protection of the law had been breached due to unfair investigative procedures and widespread publicity, and they ought to have been compensated.



*Representatives from the International Union of Judicial Officers, Ms Katrin Nyman-Metcalf (2nd left) and Dr Ionnis Papageorgiou (centre), held fruitful meetings with the Judges of the Court: the Hon. Mr. Justice Nelson (left), the Hon. Mr. Justice Hayton and the Hon. Mr. Justice Wit (right).*

### **Ramlagan v Singh**

[2015] CCJ 7 (AJ)

This case concerned a dispute over the ownership of a two-acre rice estate in Guyana. The CCJ ruled that the Respondent had satisfied the 12-year statutory time period for a claim of adverse possession of the land. Legal proceedings initiated by the Applicant's family in respect of the land did not interfere with this. As such, the Court ordered that a Transport be issued to Mr Singh for the two-acre parcel.

### **Samuels v Guyana Telephone & Telegraph Co Ltd**

[2015] CCJ 8 (AJ)

This case revolved around the issue of whether the Guyana Telephone and Telegraph Company (GT&T) breached its contract by disconnecting the Applicant's internet service based on his usage of an internet phone service that used Voice over Internet Protocol (VoIP) technology. The CCJ determined that the Court of Appeal wrongly implied a term into the contract restricting the Applicant's use of his internet service for making and receiving international calls. The Court declined to address whether GT&T's exclusive licence was void based on the Civil Law Act, Cap. 6:01 and the Constitution because these matters were not part of the Applicant's original claim.

### **Babulall v Public Trustee; Harry v Public Trustee**

[2015] CCJ 9 (AJ)

In this case, the CCJ held that the Rice Assessment Committee for Essequibo in Guyana was correct in refusing to grant permission to the Public Trustee to issue notices to quit seeking to evict the Appellants. The Appellants were able to show that they had bought the rice lands from the Public Trustee. As such, the Committee had no jurisdiction to hear the applications by the Public Trustee since there was no clear landlord and tenant relationship. The judgment of the Court of Appeal was set aside and the decisions of the Committee restored.

### **Campbell v The Queen; Rambarran v The Queen; Green v The Queen; Persaud v The Queen**

[2015] CCJ 10, 11, 12, 13 (AJ)

The CCJ determined that the issues of whether the time limit for appealing was 21 days after the date of conviction and whether the Court of Appeal was correct to dismiss the Appellants' applications for extension of time were matters of public importance that required ventilation before a fuller bench of the Court. All of the Applicants were granted leave to appeal the decisions and three received leave to appeal as poor persons.

# THE WORK OF THE COURT

## JUDICIAL LEADERSHIP – COMMITTEE REPORTS

### THE RULES COMMITTEE

**The crown jewel in the achievements of the Rules Committee for the period 2014 – 2015 has been the successful promulgation of new rules of procedure for both the appellate and original jurisdictions.**

The new Original Jurisdiction Rules (OJR 2015) and Appellate Jurisdiction Rules (AJR 2015) were issued under the hand of the President of the Court and came into effect on January 12, 2015. These new rules effect a paradigm shift in the manner in which litigation at the Court is conducted by laying out a comprehensive framework for the electronic filing and submission of documents in both the appellate and original jurisdictions. E-filing is part and parcel of the Court's vision of being a leader in the provision of high quality justice.

The OJR 2015 facilitates greater public participation in the work of the Court by providing for the filing of *amicus curiae* briefs and expanding the scope for intervention in on-going proceedings. The OJR 2015 also streamlines the rules of evidence by allowing, for the first time, the taking of evidence before a sub-panel of judges. In this regard, the practice of the Court has been brought into greater harmony with that of other international courts and

tribunals across the globe. Facilitating increased accessibility and participation in original jurisdiction proceedings is of crucial significance, given that this aspect of the Court's work is designed to breathe life into the Revised Treaty of Chaguaramas, thereby making the vision of the CARICOM Single Market and Economy a reality.

The central theme of access to justice also lies at the heart of the new AJR 2015. One significant amendment is the provision for the hearing of appeals via video conferencing. The breadth of the Court's case management powers is also expanded to include the utilisation of alternative dispute resolution in the management and disposition of appeals. The appellate process has been further enhanced by setting a six week deadline for the settling of the Record of Appeal, allowing the Record to be filed electronically and dispensing with the requirement for litigants to provide copies of any authorities being relied on in their submissions.

Looking ahead, the Rules Committee has decided to undertake a comprehensive review of the Court's procedural régime at the end of each term. This will ensure that the CCJ remains at the cutting-edge of all recent developments in law and technology and is fully equipped to fulfil its mandate of making justice accessible for the people of the Caribbean region.



*The Honourable Mr. Justice Wit, Judge of the CCJ, signs a copy of the Rules of Court which were developed during the period.*

### 10th Anniversary Memories

“ *The existence of the court is known, not just regionally but internationally. I am happy to be part of an organization that serves Caricom.* ”



Annette Clarke-James  
HR Assistant

## THE JUDICIAL ASSISTANTS AND COURT INTERNS COMMITTEE

In the year from 1st August 2014 to 31st July 2015 Ms Alicia Dixon and Ms Ria Mohammed-Davidson continued in their two year posts as Judicial Research Assistants and had their appointments extended for an additional year.

The RJLSC authorised the recruitment of two additional Judicial Assistants, bringing the complement to four, and several well-qualified applicants were interviewed. As a result, Ms. Kerine Dobson was appointed for two years from 20th July 2015 and Mr. Richard Layne for two years from 1st September 2015. Ms. Dobson graduated with the LLB with First Class Honours from the Jamaican University of Technology after earning a BSc there in Computing and Information Technology. Mr. Layne graduated with the LLB, with Distinction, from the University of Guyana and was on the Principal's Roll of Honour at the Hugh Wooding Law School.

Two English barristers, Mr. Shane Kingston and Ms. Latoya McDowald, in fulfillment of the requirements of the Hugh Wooding Law School's Legal Education Certificate course, assisted the Court as interns for three days a week from October 2014 to March 2015.

Over the June–August period, two students from each of the three Law Schools, the Hugh Wooding Law School, the Norman Manley Law School and the Eugene Dupuch Law School have normally spent five weeks each as interns with the CCJ, having been selected by the Law Schools. .



*The CCJ welcomes students as a part of its public education efforts. These students from Bishops Anstey High School East had an enjoyable and educational visit to the Court.*



## IMPROVEMENTS TO THE INFORMATION SYSTEMS INFRASTRUCTURE

Information technology (IT) is critical to courts. For the CCJ, in particular, the need is especially acute as so many of the processes and procedures that happen in the courtroom, and the operations that support the Court, are dependent on information technology. The reliability and accessibility of that information are also of paramount importance for the effective and efficient running of the Organization. Not only is it important for the CCJ, but the infrastructure must also serve judiciaries around the region.

Having realized the strategic importance, the CCJ's Registrar and Marshal began a project aimed at ensuring that the Court's IT infrastructure would be robust enough to fuel the strategic direction of the Court for years to come so as to ensure the Court is consistently providing services that meet internationally acceptable performance standards.

Among the initiatives was a comprehensive audit of the IT infrastructure that serves the Court. This included a review of the existing equipment, security, policies and procedures and the capabilities of the members of the Information Systems (IS) Unit. The review provided valuable information which will be used to make a number of fundamental changes and provide a basis for

developing, and implementing, an IT Strategy that will govern how the unit will support the needs of the Organization.

It was decided that, since much of the IT infrastructure was implemented at the Court since inception, a program would be undertaken to review the solutions and provide new solutions that would meet the requirements of the Court which have increased over the past 10 years. The IS Unit also looked at process improvements and ways that new hardware and software could provide savings, increased security and greater efficiency to the Organization.

The program will involve projects focusing on hardware, software, the network and enhanced collaboration within the Organisation. The final product will provide the Court with technology that adheres to internationally accepted performance standards and serves the present, and future, needs of the people of the region.



*Judges of the CCJ and Mr. Reginald Armour SC (3rd from right), President of the Law Association of Trinidad and Tobago (LATT) and Mr. Gerry Brooks (left), Vice-President of the LATT during a courtesy call to the Court.*