BARBADOS

IN THE SUPREME COURT OF JUDICATURE

COURT OF APPEAL

Civil Appeal No. 3 of 2013

BETWEEN:

JAMES IFILL	**INTENDED APPELLANT**
AND	
THE ATTORNEY GENERAL	**INTENDED FIRST RESPONDENT**
THE CHIEF PERSONNEL OFFICER	**INTENDED SECOND RESPONDENT**

BEFORE: The Hon. Sir Marston C.D. Gibson, K.A., Chief Justice, The Hon. Sherman R. Moore, CHB and The Hon. Andrew D. Burgess, Justices of Appeal.

2013: June 25
2014: March 27

Mr. Bryan L. Weekes, Attorney-at-Law, for the Intended Appellant

Ms. Sharon Deane and Mr. Roger Barker, Attorneys-at-Law, for the Intended First and Second Respondents

DECISION

INTRODUCTION

[1] **BURGESS JA:** This is an application under **rule 62.6 (3)** of the **Supreme Court (Civil Procedure) Rules 2008** (**CPR**) for leave to file and serve a notice of appeal out of time. **Rule 62.6 (3)** confers on this Court discretion to "at any time for special reasons give leave to file and serve a notice of appeal."

[2] As is very well known, our **CPR** is the progeny of the civil justice reform in England which, as a result of Lord Woolf's review of civil procedure, introduced the English Civil Procedure Rules 1998. The provision in **rule 62.6 (3)** is, however, *sui generis*. It has no counterpart in its progenitor, the English CPR, nor does it have any counterpart in its

regional siblings in the Eastern Caribbean Supreme Court CPR, the Trinidad and Tobago CPR nor the Jamaica CPR. In consequence, there is an absence of relevant English or West Indian precedents clarifying how the **rule 62.6 (3)** discretion is to be exercised. For this reason, we consider it important that we provide written reasons for our decision in this application.

FACTUAL BACKGROUND

[3] The intended appellant was employed in the public service as a transport inspector attached to the Ministry of Public Works and Transport since 1984. In the month of October 2002, disciplinary charges were preferred against him. A hearing with respect to these charges was conducted and it was found that there were breaches of discipline committed by the intended appellant.

[4] The intended appellant was informed in writing by a delegate of the Chief Personnel Officer that he, the intended appellant, should compulsorily resign from the public service and that such compulsory resignation would take effect from 1 November 2003.

[5] On 27 June 2008, the intended appellant commenced proceedings by way of Suit No. 1062 of 2008 in which the Attorney General and the Chief Personnel Officer were named respectively as first and second respondents. In those proceedings, the intended appellant sought:-

(a) a declaration that the decision and/or an administrative act of the respondents, or their duly authorised delegates to dismiss the applicant was unreasonable, unlawful and an abuse of discretion;

(b) an order of certiorari to quash the decision;

(c) a declaration that the applicant was entitled to reinstatement;

(d) damages for loss;

(e) costs.

[6] The matter was heard by **Richards J** as High Court Suit No. 1062 of 2008 where the intended appellant was represented by Mr. Hal Gollop, QC in association with Mr. Steve Gollop. **Richards J** handed down her decision on 1 December 2010.

[7] It may be convenient at this stage to recite the evidence of the intended appellant and Mr. Hal Gollop, QC as to what transpired after **Richards J's** judgment was handed down.

[8] The intended appellant deposed in his affidavit of 24 April 2013 that he was not present when the decision was handed down but that he "was summoned by Mr. Hal Gollop, QC to his offices soon after and informed of the Court's decision". He further deposed that he "gave Mr. Gollop written instructions to appeal the decision of Madam Justice Sonia Richards" and that he "proceeded on the basis that Mr. Gollop had filed the appeal" and that "Mr. Gollop on more than one occasion assured me that the Appeal had been filed".

[9] Mr. Gollop, QC, in his affidavit of 7 May 2013, "categorically" denied that the intended appellant gave him or his associate "written instructions to appeal the decision of Madam Justice Sonia Richards". Instead, Mr. Gollop, QC deposed at paragraph 3 as follows:

> "The decision was partially favourable to the Applicant/Intended Appellant. However, it was my considered opinion that the Judge had erred in failing to award damages against the defendants: this was inconsistent with the finding that he could not be retired. As a result, I advised the Applicant/Intended Appellant that there were plausible grounds for an appeal. However, we would refuse to prepare the appeal until he had made a deposit towards a retainer, as he had totally defaulted to pay any fees, even filing fees, for the litigation of the High court (sic) Suit. He promised faithfully that he would endeavour to satisfy the request for a deposit."

[10] In the foregoing circumstances, no appeal was filed. According to the intended appellant's affidavit evidence, this fact was discovered by him in "late 2011", when he, "being dissatisfied with the progress of the Appeal…checked with the Registration Department of the Supreme Court and was informed that no appeal had been filed in the matter up to that time". The intended appellant then retained Mr. Weekes who, on 24 April 2013, filed a notice of application on behalf of the intended appellant before this Court for leave to appeal out of time against the decision of **Richards J**.

[11] A number of "grounds" in support of this application were listed by the intended appellant in the notice of application. These "grounds" are as follows:

> "1. The Intended Appellant had an appeal as of right against the decision of Madam Justice Dr. Sonia Richard's (sic) decision in his matter which involved the judicial review of the compulsory resignation of a member of the civil service under the provisions of the Constitution of Barbados;
>
> 2. The intended appeal involves the Intended Appellant's future pension rights as a civil servant of Barbados and whether he will be entitled to those rights upon attaining the statutory age;
>
> 3. No prejudice will be occasioned to the Intended Respondents in this matter if the Intended Appellant is given leave to file his appeal in this matter;
> 4. The Intended Appellant had given instructions to his former Counsel to appeal the said decision of Madam Justice Dr. Sonia Richards but the appeal was never filed in accordance with his instructions so to file;
>
> 5. The matter is one of general public importance as it relates to the proper application of the provisions of the Constitution of Barbados, that is to say section 98 thereof, was lawful in all of the circumstances of the case;
>
> 6 That the interests of justice will be served by the Court granting the Intended Appellant leave to pursue his appeal in this matter."

SUBMISSIONS OF THE PARTIES

Intended Appellant's Submissions

[12] In his written and oral submissions to this Court, Mr. Weekes explained the legal significance of the "grounds" set out in the notice of application. In doing this, Mr. Weekes, first of all, premised that the intended appellant's application was praying that this Court exercise its **rule 62.6 (3)** discretion in favour of an extension. He then offered that, on the plain words of **rule 62.6 (3)**, the question of central importance in the determination of whether this Court should exercise its **rule 62.6 (3)** discretion in favour of an extension is whether the facts and circumstances disclose "special reasons". He concluded this part of his argument by submitting that the "grounds" set out in the notice of appeal encapsulated the "special reasons" in this case.

[13] In his written and oral submissions to this Court, also, Mr. Weekes expanded on these "grounds". He conceded that the delay in filing a notice of appeal was considerable. However, he contended that that delay by itself is not determinative in deciding whether or not this Court should exercise its **rule 62.6 (3)** discretion in the intended appellant's favour in this case. Other factors could constitute **rule 62.6 (3)** "special reasons" sufficient to warrant a favourable exercise of the **rule 62.6 (3)** discretion, he argued.

[14] In any event, Mr. Weekes further contended, the delay in the timeous filing of an appeal in this case was not due to the failing of the intended appellant. Mr. Weekes said that the failure to file was the fault of the intended appellant's former attorney-at-law. He pointed to the affidavit evidence of Mr. Gollop, QC which Mr. Weekes submitted, showed, in the words of Mr. Weekes, that "there was no intention on the part of the legal adviser to file the appeal and no correspondence to the intended Appellant (sic) spelling this fact out in clear terms has been presented to the Court."

[15] Continuing in this vein, Mr. Weekes submitted that the evidence in this case reveals a number of factors which taken together satisfy the **rule 62.6 (3)** "special reasons" requirements. One such factor of surpassing importance is the nature of the substantive right involved in the appeal at issue. In this regard, Mr. Weekes underlined that the intended appeal concerns the determination of the intended appellant's constitutional rights. What is more, argued Mr. Weekes, is that determination holds importance for public servants in Barbados generally.

[16] Another very important factor, Mr. Weekes contended, is the fact that the issues involved in the intended appeal are very technical, and of the kind where it would be expected that a lay person would place significant reliance on his legal adviser. When this factor is taken in the context of the misunderstanding between the intended appellant and his lawyer, argued Mr. Weekes, the conclusion that there are "special reasons" in this case is difficult to resist.

Intended Respondents' Submissions

[17] Ms. Deane in her written and oral submissions accepted that the application in this case is properly brought under **rule 62.6 (3)**. Further, she agreed with Mr. Weekes' submission that the question of central importance in the determination of whether this Court should exercise its **rule 62.6 (3)** discretion in favour of the extension sought by the intended appellant in his application is whether the facts and circumstances disclose "special reasons". Her agreement with Mr. Weekes ended there. She vehemently disagreed with him that the **rule 62.6 (3)** "special reasons" requirements are satisfied by the facts disclosed in support of the application.

[18] Ms. Deane pointed to the more than two years delay between the decision of **Richards J** and the filing of the application by the intended appellant as a crucial factor why this Court should refuse the application. She argued that the intended appellant, not unlike Rip Van Winkle in the renowned Washington Irving classic short story, fell into a deep slumber from which he has only now awaken "three (3) years later" attempting to assert his right of appeal. She did not offer whether that slumber was induced by a potion as in Rip Van Winkle, but contended vigorously that the reasons advanced by the intended appellant do not amount to "special reasons" given the length of the delay in filing his application. Consistent with this argument, Ms. Deane contended that **rule 62.6 (3)** should be construed restrictively "to send a strong message" to the intended appellant that compliance with the time stipulations in **rule 62.6** is the new rule and is to be taken seriously. Construed restrictively, she concluded, the factors identified by Mr. Weekes cannot amount to "special reasons" within the contemplation of **rule 62.6 (3)**.

THE ISSUES

[19] It is evident from their written and oral submissions that Mr. Weekes and Ms. Deane both agree that the notice of application is properly brought under **rule 62.6 (3)**. As already noted, this sub-rule confers on this Court discretion to "at any time for special reasons give leave to file and serve a notice of appeal." It is further evident from their submissions that both counsel agree that the sole issue in this application is whether this Court should exercise its **rule 62.6 (3)** discretion in favour of the application. Determination of this issue in turn depends solely on the meaning of that sub-rule.

[20] We take a two-stage approach to this determination. First, we essay an interpretation of **rule 62.6 (3)** to extract the principles which are applicable to the exercise of our discretion. Second, we apply those principles to the particular facts of this case.

CONSTRUCTION OF RULE 62.6 (3)

[21] **Rule 62.6 (3)** is intimately bound up with the other rules in **rule 62.6** which govern the time for filing a notice of appeal from a decision of the High Court. In the English House of Lords case of **Colquhoun v Brooks (1889) App Cas 493 at 506 (HL),** Lord Herschell said:

> "It is beyond dispute, too, that we are entitled and indeed bound when construing the terms of any provision found in a statute to consider any other parts of the Act which throw light upon the intention of the legislature and which may serve to shew that the particular provision ought not to be construed as it would be [construed] if considered alone and apart from the rest of the Act."

This principle of interpretation of legislation was echoed by Lord Davey in the Privy Council decision of **Canada Sugar Refining Co v The Queen [1898] A.C. 735 (PC)** at **p. 741** where he said:

> "Every clause of a statute should be construed with reference to the context and the other clauses of the Act, so as, so far as possible, to make a consistent enactment of the whole statute…relating to the subject matter."

Following well established principles of statutory interpretation, **rule 62.6 (3)** is therefore to be construed in the context of the other rules in **rule 62.6**. And so, we cite **rule 62.6** *in extenso*.

[22] **Rule 62.6** provides as follows:

> "62.6 (1) The notice of appeal must be filed at the Registry
>
> (a) in the case of a procedural appeal, within 14 days of the date on which the decision appealed against was made;

(b) where leave is required, within 14 days of the date when leave was granted; or

(c) in the case of any other appeal within 28 days of the date when the order or judgment appealed against was made or given, or any later date fixed by the court below.

(2) Any of the times stated in sub-rule (1) may be extended by the court or a judge (the judge, if minded to refuse, shall, or for any other reason may, refer the question to the court) pursuant to an application upon notice filed within the relevant time.

(3) Notwithstanding anything in this rule, the court or a judge (the judge, if minded to refuse, shall, or for any other reason, may refer the question to the court) may at any time for special reasons give leave to file and serve a notice of appeal."

[23] In approaching the interpretation of the rules in **rule 62.6** itself we agree with Mr. Weekes that it is imperative to begin with a reminder of the overriding objective of **CPR**. This is because **rule 1.2** of **CPR** mandates that this Court seek to give effect to the overriding objective laid down in **rule 1** of **CPR** when interpreting or exercising any powers under those rules. What then are the overriding objectives of **CPR**?

[24] **Rule 1.1 (1)** of **CPR** provides expressly that the overriding objective of the rules established in **CPR** "is to enable the court to deal with cases justly". **Rule 1.1 (2)** defines "dealing justly" as including, so far as practicable, ensuring that the parties are on an equal footing; saving expense; dealing with cases in ways which are proportionate to the amount of money involved, the importance of the case, the complexity of the issues, and the financial position of each party; ensuring that a case is dealt with expeditiously and fairly; and allotting to a case an appropriate share of the court's resources, while taking into account the need to allot resources to other cases. The overriding objective of **CPR** may thus be summarised as the establishment of procedural rules which ensure the just,

speedy and inexpensive determination of the substantive issue in every proceeding. This objective of **CPR** describes what is called in procedural justice theory the balancing model, in that, it is intended to reflect a fair balance between the costs of the procedure and the substantive benefits of that procedure. As Lord Woolf put it in **Access to Justice: Final Report (July, 1996) Ch 2 paras 17, 27**: "The achievement of the right result needs to be balanced against the expenditure of time and money needed to achieve that result".

[25] Given its objective**, CPR** must be interpreted as balancing the procedural rules established by it with the constitutional shibboleth that each person has the right to substantive justice on the merits in proceedings before the courts. In our judgment, **CPR** explicitly mandates such balancing in **rule 1.2** where it provides that any interpretation of its procedural rules or exercise of any power under those rules must be done against the backdrop of the factors identified in **rule 1.1 (2)** as crucial in the administration of civil justice.

[26] The considerations listed in **rule 1.1 (2)** are, in the words of Sykes J on Rule 1.1 (2) of the Jamaica CPR, a Rule *in pari materia* with our **rule 1.1 (2)**, in the Jamaica case of **Edwards v Quest Security Services Ltd (unreported) (CV 1124 of 2005) (judgment 24 October 2007)** at **para 10 (Edwards)**, "the various dimensions that are brought to bear on the administration of law". They all relate to issues as to the substantive determination of the case. Accordingly, **CPR** must be interpreted as being predicated on the principle that the value of rules of procedure designed to promote speed and the avoidance of expense in securing a determination must be balanced against the competing value of determination on the merits in order to ensure the substantive justice guaranteed

by **section 18** of the **Constitution**. It may be noted that, in **Edwards** at **paras 10 and 11**, Sykes J expressed a similar view on Rule 1.1 (2) of the Jamaica CPR.

[27] Interpreted within this jurisprudential matrix, the rules laid out in **rule 62.6** are to be seen as an attempt to adjust and balance the competing values of speed and the avoidance of expense and determination on the merits. By stipulating time limits for the filing of an appeal, **rule 62.6 (1)** and **(2)** secure the value of ensuring that an appeal is dealt with expeditiously in the sense of speedily and inexpensively. **Rule 62.6 (3)** operates as a sort of balancing proviso to the procedural rules in **rule 62.6 (1)** and **(2)**. That sub-rule resides in this Court (or a judge) discretion to allow the times specified in **rule 62.6 (1)** and **(2)** for a notice of appeal to be filed and served to be extended, "at any time for special reasons", thereby giving emphasis to the value of substantive justice on the merits.

[28] We note parenthetically that the face-off between the competing values of speed and the avoidance of expense and determination on the merits recently engaged the attention of the Trinidad and Tobago Court of Appeal in ***Attorney General v Miguel Regis (Unreported) (Civil Appeal No. 79 of 2011).*** In that case, the Court of Appeal noted Gobin J's complaint in the Trinidad and Tobago High Court case of **Roger Alexander Alicia's House Ltd (CV 2010-03761)** that Part 26.7 of the Trinidad and Tobago CPR was "systematically preventing" her "as a judge from doing substantive justice" by "removal of a judicial discretion in procedural matters". Of course, the Trinidad and Tobago Court of Appeal did not share Gobin J's view. But, whatever the position under the Trinidad and Tobago CPR, the discretion invested in this Court in **rule 62.6 (3)** of our **CPR** is designed to avoid a charge that **rule 62.6 (1)** and **(2)** prevent substantive justice in the way suggested by Gobin J.

[29] What therefore are the specific principles which must guide this Court in the exercise of the discretion granted under **rule 62.6 (3)**?

[30] As has been pointed out numerously in this judgment, **rule 62.6 (3)** expressly provides that this Court "may at any time for special reasons give leave to file and serve a notice of appeal". It is clear from that language that this Court can only exercise its **rule 62.6 (3)** discretion where "special reasons" are shown. The crucial question therefore becomes this: What constitutes "special reasons".

[31] As a jump-off point to answering that question, we note that **CPR** has refrained from giving any legislative definition of what constitutes "special reasons". In our view, the basic approach of this Court to "special reasons" should be to follow the **CPR** lead and eschew attempting any judicial delimitation of the expression. In particular, and contrary to Mr. Weekes' submission, this Court should avoid as far as possible creating a checklist or rigid formula of what amounts to "special reasons" and similarly, to making reference to any other judge-made lists or formula. In this regard, we note the caution of Johnathan Parker LJ in the context of the English CPR in the English Court of Appeal case of **Audergon v La Baguette [2002] EWCA Civ 10** at **paragraph [107]** where he said:

> "Inherent in such an approach, as it seems to me, is the danger that a body of satellite authority may be built up…leading in effect to the rewriting of the relevant rule through the medium of judicial decision. This would seem to me to be just the kind of undesirable consequence which the CPR was designed to avoid."

It is our judgment that this dictum applies with equal force to the application of the "special reasons" requirement in **rule 62.6 (3)**. The overriding objective of our **CPR** is to enable the court to deal with cases justly and this objective must not be strangled by the tentacles of judicial decisions or by rigid judicial formula.

[32] Consistent with the observation in the foregoing paragraph, it is our view that the "special reasons" requirement in **rule 62.6 (3)** should be understood and applied against the backdrop of the overarching purpose of the time limit rules introduced by **rule 62.6**. This purpose is to replace the mischief of the *laissez faire* approach to time limits for appealing encouraged by the pre-**CPR** civil procedure regime by a new litigation culture of compliance with the time stipulations in **rule 62.6**. Non-compliance with those time limits, we would add, can operate to defeat the objective of dealing with cases justly mandated in **rule 1.1**.

[33] Viewing "special reasons" through the prism of the mischief with which **rule 62.6** was introduced to deal leads inevitably to a presumption in every case that adherence to the time limits specified in **rule 62.6 (1)** and **(2)** is the rule and that rebuttal of that presumption pursuant to **rule 62.6 (3)** is the exception. A necessary implication of this is that **rule 62.6 (3)** "special reasons" must be construed strictly as only being satisfied where the value of determination on the merits of the substantive issue in question outweighs the speedy and inexpensive determination envisaged in **rule 62.6 (1)** and **(2)**.

[34] The upshot of the foregoing is that the only reasons that can amount to "special reasons" are those which relate to the considerations listed in **rule 1.1 (2)**. So, as an example and we offer examples with trepidation, "special reasons" may be found under **rule 1.1 (2) (c) (ii)** where we consider the issue in the appeal should, in the public interest, be examined by this Court or where clarification of the law is required. Another example where "special reasons" may be shown is under **rule 1.1 (2) (b),** that is, if the grant of an extension would have the effect of saving expense.

[35] In our judgment, two further important observations concerning the expression "special reasons" as a trigger for exercising the **rule 62.6 (3)** discretion in favour of the extension of the time limits specified in **rule 62.6 (1)** and **(2)** must be underscored. The first of these relates to the length of the delay in bringing the application. In this regard, we note that before **rule 62.6 (3),** English case authority in **C.M. Van Stillevoldt B.V. v E.L. Carriers Inc. (C.A) [1983] 1 WLR 207 (Stillevoldt)** and regional authority in the Jamaica Court of Appeal case of **Strachan v The Gleaner Co Ltd (unreported) (Civil Appeal No 12 of 1999) (Strachan)** are supportive of the view that length of the delay in bringing the application is a relevant factor in deciding whether to extend the time limits for an appeal. However, **rule 62.6 (3)** by providing that the Court or judge "may at any time" give leave to file and serve a notice of appeal out of time, clearly makes the length of the delay by itself an immaterial consideration in the exercise of a **rule 62.6 (3)** discretion. It is to be stressed, however, that length of delay may be a balancing factor in the consideration of the "special reasons" requirement. Indeed we would comment *en passant* that we agree with Ms. Deane that as a general proposition the longer the delay the more compelling must be the reasons shown to outweigh the principle of compliance and thus to satisfy the requirement of "special reasons".

[36] The second is that the expression "special reasons" is not to be limited by the addition of words. In particular, and contrary to Ms. Deane's submission relying on **Stillevoldt** and **Strachan**, it must not be read as "special reasons for the delay in filing". Those cases listed "the reason for the delay" as an important factor in deciding whether to grant an extension of time for serving a notice of appeal. However, the language of **rule 62.6 (3)** does not limit the expression "special reasons" in this way and there is no rule of

construction which allows such a limitation. As we have already opined, any reasons related to the considerations in **rule 1.1 (2)** which establish that the value of determination on the merits of the substantive issue outweighs the speedy and inexpensive determination envisaged in **rule 62.6 (1)** and **(2)**, whether by way of explaining the delay in filing or not, may suffice.

[37] Before leaving our analysis of **rule 62.6 (3)**, we wish to make a final point on the function of this Court in relation to that sub-rule. We make this comment particularly because of Ms. Deane's submission based on case authority before **rule 62.6 (3)** that this Court should evaluate the merits of the underlying appeal in this application in deciding whether the intended appellant should be granted an extension of time. We do not agree with that view. In our judgment, an application under **rule 62.6 (3)** is not an appeal in which we are deciding the merits of the intended appellant's appeal. Our sole task under that sub-rule is to decide whether "special reasons" are shown as to why the intended appellant should be granted an extension of time to file and serve his appeal. Indeed, we would add that, as is apparent from our analysis of **rule 62.6 (3)**, even where the underlying appeal on its face has no realistic prospect of success, an extension may still be granted if "special reasons" are disclosed. That said, it may very well be that in balancing "special reasons" shown against the value of speed and the avoidance of expense in securing a determination of the case in question may trump "special reasons".

APPLICATION OF RULE 62.6 (3) TO THIS CASE

[38] Turning now to the application of **rule 62.6 (3)** to this case, we observe, first of all, that there is no doubt, as contended by Ms. Deane and conceded by Mr. Weekes, that the length of the delay in the intended appellant's filing of his application was considerable.

Be that as it may, as we have pointed out at para [35] above, that delay in and of itself is not determinative of the exercise of the **rule 62.6 (3)** discretion even though it may be a factor to take into account in assessing whether the value of determination on the merit because of the "special reasons" shown out-weigh the value of speed and the avoidance of expense in securing such determination.

[39] Secondly, and here we also agree with Ms. Deane's submission, based on case law **pre-rule 62.6 (3)**, the misapprehension on the part of the intended appellant that his former attorney-at-law, Mr. Gollop, QC, had filed a notice of appeal does not amount to a special reason for the delay. However, this is of no consequence since, as we have pointed out above, the "special reasons" required for the exercise of the **rule 62.6 (3)** discretion is not limited to, or by, special reasons for the delay. Any "special reasons" as explained above will suffice.

[40] So were there reasons that could be regarded as "special reasons"? In our view there were. The first such reason is in the language of **rule 1.1 (2) (c) (ii)**, "the importance of the case". As is stated in the notice of application, the intended appeal concerns a matter of general public importance as it relates to the proper application of the provisions of **section 98** of the **Constitution**. That provision deals with the removal from office and the imposition of penalty by way of disciplinary control of public officers by the Governor-General.

[41] The issues raised in the intended appeal therefore involve the vindication of the constitutional rights, the highest legal rights, of the intended appellant. In our view, constitutional rights are by definition special rights. *Ex hypothesi*, then, the intended

appellant's prayer for the opportunity to vindicate constitutional rights is to be regarded as *per se* special.

[42] What is more, though, is that it is undeniable that the importance of any determination of the constitutional issues raised in the intended appeal extends beyond the intended appellant to all public officers in Barbados. In fact, a decision of this Court interpreting **section 98** would be especially important since, as appears from the discussion by Professor Albert Fiadjoe in his book, **Commonwealth Caribbean Public Law 2008, Third Edition, Routledge-Cavendish**, there is little or no Commonwealth Caribbean case law interpreting provisions similar to **section 98**.

[43] Another reason which we consider to be of significance is that a decision in the intended appeal has the potential of, in the language of **rule 1.1 (2) (b)**, "saving expense". This conclusion is a rider to our finding in the foregoing paragraph. To spell out the point: an interpretation by this Court of **section 98** will undoubtedly guide public servants and their lawyers in deciding whether or not to pursue a case under that section and so reduce costs in the application of the **section**. This guide could therefore save time and expense in matters where that **section** is involved.

[44] Based on our interpretation of "special reasons" above, we are of the view that these reasons constitute "special reasons" for purposes of **rule 62.6 (3)**.

Disposal

[45] In the foregoing premises -

(a) The time within which to appeal is extended;

(b) Leave to file notice of appeal out of time is granted;

(c) Unless the notice of appeal is filed on or before 10 April 2014 the application will stand dismissed; and

(d) There shall be no order as to costs.

Chief Justice

Justice of Appeal

Justice of Appeal