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## **Governor Appoints New Cadre of Cayman Islands Queen's Counsel**

Six attorneys have been appointed to the distinguished rank of "Silks" in the Cayman Islands. Among the new appointees is the first member of the local criminal bar to be elevated to this status.

Criminal defence attorney Ben Tonner joins the ranks of trailblazers such as the late former Attorney General Michael Bradley, who was the first Cayman Islands public lawyer to be appointed QC, and Mr. Justice Andrew Jones, who at the time was the first appointee from the private Bar.

HE the Governor Helen Kilpatrick, CB, announced the appointments of the six new Queen's Counsel following yesterday's (Monday, 6 February, 2017) signing of Warrants formalising the appointments.

The new "Silks," as QCs are known informally, include on the public side Solicitor General Jacqueline Wilson and First Legislative Counsel Myrtle Brandt, a respected regional legislative draftsman. Prior to Ms Wilson's 2012 appointment as Solicitor General, in which role she serves as chief administrator for the Government's legal services, she served for a decade as a Cayman Islands Crown Counsel, adding to a legal career of 26 years at the public bar. Ms Brandt has served as the legislative drafting needs of the Cayman Islands for nearly two decades, the majority of those as director of the Islands' Legislative Drafting Department, topping a career at the public bar that dates back to 1977.

Private legal practitioners taking Silk include Campbell's Senior Partner Ross McDonough, a senior litigator at the commercial Bar in the Cayman Islands since 1994; Ms Sheridan Brooks, who, with more than three decades' post-qualification service as a member of the Islands' legal fraternity, including many years in public service, is widely regarded as a leader in family law; and Mr. Hector Robinson, partner with Mourant Ozannes, who has given distinguished service in the area of commercial law in the Cayman Islands and Jamaica and serves on a number of public boards, including the Grand Court Rules Committee. Attorney Ben Tonner has achieved recognition in a number of landmark criminal cases, though also latterly practising in commercial law. He has readily accepted challenging legal aid cases and shares expertise on a *pro bono* basis. He, too, serves on a number of public boards.

To give perspective to the seniority that is the hallmark of these appointments, Chief Justice Anthony Smellie said that the term "taking Silk" dates back to the 17<sup>th</sup> Century in England when Queen's Counsel first started wearing silk robes in court as a mark of distinction. The

senior practitioners were instructed by junior lawyers (solicitors) (often at a cost-reduction advantage to clients), a practice that continues to today in England.

Although guidelines for the appointment of QCs in the Overseas Territories such as Cayman do not today require this distinction in roles between Silks and solicitors, the same practices often appertain. This includes the still prevailing expectation that Queen's Counsel endeavour to provide a percentage of legal work free of cost in the case of needy clients, the Chief Justice said.

The Chief Justice will be initiating a formal ceremony on Friday, 17 February, 2017, admitting the six new Silks to the Inner Bar of the Grand Court of the Cayman Islands.

The appointments come at the end of a fairly intensive and extensive process of consultation and vetting by the Chief Justice and his colleagues, the Governor and then the UK Secretary of State for Foreign and Commonwealth Affairs.

Extending her congratulations, the Governor thanked the new Silks for their commitment to the noble service that this new honour denotes, and wished them continued success.

These latest appointments, coming four years since the last inductions, were made first and foremost, Chief Justice Anthony Smellie said, "with regard to the needs of the jurisdiction," as prior holders re-locate, retire, or channel their service into the local judiciary.

In closely monitoring these movements, the Chief Justice said he and his colleagues "have been able to maintain a stable pool of QCs relative to the size of the profession and local population." Achieving this balance, the Chief Justice said, was in the public's interest as it ensured that "home grown" talent is recognized and made available to meet local needs.

"QCs are public officers in the sense that they are available to serve wherever there is a need for the special ability and seniority implied in their appointments," the Chief Justice said, adding: "These appointments are a responsibility that my fellow judges and I take very seriously."

In describing the local process for appointments of QCs, the Chief Justice said that candidates -- senior, long-serving, respected and distinguished members of the legal fraternity -- are invited by him, following an internal consultative process, on the basis of formal guidelines for appointments in the Overseas Territories. After an intensive period of further internal consultative meetings with his colleagues, recommendations are made to the Governor, who then makes her recommendations to the Secretary of State for Foreign and Commonwealth Affairs.

The guidelines upon which candidates are evaluated were first settled many decades ago by way of Royal Instructions. They were more recently agreed, in 1986, between the Foreign and Commonwealth Office and the then Lord Chancellor's Department. After Chief Justice Smellie's appointment to head the judiciary in 1998, he initiated the local procedures that for the first time included appointments from the private Bar.

That introduction of local procedures for the induction of private attorneys paved the way for the first private attorney, now Justice Andrew Jones, to be appointed QC in 2002.

Until then, in the Cayman Islands only attorneys in the public service were appointed QCs. Among those prior public service appointments, the very first Cayman Islands appointment occurred in 1982, a distinction earned by the late Michael Bradley, then Attorney General of the Cayman Islands and later Governor of the British Virgin Islands. The next local appointment, in 1987, was achieved by the late Sir Richard Ground, a former Attorney General of the Cayman Islands and later Chief Justice of the Turks and Caicos. Next was Chief Justice Smellie himself, in 1991, when he served as Solicitor General.

Since 2002, in less than two decades, that picture has dramatically changed. Since then, there have been 18 appointments (including this latest group of six appointees), bringing the total appointments for the Cayman Islands to 22 since 1982.

The Chief Justice said that the guidelines governing local appointments closely mirror those followed in the UK. In fact, he said, the local guidelines are more stringent in one important respect -- eligibility on the basis of years of experience. UK candidates must have a minimum of 10 years' experience since "call" or admission to the bar. This compares to 15 years in Overseas Territories such as the Cayman Islands.

The rules also specify that at any given time the number of new appointees should be restricted to approximately 10% of the members of the practising Bar.

The following is a summary of the achievements of this latest group of appointees:

**Mrs. Myrtle Brandt, Director of the Legislative Drafting Department**

A well respected legislative draftsman of the Caribbean since 1977, Mrs. Brandt has served in the capacity of First Legislative Counsel and head of the Legislative Drafting Department of the Cayman Islands Government since 2001, following joining the department in 1999 as Senior Legislative Counsel.

In her current capacity, Mrs. Brandt heads a team of legislative counsel and administrative staff, ensuring, among other responsibilities, the provision of an efficient legislative drafting service for the Government.

In her drafting role here in Cayman, Mrs. Brandt has been responsible for preparing complex primary and subsidiary legislation relating to a variety of subjects, including witness protection, protection of persons with disabilities, criminal law, health, education, elections, immigration, public utilities and the public service.

Among international and regional assignments over the years, she served with the United Kingdom's Department for International Development as Regional Law Reform Drafter.

**Mr. Ross McDonough**

Mr. McDonough commenced practice in the Cayman Islands in 1994 as an Associate at Campbells, becoming a Partner in 2000. At present he is a Senior Partner and Managing Partner of the firm's Hong Kong Office. As a leader at the local commercial bar, he has an outstanding record of litigating important commercial cases, although he has over the years engaged in a broad range of civil and criminal litigation.

Mr. McDonough has appeared not only before Cayman's Grand Court and Court of Appeal, but has also argued as lead counsel before the Privy Council in London, the highest court of appeal for Cayman cases. Locally, he has appeared in numerous hearings for which judgements have been reported in *The Cayman Islands Law Reports*.

**Ms Sheridan Brooks**

Ms Brooks, principal in the firm Brooks and Brooks, has over 31 years' post-qualification experience in both civil and criminal litigation.

She served as Crown Counsel in the Attorney General's Chambers for a number of years, and for a short period as legal draftsman in the Legislative Drafting Department.

Ms Brooks is widely regarded as a leader in local family law. As such she has provided legal opinions in US and Canadian courts on Cayman Islands matrimonial and child proceedings. She has similarly provided assistance in Succession Law matters. Many of her cases have been reported in *The Cayman Islands Law Reports*.

The newly appointed QC assisted with the revision of the Trade & Business licence Law and the Local Companies (Control) Law, and has assisted with establishing the first gender equality tribunal.

She is currently assisting with the revision of the policies and procedures for the adoption of children.

**Solicitor General Jacqueline Wilson**

Ms Wilson was appointed as Solicitor General of the Cayman Islands in June 2012. In that capacity she also serves as Chief Officer of the Portfolio of Legal Affairs.

As Chief Officer Ms. Wilson is responsible for the management and supervision of a team of approximately 50 staff with high levels of experience and seniority, spread over the Solicitor General's Office, Legislative Drafting Department, Law Reform Department, Law Revision Commission, the Cayman Islands Law School, and the Financial Reporting Authority.

Ms Wilson's current position and her former appointments in the public service sector, spanning some 26 years at the public bar, have earned her extensive experience in constitutional and administrative law.

The honing of this expertise can be traced back to the beginning of her legal career in 1990, when she spent seven years in the Solicitor General's Department of the Office of the Attorney

General of the Government of Trinidad and Tobago, where she rose to the rank of Acting Senior State Counsel. There she developed a specialisation in judicial review and constitutional matters and appeared before all levels of court, including the Privy Council.

Adding to that experience, Ms Wilson served as Crown Counsel in the Cayman Islands Legal Department from 1997 to 2002, when she continued to have conduct of judicial review matters and played a key role in co-ordinating and executing requests for assistance by foreign judicial and prosecutorial authorities.

During that period, upon the request of the Government of Montserrat, Ms. Wilson was temporarily seconded to serve as Counsel in the Attorney General's Chambers of Montserrat, where she appeared before the Court of Appeal of the Eastern Caribbean Supreme Court to represent the Government in human rights proceedings. Ms Wilson also served as legal examiner for the Caribbean Financial Action Task Force (CFATF) in the mutual evaluation of Jamaica, as part of the global effort to combat money laundering and financial crime.

Solicitor General Wilson's substantial experience in financial services regulation and implementation of enforcement action included the period from 2003 to May 2012 when she served as Director of the Legal and Enforcement Division of the British Virgin Islands Financial Services Commission.

In that capacity, she instituted numerous applications against regulated entities to enforce compliance with the BVI's regulatory laws, including applications for the appointment of liquidators, administrators and the grant of orders for injunctive relief. She played a key role in the Commission's admission to membership of several international regulatory organisations through effective negotiations and by making detailed recommendations for reform of the regulatory laws and procedures.

### **Mr. Hector Robinson**

Mr. Robinson has had a distinguish career as an attorney in both Jamaica and the Cayman Islands. He specialises in civil and commercial litigation, latterly in cases that have had significant cross-border elements.

He commenced practice in Cayman in 2000 at Quin and Hampson as an associate. By 2005 he was made partner and continued in that position when that firm merged with Mourant Ozannes in 2007.

Mr. Robinson has appeared in both the Grand Court and the Court of Appeal as lead or junior counsel in many cases that have been reported in *The Cayman Islands Law Reports*.

In relation to public service, Mr. Robinson has served the Cayman Islands as a Commissioner of the Cayman Islands Law Reform Commission in its systematic review and development of local laws. He is a member of the Grand Court Rules Committee charged with statutory responsibility for formulating rules regulating criminal and civil procedures of the Grand Court and lower courts, and he is a member of the Insolvency Rules Committee that makes the rules regulating the practice and procedures of the Grand Court's insolvency jurisdiction.

Given his expertise and experience, Mr. Robinson has been accepted as an expert on Cayman Islands law in proceedings of Federal and State Courts in the United States.

**Mr. Benjamin Tonner**

Mr. Tonner has achieved the distinction of being the first member of the criminal bar to be appointed Queen's Counsel.

Mr. Tonner has enjoyed an exemplary career marked by a number of notable defence briefs including the HSA/FIFA fraud litigation, the Operation Tempura corruption investigation, and multiple trials involving the most serious crimes of fraud and/or violence, such as the Estella Scott Roberts murder prosecutions.

Although perhaps best known for such high profile defence work, Mr. Tonner has also achieved some distinction in the corporate, financial and regulatory legal arena. He holds an LL.M. in corporate and commercial law and recently advised a well-known Cayman Islands retail bank in relation to contentious, international proceedings. Mr. Tonner's busy and diverse practice also encompasses areas as varied as financial services, mutual legal assistance, immigration and employment law.

Despite his heavy workload, Mr. Tonner finds time to contribute to the development of both the law and related institutions of the Cayman Islands. In 2015, Mr. Tonner was appointed to the Cayman Islands Human Rights Commission. He sits on the Criminal Justice Reform Committee and the Criminal Justice Board, both of which support and seeks to improve the administration of justice in these islands.

Mr. Tonner also sits on the executive boards of the Cayman Islands Company Managers Association, the Cayman Islands Compliance Association and the Cayman Islands Defence Bar Association.

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