

**ADDRESS OF COLIN McKIE K.C. ON THE OCCASION OF THE OPENING  
OF THE GRAND COURT ON 10 JANUARY 2024 GIVEN ON BEHALF OF  
THE CAYMAN ISLANDS LAW REPORTS**

If it may please my Lady,

I am privileged to be able to support the motion to open the Grand Court for the year 2024, moved by Mr Attorney and seconded by Mr Director and the President of the Cayman Islands Legal Practitioners Association, and to provide these brief remarks as consulting editor of the CILR.

It is appropriate to say a few words about Judgments, that is Judges' reasons by which they explain their decisions. The primary audience for their reasons is, naturally, the parties to the proceedings. There is, however, another important audience: the public at large.

Absent compelling reasons to the contrary, Judgments are made public so that other judges and attorneys may examine and apply the principles that they establish. They are also made public so that they are available for scrutiny by the public at large, whether via the media or Parliament.

The 'public at large' is not limited to our local population. Many Judgments delivered in the Financial Services Division are closely followed by onshore investors, managers, and others, and their onshore attorneys and advisers, and they are followed by the onshore financial media. That is, they represent a continuing advertisement to the world's financial community that disputes involving Cayman Islands structures, no matter how complex, may be efficiently and predictably litigated in our courts.

Thus, the public availability of Judgments is fundamental to due process, access to justice, the doctrine of precedent, the rule of law, open justice, freedom

of expression, and maintaining public confidence in the judiciary and the management of our Courts.

Judgments of our senior Courts (providing, as they do, binding or persuasive precedents, and often considering matters of significant general or public importance) are made public in two ways. First, they are published online shortly after they are delivered to the parties. Secondly, some of them are selected for publication in the CILR.

Publication of Judgments online is important because it makes them immediately available to judges, attorneys, and the public at large. The practical challenge can be for anyone to identify, out of all of those thousands of Judgments, those that are of greater significance.

From the hundreds of Judgments that our senior Courts deliver each year the CILR selects a few dozen for inclusion in the reports. In 2023 our Senior Courts delivered 259 Judgments as follows.

In the Grand Court –

- Financial Services Division: 134
- Civil Division  
(including appeals from the Summary Court): 32
- Criminal Division  
(including appeals from the Summary Court): 34
- Family Division: 12

In the Court of Appeal

- Civil 25
- Criminal 11

In the Privy Council (incl. applications for permission to appeal):

- Civil 9

- Criminal

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**TOTAL:**

259

I have often been asked what criteria the Law Reports apply when deciding whether or not to report a judgment. There are four. We seek to report:

- (1) all cases which introduce, or appear to introduce, a new principle or a new rule;
- (2) all cases which materially modify an existing principle or rule;
- (3) all cases which settle, or materially tend to settle, a question upon which the law is doubtful;
- (4) all cases which for any reason are particularly instructive.

I note in passing that the English Law Reports have applied the same criteria since 1863, and many other Commonwealth jurisdictions also apply them.

#### Publication of Law Reports in 2023

As my Lady is aware, COVID substantially delayed the preparation and publication of our Law Reports between 2020 and 2022. Some progress has been made in 2022 and 2023 to clear the backlog but it seems that it will take some more time to return to the publishing schedule that existed prior to 2020. The most recent volume published is the first of two volumes of judgments delivered in 2022, the second of which will shortly be submitted to the printers for printing, binding, and dispatch, and for uploading on the Judicial website.

#### Appreciation of Judges, court clerks, administrators and court staff

We thank you and the Judges of the Grand Court, the President of the Court of Appeal and the Justices of Appeal, the Chief Magistrate and the Magistrates, for your unceasing dedication to administer justice in these Islands independently, fairly, and efficiently. Much of that involves long hours outside of court, such as

preparing for hearings, writing judgments, and ensuring the efficient administration of our courts.

I wish to express our thanks to those people, based here and overseas, who have willingly given up their valuable time in 2023 to sit as Acting Judges of the Grand Court and as Acting Magistrates.

In the Grand Court they comprised – Marlene Carter (now a full-time Judge), Roger Chapple, Marva McDonald-Bishop, Dale Palmer, Philip St. John-Stevens, Frank Williams, and Michael Wood KC.

In the Summary Court they comprised – Suzanne Bothwell, Robert Jones, David McGrath, and Adam Roberts.

We also wish to express our gratitude to the Court Administrator, the Clerk of Court and her Deputies, and all the administrative, technical, security, and support staff at the Court House who, behind the scenes, work hard and diligently, to assist and serve the public and attorneys.

Before closing, I wish to take the opportunity to make a few remarks about Michael Wood KC. He was called to the Bar in 1976 and took silk in 1996, and appointed a Master of the Bench of Middle Temple in 2021. He had a pre-eminent practice at the criminal bar in England and regularly appeared as leading counsel in the Grand Court and in the Court of Appeal.

Michael began sitting as an Acting Grand Court Judge in 2015. He presided over many criminal trials as well as assisting with some civil proceedings. It was a pleasure for counsel to appear before him. He balanced the seriousness of criminal proceedings with compassion and occasional, well-judged, levity. He was unfailingly courteous, especially to defendants.

Michael's last sat in the Grand Court at Easter and, after a long illness, died on 13 September. Many members of the Cayman Islands legal fraternity were

able to attend his memorial service in England. We are grateful for his service, and he will be sadly missed.

Closing

It now only remains for me to wish a happy, healthy, and prosperous New Year to you and all of our judges, magistrates, and clerks; to the entire administrative staff; to all members of the profession; and to the people of the Cayman Islands.

I have the honour and privilege to support Mr Attorney's motion this morning.

**Colin McKie KC**

10 January 2024

