

Address by the Hon. Samuel Bulgin KC
Attorney General – Grand Court Opening
10 January 2024

My Lady Chief Justice, other Honourable Judges of the Grand Court, Honourable President of the Court of Appeal and other Justices of Appeal, Honourable Chief Magistrate, and other Honourable Magistrates, Madam Solicitor General, Director of Public Prosecutions, President of the Justices of the Peace Association, President of Cayman Islands Legal Practitioners Association, President of the Association of Legal Professionals and Advocates, Chairman of the Judicial and Legal Services Commission, Special Guests, distinguished colleagues at the Public and Private bars, Ladies and Gentlemen, both present and those following these proceedings online, good day to you all and greetings for the New Year.

At your invitation, My Lady Chief Justice, I rise to move the motion for the opening of the Grand Court for the year 2024, and in doing so I crave your indulgence to make some brief remarks

on the upcoming year and what can only be described as an exceptional 2023.

Prior to doing so My Lady, please permit me to extend my hearty appreciation and welcome to the various members of the government administration present here today. First, a special welcome to Her Excellency the Governor at this her first opening of the Grand Court. Since her arrival to the Islands in March 2023, she has been diligent in her advocacy for the rule of law and all matters relating to law and order. I would also wish to record our sincere thanks to former Governor Martyn Roper for his support and dedication to the people of Cayman Islands during his tenure. Permit me to also recognize the Honourable Premier, the Honourable Deputy Premier, the Honourable Deputy Governor, other Members of Cabinet, and Honourable Members of Parliament, whose presences underscore, among other things, their continuing commitment to the administration of Justice.

At this juncture, permit me My Lady to also extend very special congratulations and a warm welcome to our new Court of Appeal Judges, Sir Anthony Smellie KC, and Ms. Claire Montgomery KC, two of the finest legal minds you will ever encounter. The jurisdiction is very fortunate to have them as members of its Court of Appeal. And My Lady, I believe I am correct in noting that Sir Anthony will be the jurisdiction's first resident Court of Appeal judge.

I also offer special congratulations to our newest Grand Court Judges, Madam Justice Marlene Carter who is no stranger to the Grand Court and Mr. Jalil Asif KC. With these appointments in place, the complement of judges on the Grand Court is further enhanced.

Heartfelt congratulations also to our new Chief Magistrate Her Honourable Ms. Hernandez – we applaud her designation and wish her well in her new role. And again, thanks to former Chief Magistrate Valdis Foldats for his outstanding service – we wish him a happy retirement.

Permit me My Lady to also thank the outgoing Chairman of the Judicial and Legal Services Commission, Mr. Ormond Williams and Commissioners Sir Anthony Smellie KC, Mr. Langston Sibblies KC, and Ms. Bridgette Kirkconnell. In the same breath, may I welcome the incoming new Chairman Mr. Julien Nick Freeland.

Congratulations are also in order for the new President of the Cayman Islands Legal Practitioners Association (CILPA) Mr. Richard Barton and his new Executive, with sincere thanks to his predecessor Mr. Erik Bodden for his contributions during a successful tenure. Mr. Barton's Presidency will continue the high-quality leadership and excellent working relationship to which we have all become accustomed.

My Lady, it is also customary for us to pay tribute to members of the legal profession who departed this life last year including Acting Justice Michael Wood KC, Mr. Richard (Ric) Finlay, Ms. Liesel Richter and William Jones. We offer our condolences to their families and loved ones.

My Lady, the year 2023 saw some of the usual activities that we have become accustomed to during each calendar year. While the presence of the COVID-19 pandemic still lingers, thankfully its effects have been minimal compared to previous years.

My Lady, it is a matter of public record that a significant part of my time in 2023 and by extension, that of the Government, was taken up with matters relating to the Financial Action Task Force (FATF)/Caribbean Financial Action Task Force (CFATF), and the need to ensure that our jurisdiction is in compliance with the ever-evolving anti-money laundering/counter-terrorism financing (AML/CFT) standards. I served as the CFATF Chairman for the period November 2022 through to November 2023. My work program was aimed at strengthening the AML/CFT framework in the region, enhancing cooperation and coordination among our 24 member countries and other stakeholders, and promoting the effective implementation of the FATF standards. Some of the major achievements in 2023 include the adoption of three mutual evaluation reports, approving the technical compliance re-ratings in the follow-up reports of nine countries, increasing resources at

the Secretariat and introducing a new funding model for the financial stability of the CFATF. Thanks to our own Mr. Francis Arana and Mrs. Simone Ebanks of the AMLU for their dedication and support during my chairmanship.

While a significant portion of the resources of the Portfolio of Legal Affairs was consumed by the ongoing FATF/CFATF initiatives, it was more of a textbook team effort along with the Honourable Deputy Premier and officers from the Ministry of Financial Services, the General Registry, the Cayman Islands Monetary Authority, the Office of the Director of Public Prosecutions (permit me to recognize the Director Simon Davis and Assistant Director Toyin Salako), Customs and Border Control, the Anti-Corruption Commission, the Royal Cayman Islands Police Service and Cayman Islands Bureau of Financial Investigations and members of my Anti-Money Laundering Steering Group, as well as some numbers from the private sector.

The issue of Russia Sanctions remained as demanding as in the previous year and continues to occupy a significant portion of

our time. Thanks to the Director of the Financial Reporting Authority, Mr. Robert Berry (a well-deserving recipient of the Order of the British Empire in the New Year's Honours recently announced by Her Excellency The Governor), Ms. Kim France, Sanctions Coordinator and others within the Solicitor General's Office and Ministry of Finance for their work in this important area.

I reserve a special thanks to Her Excellency The Governor, our Honourable Premier, Deputy Premier, Deputy Governor and all members of Cabinet and our Parliament for their unwavering support (including financial support) throughout the entire FATF process. My thanks also to the past administration for their support. It was this national effort and commitment that enabled the jurisdiction to be removed from the FATF grey list last October and which will help us in our preparations for the 5th Round Mutual Evaluation.

Permit me My Lady, to offer congratulations to a few of our exemplary Government employees on their appointments,

starting with our new Commissioner of Police, Mr. Kurt Walton whose appointment is a source of personal pride to us all. We wish him well and pledge our unconditional support to him and the RCIPS. And our thanks are also extended to his predecessor Derek Byrne for his outstanding stewardship of the RCIPS during his tenure. I offer congratulations to our new Director of Prisons Mr. Daniel Greaves who comes to the post with a wealth of experience and support. And finally, congratulations to Mr. Bruce Smith, the incoming Director of Customs and Border Control who also brings with him extensive experience and knowledge in this area. We are confident that he will continue the excellent work of Mr. Charles Clifford to whom we wish a happy retirement.

My Lady, in the case of the Legal Services Council, as you are aware, under your chairmanship, we continue to meet with a view to fully transitioning from the existing construct under the Legal Practitioners Act to that under the new Legal Services Act, which includes a revised disciplinary framework for Attorneys. The wish is to complete this task very early in this new year.

Our Grand Court Rules Committee and the Insolvency Rules Committee continue to meet, keep under review the relevant Rules, and as appropriate, make revisions for greater procedural efficiency. Again, our thanks to you My Lady, Justice Segal, and all members of both Committees.

My Lady, reflecting on the number of judgments rendered by the Courts in 2023, again it was a very busy year – with judgments being delivered in a timely fashion. Our thanks go out to you My Lady and all of our other hardworking Judges and Magistrates.

The judgments delivered in 2023 covered diverse legal issues including the distribution methodology to be applied to Cayman funds; the scope of the Governor’s reserve powers under sections 55 and 81 of the Constitution; the role and powers of CIMA as a regulator for AML matters; the interface between the National Conservation Council and the Central Planning Authority under their respective laws; the compatibility of the points system under the Immigration (Transition) Act with the

Bill of Rights; and the application of section 64A of the Trusts Act which gives effect to the rule in *Hastings-Bass*, to highlight just a few.

As it relates to legislation My Lady, the Legislative Drafting Department of the Chambers was kept very busy churning out over 150 pieces of Primary and Secondary legislation covering a range of subjects including beneficial ownership, measures for the protection of children under the Children Act and related regulations, adoption and merchant shipping, as well as the Proceeds of Crime Act.

This year we are hoping to reform the Firearms Act to further streamline the powers of the Coast Guards and deal with issues such as Ghost Guns. We are also hoping to complete some much needed reforms to the Standards in Public Life Act and the Evidence Act.

Thanks to the First Legislative Counsel Ms. Cheryl Neblett and the hardworking team of drafters.

The Law Reform Commission continued their work on some major initiatives such as the Sexual Harassment Bill. The Bill seeks to provide procedures to aid victims, ensure perpetrators are held accountable and to generally address the societal problems of sexual harassment. In addition, various papers were finalized and are now pending submission to Cabinet. These include the ongoing review of the Penal Code, the law of usury, and the establishment of an Appeals Tribunals. Other ongoing projects are scheduled for completion in the new year.

The Law Revision Department diligently continued its annual revision exercise while ensuring easy access to legislation in the Islands via the legislation website. Thanks to Dr. Camille Stoll-Davey and Ms. Karen Wade our 2024 revisions will be out shortly.

My Lady, our Articled Clerk training also held its own with the continued training of young Caymanian Attorneys. We look forward to the admission of some new attorneys in 2024.

With respect to legal education, the Truman Bodden Law School once again had some excellent results for the 2022-2023 academic year. These were recognized during the August 2023 graduation ceremony for students (both full-time and part-time) on the LLB and LLM degree programs as well as the Professional Practice Course. The Law School recorded a number of first class honours on the various degree programs as well as distinctions on the PPC. My thanks to the Director Mr. Mitchell Davies and the entire staff at the Truman Bodden Law School as well as to the Legal Advisory Council under your Lady's Chairmanship.

Permit me My Lady, to thank all the staff in the Portfolio of Legal Affairs ably led by the Solicitor General/Chief Officer, Ms. Reshma Sharma KC, and our three Deputy Solicitors General, Mrs. Claire Allen, Dr. Jevon Alcock and Mrs. Marilyn Brandt for their dedication, professionalism, unwavering support and advice to me and on my behalf. Thanks also to the DPP and his dedicated staff.

In closing My Lady, I wish for all the Judges, Magistrates, Court staff, fellow members of the legal profession and others in attendance this morning a happy, peaceful, and productive New Year. I would also call upon all stakeholders to continue to be unwavering and united in our support of the Judiciary and the rule of law. As Machiavelli said, “*where the willingness is great, the difficulties cannot be great*”.

I now formally move for the Opening of the Grand Court for the Year 2024.

May it so please you My Lady and my Lords.

Samuel Bulgin KC, JP

Hon. Attorney General

January 10, 2024