

BRITISH VIRGIN ISLANDS COURT OF APPEAL

Baldwin Spencer -v- The Attorney General Of Antigua And Barbuda Antigua And Barbuda

PROCEDURE - BVI APPEALS - STRIKE OUT

High Court Civil Appeal No. 20A of 1997 followed in respect of the strike out test.

The test as to when the Court of Appeal will interfere with the exercise of discretion by the Judge below was also re-stated. The Court of Appeal will do so when the Judge fails to take into account or gives too little or too much weight to relevant factors and considerations or takes into account or is influenced by irrelevant factors and considerations and that as a result of the error or the degree of the error in principle, the trial Judge's decision exceeded the generous ambit within which reasonable disagreement is possible and may therefore be said to be clearly or blatantly wrong. In the present case, the Case Management decision to strike out and force re-pleading was discretionary and for the trial Judge to best decide.

Michel Dufour et al -v- Helenair Corporation Ltd. et al (1996) 52 WIR 188 followed.

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