

BRITISH VIRGIN ISLANDS COURT OF APPEAL

Prudence Robinson -v- Sagicor General Insurance Inc (Formerly Barbados Fire And Commercial Insurance Company)
SLUHCVAP 2013/0009 (September 2014)

INTERLOCUTORY APPEAL - FAILURE TO COMPLY WITH CASE MANAGEMENT ORDER - RELIEF FROM SANCTIONS - RULE 26.8 OF THE EASTERN CARIBBEAN SUPREME COURT CIVIL PROCEDURE RULES 2000 - BALD ASSERTIONS MADE IN AFFIDAVIT IN SUPPORT OF APPLICATION FOR RELIEF FROM SANCTIONS - WHETHER ADEQUATE FOR PURPOSE OF DETERMINING WHETHER CRITERIA SATISFIED FOR GRANT OF RELIEF - WHETHER LEARNED JUDGE ERRED IN GRANTING RESPONDENT RELIEF FROM SANCTIONS

This Appeal is against a decision by the Judge below to grant relief from sanctions to Sagicor General Insurance Inc ("Sagicor"). The Court of Appeal allowed the Appeal. Setting aside the Judge's Order granting relief from sanctions, the Court held, the Learned Judge did not pay proper regard to the inadequacy of the affidavit evidence in satisfying himself that there was a good explanation for the delay in filing the witness summary. Having made the finding that Sagicor had relied on bald assertions to support its application for relief from sanctions, the Judge erred in granting the application. The Court of Appeal also held, the Judge erred in granting the application for relief from sanctions when a corresponding application for extension of time to file the witness summary had not been made. Sagicor remained in breach of the case management order without being granted an extension of time. In the circumstances, the relief granted by the learned Judge lacked efficacy.

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