

Document Examination Seminar Coming

The Gleaner

On March 12, attorneys and other interested persons are being invited to a seminar titled 'Whose Signature is it Anyway?' from 9 a.m. to 5 p.m. at the Jamaica Pegasus hotel.

This one-day seminar is designed to assist you with basic steps to identify a forged signature or altered documents. The seminar will cover topics such as: signs of forgery, observation tests, understanding line quality in a signature, master patterns in a signature, pen lifts and pressure patterns, spacing and connections, and more.

Registration is \$15,000, which includes networking lunch. Early registration is advised as there is limited space. Registration can be made by credit card payment or direct deposit to National Commercial Bank (details will be provided). This is an accredited seminar with the General Legal Council and, for full attendance, lawyers will receive five credits.

The seminar will be presented by Beverley East, president of Strokes & Slants, with offices in Washington D.C., Kingston, and London. She has practised the science of forensic document examination for more than 27 years and has worked on a number of cases involving a variety of handwriting identification, such as verifying the authenticity of signatures and comments for fraud and malpractice in relation to cheques, wills, land transfers and medical records.

East studied and trained both in the United Kingdom and the United States of America and is qualified through the Manhattan Handwriting Services in New York. She is also a member of the National Association of Document Examiners Oxford, Kansas; the Scientific Association of

Forensic Examiners, and 2015 conference chair for the International Association of Document Examiners. She was appointed to the Ethics Committee in 2014.

The eminent document examiner provided forensic document examination training courses for several banks, including Jamaica Money Market Brokers, RBTT Bank, Jamaica National Building Society, the Ministry of Justice, and the Jamaica Institute of Financial Services.

For more details go to www.suspectsignatures.com or email: handwriting3@aol.com

Court Grants Another Injunction To Tapper In Fyah Side Trademark Dispute

The Gleaner

McPherse Thompson

The owner of popular Clarendon eatery Fyah Side has secured another injunction against a business-woman restraining her from using the trademark, pending a final decision on rights to the name.

The decision by Court of Appeal Justice Hilary Phillips reverses the ruling of Supreme Court Justice Kissock Laing, who had refused to grant the restraining order to David Orlando Tapper, proprietor of Fyah Side Jerk and Bar.

Tapper has been trying to bar Heneka Watkis-Porter from using the marquee 10 Fyah Side at her business, which she operates from Devon House in Kingston.

Tapper has operated his Fyah Side business at Toll Gate, Clarendon, for more than seven years, while Watkis-Porter has been in business for just over two years.

He had obtained an interim injunction in July 2015 barring Watkis-Porter from using the marks, pending an appeal against Justice Laing's order.

In the written decision made last week, Justice Phillips said that upon a proper assessment of each party's case, it would appear that Tapper has a stronger case than Watkis-Porter.

She found, contrary to Justice Laing, that there was no inordinate delay on Tapper's part in taking steps to protect his rights.

Justice Phillips said Tapper pursued the protection of his brand in the entity established pursuant to the Trade Marks Act, which governs the regime for the protection of trademark rights.

"The balance of convenience, therefore, in all the circumstances, in my opinion, lies in granting the injunction," the judge ruled.

The Court of Appeal also found that Justice Laing had misapplied some critical aspects of the evidence before him.

"As a consequence, the court can disturb his conclusion as the exercise of his discretion was palpably wrong," Justice Phillips said.

Tapper is a sole trader who carries on business as Fyah Side Jerk and Bar, a full-service restaurant and bar located in an area of Toll Gate known as Race Course, from where he prepares and sells jerked pork, fish, chicken, sausages and soups; and produces sauces and seasoning used in the preparation of the meals. The sauces and seasonings are also sold as separate products.

Watkis-Porter is the chief executive officer of Patwa Apparel, a company which designs, markets and distributes clothing. It utilises Patois as a major part of its business model under two brands: 'Patwa Apparel' and '10 Fyah Side', the latter used by Watkis-Porter to sell jellies, jams, sauces, seasoning and condiments.

Tapper said he became aware of Watkis-Porter's use of the mark '10 Fyah Side' when he tried to register his trademark at the Jamaica Intellectual Property Office (JIPO). He was told then that an application was pending for '10 Fyah Side' and prevented from registering his marks.

Tapper filed a notice of opposition to Watkis-Porter's application for registration with JIPO. Both parties have filed evidence at JIPO in support of their cases.

In outlining the background to the case in her February 19, 2016 decision, Justice Phillips noted that up to November 2015, when the case was last heard by the Court of Appeal, the matter at JIPO was yet to be determined.

Attorney Keachea Dixon, who represented Watkis-Porter, had asked the appellate court not to disturb the finding of Justice Laing, saying the upper court would be disturbing the status quo and may influence the decision of the JIPO registrar.

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Cop Charged In Christmas Shooting For Court April 27

Christopher Thomas

The Gleaner

WESTERN BUREAU:

The St James policeman who was arrested in relation to the shooting death of his child's mother on Christmas Day, last year, will make his next appearance in the Montego Bay Resident Magistrate's Court on April 27, following his latest appearance on Wednesday.

Constable Lawrence Smith, 29, is charged with murder in relation to the death of Terry-Ann Steer on December 25, 2015.

On Wednesday, the court was told that a number of statements, including the post-mortem report and communications report were outstanding from the prosecution's case-file, and that these would be ready in another two months' time.

Resident Magistrate Sandria Wong-Small subsequently set the case for mention on April 27, at which time the file is expected to be complete. She also extended Smith's bail to the next court date.

The allegations are that on December 25, Smith went to Steer's home in Bogue Village, Montego Bay, where the two got into an argument. During the dispute, Steer reportedly threw water on Smith and then attacked him, following which she was shot in the chest.

Steer was taken to the Cornwall Regional Hospital, where she was pronounced dead. Smith turned himself in to the police later that night.

Court Turfs Symsure Request For \$3m Security In Worker Lawsuit

McPherse Thompson

The Gleaner

The Court of Appeal has dismissed an application brought by Trinidad-registered software firm Symsure Limited to have a former employee who sued for wrongful dismissal put up \$3 million as security for legal costs in case he lost the case.

Symsure asked for the order saying former employee, Kevin Moore, who claimed that he resided in Norbrook, was actually living in Florida, United States and had no assets in Jamaica.

A civil litigation lawyer told Sunday Business that it is not unusual for defendants to ask for security for costs in cases where, among other things, claimants reside outside of the jurisdiction and where they believe the claimants' cases are weak.

However, Appeal Court Justice Hilary Phillips agreed with a Supreme Court ruling that Symsure failed to place before the court any information to support the "very large sum" claimed.

According to background in the judgment delivered earlier this month, Symsure is incorporated in Trinidad & Tobago and registered in Jamaica as an overseas branch.

Moore, a computer programmer/product architect who was employed by Symsure from March 26, 2007 to October 27, 2008, filed a claim against the company in December 2008 for wrongful dismissal, or alternatively, damages for breach of contract and specific performance of the employment contract giving him 80,000 shares in the company.

He claimed that Symsure recruited him in 2007 for three months to develop a software programme, an arrangement which concluded on June 26, 2007 after which the parties entered a three-year contract.

Compensation Package

That contract provided for a compensation package of US\$130,000 per year for the first year, salary increases of 10 per cent per year for the next two years, as well as shares in Symsure on acceptance of the offer.

It also provided that the company may terminate the agreement with 60 days' notice and pay Moore a severance allowance of US\$25,000 per year, less taxes.

Moore said Symsure failed to pay the 10 per cent salary increase at the end of his first year of employment and failed to issue to him his equity of 80,000 shares.

He claimed that by letter dated October 27, 2008, Symsure gave him 24 hours within which to accept another offer with reduced benefits and sought to disregard the three-year contract.

Employment Terminated

When he failed to accept the new offer within the stipulated time, Symsure terminated his employment without cause or the requisite notice or payment in lieu of notice, his lawsuit alleges.

Symsure, in its defence, stated that the three-month contract, which provided for Moore to be paid US\$10,833.33, in addition to travel reimbursements of US\$2,100 per month, was the only contractual agreement which existed between the parties. The company said the three-year contract which was being negotiated had never been finalised.

It said the three month contract had been extended by the parties, and up to the date of his termination, Moore was provided with the usual benefits given to overseas consultants in the industry, namely health insurance, credit cards, reimbursement of expenses, a fully maintained company car, travel expenses, and accommodation expenses when he was in Jamaica.

The company said Moore's employment was lawfully terminated. It was Symsure's contention that prior to the termination of Moore's three-month contract, he had been offered the permanent position of chief software architect, which he failed to accept in the stipulated time period.

In July 2013, Symsure filed a notice of application in the Supreme Court for security for costs against Moore in the sum of \$3 million to be paid into an interest bearing escrow account on or before October 4, 2013.

The company also sought an order that Moore's claim be stayed until the money was paid, and if it was not, then the claim should stand struck out.

Moore contended, among other things, that Symsure had filed the application in an attempt to stifle his claim a point with which Supreme Court Justice Bertram Morrison disagreed.

However, the judge found that Moore's prospect of success in his claim was probable, that Symsure failed to place before the court any information to support the sum claimed, and therefore refused the company's application for security for costs.

Symsure appealed the decision.

The Court of Appeal sided with Justice Morrison, saying there was no proof to the Symsure assertion that Moore had no assets in this jurisdiction, and that the cost of defending the claim would be in the region of \$3 million.

However, it acknowledged concerns of Moore's actual place of abode as well-placed, saying, as the Supreme Court had noted before, that Moore was ordinarily resident outside of Jamaica and had used a Norbrook address on the claim form, which was clearly inaccurate.

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May 10 prelim date for 2015 murder case

By **Christopher Thomas**



The Gleaner

WESTERN BUREAU:

Two men who were arrested in connection with the 2015 gun murder of Salt Spring, St James resident, Joseph Whittaker, will make their next appearance in the Montego Bay Resident

Magistrate's Court on May 10.

Kevin Perry and Romeo Lindo, charged with murder in relation to Whittaker's death, were given the return date following their recent court appearance on Monday.

Resident Magistrate Sandria Wong-Small set the date of May 10 for preliminary hearing in the matter and remanded both men in police custody, following discussions with the clerk of court on the state of the prosecution's case file.

Allegations are that in September 2015, Whittaker was engaged in a conversation with other persons in the Salt Spring community when they were pounced upon by armed men who opened fire on them.

Whittaker and two other men were shot and injured during the incident and were rushed to hospital, where Whittaker later succumbed to his injuries. Following investigations, Perry and Lindo were arrested and charged.

Woman beaten for not sending child to school

By SHANICE WATSON



The Star Online

A man who claimed he stabbed his babymother because she did not send their child to school was remanded for sentencing when he appeared in the Corporate Area Resident Magistrate's Court on Monday.

The court heard that the accused, Shamael Sinclair, used a pair of scissors to stab his

babymother in the upper body. He pleaded guilty with explanation to the charge of unlawful wounding.

Sinclair explained that he realised his child had not gone to school and went to his baby-mother to enquire about it.

"Mi say to her, 'how come you a go party and you can't find \$150 fi send the pickney go school?' and she start rail up and gwaan bad. Then she stab me and mi did a try take the scissors from her and she get stab," he said.

The complainant admitted that she stabbed Sinclair but in self-defence.

"I was inside my house and him lick down the door and come in there and grab me inna me head and start beat me all over so me stab him," she told the court.

The presiding judge, Senior Resident Magistrate Judith Pusey, ordered Sinclair to stay in custody until today, when he is to be sentenced.

Man to get help for cocaine addiction



The Star Online

A man got one step closer to obtaining assistance for his cocaine addiction when he appeared in the Corporate Area Resident Magistrate's Court on Tuesday.

The 52-year-old was arrested and charged with possession of cocaine last year after being found with less than an ounce of cocaine.

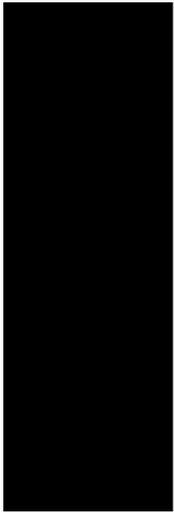
Alvin Brown, who had previously pleaded guilty and admitted to a cocaine addiction, had requested that Senior Resident Magistrate Judith Pusey help him seek help for his addiction.

Brown's sister appeared in court on Tuesday to make the case for her brother to be released to a drug-treatment facility.

The accused, who is currently in custody, will appear in the drug court on March 2.

Brown is expected to tell the court, at that time, that he will be prepared to meet the requirements of the drug-treatment facility.

Man sentenced for stabbing babymother



The Star Online

A man who wounded both the mother of his child and her sister was sentenced when he appeared in the Corporate Area Resident Magistrate's Court on Tuesday.

Kymarley Brown pleaded guilty to two counts of unlawful wounding.

According to official reports, Brown used a knife to cut the complainant on her left finger and hand.

On a separate occasion, the accused used a machete to chop the other complainant in the case in her head and on her hand.

Brown told Senior Resident Magistrate Judith Pusey he and his babymother had made amends since she reported him to the police.

However, the complainant denied this development, telling court that she was scared of Brown.

"Your Honour, sometimes a ignorance get the best of me, so, please, no send me weh," pleaded Brown.

RM Pusey was not moved to leniency after learning there were other assault cases against the accused before the court.

Brown was sentenced to three months in prison on each count, which he will serve concurrently.

Man accused of demanding sex after break-in

Tanesha Mundle

The Observer



A man who was mobbed and beaten after being accused of breaking into a woman's house and demanding sex appeared in the Corporate Area Resident Magistrate's Court last week.

But the accused, Oneil Walker, pleaded not guilty to burglary and wounding with intent.

The court heard that on the day in question Walker broke into the complainant's home in East Kingston and demanded sex. When his request was refused, he took up the complainant's television.

The woman reportedly grabbed Walker in his chest and made an alarm. A male relative went to her assistance.

The court was also told that Walker pulled a knife at the male relative, used it to stab the man then fled.

However, neighbours, who had heard the commotion, descended on Walker and beat him.

On Wednesday when the matter was mentioned, Senior Resident Magistrate (RM) Judith Pusey, after hearing the allegations, asked why Walker was on bail .

"I was in (Kingston) public hospital for one month and six days," Walker said.

“Why you complaining, you know why you were there,” RM Pusey said. “You know you can’t get no sympathy from me.”

Walker then denied breaking into the complainant’s home and wounding her male relative.

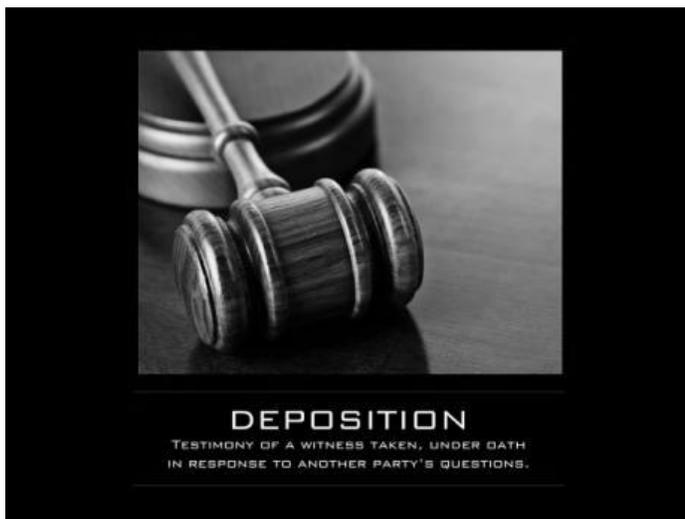
“I wasn’t in her house, is her brother attack me,” he said.

Walker’s bail was then extended for him to return to court on April 15.

Man sentenced for trespassing at UWI

By Rosheika Grant

The Star Online



An accused man's excuse of visiting the fastest man on earth, Usain Bolt, as his reason for trespassing was not enough for charges to be dropped when he appeared in the Corporate Area Resident Magistrate Court on Tuesday.

Neko James, who appeared with co-accused, Orlando Brown, pleaded guilty to trespassing on the grounds of the University of the West

Indies (UWI), Mona.

According to James, he was on his way to Bolt's training ground at the UWI Bowl when he was accosted by campus police.

"Bolt promised to help me with money for a passport, so I was going to collect it," explained the accused.

He also claimed that the triple Olympic champion had assisted him financially on previous occasions.

Senior Resident Magistrate Judith Pusey was not moved by the accused's claim.

"You breached UWI's laws, so Mr. Bolt's name can't help you here," she said.

James and Brown were fined \$5,000 each or 30 days behind bars.

EDITORIAL: JLP must bring change

BARBADOS NATION

FOR MOST BARBADIANS there was little interest in Thursday's general election in Jamaica that resulted in a change of government.

That general attitude would have prevailed across most of the Caribbean. The apparent divide is not one-way. It is more than perception that the Jamaica Labour Party (JLP), which won the election, has shown little interest in its neighbours to the south and has even been antagonistic in its rhetoric.

But Jamaica is a member of the Caribbean Community (CARICOM) and, as such, political developments there must be closely followed across the English-speaking Caribbean. The interlocking relationships are wide-ranging – from cricket to the University of the West Indies to the cultural industries.

The JLP has not been as embracing towards CARICOM and regional issues as has the losing People's National Party. So we have heard a lot of noise from within the JLP's ranks on matters related to access for Jamaican goods and people to the islands of the southern Caribbean. The party feels Jamaica has been hard done by.

Prime Minister-designate Andrew Holness will hardly have CARICOM and issues affecting the region high on his list of priorities. Managing the economy will dominate his focus as he will have to deliver on his promise of income tax reform and ensuring the existing economic reform programme endorsed by the International Monetary Fund continues on course.

The country's seemingly uncontrollable crime level will also require urgent attention. Getting the murder rate down from the staggering 1 100-plus recorded last year will require much more than talk. Jamaicans want positive results in this area.

So the politics in Jamaica will be very local, especially given the narrow margin the ruling party has in Parliament.

That is also why the matter of the Caribbean Court of Justice (CCJ) will not be a front-burner issue. The JLP is already hostile to the Trinidad-based regional court, so there should be little expectation of Jamaica moving to install the CCJ as its final court of appeal. However, there will be the mixed message of Jamaica continuing to use the court in its original jurisdiction.

Fortunately, Holness and his JLP administration can't become totally detached from CARICOM. There are some common issues that affect all members of the regional integration bloc. The vexing issue of the correspondent banking relationships, for example, is a serious threat to the entire English-speaking Caribbean. Of all the regional nations, Jamaica stands to be hardest hit, given the level of remittances to the country and its dependence on this area of income. The situation requires a united Caribbean. Jamaica cannot fight this matter alone.

Despite the political changes in Kingston, we do not expect a drop in the number of Jamaicans seeking better opportunities in the southern Caribbean; neither do we expect them getting anything other than the customary warm welcome. The change in attitude must come from the newly elected Jamaica Labour Party.

- See more at: <http://www.nationnews.com/nationnews/news/78359/editorial-jlp-bring-change#sthash.cedKCPhv.dpuf>

The End