

ST. CHRISTOPHER AND NEVIS

IN THE HIGH COURT OF JUSTICE

ST. CHRISTOPHER CIRCUIT

CLAIM NO. 74 OF 1999

BETWEEN:

CONSTANCE NICOLE MITCHAM

Claimant

and

THE ATTORNEY GENERAL
(of St. Christopher and Nevis)

Defendant

Mrs Marguerite Foreman for the claimant.

The Hon. Delano Bart, Attorney General and Mr Waydes Bardswell for the defendant.

2004: January 26, 28

DECISION

- [1] **BAPTISTE J:** - It is noted that Stephen Hector was not one of the witnesses listed by the defendant in his list of witnesses. No application was made pursuant to rule 11.6 of the CPR to amend the list of witnesses to include the said Stephen Hector.
- [2] Stephen Hector has no personal knowledge of the facts and cannot speak to whether any payments were made. Despite this, Waydes Bardswell clearly posits in his affidavit that the respondent owes the said amounts.
- [3] Further, the calculations based on the 1990 Bar Association Scale of Fees is highly prejudicial to the respondent. The Scale of Fees is only a recommendation and has no legal authority. The relevance of the fees must also be questioned as the alleged transactions started in 1981, 9 years before the date of the recommended Scale of Fees.

To my mind the revised amount is based on unverified allegations about what the respondent would have earned.

- [4] For the reasons advanced above the application of the defendant dated 9th January 2004 is dismissed.

Davidson Kelvin Baptiste
High Court Judge