

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**

CAUSE NO: 91 OF 2018

**In the Matter of Grand Court Rule, Order 55 rule 1 and Section 17 (2) of the Immigration Law**

**And in the Matter of The Appeal of Allan Patrick Williams under the Immigration Law (2012 Revision) and the Immigration Regulations (2010 Revision)**

**BETWEEN:**

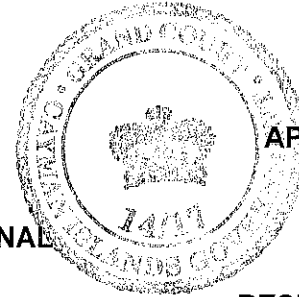
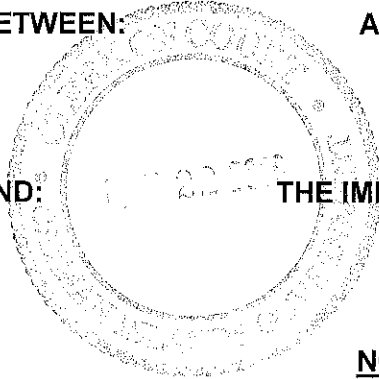
**ALLAN PATRICK WILLIAMS**

**AND:**

**THE IMMIGRATION APPEALS TRIBUNAL**

**APPELLANT**

**RESPONDENT**



**NOTICE OF ORIGINATING MOTION**

**TAKE NOTICE** that the Court at the Law Courts, George Town, Grand Cayman will be moved on at \_\_\_\_\_ or as soon thereafter as Counsel can be heard, by Counsel on behalf of Allan Patrick Williams ("Appellant") for the following relief:

1. That the decision of the Immigration Appeals Tribunal ("Respondent Tribunal") dated 16 April 2018 to refuse the Appellant's permanent residency application (the "Application") be set aside.
2. That the Appellant's permanent residency application be remitted for a rehearing to be listed on the next available date.
3. Such further and other relief that the Court deems fit.

**AND FURTHER TAKE NOTICE** that the grounds of this appeal are:

Having decided to conduct a *de novo* hearing of the Appellant's permanent residency application, the Respondent Tribunal considered the Appellant's application, awarded the Appellant 95.5 points

and refused his application. The Respondent Tribunal's decision should be set aside for the following reasons:

#### Factor 4: Financial Assessment

- 1.1 The Appellant provided evidence to the Respondent Tribunal demonstrating that his level of investment in the Islands relative to his financial means was very high. When calculating the points to be awarded under this heading, the Respondent Tribunal failed to apply the points criteria set out within Schedule 2 of the Regulations in a reasonable and rational manner which resulted in the Appellant receiving insufficient credit for his investment in the Islands relative to his financial means.

#### Factor 5: Funds & Salary

- 1.2 The Appellant provided evidence to the Respondent Tribunal demonstrating that he is in receipt of ample funds and salary to support both himself and his dependents. When calculating the points to be awarded under this heading, the Respondent Tribunal failed to apply the points criteria set out within Schedule 2 of the Regulations in a reasonable and rational manner which resulted in the Appellant receiving insufficient credit under this heading.

#### Factor 6: Contribution to the Community

- 1.3 The Appellant provided evidence to the Respondent Tribunal demonstrating his high level of involvement in the local community over an extended period of time. When calculating the points to be awarded under this heading, the Respondent Tribunal failed to apply the points criteria set out within Schedule 2 of the Regulations in a reasonable and rational manner which resulted in the Appellant receiving insufficient credit under this heading. Specifically, the Responded Tribunal:
  - 1.3.1 Failed to give the Appellant any credit whatsoever under this category save for giving him 6 points for the character references submitted; and

- 1.3.2 Either failed to give the Appellant any credit whatsoever for the Appellant's additional community involvement since his application was originally considered in 2013 and the *de novo* hearing in 2018; or
- 1.3.3 Reduced the score which had been given to him when his application was originally considered in 2013 without giving the Appellant an opportunity to be heard prior to such deduction being made (in clear breach of the principles of natural justice).

Factor 7: History & Culture Test

- 1.4 The Appellant was not offered the opportunity to take part in the History & Culture Test until 24 November 2017. He was, erroneously, required to take a test which was not in force at the time of his application. The Respondent Tribunal should have required the Appellant to take the 20 question History & Culture Test in force at the time of his application and not the more recent 40 question test which was subsequently introduced following the overhaul of the permanent residency scoring system at the end of 2013.
- 1.5 In respect of each ground of appeal set out above, the Appellant has requested the minutes of the Respondent Tribunal's decision making process in respect of his application. The Appellant reserves his right to add to these grounds of appeal should the Respondent Tribunal be unable or unwilling to disclose materials or other matters upon which its scoring decision was based or should the disclosure of such matters provide further grounds of appeal.

Dated the    day of May 2018

Filed the *2<sup>nd</sup>* day of May 2018

McGrath Tonner

McGrath Tonner

Attorneys at law for the Appellant

TO: The Clerk of the Court

AND TO: The Attorney General's Chambers  
Attorneys at law for the Respondent