

**Judgment 26/2009**

**E v E – Court of Appeal (Civil Appeal 369/397) –  
15.01.09 and 08.06.09**

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**Matrimonial Causes (Guernsey) Law, 1939 – application for leave to appeal to the Judicial Committee of the Privy Council from judgment given on 7 December 2007 – held that the appellants’ papers did not disclose a ground of appeal properly so called or material indicating the possibility of a relevant argument in Law – application refused (See Judgments 43/2007 and 31/2008)**

**IN THE COURT OF APPEAL OF THE ISLAND OF GUERNSEY**

**Civil 369/397**

**The** 8th day of June, 2009 before Geoffrey Robert Rowland, President, Sir Philip Bailhache and James Walker McNeill, QC

**E**

**Appellant**

**-v-**

**E**

**Respondent**

WHEREAS on the 15<sup>th</sup> day of January 2009 THE COURT refused an application by the Appellant for leave to appeal to Her Majesty in Council;

THE COURT upon the written request of the Appellant, ISSUED its reasons for the said refusal in the terms attached hereto: -

**K H TOUGH**  
Registrar of the Court of Appeal

IN THE COURT OF APPEAL OF THE ISLAND OF  
GUERNSEY

## CIVIL DIVISION

## Between

E (Appellant)

V

E (Respondent)

**Before:** Geoffrey Rowland, Bailiff of Guernsey, President  
Sir Philip Bailhache, Bailiff of Jersey  
James Walker McNeill QC

**Judgment**

1. In September and October 2008, the Appellant presented certain papers to HM Greffier for consideration by this Court. In those papers the Appellant indicated that he wished to appeal to the Privy Council against judgments pronounced by this Court in respect of litigation between the Appellant and his former wife regarding financial and property matters.
2. Those papers were considered by the members of this Court who had heard an appeal in these matters and given judgment dated 7 December 2007. The papers disclosed nothing which showed either a ground of appeal properly so called or material indicating the possibility of a relevant argument in law. We therefore unanimously agreed to refuse leave, which we did by order of 15 January 2009. We have been asked to state our reasons which we now do.
3. The provisions governing rights of appeal from the Guernsey Court of Appeal to the Privy Council are contained in Article 16 of the Court of Appeal (Guernsey) Law, 1961. It provides, so far as material, "No appeal shall lie from a decision of the Court of Appeal without... the leave of the Court of Appeal except when the matter in dispute is equal to, or exceeds the sum of five hundred pounds sterling." The financial limit is exceeded here.
4. There is no express provision in Article 16 as to a requirement of form or content in respect of a proposed appeal at the time of application to this Court. However, it is our view that, in the interests of justice, an application for leave must be made with some measure of supporting argument or documentation indicating that there is indeed being stated an application for appeal. Otherwise there will ensue not only wasted judicial and administrative time; there will also be lack of certainty for the other litigants and any others interested in rights declared by these Courts as regards the particular litigants.
5. In most instances it will be manifest from the substantive arguments on the appeal to this Court that those arguments or variations on them will be intended to form the appeal to Her Majesty in Council. In the present matter, as we have indicated, we were not able to discern any such potential basis.
6. We should record that we are aware that the Appellant also seeks leave to appeal to Her Majesty in Council from the decision of a differently constituted Court of Appeal given on 17 September 2008.

5 June 2009