

JAMAICA

IN THE COURT OF APPEAL

**BEFORE: THE HON MISS JUSTICE STRAW JA
THE HON MRS JUSTICE FOSTER-PUSEY JA
THE HON MRS JUSTICE V HARRIS JA**

PARISH COURT CIVIL APPEAL COA2021PCCV00036

BETWEEN	CHRISTOPHER BROWN	APPELLANT
AND	RICARDO DAVIS	1ST RESPONDENT
AND	PHABIAN CLARKE	2ND RESPONDENT

John Clark instructed by Bignall Law for the appellant

21 March 2024

Endorsement read by V Harris JA

[1] Having considered the submissions of counsel and the material before us, we find that the learned judge of the Parish Court, Her Honour Mrs Mitsy Beaumont-Daley, erred when she failed to follow the procedure prescribed by section 186 of the Judicature (Parish Courts) Act and embarked upon a hearing in default of the respondents' appearance in the cause of this matter without first ascertaining whether there was proper service of the summons on the insurers of the 1st respondent's motor car. As a result, the order made by the learned judge of the Parish Court, in those circumstances, that "By default, Plaintiff is non-suited", cannot stand. We, therefore, order as follows:

1. The appeal is allowed.
2. The order of Her Honour Mrs Mitsy Beaumont-Daley, Judge of the Parish Court for the Corporate Area (Civil Division), made on 1 March 2021, is set aside.

3. The matter is remitted to the Parish Court for the Corporate Area (Civil Division) for the summons to plaint number 3539/17 to be re-issued.
4. In keeping with sections 256 and 260 of the Judicature (Parish Courts) Act, the sums paid for the due prosecution of the appeal and security of costs of the appeal are to be refunded to the appellant.
5. No order as to costs.