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**NOTICE TO PARTIES OF THE COURT'S  
MEMORANDUM OF REASONS FOR JUDGMENT**

**SUPREME COURT CIVIL APPEAL NO 138 OF 2007**

**APPLICATION NO COA2026APP00036**

<b>BETWEEN</b>	<b>DAVID BROWN</b>	<b>APPELLANT</b>
<b>AND</b>	<b>GARFIELD VASSELL</b>	<b>1<sup>ST</sup> RESPONDENT</b>
<b>AND</b>	<b>JISCO ALPART JAMAICA (FORMERLY ALUMINA PARTNERS OF JAMAICA)</b>	<b>2<sup>ND</sup> RESPONDENT</b>

**TAKE NOTICE** that this matter was heard by the Hon Mrs Justice McDonald-Bishop P, the Hon Mr Justice Laing JA and the Hon Mrs Justice G Fraser JA on 16 February 2026, with no appearance by or on behalf of the appellant, and Walter Scott KC and Ms Anna Gracie instructed by Ms Michaelene Lattore appearing for the respondents.

**TAKE FURTHER NOTICE** that the court's memorandum of reasons as delivered orally in open court by the Hon Mrs Justice McDonald-Bishop P is as follows:

[1] This is an application filed on 9 February 2026 by the respondents, Garfield Vassell and JISCO Alpart Jamaica, to strike out the notice and grounds of appeal filed by the appellant, David Brown, on 18 December 2007.

[2] The court has considered the respondents' notice of application, affidavit in support, and written submissions. The court notes that no submissions or evidence in

response were filed on behalf of the appellant. We are guided by the principles enunciated in the authorities, particularly the cases relied on by the respondents (**The Commissioner of Lands v Homeaway Foods Limited and another** [2016] JMCA Civ 21 and **Skyrock Capital Limited v Minett Lawrence and another** [2025] JMCA App 22). We have paid due regard to the principle that striking out a notice of appeal is a draconian measure, and accordingly, one of last resort. Having utilised that principle as the starting point, we are satisfied that the preconditions for striking out the appeal are fully satisfied in this case. Therefore, the application to strike should be granted.

[3] The court considers that there has been flagrant non-compliance with the requirements for the prosecution of civil appeals under the Court of Appeals Rules, 2002 ('CAR'), and this court's case management orders. We note, in particular, that the appellant has failed to file skeleton arguments and a written chronology of events in accordance with rules 2.6(2) and 2.6(5) of the CAR; as well as written submissions in support of the appeal in accordance with the case management orders made by Straw and V Harris JJA, on 22 May 2023 and 8 February 2024, respectively. The appellant has not sought to advance any excuse or file an application for an extension of time to remedy the years-long non-compliance. Accordingly, this is a suitable case for the court to exercise its discretion to strike out the notice of appeal for breach of the rules and orders of this court.

[4] Finally, we note that the appellant filed a notice of discontinuance some minutes before the hearing of the respondents' notice of application to strike was scheduled to commence. We construed this document as intending to be a notice of withdrawal of appeal pursuant to rule 2.18(1) of the CAR. However, there is no proof of service of the notice on counsel for the respondents, in accordance with rule 2.18(3). We therefore consider that the notice was of no legal effect because it was not served in accordance with the rules of court.

[5] Accordingly, the court makes the following orders:

1. The respondents' application to strike out the notice and grounds of appeal filed on 18 December 2007 is granted.
2. The appeal is struck out.
3. Costs of the application and appeal to the respondents to be taxed if not agreed.
4. The notice of discontinuance filed on 16 February 2026, having not been served on the respondents, is of no legal effect.