

ROYAL COURT
(Samedi Division)

103.

5th June, 1996

Before: The Deputy Bailiff, sitting alone.

Between	Rex Robert Wright	Plaintiff
And	(1) Rockway Limited (2) Adam Lisowski (3) Brian Thorn (4) G. Garments Limited	Defendants

Application by the Plaintiff under Rule 6/18(1) of the
Royal Court Rules 1992, as amended, for leave to adduce
evidence on liability, by Affidavit
rather than *viva voce*.
(See Jersey Unreported Judgment of 23rd May, 1996.)

Advocate R.J.Michel for the Plaintiff
The First Defendant did not appear and was not represented.

JUDGMENT

THE DEPUTY BAILIFF: This is an adjourned hearing from 23rd May, 1996, when we left the matter over for the Viscount to ascertain from the judicial authorities in New Zealand as to whether a video link facility existed.

5

Advocate Michel has, however, brought to our attention the case of J. Barber & Sons -v- Lloyds Underwriters & Ors. (1986) 3 WLR 515 which makes it clear that as this Court (being the requesting Court) has no power under its rules to video evidence it is not right to request the receiving Court - that is the Court in New Zealand - to do something which this Court cannot do

10

itself. The matter goes a little further, in fact, because the Viscount has kindly reported back to us that he has not been able to obtain any helpful information from the relevant authorities in New Zealand and even Advocate Michel, through his New Zealand professional client, has told us that all that might be achieved in New Zealand is for the Plaintiff to be seen on video reading his affidavit.

That is not at all what we envisaged and in those circumstances it seems to us that we can now look at the matter afresh having explored one avenue which was open to us and which has now apparently closed. In exploring the matter afresh it seems to us that the Defendants, having had notice of matters all along the line of this litigation and having failed to appear have only themselves to blame. Therefore, on 10th June, Mr. Michel, we will allow your client's evidence to be given on affidavit.

Authorities

J. Barber & Sons -v- Lloyds Underwriters & Ors. (1986) 3 WLR 515.