

ROYAL COURT
(Samedi Division)

190

6th October, 1997

Before: F.C. Hamon Esq., Deputy Bailiff, and
Jurats Bonn and Gruchy.

Between:	David Dixon	First Plaintiff
And:	Miss Jane Richardson	Second Plaintiff
And:	Reeb Investments Limited	Third Plaintiff
And:	Jefferson Seal Limited	Defendant

An application by the Defendant to pay monies, in satisfaction of the Order of 30th July, 1997,
into Court pending determination of an appeal against the said Order of 30th July, 1997.

Advocate N.M.C. Santos Costa for the Plaintiffs.
Advocate A.D. Hoy for the Defendant.

JUDGMENT

5 THE DEPUTY BAILIFF: The three Plaintiffs succeeded in their action against
the Defendant. The appeal against that judgment will be heard on 12th,
13th and 14th January, 1998. Because the awards are very substantial,
Mr. Hoy had applied by summons for a stay. Then, by letter sent by
facsimile transmission to Mr. O'Connell on 3rd October, 1997, he said
this:

10 *"I have grown to accept that I cannot cogently argue that
execution of the above judgments will render January's appeal
nugatory.*

I will therefore withdraw my Summons".

15 That is surprising enough, but he now tries to impose terms on a
withdrawn summons. He wants the monies to be held in escrow pending the
Court of Appeal's decision.

20 As long ago as 1886 in the well-known case of The Annot Lyle (1886)
11P. 114P. p.116 C.A., the English Court said this:

*"The Court does not make a practice of depriving a successful
litigant of the fruits of his litigation and locking up funds
to which, prima facie, he is entitled, pending an appeal".*

25 No reason of any cogency has been brought to our attention which
would allow us to exercise a discretion to lock up funds of this nature.

Two of the Plaintiffs, Mr. Dixon and Mrs. Beer, whose alter ego is Reeb Investments Limited, are *fondés en héritage*. Miss Richardson, as we heard, has lived with Mr. Dixon for upwards of twenty years and they are all persons of means. Indeed, Reeb Investments Limited was awarded indemnity costs at the end of trial.

Mr. Hoy says that it may be difficult to produce the monies within thirty days. So be it. We order that payment shall be made today, but if it is not made today then it shall be paid not later than thirty days from this date. Interest will accrue on a day to day basis at 3% over LIBOR until settlement is made. We should add that judgment is given with permission to sell. Costs of and incidental to this afternoon's hearing are on an indemnity basis.

Authorities

RSC (1997 Ed'n) O.59 r.13.