

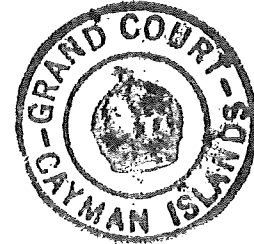
IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

Cause No. FSD 58 of 2012 - PCJ

Before the Honourable Mr Justice Cresswell  
Sitting on 9 and 10 August 2012

BETWEEN:

- (1) CESAR HOTELCO (CAYMAN) LTD
- (2) CESAR PROPERTIES LTD
- (3) CONDOCO GRAND CAYMAN RESORT LTD
- (4) CONDOCO PROPERTIES LTD
- (5) ENDLESS SEVICE LTD



Plaintiffs

and

- (1) MICHAEL RYAN
- (2) ORION DEVELOPERS LTD
- (3) DECKHOUSES CONSTRUCTION COMPANY LTD
- (4) IRR LIMITED
- (5) ENDLESS SERVICE MANAGEMENT LTD
- (6) BLUETIP WATERSPORTS LTD

Defendants

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ORDER

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UPON hearing the Defendants' Summons dated 1 August 2012 seeking Security for Costs (the "Security for Costs Application") or, in the alternative, an advanced payment to the First Defendant by way of an indemnity (the "Advanced Payment of Costs Application")

AND UPON hearing the Summons of the Plaintiffs dated 1 August 2012 seeking an account to be taken pursuant to GCR, Order 43, rule 2 of all money belonging to the Plaintiffs that has come into the hands of the Defendants, or received by any other person on behalf of the Defendants, and that all necessary inquiries and directions be taken and made (the "Application for an Account").

AND UPON hearing Mr Hector Robinson for the Plaintiffs and Mr Ian Huskisson for the Defendants;

AND UPON reading the First Affidavit of Keith Blake dated 29 June 2012, the First Affidavit of Cathy Canada dated 29 June 2012, the First Affidavit of Timothy Derksen dated 29 June 2012, the First, Second, Third, and Fourth Affidavits of Michael Ryan dated 3 July 2012, 9 July 2012, 9 July 2012, and 1 August 2012 respectively, and the First Affidavit of Alexander Lawson dated 7 August 2012;

IT IS HEREBY ORDERED THAT:

1. The Defendants' Security for Costs Application is refused.
2. The Defendants' Advanced Payment of Costs Application is refused.
3. The Defendants pay the Plaintiffs' costs of the Security for Costs Application and Advanced Payment of Costs Application in any event.
4. Leave to appeal the decisions recorded in paragraphs 1, 2 and 3 above is also refused.
5. The Plaintiffs pay the Defendants' costs of the Application for an Account to the date of this Order in any event.
6. The Defendants' attorneys to write to the Plaintiffs' attorneys in response to Mourant Ozannes' 8 August 2012 letter regarding disclosure, by Friday, 17 August 2012.
7. Any applications for further discovery to be issued by the Plaintiffs or the Defendants by 31 August 2012.
8. Time for compliance with paragraph 11 of the order for directions of 13 July 2012 (validity of appointment) be extended to 17 August 2012.
9. Further directions as to witness statements and expert evidence to be deferred until after any application for leave to Re-Amend the Statement of Claim has been determined.



10. Any draft Re-Amended Statement of Claim be served by 28 August 2012, with an application for leave to re-amend (if necessary) to be heard as soon as practicable thereafter, if necessary, by video link.
11. The Case Memorandum to be updated by 31 August 2012 to include:
  - a. deletion of issue 10.6 in the current draft;
  - b. reference to change of attorneys;
  - c. reference to related litigation;
  - d. references to the background matters set out in paragraphs 7 to 15 of the Statement of Claim to the extent that these are not already covered;
  - e. a more detailed description of the group of which the Plaintiffs and Defendant companies form part with a second full diagram of the group;
  - f. reference to this order and other steps in the litigation; and
  - g. a general update of the entire document.
12. A protocol to be agreed as far as practicable by 31 August 2012 for the exchange of information between the KPMG team and Deloitte, such Protocol to have regard to the overriding objective.
13. Any renewed application for an account to be notified by 14 September 2012.
14. Any witness statements in relation to the preliminary issue as to whether the Receivers were validly appointed in terms of the Registered Land Law (2004 Revision) (the "Preliminary Issue") or any renewed application for an account to be served by 21 September 2012.
15. The hearing dates fixed between 29 October and 7 November (subject to any further directions) to be used for:
  - a. a trial of the Preliminary Issue; and



- b. any renewed application by the Plaintiffs for an account (should such an application be made).

Dated 14<sup>th</sup> August 2012

Filed 31<sup>st</sup> August 2012

*Cresswell J*

**The Honourable Justice Cresswell**  
Judge of the Grand Court



This Order was filed by Mourant Ozannes, Attorneys at Law for the Plaintiffs, whose address for service is 94 Solaris Avenue, Camana Bay, PO Box 1348, Grand Cayman KY1-1108 (ref: 8000486/55709310/1).

Agreed as to form and content:

*Mourant Ozannes*

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Mourant Ozannes  
Attorneys for the Plaintiffs

*Thorp Alberga*

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Thorp Alberga  
Attorneys for the Defendants

