

**IN THE SUPREME COURT OF TONGA
CIVIL JURISDICTION
NUKU'ALOFA REGISTRY**

CV 68 of 2014

BETWEEN: RICHARD RAY MANCEAU

- **Plaintiff**

AND: ENDANGERED ENCOUNTERS LIMITED

- **First Defendant**

BRENDA COX A.K.A. BRENDA MANCEAU

- **Third Party**

Hearing : 13 July 2015

**Appearances: Mrs. D Stephenson for the plaintiff
Mr. L Niu SC for the defendant**

RULING

[1] The plaintiff has applied for interim injunctive orders. Scott CJ made an interim order on an ex parte basis in terms of paragraph 1 of the notice of application on 8 September 2014. He adjourned the applications 2, 3, 4 and 5 in the notice of application for a hearing

inter-partes. When the case came before me I was advised that only applications 3 and 5 remain in dispute.

- [3] The plaintiff's claim is for recovery of a debt said to be owing by the first defendant under a promissory note and for recovery of assets that the plaintiff says were provided as security for the payment of the debt. The defendants dispute the existence of the debt and say that the first defendant never consented to the promissory note (or indeed knew of it) and that the promissory note is a fraud on the company and illegal.
- [4] By application 3 the plaintiff seeks an order for disclosure of the first defendant's bank account statements and in application 5 the plaintiff seeks an order that the plaintiff be added as a co-signatory on the first defendant's bank accounts.
- [5] After discussion with Counsel I ruled that I would not make any orders in respect of applications 3 and 5 for the following reasons. In respect of application 3, this can be more appropriately dealt with by way of a discovery order in the ordinary way. In relation to application 5, the plaintiff is already protected for payment to a considerable extent by the order made by Scott CJ on 8 September 2014. The plaintiff has no right in law to be a signatory to the first defendant's bank accounts and Counsel was not able to refer me to any authority to justify such an order, which would amount to a significant and unjustifiable intrusion on the business activities of the first defendant.

[6] Looking forward, Mrs. Stephenson raised the possibility of the parties attending mediation but Mr. Niu said his clients do not wish to attend mediation. In those circumstances I need to make timetable directions. I am told that the plaintiff seeks further particulars of the defence. It also appears that this is a case that would benefit from tailored discovery orders being made. After discussing these matters with Counsel I direct by consent:

[6.1] The plaintiff is to file and serve a notice requiring further particulars of the defence by 27 July 2015.

[6.2] The defendants are to file their response to the request for further particulars by 10 August 2015.

[6.3] The plaintiff is to file a memorandum setting out what orders he seeks by way of discovery by 24 August 2015.

[6.4] The defendants are to file a memorandum in reply setting out their response to the plaintiff's proposed discovery orders by 7 September 2015.

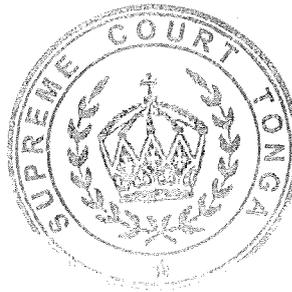
[6.5] The case is to be called before me in Chambers on 9 September 2015 at 9am at which time I will make discovery orders and such further timetabling directions as are required.

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- [7] I dismiss applications 2 to 7 of the plaintiff's application for injunction on the basis that those applications have either been resolved by agreement or have been dealt with in this ruling.
- [8] I reserve costs on the plaintiff's injunction application.
- [9] I note that order 1 made by Scott CJ on 8 September 2014 remains extant. I was not asked by Counsel to review that order and do not do so.

NUKU'ALOFA: 13 JULY 2015.



A handwritten signature in black ink, appearing to read "O.G. Paulsen".

**O.G. Paulsen
CHIEF JUSTICE**