

IN THE SUPREME COURT OF BELIZE, A.D. 2008

CLAIM NO. 413 OF 2006

**(KARL R. RENZ III
(CONTINENTAL HELICOPTERS, INC.
(WAYNE MACAULEY
(ATLANTIS HELICOPTERS DE MEXICO
(S.A. DEC. V.**

CLAIMANTS

BETWEEN(AND

**(
(ERROL C. PRATT doing business as
TOUCAN HELICOPTER COMPANY
(TOUCAN HELICOPTER COMPANY
(LIMITED**

DEFENDANTS

*Mr. Fred Lumor, S.C. for Claimants
Mr. Hubert Elrington for Defendants*

14 November 2007

R U L I N G

Security for costs – application – requirements of Rule 24.3 CPR – fair and just amount – factors to be taken into account

Muria J: The defendants in this case seek an order of security for costs to be paid by the Claimants. The defendants asked for the sum of US\$50,000.00 which the Claimants refused to accept. Instead the Claimants counter-offer in the sum of BZ\$10,000.00, an offer which the defendants flatly rejected.

In order for the Court to grant an order of security for costs, the defendants have to satisfy the Court of the requirements of Rule 24.3 CPR. To do so, the defendants

have to do two things: First, they have to satisfy the Court that in the circumstances of the case, it is just to order security for costs; and second, to show that one or more of the conditions stated in that provision is or are present.

In the present case, I am satisfied that the requirements of Rule 24.3 CPR have been fulfilled, both on the materials before the Court and in the light of the Claimants' apparent concession to pay only \$10,000.00 BZD as security for costs. Having got over that hurdle, the next question is to determine the quantum of security for costs.

In order to arrive at a fair and just amount as security for costs, the Court can take into account factors such as the amount of the claim or counter-claim involved, any projected bill of costs involved (this is the estimated legal costs and disbursements), the length of trial, the potential complexity of the case, the need for bringing in witnesses from outside of the jurisdiction and the fact that the Claimant(s) is residence abroad. These factors are necessary to assist the Court in assessing the quantum of security for costs.

In the present case, the basis for seeking the amount of \$50,000.00 USD, is set out in the document attached to affidavit of Errol C. Pratt filed in support of the application. This includes, legal fees of about US\$5,000.00 for attorneys in Belize, US\$5,000.00 for consultation and advice obtained from attorney in United States, and US\$7,000.00 in trips to an from United States. These estimated costs do suggest that a counter-offer of BZ\$10,000.00 is inadequate as security for costs in this case. At the same time, they also demonstrate that the amount of US\$50,000.00 would be far too high as security for costs in this particular case.

Doing the best I can in the circumstances of this case, I come to the conclusion that the fair and just amount to be ordered as security for costs is one of BZ\$40,000.00.

Accordingly, I order that the Claimants pay the sum of BZ\$40,000.00 as security for costs. As a condition for the Claimants proceeding with their claim on the date set for trial of this matter, the said amount as security for costs must be paid before that date i.e. 26 February 2008. Failure to do so, the Claimants claim shall be stayed.

Order:

1. The Claimants to pay the sum of BZ\$40,000.00 as security for costs in this matter before the date set for trial of this claim i.e. 26 February 2008 into court.
2. Failure to pay security for costs as ordered, the proceedings are to be stayed.
3. Each party to bear its own costs of this application.

(Hon Justice Sir John Muria)