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ROYAL COURT

5th July, 1989

Before: The Bailiff and
Jurats Lucas and Le Boutillier

Between:	Channel Island Ferries Ltd	First Plaintiff
	British Channel Island Ferries Ltd	Second Plaintiff
And:	Robert Melville Norris	First Defendant
	Roy Barnett	Second Defendant
	Transportation Limited	Third Defendant
	Mainland Market Deliveries Limited	Fourth Defendant

Interlocutory application by the defendants
seeking (1) to stay the proceedings and/or (2)
an extension of time in relation to an
"unless order" made in respect
of the third defendant.

Advocate J.G. White for the plaintiffs
Advocate R.J. Michel for the defendants.

JUDGMENT

THE BAILIFF: There are three actions pending between the parties to the present summons, with two of which we are not concerned. The third action, between the plaintiffs, Channel Island Ferries Ltd and British Channel Island Ferries Ltd and the defendants, Mr. Robert Melville Norris, Mr. Roy Barnett, Transportation Limited and Mainland Market Deliveries Limited, contains allegations of improper conduct. Transportation Limited is a Jersey Company and was therefore served in the usual way; the Order of Justice was returnable in this Court against Transportation Limited on the 19th May this year and the matter was placed on the pending list. However, the other defendants are out of the jurisdiction and orders were obtained for service on Mr. Michel representing them. Against these defendants, the matter was returnable, so we are told, on the 16th June, 1989.

However, an application was granted, at the request of Transportation Limited, for further time within which to file an answer; it was an "unless order" which expires on the 7th July, 1989. Mr. White has given notice that he intends to apply for judgment under Rule 6/7(5) of the Royal Court Rules, 1982, if the order is not complied with.

The application today is for a stay of any further proceedings until the 11th and 12th October, 1989, (when the main thrust of the summons, that is to say that no cause of action is disclosed or that even if some is, that certain paragraphs, if not the whole of the Order of Justice, should be struck out) is to be heard.

We think it is just fortuitous that it is necessary for a stay application to be brought this morning and for a further extension to be sought on behalf of Transportation Limited merely because it has not been possible to find a very early date (by very early date I mean one early next week) for the hearing of the main thrust of the summons. Had an early date been obtained, Mr. White was frank enough to say that he would not have pursued his objections to the present application with such force.

It seems to us that if there is no cause of action it is wasteful to require detailed pleadings to be submitted. We are told that such pleadings are in the course of being drafted and are very voluminous which we can well believe. We think that no prejudice is caused to Mr. White's clients if we

were to grant the present application. If in due course we find the action to be ill-founded then his clients can be compensated in costs. We might, of course, find for the plaintiffs, in which case one does not know what the award of costs would be, however, we cannot find that there will be any great prejudice. We are told that the facts which gave rise to the present litigation arose in September or October, 1988, and that the proceedings were started by Mr. White's clients some seven to eight months later, whereas the proceedings in respect of the other two actions were started by Mr. Michel's clients sometime in January, 1989. We therefore do not think that the question of delay comes into it. We are quite conscious of what the White Book says but we think that justice requires us to grant the application this morning.

Therefore, there will be a further time within which Transportation Limited has to file its answer, until the Court sits to hear the main summons, or until it gives judgment in that summons, whichever is the later. Secondly, no steps in the present action are to be taken until the Court sits, or until it gives its judgment. As far as costs are concerned, they will be in the cause.

(indistinct application by Advocate White for leave to appeal against the above order).

THE BAILIFF: Mr. White, leave to appeal is refused.

Authorities referred to:

The White Book (1988 edition) - Order 3/5(5) re. extensions of time where 'unless' or conditional orders have been made.