

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO. 43<sup>5</sup> OF 2006



BETWEEN:

EARLE WILSON

Claimant

and

STEPHANIE WILSON

Defendant

**Appearances:**

Mr. S. Commissiong for the Claimant

Ms. N. Sylvester for the Defendant

**RULING ON COSTS**

This matter was fixed for hearing on July 2 and 3, 2007. On that day (see page 108 of this notebook) the Claimant and his witness together with his Counsel were present. Miss Sylvester did not appear but Miss Mayers holding papers for her requested an adjournment on the ground that Miss Sylvester was at the Assizes.

Mr. Commissiong spoke of the difficulties encountered by the Claimant and his witness to get here and he was asking for costs to be argued when Miss Sylvester was available.

It was ordered that September 24 would be set aside to argue the issue of costs. On September 24 the Court heard that the Defendant had just or was in the process of filing an affidavit in response to the affidavit of the Claimant filed 31<sup>st</sup> August 2007. Counsel for the Claimant said he wished time to respond to the affidavit.

I note that as early as July 2 it was made known to the Parties that the matter would be heard of September 24<sup>th</sup>, yet it was that very morning that an affidavit was filed on behalf of the Defendant.

The matter was then adjourned to October 4 (see pages 128 – 130 of notebook.)

At the hearing the Court was informed that Counsel had been speaking to each other on June 26, 2007 and possibly a couple of days before.

Counsel for the Defendant resisted costs on two grounds:

- (1) that she had been engaged in the Assizes and
- (2) the sudden illness of the Defendant only which was communicated to her on June 26, 2007.

The fact of the Assizes must have been known to the Defendant and her witness long before the date of the hearing of the matter set for July 2, 2007 and it was on that very day that the Defendant chose to apply for an adjournment after the matter was called.

The letter dated 26 June 2007 written to Miss Sylvester by the Defendant's witness Stephanie Browne does not indicate any sudden illness as contained in the affidavit of Shanet Small but even if that was the case, it did not excuse the absence of the Defendant who lives on Union Island in the State of St. Vincent and the Grenadines.

The trial could have started and adjourned later to accommodate Miss Browne. The Claimant had legitimately taken steps to be present in the country for the trial date before it was possible to alert him of the adjournment necessitated by the Defendant and her counsel and is entitled to his costs I saw the list of expenses submitted on behalf of the Claimant.

I grant the Claimant costs in the amount of \$3,000.00.



Albert N.J. Matthew  
HIGH COURT JUDGE

February 15, 2008