

THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
FEDERATION OF SAINT CHRISTOPHER AND NEVIS  
ST. CHRISTOPHER CIRCUIT  
(CIVIL)

SKBHCV 2009/0208

REGISTRAR OF INSURANCE

Claimant

V

BRITISH AMERICAN INSURANCE CO. LTD  
(under Judicial Management)

Defendant

**Appearing:** Ms. Tashna Powell Williams for the Registrar of Insurance  
Mr. Anthony Gonsalves for the Judicial Manager  
Ms. Elizabeth Harper for the Intervening Applicants

DECISION

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2009: November 20<sup>th</sup> –30<sup>th</sup>

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- [1] **BELLE J:** Two applications have been made to intervene in the matter of British American Insurance Co Ltd (under Judicial Management). The applications are dealt with jointly. The Applicants are husband and wife Mark and Sharon Brantley. The applicants claim that they have filed Claims NEVHCV2009/0096, NEVHCV2009/0093, NEVHCV2009/0094 and NEVHCV2009/0095, respectively against the Defendant Company and are entitled to enter judgment but have not been permitted to do so because of the Order of this court dated July 31<sup>st</sup> 2009 in which the court ordered that

all actions and the execution of all writs, summonses and other processes against the Respondent having been stayed upon application herein for judicial management by virtue of section 62(4) of the Insurance Act 2009, (the Act), (and) the same shall not be proceeded with, without the prior leave of the Court herein.

- [2] Section 62 of the Act assists in any effort to comprehend the policy behind the Act. That section provides a regulatory scheme for managing the affairs of an insurance company, which has run into problems that may threaten the value of the financial instruments, which it holds on the behalf of various clients. The section reads as follows:

**“The Registrar may apply to the court for an order that a registered insurance company or any part of the business of a registered insurance company be placed under judicial management where after exercising the power of intervention under section 57 (1), he or she is of the opinion that it is necessary or proper to apply for such an order.**

**A registered insurance company may after giving the Registrar one month’s notice in writing of its intention so to do apply to the court for an order for such an order that it or any part of its business be placed under judicial management.**

**The registered insurance company and the Registrar are both entitled to be heard on any application made to the court for an order under this section.**

**Where an application is made under this section for an order in respect of a registered insurance company all actions and the execution of all writs summonses and other processes against the insurance company shall by virtue of this section shall be stayed and shall not be proceeded with, without the prior leave of the court unless the court directs otherwise.”**

- [3] It is clearly the policy of the Act that where the application is where the application is made pursuant to section 62 (4) of the Act, actions and writs etcetera against the insurance company shall not be proceeded with without the leave of the court.
- [4] The application pursuant to section 62 (4) was filed on 29<sup>th</sup> July 2009. The Brantley's filed their claims in June of 2009 and asked for judgment to be entered on 15<sup>th</sup> July 2009. The court is of the view that the Judgment ought to have been and should be entered in accordance with Part 12 of the CPR 2000. However any action pursuant to the entry of judgment will clearly be caught by the filing of the application and the imposition of a stay of proceedings under the Act.
- [5] The policy of the Act is that at this time the insurance company is permitted to take these steps to protect itself policyholders and other customers of the insurance company. The stay provides a certain kind of protection. The entry of judgment presents no real danger to the Judicial Management since it is nothing more than formal notice to the entire world that British American has failed to contest the debts in these cases. For the record those judgments should be entered.
- [6] Hereafter the Brantleys will have to apply for permission to take any further action pursuant to their judgments since any such process would have commenced long after the application for judicial management was filed.

[7] Accordingly I order as follows:

- (1) the Applicants are granted leave to intervene in these judicial management proceedings.
- (2) the applicants are also granted leave to enter judgment against the Defendant insurance company.
- (3) Pursuant to section 62 (4) of the Act all other processes in the Brantleys' claim SKBHCV 2009/0096, SKBHCV2009/009, SKBHCV2009/0094 and SKBHCV2009/0095 are stayed.

**Francis H V Belle  
HIGH COURT JUDGE**