

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

CLAIM NO. GDAHCV2009/0137

BETWEEN:

STEPHEN DE COTEAU

Claimant

AND

NEW YORK'S FINEST BAGLES INC

Defendant

Appearances:

Mr. Dwight Horsford for the Claimant

Ms. Shireen Wilkinson for the Defendant

2009: July 2
August 28

JUDGMENT

- [1] This application appeared to have been forgotten along the way. It was a simple application made by Notice since 25th May 2009 and which came before this Court for hearing on 2nd July 2009 and I indicated to Counsel at the time that I wanted to read over the relevant part of the CPR and would shortly render a decision.
- [2] Somehow this was forgotten and it was not until after the end of the term when I was reviewing my notebook that I realized that there was a pending decision in this matter.
- [3] The application before the Court is an application by the Defendant for an extension of time to file a Defence in the suit and for relief from sanctions, although the application for an extension was filed before the time for filing of the Defence had expired.

- [4] The application is supported by an affidavit of Tahira Mc Burnie - a Legal Secretary employed at the firm of Wilkinson, Wilkinson & Wilkinson, Attorneys-at-Law for the Defendant - who deposes to the fact that the Defendant's principal resides in the United States of America and that it was taking some time to get from him all of the required information in order to properly prepare a Defence, and so an extension of time was necessary.
- {5] The application was opposed by Counsel for the Claimant, who sought instead to have judgment entered against the Defendant for its failure to file and serve a Defence, which would have been overdue by the time the application was heard on 2nd July.
- [6] All things considered, the justice of this case will be best served by allowing the Defendant an opportunity to file and serve a Defence in this matter so that the case can be determined on its merits.
- [7] The Defendant is accordingly granted an extension of time until 28th September 2009 – one month from today – to file and serve a Defence in this matter and relief is granted from any sanctions arising from the failure to file a Defence at the time that it was originally due.
- [8] It is also ordered, by virtue of the Court's powers under Rule 26.1 (2) (w) of the CPR, that any error in the numbering of the documents filed in this case be corrected so that the matter can proceed to trial with the file in tact.
- [9] The Defendant is ordered to pay the Claimant's costs for this application in the sum of \$500.

Mario Michel
High Court Judge (Ag.)