

ROYAL COURT

8th March, 1988

Before: Commissioner P.R. Le Cras,  
sitting as a Single Judge

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| BETWEEN | <b>Sarum Hotel Limited</b>              | PLAINTIFF        |
| AND     | <b>Select Agencies (Jersey) Limited</b> | FIRST DEFENDANT  |
| AND     | <b>Barry Shelton</b>                    | SECOND DEFENDANT |

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Application by the First and Second Defendants  
to stay an adjudication made by the  
Judicial Greffier in respect of interest payable  
pursuant to the second paragraph of the  
Judgment of the Court given on the 26th November,  
1987, pending the outcome of an appeal

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Advocate M.M.G. Voisin on behalf of the Applicants  
Advocate J.A. Clyde-Smith on behalf of the Respondent

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**JUDGMENT**

COMMISSIONER LE CRAS: The application today by the defendants is for an order that, following adjudication by the Judicial Greffier on the interest due pursuant to the second paragraph of the Judgment of the Court given on the 26th day of November, 1987, payment of such interest be deferred pending the

outcome of the appeal lodged by the first defendant in respect of the said Judgment. There is no request for an order for a payment into Court of the interest. Counsel has referred the Court to the practice in England in these matters and it is clear that an application of this nature is within the discretion of the Court. The amendment in which this discretion is exercised in the English Courts is discussed and laid down in Orders 59 13/1, and 59 13/2 of the R.S.C. No evidence has been produced to the Court that the payment of the interest as ordered is likely to render the appeal nugatory and no reasonable probability has been shown of any likely failure by the defendants to recover the money should their appeal succeed. So far as the financial standing of the plaintiff is concerned, its counsel gave certain information to the Court and advised the Court that he had his evidence available, to prove if required, but in the circumstances he was not challenged on the facts he set out relating to the financial stability of the plaintiff.

In these circumstances the Court has no hesitation in refusing the summons and it is therefore struck out; the applicants to pay the respondent's taxed costs.

AUTHORITIES CITED

Bloor -v- Liverpool Derricking, Volume 3 1986 All E.R. Rep.

Barker -v- Lavery (1885) 14 Q.B.D. 769.

\* R.S.C. O.59, 13/1 and 2.

\* referred to in the Judgment.