

In the Royal Court of Jersey

In the year one thousand nine hundred and eighty-eight, the fifteenth day of March.

Before the Deputy Judicial Greffier.

BETWEEN	Martin John Ruston	PLAINTIFF
AND	Harry Mason	DEFENDANT
AND	Le Gallais & Luce (a firm)	PARTY CITED

It is the usual practice of Jersey Courts as in England to make a foreign plaintiff give security for costs as a matter of discretion because it is just to do so.

So is it just or not to order security in the circumstances of this case ?

Having considered the matters raised by both counsel and particularly the circumstances I should take into account in determining whether to make an order -as set out in the White Book - it seems to me that there is not a strong prima facie presumption that the defendant will fail in his defence (a major consideration according to W.B.).

Therefore I am of opinion that the usual practice should prevail and that security be provided.

As to the amount to be provided Advocate Binnington helpfully provided a skeleton bill of costs estimated on a party and party basis in the sum of £3,630. He asks for an order in the sum of £3,000 to be provided within 21 days.

Plaintiff's advocate's only comment on the bill was the thought 4 days for trial was over estimation and that 2 days would be a better estimate. On this point all I can say is that counsel are notorious in under estimating the length of trials.

The bill seems to me to be a fair estimate of the costs likely to be incurred in this case and therefore I fix the amount in the sum sought by the defendant at £3,000 and to be provided within 21 days.

The defendant further seeks an order that the plaintiff's action be struck out on failure to give security within the required delay. The defendant has not satisfied me that the plaintiff is likely to disregard the order for security for costs and it would be unjust to assume that he will. This application is premature and I refuse to make such an order at this stage.

Therefore I order as follows on defendant's summons:

1. By consent, F. & B. particulars as requested to be provided within 21 days hereof.
2. Security for defendant's costs in sum of £3,000 to be paid to Judicial Greffier within 21 days hereof.
3. Costs in the cause.

A. W. Fauvel.

Deputy Judicial Greffier.