

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 48 OF 2006

IN THE MATTER OF THE IMMIGRATION LAW 2003R

AND IN THE MATTER OF AN APPEAL FROM A DECISION OF THE IMMIGRATION APPEAL TRIBUNAL PURSUANT TO IMMIGRATION LAW 2003 (AS AMENDED) s. 17(2)

BETWEEN: ANDROGROUP LIMITED FIRST APPELLANT

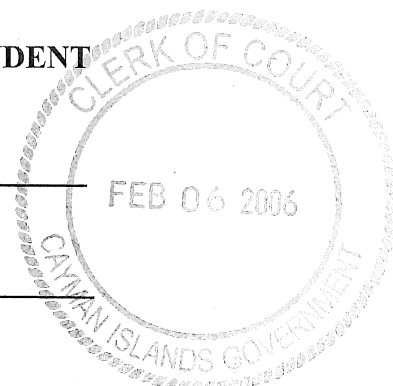
AND: ALLISTER HAYES SECOND APPELLANT

AND: THE IMMIGRATION APPEALS TRIBUNAL
RESPONDENT

ORIGINATING NOTICE OF MOTION

TAKE NOTICE that the Court at the Law Courts, George Town, Grand Cayman will be moved on _____ at _____ am/pm or as soon thereafter as counsel can be heard, by counsel on behalf of the Appellants for the following relief, namely:-

1. an Order that the decision of the Respondent not to allow the filing of an appeal by the Appellants is wrong and constitutes an error of law;
2. an Order that the failure of the Chairman of the Respondent tribunal to hear submissions by the Appellants to show good cause was wrong and unlawful;
3. an Order that the decision of the Respondent tribunal purportedly made by the Secretary thereof and not the Chairman was an invalid delegation, *ultra vires* and unlawful ;



4. an Order that the appeal be remitted back to the Respondent tribunal for that tribunal to permit the said appeal to be filed, heard and determined according to law;

And for an order that the costs of and incidental to this appeal may be paid by the Respondent

AND FURTHER TAKE NOTICE that the grounds of this appeal are:

1. Illegality: That the refusal or failure of the Respondent to permit the Appellants to file their appeal from the Work Permit Board's refusal to grant a work permit to the Appellants was illegal by reason of being in breach of the express duty incumbent on the Respondent to make a decision in accordance with the Immigration Law 2003 (as amended) s. 15(1)(b);
2. Abdication of duty: That the refusal or failure of the Chairman of the Respondent to hear submissions from the Appellants as to why time to file the appeal had not begun to run or, alternatively, for good cause shown was an abdication of the duty incumbent on the said Chairman to make a decision such that the aforesaid statutory duty remains undischarged;
3. Unlawful delegation to third party: That the refusal or failure of the Chairman in making a decision on the said appeal by reason of a referral to the Secretary of the Respondent tribunal as to whether the Appellants appeal was in time or in good order was an abdication of the aforesaid duty or was an improper delegation of his duty to a third party by the Chairman of the Respondent tribunal.
4. Procedural unfairness: That the Respondent acted with procedural unfairness by failing to give the Appellants adequate or any opportunity to show why the said appeal was not out of time or to establish good cause why the appeal should be permitted to be filed out of time (which latter is not admitted);

5. Failure to take into account a relevant consideration: That in not taking into account the fact that the Work Permit Board had not delivered itself of reasons for its decision under the Immigration Law 2003 (as amended) the Respondent failed to take into account a relevant consideration namely that no decision had yet been duly notified to the Appellants;

6. Unreasonableness and/or irrationality: The decision of the Respondent tribunal to fail or refuse to allow the Appellant to file their appeal was unreasonable and/or irrational.

Dated the 6th day of February 2006.

Diamond Law Associates
DIAMOND LAW ASSOCIATES

TO: The Clerk of the Court

AND TO: The Immigration Appeals Tribunal
Government Administration Building
Elgin Avenue
George Town
Cayman Islands

This Appeal was filed by DIAMOND LAW ASSOCIATES, Attorneys for the Plaintiffs whose address for service is whose address for service is 4th Floor Cardinal Plaza, Cardinal Avenue, George Town, Grand Cayman, Cayman Islands (Ref:DLA/SND).