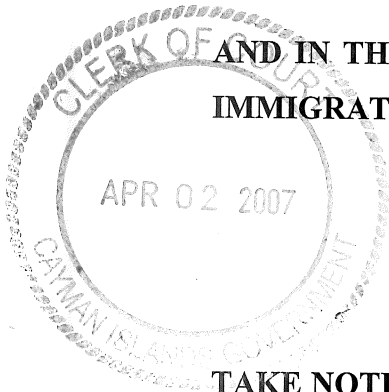


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 135 OF 2007

IN THE MATTER OF THE IMMIGRATION LAW 2006 REVISION (AS AMENDED) (SECTIONS 16, 17(1) & (2))

AND IN THE MATTER OF AN APPEAL AGAINST THE DECISION OF THE IMMIGRATION APPEALS TRIBUNAL



ORIGINATING NOTICE OF MOTION

TAKE NOTICE that the Grand Court at the Law Courts, George Town Grand Cayman, will be moved on the day of at am/pm, or as soon thereafter as counsel can be heard, by counsel on behalf of Androgroup Limited and Allister Hayes for the following relief :

Relief Sought

- 1. An Order that the Work Permit Board, alternatively the Immigration Department, do pay the Appellant's costs of the Appeal to the Immigration Appeals Tribunal;**
- 2. Further and/or other relief; and**
- 3. Costs to be taxed if not agreed**

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

GROUND ON WHICH RELIEF IS SOUGHT

1. **Irrational and unreasonable:** The Defendant's Decision is irrational and/or unreasonable – in the ordinary course costs follow the event. The appeal was successful. The reason the Immigration Appeals Tribunal gave for its decision to hear the matter afresh was that there had been a failure to give a fair hearing and accordingly a breach of natural justice. The reason given for not awarding costs was that there were no special circumstances in the case that warranted the exercise of the discretion to award costs. This is unreasonable. It is submitted that costs should be awarded to the successful party unless there are special circumstances not to award costs. It is irrational that special circumstances should exist before costs are awarded. It is unclear what is meant by the phrase "special circumstances" and when, if at all, they would ever exist. The reason given for denying costs is vague, uncertain and arbitrary.

2. **Legitimate expectation:** The Grand Court Rules state that the successful party to any proceeding should recover from the opposing party his reasonable costs incurred in conducting the proceedings. There is no rule of law in the Immigration Law 2006 or the Immigration Regulations to derogate from this principle.

3. **Failure to give adequate reasons for the decision:** The Defendant failed to give the Plaintiff any or any full and detailed reasons for denying the application for costs. This appeal will allow the Court the opportunity to lay down guidelines for the award of costs to any party to a Tribunal hearing.

Dated the 22nd Day of March 2007..



Diamond Law Associates

TO: The Clerk of the Court
AND TO: The Immigration Appeals Tribunal
AND TO: The Work Permit Board
AND TO: The Solicitor General

This Originating Notice of Motion was issued by DIAMOND LAW ASSOCIATES, Attorneys for the Plaintiff whose address for service is 4th Floor, Cardinal Plaza, Cardinall Avenue, PO Box 2887 GT, Grand Cayman, Cayman Islands, Tel: 769-9352, Fax: 769-4352, E-mail: info@dla.ky, (Ref DLA/1005).