

SUPERIOR COURT OF JUSTICE

NELSON BARBADOS GROUP LIMITED

Plaintiff

- against -

RICHARD IVAN COX ET AL

Defendants

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PROCEEDINGS AT MOTION

BEFORE THE HONOURABLE Mr. JUSTICE SHAUGHNESSY
on October 12, 2012,
at OSHAWA, Ontario

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APPEARANCES

BRIAN GREENSPAN

Counsel for the Plaintiff

LORNE SILVER

Counsel for the Defendant

* * * * *

Friday, October 12, 2012

U P O N R E S U M I N G :

(9:44 a.m.)

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THE COURT: Yes, Mr. Greenspan?

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MR. GREENSPAN: Thank you, Your Honour. Your Honour, pursuant to our last appearance five parties were served, actually six parties but Mr. McKenzie was served as a matter of courtesy. Of the five parties served with respect to this matter, three responded that they did not wish to participate in the matter and that was Mr. Schabas, Ms Rubin and Mr. Roman. We're not retained to further participate in this matter or the application that's brought before you. The two remaining counsel Mr. Silver and Mr. Ranking have advised that they do wish to participate.

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We've had - we've exchanged a number of communications and had a conference call several days ago and that's when we sought a new date for the matter and to at least put it over to set a date to - a date to set a date for the hearing of the application.

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THE COURT: A date to set a date.

MR. GREENSPAN: Mr. Silver was unable to be here today. I've undertaken to address the Court with respect to what progress has been made.

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We - subject to Mr. Silver and Mr. Ranking filing a notice of appearance on behalf of their respective

clients, and that's not yet occurred and hopefully that'll be worked out in the next several days; the proposal is that they wish to cross-examine Mr. Best on his affidavit and we've tentatively, and I think agreed that that would take place on November 12th and 13th. Actually November 12th; November 13th if necessary, and your office provided us with a date of November 16th to return before you to provide a progress report at that time and hopefully at that time, to set a date for the actual application before you, or the re-opening of the issue of Mr. Best's contempt.

That's what we wish to do today along with the following, and that is pursuant to the last appearance and Your Honour's order staying the warrant of arrest and staying the execution of the warrant of arrest, Mr. Best is here today and present before the Court pursuant to that order, and what we would wish is a further extension of that stay of the arrest warrant and rather than simply making it to November 16th, if we could make it - and the draft order that I've got before me is that the Court first of all orders that the matter's adjourned to November 16th, at which time a date for the hearing of this application will be set, and that the Court further orders that the stay of the execution of the arrest warrant be extended to the date set for the hearing of the application.

That means that we won't have to make multiple appearances but rather simply put the arrest warrant over to the date of the application directly, and Your Honour that - that's really all I have to say this morning to the matter and I think that that again, hopefully, there will be worked out or at least in the near future will receive proper notices of appearance from both counsel and we can proceed with the cross-examination.

They've not indicated what further material or whether they'll be filing any material. That may be subject to cross-examination as well but they haven't indicated yet what material will be filed.
THE COURT: All right. Well then I've made an endorsement, Mr. Greenspan. Messrs Silver and Ranking will be responding on behalf of clients.
MR. GREENSPAN: I might indicate Your Honour, that Mr. Silver's indicated that his client is Kingsland Estates Limited. Mr. Ranking's not yet indicated precisely the name of his client but I don't think it's necessary for the time being.

THE COURT: No, I got pretty good knowledge of the history and there may be some changes in names ...
MR. GREENSPAN: Yes, sir.

THE COURT: ... but I'm aware of who Mr. Ranking's client was. Was, yes. So in any event, adjourned to November 16th, 2012, at 9:30 a.m. to permit cross-examination and to then set a date for hearing. The arrest warrant for Mr. Best is

extended to a date set for the actual hearing of
the matter.

MR. GREENSPAN: Thank you, sir. That's the draft
order.

5 THE COURT: The order's signed. Thank you, Mr.
Greenspan.

MR. GREENSPAN: Thank you, sir. Unfamiliar as I
am with civil procedure in this building, I take it
I'm supposed to take this somewhere?

10 THE COURT: Actually if you want, if there's a
second copy what I might just do is sign the second
copy. That'll be the file copy and you can take
the original with you now.

MR. GREENSPAN: And I don't have to do anything?

15 THE COURT: No.

MR. GREENSPAN: That's terrific. Thank you so
much. Appreciate it, sir.

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FORM 2
Certificate of Transcript
Evidence Act, subsection 5 (2)

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I, Deborah Tinmouth, certify that this document is a true and
accurate transcript of the recording of Barbadoes v Cox in
the Superior Court of Justice held at 150 Bond Street, Oshawa
taken from Recording No. 2812 501 400795 20121012 0917
10 Certified on Form One

15 November 28, 2012 
.....
Deborah Tinmouth
Court Reporter

20 Transcript ordered.....October 24, 2012
Transcript completed.....November 28, 2012
Transcript approved for release.....NA

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