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ROYAL COURT
(Samedi Division) 146

1st November, 1993.

Before: **P.R. Le Cras Esq., Lieutenant Bailiff**
Single Judge

Between	**T.A. Picot (C.I.) Limited**	**First Plaintiff**
	Vekaplast Windows (C.I.) Limited	**Second Plaintiff**
And	**Richard John Michel** **Geoffrey George Crill** **and** **Francis Charles Hamon** **(Exercising the profession of Advocates and Solicitors under the name and style of "Crills")**	**Defendants**

Application by the Plaintiffs for an Order, dismissing, on the ground that it has been brought too late, the Defendants' application under Rule 6/13 (1) of the Royal Court Rules 1992, to strike out the Plaintiffs' amended Order of Justice.

Mr. T.A. Picot, a Director of each of the Plaintiff Companies, on behalf of the Plaintiffs
Advocate T.J. Le Cocq for the Defendants

JUDGMENT

THE LIEUTENANT BAILIFF: This is a Summons brought by the Plaintiffs to dismiss a striking out application brought in long running litigation, by the Defendants.

The Plaintiffs, through Mr. Picot, object to the application being heard at this stage. His point is that, although the case was set down for trial earlier this year, the issues of law, with which the Summons was concerned, have been apparent since 1989. He relies upon the Rules of the Supreme Court: 18/19/2:

"Application - Although the rule expressly states that the order may be made "at any stage of the proceedings", still the application should always be made promptly, and as a rule before the close of pleadings... The application may be made even after the pleadings are closed (per Brett M.R. in Tucker -v- Collinson (1886) 34 W.R.354, but was refused after the action had been set down for trial (Cross -v- Earl Howe (1893) 62 L.J.Ch 342; Fletcher -v- Bethom (1893) 68 L.T 438.

Mr. Le Cocq accepts, quite properly, that there has been delay. The proceedings are extremely complicated and it was desired, so far as possible, to ascertain the facts, which were difficult to gather initially at least, from the pleadings. It is, he submits, a matter of discretion for the Court, but is, in this case, a proper step as if the allegations of the Plaintiffs are untenable in law, the Defendants - and indeed both parties - should not be put to the expense of a full trial.

I agree that in dealing with this application the Court has to exercise a discretion. In my view, although it is desirable for an application of this nature to be made at an earlier stage, nonetheless, in the present case it is in the interests of the parties and of justice that the application by the Defendants should be permitted to proceed.

The Plaintiffs Summons is therefore dismissed.

AUTHORITIES

Royal Court Rules 1992: Rule 6/13(1).

R.S.C. (1993 Ed'n): 18/19/1 & 2.

Cross -v- Earl Howe (1886) 62 L.J. Ch.342.