

## BRITISH VIRGIN ISLANDS HIGH COURT (COMMERCIAL DIVISION)

***Halliwell Assets Inc, Panikos Symeou & Marigold Trust Co Ltd -v- Hornbeam Corporation Claim No. BVIHC (Com) - 2014/0105***

PERMISSION TO APPEAL AN ORDER GIVING SECURITY FOR JUDGEMENT CREDITORS' COSTS - CASE MANAGEMENT POWERS - THE COURT'S INHERENT JURISDICTION TO CONTROL ITS OWN PROCESSES - COURT FINDING JURISDICTION ON BASES NOT SUBMITTED BY THE PARTIES - RECOVERABILITY OF WORK OF FOREIGN LAWYERS AND OTHER THIRD PARTIES

A non-party Objector sought permission to appeal an Order that it give security for judgment creditors' costs of the application on the basis that the Court had erred in its finding that it had jurisdiction to order security for costs by virtue of its case management power to "make any other order for the purposes of managing the case and furthering the overriding objective" and by virtue of its inherent jurisdiction to control its own processes.

The Court held that its jurisdiction was not limited by the parties' assertions of jurisdiction and parties cannot curtail or constrain the court's jurisdiction. In response to the assertion that the amount of security for security for costs ordered included amounts for foreign lawyers which would not be recoverable, the Court stated that the recoverability of work of foreign lawyers as a disbursement (or other third parties who assist on BVI litigation) is context dependent. The Court remarked that it would be foolish not to have foreign lawyers bring background and seek to ensure consistency and continuity of positions and submissions particularly where main litigation takes place elsewhere. In this instance, the total sum claimed was reasonably incurred and costs for each item is reasonable. *Days Healthcare UK Ltd -v- Pihsiang Machinery Manufacturing Co Ltd & Ors* [2006] 5 Costs LR 788 applied; *Olive Group Capital Limited -v- Gavin Mark Mayhew* [BVIHC (Com) 2015/0115, 3 April 2016] applied.

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