IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: FSD 96 OF 2011 (PCJ)
(Originally Cause No: 329 of 2008)

The Hon. Sir Peter Cresswell
In Chambers
19th June 2013

BETWEEN:

CIGNA WORLDWIDE INSURANCE COMPANY (BY AND THROUGH ITS COURT APPOINTED RECEIVER, JOSIE SENESIE AND IN RESPECT OF THE ASSETS, UNDERTAKINGS AND AFFAIRS OF ITS LICENSED LIBERIAN BRANCH AND BUSINESS)

Plaintiff

AND

ACE LIMITED

Defendant

Appearances: **Lord Goldsmith PC, QC instructed by and with Mr. Colin McKie and Mr. Adam Huckle of Maples and Calder on behalf of the Defendant**

Mr. Ben Hubble QC instructed by and with Mr Nicholas Dunne of Walkers on behalf of Mr Martin S. Kenney and CC International Limited

Mr. William Jones of Ogier on behalf of Echemus Group L.P. and Echemus Investment Management Ltd. and Mr. James Little

RULING

I refer to the Summons dated 27 April 2013 issued by Mr Martin S. Kenney ("Mr Kenney") and CC International Limited ("CCI") seeking leave to appeal against the order dated 26 April 2013 and to the written and oral arguments in support of and in response to the application.

In relation to the jurisdiction to order service out of the Costs Summons, Mr Kenney and CCI are in exactly the same position in relation to the legal principles as to joinder and service, as Echemus Group LP and Echemus Investment Management Ltd. Echemus Group LP and Echemus Investment Management Ltd have accepted that they have been validly joined and served and are subject to the jurisdiction of the court.

I refer to the Analysis set out in my judgment without repeating it here. The entirety of the Analysis forms part of this Ruling.

There may be circumstances in which it is legitimate to assimilate the party A and the non-party B and to treat any means of service available against A, as available against B. I do not read Lord Mance in Masri as confining the use of GCR O.11 r 9(2) to the alter ego of a one ship company. See further para 5 of the Analysis. Further in the Ikarian Reefer there was no issue in the original proceedings as to the right and standing of the one ship plaintiff company to sue (see in this connection the formulation used to describe the Plaintiff and my observations at page 17 of my earlier judgment under Leave to Amend (i)).

The nature and extent of the jurisdiction is closely related to and dependent on the relevant facts. The history of the litigation in the United States and Liberia is by any standards extraordinary. There are many respects in which there is a serious issue as to whether what has happened is beyond conventional Litigation Funding. (See para 4 (i) of the Analysis and the history of the litigation in the United States, Liberia and the Cayman Islands as set out in the two judgments herein and the totality of the evidence before the court).

The Defendant's case as to relevant facts as to the nature and extent of Mr Kenney's and CCI's role in and funding and control of the litigation differs markedly from Mr Kenney's and CCI's case. I do not consider that the proposed appeal has a real prospect of success if the relevant facts are as contended for by the Defendant. I repeat that the history of the litigation in the United States and Liberia is by any standards extraordinary.

In these circumstances I do not consider it appropriate to grant leave to appeal.

In my opinion any question of leave to appeal should be deferred until after the underlying facts have been determined.

If contrary to the above I had determined that there should be leave to appeal, this would have been on terms that Mr Kenney and CCI provide security for the costs of the appeal in the sum sought by the Defendant.

I repeat what I said in my latest judgment under the heading 'The overriding objective'. For the avoidance of doubt in referring to "the remaining dispute" I was referring to the remaining dispute in the Cayman Islands as to who should pay ACE's costs, and not to any continuing dispute in proceedings in the United States or elsewhere.

I have delayed this Ruling in an attempt to ascertain when the taxation will be concluded. This should happen without further delay. The taxation will determine the amount at stake.

DATED this 28th day of June 2013

Cresswell J

The Honourable Justice Cresswell
Judge of the Grand Court

GRAND COURT - CAYMAN ISLANDS