



In The Supreme Court of Bermuda

CIVIL JURISDICTION

2023: No. 86

BETWEEN:

DV BERMUDA LIMITED

Plaintiff

-and-

ANDRE THOMAS

Defendant

Before: Hon. Assistant Justice Diel

Appearances: Tyrone Quinn for the Plaintiff
Auralee Cassidy – Wakefield Quin Limited for the Defendant

Date of Hearing: 7th September 2023

Date of Ruling: 17th May 2024

RULING

1. This is an application to set aside judgment and to file a defence out of time. There is no dispute on the law in this matter and I am grateful to both parties for their candor and brevity.

2. Ms Cassidy admits that the defence ought to have been filed by 1st May 2023 and there was no excuse for failing to do so. The defendant thus fails on this first part of the two part test.
3. In addition, the Defendant also fails on the second part of the test to set aside. I find the defence contradictory in a number of places where in some places it denies a contract and in others is pleaded if a contract exists. What is perhaps fatal to this application is that in action 2023 No 26 the Defendant (as Plaintiff) asserted the consultancy fees, denied in this action, are a valid debt owed by the Griffiths. Those are the same fees that DV Bermuda is suing for in the present action.
4. Accordingly, I dismiss the Defendant's application and confirm judgment in the sum of \$104,000.00 plus costs. There is no quantified claim for damages sought so no order is made in relation to that nor is interest sought.
5. The costs of and occasioned by the application to the Plaintiff to be taxed if not agreed.

Dated this 17th day of May 2024



MARK DIEL
ASSISTANT JUSTICE