FEDERAL COURT OF AUSTRALIA

A1 for Maintenance Pty Ltd v Lehal Pty Ltd [2018] FCA 1476

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| File number: | WAD 162 of 2017 |
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| Judge: | **COLVIN J** |
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| Date of judgment: | 2 October 2018 |
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| Catchwords: | **PRACTICE AND PROCEDURE** - application for security for costs under s 1335 of the *Corporations Act 2001* (Cth) - whether there is reason to believe the applicant will be unable to pay respondents' costs if it is unsuccessful in its claim - whether the Court should exercise its discretion to make an order for security for costs - whether adequate evidence to support an assessment of the quantum of security sought - order for security for costs made |
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| Legislation: | *Corporations Act 2001* (Cth) s 1335  *Competition and Consumer (Industry Codes - Franchising) Regulation 2014* (Cth) |
|  |  |
| Cases cited: | *Antonias Pty Ltd v Matthew Lepouris Pty Ltd* [2004] NSWSC 654  *Bell Wholesale Company Pty Ltd v Gates Export Corporation (No 2)* [1984] FCA 34; (1984) 2 FCR 1  *Bryan E Fencott & Associates Pty Ltd v Eretta Pty Ltd* [1987] FCA 102; (1987) 16 FCR 497  *Carey-Hazell v Getz Bros & Co (Aust) Pty Ltd* [2004] FCA 1334  *Deltrend Pty Ltd v AST Australia Pty Ltd* (1995) 16 ACSR 762  *FFE Minerals Australia Pty Ltd v Mining Australia Pty Ltd* [2000] WASCA 69; (2000) 156 FLR 116  *IceTV Pty Ltd v Ross* [2007] NSWSC 1232  *Livingspring Pty Ltd v Kliger Partners* [2008] VSCA 93; (2008) 20 VR 377  *Madgwick v Kelly* [2013] FCAFC 61; (2013) 212 FCR 1  *Mecrus Pty Ltd v Industrial Energy Pty Ltd* [2015] FCA 103  *PS Chellaram & Co Ltd v China Ocean Shipping Company* [1991] HCA 36  *Sugarloaf Hill Nominees Pty Ltd v Rewards Projects Ltd* [2011] WASC 19 |
|  |  |
| Date of hearing: | 26 September 2018 |
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| Registry: | Western Australia |
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| Division: | General Division |
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| National Practice Area: | Commercial and Corporations |
|  |  |
| Sub-area: | Commercial Contracts, Banking, Finance and Insurance |
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| Category: | Catchwords |
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| Number of paragraphs: | 53 |
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| Counsel for the Applicant: | Mr M Pirrie |
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| Solicitor for the Applicant: | Frenkel Partners |
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| Solicitor for the First, Second, Third, Fourth, Fifth, Sixth and Seventh Respondents: | Mr A Prime |
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| Counsel for the First, Second, Third, Fourth, Fifth, Sixth and Seventh Respondents: | MDS Legal |

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| **Table of Corrections** |  |
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| 25 October 2018 | At [52] the date '1 January 2017' has been amended to correctly state '1 January 2018'. |

ORDERS

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|  | | WAD 162 of 2017 |
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| BETWEEN: | A1 FOR MAINTENANCE PTY LTD (ACN 113 002 109)  Applicant | |
| AND: | LEHAL PTY LTD (ACN 601 285 465)  First Respondent  RAVI INDER SINGH  Second Respondent  MAJINDER SINGH (and others named in the Schedule)  Third Respondent | |

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| JUDGE: | COLVIN J |
| DATE OF ORDER: | 2 october 2018 |

THE COURT ORDERS THAT:

1. The applicant do provide security for the first to seventh respondents' costs in the amount of $30,000 prior to 16 October 2018.
2. In default of compliance with order 1, the proceedings be stayed until further order.
3. There be liberty to the first to seventh respondents to apply for further security after the allocation of final hearing dates.
4. The applicant do pay the first to seventh respondents' costs of the application for security for costs dated 27 April 2018.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REASONS FOR JUDGMENT

COLVIN J:

1. A1 for Maintenance claims to be the assignee of the rights of Geowash Pty Ltd under various franchise agreements for car wash and detailing businesses. Geowash was placed into voluntary administration on 24 October 2016. A deed of company arrangement in respect of the affairs of Geowash was executed on 23 December 2016. A1 for Maintenance claims to have taken an assignment of the rights of Geowash as franchisor by the terms of a deed of assignment entered into on 19 January 2017 with Geowash and the deed administrators.
2. On 3 April 2017, A1 for Maintenance commenced proceedings against eight respondents each of whom was claimed to be a franchisee or a guarantor of the obligations of a franchisee under agreements entered into with Geowash. The proceedings were commenced with a lengthy statement of claim.
3. In its statement of claim, A1 for Maintenance claims, amongst other things, that:
4. franchise agreements were entered into by Geowash for premises in Subiaco (on or about 3 September 2014), East Perth (on or about 12 September 2014) and Maddington (on or about 30 November 2014);
5. termination notices that were served on 22 November 2016 by each of the franchisees in respect the franchise agreements for the premises in Subiaco, East Perth and Maddington were invalid;
6. steps were taken in late November 2016 to establish a website for Impeccable Car Wash;
7. car wash businesses are being conducted from the premises in Subiaco, East Perth and Maddington under the name Impeccable Car Wash;
8. there was a valid assignment of the franchise agreements to A1 for Maintenance in January 2017; and
9. there has been conduct of the respondents that has been in breach of the franchise agreements assigned to A1 for Maintenance, in breach of the *Competition and Consumer (Industry Codes - Franchising) Regulation 2014* (Cth) and that has been unconscionable contrary to the *Australian Consumer Law* and the *Fair Trading Act 2010* (WA) or in the case of individual guarantors has been conduct of that kind in which they have been knowingly concerned.
10. A1 for Maintenance seeks various types of relief in effect requiring Geowash branded franchise businesses to be re‑established at the sites and for payment of licence fees.
11. Defences have been filed and discovery has been provided.
12. The first to seventh respondents (**Respondents**) apply for security for costs in defending the proceedings. They say they have incurred over $37,500 in legal costs and disbursements and it is estimated that they will incur a further $60,000 to $75,000 in defending the action including the costs of a four day trial.
13. For the following reasons, there should be an order for security in favour of the Respondents in the amount of $30,000. The order should not include provision in respect of costs incurred prior to 1 January 2017. I will reserve liberty to the Respondents to apply for further security at the time that dates are allocated for final hearing. There will otherwise be a stay of these proceedings if security is not provided.

## Application for security

1. On 10 January 2018, solicitors acting for the Respondents wrote to the solicitors acting for A1 for Maintenance in relation to a proposed application for security for costs relying upon s 1335 of the *Corporations Act 2001* (Cth). The letter said that there had been recent developments in relation to Geowash franchise stores that provided the basis for that application. Those developments were summarised as follows:
2. The Geowash Morley store debranded on or about 30 September 2017. I am instructed that the Morley store was the applicant's busiest store;
3. The Geowash Westminster store closed permanently on or about 6 November 2017;
4. The Geowash Wanneroo store has not paid any franchise fees since they opened in December 2016;
5. The Geowash Joondalup store has not paid any franchise fees since about September 2017; and
6. The Geowash Osborne Park store has lost its contract from Audi Centre Perth which is likely to mean it has lost 80% of its' revenue.
7. The letter also referred to instructions that the marketing manager for Geowash had not been paid for three months because A1 for Maintenance was not in a financial position to do so and the fact that the company's paid up capital was $12. It recorded an understanding that there was only one other Geowash franchise which was at Etihad Stadium and that A1 for Maintenance did not carry on any other endeavour other than in relation to Geowash franchises.
8. The letter invited a response to the concerns and requested a copy of current financial statements for A1 for Maintenance.
9. On 8 February 2018, solicitors for A1 for Maintenance responded. They denied that there was any default in paying the marketing manager. They then said that if there was an application and evidence was put forward establishing a reason to believe that A1 for Maintenance will be unable to pay the Respondents' costs if they are successful in their defence (being a position that was not admitted) then it will be contended that the court should exercise its discretion to refuse to order security. They listed three matters going to discretion. First, any lack of funds or impecuniosity had been caused by the Respondents. Second, A1 for Maintenance has a reasonable prospect of success and it should be inferred that the application for security was being used oppressively to frustrate a genuine claim. Third, A1 for Maintenance had incurred substantial costs which would be wasted if the proceedings were stayed. Notably, no financial information was provided in response to the request by the Respondents.
10. An application was brought on 27 April 2018 supported by an affidavit of Mr Ravi Inder Singh, the second respondent, who is a director of the first respondent. It provided hearsay evidence to verify the matters stated in the letter dated 10 January 2018, including evidence that on or about 30 September 2017 the Geowash Morley store 'debranded' and in early November 2017, the Geowash Westminster store closed as a Geowash store. It also referred to A1 for Maintenance having other Federal Court proceedings on foot against another franchisee.
11. Orders were made by consent as to the filing of affidavits and submissions and the application for security was listed for hearing on 18 June 2018. It did not proceed on that date. At the request of the parties the timetable for filing affidavits and submissions was extended. The application was then relisted for hearing on 5 September 2018.
12. The applicant sought further time to file its affidavits and a later hearing date for the application. I vacated the listing for 5 September 2018 and again relisted the application, this time for 26 September 2018.
13. On 24 August 2018, a further affidavit in support of the application was filed. It referred to the terms of the deed of company arrangement for Geowash in which provision was made for A1 for Maintenance to pay $150,000 over 12 months. It produced documents, including financial statements produced by the administrator, to show that only $70,000 out of the total of $150,000 had been paid.
14. On 11 September 2018, an affidavit in opposition was filed. It was sworn by Mr Livadaras, a director of A1 for Maintenance. He said that the company had purchased the Geowash franchise business from the administrators. He said that there were 12 agreements with Geowash franchisees at that time. He said that A1 for Maintenance had sued the Rockingham franchisee in separate proceedings in the Federal Court and those proceedings were defended. The affidavit then deposed that the decision by the Morley, Westminster and Wanneroo franchisees to de‑brand 'was positively influenced by the conduct of the respondents in de‑branding'. There was no evidence provided to support this assertion. It also claimed that but for the conduct the subject of the claims by A1 for Maintenance it would have been receiving monthly franchise/licence fees, that the Wanneroo, Morley and Westminster franchisees would have remained as Geowash franchisees and the additional income would have contributed to the company's cash flow. It produced calculations of amounts claimed for lost franchise fees for East Perth, Subiaco and Maddington for the period January 2017 to July 2018 of about $130,000.
15. Mr Livadaras said that the proceedings had reached 'an advanced stage' at which pleadings had closed, discovery had been given and before the commencement of proceedings there had been an unsuccessful mediation. He said that legal costs had been 'considerable and in the tens of thousands of dollars'. He deposed to a belief that the application for security had been made for the purpose of seeking to shut out the applicant from pursuing its claims. There was no evidence presented that would provide any foundation for that belief. Therefore, the fact that Mr Livadaras may hold that belief has no relevance on the present application. He also said that the first notice that the Respondents may seek security was some nine months after the proceedings were commenced.
16. I do not accept that the proceedings are at an advanced stage. There have been pleadings and discovery. There have been a number of case management hearings at which the matter has not been progressed by A1 for Maintenance. There is no suggestion that there have been forensic steps taken beyond the pleadings and production of documents.
17. I note that Mr Livadaras says nothing about the current financial circumstances of A1 for Maintenance. He says nothing about the position in relation to the company's marketing manager. He says nothing about the position in relation to payments under the terms of the deed of company arrangement.
18. Written submissions in opposition to the application for security for costs were filed on 25 September 2018. For the first time they raised an issue as to whether there was adequate evidence to support an assessment of the quantum of security sought by the Respondents in the event that the application was successful. The Respondents sought leave to file further evidence if the application was granted and I formed the view that there needed to be further evidence as to quantum.

## Grounds of opposition

1. In addition to the issue concerning quantum, six contentions were advanced in opposition to the application, namely:
2. the Respondents had not discharged the burden of demonstrating that there was reason to believe that A1 for Maintenance was unable to meet an adverse costs order as the evidence did not rise above 'mere speculation' as to the financial position of A1 for Maintenance;
3. there had been delay in bringing the application and there had been no explanation why inquiries and investigations as to the financial circumstances had not been undertaken when the Respondents were first served with the proceedings in April 2017;
4. there would be prejudice to A1 for Maintenance if an order for security was to be made at this stage;
5. the case advanced by A1 for Maintenance was 'compelling';
6. the defence advanced by the Respondents had not been properly verified by affidavit; and
7. the Respondents by their conduct in de-branding their Geowash outlets acted in breach of their franchise agreements causing A1 for Maintenance to suffer 'significant loss and damage'.
8. I will deal with matters of general principle and then address the contentions advanced by A1 for Maintenance.

## General principles

1. The wording of s 1335 of the *Corporations Act* and the weight of authorities is to the effect that there is an initial jurisdictional question as to whether it appears by credible testimony that there is a reason to believe that the company will be unable to pay the costs of the defendant if successful in its defence. If the jurisdiction is enlivened then there is an unlimited discretion: *FFE Minerals Australia Pty Ltd v Mining Australia Pty Ltd* [2000] WASCA 69; (2000) 156 FLR 116 at [21]. As to the jurisdictional question, there must be a rational basis for a belief as to what the position will be when the time comes to pay costs if the defendant is successful. This may be said to be a low threshold: *Livingspring Pty Ltd v Kliger Partners* [2008] VSCA 93; (2008) 20 VR 377 at [14]‑[17]. It involves the making of a judgement as to whether there is credible evidence for a present belief about future events.
2. Differing views have been expressed as to where the onus lies once the jurisdictional threshold has been crossed. The authorities were reviewed by Corboy J in *Sugarloaf Hill Nominees Pty Ltd v Rewards Projects Ltd* [2011] WASC 19 at [33]‑[34]. For reasons there given, '[a] party may be required to advance evidence on a particular factual matter that it wishes to assert as part of its case. Otherwise, there is a persuasive onus that rests on the defendant as applicant'. I also agree with the view expressed by Corboy J that matters of onus are unlikely to assume great significance in determining the appropriate exercise of the judicial discretion conferred by s 1335.
3. The discretion as to whether to order the provision of security, and if so in what amount, is to be exercised having regard to the interests of justice and the purpose evident from the nature of the power conferred.
4. Lists of matters that might be considered have been expressed: see, for example, *Madgwick v Kelly* [2013] FCAFC 61; (2013) 212 FCR 1 at [7]; *Carey-Hazell v Getz Bros & Co (Aust) Pty Ltd* [2004] FCA 1334 and *Mecrus Pty Ltd v Industrial Energy Pty Ltd* [2015] FCA 103 at [19]‑[21]. However, the considerations are not a checklist of matters to be brought to account as part of the balancing exercise in every case. Whether a consideration has significance and, if so, the weight that it should be afforded will depend upon the particular circumstances of each case: *PS Chellaram & Co Ltd v China Ocean Shipping Company* [1991] HCA 36.

## Credible testimony as to inability to pay costs if defence successful

1. There is credible testimony to establish that since September 2017, some Geowash franchises have de-branded and A1 for Maintenance is not receiving revenue from those franchisees. Also, it has not been paying its marketing manager for many months. In the absence of any evidence from A1 for Maintenance as to this matter it may be inferred that this is due to an inability to make those payments to the marketing manager. There is also the unexplained failure to make the payments under the deed of company arrangement. Finally, there is the fact that financial statements for Geowash have been requested but have not been provided and that there is a complete absence of any financial information concerning A1 for Maintenance. There is no evidence as to income that Geowash is receiving, only evidence of the income that it claims to have lost. It may be inferred that the evidence available to A1 for Maintenance as to its financial position would not assist its case on the application.
2. These matters are not mere conjecture. Based on the evidence I find that there is reason to believe that A1 for Maintenance will not be able to pay the costs of the Respondents if they are successful in the defence of the claims and the jurisdiction conferred by s 1335 is enlivened.

## Delay

1. The question whether there should be security was raised in January 2018 about nine months after commencement of the proceedings. By way of explanation for the delay the Respondents rely upon matters that Mr Singh was told in October, November and December 2018 as well as the information obtained subsequently concerning the failure to make the payments under the deed of company arrangement.
2. The Respondents also refer to a company search made in January 2018 which shows that A1 for Maintenance has a paid up capital of $12. It is submitted that there is no explanation as to why the search was not done when proceedings were commenced and the application brought at that time. It is also said that reliance is placed upon a Geowash store not having paid franchise fees since December 2016 and there is an absence of any statement in the affidavit of Mr Singh as to when he became aware of that fact.
3. However, the difficulty with these submissions is that they proceed on the premise that an application based upon those matters alone would have been successful. It is to be noted that A1 for Maintenance opposes the present application even though it is supported by considerably more evidence than the position as to paid up capital and the failure by one franchisee to pay any franchise fees. Yet, A1 for Maintenance maintains that the Respondents position as to inability to pay amounts to nothing more than conjecture. No doubt it would have maintained the same position if the application had been brought earlier. It is the addition of the further information about how the business of Geowash is being operated that was obtained in the months before the issue of security was raised that provided the foundation for the application. On the evidence before me, those matters were not known until well after the proceedings were commenced and after the statement of claim had been prepared.
4. In those circumstances, the delay in bringing the application has been adequately explained.
5. Further, delay carries more weight where it is shown to have occurred with knowledge of the financial circumstances of the claimant against whom security is sought and where proceedings are truly well advanced and significant costs have been incurred by the claimant. Those matters do not pertain in the present case. As I have found, the proceedings are not well advanced. On the evidence of Mr Livadaras, the costs that have been incurred 'are in the tens of thousands of dollars'. I would not regard that level of costs as significant for a national franchise business said to involve 12 franchisees.
6. Although prejudice is raised, there is no submission advanced that the making of an order for security would stifle the claim. Quite properly, the submissions advanced at the hearing of the application did not embrace the assertion in the affidavit in opposition that the security for costs application had been made to shut out the claims by A1 for Maintenance. It was proper for two reasons. First, there was no evidence advanced to provide a foundation for the belief. Second, a submission of that kind cannot be advanced unless those who stand to benefit from the litigation (whether they be shareholders or creditors or beneficiaries under a trust) are established to be without means: *Bell Wholesale Company Pty Ltd v Gates Export Corporation (No 2)* [1984] FCA 34; (1984) 2 FCR 1 at 4. As stultification is a matter that would be advanced as a reason why security should not be ordered it is a matter upon which the claimant must bring evidence.
7. An issue then arises whether the delay in bringing the application should result in any order for security being confined to the costs of the Respondents since 10 January 2018 when the issue was raised. The submission was advanced that, in general, security is given for costs only prospectively and not for costs already incurred, relying on *Antonias Pty Ltd v Matthew Lepouris Pty Ltd* [2004] NSWSC 654 at [7]. However, in *IceTV Pty Ltd v Ross* [2007] NSWSC 1232 at [17] the view was expressed that although sometimes delay may affect provision for costs already incurred, there is no general rule that such costs are to be disregarded when making an order for security.
8. In the circumstances of the present case where the matters advanced to support the application are alleged to have arisen sometime after the commencement of the proceedings and the need to balance the position of the parties in the interests of justice, I would approach the assessment of the quantum of costs on the basis that costs incurred prior to 1 January 2018 should be disregarded in determining the amount of security.

## Prejudice

1. The prejudice advanced was, in effect, that proceedings were well advanced and A1 for Maintenance had incurred costs on the basis that it did not have to provide security and it would be unfair for it to be required to provide security at this stage. For reasons, I have given I do not accept that submission.

## Merits

1. As to the merits of the claim and the defence, the Court will generally not descend into too fine a balancing of the strength of the respective cases: *IceTV* at [14]. It is only where there is demonstrable strength in a claim or defence (or weakness if the obverse inquiry is made) that the merits will be a significant matter to weigh in the exercise of the discretion. The Court generally proceeds on the basis that there is a bona fide claim with a reasonable prospect of success: *Bryan E Fencott & Associates Pty Ltd v Eretta Pty Ltd* [1987] FCA 102; (1987) 16 FCR 497 at [131]‑[136].
2. There is no obligation upon the Respondents to provide evidence as to the merits of their defence in support of their application. They did not seek to maintain that the claim by A1 for Maintenance was so weak (or the defence so strong) that the issue of merit was a factor that weighed in favour of an order for security. It was A1 for Maintenance that raised the issue of merit in support of its application, asserting that its claim was 'compelling'. I do not accept that submission. The affidavit evidence of Mr Livadaras was to the effect that there had been certain admissions made in the defence concerning the operation of the Impeccable Car Wash business. However, those activities, of themselves, do not establish the claim made by A1 for Maintenance. Otherwise, no matters were advanced that could sustain the asserting that the claims made were compelling.
3. The relative merits of the positions of the parties is not a matter that bears upon the exercise of my discretion in this instance.

## Respondents alleged contribution to the financial circumstances of A1 for Maintenance

1. There is an evident difficulty for A1 for Maintenance in advancing a submission that its current financial circumstances were brought about by the conduct of which it complains in the current proceedings. It produces no evidence of its financial position.
2. A1 for Maintenance claims that the franchise agreements for East Perth, Subiaco and Maddington were not validly terminated and those franchisees should have continued to operate as Geowash Franchisees. As I have noted, the extent of licence fees that A1 for Maintenance alleges that it has lost as a result of the terminations is of the order of $130,000. Mr Livadaras says that at the time that A1 for Maintenance purchased the business of Geowash there were 12 agreements with franchisees. It has not been demonstrated that the failure to pay the licence fees for the three franchisees the subject of these proceedings has been a substantial contributing cause of the financial circumstances of Geowash.
3. Further, in its statement of claim A1 for Maintenance alleges that on 19 January 2017 it withdrew breach notices that had been issued to the franchisees for East Perth, Subiaco and Maddington and pressed for their performance. Importantly, the termination notices that it claims were invalid were issued by the franchisees on 22 November 2016, well before A1 for Maintenance claims to have taken an assignment. Therefore, the actions of the franchisees as to termination and commencement of Impeccable Car Wash occurred well before its involvement. A1 for Maintenance assumed the burdens of the claims that the agreements had been terminated when it took the assignment from Geowash and the deed administrators. In those circumstances, it is difficult to see how A1 for Maintenance could claim that its current financial position (as distinct from that of Geowash) was brought about by the claims that the franchise agreements had been terminated. Based on the chronology before me, it chose to take on that burden.
4. The present application is brought on the basis that events in the latter months of 2017 and the failure to pay monies under the deed of company arrangement establish a basis for the application. Those events are separate from matters the subject of the proceedings and concern the actions of other franchisees and the failure to make payments under the deed of company arrangement. As I have noted, Mr Livadaras has deposed to a belief on his part that the Respondents positively influenced the de-branding by those other franchisees. However, he gives no evidence as to a foundation for that belief.
5. A1 for Maintenance has not established any link between the subject matter of the proceedings and its financial circumstances of a kind that would bear upon the exercise of my discretion.

## Quantum and costs

1. As I have noted, late in the day, an issue was raised concerning the quantum of costs that should be ordered on the basis that the evidence as to likely quantum was not adequate. The Respondents sought leave to file further evidence in the event that the application was granted and I was of the view that there should be further evidence as to quantum.
2. The evidence as to quantum takes the form of a general statement by Mr Singh that his solicitor has assessed the likely further costs to the Respondents in defending the action to and including a four day trial would be in the range of $60,000 to $75,000 plus GST.
3. Given the current stage of the proceedings it is difficult to make any meaningful assessment as to the length of trial. The amount of further costs that have been estimated appear to be broadly reasonable, if not modest. There would be additional costs in requiring the parties to confer and then make submissions as to the quantum of security. Those costs would be out of proportion to the extent of the amounts in issue on the application.
4. This is not a case where the claim to security is for a substantial amount of a kind where it would be expected that a solicitor would produce a detailed estimate by reference to a reasonable itemisation of the costs likely to be incurred.
5. The amount ordered may be influenced by other factors which cause the Court to balance competing interests such as by ordering partial security or ordering security with an eye to ensuring that it will not stifle the claims: *Deltrend Pty Ltd v AST Australia Pty Ltd* (1995) 16 ACSR 762 at 764. I am satisfied that security to be awarded in this case should not be reduced by reason of any such considerations.
6. However, I note that it is not usual to provide for a full indemnity by way of security.
7. In all the circumstances, I will order that security be provided for the Respondents' costs since 1 January 2018 in the amount of $30,000 as a first tranche reserving liberty to the Respondents to apply for further security at the time that the matter is allocated dates for final hearing. There should be a stay if security is not provided.
8. As the Respondents have been successful on the application there should be an order that the applicant pay the costs of the application for security for costs dated 27 April 2018.

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| I certify that the preceding fifty-three (53) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Colvin. |

Associate:

Dated: 2 October 2018

SCHEDULE OF PARTIES

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|  | WAD 162 of 2017 |
| Respondents |  |
| Fourth Respondent: | RAJIV SINGH |
| Fifth Respondent: | JASVINDER SINGH |
| Sixth Respondent: | JFK AUSTRALIA PTY LTD (ACN 603 024 826) |
| Seventh Respondent: | ANDREW KRISNADHARMA |
| Eighth Respondent: | GURDIT SINGH |