

EUROLITE INC. v. GWENDOLYNE J. MARTINEZ RODRIGUEZ et. al.

ENDORSEMENT - TYPED

(April 11, 2017)

██████████ for Plaintiff/Moving party
██████████ for Defendants/Responding Party
Rodriguez + GMR Consulting

This is a motion for summary judgment. The claim is against these two defendants in relation to a fraud committed by Ms. Rodriguez as the bookkeeper and internal of Eurolite.

As set out in the affidavit of ██████████, the plaintiff's principal over the course of 14 months Ms. Rodriguez forged numerous cheques to herself and her company GMR totaling almost \$1.8 Million. The affidavit of ██████████ sets out the steps taken by her to investigate the fraud and to reconcile the cheques with the bank statement and the internal accounting records. There is also the affidavit of ██████████ a professional bookkeeper in the employ of the plaintiff who also supports the plaintiff's claim of the forgeries by Ms. Rodriguez.

The defendants have not filed a defence to the claim. The plaintiff has chosen not to note them in default but has instead moved for summary judgment relying on the above mentioned affidavits. The respondents have not filed any material in response.

I am satisfied that based upon the material presented I am able to reach a fair and just determination on the merits (Hryniak para 49).

I am also satisfied a civil case for fraud has been made out on the material before me. It is uncontested on the material submitted that Ms. Rodriguez forged cheques to herself and her company totaling almost \$1.8 Million and then attempted to deceive the plaintiff by creating false records and destroying bank statements. As part of this she made fraudulent misrepresentations to the plaintiff. As well, by her position as the sole bookkeeper and internal accountant she owed a fiduciary duty to the plaintiff when she committed her wrongful acts. I am satisfied that the plaintiff's claim has been made out.

The plaintiff is also seeking to extend the mareva injunction granted by Justice Myers on November 10, 2016 and as extended from time to time, most recently by Justice Archibald on January 6, 2017 and expiring today.

While conceptually the injunction may no longer be required as the plaintiff now has judgment I am prepared to extend it for a further 6 months, expiring on October 11, 2017. The Plaintiff is also prepared to an amendment to para 5 of the existing mareva order to provide that the defendants are entitled to spend money on legal fees subject to the plaintiff's agreement as to quantum or further court order.

As to costs the plaintiff seeks substantial indemnity costs. The defendants submit partial indemnity costs are more appropriate. Having reviewed the Bill of Costs, considered 57.01 and hearing from counsel I fix costs in the amount of \$70,000 inclusive of fees, HST and disbursements.

Order to go in accordance with order signed by me today. Counsel are to provide me with an agreed mareva order to my attention at Judges Administration ██████████ for my execution.

Hood J.