

**D.J. GRAPHICS LIMITED -v- THE ATTORNEY GENERAL AND SOLOMON ISLANDS PORTS AUTHORITY**

**High Court of Solomon Islands**

**(Palmer J.)**

Civil Case No: **40 of 1995**

Hearing: **6 April 1995**

Judgment: **15 June 1995**

*G.J. Traczyk & F. Waleilia* for the Plaintiff

*P. Afeau* for the First Defendant

*A. Radclyffe* for the Second Defendant

**PALMER J:** In my judgment of the 12th of April, 1995, I indicated that the question of costs will be reserved.

I have now had the opportunity to listen to the submissions of both parties and I now give this ruling.

The prime issue relates essentially to the question of approval of costs of the Plaintiff with certification of overseas counsel. Mr Radclyffe totally objects to the approval of costs with certification for overseas counsel; the main reason given being, that it gives the impression that overseas counsels that have been engaged are better than local lawyers within the jurisdiction and that therefore, they should be able to impose costs at a higher rate than that of local lawyers.

With respect, I think there has been some misunderstanding as to what, the term "certification for overseas counsel" means, especially in the case of party/party costs. When a certification for overseas counsel is given in such circumstances, it does not mean that the overseas counsel can charge his overseas rates. All it means is that the Taxing Master, (the Registrar of High Court), would consider granting in general the following costs:

- (i) costs pertaining to counsel's return air fares
- (ii) reasonable hotel and incidental expenses in the place of trial during trial

- (iii) some allowance may be considered for travelling time and transportation costs, and
- (iv) other necessary expenses.


(see *Jordan v. Edwards* [1979] P.N.G.L.R.420).

The decision as to whether to grant a certification for overseas counsel however, remains a matter of discretion for the presiding judge or the taxing master. In the case of *Jordan v. Edwards* (ibid) at page 421, the learned Judge, Prentice C.J., of the Supreme Court of Justice of Papua New Guinea, listed a number of factors which the Court should take into account:

"When considering whether an exception should be made in terms of the court's Rule - the court, I believe, should take into account as the principal factors - the difficulty of the case (in particular whether it involves complex matters of law); the nature and extent to the rights involved; the expertise reasonably required or the nature of the particular lis; whether the smallness of the employment of resident counsel; and above all the necessity of keeping costs as low as possible and access to advice as wide and as even as possible".

I am satisfied that the above factors should also be adopted as useful guidelines by this court when considering the question as to when certification for overseas counsel can be granted.

In the circumstances of this case, I am not satisfied that certification for overseas counsel should be granted. Costs awarded to the Plaintiff.



(Albert R. Palmer)

JUDGE