



Norwich Pharmacal Order – Contempt Proceedings

Our Law Firm Scoring Victory for the Respondent

By Dr. Pavlos Neofytou Kourtellos

The unanimous judgment of the Supreme Court of Cyprus delivered in **Avila Management Services Ltd e.a. –v- Frantisek Stepanek e.a. Civil Appeal 54/2012, 27/6/2012**, (the “**STEPANEK**”) is one of the very few adjudicated applications of this nature on appellate level relating to the jurisdiction of the Cypriot Courts to issue Disclosure orders otherwise known as Norwich Pharmacal. In Stepanek, Respondents 1 and 2, Czech nationals and shareholders of the Respondent Company, registered in the Czech Republic, succeeded in issuing a Norwich Pharmacal Order at the District Court of Limassol against the Appellants No. 1 and 2 who were ordered to proceed for Disclosure of various documents and information by an Affidavit within specified time, the argument being that the requested information and documents were necessary to be disclosed to the Applicants in order for them to pursue legal proceedings abroad against the wrongdoers.

Following disclosure of a number of documents and information in accordance with the aforesaid judgment the Applicants brought Contempt proceedings before the District Court of Limassol claiming that the Respondents failed to comply with the Disclosure orders. The allegation was that the Respondents’ disclosure was partial and in spite of the ambit of the said orders the Respondents failed to comply with the provisions of the orders.

Our firm representing a co-defendant within the frame of the Contempt proceedings in issue, the District Court of Limassol after hearing delivered judgment on 30th of October in favour of all the Defendants-Respondents the contempt proceedings therefore being dismissed and rejected.

Our firm scoring another victory whereas the judgment delivered established that the mere factor that our client, namely Respondent 3, sworn the affidavit in compliance with the Disclosure orders on behalf of and in her capacity as an employee of the Respondents 1, cannot be implicated any further nor she can be considered falling within the ambit of the Disclosure orders whatsoever.

Contempt of Court’s Order

Failure to comply with a Court’s order impedes the functionality of the Court. In **Krashias Shoes v Adidas** was stated that compliance with a court order is a fundamental pillar of law. Cyprus Civil Procedure Rules provide for the possibility of issuance of a writ of attachment and a writ of sequestration in instances of contempt of Court. The court exercising its discretionary power may impose fine or to order imprisonment.



The standard of proof is proof beyond reasonable doubt. The evidence must be such as to prove a breach of the court's order by the defendant "*with all the strictness that is necessary in such a proceeding as this, when you are going to deprive people of their liberty*" (**Churchman v Joint Shop Stewards' Committee [1972] 1WLR 109**).

The Courts will only punish a person for contempt upon adequate proof of the following points. First, it must be established that the terms of the injunction are clear and unambiguous; secondly, it must be shown that the defendant has had proper notice of such terms; and thirdly, there must be clear proof that the terms have been broken by the defendant. There is also a fourth issue, namely, the *mens rea* required in such case, the act is not culpable unless the mind was also guilty.

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