

1982/4
22nd April, 1982

Duquemin v. Granite Products (C.I.) Ltd.

BAILIFF: Firstly the Court would like to say that had this been an appeal against an ordinary matter of discovery of documents we are not at all sure that we would have allowed the appeal because we think there was carelessness in your office, Mr. Voisin, and whilst one doesn't like clients to suffer for their lawyer's carelessness sometimes it is necessary. However that is not the position here because, as I've already indicated and the Court unanimously does agree, we do not think, having regard to the way in which the Order of Justice was worded, that this matter should ever have gone to the Judicial Greffier on a summons and therefore as a matter of principle we think it right to set aside the whole of the order of the Greffier. We, to some extent, are attracted by Mr. Fiott's suggestion that we could perhaps just set aside that part relating to the Saudi accounts and retain that part relating to the other accounts in view of the undertaking but we think as a matter of principle that that would be wrong because we don't think it should have gone to the Greffier at all. However we don't think that Mr. Fiott is going to suffer, we can't believe that he is really going to suffer so far as the accounts which Mr. Voisin says he's given an undertaking to Mr. Fiott to hand over. I'm sure Mr. Voisin will honour that undertaking but I mean if by any chance there was any subsequent disagreement about that, Mr. Fiott is obviously in a position to say to the Greffier, if it comes before the Greffier, or to the Court, if there is an appeal to the Court, that in fact there was an undertaking given which surely must go a very long way towards achieving the production of the accounts in relation to the companies other than Saudi. And therefore, as I say, what we are saying is that we will, for the reason I've given, set aside the order of the Greffier, and the other matter is, of course, that we order that the Plaintiff may have leave to amend his Order of Justice. Costs in the cause.