

## BERMUDA SUPREME COURT

### ***Kingate Global Fund et al -v- Kingate Management Limited* [2016] SC (Bda) 26 Com**

RELEASE FROM UNDERTAKINGS - EFFECTIVE PARTICIPATION IN LITIGATION

In this case, the Plaintiff had received certain documents through discovery. The Plaintiffs sought an Order releasing themselves from undertakings implied in the process of discovery that the party to whom documents are disclosed will not use them for an ulterior or collateral purpose. Hellman J noted the Court's residual discretion to grant leave to use such documents for collateral purposes such as the deployment of the material in other litigation, and outlined the balance in exercising such discretion as between the public interest in preserving confidentiality and the litigant's effective participation in other litigation. Because a material consideration of the success of the Summons would be what justice required to be done regarding discovery in other proceedings in New York involving the Plaintiffs and the Defendants, and because Hellman J found the arbiter of that question to be the US Bankruptcy Court, he therefore adjourned the Plaintiff's Summons pending the ruling of Judge Bernstein in the New York proceedings, with liberty to restore the Summons following.

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