

BRITISH VIRGIN ISLANDS COURT OF APPEAL

Dimitry Vladimirovich Garkusha -v- Ashot Yegjazaryan BVIHCMAP2015/0010

CIVIL APPEAL - INTERLOCUTORY APPEAL - WHETHER SECURITY FOR COSTS OF APPEAL SHOULD BE GRANTED - WHETHER FEES PAID TO FOREIGN ATTORNEYS NOT ON THE ROLL OF ATTORNEYS AND PRACTISING BVI LAW ARE RECOVERABLE IN THE BVI

This was an Application for security for costs of an Appeal which failed on the basis that the evidence did not show the Appellant was impecunious, nor that he did have the funds to satisfy a costs order. The Appellant, in resisting the Application for security for costs, used local attorneys and lawyers from a firm outside the BVI whose names were not entered on the Roll of Attorneys licenses to practice law in the BVI. In refusing to award costs incurred by the latter as a disbursement, the Court held that a person not registered on the Roll of Attorneys established under the *Legal Profession Act, 2015* (the "Act") committed an offence under the Act if he or she engaged in the practice of BVI law. This included practising as a legal practitioner or undertaking or performing the functions of a legal practitioner. Further, that a foreign lawyer who assisted local lawyers with the advice and conduct of a BVI matter must be regarded, as a matter of BVI law, as practicing BVI law and that such conduct was unlawful. The Court concluded that it must be presumed that the legislature intended to abrogate the practice of recovering the fees of overseas lawyers for such work as a disbursement.

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