

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

CIV 2007-404-6421

BETWEEN M SADIQ
 Plaintiff

AND BAYCORP (NZ) LIMITED
 First Defendant

AND J E HARRIS
 Second Defendant

Appearances: (ON Papers)
 Mr Dorbu and Mr Judd for plaintiff
 Mr C Browne for first defendant
 Mr G Kohler for second defendant

Judgment: 16 February 2009 at 12 noon

**JUDGMENT OF ASSOCIATE JUDGE J P DOOGUE
[Costs on application for security for costs]**

*This judgment was delivered by me on
16.02.09 at 12 noon, pursuant to
Rule 11.5 of the High Court Rules.*

Registrar/Deputy Registrar

Date.....

Solicitors:
*Murdoch Price, P O Box 23-620, Hunters Corner
(Counsel: Mr Judd, Barrister, Auckland)*

Wilson Harle, P O Box 4539, Shortland Street, Auckland

*Le Pine & Co, Taupo (Alan Vane)
(Counsel: G Kohler, P O Box 4338, Auckland)*

[1] I have read the memorandum of counsel for the first defendant dated 18 November 2008.

[2] I agree that the presumption that the unsuccessful party to interlocutory application should pay costs applies in this case: Rule 14.2

[3] I do not agree that this is an appropriate case for an award of increased costs. In my view the only factor that has any force is that listed in 12(d)(e) but my view is that it was a result of poor drawing of the affidavit rather than bad faith or an attempt to mislead.

[4] The applicant will have costs on a 2B basis together with disbursements fixed by the Registrar.

J.P. Doogue
Associate Judge