

ROYAL COURT

59.

10th May, 1991

Before: The Deputy Bailiff and  
Jurats Coutanche and Hamon

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<u>Between:</u>	James Barker	<u>Plaintiff</u>
<u>And:</u>	The Viscount	<u>First Defendant</u>
<u>And:</u>	Peter de Gruchy	<u>Second Defendant</u>
<u>And:</u>	Frederick John Benest	<u>Third Defendant</u>
<u>And:</u>	Malcolm Leslie Sinel	<u>Fourth Defendant</u>
<u>And:</u>	Michael Cameron St. John Birt	<u>Fifth Defendant</u>
<u>And:</u>	Mark Sylvanus Dorey Yates	<u>Sixth Defendant</u>

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Ex parte application by the plaintiff in relation to an application under Rule 6/7(5) of the Royal Court Rules, 1982, in respect of the first, second and third defendants.

Mr. Barker on his own behalf.

JUDGMENT

DEPUTY BAILIFF: Whilst we are grateful to Mr. Begg, we have examined Bates -v- Bradley (1982) J.J. 59, and it is not directly in point.

In that case an answer had been filed before the application under Rule 6/8(2) of the 1968 Rules, the equivalent of Rule 6/7(5), was made.


The answer was an imperfect one but it had been filed. The position here is different. Mr. Barker made his application on the 3rd May. At that date no answer had been filed, but an answer was filed on the 8th May, before the list for today was prepared.

The Greffier, using a time honoured practice, omitted the application from the list on the ground that an answer had been filed and the case had been restored automatically to the pending list.

That decision of the Greffier effectively deprived Mr. Barker of his right under Rule 6/7(5) to ask that because an answer had not been filed within time, the Court should pronounce judgment.

The decision whether or not to pronounce judgment is, of course, discretionary, but an applicant cannot be deprived of the opportunity to make the request.

Therefore we direct the Greffier to place Mr. Barker's application on the list of Rule 6/7(5) applications, but because of the impossibilities of dealing with such matters on a Friday afternoon, we adjourn the application to Wednesday, 22nd May, at 10.00 a.m. when the Court, no doubt differently constituted, will consider the application.



Authority referred to by the Court:

Bates -v- Bradley (1982) J.J. 59.