AFRICAN REGIONAL INTELLECTUAL

PROPERTY ORGANISATION

versus

INTERMEDIA AGENCIES (PRIVATE) LIMITED

and

REGINALD CHAPFUNGA

HIGH COURT OF ZIMBABWE

MATHONSI J

HARARE, 6 June 2012

**Opposed Application**

Ms *S Njerere*, for the applicant

The defendant in person

MATHONSI J: This is an application for summary judgment in which the applicant claims payment of the sums set out in the draft order which sums the first and second respondents acknowledged by acknowledgment of debt signed on 15 October 2010.

On the same date the second respondent signed a deed of surety in terms of which he bound himself a surety and co-principal debtor for the debt owed by the first respondent.

Despite the existence of such acknowledgement of indebtedness, the respondents have defended the action. In his opposing affidavit, the second respondent stated that, he signed the acknowledgment of indebtedness under duress. He did not explain how that duress was brought to bear upon him, neither did he deny receiving the money. Instead he sought to explain extraneously why the respondents did not undertake the job that they were paid for.

When he appeared in court the second respondent was asked to explain the duress. He stated that after the applicant had reported the matter to CID fraud section, he went and saw a very senior police officer who directed him to go to the legal practitioners for the applicant and sign an acknowledgment of debt. He felt threatened because it was his first time to be reported to the police. He however agreed that when he signed the documents the police were not present.

Clearly, that explanation does not show any form of duress and the second respondent has not proferred any defence at all. I agree with Ms *Njerere* for the applicant that appearance was entered for dilatory purposes.

In the result, I make the following order that:

1. Summary judgment in case number HC 4649/11 is granted in favour of the applicant and against the respondents in the sum of US$6 773-50 together with interest on the sum of US$5 973-50 at the rate of 5% per annum from 13 November 2009 to the day of payment in full and on the sum of US$700-00 calculated at the rate of 5% per annum from 22 March 2010 to the date of payment in full.
2. The respondents’ liability to pay this amount is joint and several, the one paying the other to be absolved.
3. The respondents be and are hereby ordered to pay costs on a legal practitioner and client scale as well as collection commission as determined by the Law Society Tariff and By-Laws.

*Honey & Blanckenberg*, applicant’s legal practitioners