



## Illegal use of documents within the context of civil proceedings

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During the last years, Cyprus Courts, repeatedly dealt with the issue of disclosed documents being held and used not for the purpose the documents were obtained or in the absence of such authorization and without previously obtaining a Court Order allowing to do so. The issue of unauthorized usage and dissemination of documents concerned the Courts in the cases *Frantisek Stepanek a.o. v. Eligzwood Trading Ltd* *ING LTD a.o. Action No.: 2103/10, 7.2.2012* (“Stepanek”) and *Rual Trade Ltd a.o. v. Andrei Raikov (ANDREY RAYKOV) a.o. Action No. 3582/2011, 1/3/2013* (“Rual”).

In *Stepanek*, the Court decided for the applicants and against the plaintiffs-respondents and consequently ordered the destruction of the documents unlawfully obtained by the plaintiffs and prohibited any use of the documents by them. In its judgment, the Court agreed with the submissions of the applicants and quoted excerpts from the following cases:

*Riddick v. Thames Board Mills Ltd* [1977] 3 All ER 677: “A party who seeks discovery of documents gets it on condition that he will make use of them only for the purposes of that action, and no other purpose. To use a document produced for inspection for a collateral or ulterior purpose is a misuse against which the court will proceed for contempt or by injunction.”



*Cobra Golf Inc. and another v. Rata and others* [Ch. 1996 C. No. 2602] - [1998] Ch. 109: “A party to litigation gives an implied undertaking that he will not use the material disclosed by his opponent on discovery otherwise than for the proper purposes of the action in which the discovery is given. The giving of discovery in litigation is regarded as an essential element in the doing of the fullest justice, but it does involve an invasion of the parties' right to privacy in respect of their documents and the undertaking is in a sense given as the price for such invasion. It is intended to limit the invasion to the extent necessary to deal justly with the particular case, and it is also regarded as assisting in discouraging litigants from any inclination to give less than full and frank discovery...”

In *Rual*, it was decided that a party cannot be permitted to hold documents of confidential nature which belong to another party, without any prior legal authorization to that effect, i.e., without previously securing a relevant disclosure order by the court. The plaintiffs-respondents were ordered to destroy all of the information illegally obtained when the Bank, in breach of the client -bank confidentiality relationship “surrendered” full details and information in respect to the bank accounts of their client-defendant without order of the Court. The judgment reaffirms and clearly illustrates the principles applied within the context of Norwich Pharmacal proceedings and sets a sound precedent on this specific area and on issues of breaches of confidentiality.

In the 40-page text of the judgment issued by Senior District Judge Lena Demetriadou -Andreou it was concluded that: “In the present case and as it arose from the unchallenged and undisputed facts, there was a disclosure of the bank accounts of Defendant 1/Applicant, without having secured a Court Order and without the Applicant/Defendant 1 being previously heard...”. Therefore The Applicant was deprived of his constitutional right to be heard in the context, in breach of the principles of natural justice and fair trial.



The District Court of Nicosia has recently reserved judgment in which the facts resemble the aforesaid background. In this instance a disclosure order was issued based on materials and information for which an undertaking was made to the Court in previous proceedings against their use. The judgment reserved relates to the application filed by the defendants requesting a *Rual* type order so as to prevent further use of the documents disclosed. It remains to be seen whether the Court upon review will affirm the existing line of authorities.

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