Neutral Citation Number: [2025] CIGC (FSD) 58

Cause No: FSD 2024-0335 (JAJ)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

BETWEEN:

JIE "IRENE" SHEN

Plaintiff

-and-

(1) INSPIRE INC.

(2) XIAOHU "TIGER" QIE

Defendants

Appearances:	**Mr Paul Smith and Ms Sarah McLennan of Forbes Hare for the Plaintiff** **Mr Jamie McGee of Nelsons for the Second Defendant**
Before:	**The Honourable Justice Jalil Asif KC**
Heard:	**13 June 2025**
Ex tempore judgment delivered:	**13 June 2025**
Finalised judgment approved:	**24 June 2025**

Practice and procedure—whether to stay order for discovery pending appeal—whether good reason shown for stay—whether appeal would be nugatory if stay refused—whether interests of justice require stay

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JUDGMENT

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1. The summons now before me, filed on 28 May 2025, arises out of my Order dated 9 May 2025 that the First Defendant should give discovery of certain documents pursuant to a letter of request from the United States Superior Court of California, County of Santa Clara to the Grand Court.

2. The letter of request seeks discovery in support of contested divorce proceedings between the Plaintiff and the Second Defendant in California, who I will call the "the wife" and "the husband" respectively. The First Defendant is a successful technology company operating in the People's Republic of China and the husband was previously its Chief Technology Officer.

3. The husband and wife are Chinese, or are of Chinese origin, and have a child between them. The husband appears to have become dissatisfied with his domestic arrangements. He contracted a bigamous marriage with another person in the PRC. It is not in dispute that he has been convicted in the PRC of that offence.

4. The husband and the wife's relationship broke down as a result, and the wife took their child and has moved to the United States of America. The husband is clearly unhappy about this, and it may underpin some of the apparent hostility between them in the California divorce proceedings. I understand that there are also divorce proceedings in the PRC in respect of certain Chinese assets.

5. The divorce proceedings in California commenced in 2021. They have therefore been on foot for about 4 years without a conclusion. The reason for this appears to be that the wife complains that the husband has not made proper disclosure of his assets in those proceedings to enable the court in California to make appropriate orders for spousal maintenance and distribution of the matrimonial assets.

6. The aspect giving rise to the current proceedings before the Grand Court is that the husband disclosed in the divorce action that he owns or owned, 6,287,693 share options in the First Defendant company. However, he declared the value of those share options as US $0.

7. That may be correct, as the share options had an expiry date which has apparently passed. On the other hand, there is evidence that the share options may be worth as much as US $11.50 each, so they could have a value of about US $72 million. Given their potential value, there is no obvious reason why the husband would not have wished to have the share options extended or reissued, if possible, to preserve their value.

8. The wife complains that the husband has not provided any discovery regarding the status and value of the share options, or indeed the husband's other financial benefits received from his employment by the First Defendant or its affiliate companies. The letter of request indicates that the husband has said in the California proceedings that the documents are not within his possession, custody or control, which is why he is unable to give discovery of them himself.

9. The wife complained about this to the judge in California with conduct of the divorce proceedings. The wife applied to that judge to issue a letter of request to the Grand Court, seeking assistance with obtaining discovery from the First Defendant, which is a Cayman Islands company, on the issues of the husband's ownership of the share options, their current status and value, and any other employment related benefits that the husband has received from the First Defendant, its subsidiaries and affiliates.

10. The wife's application was heard in California on 25 July 2024. The husband sought to resist her application. Both sides filed submissions in advance of the hearing. The husband and his attorney both made oral submissions at the hearing, but the judge decided to make the order sought by the wife. On 7 October 2024, some 3 months later, the letter of request was formally issued by the California court to the Grand Court.

11. The wife filed the originating summons in this matter on 14 November 2024, naming the First Defendant only. The originating summons was initially listed for hearing on 10 January 2025, when it was adjourned by consent, at the request of the First Defendant, to allow more time for the Plaintiff and the First Defendant to discuss compliance with the intended order.

12. On 6 March 2025, Mr Jamie McGee of Nelsons, who has appeared for the husband in respect of this matter, wrote to the Court on behalf of the husband to request that the husband be joined as an

interested party or that he be allowed to make submissions at the hearing of the originating summons. The Court responded the same day that the husband should make an application to be joined as a party.

13. On 3 April 2025, the originating summons was listed for hearing on 9 May 2025. The husband had not made any application to be joined by that date and so was not given notice of the hearing. On or about Monday 5 May 2025, Mr McGee apparently became aware from the cause list published for the week of 5 May 2025 that the originating summons had been listed for hearing on 9 May 2025. Belatedly, the husband filed his summons to be joined on 7 May 2025.

14. At the hearing on 9 May 2025, I allowed the husband's application to be joined as a party to the originating summons. An important factor that I took into account was that Mr McGee made clear that the husband's joinder to the originating summons would not require any adjournment of the substantive hearing on that date.

15. I then proceeded to hear the originating summons. Mr McGee addressed me in detail on the law and on the husband's objections to the breadth of the disclosure sought in the letter of request. In some respects, I accepted Mr McGee's submissions and reduced the scope of the discovery to be given.

16. At the end of the hearing, I gave an *ex tempore* judgment and made an Order as to the discovery to be provided by the First Defendant. I ordered the First Defendant to give the discovery ordered within 21 days of the date of the Order.

17. The First Defendant had not appeared at hearing of the originating summons because it took a neutral position. Nevertheless, it was aware that the originating summons was being decided that day and that an order one way or the other would be made. The First Defendant does not appear to have made inquiries as to the outcome of the hearing or to have been informed by the wife's attorneys of the outcome, which is regrettable.

18. There was then some delay between the attorneys in finalising the form of Order. The First Defendant was not copied into correspondence with the Court regarding the Order. The Order was eventually filed on 22 May 2025, and the sealed Order was served on the First Defendant on that date.

19. Notwithstanding that the Order was clear in its terms that the 21 days for the First Defendant to give discovery ran from the date of the Order, namely 9 May 2025, the First Defendant and the other attorneys involved all erroneously considered that the 21 days ran from the date of service on the First Defendant, in other words, from 22 May 2025. The First Defendant has therefore apparently been working towards giving the discovery ordered by 12 June 2025, in other words, yesterday.

20. On 28 May 2025 the husband filed the current summons seeking a stay of the main operative parts of my Order of 9 May 2025 pending an intended appeal by the husband against it. On 5 June 2025, on the very last day allowed, the husband filed a Notice of Appeal.

21. The wife complains that the Notice of Appeal was not served upon her attorneys at that time. It appears to have been served on 9 June 2025, which would be out of time under the Court of Appeal Rules.

22. My Order stated, as I have mentioned already, that the First Defendant should give the specified discovery within 21 days of the date of the Order. The husband did not appear to have checked before filing his summons for a stay whether the First Defendant had already complied with the Order, which would have rendered the summons otiose. However, luckily for the husband, the First Defendant had not done so.

23. The husband's summons for a stay was therefore listed for hearing before me on 11 June 2025, the day before the final day when the First Defendants' discovery was due to be provided. As explained later in this judgment, I adjourned the hearing of the husband's summons part-heard to today to enable certain additional enquiries to be made and stayed the Order of 9 May 2025 until the conclusion of the hearing today.

24. At the hearing before me on 11 June 2025, the wife's attorneys drew my attention to the helpful summary of the principles to be applied in this situation in the judgments of Ramsay-Hale J (as she then was) in *Beck v MV Cayman Limited* (unreported, 12 January 2022, G2021-0045) and Doyle J in *Re Aquapoint LP* (unreported, 5 October 2022, FSD2021-0157).

25. In *Beck*, Ramsay-Hale J said this at paragraph 6:

> *"6. The principles on which a stay of execution may be granted were recently considered by the Court of Appeal in the matter of the* Deputy Registrar of the Cayman Islands Government v Day & Anor, *[2019] 1 CILR 510. The President said this at paragraph 15 of the Court's ruling:*
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> > *'By section 19(3) of the Court of Appeal Act (2011 Revision), a stay may be granted for good cause. What amounts to good cause to stay an execution of a judgment has been considered in many cases, a number of which have been drawn to our attention. As the cases make plain, a successful litigant is prima facie entitled to the fruits of his success. There must be good reason for the court to prevent that. In deciding whether or not to impose a stay, the court will consider the grounds of appeal, their likelihood of success and the balance of convenience having regard to the interests of both parties. The overriding feature is the interests of justice in any given case, as the observations of Potter LJ make plain in the case of* Leicester Circuits Limited v Coates Brothers plc *[(EWCA Civ. 474)]'"*

26. Justice Ramsay-Hale continued in paragraph 7:

> *"7. The Court made the point that the applicant does not need to show the grounds are strong or that there is a strong likelihood of success, but that the grounds are arguable or that there is a real prospect of success on appeal.*
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> *8. In* Heriot African Trade Finance Fund Limited v Deutsche Bank (Cayman) Limited*, 2011 (1) CILR 34 Jones J held, inter alia, at [22] that the onus is on the applicant to show good cause for the imposition of a stay pending appeal and that the court will consider all the circumstances of the case including whether the appeal would be rendered nugatory if a stay were not granted.*
>
> *9. The authorities also establish that, on an appeal on a question of fact, leave will be granted where the court drew untenable inferences from primary facts or should have drawn materially different inferences."*

27. In summary, the learned judge, in the following paragraphs of her judgment in *Beck*, concluded that the grounds of appeal intended to be put forward had no merit at all, and as a result of that refused to order a stay.

28. In *Re Aquapoint LP*, my attention was drawn to Doyle J's helpful summary of the relevant principles at paragraph 20, which reads as follows:

> *"20. It can be seen from the local Cayman authorities that:*
>
> *(1) an appeal does not operate as a stay;*
>
> *(2) the starting point is that there should be no stay and a successful party at first instance should not be deprived of the fruits of that success;*
>
> *(3) there must be 'good cause' or 'good reason' for a stay. In some of the English authorities there is reference to 'solid grounds';*
>
> *(4) the court is likely, all other things being equal, to grant a stay where the appeal could otherwise be rendered nugatory or deprived of much of its significance; and*

> *(5) in deciding whether or not to impose a stay the court will consider the grounds of the appeal, their likelihood of success and the balance of convenience having regard to the interests of the relevant parties. The overriding feature is the interests of justice."*

29. Those two cases therefore set out the legal framework against which I must consider the husband's application for a stay. I interject at this stage that, in this case, the judgment or order in question is not a judgment or order for the simple payment of a sum of money which could easily be reversed if the husband's appeal were to be successful. Instead, it concerns an order for discovery of documents and in those circumstances, as was ventilated during the course of the hearing, the question of how and in what way that order or that discovery might be reversed if the husband's appeal were to be successful in due course raises some slightly more complex issues.

30. Against that background, I turn first to the question of "good cause" or "good reason." As has been indicated in the Court of Appeal's judgment in the passage from *Deputy Registrar of the Cayman Islands Government v Day* cited by Ramsay-Hale J in *Beck*, which I have just read, the need to show good cause or good reason typically involves the need for the applicant to demonstrate that they have good grounds for an appeal. In my judgment, it is difficult to see why, in the absence of good grounds for an appeal, the court would conclude that good cause or good reason has been shown to justify a stay of the underlying judgment or order.

31. I therefore start with consideration of the husband's intended appeal. There are two issues that arise. The first is whether it has been commenced in time. The second is whether it has been shown to have any merit.

32. Mr McGee submits that the Notice of Appeal has been filed in time and argues that it has also been served on the wife's attorneys in time by uploading it to the Curia platform. Mr McGee relied on *Practice Direction 11 of 2020*, in particular paragraph 12 of the Practice Direction, to support his position regarding service.

33. Mr Paul Smith of Forbes Hare, who appears before me with Ms Sarah McLennan on behalf of the wife, initially contended in his skeleton argument that the husband's time for filing and serving his Notice of Appeal ran from 9 May 2025 when the Order was made. But he quickly and sensibly gave

up that position when I drew his attention to Rule 11(4) of the Court of Appeal Rules, which provides that:

> *"(4) For the purposes of section 19(1), time shall be calculated from the date upon which a judgment or order (whether final or interlocutory) is filed in accordance with GCR Order 42, rule 5."*

34. In other words, Rule 11(4) of the Court of Appeal Rules makes clear that the 14-day time limit runs, not from the date when the Order is made or pronounced, but from the date when the finalised Order is filed in the Registry. On that basis, the husband's Notice of Appeal was, as I have indicated earlier, filed on the last day that would render it in time.

35. However, Mr Smith maintains that the Notice of Appeal has not been served on the wife, or rather on his firm as her attorneys, within the time allowed by the Court of Appeal Rules and therefore the husband has lost his automatic right to an appeal. As I have indicated, s.19(1) of the Court of Appeal Act requires that the Notice of Appeal is filed and also served on the respondent or her attorneys within 14 days.

36. In addition, Mr Smith disputed Mr McGee's position that the effect of paragraph 12 of *Practice Direction 11 of 2020* has the result that simply uploading a document to the Curia platform is equivalent to service. Whilst I did not hear full argument on this point, I consider that Mr Smith's position is likely to be correct.

37. It therefore appears that Mr Smith is likely to be right that the husband's Notice of Appeal was not served in time. However, s.24 of the Court of Appeal Act gives the Court of Appeal a general power to extend time to file or serve a Notice of Appeal. The husband's delay in serving his Notice of Appeal on Forbes Hare may not therefore necessarily be fatal, depending on whether the Court of Appeal is willing to extend the husband's time for service. Nevertheless, Mr Smith is right to say that the husband's *automatic* right to be able to pursue his appeal has been lost in the sense that he now needs a positive exercise of the Court of Appeal's discretion in his favour to be able to pursue his appeal.

38. As to the substantive grounds of appeal, Mr McGee repeats his arguments that the terms of the Order for discovery that the Plaintiff sought and which I granted are too wide, but he was not able to articulate

in what respects it would be said for the husband that I had erred in law or had exercised my discretion in a way that would be properly challengeable before the Court of Appeal.

39. Mr McGee's position is that until he has received a perfected copy of my *ex tempore* judgment given on 9 May 2025, he cannot finalise the husband's grounds of appeal. I pause here to explain that the reason that my *ex tempore* judgment is not already available is that the court recording has failed. As a result, Forbes Hare have recently provided me with their helpful notes of what I said on 9 May 2025 and I am currently going through those notes in order to perfect and finalise my two *ex tempore* judgments from that date. Going back to the position of the husband, Mr McGee was in court on 9 May 2025 and should have taken his own note of my *ex tempore* of judgment. In my judgment, he should by now be able to set out what are the husband's intended grounds of appeal, and to justify to me why the husband has reasonable grounds for succeeding on his intended appeal, even if the grounds of appeal would not be finalised until Mr McGee has been able to review my perfected *ex tempore* judgment.

40. Mr Smith argues that there is no merit in the husband's intended appeal, and he criticises Mr McGee's inability to identify what are the grounds and why they have merit, in particular in paragraph 16 of the wife's supplemental skeleton argument. Mr Smith says there that the sum total of the husband's evidence in support of his grounds for an appeal is one line in one sub-paragraph of his second affirmation, where he says:

> *"I reasonably and sincerely believe that I have reasonably arguable grounds for appeal and that the proposed appeal raises points of general public importance."*

Mr Smith comments that this is obviously inadequate to demonstrate that the husband has any meritorious grounds of appeal. He adds that, since the husband is not a Cayman Islands lawyer, he can have no reasonable or sincere belief as to the grounds to appeal or points of general public importance unless he has been advised of such by his Cayman attorneys. It seems to me that that is a good point.

41. During the hearing of the summons on 11 June 2025, I went through each paragraph of the Order dated 9 May 2025 with Mr McGee to ascertain what are the husband's intended complaints. Mr McGee conceded that there is no complaint regarding paragraph 1(a) of the Order, which requires disclosure of the First Defendant's share registers insofar as they mention the husband by name.

42. Mr McGee said that paragraphs 1(b) to 1(d) of the Order were too vague, essentially because of the inclusion of the word "other" in those paragraphs where they reference "other documents", etc.

43. During the adjourned hearing today, Mr McGee appeared to concede that paragraph 1(b) of the Order might also be justifiable on the ground that it is limited to registers of beneficial ownership or similar documents which indicate that the husband owned or owns shares in the First Defendant in the name of a nominee. However, Mr McGee maintains the husband's position that paragraphs 1(c) and 1(d) of the Order are too wide.

44. Mr Smith complains in paragraph 19 of his supplemental skeleton argument that:

> *"19. In the complete absence of any coherent grounds of appeal, or any attempt to identify specifically how His Lordship misunderstood or misapplied the law at the last hearing, it appears that D2 is effectively seeking to re-argue on appeal the same points that were considered at length at the first inter partes hearing, following a review by both parties' counsel and His Lordship of the relevant authorities."*

I agree with that criticism. At the end of the exercise on 11 June 2025, I had no clear indication from Mr McGee of how the husband intended to argue that had I misunderstood or misapplied the law relating to letters of request, or where I had exercised my discretion in a way that was realistically susceptible to challenge on appeal. That position has not been made any better as a result of the continuation of the adjourned hearing today. Accordingly, I am not convinced that there is any real substance to the husband's intended appeal, nor that the husband's intended appeal has any real prospects of success on the merits.

45. The next question is whether the appeal would be rendered nugatory if I refuse a stay. Mr McGee argues that the interests of justice point firmly in favour of granting a stay because the husband's appeal would be rendered nugatory unless the stay is granted. This is because, unless a stay is granted, the First Defendant will be required to disclose the documents ordered. That will happen within a matter of days, as I understand that the documents have already been collated and the necessary affidavit has been prepared and sworn by an officer on behalf of the First Defendant. The wife is likely to wish to use those documents promptly within the Californian proceedings to seek an interim maintenance order in her favour and also to move ahead with a final determination of the division of the matrimonial assets, taking into account the information revealed about the value of the husband's options in the First Defendant company. That inference is supported, amongst other things, by the wife's evidence

that she is in straightened financial circumstances and is in desperate need of an interim order of maintenance in her favour.

46. If, despite my view of the absence of merit in the husband's intended appeal, the Court of Appeal here were to conclude that my Order was too wide in scope and should be set aside, then it is unknown whether the court in California would respect that decision and would itself set aside any orders it had made based on material that should not have been ordered to be disclosed, or would adhere to the orders it had previously made. In this hypothetical situation, if the court in California would revisit its orders to remove reliance on material that the Cayman Islands Court of Appeal were to determine should not have been disclosed, then it could be said that the genie could easily be put back into the bottle eliminating the risk that the husband's appeal would be rendered nugatory. I envisage that the likely outcome in this scenario would be that the judge in California would reduce any interim maintenance payable to the wife and adjust the division of the matrimonial assets to put the wife and the husband into the situation they would have been in ignoring any information that should not properly have been before the California court. The value of the total matrimonial assets, without the value of the share options, is apparently over US $20 million, so it is likely that the wife would be able to repay any overpayment that had been made in her favour in reliance on the documents that should not have been before the California Court.

47. On the other hand, if the court in California would ignore the effect of a successful appeal by the husband to the Cayman Islands Court of Appeal, for example on the basis that the court in California cannot properly ignore evidence put before it, even if obtained improperly or illegally, then there might be a real risk that the husband's appeal could be rendered nugatory by refusing a stay.

48. For this reason, and also to give Mr McGee an opportunity to take instructions on certain matters relevant to the question of prejudice to the parties, I adjourned the matter part-heard on 11 June 2025 to come back today, 13 June 2025, and ordered an interim stay of my Order dated 9 May 2025 until the conclusion of the hearing today.

49. Unfortunately, the wife has not been able to provide any further material or insight today regarding what would be likely to happen in California if the husband's appeal to the Cayman Islands Court of Appeal were to succeed. But Mr Smith now makes two relevant points which have helped me to reach

a conclusion on this aspect even without an answer to the question raised. The first is that Mr Smith points out that the prejudice alleged by the husband is not that he objects to disclosure of the documents to the California court at all but, as Mr Smith sets out in paragraphs 24 and 25 of his supplemental skeleton argument, that:

> *"24. Significantly, D2 position on prejudice is* ***not*** *that he objects to the disclosure of the documents to the Californian Court. At paragraph 18 of the Affidavit of Cindy Liu* [who is the husband's US Attorney]*, she states:* 'Mr Qie has always been willing to have all of the party's community properties, including the Xiaohongshu stocks, be divided equally.'
>
> *25. The alleged prejudice relied on by the husband is thus solely in relation to the potential for the Plaintiff* [in other words, the wife] *to deploy any documents disclosed outside the California proceedings."*

50. In paragraph 23 of Mr Smith's supplemental skeleton argument, he helpfully summarises the husband's position as being set out in one sub-paragraph of his second affirmation at paragraph 13(c), where the husband says:

> *"I consider that if the disclosure is provided to the Plaintiff, it would be deployed in a manner which is contrary to the intended purpose and that I will suffer irreparable damage if that is to occur."*

In his submissions to me this afternoon, Mr McGee confirmed that the husband's real concern is that the wife may use any documents and information disclosed by the First Defendant as part of what I summarise as an adverse publicity campaign against the husband.

51. Secondly, Mr Smith makes in paragraphs 31 and 32 of his supplemental skeleton argument a submission that the concern about putting the "genie back in the bottle" will not arise in practice, if disclosure is given, because either the documents will confirm that the stock options have no value, in which case there will be no practical benefit in pursuing the appeal; or if they do confirm that the stock options exist and have significant value, then the consequence of that is that the husband will have been shown to have been in breach of his disclosure obligations to the California court, and to have been deliberately misleading the California court, the wife and potentially this court as well. In those circumstances, Mr Smith submits, the Court of Appeal here would be likely to treat the husband as coming to the court with unclean hands and would be extremely unlikely to be willing to permit the husband to fail to comply with his proper disclosure obligations within the California proceedings.

52. I will consider those two points now, firstly, the question of disclosure and prejudice, and secondly, the unclean hands aspect.

53. The husband has continued to complain before me that the wife previously used documents that were disclosed within the California proceedings to wage, as I summarised it a moment ago, a publicity campaign against him in the PRC, in Hong Kong and in Singapore. I cannot possibly decide whether or not there is any merit in that complaint. However, it is common ground that there is now a protective order made by the California court regarding any discovery provided within those proceedings.

54. Secondly, any discovery provided by the First Defendant pursuant to my Order of 9 May 2025 will be subject to the implied undertaking that it cannot be used by the parties other than for the purpose of these proceedings, except as ordered by the Court, and the only permission that I have given for the use of the discovery ordered is that it may be used within the California proceedings.

55. If there is any breach of the protective order, that is a matter that the husband can raise before the California Court and if there is any breach of the implied undertaking, that is a matter that the husband can raise before this Court by way of contempt proceedings in due course.

56. Ultimately, it seems to me that the only ground of prejudice that the husband actually complains of, namely the risk of dissemination of this material as part of a publicity campaign, is not likely to arise. In respect of that, I note that today Mr Smith has confirmed that the wife would be willing to give an undertaking, if that were necessary, to confirm that she will comply with the protective order. Such an undertaking is not necessary in light of the implied undertaking that binds her in any event as regards discovery provided by the First Defendant in these proceedings.

57. Further, on this particular point, given that the husband says that he wants the matrimonial assets to be divided fairly, it is difficult to see how he can realistically say that he will be prejudiced by the disclosure of documents that help the California court to determine what are the matrimonial assets and their values. This is particularly so as his position in the California proceedings is that he would like to give discovery but cannot as the documents are not within his power or control, and that Mr McGee has conceded that the husband has no objection to paragraph 1(a) of the Order requiring disclosure of share registers identifying shares owned by the husband, and seemingly also has conceded, or at least has difficulty in resisting, paragraph 1(b) of the Order concerning disclosure of registers of beneficial owners identifying shares owned by nominees on the husband's behalf.

58. For those reasons, it seems to me there is considerable merit in Mr Smith's first point regarding the nature of the relevant prejudice that I should bear in mind in considering whether or not to grant a stay.

59. Secondly, it seems to me there is also considerable merit in Mr Smith's argument based on unclean hands. In my judgment, Mr Smith is right to say that if the disclosure shows that, in fact, there are no stock options and they have no value, then that is a short answer to the wife's application, and it will almost certainly have the result that the husband concludes that there is no point in continuing with the appeal. If, on the other hand, the disclosure shows that the stock options exist and have significant value, then it seems to me it is right, or is likely to be right, that the Court of Appeal will conclude that it should not give its assistance to the husband's attempt to mislead the court in California and to prevent proper disclosure within the California proceedings.

60. I am therefore driven to the view that the husband has failed to demonstrate that his appeal would be rendered nugatory or of no significant value if I refuse the stay of my earlier order.

61. Finally, I come to the question of balance of convenience, and the interests of justice. In the husband's favour, Mr McGee told me that the appeal could be heard during the September 2025 sitting of the Cayman Islands Court of Appeal and that the husband would agree to the release of money from the joint community fund controlled by the California court to both the husband and wife equally towards legal costs that they would be likely to incur in relation to the husband's intended appeal. Mr McGee also indicated that the husband would meet the cost orders already made against him in favour of the wife in the Cayman proceedings and would not enforce any adverse cost order made in his favour by the Cayman Islands Court of Appeal.

62. Those concessions go some way towards alleviating some of my concerns about the delay and the costs that would be associated with any appeal. Nevertheless, I have concluded that the balance of convenience and the interests of justice are firmly in favour of refusing a stay.

63. I bear in mind, in particular:

    63.1 The Californian proceedings have been on foot for 4 years. They cannot currently be resolved due to the wife's concern that the husband has not given proper discovery of his assets.

63.2 The husband's position in California is that he wants to give discovery, but he cannot.

63.3 Nevertheless, the husband resisted the wife's application for the letter of request.

63.4 Further, he has steadfastly opposed the relief sought by the originating summons before me. At least insofar as the Cayman proceedings are concerned, he has been dilatory in the steps he has taken, leaving every step to the last minute.

63.5 The issue of discovery has now been before the Grand Court on three occasions, occupying many hours, and costing the parties significant sums in respect of their representation. That time and that money could easily have been avoided.

63.6 As Mr Smith points out, the husband has failed to take relatively easy steps that would ensure that appropriate discovery by the First Defendant was available for the court in California voluntarily, for example by the husband calling for the relevant documents from the First Defendant and then disclosing them himself or by authorising the First Defendant to disclose them. Mr McGee says that the husband wants to review the documents himself first to protect his rights. What those rights are is unclear to me, but they certainly do not include any right to vet discovery that should properly be given to the court in California.

63.7 The husband's Notice of Appeal was served out of time and does not have any apparent merit.

63.8 If the stock options do not exist or have US $0 value, as the husband contends, it is very difficult to see why the husband is behaving in the way that he is. But importantly, he will clearly suffer no prejudice from the disclosure.

63.9 On the other hand, if, contrary to his statements to the California court the stock options are worth up to US $70 million, it is easy to see the current motivation for his actions.

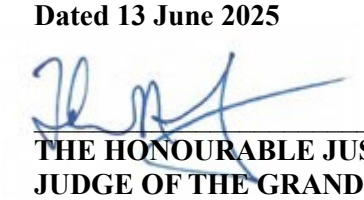
63.10 If that is the case, then the interests of justice are strongly against allowing the husband to continue to conceal the true position and are strongly in favour of assisting the wife to obtain disclosure for the purposes of obtaining a fair distribution of the matrimonial assets within the California divorce proceedings.

64. So, for all of these reasons, I refuse the husband's application for a stay of my Order dated 9 May 2025.

65. The husband will pay the wife's costs on the indemnity basis. I am satisfied that there is an element of the husband's conduct of the case which deserves a mark of disapproval, particularly the fact that in California he has maintained that he wants to give discovery but he is unable to, and here in the Cayman Islands, he has steadfastly done everything he possibly could to try to prevent that discovery from being given.

66. So far as this particular application is concerned, first of all it has all been made at the last minute, consistently with the wife's complaints about this all being tactical and an attempt by the husband to drag matters out; and, secondly, because there have been no properly formulated grounds of appeal at all and no real attempt to formulate what those grounds of appeal would be. So, it seems to me that this is, rarely, an appropriate case where I will order the husband to pay costs on the indemnity basis.

Dated 13 June 2025



THE HONOURABLE JUSTICE JALIL ASIF KC
JUDGE OF THE GRAND COURT