

**THE GRAND COURT OF THE CAYMAN ISLANDS
FAMILY DIVISION**

CAUSE NO: FAM 66 OF 2014

BETWEEN:

DJ

Petitioner

AND

BJ

Respondent

AND

RK

Co-Respondent

Appearances:

Mr. David McGrath for the Petitioner

Mrs. Karin Thompson for the Respondent

Before:

Hon. Mr. Justice Richard Williams

Heard:

21 October 2015

Draft Judgment Circulated: 28 October 2015

Date of Judgment:

30 October 2015

Date of Costs ruling:

17 November 2015

HEADNOTE

*Family Law – costs – costs follow the event – unsuccessful application at inter partes hearing
for leave to appeal order - proceedings include any step in any appeal*

JUDGMENT FOR COSTS

1. On 30 October 2015 I delivered my reserved written judgment following the
inter partes hearing held on 21 October 2015 of BJ, the Respondent husband's,

1 unsuccessful application for leave to appeal paragraph 5 of my order for him to
2 pay costs dated 4 September 2015.

3
4 2. I refused leave and dismissed the application for leave to appeal. At paragraph
5 31 of the judgment I stated:

6 *"If costs cannot be agreed, I will afford the parties an opportunity*
7 *to file written submissions on costs within 14 days of this perfected*
8 *judgment. I will thereafter provide the parties with a brief written*
9 *ruling on costs."*
10

11 This is the promised written ruling
12

13 3. On 30 October written submissions on the issue of costs were filed on behalf of
14 the petitioner wife. On the same day my Personal Assistant emailed both parties
15 asking whether there was in fact an issue about costs and, if there was, reiterated
16 that the husband's submissions should be received within 14 days.

17
18 4. No written submissions on costs have been filed on behalf of the husband. I
19 would not be surprised if this was because the husband was not opposing the
20 making of a costs order relating to the hearing held on 21 October 2015. That
21 said, I still go on to consider what order for costs should be made based on the
22 governing principles and submissions before me.
23
24

1 **The law and principles to be applied**

2 5. The Grand Court has a wide discretion concerning the making of costs orders in
3 matrimonial proceedings. GCR Order 62.4(1) provides that the rule “*shall have*
4 *effect unless otherwise provided by any law.*” GCR Order 62.3(1) defines
5 proceedings as including “*any cause or matter or any step in any cause or*
6 *matter and any appeal and any step in any appeal*”

7
8 6. In the Court of Appeal decision of ***Rory Michael McTaggart v Mary Elizabeth***
9 ***McTaggart*** CICA 14 of 2010, handed down on 12 February 2015, helpful
10 guidance was given by the President, Sir John Chadwick, in relation to the
11 proper approach to costs in matrimonial proceedings.

12
13 7. At paragraph 5 of the judgment the President referred to paragraphs 106-107 of
14 his earlier judgment on the appeal of the ancillary relief decision which had been
15 handed down on 29 November 2011, where he stated:

16 *“106. Put shortly, the position, here, is that costs in matrimonial*
17 *proceedings – as in other proceedings – are governed by the*
18 *Grand Court Rules; and, in particular by GCR Order 62, rule 4,*
19 *which requires (at sub-rule (3)) that:*

20 *‘If the court in the exercise of its discretion sees fit to make*
21 *any order as to the costs of any proceedings, the court shall*
22 *order the costs to follow the event, except where it appears*
23 *to the court that in the circumstances of the case some*
24 *other order should be made as to the whole or any part of*
25 *the costs.*

1 8. At paragraph 23 of his ruling the President clearly stated that:

2 “...Unless and until there is a change to the relevant rule in this
3 jurisdiction, in awarding costs in ancillary relief proceedings
4 courts here should give effect to the provisions of GCR 62.4 – that,
5 generally, a successful party to any proceeding should recover
6 from the opposing party the reasonable costs incurred by him in
7 conducting that proceeding and in an economical, expeditious and
8 proper manner”
9

10 **Wife’s submissions on costs**

11 9. The wife rightly submits that she has been successful in opposing the husband’s
12 application for leave to appeal the order dated 4 October 2015, as leave was
13 refused.
14

15 **Conclusion**

16 10. There is nothing in the circumstances of the case that would lead me to depart
17 from the normal course, namely that costs follow the event.
18

19 11. Having regard to GCR Order 62.4 and the principles set out herein, I order the
20 husband to pay the wife’s costs incurred in preparation for, and attendance at,
21 the hearing of the leave to appeal application. These costs are to be taxed if not
22 agreed.

23
24
25 **Honourable Mr. Justice Richard Williams**
26 **JUDGE OF THE GRAND COURT**

