



**NEUTRAL CITATION NUMBER: [2026] CIGC (FSD) 43**

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**CAUSE NO: FSD 88 OF 2023 (DDJ)**

**IN THE MATTER OF THE ENFORCEMENT OF THE ARBITRAL AWARD OF THE ICC  
INTERNATIONAL COURT OF ARBITRATION CASE NUMBER 25194/AYZ/ELU**

**BETWEEN**

**A**

**for itself and on behalf of**

**B**

**PLAINTIFF**

**AND**

**(1) X**

**(2) Y**

**(3) Z**

**DEFENDANTS**

**Before:** The Hon. Justice David Doyle

**Heard:** On the papers

**Draft Judgment  
circulated:** 26 May 2026

**Judgment delivered:** 29 May 2026

*260529 In the matter of A & B v X, Y & Z – FSD 88 of 2023 (DDJ) – Judgment (Costs)*

*Determination of issues in respect of costs*

## **JUDGMENT**

### **Introduction**

1. On 7 April 2026 I delivered a judgment (the “Judgment”) dismissing an application by Y and Z (the “Applicants”) for an extension of time for the reasons stated in the Judgment. At [27] of the Judgment I stated that I was minded to order costs against the Applicants and added that if costs could not be agreed then any concise written submissions (no more than 5 pages) should be provided within 14 days.

### **The submissions**

2. I have considered:
  - (1) the Plaintiff’s written submissions on costs dated 21 April 2026; and
  - (2) the Applicants’ costs submissions dated 21 April 2026.
3. The Plaintiff seeks an order that the Applicants pay the Plaintiff’s costs of and incidental to the extension application on the indemnity basis to be taxed forthwith. The Applicants dispute that they should pay costs on the indemnity basis. They say that the costs order should be on the standard basis.

### **Determination**

4. I have considered the submissions in respect of the appropriate bases for taxation.
5. Under Order 62 rule 4(11) of the Grand Court Rules (2023 Revision) the court may make an *inter partes* order for costs to be taxed on the indemnity basis only if it is satisfied that the paying party has conducted the proceedings, or that part of the proceedings to which the order relates, improperly, unreasonably or negligently.

6. The relevant law and practice is most recently summarised by Field JA in *Al Jomaih Power Limited v IGCF SPV 21 Limited* [2026] CICA (Civ) 9 (judgment delivered 20 April 2026) which also refers to some of the well-known authorities referred to by counsel in their concise written submissions including Birt JA's judgment in a related appeal delivered on 3 February 2026.
7. I note and apply the established law and procedure. In short, the Court of Appeal has emphasised that the starting position is that costs should be awarded on the standard basis and there has to be something exceptional to justify an award of indemnity costs. This may occur if the paying party has conducted the proceedings or the part of the proceedings to which the order relates improperly, unreasonably or negligently to such an extent to take the case out of the norm and justify, in the court's discretion, an award of costs on the indemnity basis.
8. The Plaintiff refers to various findings and comments made in the Judgment which it says provide compelling grounds to show that the Applicants have behaved unreasonably and out of the norm.
9. Despite the criticisms levied at the Applicants in the Judgment I am not persuaded that their conduct in respect of the extension application was so unreasonable as to warrant a costs order on an indemnity basis. The costs order is therefore on the standard basis.
10. I am however persuaded that I should order a taxation forthwith and I do so. The extension issue was a discrete issue and it would not be unfair to require a forthwith taxation. The Plaintiff's recovery of its costs should not await until the end of the enforcement proceedings in the Cayman Islands.
11. The Attorneys should before 3pm on 2 June 2026 email a draft order (agreed as to form and content) reflecting the determinations contained in this judgment.

*David Doyle*

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**THE HON. JUSTICE DAVID DOYLE**  
**JUDGE OF THE GRAND COURT**