



**NEUTRAL CITATION NUMBER: [2026] CIGC (Civ) 20**

**ND COURT OF THE CAYMAN ISLANDS  
PROBATE AND ADMINISTRATION DIVISION**

**P0169 of 2019**

**IN THE ESTATE OF RAMOUTEE CHATTOOR, (DECEASED)**

**IN CHAMBERS**

**Coram:** The Hon. Mrs. Justice Marlene Carter

**Appearances:** Ms. Yvonne Mullen of Hampson & Company for the Applicants/Beneficiaries of the Estate

Mr. Kai McGriele of KSG Attorneys for the Executor of the Estate

**Date of Hearing:** 7 May 2026

**Draft circulated:** 25 May 2026

**Ruling Delivered:** 28 May 2026

*Civil Law - Probate – Indemnity of Executor - Reasonableness of Executor’s conduct in the administration of the Estate - Costs*

**RULING**

**Background**

1. The Deceased was domiciled in the Cayman Islands, having worked as a teacher for many years in Cayman Brac. She held assets in both the Cayman Islands and Trinidad and Tobago.
2. After her death on 31 July 2019, a Grant of Probate was issued in the Cayman Islands on 13 December 2019 to the present Executor. The Grant was re-sealed by the Supreme Court of Trinidad and Tobago on 14 October 2022.
3. The Applicants’ present attorneys were retained in 2024. The Applicants’ position is that they raised concerns regarding delay and requested proposals to progress the administration of the

Estate. Up to early 2025 it appears that no meaningful progress was made regarding the Estate. A core complaint of the Applicants is that the Executor has been persistently non-responsive for years and that no meaningful response was received until the morning of the first listing of the summons.

4. Considering the Executor's failure to advance the administration of the Estate, and in particular to address the bequest to one of the beneficiaries, Shanti Chattoor-Persad, the Applicants then engaged counsel to advise on the proper construction and effect of Article III of the Deceased's Will. The Applicants contend that in the spirit of seeking to progress matters consensually, advice was provided to the Executor's attorney on 27 January 2025.
5. The Applicants received no substantive response until 14 January 2026, long after the summons for directions had been filed in November 2025.
6. At the hearing of the summons for directions on 22 January 2026, the Executor conceded the following points:
  - (i) He needed to file an interim account;
  - (ii) He needed to repay funeral expenses;
  - (iii) He needed to pay in full the bequests to the Deceased's nieces and had done so that day;
  - (iv) He needed to distribute the Deceased's jewelry.
7. The Executor was given 14 days to complete these duties. The Executor complied with these duties shortly before the review hearing on 12 March 2026.
8. Counsel for the Applicants submits that –

*“The administration of this Estate has, regrettably, been characterized throughout by the Executor's unreasonable conduct. That conduct extends beyond mere inaction, delay, and obfuscation, and includes a persistent failure to progress the administration diligently, to engage transparently with beneficiaries, and to comply with his core fiduciary obligations. In summary, the Executor has failed, refused, and neglected to discharge his duties properly, with the result that the administration has been unnecessarily protracted, more costly, all to the detriment of the Beneficiaries.”*
9. The timeline complained of is set out below:

*“(a) Almost no steps taken after grant of probate in 2019 – not even the transfer of the house into the Estate name.*

- (b) *Substantial correspondence took over a year to reply to, and then only by issuing the summons*
- (c) *The only reason this Estate has been administered at all is because this summons was issued. That is prima facie unreasonable conduct by an Executor.*
- (d) *The Applicant has had to seek London counsel's advice on the issue of the bequest to Shanti – a task that should have fallen to the Executor.*
- (e) *Simple issues such as filing an interim account, repayment of funeral expenses, jewelry and small bequests took 7 years to complete and were only done after court orders were made. Even then they were late being completed and only just before the second hearing.*
- (f) *Executor has quibbled over the wording of orders such as "reasonable" funeral expenses – even though for 7 years they remained unpaid. Issues like this increase legal fees on both sides.*
- (g) *Executor takes the unreasonable position that an alleged outstanding loan to Tyrone Harrysingh should be deducted from a bequest to his wife – a proposition unknown to law.*
- (h) *This hearing is the third listing of this summons. The fact that the Court has to supervise the Executor so closely in performing his task is indicative of the unreasonableness of the situation.*
- (i) *The Executor still refuses to provide bank statements.*
- (j) *On 28 January 2026 the applicants wrote to the Executor and asked for half of their costs to be paid by the Executor and half by the Estate. The Executor has never engaged in respect of the issue of costs."*

10. In essence, counsel's argument is that the instant summons and the fact that the Applicants felt constrained to issue it is "*evidence of the Executor's unreasonable conduct*"

11. Counsel for the Executor's first submission was that the issue of costs should be addressed at the conclusion of the administration of the Estate because any assessment of the Executor's conduct in the discharge of his fiduciary duties could not properly be made at this stage and that "*the question of costs, particularly where it is sought to depart from the well-established default position of indemnity from the Estate, should be determined, if at all, after the relevant factual issues have been properly addressed*" and "*the applicants' request for a personal costs order at this stage was premature and inappropriate*".

12. In addressing the issue raised counsel submitted that:

*"...mere delay is insufficient to meet the threshold required to justify an adverse costs order against the Executor personally, particularly in circumstances where the delays have arisen from a combination of matters outside the control of the executor and due to his navigating complex issues in good faith."*

13. In support of this submission counsel noted the following regarding the Executor's actions:

- “(i) The resealing of the grant of probate in Trinidad took over two years, largely due to the operational disruption by the COVID 19 pandemic, including court closures, backlogs, and reduced processing capacity, during which time the Executor had no authority to deal with Trinidadian assets.*
- “(ii) Further delay resulted from the prolonged and unsuccessful attempts to realize the Cayman Brac property, which has been subject to multiple sales cycles, which reflects market conditions rather than lack of effort on the part of the Executor.*
- “(iii) There has been a continuing lack of agreement among the beneficiaries regarding the interpretation and effect of material provisions of the Will, most notably the bequest relating to the provision of a house for Shanti Persad, which has been widely recognized, including by legal advisers on both sides, as uncertain and potentially void, giving rise to protracted exchanges without resolution.*
- “(iv) The administration has also been impeded by disputes concerning certain financial transactions involving joint bank accounts and the recovery of monies said to be due to the Estate, as well as the need to obtain legal advice, coordinate across multiply jurisdictions and manage ongoing correspondence with attorneys and institutions in both Cayman Islands and Trinidad.”*

14. Counsel for the Executor therefore concluded that the matters referred to above show genuine legal and practical difficulties faced by the Administrator rather than inaction or unwillingness on his part.

#### **Court’s Considerations and determination of the Application**

15. GCR Order 62, rule 6(2) sets out the default position that a fiduciary is entitled to the costs of proceedings out of the Estate:

- “6 (1) The provisions of this rule shall apply in the circumstances mentioned in this rule unless the Court orders otherwise.*
- (2) Where a person is or has been a party to any proceedings in the capacity of trustee, personal representative, mortgagee, charge or official liquidator he shall be entitled to the costs of those proceedings, insofar as they are not recovered from or paid by any other person, out of the fund and the Court may order otherwise only on the ground that he has acted unreasonably or, in the case of a trustee, personal representative or official liquidator has in substance acted for his own benefit rather than for the benefit of the fund or the creditors as the case may be.”*

16. ***In the matter of the Estate of Uzzell***<sup>1</sup>, Kawaley J. noted the following in response to a submission from counsel that an administrator’s entitlement to be indemnified by an estate is circumscribed

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<sup>1</sup> (Unreported FSD 86/2020 (IKJ) 14 September 2020)

only “by a finding that the administrator had acted for her own benefit rather than for the benefit of the Estate qua her position as executor”.

“7.... the distinction between two limbs of rule 6(2) is not material for two reasons. Firstly, in my judgment the two grounds for displacing the usual ‘payment out of fund’ rule, acting “unreasonably” and acting “in substance... for his own benefit” apply conjunctively. The grounds only operate disjunctively in relation to a “charge” or “mortgagee”, persons who are mentioned in the first limb of rule 6(2) but are not mentioned in the second limb of the relevant rule. GCR Order 62 rule 6(2) is based on the corresponding pre-CPR English rule....”

“8. Secondly, reliance on the second limb of GCR Order 62 rule 6(2), acting “in substance...for his own benefit”, does not necessarily require proof of misconduct, such as intermeddling with the Estate property. There will be some cases where the right to an indemnity will be based on allegations of serious misconduct which require a full inquiry to establish. In other cases, such as the present, it may be possible to summarily determine that an executor or trustee was clearly not acting in a representative capacity in relation to the relevant litigation, without recording a finding of misconduct capable of supporting removal for cause.”

17. Describing the core principles under the English CPR and the GCR as “*substantially the same in this context*” the Judge noted that the grounds for depriving a representative party of his or her right of indemnity out of an estate or trust fund, including according to paragraph 1.1 of the CPR Practice Direction, arose not just in cases where a trustee or personal representative acted otherwise than for the benefit of the estate, but also where “*they acted in some way unreasonably in bringing or defending, or in the conduct of the proceedings.*”
18. In his submission that *Uzzell* could be distinguished based on the differing factual situation between that authority and the instant case, counsel for the Executor noted that the court in *Uzzell* found it necessary to depart from the ordinary rule of indemnity because of the administrator’s behavior which exhibited an adversarial manner inconsistent with the neutral role of an administrator and because the administrator had demonstrated “*unreasonable and self-interested conduct*” neither of which characterized the Executor’s actions in the instant case.
19. Counsel cited *Re Dallaway (deceased)*<sup>2</sup> as an authority which illustrated that delay or unsuccessful litigation, undertaken in the proper discharge of the executor’s duties, does not of itself justify a departure from the ordinary rule of indemnity.

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<sup>2</sup> [1982] 1 W.L.R. 756

20. It is a fact that the Deceased died shortly before the onset of the Covid-19 pandemic. The Court is mindful of the Executor's evidence in his affidavit filed on 21 January 2026 responding to the main thrust of the Applicant's submissions, that is, the allegations of inaction and non-responsiveness. The Executor detailed his interaction and correspondence with the beneficiaries on the progress of the administration of the Estate:
- (i) The Executor emailed the beneficiaries with updates on various aspects of the administration of the Estate both in the period before administration was granted in the Cayman Islands and in the period immediately afterwards. The Executor first retained KSG Attorneys-at-Law in the Cayman Islands on 23 March 2020. The Executor noted more than ten instances in which he provided updates to the beneficiaries by email or call between 7 November 2019 and August 2020.
  - (ii) The Executor was advised by counsel that he could not issue the Trinidad and Tobago Estate funds until the Grant of Probate had been re-sealed; the re-sealing was subsequently granted by the Trinidad and Tobago court on 14 October 2022. The affidavit details the Executor's correspondence with counsel in Cayman regarding the advancement of the administration of the Estate in the first half of 2023.
  - (iii) In September 2023, updates were provided by Cayman counsel to a Trinidadian attorney instructed by some of the beneficiaries regarding the progress of the distribution of the Estate. There is evidence of the Executor's actions surrounding the sale of the Deceased's property in Cayman Brac between 2024 and 2025.
  - (iv) It is also evident that the Executor sought advice from his attorneys in the Cayman Islands regarding the beneficiaries' concerns about delays and threatened court action as well as the appropriate distribution of the Estate.
21. The Applicants' affidavit of 14 January 2026 notes that they instructed Hampson and Company in July 2024. The affidavit notes and exhibits correspondence between attorneys for the Applicants and for the Executor over the period 30 July 2024 to November 2025. The affidavit notes that it was due to the unresponsiveness of counsel for the Executor on the outstanding issues concerning the administration of the Estate that a summons for directions was drafted in November 2024.
22. The question for this court's determination on the instant application is whether it is satisfied that the Executor has acted unreasonably in delaying the administration of the Estate and thereby causing the beneficiaries to find it necessary to instruct counsel themselves and to have expended

monies in doing so, ultimately seeking to have what they are entitled to under the Estate transferred to them.

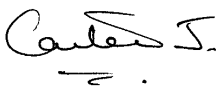
23. The Executor has provided evidence of the steps he took to progress the administration of the Estate. Although there have been delays, objectively, it is not possible to attribute all of them to the Executor. Some of the issues affecting distribution were not straightforward and did not admit of obvious resolution.
24. A factor weighing in the Executor's favour is that he recognized the need for legal assistance and obtained advice in both jurisdictions to enable him to carry out his duties. The evidence before the court is of the Executor properly seeking legal advice and guidance regarding the administration of the Estate. The beneficiaries' complaint that the Executor had taken almost no steps after grant of probate in 2019 to progress the Estate is not supported by the evidence.
25. The evidence suggests that, at various times, he pursued that advice but did not always receive responses as promptly as he expected. Conversely, as correspondence from the beneficiaries' counsel to that of the Executor on 11 October 2025 states: "*We assume as we must, until you advise otherwise, that the delay is the result of and reflects your client's instructions.*"
26. There was a concerning lack of communication between the Executor, and the beneficiaries wherein requests for information from the beneficiaries were not adequately answered. That fact alone, though troubling, does not provide a sufficient basis for a finding of unreasonableness. The Court must instead consider whether, despite the beneficiaries not being kept fully informed, the Executor was actively pursuing the issues that required resolution in order to administer the Estate.
27. The beneficiaries would suggest that some of the Executor's actions on "*Simple issues such as filing an interim account, repayment of funeral expenses, jewelry and small bequests*" were only completed, "*after court orders were made. Even then they were late being completed and only just before the second hearing.*" The issues which were raised and ventilated upon the hearing of the summons included the wording of orders for "*reasonable' funeral expenses*" which had remained unpaid for 7 years and the Executor's proposed non-payment of a bequest to a beneficiary whose husband allegedly owed an outstanding loan to the Estate, a position which counsel for the beneficiaries described as "*a proposition unknown to law.*"
28. I am not persuaded by the submission that "*The only reason this Estate has been administered at all is because this summons was issued.*" There have been some delays, and it is unfortunate that

the beneficiaries have found it necessary to issue the summons before the court. Given that there was a significant lapse in the Executor's counsel responding to that of the beneficiaries on many relevant issues surrounding the Estate, I do not say that the beneficiaries' action was not warranted. This court can well understand the frustration of the beneficiaries.

29. However, I am not satisfied that this is a case of an Executor simply not seeking to take steps to progress the Estate. The administration of this Estate is not a straightforward exercise and there remain issues that need to be resolved for it to be completed. The matters raised by the applicants are not sufficient for this court to say that the Executor has acted unreasonably or in a manner which may be inconsistent with his role as administrator to the extent that he should be deprived of his right to be indemnified for his costs from the Estate pursuant to Section 6 of the *Succession Act*.
30. On the matter of costs of the instant summons, the Executor's actions are sufficiently unreasonable for this court to find that he is at fault. The issues highlighted at paragraph 27 above have been resolved since the hearing of the summons and were neither complicated nor obscure. The flurry of activity on the part of the Executor since the filing of the summons lends support to the filing being a catalyst for faster progression of the administration of the Estate.

### **Decision**

31. In light of the above conclusion, I make the following orders:
- (i) The beneficiaries' costs on this summons are to be paid from the Estate, forthwith, to be taxed in default of agreement.
  - (ii) The Executor shall reimburse the Estate for 75% of those costs personally, forthwith, to be taxed in default of agreement.
  - (iii) The Executor's costs on this summons are not to be deducted from the Estate.



**The Hon. Mrs. Justice Marlene Carter**  
**Judge of the Grand Court**