

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

Claim No 2023/CLE/gen/00986

BETWEEN

D&T SHIPPING LINES LIMITED

Claimant

AND

HOSE SOURCE, LLC

First Defendant

AND

POLYHOSE INDIA (RUBBER) PVT LTD

Second Defendant

Before: The Honourable Chief Justice Sir Ian R. Winder

Appearances: Samuel Brown for the Claimant
Giahna Soles-Hunt with Palincia Hunter for the First Defendant

On the Papers

WINDER, CJ

[1.] On 5 November 2025, I gave a decision in favour of the First Defendant (Hose) setting aside service of the Claimant's Standard Claim Form and Statement of Claim filed in this action. The validity of the Standard Claim form was extended to permit the proper service of the process. In the written decision I indicated that I was minded to make the usual order for costs to follow the event, unless I received written submissions arguing for some other order. Each party lodged written submissions, which I have considered and which I summarize below. This is my decision on the issue of costs.

[2.] The Claimant argues that no order as to costs should be made, citing the **Supreme Court Civil Procedure Rules 2022** (CPR), particularly Parts 71.6, 71.9, and 71.10. These provisions emphasize the Court's discretion in awarding costs and the importance of considering all circumstances, including the conduct of the parties and whether success was achieved on substantive issues.

[3.] The Claimant argued that Hose had applied to set aside service and to have the proceedings dismissed or stayed and that while the court did set aside service, it declined to dismiss or stay the proceedings, instead extending the validity of the claim form. The Claimant argues this outcome does not constitute full success for the First Defendant, and thus the general rule that costs follow the event should not apply.

[4.] The Claimant also argued that Hose ought to be disentitled to its costs as a result of its conduct in:

- (1) Failing to advance its own application filed in February 2025.
- (2) Requiring the Claimant to initiate a case management conference.
- (3) Relying on unauthenticated affidavits despite prior undertakings.
- (4) Filing a late application to adduce foreign law evidence.

[5.] Hose advocated for the Court to maintain the general rule that "costs follow the event," asserting that the Claimant should bear the costs of the Set Aside Application. Hose relies on rule 71.6 of **Supreme Court (Civil Procedure) Rules 2022**, which provides that the general rule is for the unsuccessful party to pay the successful party's costs.

[6.] Hose denies any prejudicial delay in prosecuting the Set Aside Application, attributing delays to "Without Prejudice" settlement discussions and changes in legal representation. They argue that the Claimant had ample time to cure the procedural defects but failed to do so. They reject the Claimant's assertion that the Set Aside Application hindered proper service, emphasizing that the Claimant bore the burden of correct service and had opportunities to rectify the defect.

[7.] Hose maintains that there are no exceptional circumstances to justify a departure from the general rule. They argue that the Claimant's opposition to the Set Aside Application, despite knowing the procedural defect, necessitated the application and incurred costs. Hose asserts that the Court's extension of time to the Claimant was a discretionary benefit and should not translate into a denial of costs to the successful party.

[8.] It is accepted by both parties that the Court has a discretion as to costs. Section 30 of the **Supreme Court Act**, provides:

30. (1) Subject to this or any other Act and to rules of court, the costs of and incidental to all proceedings in the Court, including the administration of estates and trusts, shall be in the discretion of the Court or judge and the Court or judge shall have full power to determine by whom and to what extent the costs are to be paid.

[9.] Costs are in the discretion of the Court, in which case it is a discretion must be exercised judicially, i.e., in accordance with established principles and in relation to the facts of the case. The starting point is the general rule, that costs follow the event and, therefore, the successful party ought to be paid their costs. That general rule falls to be applied unless there are cogent reasons to depart from it.

[10.] Having considered the submissions of the parties, I remain satisfied that as the successful party in its Set Aside Application Hose should be entitled to receive its costs. I am not persuaded that there are any exceptional circumstances to warrant a departure from the general rule. The conduct of Hose, of which the Claimant complains, notwithstanding any delay, should not deny them their costs.

[11.] While the action was not dismissed or stayed, Hose nonetheless succeeded in setting aside the service of the process on it.

[12.] I will therefore award Hose its reasonable costs of the application which I propose to summarily assess. I therefore invite Counsel for Hose to provide a summary of its costs within 7 days, to assist in the determination of the appropriate quantum of costs.

Dated the 11th day of February 2026



Sir Ian R. Winder Kt.
Chief Justice