

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2015/CLE/gen/01650

BETWEEN

THE TREASURER OF THE COMMONWEALTH OF THE BAHAMAS

Plaintiff

AND

IMAGINE NATION COMPANY INC.

Defendant

Before Hon. Chief Justice Sir Ian R. Winder

**Appearances: Chizelle Cargill with McFalloughn Bowleg for the Plaintiff
Gail Lockhart-Charles KC with Candice Knowles for the Defendant**

29 June 2023

COSTS RULING

WINDER, CJ

1. On 9 June 2023 when I rendered my decision on this preliminary application, I indicated that I would hear the parties by way of written submissions on the question of costs. I also indicated that I proposed to fix those costs. I have received submissions from the Treasurer but have not received any submissions from the Defendant. This is my decision on costs.

2. In the English Court of Appeal decision in *Re Elgindata Ltd [1992] 1 WLR 1207 at 1213*, the applicable principles, in deciding an appropriate order for costs, were stated as follows:

"The principles are these. (i) Costs are in the discretion of the court. (ii) They should follow the event, except when it appears to the court that in the circumstances of the case some other order should be made. (iii) The general rule does not cease to apply simply because the successful party raises issues or makes allegations on which he fails, but where that has caused a significant increase in the length or cost of the proceedings he may be deprived of the whole or a part of his costs. (iv) Where the successful party raises issues or makes allegations improperly or unreasonably, the court may not only deprive him of his costs but may order him to pay the whole or a part of the unsuccessful party's costs."

3. The starting point is therefore the general rule that costs should follow the event and that the successful party ought to be paid their costs unless there are cogent reasons to depart from this rule. The circumstances of this case does not afford any basis to depart from the general rule, in which case I award the Treasurer its reasonable costs.

4. In assessing the reasonableness of the costs, I have taken into account the Submissions, the time spent before me, the work reasonably to have been expended, the seniority of counsel and the importance of the matter to the client. Having looked at the work, in the round, I will fix the reasonable professional charges in this matter, at \$97,000 plus disbursements of \$7,204.40. The Defendant shall also pay any Value Added Tax which arise on these sums.

Dated the 15th day of September 2023



Sir Ian R. Winder
Chief Justice