

IN THE COURT OF FIRST INSTANCE  
OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

31 October 2023

CASE No: AIFC-C/CFI/2023/0002

MICHAEL WILSON & PARTNERS, LIMITED

Claimant

v

(1) CJSC KAZSUBTON and (2) KAZPHOSPHATE LLP,  
(3) KAZPHOSPHATE LIMITED

Defendants

---

JUDGMENT ON COSTS APPLICATION

---

Chief Justice of the Court

The Rt. Hon. The Lord Mance

## JUDGMENT

1. The Court has before it applications by the Second and Third Defendants for orders that their costs of this litigation to date be paid by the Claimant, Michael Wilson & Partners LLP. There is no doubt, in the light of the Court's judgment dated 26 September 2023, that the Second and Third Defendants were the successful parties in this litigation. The Claimant's claim was also dismissed as against the First Defendant, but it played no active part in the case and has not made any claim to costs.
2. The Claimant's claim was to register or enforce in or through the AIFC Court English and Netherlands judgments obtained against the First, Second and, as it appeared, Third Defendants. The attempt was originally described as a claim within the express heads of the Court's jurisdiction, but was later explained as a simple application, needing no such jurisdictional basis. It was accompanied by the filing of extensive documentation, some of no apparent relevance. As against the Third Defendant it had the unpromising feature that none of the English or Netherlands judgments was against the Third Defendant. The claim was accompanied by a number of untenable submissions, e.g. regarding supposed submission to the jurisdiction or supposed general common law (or the DIFC Courts) practice to recognize foreign judgments without any Treaty or other jurisdictional basis for so doing.
3. The starting point is that the successful Second and Third Defendants, who now seek their costs, are entitled to them: see AIFC Court Rule 26.5(1). I see no basis for any different order in this case. The fact that the Second Defendant is a judgment debtor in England and/or the Netherlands does not in my view alter that. Although the present case was brought in an attempt to enforce the relevant judgments, it was and is in all other respects a separate piece of litigation, involving entirely separate issues, as the judgment handed down on the substantive issues on 26 September 2023 demonstrates. As the same judgment also indicates, the claim has been presented in an expansive and expensive way, with a number of points made proving in reality to lack any real prospect of success from the outset.
4. In the light of the Court's knowledge of the case, and the materials which have been put before the Court, and the submissions and exchanges which have taken place between the parties and the Court, since its judgment on 26 September 2023, the Court considers that this is a case where it can and should make an immediate assessment of costs under Court Rule 26, rather than postpone them for detailed assessment, by whomsoever that would take place. The following paragraphs constitute the Court's immediate assessment of the costs reasonably, necessarily and proportionately incurred by the Second and Third Defendants in their conduct of this litigation.

