



NEUTRAL CITATION NUMBER: [2026] CIGC (FSD) 84

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

FSD CAUSE NO. 278 OF 2025 (RPJ)

IN THE MATTER OF PART 17 OF THE COMPANIES ACT (2025 REVISION)

**AND IN THE MATTER OF THE FOREIGN BANKRUPTCY PROCEEDINGS
(INTERNATIONAL CO-OPERATION) RULES, 2018**

AND IN THE MATTER OF BANCA PRIVADA D'ANDORRA, S.A.U.(BPA)

Before: The Hon. Justice Raj Parker

Decision: On the papers

Date: 22 September 2026

DECISION

Introduction

1. These proceedings concern the Petitioner's (Agència Estatal de Resolució d'Entitats Bancàries (AREB)) application by way of Petition dated 7 October 2025 seeking recognition of its right, as foreign representative, to act in the Cayman Islands on behalf and in the name of BPA under Part 17 of the Companies Act (2025 Revision) and an order for delivery up to AREB of any and all property belonging to BPA.

2. AREB filed the first affidavit of Oscar Gelabert Ribera sworn on 10 September 2025 (Ribera 1) in support of the Petition. The Petition is opposed by: Leyla Aliyeva, Arzu Aliyeva, and Heydar Aliyev (collectively, the “Aliyevs”); Aladdin Bonds, Aladdin Equities, and GP High Yield (the “Cayman Funds”); and Clonmel International Inc (“Clonmel”).
3. Pursuant to a disclosure application dated 20 March 2026 the Aliyevs sought production of certain documents referred to in Ribera 1 pursuant to GCR Order 24, r.10. The application was contested.
4. The application (among other matters) was heard on 9 June 2026 and an *ex tempore* ruling was given by the Court granting the application.
5. An order was made dated 9 July 2026 (the Order) requiring the Petitioner to provide copies of certain documents¹ said to have been referred to in Ribera 1.²
6. By its summons dated 16 July 2026 (Leave to appeal summons) the Petitioner applies for leave to appeal the Order.
7. The Petitioner also applies for a stay of the Order, pending determination of the application for leave to appeal and any subsequent appeal and an interim stay of the Order, pending determination of the application for a stay.
8. Drafts of AREB’s Notice of Appeal and Grounds of Appeal were served on 23 July 2026.
9. Leave to appeal is sought on the basis that the proposed appeal has a real prospect of success.
10. The Petitioner also seeks leave to appeal the costs order contained in paragraph 2 of the Order.

¹ Paragraph 1(b) of the Order, requiring the Petitioner to provide copies of all documents comprising the *PwC Economic Impact Analysis*; and Paragraph 1(c) of the Order, requiring the Petitioner to provide copies of all documents comprising the *PwC customer review analysis*, insofar as they relate to the Aliyevs and Clonmel.

² The Petitioner is also appealing the Order dated 31 March 2026 insofar as it relates to the direction requiring AREB, BPA and their respective agents to provide discovery of all documents, records, correspondence and/or other communications relating to the Respondents’ respective accounts with BPA, KYC / AML / PTF and the Compulsory Purchase for the period from 27 April 2015 to 7 October 2025. On 21 July 2026, the President of the Cayman Islands Court of Appeal granted the Petitioner leave to appeal. A stay has been agreed by the parties pending the appeal. That appeal is due to be heard on 6 November 2026.

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11. The Petitioner complied with paragraph 1(a) of the Order on 16 July 2026 by providing a copy of the Resolution Plan to the Aliyevs and Clonmel. On the same day, the Petitioner issued the Leave to appeal summons.
12. On 24 July 2026, the Petitioner served the first affidavit of Luis de la Peña sworn on the same day ("Peña 1") in support of its application for a stay of the Order.
13. The Aliyevs and Clonmel (the Respondents) oppose the Leave to appeal summons in full.
14. The parties have proposed that the Leave to appeal summons be determined on the papers which the Court agrees to.
15. Written submissions, a core bundle, exhibits and a joint authorities bundle have been reviewed by the Court.

Decision

16. It is first necessary to give short reasons relating to the additional evidence served by AREB.

Peña 1

17. In the Court's view this evidence is inadmissible hearsay and has been served in breach of the Grand Court Rules:
 - a) The evidence should have been served prior to the original hearing on 9 June. The purpose of the leave application is to consider whether the Court was clearly wrong in exercising its discretion. It is not to consider as part of that exercise evidence that should have formed part of the initial application.
 - b) GCR O.32, r.3(2)(b) requires that evidence intended to be relied upon in support of a summons must be served together with that summons. AREB filed its summons on 16 July 2026. Peña 1 was not served until 24 July 2026. It was therefore late.
 - c) Peña 1 is hearsay evidence as it is submitted in large part on an "instructions only" basis. The factual content of the affidavit is mainly derived from instructions. He refers to his instructions numerous times.

- d) He does not purport to have personal knowledge of the documents whose production is resisted. It is not clear whether he has seen them. His assertions of confidentiality and prejudice lack the force of someone with actual knowledge of their contents.
 - e) No individual with direct knowledge of the matters at issue has provided evidence. GCR O.41, r.5 requires affidavits to be confined to matters within a deponent's own knowledge ³.
18. AREB has provided no good explanation for these discrepancies.
19. These matters would have led the Court to give the affidavit little weight even had it been admissible.
20. In addition, Mr. Peña is a member of the Spanish bar. He is a Partner at J&A Garrigues. He makes no reference to being qualified to practice law in Andorra. He makes it clear at paragraph 3 of Peña 1 that he is *“unable to, and do[es] not, make any statements in respect of Andorran law.”*
21. The Court accordingly does not attach any weight to what Mr. Peña says regarding the substance or effect of the Andorran banking secrecy laws or KYC/AML/PTF requirements that give rise to tipping off concerns. Such issues require expert evidence.

Leave to appeal and stay

Leave to appeal

22. The application is for leave to appeal an interlocutory case management decision relating to the production of specific documents.

³ *Torchlight GP Ltd v Millennium Asset Services PTY Ltd* (Unreported, Grand Court, 17 January 2018) at paragraph 83:

“This rule is an important one because it is designed to ensure that the Court has reliable evidence before it based on the experience that lawyers receiving instructions from clients in other jurisdictions are particularly vulnerable to being pressed to quickly file important evidence on a distant substantive witness' behalf” per Kawaley J.

23. The test for the grant of leave to appeal is well established. It is whether the appeal has a real prospect of success. The test requires more than a fanciful prospect.⁴
24. In *Select Vantage Incorporated v Cayman Islands Monetary Authority* [2017] (2) CILR Note 4 Morrison JA reiterated the general rule, confirming that leave will generally not be given in the case of an appeal against a judge's exercise of discretion unless it can be shown to have been “*palpably wrong*”.
25. Having carefully reviewed the relevant materials, including the detailed written submissions of the parties, and each of the Grounds of Appeal, the Court is of the view that none of the five Grounds of Appeal advanced in the draft Memorandum of Grounds of Appeal has a real prospect of success.
26. Neither are any important points of procedure or law raised.

Stay

27. Justice Doyle in *In re Aquapoint L.P.*⁵, at paragraph 20 restated the principles as follows: (1) an appeal does not operate as a stay; (2) the starting point is that there should be no stay; (3) there must be “good cause” or “good reason” for a stay; (4) the court is likely, all other things being equal, to grant a stay where the appeal could otherwise be rendered nugatory; and (5) the court will consider the grounds of appeal, their likelihood of success, and the balance of convenience, the overriding feature being the interests of justice.
28. AREB's argument that once documents are disclosed, the information they contain is “irrevocably” in the possession of the receiving parties and cannot be unwound, could be fairly said about all orders requiring disclosure of documents. This does not merit a stay of such orders without more.
29. If AREB's appeal is successful, the receiving parties would be unable to rely upon the documents in the determination of the Petition. The appeal would not be rendered nugatory. The documents could be returned or destroyed, and the Court could make appropriate directions regarding their use.

⁴ Leave may be granted even where no such prospect exists if the appeal involves an issue which, in the public interest, should be examined by the Court of Appeal

⁵ (unreported Grand Court 5 October 2022)

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30. The balance of convenience favours the Aliyevs. The appeal does not have a real prospect of success. They have been entitled to these documents since February 2026. In the Court's view the documents are necessary for fairly disposing of the Petition and should be disclosed in the interests of justice. The application for a stay whether pending appeal or interim is refused.
31. It follows that the appeal of the costs order made at paragraph 2 of the Order also has no real prospect of success.
32. The Court is minded to make an Order that AREB is to pay the costs of and occasioned by this application on the standard basis to be taxed if not agreed.



THE HON. JUSTICE RAJ PARKER
JUDGE OF THE GRAND COURT