

**NCN: [2024] EWHC 1382 (Comm)**  
**IN THE HIGH COURTS OF JUSTICE**

**Claim No: CL-2020-000748**

**BUSINESS AND PROPERTY COURTS**  
**COMMERCIAL COURT (KBD)**  
**The Honourable Mrs Justice Cockerill DBE**  
**10 May 2024**

**B E T W E E N :**

**(1) FIESTA HOTELS AND RESORTS SL**  
**(2) RESIDENCIAL MARINA SL**  
**(3) RESIDENCIAL ES VIVE SA**  
**(4) DOMINICAN ENTERTAINMENT (LUXEMBOURG) SARL**

**Claimants**

**and**

**(1) DEUTSCHE BANK AG**  
**(2) DEUTSCHE BANK AG, LONDON BRANCH**

**Defendants**

**EDWARD LEVEY KC, LAURIE BROCK and IAN SIMESTER** (Instructed by **Quinn Emanuel Urquhart & Sullivan UK LLP**) appeared on behalf of the Claimants

**ALEXANDER POLLEY KC and WILLIAM DAY** (Instructed by **Herbert Smith Freehills LLP**) appeared on behalf of the Defendants

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**Costs Ruling**  
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**MRS JUSTICE COCKERILL:**

1. You have argued costs on the basis that one looks separately at disclosure and adjournment; and in relation to disclosure, it might be said that the claimants had a score draw and a limited amount of success, but lost a certain amount.
2. On adjournment, it might be said that the defendants lost that, but they had a good amount of success in resisting the disclosure application. But it seems to me that actually quite a lot of what we have done today interrelates. The adjournment issue (which was never an adjournment application, of course), was raised in part because of the multiplicity of disclosure applications which were on the horizon and the difficulties which the parties have thus far encountered in getting positive engagement between themselves in relation to disclosure. Further the adjournment issue has not quite gone away, it has been parked on the basis that while I am setting a timetable if matters cannot be progressed constructively, the concerns will not have gone away, so it may come back in due course on that basis.
3. All in all, the disclosure application and the adjournment issue combination has enabled the court to take a slightly holistic view in relation to the problems which have started to beset this case; to conduct a thorough reset, to look in detail, not just at the issues in relation to the one remaining live application, but also to provide some indications as to the way that the parties need to approach the other disclosure applications going forward. All of which has enabled us to put ourselves in the position where we can set dates to maintain the trial, where one of the remaining issues has gone away and where we can certainly aim with a degree of optimism for the adjournment dark cloud to disperse.
4. In those circumstances, this hearing, I am going to say, is costs in the case. However, the parties should be in absolutely no doubt at all that as regards future applications in relation to disclosure in particular and anything which impacts on the trial timetable, any lack of reasonable engagement, any lack of an attempt to resolve matters in a sensible manner, is likely to be met with a fairly stringent costs order on the losing parties' part. So this is effectively the last chance saloon for a charitable approach.

There must be reasonable engagement, and we hope that it will continue off camera and we will see as little as possible of you in the future.

5. But this hearing: costs in the case.

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