

## COSTS IN FAMILY PROCEEDINGS

A judgment of the Grand Court provides helpful guidance and clarification as to the criteria to be applied, when considering the issue of costs in family proceedings.

Although concerning an application by a third party to intervene in the substantive proceedings, the Court considered three crucial factors in determining whether or not to make an order for costs, that being:

- (i) The limited size of the assets;
- (ii) How a costs order would affect a fair distribution of any available assets;
- (iii) And whether that distribution will meet the needs of any children and the parties.

The Court went on to say that even if a party is viewed as being successful in ancillary relief proceedings, the Court is not compelled to make a costs order in his favour, the Court has discretion whether or not to make any order for costs.

The Court held that the fact that a case is not a 'big-money case', or one involving more substantial assets, this does not necessarily mean that an order for costs cannot be made in favour of a successful party. The court referred to the dicta of Chadwick P. in the Court of Appeal decision of *Roy Michael McTaggart v. Mary Elizabeth McTaggart* wherein "a successful party to any proceeding should recover from the opposing party the reasonable costs incurred by him in conducting that proceeding and in an economical, expeditious and proper manner."

In relation to indemnity costs, the court concluded that something "special" or "unusual" must be demonstrated in order to justify a departure from the ordinary costs order.

The court concluded by granting an order for costs to the proposed intervening third party on a standard basis.

Ritch & Conolly successfully acted for the proposed third party at the contested application to intervene and in relation to the determination of costs arising from that hearing.

For family law advice, please contact Lynne McDonagh.