

SUPREME COURT OF QUEENSLAND

CITATION: *Blue Dog Group Pty Ltd v Credit Suisse Equities (Australia) Limited & Ors* [2026] QSC 110

PARTIES: **BLUE DOG GROUP PTY LTD (ACN 099 973 458)**
(plaintiff)
v
CREDIT SUISSE EQUITIES (AUSTRALIA) LIMITED
(ACN 068 232 708)
(first defendant)
AND
ARGONAUT SECURITIES PTY LIMITED (ACN 108
330 650)
(second defendant)
AND
EUROZ HARTLEYS LIMITED (ACN 104 195 057)
(third defendant)
AND
MR MATTHEW WIECHERT
(fourth defendant)
AND
MR SOREN AANDAHL
(fifth defendant)
AND
OASIS INVESTMENTS II MASTER FUND LTD
(sixth defendant)
AND
OASIS MANAGEMENT COMPANY LIMITED
(seventh defendant)
AND
MR SETH FISCHER

(eighth defendant)

FILE NO/S: BS 2951/24

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 19 June 2026

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

JUDGE: Wilson J

ORDER: **1. The plaintiff pay the first, second, third, fifth, sixth, seventh and eighth defendants' costs incurred by the defendants up to, and including 2 May 2025, on the standard basis.**

2. The parties' costs of the application from, and including, 3 May 2025, be costs in the cause.

CATCHWORDS: PROCEDURE – CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – COSTS – GENERAL RULE: COSTS FOLLOW EVENT – GENERAL PRINCIPLES AND EXERCISE OF DISCRETION – where the plaintiff was granted an extension of time to file their application and a fifth statement of claim (5SOC) – where the first, second to third and fifth to eight defendants made a number of complaints about the adequacy of the 5SOC – where the plaintiff in response annexed a sixth iteration (6SOC) to their reply

submissions – where the plaintiff was subsequently granted leave in the primary judgment to file and serve the 6SOC – where the parties now seek costs – where the plaintiff contends that the revised amended statement of claim was filed to narrow the field of dispute – where the plaintiff seeks an order that the costs of the application up to and including 2 May 2026 be the parties’ costs in the proceeding and the defendants pay the plaintiff’s costs of the application incurred from 3 May 2025 on the standard basis – where the defendants submit that in obtaining leave to file and serve the 6SOC, the plaintiff was granted an indulgence – where the defendants seek orders that the plaintiff is to pay the defendants’ costs of the application incurred up to, and including 2 May 2025, and that the parties’ costs of the application from, and including 3 May 2025 be costs in the cause – where the general proposition is that costs follow the event – where an applicant who seeks an indulgence from the court will be required to pay the respondents’ costs, irrespective of the outcome, unless the respondent’s opposition is “wholly unreasonable” – whether the Court should depart from the general proposition that costs follow the event and make a different costs order – whether the plaintiff sought an indulgence from the Court – whether the plaintiff is required to pay the defendants’ costs, irrespective of being granted leave to file the 6SOC in the primary judgment – whether the defendants’ opposition was “wholly unreasonable” in the circumstances

Corporations Act 2001 (Cth), s 1043A(1)(c)

Uniform Civil Procedure Rules 1999 (Qld), r 5, r 386, r 444, r 681, r 684(1)

Blue Dog Group Pty Ltd v Australian Securities and Investments Commission & Ors [2025] QSC 342
Day v Humphrey [2018] QCA 321
Folwell v Mayer (No 2) [2020] QSC 211
GAIN Capital UK Limited v Citigroup Inc (No 3) [2016] FCA 582
Nerang Subdivision Pty Ltd & Ors v Hutson & Anor [2024] QSC 10
O'Shanassy v AIA Australia Ltd (previously Colonial Mutual Life Assurance Society Ltd t/as Comminsure) [2022] NSWSC 677
President's Club Ltd v Palmer Coolum Resort Pty Ltd (No 2) [2020] QSC 11
Queensland Rail v Amaca Pty Ltd (No 2) [2011] QSC 317
Stanley v Layne Christensen Company [2006] WASCA 56
Wang v ABC Homes (NSW) Pty Ltd (No 2) [2018] NSWSC 1736

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 I Ahmed SC and O Cook for the second defendant
 G Thompson KC and A Psaltis for the third defendant
 A Nicholas and R Liang for the fourth defendant
 D O'Sullivan KC and K Dyon and M Paterson for the fifth defendant
 G Beacham KC and B O'Brien for the eleventh, twelfth, and thirteenth defendants

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 King & Wood Mallesons for the second defendant
 Wilson Lawyers as town agent for Huggins Legal for the third defendant
 Barry Nilsson for the fourth defendant

Jones Day for the fifth and tenth defendants

Wotton Kearney for the eleventh, twelfth, and thirteenth
defendants

- [1] On 11 December 2025, I granted leave to the plaintiff to file and serve its sixth further amended statement of claim (the ‘**6SOC**’). The parties now seek costs.
- [2] In this case, prior to the 6SOC, the plaintiff made a number of attempts to provide a compliant pleading and on 23 September 2024, Bradley J (as he then was) made the following orders by consent:
- (a) strike out the plaintiff’s then-current pleading (the ‘**4SOC**’); and
 - (b) the plaintiff file any application for leave to replead, including a proposed pleading (5SOC) in respect of which it intends to seek leave, by 25 November 2024 (which date was extended by the orders of Treston J dated 6 December 2024 to 18 December 2024).
- [3] At this stage, Bradley J made a costs order against the plaintiff.
- [4] Prior to the deadline imposed by Bradley J, the plaintiff was granted an extension of time to file their application and proposed new pleading (the ‘**5SOC**’) by 18 December 2024. The plaintiff complied with this order and provided the defendants with their fifth iteration of their statement of claim.
- [5] The first, second to third and fifth to eight defendants (‘**the defendants**’) in their written submissions made a number of complaints about the adequacy of the 5SOC. In response the plaintiff annexed a fifth amended pleading to their reply submissions (the ‘**6SOC**’).
- [6] In their reply submissions, the plaintiff did not concede that the defendants’ complaints had any “substance or would otherwise be sufficient to prevent leave being given to replead”. Rather, the plaintiff stated that it provided a revised amended statement of claim annexed to their reply in the interests of narrowing the field of dispute (this being the first annexure), along with a table summarising how the particular concerns have been addressed in the revised ASOC (this being the second annexure).
- [7] It should be noted that the defendants stated that the 6SOC did anything but narrow the field of dispute; rather, it had the opposite effect.
- [8] Clearly, the provision of the 6SOC as an annexure to the plaintiff’s reply did not comply with orders made to file the proposed pleading by 18 December 2024.

- [9] Further, the plaintiff did not bring any application to deal with this late proposed pleading. Rather, they simply annexed another amended statement of claim to their reply submissions, which ensured further submissions by the defendants dealing with this latest iteration.
- [10] The hearing was hotly contested with the defendants raising a “plethora of issues” in response to the 6SOC.¹
- [11] Where one defendant raised an issue, the other defendants embraced it, and I characterised the defendants’ approach as having “thrown the kitchen sink” for leave not to be granted.² It is fair to say the plaintiff’s application was robustly contested by the defendants.
- [12] On 11 December 2025, I delivered my reasons which granted leave to the plaintiff to file and serve its sixth further amended statement of claim (the 6SOC).
- [13] The issue of costs between the parties remains.
- [14] The plaintiff seeks the following orders:
- (a) the costs of the application incurred up to and including 2 May 2025 be the parties’ costs in the proceeding; and
 - (b) the defendants³ pay the plaintiff’s costs of the application incurred from and including 3 May 2025 on the standard basis.
- [15] The defendants seek the following costs orders in respect of the plaintiff’s application for leave to replead filed on 18 December 2024:
- (a) the plaintiff is to pay the defendants’ costs of the application incurred up to, and including, 2 May 2025; and
 - (b) the parties’ costs of the application from, and including, 3 May 2025, be costs in the cause.

¹ *Blue Dog Group Pty Ltd v Australian Securities and Investments Commission & Ors* [2025] QSC 342 at [84]-[85].

² *Ibid* at [85].

³ Other than Mr Matthew Wiechert, who did not oppose the Application, as he has not been served in the proceedings.

Principles

- [16] The general rule is that costs follow the event.⁴
- [17] The word “event” is not defined in the UCPR. However, the word is to be approached “distributively”, such that it refers to the event of an issue or of each separate issue, if there is more than one, in the proceeding.⁵
- [18] In an appropriate case, the court may make an order for costs in relation to a particular question in, or a particular part of, a proceeding.⁶
- [19] It follows that the court has power to make differential costs orders in respect of the resolution of particular parts of a dispute.
- [20] Despite the proposition that costs generally follow the event, in appropriate circumstances, the court may depart from that general proposition and make a different costs order.⁷
- [21] It is well-established that one circumstance in which it will be appropriate for the court to depart from the general rule is where an applicant seeks an indulgence from the court.⁸
- [22] Importantly, where an applicant seeks an indulgence from the court, the applicant will generally be required to pay the respondent’s costs (irrespective of the outcome) unless the respondent’s opposition is “wholly unreasonable”.⁹
- [23] In that context, costs are commonly awarded against parties seeking an indulgence in applications to amend a pleading or a court document.¹⁰

The plaintiff’s submissions

- [24] The plaintiff highlights that this application occurred at a very early stage of the proceeding, as well as my observation in the reasons that “there is no prejudice to grant

⁴ Pursuant to *Uniform Civil Procedure Rules 1999* (Qld) r 681(1).

⁵ *Nerang Subdivision Pty Ltd & Ors v Hutson & Anor* [2024] QSC 10 at [11] (Cooper J) and the authorities cited therein.

⁶ Pursuant to *Uniform Civil Procedure Rules 1999* (Qld) rule 684(1).

⁷ *Day v Humphrey* [2018] QCA 321 at [8] (Morrison JA, with whom Philippides JA and Brown J agreed).
⁸ *Ibid* at [9].

⁹ *Folwell v Mayer (No 2)* [2020] QSC 211 at [6] (Bowskill J) and the authorities cited therein.

¹⁰ *Wang v ABC Homes (NSW) Pty Ltd (No 2)* [2018] NSWSC 1736 at [5] (Parker J); *O’Shanassy v AIA Australia Ltd (previously Colonial Mutual Life Assurance Society Ltd t/as Comminsure)* [2022] NSWSC 677 at [149] (Henry J); *GAIN Capital UK Limited v Citigroup Inc (No 3)* [2016] FCA 582 at [8]-[9] (Markovic J); *Queensland Rail v Amaca Pty Ltd (No 2)* [2011] QSC 317 at [10]-[11] (Boddice J).

leave to amend other than [that] the defendants do not care to answer the case against them.”¹¹

[25] The plaintiff submits that costs incurred up to 2 May 2025 (the date the 6SOC was provided to the defendants) should be treated as the parties’ costs of the proceeding as:

- (a) the defendants had already been awarded their costs of striking out the 4SOC, therefore the proceeding should be treated in a cost of pleadings sense as starting afresh from the filing of the application and the 5SOC; and
- (b) to the extent any costs were thrown away by the 4SOC being struck out, or the 5SOC or 6SOC, those costs are captured by the rules.¹²

[26] Accordingly, the plaintiff submits that any pleading costs incurred up to the date of the application have been addressed.

[27] The plaintiff further submits that:

- (a) the complaints raised by the defendants in their primary written submissions were akin to rule 444 letters and were not matters that would have prevented leave from being granted (and the Court did not find that leave would not have been granted to file the 5SOC);
- (b) the plaintiff took steps to address the defendants’ concerns, which should also be treated as the plaintiff’s costs in the proceedings; and
- (c) the defendants’ continued opposition to the 6SOC, after their concerns had been addressed, was unsuccessful.

[28] Accordingly, the plaintiff submits that their costs of the application incurred from and including 3 May 2025 should follow the event.¹³

[29] In summary, the plaintiff’s rationale for their costs is as follows:

- (a) the plaintiff was ultimately successful in obtaining leave to file the 6SOC which was served on the defendants on 2 May 2025;

¹¹ *Blue Dog Group Pty Ltd v Australian Securities and Investments Commission & Ors* [2025] QSC 342 at [321].

¹² *Uniform Civil Procedure Rules 1999* (Qld) r 386.

¹³ *Ibid* r 681.

- (b) the defendants' opposition to the 6SOC was unsuccessful; and
- (c) the defendants should bear the plaintiff's costs of the application incurred from 3 May 2025 because the defendants' continued opposition to the pleading from that point was unsuccessful, and indeed unreasonable, and in that regard, costs should follow the event.

[30] The plaintiff states that the defendants' costs of the application prior to 2 May 2025 were not costs thrown away because those costs would have been incurred even if the 6SOC had been filed with the application on 18 December 2024.

[31] The plaintiff does not accept that they sought an indulgence by obtaining leave to file and serve the 6SOC. The plaintiff notes that the defendants were already awarded the costs of striking out the 4SOC and consequently any pleading costs incurred up to the date of the application had been addressed.

[32] Accordingly, the plaintiff submits that costs incurred after the application and the 5SOC were filed are to be treated as ordinary costs in the proceeding, as if the 5SOC was the commencement of the proceedings.

[33] The plaintiff states that the application was argued on the merits and the plaintiff won on the merits. Accordingly, the plaintiff states that they should get their costs of the application incurred from and including 3 May 2025 on the standard basis.

The defendants' submissions

[34] The defendants submit that in obtaining leave to file and serve the 6SOC, the plaintiff was granted an indulgence. Accordingly, the defendants state that this is a basis to depart from the general rule as to costs as there is nothing in their conduct in opposing the application before 2 May 2025 and after that could be fairly characterised as "unreasonable".

[35] The defendants submit that the plaintiff abandoned the 5SOC in lieu of the 6SOC, having apparently conceded the legitimacy of their complaints which makes it plain that the defendants' opposition to the application (at least until 2 May 2025) was wholly reasonable.

[36] In respect of the period from 3 May 2025, the plaintiff submits that:

“The defendants should bear the plaintiff’s costs of the [a]pplication incurred from 3 May 2025 because the defendants’ continued opposition to the pleading from that point was unsuccessful, and indeed unreasonable, and in that regard costs should follow the event.”

[37] However, the defendants submit that the plaintiff does not attempt to identify any particular aspect of the defendants’ opposition to the application from 3 May 2025 that was unreasonable (or why it is said to have been unreasonable). As such, the defendants state that the plaintiff’s submission bears no weight.

[38] Moreover, the defendants submit that there was nothing unreasonable about their ongoing opposition to the application after 3 May 2025 and there are a number of matters arising in the 6SOC which were (and remain) contestable.

[39] Accordingly, the defendants state that their continued opposition to the grant of leave *after* the plaintiff abandoned the 5SOC cannot properly be characterised as unreasonable.

[40] Given the seriousness of the allegations made in the 6SOC, the defendants state that it is entirely unsurprising that they opposed the grant of leave.

[41] Accordingly, the defendants submit that:

- (a) the plaintiff should pay the costs incurred by the defendants up to and including 2 May 2025. Those costs were incurred in respect of a pleading that was abandoned by the plaintiff. The plaintiff did not obtain leave in respect of that pleading. Costs should follow the event in that regard.
- (b) the parties’ costs of the application from 3 May 2025 should otherwise be costs in the cause.
- (c) such an order appropriately reflects the fact that the plaintiff sought an indulgence against the degree of success ultimately achieved by the plaintiff.

Consideration

[42] The defendants have already been awarded the costs of striking out the 4SOC and consequently any pleading costs incurred up to the date of the application has been addressed. The question is what order should be made for costs in relation to the application filed on 18 December 2024.

- [43] The plaintiff was ultimately successful in its application to file and serve an Amended Claim and Amended Statement of Claim. However, in obtaining leave to file and serve the 6SOC, the plaintiff was granted an indulgence. This is a basis to depart from the general rule as to costs.¹⁴ Ordinarily, where an applicant seeks an indulgence from the court, the applicant will be required to pay the respondent's costs (irrespective of the outcome) unless the respondent's opposition is wholly unreasonable.¹⁵
- [44] In my view, there are two discrete periods to consider: prior to, and after, 2 May 2025.
- [45] 2 May 2025 is of significance as it was on this date that the plaintiff provided the defendants the 6SOC which ultimately they were successful in obtaining leave to file and serve.
- [46] In this case, I am satisfied that there is nothing in the defendants' conduct in opposing the application before 2 May 2025 and after that could be fairly characterised as "wholly unreasonable".

Prior to 2 May 2025

- [47] The defendants' opposition to the application prior to 2 May 2025 was wholly reasonable and appropriate in the circumstances.
- [48] After being ordered to do so, the plaintiff served their application and the proposed 5SOC on the defendants. The defendants responded with complaints about this pleading in their written submissions, which in turn caused the plaintiff to provide the proposed 6SOC.
- [49] The defendants state that the plaintiff "abandoned" the 5SOC after receiving their complaints regarding it being "deficient". The plaintiff takes umbrage at any suggestion of the 5SOC being abandoned.
- [50] The plaintiff states that the 5SOC was not abandoned, nor was it found to be deficient. The plaintiff relies on the caveat as contained in their reply submissions which expressly stated that it did not concede that the complaints made by the defendants have substance, or would otherwise be sufficient to prevent leave being given to replead.

¹⁴ *Wang v ABC Homes (NSW) Pty Ltd (No 2)* [2018] NSWSC 1736 at [5] (Parker J).

¹⁵ *Folwell v Mayer (No 2)* [2020] QSC 211 at [6] (Bowskill J) and the authorities cited therein. See also *President's Club Ltd v Palmer Coolum Resort Pty Ltd (No 2)* [2020] QSC 11 at [43]-[51] (Wilson J); *Stanley v Layne Christensen Company* [2006] WASCA 56 at [52] (Wheeler JA, with whom Steytler P and Pullin JA agreed).

- [51] The plaintiff states that they did not concede that the defendants' concerns were sufficient to prevent leave being given to replead in the form of the 5SOC. Rather, the plaintiff states that to put the matter beyond argument, the plaintiff took steps to address the defendants' complaints, whether legitimate or otherwise, by providing the 6SOC.
- [52] However, in my view, it is an overstretch to say that the 5SOC was not found to be deficient. The deficiency or sufficiency of the 5SOC was not in issue at the hearing. The focus at the hearing was on the 6SOC. The adequacy of the 5SOC was ultimately not tested.
- [53] I do not accept the plaintiff's submission that the complaints made by the defendants in respect of the 5SOC "were not matters that would have prevented leave from being granted".¹⁶ I was not asked to consider the 5SOC and ultimately the hearing only considered the 6SOC.
- [54] Further, I note that the plaintiff did not formally seek to amend its application after it provided the draft 6SOC to the defendants. Instead, the plaintiff proceeded on the implicit basis that leave was to be sought in respect of the 6SOC. As such, the plaintiff did not ultimately obtain leave to file and serve the 5SOC.
- [55] The plaintiff characterises the provision of the 6SOC in this way:
- (a) after the 5SOC was filed, the defendants raised certain complaints through written submissions (akin to a rule 444 letter);
 - (b) consistently with their obligations under rule 5 of the UCPR, the plaintiff considered those complaints and provided the 6SOC in an attempt to facilitate the just and expeditious resolution of the real issues in the proceeding;
 - (c) the majority of the changes in the 6SOC were additive rather than detractive;
 - (d) the amendments in the 6SOC went mostly towards providing further details and particulars;
 - (e) the only part of the claim that was abandoned was the claim for declaratory relief; and

¹⁶ Plaintiff's Submissions on Costs at [7].

- (f) the claim for declaratory relief had the same factual foundation as the plaintiff's claim for a compensation order which remains in place (accordingly no costs were thrown away from this amendment).

[56] Whatever word is used to describe the plaintiff providing the 6SOC in lieu of the 5SOC, the plaintiff cannot escape the fact that the 6SOC differed from the 5SOC; all of which required the defendants to go to additional effort by providing further written submissions specifically addressing these alterations.

[57] In summary, by its 6SOC, the plaintiff (amongst other things):

- (a) amended the "group member" definition;
- (b) contained particulars about the alleged engagement of the first defendant by the Oasis parties;
- (c) contained allegations about the communication of the inside information and the alleged knowledge of the first defendant;
- (d) revised allegations about the knowledge of the first defendant;
- (e) contained allegations of contraventions of section 1043A(1)(c) of the *Corporations Act 2001* (Cth) in relation to an alleged agreement to purchase BLA shares;
- (f) revised allegations about loss and causation; and
- (g) abandoned the claim for declaratory relief.

[58] These were not minor amendments and cannot be underplayed. They required the defendants to provide further written submissions addressing the 6SOC.

[59] As I set out in my reasons, the 6SOC was "another bite of the cherry by the plaintiff to bring a compliant pleading".¹⁷

[60] Rule 5 obliges parties to proceed in a just and expeditious way at a minimum of expense. In serving the 5SOC upon the defendants and then later providing the 6SOC, the plaintiff did not proceed in an expeditious way as the defendants had to regroup and provide additional submissions addressing the 6SOC. The provision of these additional submissions by the defendants was entirely appropriate in the circumstances. Indeed,

¹⁷ *Blue Dog Group Pty Ltd v Australian Securities and Investments Commission & Ors* [2025] QSC 342 at [67].

ventilation of these submissions at the hearing formed the battleground between the plaintiff and defendants.

- [61] In relation to the period up to and including 2 May 2025 during which the plaintiff sought leave to file the 5SOC, the defendants' time and efforts were directed towards a pleading that was later changed by the plaintiff following receipt of the defendants' submissions, but before the hearing of the application.
- [62] In the circumstances of this case, it is incorrect to assert, as the plaintiff does, that the defendants' costs of the application prior to 2 May 2025 were not costs "thrown away" because those costs would have been incurred even if the 6SOC had been filed with the application on 18 December 2024.¹⁸ Clearly, the defendants would not have incurred the costs of their submissions addressing the 5SOC.
- [63] In my view, a just outcome is that the plaintiff pay the defendants costs up to and including 2 May 2025.

From 3 May 2025

- [64] In the circumstances there was nothing unreasonable about the defendants' ongoing opposition to the application from 3 May 2025. The defendants, after receiving the 6SOC, responded by raising further issues in relation to this latest iteration of the plaintiff's pleading.
- [65] Ultimately, after much consideration of the many issues raised by the defendants, I granted leave to the plaintiff to file and serve the 6SOC.
- [66] In doing so, I observed that "there are clearly strongly contested factual and legal matters to be determined."¹⁹ It was not a *fait accompli* that the plaintiffs would obtain leave. The defendants raised arguable issues which required careful consideration and determination.
- [67] Given the seriousness of the allegations made in the 6SOC, it is unsurprising that the defendants opposed the granting of leave.
- [68] In my view, a just outcome in the circumstances of this case is that the parties' costs of the application from 3 May 2025 are costs in the cause.

¹⁸ Plaintiff's Submissions on Costs at [10].

¹⁹ *Blue Dog Group Pty Ltd v Australian Securities and Investments Commission & Ors* [2025] QSC 342 at [324].

[69] Such an order appropriately reflects the fact that the plaintiff sought an indulgence against the degree of success ultimately achieved by the plaintiff.

Order

[70] The order of the Court is that:

- (a) the plaintiff pay the first, second, third, fifth, sixth, seventh and eighth defendants' costs incurred by the defendants up to, and including 2 May 2025, on the standard basis; and
- (b) the parties' costs of the application from, and including, 3 May 2025, be costs in the cause.