FEDERAL COURT OF AUSTRALIA

Australian Securities and Investments Commission v BSF Solutions Pty Ltd (Lump Sum Costs) [2026] FCA 1294

File number(s):	NSD 1110 of 2023
Judgment of:	**JACKMAN J**
Date of judgment:	1 September 2026
Catchwords:	**COSTS** – quantum of lump sum costs – where applicant's estimate of costs is supported by the affidavit of an experienced costs consultant – where the costs sought by the applicant represent a discount of around 39% from its total costs – where the respondents' objections to the costs claimed are not justified in light of the evidence of the costs consultant, and the absence of evidence from the respondents – costs ordered as sought by applicant
Cases cited:	*Australian Securities and Investments Commission v BSF Solutions Pty Ltd (Costs)* [2026] FCA 686
Division:	General Division
Registry:	New South Wales
National Practice Area:	Commercial and Corporations
Sub-area:	Regulator and Consumer Protection
Number of paragraphs:	9
Date of last submission/s:	31 August 2026
Counsel for the Applicant:	Mr L Livingston SC with Mr S Cleary
Solicitor for the Applicant:	DLA Piper Australia
Solicitor for the Third and Fourth Respondents:	Mr T Russell of Russells

ORDERS

NSD 1110 of 2023

BETWEEN:	**AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION** Applicant
AND:	**BSF SOLUTIONS PTY LTD (ACN 648 900 896)** First Respondent
	CIGNO AUSTRALIA PTY LTD (ACN 648 971 626) Second Respondent
	MR BRENTON JAMES HARRISON (and another named in the Schedule) Third Respondent

ORDER MADE BY:	**JACKMAN J**
DATE OF ORDER:	**1 SEPTEMBER 2026**

THE COURT ORDERS THAT:

1. The respondents' liability for costs pursuant to orders 1 and 2 made on 16 June 2026 be in the amount of $1,378,018.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REASONS FOR JUDGMENT

JACKMAN J:

1 In *Australian Securities and Investments Commission v BSF Solutions Pty Ltd (Costs)* [2026] FCA 686, I made orders as to costs in these proceedings and set a timetable for the exchange of affidavits and short written submissions on the amount of the lump sum costs order.

2 ASIC seeks a lump sum costs order in the amount of $1,378,018. That amount is supported by an affidavit of an experienced costs consultant, Ms Scarlett. The amount claimed represents a discount of approximately 39% from the total costs that ASIC has incurred, and the further costs that ASIC estimates it will incur, in these proceedings. Ms Scarlett's analysis strikes me as being a logical, fair and reasonable estimate of the costs to which ASIC is entitled.

3 Mr Harrison and Mr Swanepoel have made written submissions in which they submit that the costs claimed should be reduced by a further 10–20%. They advance six submissions in support of that contention. I note at the outset that they have filed no evidence in support of their submissions and do not challenge the expertise of, or general methodology used by, Ms Scarlett.

4 First, Mr Harrison and Mr Swanepoel draw attention to the fact that this matter was fixed for a five day trial based on concise statements and documentary evidence. However, the length and nature of the trial has been taken into account in the costs summary provided by Ms Scarlett. Moreover, ASIC incurred costs as a result of the respondents' requirement that ASIC make its lay and expert witnesses available for cross-examination, even though those requests were ultimately withdrawn.

5 Second, it is submitted that there was an excessive number of fee earners for a matter of this kind, in that 22 different fee earners worked on the matter. I do not regard that as being a consideration that would justify any material reduction to Ms Scarlett's estimate, and I note that the core solicitors' team was unchanged over the three years of the proceeding. Ms Scarlett has already applied reductions having appropriate regard to solicitors' seniority, their attendance at hearings and their attendance at conferences or meetings.

6 Third, it is submitted that the categories of work likely involve duplication or work not ordinarily allowed on taxation. Fourth, it is submitted that the evidence does not explain the methodology used in Ms Scarlett's appendix of categories of work which may not be fair and

reasonable. I reject those submissions. There is ample evidence to explain Ms Scarlett's approach and the appropriateness of the discounts which she has applied.

7 Fifth, it is submitted that an excessive number of hours have been claimed for work performed by senior and junior counsel for a five-day trial. However, counsels' fees were incurred across three years in respect of preparations for, and appearances at, multiple case-management hearings, a four-day liability trial and a one-day penalty hearing. The two hearings dealt with multiple legal issues of significant complexity, and the efficiency of the hearings was enhanced by detailed written submissions by counsel.

8 Sixth, it is submitted that claims for external printing and for travel are excessive. However, the external printing costs were largely a consequence of printing the court book for each of the liability trial and the penalty hearing, which I had ordered to be printed in hard copy (and I note that the respondents also requested hard copies). ASIC has not in fact claimed any travel costs as part of its lump sum claim.

9 Accordingly, I reject the submissions made by Mr Harrison and Mr Swanepoel. ASIC's claim for lump sum costs of $1,378,018 (against total costs incurred of $2,267,647) is well-supported, and is logical, fair, reasonable and appropriate. Accordingly, I make the above order.

I certify that the preceding nine (9) numbered paragraphs are a true copy of the Reasons for Judgment of the Honourable Justice Jackman.

Associate: SHowes

Dated: 1 September 2026

SCHEDULE OF PARTIES

NSD 1110 of 2023

Respondents

Fourth Respondent:	MR MARK SWANEPOEL