



## The P&ID Costs Appeal: Implications for Cost Recovery, Third-Party Funding and Arbitration Practice

### Introduction:

On 23 January 2026, the English Court of Appeal delivered its decision in *The Federal Republic of Nigeria v VR Global Partners LP & Ors* [2026] EWCA Civ 25. The ruling forms part of the broader Nigeria–P&ID arbitration proceedings, following Nigeria’s success in setting aside the award on fraud grounds.

The dispute then turned to costs. Nigeria sought to recover approximately £44.2 million in legal costs (excluding interest), not from P&ID—reported to be insolvent—but from its third-party funders. The Court’s judgment addresses a practical and increasingly relevant issue: when third-party funders may be pursued for costs, and how courts are approaching the scale of arbitration-related expenditure.

### Key Highlights of the Court of Appeal’s Ruling

- **Sequence of recovery — costs first, liability next:** The Court upheld the decision to pause Nigeria’s Third-Party Costs Order (TPCO) application until a detailed assessment of costs is completed. Liability should follow a determination of what costs are reasonable and proportionate.
- **Scale of the costs claim:** The appellate court noted the magnitude and complexity of the claim—reported at approximately £44.2 million, exceeding £50 million with interest—and the extensive volume of supporting materials. The judgment underscores growing judicial scrutiny of large-scale cost claims.



are unlikely to be drawn into costs liability proceedings until the court confirms the assessed amount.

- However, delays can increase financial exposure where interest continues to accrue.

### c. For legal teams and arbitral institutions

- The Court’s observations reinforce expectations of stronger cost discipline in major disputes.
- The endorsement of a “sampling” approach suggests a move toward more efficient methods for resolving large-scale costs assessments.

- **Third-party funder liability:** Funders may be liable for costs in appropriate cases. However, they should not be joined to liability proceedings before the assessed figure is confirmed.
- **Court resources and case management:** The Court rejected estimates suggesting a 50-day costs assessment, signaling intolerance for disproportionate “satellite” costs litigation.
- **Sampling approach:** The Court endorsed a pragmatic method where a representative sample of cost items may be assessed, with any reduction applied across the bill to promote efficiency.

## Way Forward with SimmonsCooper Partners

This decision reflects a broader shift in arbitration practice. Courts are applying closer scrutiny to the scale of dispute costs and to the process for pursuing third-party funders. Parties and funders alike must plan for tighter cost control, clearer allocation of funding risk, and structured approaches to cost assessment.



## What This Means for Stakeholders

### a. For parties seeking to recover arbitration costs

- Recovery from third-party funders is possible, but it may not be immediate. Courts may first require a full assessment of the costs claimed.
- Cost claims will be closely examined for proportionality—especially where billing is extensive or highly itemized.
- Timing matters. The assessment stage can delay when funders are formally pursued.

### b. For third-party funders

- The decision offers procedural clarity: funders

For advice on arbitration strategy, costs recovery planning, third-party funding exposure, and proceedings before specialized tribunals, contact [info@scp-law.com](mailto:info@scp-law.com) or visit [www.scp-law.com](http://www.scp-law.com).