

JUDGMENT SUMMARY

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| Neutral Citation | [2025] ADGMCFI 0030 |
| Case Number | ADGMCFI-PCA-2025-006 |
| Name of Case | NX (as Trustee of the EYZ Trust) v AA (Beneficiary 1) & Others |
| Judge | Justice Sir Andrew Smith |
| Date Issued | 28 November 2025 |
| Catchwords | Family trust. Application by a trustee for Court directions. Variation of ADGM CPR r. 64(4) and ADGM Practice Direction 7.3(c). Appointment of legal representation for minor beneficiaries. Confidential nature of a trust. Hearings in private. Open justice principle. Financial privacy in the ADGM. |
| Cases Cited | <p>Schmidt v Rosewood Trust Ltd [2003] UKPC 26</p> <p>X v Dartford and Gravesham NHS Trust [2015] EWCA Civ 96</p> <p>AMM v HXW [2010] EWHC 2457 (QB)</p> <p>Deripaska v Cherney [2012] EWCA Civ 1235</p> <p>Scott v Scott [1913] AC 417</p> <p>Bank Mellat v Her Majesty's Treasury (No 2) [2013] UKSC 38</p> <p>Cape Intermediate Holdings Ltd v Dring [2019] UKSC 38</p> <p>MN v OP and ors [2019] EWCA Civ 679</p> <p>Re The Trusts of X Charity [2003] EWHC 1462 (Ch)</p> <p>Re Delphi Trust Limited [2014] 2 WLUK 73</p> <p>Marley v Mutual Security Merchant Bank and Trust Co Ltd [1991] 3 All ER 198</p> <p>Hammersmith-Stewart v Cromwell Trust Company Limited and ors, SCCiv App Nos 108 and 132 of 2022</p> |

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| | <p>Jersey Evening Post v Al Thani and ors [2002] JLR 542</p> <p>Public Trustee v Cooper [2001] 1 WTLR 901</p> <p>Re G Trusts [2017] SC (Bda) 98 Civ</p> <p>Re A Trusts, AA v BB and ors [2025] CIGC (FSD) 16</p> |
| <p>Legislation and Authorities Cited</p> | <p>Abu Dhabi Law No. 4 of 2013, as amended by Abu Dhabi Law No. 12 of 2020 (the “ADGM Founding Law”) – articles 1(1), 3, 6, 13(7) and 13(8)</p> <p>ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 – sections 16(2) and 98</p> <p>ADGM Court Procedure Rules 2016 (the “ADGM CPR”) – rules 2, 14(2), 57(2), 64(3), 64(4) and 173(1)</p> <p>ADGM Practice Direction 7 – paragraph 7.3(c)</p> <p>ADGM Application of English Law Regulations 2015 – section 1(1)</p> <p>English Civil Procedure Rules 1998 – rule 39.2</p> <p>English Civil Procedure (Amendment) Rules 2019</p> <p>Variation of Trusts Act 1958 (UK)</p> <p>European Convention on Human Rights – article 6.1</p> <p>UAE Federal Law no 14 of 2018</p> <p>Banks and Trust Companies Regulation (Amendment) (No 2) Act 2025 (Bahamas) – Section 77A</p> <p>Children Act 1998 (Bermuda)</p> <p>Federal Law No. (14) of 2018 Concerning the Central Bank and the Regulation of Financial Institutions and Activities</p> <p>The White Book (UK) – paragraph 64.2.1</p> |
| <p>Executive Summary</p> | <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) Judgment considered the uncontentious administration of the EYZ Trust, whose seat was moved to the ADGM in 2022. The Trustee, NX, filed an application seeking several orders, including an extension for filing the substantive Directions Application and for the provision for the legal representation of the two minor beneficiaries. The central legal issue addressed by the Court was whether the future trust proceedings should be conducted in private and the parties anonymised. The Judgment determined that given the inherent confidentiality of family trust affairs, the need to protect the minor beneficiaries, and the UAE's distinct cultural and legal commitment to financial secrecy, a modified approach was warranted</p> |

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| | <p>to ensure the Court remained accessible for trustees. Consequently, the Court ordered that the proceedings be held in private, allowing the Trustee to proceed without compromising sensitive personal and financial information.</p> |
| Overall Summary | <p>Background</p> <p>This Judgment concerned a Preliminary Application filed by NX, the Trustee of the EYZ Trust, seeking procedural orders in advance of a proposed substantive Directions Application. The proceedings involve the Trustee (NX) and four beneficiaries: two adults (AA and BB) and two minors (CC and DD).</p> <p>The Trustee sought three main orders in the Preliminary Application: (i) an order extending the time to file the Directions Application; (ii) orders regarding the legal representation and costs for the minor beneficiaries; and (iii) orders for the Directions Application proceedings to be conducted in private with appropriate anonymisation and confidentiality.</p> <p>Analysis and Conclusion</p> <p>The Court first confirmed its jurisdiction, noting that a 2022 deed amended the original 2010 trust declaration to specify that the ADGM Courts would be the forum for the administration of the EYZ Trust. The Court held that even though the ADGM Founding Law primarily addresses contentious litigation, it has jurisdiction to provide directions or guidance to a trustee, falling under the categories of a “claim” (article 13(8) of the ADGM Founding Law) and dealing with “<i>uncontentious matters arising in the administration of trusts</i>” (section 98(3)(f) of the Courts Regulations).</p> <p>The Court granted the procedural requests:</p> <ul style="list-style-type: none"> • Time Extension: The requirement under rule 64(4) of the ADGM CPR was varied, directing NX to file any Directions Application by 16 January 2026. • Minor Representation: The Court ordered that the minor beneficiaries (CC and DD) be represented by Mr Anthony Paul Hewitt of Withers LLP. • Costs: The reasonable costs incurred by Withers LLP for the Directions Application shall be paid out of the EYZ Trust assets. <p>The Judgment focused on the application for a private hearing, which required balancing the fundamental principle of open justice against the need for confidentiality. The Court acknowledged that the Directions Application would involve uncontentious matters and confidential information concerning the family’s financial affairs, the confidentiality of which was expressly stated in the 2010 trust deed.</p> |

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| | <p>Notably, the Court concluded that material circumstances of the ADGM justified adopting an approach less restrictive than that currently prevailing in England. These circumstances include:</p> <ul style="list-style-type: none"> • Respect for Confidentiality: Financial privacy in the UAE is highly valued, rooted in Islamic principles like <i>amanah</i> (trust/fiduciary duty) and <i>sitr</i> (concealment), suggesting financial information is of a higher order of sensitivity than often treated in English jurisprudence. • ADGM Objectives: Applying a strict open justice principle could jeopardise the ADGM's objective of promoting itself as a global financial center by restricting the growth of offshore trusts, as settlors and beneficiaries emphasise confidentiality. • Accessible Justice: Hearing the case privately ensures the Court is “accessible” to the Trustee, who must candidly disclose sensitive information to fulfill their obligations without facing prejudice from publicity. <p>Therefore, the Court concluded that publicity would compromise the integrity of the proceedings and the privacy of the parties, particularly the minor beneficiaries. The Court ordered that unless otherwise ordered: (i) the Directions Application be conducted in private; (ii) the parties' names be anonymised; and (iii) only the parties be permitted to obtain copies of documents from the Court’s records.</p> |
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This statement is not intended to be a substitute for the reasons of the Court or to be used in any later consideration of the Court’s reasons.