

From: "Kaufman, Andrew" <Andrew.Kaufman@BlankRome.com>  
Subject: RE: BNP Development LLC v. JDS Principal 9DKB LLC, et al., AAA  
Case 01-24-0008-2505  
Date: June 20, 2025 at 5:18:38 PM EDT  
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Arbitrator Reiman,

BNP is not pursuing an additional claim for attorneys' fees at this time. Thank you.

Best,  
Andrew

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**From:** James Reiman <jreiman@ReimanADR.com>  
**Sent:** Wednesday, June 18, 2025 2:57 PM  
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**Subject:** BNP Development LLC v. JDS Principal 9DKB LLC, et  
al., AAA Case 01-24-0008-2505

Counsel –

I have reviewed your respective pleadings regarding costs and fees, and have my decision partially drafted. As related

previously, my goal is to have it to the administrator by end of day Friday, and for it to be issued promptly after the administrator does her review.

I've noted your respective emails responsive to my query whether there are additional matters at issue, or I should make the ruling a Final Award which will end my jurisdiction. You both advised that I should make it a final award. Before I do so, however, please know the following:

- The award of costs is clear since JDS does not contest that BNP is the prevailing party. I intend to award costs in an amount equal to the Tribunal's and the AAA's fees.
- The general practice is that sums held to be payable in an award are to be paid within a stated period of time of the award. Costs are sums to be paid if assessed to one of the parties. My practice for smaller sums is that payment is to be made within 10 days of the award, although I've no objection to making it 30 days in this case. Whether an action to vacate the award is pursued, and whether that action succeeds, are not matters before the Tribunal and not appropriate for consideration by the Tribunal. Therefore, I intend to reject the "escrow" request and simply order payment. If payment is made and the award is vacated, then recovery of the payment is an issue to be addressed by the court, not the Tribunal.
- Regarding attorneys' fees, I intend to rule that Part II of BNP's motion for costs satisfies PO#9, par. 5's period to seek attorney's fees. I agree with JDS that a full motion (and not a reservation) should have been filed, but will not deprive a party the opportunity to fully present their case on a technical ruling. I also note that

BNP's demand for arbitration checked the box for the award of attorney's fees. That said, I am not aware of any provision of any applicable contract providing for the award of attorney's fees, and as you all well know, the American practice is not to award attorney's fees absent a statute or contract provision. If there is applicable contract language, a provision of Delaware law, or DE case law that addresses the award of attorney's fees in an arbitration absent as a sanction, I am unaware of such. I am open to receiving briefing on the subject if either party wishes to pursue the matter.

- Regarding awarding attorneys fees as a sanction pursuant to Rule 60, I acknowledge BNP's arguments and frustration. The majority of the arguments presented by JDS, however, I judge aggressive, albeit proper, legal arguments that were professionally presented notwithstanding their rejection by the Tribunal.
  - Regarding BNP's request that the Tribunal award "attorneys' fees incurred in connection with proceedings connected with the cancellation of Ackerman and the withdrawal of counsel, both of which were bad-faith tactics to delay the ruling of the Tribunal" [Costs Brief, p. 4] , the Tribunal will receive briefs and hear argument regarding these claims should BNP wish to present them. If presented, however, BNP must address the jurisdiction of the Tribunal to assess the actions of a non-party (Ackerman), and whether the Tribunal has the power to potentially pierce the attorney-client privilege to determine the propriety of the withdrawal. While not pre-judging the issues, both are heavy burdens.
- Regarding PO #9's findings of default, while not pre-

judging whether attorneys' fees as a sanction should be awarded, such claims are more appropriate for Rule 60 relief.

- If either party wishes to present a claim for attorneys fees as a sanction, the specific fees sought must be related to the sanctionable conduct. If a motion is presented, the presenting party must provide sufficient detail to ascribe the time/fees requested to the claimed sanctionable conduct.

In light of the foregoing, please re-confirm your desire that I issue a Final Award addressing costs and containing PO#9's pars. 3 and 4 (and BNP expressly not pursuing a claim for attorneys' fees). I'll then issue a final award, which award will terminate my jurisdiction. If BNP wishes to pursue its claim for attorneys fees, then I propose for efficiency I hold the determination of costs for the final award, and we set a 7 day / 7 day response briefing schedule for fees.

I'll take no action until I hear from the parties. If I do not receive notice from BNP that it wishes to pursue a claim for attorneys by 5 p.m. ET Friday, I'll assume that it does NOT wish to pursue the claim and deliver the draft final award to the administrator.

Respectfully,

**James (Jim) Reiman, Esq., FCI Arb, Q.Arb.**



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