



محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

**In the name of His Highness Sheikh Tamim bin Hamad Al Thani,
Emir of the State of Qatar**

Neutral Citation: [2023] QIC (C) 4

**IN THE QATAR FINANCIAL CENTRE
CIVIL AND COMMERCIAL COURT
COSTS ASSESSMENT**

Date: 10 March 2024

CASE NO: CTFIC0033/2023

KLAAS BOUWMAN

Claimant

v

KOFLER GROUP MIDDLE EAST LLC

Defendant

JUDGMENT ON COSTS

Before:

Mr Umar Azmeh, Registrar

Order

1. The Defendant is to pay the Claimant the sum of \$3,076, representing the latter's reasonable costs of the litigation before the First Instance Circuit and Appellate Division, within 7 days of the date of this judgment.

Judgment

Introduction

1. In June 2023, the Claimant brought various employment-related claims against the Defendant concerning unpaid salary and other emoluments. The claim was allocated to the Small Claims Track. The First Instance Circuit (Justices Fritz Brand, Ali Malek KC and Yongjian Zhang) dismissed some of the Claimant's claims but upheld others and awarded him the sums of QAR 4,349 – transport expenses – and €3,200 – annual leave entitlement – together with interest on both amounts from 22 May 2022 until payment ([2023] QIC (F) 38). The Claimant was also awarded his reasonable costs of the proceedings as the successful party.
2. By way of an application dated 19 October 2023, the Defendant sought leave to appeal from that judgment. The grounds were, in brief, that fresh evidence demonstrated that the Claimant was not entitled to any annual leave payment; no transportation allowance was owed due to internal procedures; and there was no basis for awarding interest. The Defendant approached the application for permission on the basis that it was a complete rehearing of the matter, rather than a review as stipulated in article 35.6 of the Court's Regulations and Procedural Rules.
3. The Appellate Division (Lord Thomas of Cwmgiedd, President, and Justices Her Honour Frances Kirkham CBE and Sir Bruce Robertson) refused the application for permission to appeal on the grounds that the Defendant, "*totally misunderstood the appellate procedure*" of the Court ([2024] QIC (A) 1; see paragraph 16 of the judgment), specifically in relation to the fact that any such hearings are reviews and not re-hearings. Furthermore, the Court was of the view that there was no merit in any of the other grounds upon which the application was made.
4. The Appellate Division ordered that the Defendant compensate the Claimant fully for the expense to which he had been properly put in relation to the application for

permission to appeal, ordering that the Defendant should pay costs on the indemnity basis.

Approach to costs assessment

5. Article 33 of the Court's Regulations and Procedural Rules reads as follows:

33.1 The Court shall make such order as it thinks fit in relation to the parties' costs of the proceedings.

33.2 The general rule shall be that the unsuccessful party pays the costs of the successful party. However, the Court can make a different order if it considers that the circumstances are appropriate.

33.3 In particular, in making any order as to costs the Court may take account of any reasonable settlement offers made by either party.

33.4 Where the Court has incurred the costs of an expert or assessor, or other costs in relation to the proceedings, it may make such order in relation to the payment of those costs as it thinks fit.

33.5 In the event that the Court makes an order for the payment by one party to another of costs to be assessed if not agreed, and the parties are unable to reach agreement as to the appropriate assessment, the necessary assessment will be made by the Registrar, subject to review if necessary by the Judge.

6. In *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* [2017] QIC (C) 1, the Registrar noted that the "... list of factors which will ordinarily fall to be considered" to assess whether costs are reasonably incurred and reasonable in amount will be (at paragraph 11 of that judgment):

- i. Proportionality.
- ii. The conduct of the parties (both before and during the proceedings).
- iii. Efforts made to try and resolve the dispute without recourse to litigation.
- iv. Whether any reasonable settlement offers were made and rejected.
- v. The extent to which the party seeking to recover costs has been successful.

7. *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* noted as follows in relation to proportionality, again as non-exhaustive factors to consider (at paragraph 12 of that judgment):

- i. In monetary ... claims, the amount or value involved.
- ii. The importance of the matter(s) raised to the parties.
- iii. The complexity of the matters(s).
- iv. The difficulty or novelty of any particular point(s) raised.
- v. The time spent on the case.
- vi. The manner in which the work was undertaken.
- vii. The appropriate use of resources by the parties including, where appropriate, the use of available information and communications technology.

8. One of the core principles (elucidated at paragraph 10 of *Hammad Shawabkeh v Daman Health Insurance Qatar LLC*) is that, “*in order to be reasonable costs must be both reasonably incurred and reasonable in amount.*”

9. In *Bank Audi LLC v Fahad Hussain Ibrahim Al-Fardan* [2023] QIC (C) 4, I noted as follows in relation to indemnity costs before this Court (at paragraphs 18-21):

The Claimant submitted that the costs ought to be awarded on the indemnity basis (that is, unqualified by a proportionality constraint). The Third Defendant submitted, inter alia, that there is “no reference in the Judgment nor provision in the Rules for ‘indemnity costs’”; the Third Defendant also submits that the Court has never made an order for costs on the indemnity basis (see paragraph 3.16 of its 7 February 2023 submissions). Whilst the Third Defendant is correct that there is no specific reference in the Rules to awarding costs on the indemnity basis, it is clear to me that the Court has the power to award costs on

whatever basis it deems fit (see articles 10.3 and 33.1 of the Court's Regulations and Procedural Rules).

*The language of "standard" or "indemnity" costs appears in the Civil Procedure Rules ('CPR') applicable in the United Kingdom, most relevantly in Part 44 (Rules 44.3 and 44.4). Those Rules provide some guidance on assessment of costs under either basis, making it clear that unreasonable costs are not recoverable under either basis (which is the same principle in this jurisdiction: see, for example, *Amberberg Ltd and another v Thomas Fewtrell and others* [2023] QIC (C) 2 at paragraph 19).*

Rule 44.3(5) of the CPR provides guidance as to whether or not costs incurred are proportionate (being proportionate if they bear a reasonable relationship to (a) the sums in issue, (b) the value of any non-monetary relief, (c) the complexity of the litigation, (d) any additional work generated by the conduct of the paying party, (e) any wider factors involved, and (f) any additional work undertaken or expensive incurred due to the vulnerability of a party or any witness), which by implication notes factors that an assessment need not take into account if costs are being assessed on the indemnity basis. Rule 44.4(3) also notes general factors that must be taken into account when making a costs order.

Submissions

10. I have had the benefit of reading all of the submissions filed and served in this matter.

Additionally, in the usual course, I asked for submissions from the parties on the issue of costs. On 24 September 2023 the Claimant filed and served its application in relation to costs before the First Instance Circuit. The Defendant filed and served a Response document on 10 October 2023. However, that document did not address the issues and therefore I granted an extension of time for a further costs submission from the Defendant which was filed and served on 17 October 2023. The Claimant duly filed and served its Reply on 25 October 2023. By that time, the application for permission to appeal had been lodged, and therefore the process was stayed pending the outcome of the application.

11. After the Appellate Division handed down its judgment, I requested further costs submissions in light of the order that had been made. On 30 January 2024, I received the Claimant's submissions. The Defendant did not provide any response. On 25 February 2024, I asked the Claimant for further clarification which was provided on 3 March 2024. The Defendant was again given an opportunity to comment, but did not do so.

Costs claims

First Instance Circuit

12. The Claimant claims the following, the parties not having been able to agree these costs:

Item	Cost
Preparation of PoA	€22
PoA Notarization	€150
PoA attestation	€26
Legal fees	\$1,655
Postage (Claim Form)	QAR 23
Postage (Reply)	QAR 20

13. The Claimant contended that these costs were reasonable and proportionate in its submission dated 24 September 2023, submitting that its legal fees were notably below average. In the Defendant’s Response dated 17 October 2023, it argued that the sum claimed amounted to some 41% of the total value of the claim and is therefore unreasonable, and that also the amounts were not proportionate given that the Claimant did not succeed in all of his claims. It also submitted that the Claimant prolonged the proceedings by concealing documentation, and that the Claimant did not seek to resolve the matter amicably. It further sought to argue points that were matters for trial. As noted above, the Claimant responded on 25 October 2023, refuting the points made in the Defendant’s Response.

14. In its submission dated 30 January 2024 following the Appellate Division’s judgment, the Claimant claimed a further \$1,410 by way of legal fees and a further \$4 fee (unspecified). It submitted that the Claimant sought agreement on costs, but none was forthcoming from the Defendant. These submissions focused notably on the conduct of the Defendant during the appeals and costs submissions process, prolonging – in its submission – the litigation and increasing the costs. No Response was received from the Defendant, despite an opportunity being offered.

15. In response to a request for clarification of its fees, the Claimant reiterated that it acted on a fixed fee basis, and that it expended the following time on the case:

Name	Task	Hours
<i>First Instance</i>		

Ricardo Cid	Client Meeting	1
Amy Saretsky	Claim Form & Exhibit Preparation	6
Ricardo Cid & Amy Saretsky	Review of Defense Submission	1
Ricardo Cid	Client Meeting	0.5
Amy Saretsky	Reply to Defense	4
Amy Saretsky	First Cost Submission	3
Amy Saretsky	Reply to Defendant's Reply on Costs	2
		17.5
<i>Appeal</i>		
Ricardo Cid & Amy Saretsky	Review of Statement of Appeal	1
Ricardo Cid	Client Meeting	1
Amy Saretsky	Response to Statement of Appeal	7
Amy Saretsky	Second Cost Submission	2
		11
TOTAL:		28.5

16. As noted above, the Defendant was given the opportunity to comment on the above, but elected not to do so.

Costs

17. I disallow the following claims in full:

Preparation of PoA	€22
PoA Notarization	€150
PoA attestation	€26
Fee (appeal)	\$4

18. There is no requirement for a power of attorney in this Court; thus, the costs relating to a power of attorney are not reasonable as they are not reasonably incurred. In relation to the \$4 fee, this is neither specified nor particularized and therefore I also disallow that sum as not reasonably incurred.

19. The Claimant's lawyers expended some 28.5 hours in total on this litigation, 17.5 at First Instance and 11 before the Appellate Division. The total legal fees the Claimant claims are \$3,065, and whilst this was a fixed fee arrangement, the effective hourly rate is \$107.54.

20. I am of the view that the total fee claimed at First Instance is low. Equally, I am of the view that the fee claimed for the appellate proceedings is also low. The effective hourly rate, if this was not a fixed fee arrangement, is also at the very bottom end of low in my experience in this Court, with paralegals at other firms often charged out at a higher hourly rate.
21. The table that was provided sets out the work that was done by the Claimant's lawyers at every stage of the case. All of these items are reasonably incurred, clear, and each was a necessary part of the litigation.
22. I take the point made by the Defendant concerning the percentage that the legal fees comprise in relation to the claim. However, I echo what I noted in *Whitepencil LLC v Ahmed Barakat* [2024] QIC (C) 3, which is that there is a minimum amount that a professional law firm must charge even in a small case; if this floor were not there the matters would be uneconomic and cases would go unrepresented. In my view, the fixed fee charged by Claimant's lawyers was at the low end and therefore it cannot be said that the total claimed - \$3,065 – is an unreasonable amount or disproportionate amount. By way of analogy, if a claim is worth \$100 in total, and a law firm reasonably spent 10 hours on that case, charging a very low \$50/hour, the total fees claimed would be \$500, or five times the amount claimed. It could not be contended realistically that the law firm ought to have charged significantly less than the \$100 value of the claim. However, that is not the case here. The total value of the claim was QAR 132,430 and the costs claimed in total QAR 12,024.99 (converted to QAR). Again, I take the point of the Defendant that the total sum awarded to the Claimant was in the region of QAR 17,000 (converted to QAR), and that the amounts claimed by way of legal fees are circa QAR 11,650. However, I am not of the view that this sum is disproportionate. Proportionality does not just go to monetary value (see above at paragraph 7), and in any event, the First Instance Circuit had this in mind in paragraph 32:

Although the Claimant is only partially successful, we find that he is entitled to the costs he incurred in pursuing these proceedings and to interest on the amount of the judgment.

23. The matter was clearly important to the Claimant as he was denied sums of money owed to him, contentions that were upheld (partially) by the First Instance Circuit. The

matters were not complex and the issues not novel. The time that the Claimant's lawyers spent on each part of the case was clearly reasonable looking at the work log submitted and reproduced above (taking account of the fact, however, that this was a fixed fee arrangement). It appears to me that the Claimant's lawyers conducted the case perfectly properly and in accordance with best practice.

24. That said, the key question for me at First Instance is as follows: was the fixed fee charged reasonable for this case? The answer to that question is emphatically, "yes", taking account my views set out above; it is also clearly proportionate. Separately, I am of the view that the fees claimed in respect of the appellate proceedings were clearly reasonable (although there is no proportionality constraint given the indemnity costs order, I am of the view that the fee claimed is also proportionate in any event).
25. The dicta of the First Instance Circuit at paragraph 32 of its judgment notwithstanding, I am still of the view that the fees claimed at First Instance are reasonable and proportionate, even taking account of the fact that the Claimant was only partially successful; this conclusion is made easier given the fact that this was a fixed fee agreement.
26. I also allow the applications in relation to the postage fees in respect of the Claim Form and Reply before the First Instance Circuit, comprising QAR 43, or \$11 (rounded down to the nearest dollar as at today's exchange rate). These are plainly reasonably incurred as they constitute fees of service in accordance with the Court's Regulations and Procedural Rules.

Conclusion

27. I direct that the Defendant is to pay the Claimant the sum of **\$3,076** by way of the latter's reasonable costs for the First Instance Circuit and appellate proceedings. That amount is payable within 7 days of the date of this judgment.

By the Court,



[signed]

Mr Umar Azmeh, Registrar

A signed copy of this Judgment has been filed with the Registry.

Representation

The Claimant was represented by the Essa Al-Sulaiti Law Firm (Doha, Qatar).

The Defendant was represented by the Al-Sulaiti Law Firm (Doha, Qatar).