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: [2019] QIC (C) 2

IN THE CIVIL AND COMMERCIAL COURT
OF THE QATAR FINANCIAL CENTRE

16 May 2019

CASE NO 4 of 2019

BETWEEN:

CEM BUSINESS SOLUTIONS LLC

Applicant

v

EMPLOYMENT STANDARDS OFFICE

Respondent

ANAND JAMBUNATHAN

Interested Party

COSTS ASSESSMENT

Before:
Mr Christopher Grout, Registrar

JUDGMENT

Introduction

1. On 18 March 2019 the Appellate Division of the Court (Lord Thomas, President, Justices Robertson and Al Anezi) issued its judgment dismissing an Application seeking Permission to Appeal a Decision of the QFC Regulatory Tribunal which had itself dismissed an Appeal brought by the Applicant against a determination of the Respondent.

2. The judgment ordered the Applicant to pay the reasonable costs of the Respondent and the Interested Party insofar as those costs related to the Application seeking Permission to Appeal.

3. The parties have been unable to reach agreement on the issue of costs and so require a Costs Assessment.

4. On 13 April 2019 I provided the parties with Directions in relation to costs submissions. On 15 April 2019 the Respondent filed and served its schedule of costs; the Interested Party did the same on 17 April 2019. The Applicant sought an extension of time to the 2 May 2019 in which to file a response. I granted that extension although no response was forthcoming, nor any explanation for the failure to comply. Accordingly, I have proceeded to undertake the Costs Assessment without submissions from the Applicant.

5. In addition to having read the schedules filed by the Respondent and the Interested Party, I have read all the papers in the case that were put before both the QFC Regulatory Tribunal and the Appellate Division. I am, therefore, acutely aware of the issues raised by the parties, how the case was conducted and how various matters have been resolved.

The Need for a Hearing

6. I am afforded a 'wide discretion' as to the procedure to be adopted when undertaking a Costs Assessment.[1] Ordinarily, such assessments will be undertaken on the papers, i.e. without the need for an oral hearing. No party has sought an oral hearing; indeed, in this case, it would be wholly disproportionate to hold one. Accordingly, the Costs Assessment has been undertaken on the papers.

The Principles to be Applied

7. In *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* [2017] QIC (C) 1 I laid down the principles to be applied when assessing 'reasonable costs'. At paragraphs 10-12 I said:

> How is the issue of reasonableness to be approached? In my judgment, in order to be recoverable costs must be both reasonably incurred and reasonable in amount. If they are not then they are unlikely to be recoverable.
>
> I have identified the following (non-exhaustive) list of factors which will ordinarily fall to be considered when assessing whether or not costs have been reasonably incurred by a party and, if they have, whether they are also reasonable in amount:
>
> (a) Proportionality;
> (b) The conduct of the parties (both before and during the proceedings);
> (c) Efforts made to try and resolve the dispute without recourse to litigation (for example through Alternative Dispute Resolution);
> (d) Whether any reasonable settlement offers were made and rejected; and
> (e) The extent to which the party seeking to recover costs has been successful.
>
> When considering the proportionality factor, the following (again non-exhaustive) factors are likely to fall to be considered:

[1] *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* [2017] QIC (F) 2, at paragraph 21. That principle was not interfered with by the Appellate Division of the Court in the same case in its judgment dated 11 September 2017.

(a) In monetary or property claims, the amount or value involved;
(b) The importance of the matter(s) raised to the parties;
(c) The complexity of the matter(s);
(d) The difficulty or novelty of any particular point(s) raised;
(e) The time spent on the case;
(f) The manner in which work on the case was undertaken; and
(g) The appropriate use of resources by the parties including, where appropriate, the use of available information and communications technology.

8. Those principles were, upon review by the First Instance Circuit of the Court, approved.[2] In the present case, no-one sought to suggest in their written submissions that those principles should not be applied here.

The Submissions of the Parties

The Respondent

9. The Respondent is the Employment Standards Office of the QFC. It seeks QAR 13,500 which is said to represent a fixed fee for the professional services of K & L Gates LLP (QFC Branch). There is an invoice to this effect attached. The work to which the fee relates is not explained in any meaningful detail but it is reasonable, in the circumstances, to conclude that it relates to considering the Applicant's Application seeking Permission to Appeal and drafting the Response (which was settled by K & L Gates LLP (QFC Branch) and is dated 26 February 2019).

The Interested Party

10. The Interested Party is an employee of the Applicant. He was represented throughout by Kochery and Partners LLP. The latter has settled an invoice for QAR 10,000 for 'Drafting of reply to the Application for Permission to Appeal filed by CEM Business Solutions LLC against the decision of the QFC Regulatory Tribunal in Case No 2 of

[2] *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* [2017] QIC (F) 2 at paragraph 20. The decision of the Court to approve those principles was not interfered with by the Appellate Division of the Court in the same case in its judgment dated 11 September 2017.

2018'. The Interested Party submits that the costs have been reasonably incurred and are reasonable in amount.

The Applicant

11. As noted above, despite being granted an extension of time, the Applicant has failed to file any submissions in response. As a result, I have not had the benefit of hearing any argument as to whether or not the Applicant considers that the respective sums claimed are reasonable. I proceed on the basis that it does not.

Argument, Consideration and Conclusions

12. I have received very little assistance on the issue of reasonableness other than the invoices that have been submitted by the respective legal teams. In most cases, it is helpful to have something, in the form of submissions, that assists in determining whether or not costs incurred have been incurred reasonably and, if they have, whether they are reasonable in amount. That having been said, the costs claimed here are not substantial and the Overriding Objective requires the Court, among other things, to deal with cases in a way which is proportionate to the amount of money involved. I did not consider it necessary, in the circumstances of this case and given the sums claimed, to require further information from the parties. It is regrettable that the matter could not have been settled amicably between the parties, although it is clear that both the Respondent and the Interested Party sought to do so.

13. Considering the relevant factors set out above, the amount of money which was subject to the Application seeking Permission to Appeal comprised a shortfall in salaries (owed to the Interested Party by the Applicant) in the sum of QAR 343,686.50, medical and insurance benefits (again owed to the Interested Party by the Applicant) in the sum of QAR 16,667.00 plus compensation (also owed to the Interested Party by the Applicant) in the sum of QAR 25,000 plus a daily penalty of QAR 40.00 if the payments were not made by certain specified dates. Insofar as the Interested Party was concerned, these were significant sums of money found to be owing to him. He was reliant upon them to pay his living and other expenses. It was because he had such a clear interest in the proceedings that he was joined as an Interested Party.

14. The Respondent exercises, among other things, an important regulatory function. Its role is set out in Article 7 of the QFC Employment Regulations:

(1) to investigate any contravention of, and to enforce, these Regulations;

(2) to maintain relations with all State authorities involved in matters addressed in these Regulations, to coordinate with such authorities in the implementation of these Regulations and any rules, policies or orders issued thereunder, to provide such authorities with any documents or material to which they a have right under these Regulations and any applicable laws, rules or regulations of the State, and to represent the QFC in dealings with such authorities;

(3) to keep and maintain in such form as it shall determine a register in respect of each Employee, to record in such register all documents and information which falls to be filed with or delivered to the Employment Standards Office in respect of Employees; and

(4) all other functions provided for in these Regulations considered by it to be necessary, desirable or appropriate to achieve, further or assist in relation to any of the above.

15. Having investigated the Applicant and found that it had contravened the Employment Regulations, it issued a determination consistent with what is set out in paragraph 13 above. When the Applicant appealed to the QFC Regulatory Tribunal, the Respondent was required, by virtue of the Regulations and Procedural Rules of the QFC Regulatory Tribunal, to respond. When an Application seeking Permission to Appeal was filed, the Respondent was invited to file a Response and duly did so. This was entirely reasonable not least because it is in the interests not only of the Respondent, but of the wider QFC, that its determinations are upheld and enforced but more importantly because there was an employee (the Interested Party) who would be impacted by any decision on the Application seeking Permission to Appeal.

16. Although the issues were of considerable importance to the parties, they were neither complex nor novel.

17. It is unclear how much time was spent on the case by the respective law firms because their invoices are not particularised, as in each case they worked on a fixed fee basis.

18. As the Application seeking Permission to Appeal was considered on the papers, no issue of attendance fees arises.

19. As to whether the actual amounts claimed are reasonable, I have concluded, in both cases, that they are not. As I have indicated above, it is not clear how much time the respective law firms spent on drafting their responses to the Application seeking Permission to Appeal but, having read and considered both of them, it could not have been very long. The issues were very simple and, unsurprisingly, the responses filed were short and straight to the point. In each case they would not have required high level fee earners to undertake the work but, if such fee earners were engaged, it is to be expected that the actual time spent on considering and drafting the responses would have been very short.

20. Taking into account all of the above, the amounts claimed of QAR 13,500 and QAR 10,000 are disproportionate to the reasonable amount of work required and undertaken. A reasonable sum, in each case, appears to me to be QAR 5,000.

Final Conclusion

21. For the reasons given above, the Respondent's submissions as to its reasonable costs are successful but only to the extent of QAR 5,000.

22. Similarly, the Interested Party's submissions as to his reasonable costs are successful but, again, only to the extent of QAR 5,000.

23. Accordingly, the Applicant shall pay to the Respondent and the Interested Party the sum of QAR 5,000 each.

By the Court,

Mr Christopher Grout

Registrar

Representation:

For the Respondent:	The Respondent's submissions were filed by the Commissioner of the Employment Standards Office
For the Interested Party:	Kochery and Partners, Doha, Qatar
For the Applicant:	The Applicant did not file any submissions

DIGITALLY SIGNED AND VERIFIED
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