In the name of His Highness Sheikh Tamim bin Hamad Al Thani,

Emir of the State of Qatar

IN THE CIVIL AND COMMERCIAL COURT

OF THE QATAR FINANCIAL CENTRE

25 March 2018

CASE NO: 06/2017

PINSENT MASONS LLP (QFC BRANCH)

Claimant

v

AL QAMRA HOLDING GROUP

Defendant

COSTS ASSESSMENT

Before:

Mr Christopher Grout, Registrar

JUDGMENT

Introduction

1. On the 14 February 2018 the First Instance Circuit of the Court (Justices Robertson, Al Sayed and Hamilton) delivered judgment in *Case No 6 of 2017; Pinsent Masons LLP (QFC Branch) v Al Qamra Holding Group*. Subject to what follows later in this Assessment, it is unnecessary to recite the facts of the case in any great detail; they are apparent from the judgment of the Court. Suffice it to say, the Court granted the Claimant's claim and ordered the Defendant to pay the Claimant's "reasonable costs in the case" which, if not agreed between the parties, were to be assessed by the Registrar. It is also to be noted that a differently constituted First Instance Circuit of the Court (Justices Robertson, Kirkham and Hamilton) had, in a judgment dated 2 January 2018, granted summary judgment in favour of the Claimant in relation to part of the claim which, in the end, was not disputed by the Defendant.

2. On 20 February 2018, the Claimant emailed the Registry stating that it had attempted to reach agreement with the Defendant on the issue of costs but "No response has been forthcoming". The email further requested that it should be treated as "an application for the Claimant's costs to be assessed by the Registrar". I emailed both parties on the same day setting down a timetable for the filing and service of costs submissions (see Annex A).

3. The Claimant duly filed and served its schedule of costs and submissions and, having been granted an extension of time in which to do so, the Defendant filed and served its response. The Claimant was given an opportunity to file and serve a brief reply and did so on 11 March 2018.

4. As is customary in cases before the Court, I have, in my capacity as Registrar, been involved with the case since its inception. In addition to having read and considered the parties submissions on costs, I have read all the papers in the case and was present throughout the course of the trial. I am, therefore, acutely aware of the issues raised by the parties, how the case was conducted and how various matters have been resolved both prior to and following the trial.

The Need for a Hearing

5. 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. In this case, the Defendant requested that an oral hearing take place (for reasons which it did not specify other than what it asserted as "its right to be heard"); the Claimant objected to such a course.

6. Unusually, I agreed to list the matter for an oral hearing on the 20 March 2018; a date specifically requested by the Defendant. At the time of doing so, I gave my reasons as follows:

> *I have had an opportunity to consider the Claimant's submissions on costs, the Defendant's response and the brief submissions made by the Claimant in reply.*
>
> *The Defendant challenges the costs claimed by the Claimant as 'unreasonable' but does not provide any meaningful explanation as to why it says they are unreasonable. The Defendant has also not engaged with the specific questions raised by me relating to the recovery of professional rates by the Claimant and the recovery of costs associated with ADR. These are important points of principle. Further, the Defendant appears to be acting under the misapprehension that it is entitled to claim its own costs.*
>
> *I am mindful of the fact that I have a broad discretion as to the manner in which a costs assessment is conducted. Ordinarily, I would conduct such assessments on the papers, having received full and detailed submissions from the Parties.*
>
> *In this case, in addition to the observations made above, I note the following: (i) the Defendant was not present nor, for the most part, was it represented at the substantive trial, (ii) the Defendant has requested an oral hearing on the issue of costs and (iii) both Parties are resident in Doha such that any costs associated with scheduling a short oral hearing on this issue are likely to be minimal.*
>
> *Taking into account all of the factors identified above, I have determined that I will give the Parties the opportunity to make submissions at an oral hearing should they wish to do so.*

[1] Case No 1 of 2016; *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* (First Instance Circuit) 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.

The Request for an Adjournment

7. The hearing was listed for 11am on the 20 March 2018. Both parties were self-represented. The Claimant was represented by Mr Paul Fisher (an employed barrister at the Claimant), the Defendant by Dr Hossam Eldin Mostafa Saad (the Chief Executive Officer of the Defendant).

8. Dr Hossam made an application to adjourn the hearing ("for up to 7 days") on the basis that he needed more time to consider the Claimant's submissions. He essentially made two points. First, that he had not had an opportunity to consider the Claimant's submissions and needed more time to consult with the Defendant's lawyers to see if the costs sought by the Claimant were reasonable and secondly that the reason he had not done so prior to the hearing was because he had been trying to reach an amicable agreement with the Claimant as he wanted to preserve the good working relationship between them. Mr Fisher objected to the adjournment on the ground, in short, that no reasonable explanation had been put before me as to why the hearing should be adjourned.

9. I refused the application for an adjournment for reasons which I gave at the time, namely (i) one of the reasons an oral hearing had been listed was because the Defendant had requested it, (ii) in particular, the Defendant had asked that the hearing be listed for its convenience on 20 March 2018 and (iii) it was evident from the written submissions filed by the Defendant that it had considered the Claimant's written submissions and schedule of costs and considered the latter to be "unreasonable"; whilst it had not particularised why they were said to be unreasonable, the Defendant did include its own schedule of costs by way of comparison. In addition, I observed that (i) the non-compliance with directions and orders of the Court as well as ill-founded and late applications for adjournments had, unfortunately, been a characteristic part of the Defendant's approach to these proceedings and (ii) adjourning the matter to a future date would only result in greater costs being incurred (and therefore claimed) by the Claimant. Accordingly, for all those reasons, I refused the application.

The Principles to be Applied

10. In this case, the Court has ordered that the Defendant shall pay "the reasonable costs in the case" incurred by the Claimant. In Case No 1 of 2016; *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* I laid down the principles to be applied when assessing 'reasonable costs'. At paragraphs 10-12 of my Costs Assessment dated 5 March 2017 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:*
>
> *(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.*

11. Those principles were, upon review by the First Instance Circuit of the Court, approved.[2] In the present case, neither party sought to suggest at the hearing that those principles should not be applied here.

The Submissions of the Parties

12. The Claimant seeks an order for costs of QAR 493,328.74 On page 1 of its Costs Schedule, it breaks that total down in the following way:

Description	**Cost**
Legal Costs	QAR 491,590.00
Stationery and materials	QAR 1,738.74
Grand Total	**QAR 493,328.74**

13. The Costs Schedule then provides a 'legal cost per lawyer' table where it sets out the name of the lawyer, their 'status' (e.g. 'partner' or 'associate'), the standard hourly rates of each lawyer, the hours spent on the case and the total amount per lawyer. Another table then sets out the 'legal costs at each stage per fee-earner'. As the title suggests, that table details the various stages of the litigation (e.g. 'commencement of proceedings to mediation' and 'trial'), the lawyers that were engaged at each stage, a brief description of the tasks undertaken by the relevant lawyers, the total number of hours spent by each lawyer and the total amount of costs incurred (calculated by taking the number of hours of each lawyer and multiplying it by the respective hourly rates). Finally, the 'disbursements' table set out the various items of stationery and other sundry materials the Claimant had used in furtherance of its case.

14. In addition, the Claimant's accompanying written submissions contain a number of points in relation to, amongst other things: (i) the reasonableness of the costs claimed, (ii) the proper approach to the recovery of costs by professional lawyers as litigants in person/self-represented firms, (iii) the conduct of the Defendant, (iv) the mediation

[2] Case No 1 of 2016; *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* (First Instance Circuit) 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.

undertaken by the parties and (v) considerations of proportionality. It will be necessary to return to these points in due course.

15. The Defendant, in its written submissions, states that the costs submitted by the Claimant are "unreasonable". It does not, however, particularise why. The Defendant does draw attention to the fact that there exists an apparent "discrepancy" between the Costs Schedule initially submitted by the Claimant at trial and the one submitted in furtherance of the Costs Assessment. In addition, the Defendant seeks recovery of its own legal costs in the sum of QAR 133,500. Finally, the Defendant submits that it made "numerous" attempts to settle the matter by transferring the sums due to the Claimant but that the Claimant "rejected this proposal".

Argument, Consideration and Conclusions

The Defendant's Application for Costs

16. As noted above, the Defendant, in its written submissions, made an application for costs in the sum of QAR 133,500. That application was accompanied by a reasonably detailed schedule- similar to that of the Claimant's- setting out who had done what as well as the associated costs.

17. At the commencement of the hearing, I explained to Dr Hossam that this application was misconceived. First, I have no power to award a party its costs in relation to a trial that has been heard before a fully constituted Court; whether a party is awarded its costs is, in those circumstances, entirely a matter for the Court. Secondly, even if I did have such a power, I would not exercise it in favour of the Defendant in the present case. The Claimant was awarded its costs, by the Court, as a result of being the successful party to the litigation. Consequently, it is inconceivable that the Defendant would also be entitled to recover its costs. In light of those observations, Dr Hossam, rightly in my view, did not try to persuade me to the contrary.

Recovery of Costs by Professional Lawyers as Litigants in Person / Self-Represented Firms

18. As is perhaps clear, the Claimant, Pinsent Masons LLP (QFC Branch), is a professional law firm licensed by the Qatar Financial Centre ('QFC'). In the present case, possessing the necessary skill and expertise, the Claimant chose to represent itself rather than instruct another law firm to do so on its behalf. As such, it can quite properly be described as a 'litigant in person' or 'self-represented firm'. The question that this gives rise to is the extent to which a self-represented firm is entitled to recover its professional costs as part of a Costs Assessment.

19. The position of Mr Fisher is that questioning the *principle* of whether or not a self-represented firm should be able to recover its professional costs is not the correct approach. Rather, the question is whether or not the costs claimed are reasonable in all the circumstances. I agree that the critical question is one of reasonableness.

20. Mr Fisher drew my attention to a recent decision of the England and Wales Court of Appeal (Civil Division) in *Halborg v EMW Law LLP* [2017] EWCA Civ 793. He submitted that I was entitled to have regard to this case (a) because the applicable law of the contract between the parties was that of England and Wales and (b) regardless, the authority is of persuasive value. Whilst acknowledging that foreign jurisprudence is not binding on this Court, I agree that I am entitled to have regard to it as a matter of persuasive authority, especially where there is no guidance on the issue in question within this jurisdiction.

21. In *Halborg* the Court of Appeal summarised the common law principle, established by the case of *The London Scottish Benefit Society v Chorley, Crawford and Chester* (1884) 13 QBD 872, as follows:

> *(1)A solicitor who acts for himself as a party to litigation can recover not only his out of pocket expenses but also his profit costs, but he cannot recover for anything which his acting in person has made unnecessary; (2)the reason is not because of some special privilege but on the purely pragmatic grounds that (a) there has actually been an expenditure of professional skill and labour by the solicitor party, (b) that expenditure is measurable, (c) the solicitor party would otherwise employ another solicitor and, if successful,*

would be entitled to recover the costs of that other solicitor, and (d) since he cannot recover for anything which his acting in person has made unnecessary, the unsuccessful party will have the benefit of that disallowance and so would pay less than if the solicitor party had instructed another solicitor.[3]

22. It is important to note, however, that one of the reasons why this issue needed to be revisited by the Court of Appeal in *Halborg* is because the underlying Civil Procedural Rules contain different provisions for the recovery of costs dependent upon whether the successful party is a litigant in person or an instructed lawyer. Neither the QFC Law, nor the Regulations and Procedural Rules of the Court, make such a distinction. The question is simply one of reasonableness. With that in mind, I asked Mr Fisher whether a self-represented party (regardless of whether or not it is a professional law firm) that is granted its reasonable costs should be able to seek to recover costs associated with the time it has spent in relation to bringing or defending litigation. Mr Fisher accepted that, as a matter of principle, there was no reason why that should not be the case.

23. Mr Fisher submitted that the question is therefore whether the Claimant should be entitled to recover at its professional (as opposed to some other) rate. He acknowledged that the costs claimed in this case are (i) opportunity costs (in the sense that they are the costs that the Claimant could have charged privately paying clients had it not been involved in bringing this action) and (ii) that, as such, the costs claimed contain an element of profit.

24. Dr Hossam did not appear to object to the underlying rationale that Mr Fisher was urging me to adopt; he simply questioned whether the rates charged and hours spent by the Claimant were reasonable in all the circumstances.

25. I accept the underlying rationale of the common law principle summarised by the Court of Appeal in *Halborg*. Adopting the explanation cited at paragraph 21 above, it seems to me that there are good reasons why a self-represented law firm should be able to recover at its professional rates providing, of course, that those rates are reasonable.

[3] [2017] EWCA Civ 793 at paragraph 19.

26. Neither the QFC Law, nor any of the subordinate regulations, provide for a table of recoverable legal fees in respect of litigation before the Court. I do not accept that I am bound to agree that a law firm's published rates are, on the face of them, reasonable. Such rates may be extravagant or markedly out of line with those which would have been charged by comparable law firms. In this regard (and as Mr Fisher had previously sought to rely upon jurisprudence from England and Wales) I drew the attention of the parties to a recent judgment of the England and Wales High Court in *Dana Gas PJSC v Dana Gas Sukuk Limited and Others* [2018] EWHC 332 where Leggatt LJ had cause to criticise the hourly rates charged by various fee earners, observing that "competent representation can be obtained at much lower rates, in the region of around half the hourly rates paid in this case".[4]

27. Mr Fisher submitted that *Dana Gas* is distinguishable on the grounds that in that case more fee earners were involved who were charging at higher rates than those in the present case. That is correct, although it seems to me that the observation made by Leggatt LJ is one that should nevertheless be borne in mind when assessing the reasonableness or otherwise of costs.

28. The difficulty in the present case is that I have no evidence at all of what the going market rate in the QFC / Qatar is. One possible comparison is to look at what was claimed by the Defendant in its application. It was claiming QAR 2,000 per hour for its 'Legal Representative'. That is roughly comparable to the hourly rate charged by the 'Associate' at Pinsent Masons (QAR 2,350) but significantly less than the hourly rate of the 'Barrister' (QAR 3,125) and that of the 'Partner' (QAR 3,750). Mr Fisher submitted that the comparison was not helpful in the absence of evidence of the going market rate in the QFC / Qatar.

29. The best I can do, in the circumstances, is to consider the rates claimed in light of my experience of cases before this Court in the last six years. On that basis, it does not appear to me that the professional rates of the Claimant are extravagant or markedly out of line with professional rates claimed in other cases I have dealt with. That is not, however, to say that the totality of the costs claimed are reasonable.

[4] [2018] EWHC 332 at paragraph 12.

The Mediation

30. As I identified at paragraph 10 above, efforts made to try and resolve the dispute without recourse to litigation is likely to be a relevant consideration when assessing the reasonableness or otherwise of costs.

31. In the present case, after the Court had issued Summary Judgment in relation to part of the claim, it offered to seek to resolve the remainder of the dispute through the appointment of a professional judicial mediator. This was at no cost to the parties (in the sense that the Court/judicial mediator did not charge a fee) and was not obligatory. Sensibly, however, the parties agreed to attempt to resolve the remainder of the dispute through mediation and entered into a Mediation Agreement. The mediation showed signs of success in as much as a form of settlement was reached although that settlement (which has not been placed before the Court or me) evidently contained a condition that needed to be fulfilled by the Defendant. As that condition was not met, the litigation resumed.

32. QAR 96,512.50 of the costs claimed by the Claimant relate to time spent preparing for and attending the mediation. 1 hour is claimed by a partner (QAR 3,750), 22.9 hours claimed by a barrister (QAR 71,562.50) and 21.2 hours by a paralegal (QAR 21,200).

33. The first issue to determine is whether or not the costs associated with the mediation are capable of being recovered as part of this Costs Assessment. It seems to me that there are very good reasons for concluding that, as a general rule, costs associated with mediation are simply borne by the parties. Mr Fisher acknowledges this in his written submissions. Mediation has many advantages and parties should be encouraged to use this medium as an alternative to litigation in appropriate cases. A general rule which permits for the recovery of mediation costs as part of litigation costs may have the unfortunate consequence of deterring people from attempting to resolve their disputes by this alternative method. Accordingly, as a general rule, I find that mediation costs should not be recoverable as part of a Costs Assessment which is concerned with litigation costs.

34. However, one obvious exception to this general rule would be if the parties were to contractually agree a different position. In the present case, the parties entered into a

Mediation Agreement which was signed by both parties and the judicial mediator. A copy of the Mediation Agreement has been provided to me. Importantly, paragraph 17 of the Mediation Agreement, under the heading 'COSTS', provides as follows:

> *Each Party will bear its own costs of the mediation. This does not prevent the Parties from reaching a different agreement as to the costs of the mediation and is subject to any order the Court may make if a settlement is not agreed.*

35. At the hearing, Mr Fisher's position was that as a settlement was not agreed (because the condition contained within the mediated settlement was not ultimately fulfilled by the Defendant) then I am able to take into account the costs associated with the mediation as part of this Costs Assessment. Dr Hossam's position was that, as far as he was concerned, the mediation was quite separate from the litigation and that the costs associated with the mediation were simply to be borne by each party.

36. I am unable to accept the interpretation of this provision argued by Mr Fisher. It seems to me that on an ordinary reading of the provision, the very clear intention was that each party will bear its own costs of the mediation- that is what the provision says. Whilst it was open to the parties to reach a different agreement, nothing that has been submitted to me persuades me that that happened. The argument that there was no settlement is equally questionable. From what has been submitted, it seems to me that a mediated settlement was reached, but was not, ultimately, complied with. Even if my interpretation of the latter part of this provision in the Mediation Agreement is wrong, in the absence of a clear agreement between the parties to displace the statement that 'Each Party will bear its own costs of the mediation' I am not persuaded that I should do so.

37. Mr Fisher raised an additional point. He submitted that the Defendant had no intention of complying with the terms of the mediated settlement and so had not entered into the process in good faith. He relies, amongst other things, on the fact that the Defendant did not comply with the settlement terms and, to date, has made no payments towards the judgment debts despite its repeated statements that it intends to do so. Mr Fisher

submits that, in such circumstances, the Claimant should not have to bear the costs it incurred as a result of the mediation process.

38. Dr Hossam refutes the suggestion that the Defendant did not enter the mediation process in good faith. He stressed that, throughout these proceedings, he has been keen to maintain a good working relationship between the parties. I asked him why, to date, the Defendant has failed to pay anything to the Claimant. He appeared to suggest that the Defendant had experienced cash flow problems but that he had, today, brought to Court cheques which he intended to give to the Claimant to satisfy (or make a contribution towards) the outstanding debts. I was not particularly impressed with Dr Hossam's response but I am unable to conclude, on the submissions and evidence before me, that the Defendant entered into the mediation process in bad faith. I note from paragraph 8 of the Mediation Agreement that the judicial mediator had the power to bring the mediation to a close if she concluded that continuing with it was unlikely to be beneficial. There was no suggestion at the hearing that that eventuality occurred. On the contrary, a mediated settlement was reached, albeit, in the end, not complied with.

39. Consequently, I am not satisfied that I am entitled, in this case, to take into account the costs associated with the mediation and I discount them in their entirety. As a result, I do not need to consider whether the QAR 96,512.50 claimed is reasonable.

Remaining Legal Costs

40. The legal costs claimed by the Claimant, once the mediation costs are removed, totals QAR 395,077.50. As noted above, a schedule was submitted in support of that claim. According to the schedule, five members of the Claimant undertook work on the case. The team comprised two Partners, one Barrister, one Associate and one Paralegal. Between them, deducting the hours spent on the mediation, they spent 145.5 hours on the case. It is fair to say that the vast majority of those hours were shared between the Barrister (75.1 hours), the Paralegal (25 hours) and the Associate (24.9 hours). The remaining hours claimed were in respect of the two Partners who, for the most part, simply exercised a general oversight function.

41. One issue which causes me concern is the number of lawyers utilised at the hearings. As to the number of lawyers who attended the trial, the Claimant sent a Partner (at an invoiced cost of QAR 20,625) its Barrister (at an invoiced cost of QAR 17,187.50) and a Paralegal (at an invoiced cost of QAR 7,800). Whilst the Claimant is of course entitled to send as many of its employees to the trial as it wishes, this cannot be at the expense of the Defendant. This was an extremely straightforward case and one which a barrister of Mr Fisher's capability was perfectly able to deal with without the assistance of others. It was not, in my view, reasonable to incur additional costs. The fees claimed of QAR 20,625 and QAR 7,800 are therefore disallowed.

42. Similarly, in relation to the hearing of the Costs Assessment, the Claimant claims costs associated with sending a Partner (QAR 3,750) and a Barrister (QAR 3,125). Whilst those fees may well be viewed as very modest, Mr Fisher was perfectly capable of advancing his submissions without the oversight or assistance of a Partner. Accordingly, it was not reasonable to incur the additional cost of QAR 3,750 which is therefore disallowed.

43. Those deductions bring the costs claimed down to QAR 362,902.50.

44. It is, as explained at paragraph 10 above, always necessary to keep firmly in mind issues of proportionality. This is a case which, in many respects, could not have been more straightforward- the Claimant had issued a number of invoices for services it had provided; the Defendant had failed to pay them. Although the invoices had been issued in both QAR and US Dollars, the total value of the claim in QAR came to roughly QAR 560,025.66. That is not an insignificant sum. Nevertheless, it concerns me that the Claimant has spent as much as it has in seeking, albeit successfully, to recover that sum.

45. Mr Fisher pointed out at the hearing that, unlike in many other commercial cases where costs often meet or exceed the value of the claim, that is not the case here. That is true although it should not be assumed that if the costs claimed do not meet or exceed the value of the claim they are, therefore, reasonable. Moreover, those observations do not address the issue of why- in what was essentially a simple case of debt recovery- so much time and money needed to be spent. Mr Fisher's answer to that is that it has been the conduct of the Defendant that has forced the Claimant into a position where it had

little choice but to spend the time and money it has. He makes a number of points in this regard, namely that the Defendant (i) made admissions early on in the proceedings in relation to three of the invoice amounts claimed; despite these admissions, no payment was forthcoming leading the Claimant to make an application for summary judgment, (ii) failed to serve witness statements required by the Court making its position on the outstanding invoice amounts claimed unclear, (iii) made a misjudged application requesting that the trial be adjourned, (iv) instructed a lawyer to attend the hearing who then left Court once a renewed application for an adjournment had failed and (v) failed to engage with the Claimant on the issue of costs. All these issues, Mr Fishers says, equate to unreasonable conduct which put the Claimant to time and expense which would have otherwise been unnecessary.

46. Although given an opportunity to do so, Dr Hossam did not really engage with these points. He appeared to acknowledge that it was, in some regards, the Defendant's conduct that had led to the expenditure of time and resources by the Claimant but that the Defendant was entitled to defend itself once Court proceedings had been initiated. That is, of course, correct. However, what is striking about this case is that the Defendant, by its conduct, required the Claimant to jump over every hurdle and prepare for every eventuality without, at any stage, advancing any meaningful defence. That was most apparent at the trial following the withdrawal of the Defendant's lawyer. The Court, at paragraph 12 of its judgment of 14 February 2018, summarised what it considered to be the Defendant's position in respect of these proceedings in the following way:

> *It is difficult to avoid the inference that cash flow problems may have been at the root of the resistance to this litigation and a totally misconceived notion that the Claimant lawyers should discount for the work they were required to do when, through no fault of theirs, the involvement was commercially unproductive.*

The Court also observed, at paragraph 6 of its judgment:

> *The case has been complicated by the fact that although there have been written allegations made by the Defendant, which included a number of factual assertions, complaints and criticisms, there was no evidential*

basis for any of these. The Defendant was frequently advised of this lacuna but failed to respond in a positive way.

47. Consequently, I am driven to the conclusion that the conduct of the Defendant in this case was, in a number of respects, unreasonable. This is something which bears upon the reasonableness of the costs claimed and is therefore a factor which I should take into account.

48. Finally under this heading and as noted at paragraph 15 above, I deal with the alleged discrepancy between the different versions of the Costs Schedule filed by the Claimant. In its written reply, the Claimant explained the alleged discrepancies essentially saying that this was because it had restructured the way in which the claim was being made and that the later schedule included time spent and therefore costs incurred following the filing of the first schedule. I accept that explanation.

49. Taking all these matters into account (in particular the very simple nature of the case but also the unreasonable conduct of the Defendant which I find has put the Claimant to incurring additional time and cost) I consider that the remaining Legal Costs claimed of QAR 395,077.50 are still unreasonably high. A reduction of 25% seems to me to be just and reasonable in all the circumstances. Accordingly, the recoverable amount from the Defendant, insofar as the Legal Costs claimed are concerned, is QAR 296,308.

Disbursements

50. The Claimant claims QAR 1,738.74 in relation to the expenses it has incurred in bringing this claim. The expenses relate solely to sundry items such as stationery. The Claimant has filed a table which details the list of items and the associated cost. At the hearing, Dr Hossam objected to this element of the claim on the grounds that simple expenses such as these are part and parcel of litigation and should not be susceptible to recovery on top of the Claimant's professional rates.

51. Whilst, in the grand scheme of things, the Claimant's claim for these items may appear trivial, I see no reason why, subject always to the requirement of reasonableness, a successful party should not be able to claim for such expenditure. After all, but for having to bring the claim, the Claimant would not have incurred these costs.

52. Two small matters arise. First, the Claimant claims for A4 paper (QAR 168.00) as well as for printing (QAR 355.74). I enquired as to whether or not there was an element of double counting here. On instructions, Mr Fisher stated that he understood the latter costs to primarily represent the cost of the ink as opposed to a combination of the ink and paper. That might be correct but I am not convinced as QAR 355.74 seems quite high to represent only the cost of ink. I suspect that that figure properly takes into account the cost of the paper as well and so I will discount the QAR 168.00. Secondly, batteries for a label printer were purchased at a cost of QAR 45.00. I have no doubt that those batteries will last longer than this case and so I discount the associated cost. Accordingly, the Claimant is entitled to recover its disbursements in the sum of QAR 1,525.74 from the Defendant.

Final Conclusion

53. For the reasons given above, the Claimant's submissions as to its reasonable costs are successful but only to the extent of QAR 297,833.74.

54. Accordingly, the Defendant shall pay to the Claimant the sum of QAR 297,833.74.

By the Court,

Christopher Grout

Mr Christopher Grout

Registrar

Representation:

For the Claimant: Mr Paul Fisher, Barrister, Pinsent Masons LLP (QFC Branch)

For the Defendant: Dr Hossam Eldin Mostafa Saad, Chief Executive Officer, Al Qamra Holding Grou

Annex A

1. By no later than **4pm** on **Tuesday 27 February 2018**, the Claimant is to file and serve a Schedule of Costs for assessment along with any accompanying Submissions. The Schedule should provide more detailed information than the one filed and served on 6 February 2018. In particular, it should:

   (a) Provide a short narrative for the hours undertaken by each fee earner; "Day to day conduct of the matter" is, for example, insufficient for the purposes of an assessment.

   Insofar as the Claimant's Submissions are concerned, these should address, in addition to any other points the Claimant wishes to raise:

   (a) Whether the Claimant seeks an oral hearing or is content for the costs assessment to be determined on the papers;
   (b) To what extent a law firm, which chooses to represent itself, can seek to recover costs by reference to its professional rates;
   (c) Whether, and if so to what extent, costs incurred 'pre-action' are, or should be, recoverable as part of an assessment; and
   (d) Whether, and if so to what extent, costs incurred in furtherance of attempts at alternative dispute resolution (in this case the Parties' attempt to mediate) are, or should be, recoverable as part of an assessment.

2. By no later than **4pm** on **Tuesday 6 March 2018**, the Defendant is to file and serve a Response to the detailed Schedule of Costs and Submissions. That Response should:

   (a) State whether the Defendant seeks an oral hearing or is content for the costs assessment to be determined on the papers;

   (b) Identify which costs on the Schedule are considered reasonable (and are therefore not disputed);

   (c) Identify points of dispute in respect of those costs on the Schedule which are considered unreasonable. Points of dispute should be concise and to the point. They should, first, identify any general points or matters of principle which require a decision before the items contained within the Schedule are scrutinised. They should then address the individual items on the Schedule, stating concisely the nature and grounds of dispute. Where individual items are disputed, the Defendant should identify what sum, if any, it considers to be reasonable in respect of each disputed amount claimed;

   (d) Address the points made by the Claimant in its Submissions; and

(e) Provide any further information the Defendant wishes to rely upon.

When making their submissions, the Parties should consider the principles set out in *Case No 1 of 2016* which is available here:
https://www.qicdrc.com.qa/files/s3/judgments/english/case_no_1_of_2016_hammad_shawabkeh_v_daman_health_insurance_qatar_llc_-_costs_assessment_5_march_2017.pdf

Once the Parties have complied (or failed to comply) with the above, I will then determine how the assessment is to be undertaken. **If** a hearing is deemed to be necessary, I would, at this stage, look to schedule it during the week commencing 18 March 2018.

DIGITALLY SIGNED AND VERIFIED
موقع رقمياً ومعتمد