



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: [2024] QIC (C) 3

IN THE QATAR FINANCIAL CENTRE
CIVIL AND COMMERCIAL COURT

Date: 11 February 2024

CASE NO: CTFIC0065/2023

WHITEPENCIL LLC

Claimant

v

AHMED BARAKAT

Defendant

JUDGMENT ON COSTS

Before:

Mr Umar Azmeh, Registrar

Order

1. The Defendant is to pay the Claimant the sum of **\$8,000** within 14 days of the date of this judgment.

Judgment

Introduction

1. On 30 November 2023, the First Instance Circuit (Justices George Arestis, Ali Malek KC and Helen Mountfield KC) ordered the Defendant to pay the Claimant the sum of \$2,950 plus interest within 14 days. The judgment was satisfied on 1 December 2023.
2. The Claimant is a law firm, and the Defendant is a former client of the Claimant. The figure in dispute comprised unpaid invoices for services rendered by the Claimant to the Defendant. The Claimant had also claimed the sum of \$50,000 by way of reputation damages in the British Virgin Islands, but the Court did not award this figure.
3. It now falls to me to assess the reasonable costs that the Claimant – the successful party – is entitled to claim from the Defendant.
4. The Claimant claims the total sum of \$17,300, comprising \$12,300 by way of legal fees incurred in conducting the litigation, along with \$5,000 for the preparation of the costs submissions.

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. I also make reference to my judgment in *Xavier Roig Castello v Match Hospitality Consultants LLC* [2024] QIC (C) 1, and specifically the comment at paragraph 23:

Finally, I also make it clear that parties are entitled to instruct any lawyers they wish to conduct their litigation. Most law firms do diligent and necessary work entirely in the best interests of their client. Much of that work is often very valuable. However, that is not the test that I must apply. I must decide what is “reasonable”, and in other words, what is reasonable to order the unsuccessful party to pay.

10. Those comments apply in this case, albeit in a slightly modified form given that the Claimant – a law firm – is representing itself. In other words, even if work undertaken is valuable and necessary, it does not necessarily follow that that work is “reasonable” in the sense that it is reasonable to order an unsuccessful party to meet the costs in question; furthermore, even if work is indeed deemed reasonable, full recovery might still be curtailed on proportionality grounds.

The submissions of the parties

11. I have viewed all of the pleadings and evidence filed and served by the parties. Additionally, the parties filed and served the following submissions on costs:
- i. Claimant’s submission dated 18 December 2023.
 - ii. Defendant’s Response dated 14 January 2024.
 - iii. Claimant’s Reply dated 21 January 2024.

12. The Claimant's position is that the costs claimed are reasonable, and also proportionate, noting inter alia as follows:

- i. The work billed in the invoice tendered during this costs assessment process constitutes 60%-70% of the actual work spent by the Claimant on the proceedings.
- ii. The total amount of time expended on the case – 24.6 hours – is the strict minimum that could have been deployed on the matter.
- iii. The Claimant also took steps to avoid higher fees, including (a) the Managing Partner of the firm handled the case personally rather than other lawyers being involved; (b) no outside counsel was engaged; and (c) an older, lower, hourly rate was used.
- iv. The Claimant's case was accepted in full, and deployed accurate and limited submissions.
- v. The case was a simple one but the Defendant distorted it thereby wasting time.
- vi. The Defendant's conduct was disappointing which contributed to lengthier proceedings.

13. The Defendant's Response noted, inter alia, as follows:

- i. The Claimant's invoice contains substantial inconsistencies, and charges that exceed acceptable professional standards.
- ii. The charges compared to the value of the claim are six times higher; and most of the fees incurred relate to (administrative) tasks that should require minimal legal expertise (with examples given).

- iii. The costs are disproportionate – in light of how simple the case was – and significantly higher than the disputed amount, with high levels of costs for administrative matters. Furthermore, non-administrative legal work is still high given the straightforward nature of the case.
- iv. The Claimant deployed a calculated strategy to avoid negotiations, arguably in favour of driving up costs.
- v. The Defendant attempted to avoid the dispute without recourse to litigation, but the Claimant’s stance was unyielding, refusing to engage in negotiations concerning costs.
- vi. The invoices themselves cast doubt on the reliability of the Claimant’s invoicing practices.
- vii. The Claimant did not present any settlement proposals and refused to engage.
- viii. Many items claimed by the Claimant have been grossly inflated, and the fees claimed are not aligned with the actual time spent on the case.
- ix. The deployment of the managing partner for the case is a clear mismanagement of resources and expertise.

14. The Claimant’s Reply noted, inter alia, as follows:

- i. The fees incurred are the minimum amount that could have been spent on the case.
- ii. The Defendant did not make any reasonable settlement offers.

Analysis

Specific items

15. I have carefully reviewed the submissions of both parties, the judgment, and all the documentation that has been filed and served during the course of these proceedings. I will also note what I have noted in previous judgments: parties are fully entitled to deploy as many lawyers, and at whatever hourly rate they wish. They are also entitled to instruct those lawyers to do as much work as they wish. There can be no criticism of this. However, what a Court will order an unsuccessful party to pay is another matter; this Court only awards what is reasonable, i.e. reasonably incurred and reasonable in amount. That is a different test, but reductions do not necessarily imply that the successful party has acted improperly in any manner. These are simply made, according to the test that this Court applies, in relation to what it would be reasonable to order that the unsuccessful party pays to the successful party.

16. With that in mind, I make the following deductions from the invoice rendered by the Claimant in respect of its costs, dated 3 December 2023:

- i. 20 October 2023: “*Reading the Regulations and Procedural Rules of the QFC Civil and Commercial Court*” – whilst this item might have been a necessary item for a lawyer to incur, it is not reasonable to direct that the unsuccessful party meets the costs of standard research into the rules and regulations of a Court – lawyers are expected to know the standard rules and procedures in this Court. I deduct this item in full in the sum of **\$750**.
- ii. 21 October 2023: “*Reading the QICDRC Practice Direction No. 1 of 2022*” – for the same reasons in respect of paragraph 16(i), I deduct this item in full in the sum of **\$150**.
- iii. 23 October 2023: “*Completing the Registration process on the QICDRC website after the approval to register. Exploring the QICDRC website*” – registering on the QICDRC eCourt system is a purely administrative matter which, in my view, would not be a reasonable item for the unsuccessful party to meet; browsing the QICDRC website does not also appear to be related to the litigation. I deduct this item in full in the sum of **\$200**.

- iv. 25 October 2023: “*Serving the Letter of Issue, Claim Form, and supportive documents to Ahmed Barakat in the QICDRC case; Exploring the QICDRC website*” – service in this matter was conducted electronically via email; no more than 6 minutes is reasonable for this in my view; as above, browsing the QICDRC website is not an item that would be reasonable for the Defendant to bear. I therefore deduct **\$200**.

- v. 2 November 2023: “*Many attempts to upload the supportive documents to Reply to Response on the QICDRC website failed due to the size of documents*” – difficulties in uploading documentation to eCourt are purely administrative, are no fault of the Defendant, and therefore are not reasonable items. I deduct this item in full in the sum of **\$1,000**.

- vi. 5 November 2023: “*Finalizing the drafting of Reply to Response to be submitted by the Claimant; Uploading the Reply to Response and supportive documents to the QICDRC website after many attempts; Sending the Reply to Response and supportive documents by email; Emails exchange with the Registrar and Defendant*” – as in paragraph 16(v), I am not of the view that the uploading or attempted uploading of documents to eCourt is a reasonable item. This entry has not been apportioned – I will allow 2 hours for finalizing the Reply and for serving via email. I therefore deduct 2 hours in the sum of **\$1,000**.

17. The deductions above amount to **\$3,300**, the equivalent of 6.6 hours at the managing partner’s rate of \$500/hour. The total sum on the invoice is therefore reduced to \$9,000, representing 18 hours of work.

Hourly rates

18. I now turn to the applicable hourly rate. As a preliminary, it is established in this Court that self-represented law firms are entitled, as a matter of principle, to recover professional costs incurred in furtherance of bringing a claim, provided the costs claims are reasonable (see *Pinsent Masons LLP (QFC Branch) v Al-Qamra Holding Group* [2018] QIC (C) 2018 at paragraphs 18-29 and *Dentons & Co (QFC Branch) v Bin*

Omran Trading & Contracting LLC [2020] QIC (C) 3 at paragraph 9). The Claimant has – as it is perfectly entitled to do – deployed the managing partner as the lawyer with the sole conduct of this case. However, this case was a very straightforward case and did not, in my view, warrant only the services of a very senior lawyer. My view is that this very simple case could and should have been conducted by a more junior lawyer and that therefore the remaining items on the invoice are not reasonable in amount (although I make clear that the remaining items are reasonably incurred).

19. That said, it is also, in my view, reasonable to allow some partner involvement/supervision, and this is standard practice in most law firms. I note that the signed engagement agreement between the parties, dated 6 February 2020, records on page 5 that a junior lawyer in the office of the Claimant is charged at an hourly rate of \$350. I will therefore, for the reasons given, apportion the remaining 18 hours (see paragraph 17) as 12 hours at \$350 and the remaining 6 at \$500: this therefore represents a further reduction in the sum of **\$1,800**. Applying the reductions to the amount claimed, I arrive at the figure of \$7,200.

Conclusion on substantive costs

20. I have taken full account of the points made by the Defendant in relation to the value of the initial claim; however, I also take account of the submissions made by the Claimant in relation to the minimum amounts that a law firm would accrue, even in a small case. Whilst \$7,200 appears large compared to the amount in issue in this case – namely \$2,950 – as I have said in costs judgments before (see for example *Xavier Roig Castello v Match Hospitality Consultants LLC* [2024] QIC (C) 1 at paragraph 65 and *Aegis Services LLC v EMobility Certification Services and others* [2024] QIC (C) 2 at paragraph 75), unsuccessful parties must understand that the usual practice in this Court is for the successful party to be awarded its reasonable costs. Parties who use the litigation process – as they are free to do – but who are subsequently unsuccessful, or indeed who, as in the two cases cited above, bring cases and subsequently withdraw them after the other party has incurred legal fees, will usually be required to reimburse reasonable costs. The principle behind this rule is very clear: those who are successful in litigation ought to be compensated for their (reasonable) costs of successfully bringing or defending a piece of litigation. Costs awards in this Court are not designed

to punish an unsuccessful party (see *Aegis Services LLC v EMobility Certification Services and others* [2023] QIC (F) 37 at paragraphs 12 and 13 per Justice Fritz Brand):

We find ourselves unpersuaded by these arguments to deviate from the general rule that costs should follow the event. In the first place these arguments seem to focus exclusively on the plight of the Claimant in total disregard of the Defendants' position. In its miseracordia plea based on its the financial detriment resulting from the litigation, the Claimant ignores the financial burden which it cast upon the Defendants. Secondly, the argument that the litigation resulted from the misconduct of the Defendants rests on allegations of fact which the Claimant had failed to establish.

Thirdly, the Claimant's arguments seem to start out from the premise that an adverse costs order is aimed as punishment for the unsuccessful party. It is not. The purpose of a costs order is to compensate the successful party for costs it was compelled to incur through the actions of the unsuccessful party, through no fault of its own, which proved to be unjustified. Because the unsuccessful party has embarked on a case that it had failed to establish, it has to bear the costs resulting from that action, including the costs incurred by the successful party. That is the reasoning behind the general rule from which we find no reason to deviate in this case.

21. In this case, the Defendant did not honour the invoice in question that was rendered by the Claimant. He challenged the invoice, again, as he was entitled to do. The matter then went to litigation, and the Defendant brought a counterclaim against the Claimant. However, the Court found entirely in the Claimant's favour on the substantive dispute, although on a particular item of quantum/damages – namely the reputational damages claimed – the Claimant was not successful (for example see as follows at paragraph 39 per Justice Ali Malek KC):

The Court is satisfied that the sums claimed are reasonable and covered by the Contract. It sees no basis for criticizing the work done or finding that it was unnecessary.

22. In the final analysis, the Defendant chose not to pay the invoice and instead chose to challenge that invoice through litigation. Parties ought to be aware of that one of the risks of litigation is the potential to be ordered to meet the reasonable costs of the successful party. The Claimant's point that there is a floor for legal costs even in small claims which are worth little in monetary value, is well made, particularly where submissions are made from both sides in substantive litigation which subsequently go to a constitution of the Court for a decision, which of course increases costs.

23. The calculus of proportionality is not simply concerned with the monetary value of the claim. There are other considerations (listed at paragraph 7, above). The matter was clearly important to the Claimant which is entitled to be paid for legal work that is within the scope of an engagement with a client; the sum claimed is, in my view, proportionate to the time spent on the case with the hourly rate I have substituted appropriate; the work that I did not disallow was reasonable, necessary, and proportionate, and it appears that the litigation was conducted perfectly properly by the Claimant. The Claimant is also, by order of the Court and under article 33.2 of the Court's Regulations and Procedural Rules, entitled to be reimbursed for its reasonable costs. I am therefore of the view that, notwithstanding that the value of the claim was \$2,950, \$7,200 is not a disproportionate figure to award to the Claimant by way of its reasonable costs, reasonably incurred and reasonable in amount. I make no reduction in respect of the Court's rejection of the claim for reputational damage, as my view is that the residual amount – following all of the deductions I have made – represents reasonable costs for the Claimant to claim for the litigation.

24. For those reasons, I award the Claimant its reasonable costs of the litigation in the sum of **\$7,200**.

Costs of the costs assessment

25. The Claimant claims the sum of \$5,000 for the preparation of its costs submissions, that representing “*around 10 hours*” of work at the managing partner's rate of \$500/hour. This is, in the context of the case, far too high. This is where, in my view, a comparison with the actual sum at issue is appropriate, and \$5,000 significantly outstrips, by a factor of 1.7, the actual sum in issue. It is undesirable for the costs of a costs assessment to outstrip the sum in issue in this manner. In my view, taking account of the circumstances in this litigation, a reasonable figure is \$800.

Conclusion

26. I assess the Claimant's reasonable costs of the litigation in the sum of **\$8,000** and direct the Defendant to pay that sum within 14 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 self-represented.

The Defendant was self-represented.