



ABU DHABI GLOBAL MARKET COURTS
محاكم سوق أبوظبي العالمي

COURT OF APPEAL
BETWEEN

SKELMORE HOSPITALITY GROUP LTD.
APPLICANT

and

ROSEWOOD HOTEL ABU DHABI LLC
RESPONDENT

JUDGMENT ON COSTS



Neutral Citation:	[2020] ADGMCA 0001
Before:	Chief Justice, Lord David Hope His Honour Justice Sir Peter Blanchard His Honour Justice Kenneth Hayne
Decision Date:	26 January 2020
Decision:	The Applicant pay the Respondent's costs of the Application for Permission to Appeal assessed on a standard basis in the sum of USD11,220.85
Decision under appeal:	
Court of First Instance Division:	Civil
Date of Decision:	27 May 2019
Before:	His Honour Justice Stone SBS QC
Case Number(s):	ADGMCFI-2019-003
Hearing Date(s):	No hearing
Date of Orders:	26 January 2020
Catchwords:	Costs; Assessment on a standard basis
Case Number:	ADGMCA-APP-2019-001
Parties and representation:	Bird & Bird (MEA) LLP for the Applicant on the Respondent's costs application only Freshfields Bruckhaus Deringer for the Respondent to the Application

JUDGMENT ON COSTS

1. On 1 September 2019, having considered the Application for Permission to Appeal ("Application") and the Response filed by the Respondent, the Court refused the Application and ordered the Applicant to pay the Respondent's costs of the Application.
2. Having now considered the Respondent's Costs Submissions filed on 8 January 2020, the Applicant's Response filed on 21 January 2020 and the Respondent's Reply filed on 23 January 2020, the Court makes the following judgment in respect of the Respondent's application for those costs.



3. For the reasons given in the Court's judgment on 1 September 2019, the Respondent's request that its costs should be awarded on an indemnity basis was refused. So its costs must be assessed on the standard basis. This means that the Court must consider whether the costs claimed are proportionate to the matters in issue in the Application, whether they were reasonably incurred and whether they are reasonable in amount.
4. The Applicant has raised numerous issues in its Response. The Court considers however that, as it is concerned only with costs incurred before it in connection with the Application, the only points raised that are relevant to this matter are those relating to the hourly rates claimed and the percentage to be applied by way of a discount from the costs actually incurred according to those rates.
5. Three fee earners are mentioned in the Respondent's Statement of Costs for summary assessment which is set out in Appendix 3 to its Cost Submissions: Sami Tannous, Partner in Dubai; Tala Fahoum, Associate in Dubai; and a Costs Lawyer in London. The Applicant has not taken issue with the hourly rates quoted for Ms Fahoum and the Costs Lawyer in London. Objection has, however, been taken to the rate of USD874 quoted for Mr Tannous. It is pointed out that this rate, which amounts to AED3,287.99, is substantially above the ADGM's Indicative Average Hourly Rate of AED2,800 for a partner as set out in Practice Direction 9, and that the rate applied in his case is at the very top of his hourly rate band, which is quoted as AED3,121.63 to AED3,287.99 (USD850-USD874).
6. As for the discount rate of 85% contended for by the Respondent, based on the prevailing practice in the DIFC Courts and the Dubai World Tribunal, the Applicant submits that a significantly lower rate should be applied. Reference is made to a rate of 70% offered by the Respondent in its without prejudice costs correspondence letter dated 17 November 2019.
7. The Court considers that, given the relatively simple nature of the issues raised by the Application and comparing it with the Indicative Average Hourly Rate, the application of a rate at the very top of Mr Tannous's hourly rate band was more than can reasonably be justified. The Court has decided to reduce this rate to the bottom of his rate band. In its view that rate, although somewhat in excess of the Indicative Hourly Rate, is reasonable and proportionate.
8. The Court is not persuaded that the discount rate should be reduced to the figure of 70%, which the Respondent offered on a without prejudice basis when discussing settlement of the costs issue. It accepts the reasons which the Respondent has offered for its proposed rate of 85%.
9. For the reasons given in paragraph 7, the amount shown in the Respondent's Statement of Costs as the total costs of the Application must be reduced by applying to the time spent by Mr Tannous an hourly rate of USD850 instead of the rate of USD874 claimed. This results in a total for the Respondent's Professional Fees of USD13,201.00. A discount of 85% must be applied to that figure to arrive at an assessment on the standard basis.



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10. The Court therefore awards to the Respondent its costs in the sum of USD11,220.85.

Issued by:



Linda Fitz-Alan
Registrar, ADGM Courts
26 January 2020