



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) 1

**IN THE QATAR INTERNATIONAL COURT
FIRST INSTANCE CIRCUIT**

Date: 2 February 2023

CASE NO: CTFIC0018/2022

MIECZYSLAW DOMINIK WERNIKOWSKI

Claimant

v

CHM GLOBAL LLC

Defendant

JUDGMENT ON COSTS

Before:

Mr Christopher Grout, Consultant Registrar

ORDER

1. The Claimant's reasonable costs are assessed in the amount of QAR 1400.00, which the Defendant is to pay forthwith.

JUDGMENT

Introduction

1. On 14 August 2022, the First Instance Circuit of the Court (Justices Arestis, Dr Rashid Al-Anezi and Brand) (the “**Court**”) gave judgment in this case: see [2022] QIC (F) 13. The Court ordered the Defendant to pay to the Claimant the sum of QAR 33,000.00 (which represented about six weeks unpaid salary) plus interest at a rate of 7% in the event of late payment. The Court dismissed the Claimant's additional claims for payment for work done during the Eid holiday, accommodation allowance whilst in quarantine, and damages as a result of being the subject of a travel ban. The Court did, however, award the Claimant “*such reasonable costs, if any, he has incurred in raising and pursuing his action.*”
2. The Defendant sought permission to appeal the judgment of the Court, but this was refused by the Appellate Division of the Court (Lord Thomas of Cwmgiedd, President, Justices Sir Bruce Robertson and Helen Mountfield KC) on 20 October 2022: see [2022] QIC (A) 8.
3. In the meantime, the Claimant wrote to the Defendant on 6 September 2022 in the following terms:

This is to inform on cost I have incurred in course of the case. Please note that below is based on my day rate which is equal 1200 USD for 12 hours working day:

Summary breakdown:

1. Claim form preparations 18/04/2022 – 8 hours x USD 100 = 800 USD
2. Response served on 22/05/2022 – 10 hours x 100 USD = 1000 USD
3. Response served on 02/07/2022 – 2 hours x 100 USD = 200 USD

TOTAL:

2,000 USD

Kindly advise when I can expect the transfer?

4. Nothing of any significance was then said about the issue of costs until after the Appellate Division had issued its judgment. However, the matter was raised again by the parties in email correspondence dated 6 November 2022 which led to the issue of directions in relation to the matter as it was clear that the parties were not going to agree the issue of costs, and that therefore an assessment was required.

The submissions of the parties

5. On 9 November 2022, the Claimant filed further submissions in respect of his claim for costs. He said, in material part, this:

Please note that there is mutual opinion that agreed day rates should be kept confidential as offshore market in Qatar remains highly competitive, and such data could be used by the Defendant for his merit. At this point I request for understanding and to support my request I would like to remind that the Defendant had accused me, having no grounds whatsoever, of sharing confidential data with other clients/parties.

I understand, however, that The Court needs some hard evidence in order to estimate the costs and upon reading Case: 01/2016 I would like to point out following:

Efforts were made to resolve the dispute without recourse to litigation - please note that there has been a long chain of communication with the Defendant in order to settle claims without the Court intervention.

Please note that I have requested the Court only to settle outstanding dues, ensuing directly from the written, mutually agreed employment contract. Moreover, I have not further elaborated on other claims, having due respect to the judgment of the Court.

Contrary to the Defendant I did not appeal, wishing to cease litigation as soon as possible.

Although the judgement is clear, and the Defendant admitted that " the Claimant has taken considerable time and efforts to prepare the necessary documents", he persistently imposes his interpretation trying to settle the judgement without interest and costs.

My costs calculations were based on commonly known day rates of "Rig Mover/Offshore Marine Consultant" and were not the highest on the market. Please note that the day rate varies between USD 900 to USD 1800 /per working day, and I have claimed my costs based on USD 1200/day. If such day

rates are not credible, I request the Court to use my day rates while working for CHM Global (salary QAR 22,000 + QAR 500 per day offshore).

6. The Defendant responded on 17 November 2022. It submitted as follows:
- i. The Defendant had behaved amicably in the separation process as between it and the Claimant. It was the Claimant who had pursued legal action. Whilst he had been partially successful, some of his claim had been dismissed.
 - ii. The Defendant had sought to pay the judgment debt promptly, but the Claimant had not provided his bank details.
 - iii. The Claimant's attempts to calculate his costs are both "*whimsical*" and "*unreliable*".
 - iv. The Defendant exercised its lawful right to apply for permission to appeal and this ought not to be held against it.
 - v. Whilst the Defendant acknowledges that the Claimant has undertaken "*considerable time and efforts*" to prepare his case, he did so without legal representation. As such, his claim for USD 2,000.00 is unreasonable. By comparison, the Defendant, who is, and was at the material time, represented, incurred costs of about USD 4,000.00.
 - vi. In any event, it would be wrong to calculate the Claimant's costs by reference to the daily rates of his professional work as a rig mover or by reference to his previous employment with the Claimant. Rather, the Defendant:

requests the Court to conduct a reassessment of the costs incurred by the Claimant on a rational and equitable basis taking into consideration the facts and circumstances of the case.

7. The Claimant filed and served a reply to the Defendant's submissions on 21 November 2022. That reply made the following points:
- i. The Defendant had not been supportive when it came to the issue of the Claimant's termination. On the contrary, it had denied him sums which the Court later found were due and owing.
 - ii. His bank details were well known to the Defendant. It was no answer to say that the Defendant was always prepared to honour the judgment debt of QAR 33,000.00; the Claimant was also entitled to interest and costs.
 - iii. The Defendant had not, in any event, agreed to honour the judgment debt immediately as it had first sought permission to appeal which was ultimately refused.

- iv. He denied intentionally delaying providing information in relation to his costs claim.
- v. He disagreed that the costs claimed were unfair or unreasonable, stating that the matter was ultimately one for the Court.

Discussion and findings

8. This case raises the issue of the extent to which a litigant in person, such as the Claimant, should be compensated for the time he has spent preparing and advancing his claim. The Regulations and Procedural Rules of the Court (the “**Rules**”) do not provide, explicitly, the basis upon which any such calculation of costs should be made. This is in contrast to some other jurisdictions where rules make provision for the basis upon which the costs of a litigant in person ought to be calculated. For example, in England and Wales, Rule 46.5 of the Civil Procedure Rules provides that:

(1) This rule applies where the court orders (whether by summary assessment or detailed assessment) that the costs of a litigant in person are to be paid by any other person.

(2) The costs allowed under this rule will not exceed, except in the case of a disbursement, two-thirds of the amount which would have been allowed if the litigant in person had been represented by a legal representative.

(3) The litigant in person shall be allowed –

(a) costs for the same categories of –

(i) work; and

(ii) disbursements,

which would have been allowed if the work had been done or the disbursements had been made by a legal representative on the litigant in person’s behalf;

(b) the payments reasonably made by the litigant in person for legal services relating to the conduct of the proceedings; and

(c) the costs of obtaining expert assistance in assessing the costs claim.

(4) The amount of costs to be allowed to the litigant in person for any item of work claimed will be –

(a) where the litigant can prove financial loss, the amount that the litigant can prove to have been lost for time reasonably spent on doing the work; or

(b) where the litigant cannot prove financial loss, an amount for the time reasonably spent on doing the work at the rate set out in Practice Direction 46.

(5) A litigant who is allowed costs for attending at court to conduct the case is not entitled to a witness allowance in respect of such attendance in addition to those costs.

(6) ...

9. Broadly speaking, therefore, in England and Wales there is a cap on the amount recoverable by a litigant in person, namely two-thirds of the amount which would have been allowed had the litigant in person been legally represented. Disbursements are recoverable in full if reasonable. In accordance with CPR 46.5(4), the onus is on the litigant in person to prove his or her loss, failing which the amount recoverable is calculated in accordance with the accompanying Practice Direction - presently the rate is fixed at £19.00 (about USD 24.00) per hour.

10. As noted above, there is no such explicit provision in the Rules. However, it is plain from the Order of the Court that it must have envisaged the possibility of the Claimant being eligible for an award of costs of some description because it made an Order in his favour. The critical questions, it seems to me, are (a) has the Claimant, in fact, incurred costs in pursuance of his claim, and (b) if he has, how should those costs be quantified?

Has the Claimant incurred costs?

11. This is not a case where the Claimant has “*incurred*” costs in the ordinary sense of the word. He has not instructed lawyers to represent him. Nor, so far as I can tell, is this a case where he is saying that he took time off work, for which he was not remunerated, in order to work on his case. What he is essentially saying is that he should be compensated for the time he has spent on his own case.

12. As a matter of principle, it seems to me that a litigant in person ought to be able to recover something for the time he or she has spent pursuing their case in circumstances where the Court has made an Order of costs in their favour. Such is the case here. Indeed, it is worthy of note that the tenor of the Defendant’s submissions is not that the Claimant should receive nothing; it simply asks that the Court adjudicate on the appropriate amount. This concession, which is fairly and rightly made in my judgement, is unsurprising, particularly in circumstances where the Defendant acknowledges that the Claimant had expended “*considerable time and efforts*” pursuing his claim. I am satisfied, therefore, that the Claimant ought properly to recover something.

How should the Claimant’s costs be quantified?

13. In the absence of a provision akin to CPR 46.5, this is a more difficult question to answer. I agree with the Defendant that it would be inappropriate to base the hourly rates on those of a rig mover or offshore marine consultant. It will rarely be appropriate to take the hourly rates of the occupation of the litigant in person concerned as the basis for calculation. Such rates would vary considerably depending upon the occupation of the litigant in person involved. Moreover, in the ordinary course of events, one would expect that the litigant in person would be working on his or her case in their own time and would not be taking unpaid leave from employment in order to do so. In such circumstances, there is no logical reason to use the person's professional hourly rate as the basis for the award of costs (though noting that different considerations apply where the litigant in person also happens to be a professional law firm - see *Pinsent Masons LLP (QFC Branch) v Al Qamra Holding Group* [2019] QIC (C) 1). For the same reason, it is also not appropriate to take the Claimant's hourly rate whilst in the employ of the Defendant as the basis for the calculation. It would also not be appropriate, for perhaps obvious reasons, to equate the litigant in person's hourly rate with that of the professional lawyer.

14. In order to ensure consistency of approach in such cases, it seems to me essential that, in circumstances where the litigant in person cannot prove financial loss, there is a set hourly rate which the Court can use as a basis for calculating the award. This could be achieved either through an amendment to the Rules or through the issue, by the President of the Court, of a Practice Direction which addresses the matter. In the absence of either, I have given some consideration as to the nature of the claims which have been filed with the Court over the years as well as the business and economic environment of the Qatar Financial Centre and the Qatar Free Zones including those who work and do business there i.e. the principal users of the Court. I have also considered, by analogy, the position in England and Wales whilst at the same time recognising that that is a jurisdiction which, among other things, has a set of procedural rules and complexities involving the financing of litigation and recovery of costs which simply does not exist within the procedural framework that governs cases before the Court. Having considered those matters, I have come to the conclusion that a fair hourly rate to compensate a litigant in person, who cannot otherwise prove financial loss, is QAR 100.00 per hour (which is about USD 27.00 per hour).

15. In the present case, the Claimant has said that he undertook 20 hours in total preparing his Claim Form and his responsive submissions to those of the Defendant as well as the directions of the Court. The Defendant does not suggest that the amount of time the Claimant spent on his case was unreasonable. Moreover, I agree with the observations made by Buckley J in *Mealing McLeod v Common Professional Examination Board* [2000] 2 Costs LR 223 that it is appropriate, in a proper case, to allow a litigant in person more time for a particular task than would be allowed to a professional legal representative. In the circumstances of this particular case, it seems to me that a total of 20 hours is reasonable.
16. However, a litigant in person is not immune from the general principles set out in *Hammad Shawabkeh v Daman Health Insurance Qatar LLC* [2017] QIC (C) 1 relating to the reasonableness of costs. Whilst I consider that the total amount of time spent by the Claimant in pursuing his claim was reasonable, a particular weighty consideration in the present case is that he was not wholly successful in the claim that he brought. Indeed, he won on only one of four heads of claim, achieving just less than 50% of the total amount sought. That having been said, the area where he was successful was the main part of his claim, namely that relating to his unpaid salary. Though a small claim in Court terms, it was important to the Claimant and, as the Court has opined on many previous occasions, it is wholly unacceptable that former employees should have to bring legal proceedings in order to recover their contractual entitlements (see, for example, *Patta and Others v Meinhardt Bim Studios LLC* [2022] QIC (F) 9).
17. Taking all relevant matters into account, it seems to me that it is appropriate in this case to award the Claimant 14 hours at the rate of QAR 100.00 per hour, resulting in an overall award of QAR 1400.00.

Conclusion

18. Accordingly, for the reasons given above, the Claimant's reasonable costs are assessed in the amount of QAR 1400.00 which the Defendant is to pay forthwith.

By the Court,



[signed]

Mr Christopher Grout, Consultant Registrar

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

Representation:

The Claimant represented himself.

The Defendant was represented by Mr. Rahul Kumar of International Law Chambers (Doha, Qatar).