



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) 14**

IN THE QATAR FINANCIAL CENTRE  
CIVIL AND COMMERCIAL COURT  
COSTS ASSESSMENT

Date: 15 September 2024

**CASE NO: CTFIC0014/2021**

AMBERBERG LIMITED

**1<sup>st</sup> Claimant**

PRIME FINANCIAL SOLUTIONS LLC

**2<sup>nd</sup> Claimant**

v

THOMAS FEWTRELL

**1<sup>st</sup> Defendant**

NIGEL PERERA

**2<sup>nd</sup> Defendant**

LOUISE KIDD

**3<sup>rd</sup> Defendant**

CHRISTOPHER IVINSON

**4<sup>th</sup> Defendant**

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## JUDGMENT ON COSTS

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**Before:**

**Mr Umar Azmeh, Registrar**

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**Order**

1. The Defendants are jointly and severally liable to the 1<sup>st</sup> Claimant in the sum of **QAR 182,000**, such sum to be paid within 14 days of the date of this order.
2. The 1<sup>st</sup> Claimant must pay to the Defendants the sum of **QAR 28,000** within 14 days of the date of this order.

**Judgment**

**Background**

1. This case has a long and convoluted history which – along with linked litigation – has resulted in over 20 judgments as at the time of writing. It is not necessary to repeat that history. Suffice to say, early on in these proceedings the 1<sup>st</sup> to 3<sup>rd</sup> Defendants (the ‘**Defendants**’) brought a jurisdictional challenge to this Court hearing the matter. That was rejected on 7 March 2022 ([2022] QIC (F) 3). In that judgment the Court reserved the matter of costs until the disposal of the case as a whole. In the final substantive judgment of the case, issued on 9 November 2023, the Court ordered that the Defendants must pay to the Claimant its costs of the jurisdiction proceedings to be assessed by me if not agreed ([2023] QIC (F) 45).
2. Later during proceedings, the 1<sup>st</sup> Claimant (the ‘**Claimant**’) made an application for a freezing order against the Defendants. This was opposed by the Defendants. However, prior to the Court being able to take a decision on the freezing order application, it was withdrawn by the Claimant. The Court in the 9 November 2023 judgment also ordered

that the Claimant pay the costs of the Defendants in relation to the freezing order application. This decision was confirmed by the Appellate Division on 7 March 2024 ([2024] QIC (A) 4).

### **Approach to costs assessment**

3. 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.*

4. 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.

5. *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.
6. 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.*”

## **Submissions**

### Claimant's submission

7. The Claimant filed and served submissions dated 29 May 2024. It notes that it has incurred QAR 253,292 comprising QAR 200,739 for its solicitors – Eversheds Sutherland (International) LLP (Doha, Qatar) – and QAR 53,553 by way of counsel's fees (Mr Paul Fisher and Mr Thomas Ogden, 4 New Square, London, United Kingdom).
8. The Claimant's submissions explain that this part of the proceedings was covered by a fixed fee arrangement in the sum of QAR 230,000, including counsel's fees. This is the

sum that it claims within this assessment for the jurisdiction proceedings. The Claimant claims a further sum of QAR 45,000 for the preparation of the costs submissions. That said, for the purposes of demonstrating that the fixed fee is reasonable, the Claimant filed and served a breakdown of all its costs in the sum of QAR 253,292.

9. The Claimant notes that the Defendants successfully applied to vacate the first fixed jurisdiction hearing on 28 November 2023, and that this caused costs to be wasted. The Court noted that the Defendants were to pay the Claimant's reasonable costs of this vacated hearing. The Claimant states that it incurred counsel's fees incurred in drafting the opposition to the application.
10. The Claimant submits that its costs are reasonable given, inter alia, (i) that the matter was complex, (ii) that the jurisdiction proceedings was a matter involving an important principle, (iii) the full and proper preparation conducted comprising a Claim Form and Statement of Claim, a response to the Defendants' comprehensive application, a skeleton argument and witness statement, (iv) the appropriate composition of the legal team and the distribution of work, (v) the reasonable rates of the Claimant's legal team, and (vi) the success of the Claimant in the case. The Claimant submitted its lawyer's narrative ledger along with fee notes in respect of counsel.

#### Defendants' response

11. The Defendants provided their response in a skeleton argument dated 24 July 2024. In relation to the costs of the jurisdiction proceedings in the sum of QAR 230,000, their primary submission is that this is an unreasonable sum because, inter alia, of the following: (i) the division of work was inappropriate; (ii) the use of counsel was not properly deployed; (iii) duplication; and (iv) the second counsel's fees are unjustifiable. The Defendants also claimed QAR 39,193.50 by way of fees incurred in respect of the freezing order application and provided a narrative to justify that sum.

#### Claimant reply

12. The Claimant responded by way of submissions dated 7 July 2024 (this appears to be a typing error given that the Defendants' responsive submissions above are dated 24 July 2024).

13. The Claimant submitted, inter alia, as follows: (i) the Defendants did not engage properly with the Claimant's costs submissions and instead maintained an aggressive approach; (ii) there is no credible argument that the fees claimed in respect of the freezing order have indeed been paid to the Defendants' lawyers; (iii) there would have been no litigation had the Defendants acted properly in relation to the share and purchase agreement which was the subject of the substantive proceedings; (iv) given the value and complexity of the dispute, the costs claimed are reasonable and are a relatively small proportion; and (v) the Defendants acted improperly throughout the litigation, including by not participating in the quantum hearing.
14. As to the costs claimed by the Defendants, the Claimant notes, inter alia, as follows: (i) it would not be just to make such an award given the wrongs committed by the Defendants; (ii) no credible evidence has been provided to demonstrate that the sum claimed is reasonable, and it is not just and equitable for any sum to be paid; (iii) disallowing the costs of the costs assessment – as posited by the Defendants – is not permissible in this jurisdiction, and the costs of the costs are reasonable as claimed; (iv) interest should be imposed at 5% in accordance with Practice Direction No. 3 of 2021 (Award of Post-Judgment Interest); and (v) 28 hours in the sum of QAR 2,800 should be awarded for this reply. The Claimant in the final analysis thus claims QAR 280,800.

## **Analysis**

### Claimants' costs

15. I first note that I awarded the Claimant the sum of QAR 240,525 by way of its reasonable costs against the Defendants in respect of the liability phase of these proceedings ([2023] QIC (C) 3), and whilst that figure is not determinative of the costs that can or should be awarded in relation to the jurisdiction phase of these proceedings, it is a figure that ought to be borne in mind.
16. I have carefully reviewed the ledger and it seems to me that all of the items – with one exception – are reasonably incurred per se. I also have no concerns as to the hourly rates which are QAR 1,600 for paralegals and QAR 2,790 for a partner. That said, whilst the matter was conducted on a fixed fee basis (both by solicitors and counsel; counsel will be addressed subsequently), I must assess whether the fixed fee is reasonable. It appears clearly from the ledger that the fixed fee was calculated on the basis that the partner

would conduct the bulk of the work (comfortably over 70 hours), with the paralegals providing support to the partner in this phase of the proceedings for approximately 10 hours. This is a division of work that results in the partner doing just under 88% of the work with those at paralegal level doing approximately 12% of the work.

17. Whilst I agree with the Claimant that the matter was not straightforward, which may have required a little more input from a partner and/or counsel than in a normal case, the division of work appears to have been too heavily weighted towards the partner. As I have repeated many times, clients are absolutely entitled to instruct whomsoever they wish and, within those instructions, if that client's preference is for a very senior lawyer to conduct the vast majority of the work, again that is their absolute prerogative. However, the question for the purposes of this analysis is whether or not it is reasonable to compel the unsuccessful party to meet those costs. My judgment is that, for this type of case, it would not be reasonable to compel the Defendants to meet all of the fees claimed. One can see a number of clear examples where the division of work has not been done appropriately, for example with the partner working on the bundle for the hearing.
18. There also appears to be, given the instruction of counsel, some degree of duplication in some of the work undertaken by the Claimant's solicitors, for example preparing, amending or finalizing submissions, considering jurisdiction issues and preparing for the hearing.
19. I am going to disallow almost all of the time that the partner spent on the bundle in the sum of **QAR 4,000**. This is because the sum claimed on the bundle by the paralegal(s) touches QAR 10,000 and it would therefore not in my view be reasonable to charge further work by the partner, perhaps for a very cursory glance.
20. As far as the work charged by the partner for preparing for arranging documentation for the hearing and call with counsel (QAR 11,439) is concerned, the Defendants are correct that this has not been broken down sufficiently to see where the division within that work lies, and that documentation preparation is for those at paralegal level. Thus, I will allow one hour for a call between the partner and counsel, and disallow the balance in the sum of **QAR 8,649**.

21. There is a similarly described sum comprising preparation for the hearing, arranging documentation and calls with counsel and the client. The Defendant again contends that this is not broken down sufficiently to see where the division of work lies and also that the solicitors need not be preparing for the hearing given the instruction of counsel. I am of the view that some degree of preparation would be required from the solicitors, but that of course they need not spend as much time as counsel for this task. I will make some allowance for calls with counsel and the Claimant, and preparation, and reduce this item by **QAR 5,000**.
22. The Claimant seeks a further total of QAR 52,731 by way of drafting, amending and finalizing submissions. The Defendants submit that these are entirely unjustified given the instruction of counsel. Generally, the role of counsel will be to take charge of written submissions along with the oral advocacy. There is still, in my view, a reasonable case for solicitor input into these submissions but they ought properly to be the general bailiwick of counsel. The sum claimed is just under 19 hours of time for the partner in this matter. That, in my view, is too long taking account the instruction of counsel. If counsel had not been instructed, I would expect a senior associate to have done the initial drafts with partner supervision, but even then, 19 hours would have been too long. I will disallow this item by half for a reduction of **QAR 26,400** (to the nearest hundred). Whilst two counsel were instructed to deal with this phase of work concerning jurisdiction, I am of the view that it is reasonable for the solicitors to familiarise themselves with these arguments and therefore I will make no reduction in respect of that.
23. The total reductions at this stage are, therefore, **QAR 44,000** (to the nearest hundred), which leaves a balance of QAR 157,000 (to the nearest thousand).
24. I now return to the issue of the division of work which I have already noted is too heavily weighted to partner time. As explained above, we have in this phase of the case partner time at approximately 88% with paralegal time at approximately 12%. This was certainly not a straightforward case and is therefore not a matter in relation in which the vast bulk of the time ought be expended by a trainee or junior associate. However, in my view, a significant proportion of work ought to have been undertaken by a senior



associate. This figure is, in my view, 60%, with 20% at partner level and 20% at paralegal level.

25. The residual figure of QAR 157,000 – as noted – is an approximate 88%/12% split (partner/paralegal) which equates to 50 partner hours and 11 paralegal hours. Therefore, out of a total of 61 hours, 36 will be allocated at senior associate level (I will take a rate of QAR 2,200/hour for a senior associate which is commensurate with the rates at the time for a fee earner of this level within international firms in Doha; total: QAR 79,000), 12 at partner level (QAR 2,790/hour; total: QAR 33,000, rounded), and 12 at paralegal level (QAR 1,600/hour; total: QAR 19,000 rounded). The preliminary figure is, therefore, **QAR 131,000**.

26. As to counsel's fees, GBP 7,750 (circa QAR 35,000 rounded to the nearest thousand) are claimed for Mr Fisher, and GBP 4,000 (circa QAR 18,000 rounded to the nearest thousand). There is no challenge to Mr Fisher's fees and I allow these in full: they are clearly reasonable and it was appropriate to instruct a barrister of his experience for this case. However, I agree with the Defendants' submissions regarding Mr Ogden's fees. I cannot see why it was necessary to instruct a second barrister, "*jurisdiction counsel*", in this case. Mr Ogden's fee note states: "*Reading in and preparing written submissions*", and Mr Fisher's states: "*Fixed fee to include all work in connection with drafting of Claimants' first jurisdictional submission*" (**emphasis added**). I cannot see how it is reasonable to have instructed two counsel, particularly when one has done "*all work*" on the matter. I disallow Mr Ogden's fees in full. In respect of Mr Fisher's fees, I award QAR 29,000: the Claimant has claimed QAR 201,000 (rounded), and also QAR 35,000 by way of Mr Fisher's fees which equates to QAR 236,000. However, the total claimed is QAR 230,000 and to award more would breach the indemnity principle. Therefore, I will subtract QAR 6,000 from Mr Fisher's fee to ensure that this principle is not breached.

27. The Claimant also claims QAR 45,000 for the first costs submission drafted by its solicitor, QAR 2,800 for the reply submission drafted by its Authorised Representative, Mr Veiss, and QAR 5,000 for wasted costs of the vacated hearing. The Defendants submit that this should be covered within the fixed fee and so disallowed entirely or significantly reduced. As for the primary costs claimed in the sum of QAR 45,000, this

is simply too high. It would represent over 20 hours of time for a senior associate at QAR 2,200, which works out at approximately 2.5 hours per page. The document is concise and clear. However, in my view this should have taken no more than 5 hours (senior associate and partner split 80/20) and therefore I allow **QAR 12,000**. As far as the reply submission is concerned, much of the document is not relevant and therefore I award perhaps a generous 10 hours at the litigant-in-person rate of QAR 100/hour for a total of **QAR 1,000**. I also award the **QAR 5,000** for the wasted costs of the vacated hearing that are claimed and not disputed by the Defendants. I decline to award interest as claimed as these are not customarily awarded on costs awards in this Court, and in any event the Practice Direction cited by the Claimant applies to substantive judgments of the Court.

28. The preliminary figure I have arrived at is **QAR 182,000**. The Claimant was successful in warding off the jurisdictional claim. I have no evidence before me as to any settlement offers, any negotiations prior to the case being filed, or anything that bears upon the conduct of the parties in either direction. On proportionality, this case was clearly important to the Claimant (the Court found, subsequent to this phase, that there had been a breach of warranty during dealings between the parties which led to an award of nominal damages against the Defendants); and it was not a straightforward point on jurisdiction with no QFC entities, and also involved some complex legal questions such as choice of forum. I am satisfied that with the reductions that I have made both for individual items and for the division of work, the final figure is proportionate. It is also proportionate when compared to the sum I awarded for the substantive hearing on the merits.

#### Defendants' costs

29. The Defendants are entitled to their costs in relation to the abandoned application for the freezing order. They claim the total sum of QAR 39,139.50. A schedule of work has been provided and this equates to some 15.90 hours of work for the then in-house counsel of the Defendants' lawyers. His rate was QAR 2,465/hour. This rate is reasonable and, as one can see, is slightly lower than that charged for the partner conducting the matter for the Claimant.

30. The Claimant – through its Authorised Representative – submits, unrealistically, that I should decline to award any costs in respect of the freezing order because, if I were to, “... *parties who do the same wrongs in the future should rationally expect to get away with them and financially benefit from them as well*”. This is as misconceived as it is irrelevant. If this was the submission that the Claimant wished to make, it should have made it to the First Instance Circuit. The Court ordered that the Claimant pay these costs. There is no way around these facts. The Claimant also seeks to relitigate the “*contractual agreements between the parties*” and for me subsequently to conclude that it would be “*just and equitable*” to award no costs. These arguments are, frankly, somewhat difficult to follow, are, unfortunately, not pertinent to the exercise before me, and the Claimant has not provided any proper assistance on this point.
31. Some other input in addition to that of in-house counsel for the lawyers acting for the Defendants would have been appropriate for some of the tasks noted on the narrative, I am not going to perform a line-by-line analysis as it is in my view unnecessary. I will award the Defendants the sum of **QAR 28,000** by way of reasonable costs in relation to the freezing order. This sum is, in my view reasonable: the Claimant applied for the freezing order and subsequently withdrew it, very late in the day. The Defendants were entitled to defend themselves by resisting that order. It is trite to note that a freezing order can have serious consequences for its potential subject, and the documentation prepared by the Defendants’ lawyers was full and proper in relation to the issues that arise in relation to a freezing order, intertwined with the particular facts of this case. Following my reductions, the sum and time represented by that sum is clearly proportionate to the case as a whole. The Defendants are the successful party in relation to the freezing order as it was withdrawn (see *Xavier Roig Castello v Match Hospitality Consultants LLC* [2023] QIC (F) 30) and are entitled to their reasonable costs.

## **Conclusions**

32. The Defendants are jointly and severally liable to the Claimant in the sum of QAR 182,000, such sum to be paid within 14 days of the date of this order.
33. The Claimant must pay to the Defendants the sum of QAR 28,000 within 14 days of the date of this order.

**By the Court,**



**[signed]**

**Mr Umar Azmeh, Registrar**

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

**Representation**

The Claimant/Applicant was represented by Eversheds Sutherland (International) LLP in respect of the first costs submissions, and represented itself for the reply submissions through its Authorised Representative, Mr Veiss.

The Defendants were represented by Mr Thomas Williams of Counsel, formerly of Sultan Al-Abdulla & Partners (Doha, Qatar), and presently of King's Chambers (United Kingdom) instructed by Francis, Wilks & Jones (London, United Kingdom).