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) 3

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

Date: 29 May 2023

CASE NO: CTFIC0014/2021

AMBERBERG LIMITED

1st Claimant

PRIME FINANCIAL SOLUTIONS LLC

2nd Claimant

v

THOMAS FEWTRELL

1st Defendant

NIGEL PERERA

2nd Defendant

LOUISE KIDD

3rd Defendant

CHRISTOPHER IVINSON

4th Defendant

COSTS JUDGMENT

Before:

Mr Umar Azmeh, Registrar

Order

1. The First-Third Defendants are jointly and severally liable to the First Claimant in the sum of QAR 240,525.00. That sum is to be paid within 14 days of the date of this judgment.

2. The First Claimant must pay the Fourth Defendant the sum of QAR 3,453.33.00 within 14 days of the date of this judgment.

3. The Second Claimant and the First Defendant are jointly and severally liable to the Fourth Defendant in the sum of QAR 6,906.67. That sum is to be paid within 14 days of the date of this judgment.

4. The Second Claimant must pay the First-Third Defendants the sum of QAR 124,455.00 within 14 days of the date of this judgment.

Judgment

Introduction

1. This case has a somewhat lengthy history in this Court, there having initially been a jurisdictional challenge brought by the First-Third Defendants and successfully defended by the First Claimant (*Amberberg Limited and another v Thomas Fewtrell and others* [2022] QIC (F) 3), and also a judgment on liability which is the subject of this judgment on costs (*Amberberg Limited and another v Thomas Fewtrell and others* [2022] QIC (F) 34). The issue of quantum is yet to be determined and will be the subject of a further trial before the Court.

2. It is worth recording at this stage that this costs judgment will not deal with the costs order arising from the jurisdictional challenge as the Court, at paragraph 4 of its order in that judgment, expressly reserved that award:

> *The costs arising from the above contestation, in so far as not already dealt with, are reserved.*

Background

3. The claims arose from an alleged breach of contract by the Defendants in relation to a sale and purchase agreement ('**SPA**') concerning shares in the Second Claimant. Within the terms of that SPA, the First Claimant purchased shares in the predecessor company to the Second Claimant (International Financial Services (Qatar) LLC) for the sum of GBP 1.00. The shareholders at the time of the SPA were the Defendants, along with International Financial Services PTE Limited, a company incorporated in Singapore.

4. The claims made by the First and Second Claimants include breach of warranty claims, specifically in relation to clauses 4.4, 9.3.1, 9.3.2 (First Claimant), and 10.1 of the SPA, along with a breach of directors' duties under article 55 of the QFC Companies Regulations 2005 (the '**Companies Regulations**') by the First and Second Defendants (Second Claimant).

5. The Claimants' claims rested on a debt owed – at the time the SPA was executed – by the Second Claimant to a Ms. Aycan Richards in the sum of QAR 392,500.00; that this debt was the subject of legal proceedings in this Court which gave judgment in Ms. Richards' favour on 14 December 2020 (*Aycan Richards v Nigel Thomas Howard Perera and International Financial Services Qatar LLC* [2020] QIC (F) 17); that this debt and its concomitant claim were not disclosed to Mr Rudolfs Veiss, the representative of the First Claimant at the time of the SPA; and that Mr Veiss only came to know about this liability when the Court's judgment noted above was issued.

6. The First, Second and Third Defendants' position was that the Second Claimant's liability to Ms. Richards was disclosed to Mr Veiss prior the SPA being executed. The Fourth Defendant's position is that he was not a party to the SPA, did not sign the SPA

(and by corollary that his signature on that document was a forgery), and that he did not know that he was alleged to have been a party to the SPA until these proceedings.

Findings of the First Instance Circuit

First Claimant/First, Second and Third Defendants

7. The Court was of the view that the First-Third Defendants breached the warranty contained within clause 9.3.2 of the SPA. It was not disputed during the instant proceedings that Ms. Richards' claim against the Second Claimant fell within the scope of clause 9.3.2 – viz "*financial and legal claims*" – and the Court was of the view that it was indisputable that Ms. Richards' claim against the Second Claimant was in existence at the date of the SPA's execution. The key fact for the Court was as follows (at paragraph 31 of the judgment):

> *In all the written and oral evidence presented to us, there is no evidence of any disclosure, nor is there any acknowledgement in writing by Amberberg of any disclosure to it of Ms Richards' claim.*

8. In short, the Court ruled that, even if it was the case that Mr Veiss had been informed about the liability to Ms Richards as had been alleged, the wording of the clause specifically requires any such knowledge to be disclosed and acknowledged **in writing** (emphases added), and that therefore disputes of fact concerning what may or may not have been said are irrelevant and inadmissible in evidence.

9. The Court did not find that the Defendants were in breach of clauses 4.4 or 9.3.1 of the SPA.

Second Claimant/First, Second, Third and Fourth Defendants

10. The Second Claimant – pursuant to an Amended Statement of Claim – claimed that the Defendants breached clause 10.1 of the SPA, and that the First and Second Defendant breached directors' duties imposed by article 55 of the Companies Regulations.

11. Putting the matter shortly, the Court found no breach of clause 10.1 of the SPA on the ground that the claim was based on a misinterpretation of that clause. As the Court noted (at paragraph 47 of the judgment), the clause makes no reference to claims by the company, rather it is confined to claims made against the company after closing but arising from actions that occurred pre-closing. The clause is designed to "*render the*

sellers liable to the third-party claimant, jointly and severally with the company, and not to the company." The Court also found that the only possible breach that the Second Claimant might rely upon was the repudiation of the Consultancy Agreement (see paragraph 48 of the judgment), but which on the evidence occurred post-closing.

12. As far as directors' duties are concerned, the Court was not of the view that there was any "*failure of reasonable care, diligence or skill on the part of the Defendants qua directors*" in relation to the Second Claimant or that any loss was sustained as a result of any failures (see paragraph 51 of the judgment).

Fourth Defendant

13. On 27 March 2022, the Claimants sought to add the Fourth Defendant as a party to the claim. The Court granted permission for the Claimants do to so. He was added as a party to the claim on the basis that the Claimants understood that he had signed the SPA and had been a guarantor.

14. It was the Fourth Defendant's position that he never signed the SPA and that therefore his signature on that document was a forgery. The First Defendant positively asserted in evidence that the Fourth Defendant had signed the document. The Court concluded that the Fourth Defendant did not sign the SPA and that he did not give authority to anyone else to sign, expressly preferring his evidence to that of the First Defendant (see paragraph 28 of the judgment):

> *For these reasons we have no difficulty in finding that Mr Ivinson's version, that he never entered into the SPA, is to be preferred. This means that the Claimants' claims against him is bound to fail. As to the costs resulting from these claims, we hold the view that, because Mr Fewtrell's untruthfulness was contributory to the institution of the claim against Mr Ivinson, he should be held liable, jointly and severally with the Claimants for the costs that may have been incurred by Mr Ivinson in defending this claim.*

Costs orders

15. The Court made the following costs orders (see paragraph 4 of the Order within the judgment):

i. The First, Second and Third Defendants are liable, jointly and severally for the reasonable costs incurred by the First Claimant in these initial proceedings.

ii. The Claimants and the First Defendant are liable, jointly and severally, for the reasonable costs incurred by the Fourth Defendant in these initial proceedings.

iii. The Second Claimant is liable for the reasonable costs incurred by the Defendants in these initial proceedings, with regard to their defence against the claim instituted and pursued by the Second Claimant.

Approach to costs assessment

16. Rule 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.*

17. 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.

18. *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.

19. 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*."

The parties' submissions

20. I have received and reviewed the following documentation:

    i. Costs submissions on behalf of the First Claimant.

    ii. Costs submissions on behalf of the First, Second and Third Defendants in relation to the costs order made in their favour against the Second Claimant.

    iii. Costs submissions from the Fourth Defendant.

    iv. Costs submissions on behalf of the Second Claimant in relation to the adverse costs order made against it (see (ii), above).

    v. Pleadings and witness statements.

Costs order in favour of the First Claimant

21. In relation to the substantive claim, the First Claimant – by its legal representatives – made submissions on costs dated 10 February 2023: it claims costs in the sum of QAR 354,400.00.

22. Despite invitations, I received no costs submissions from the First-Third Defendants in relation to the costs order made against them in favour of the First Claimant.

Submissions

23. In its submissions it notes, inter alia, as follows:

    i. Whilst it did not succeed on all of its claims, "*it did succeed on its critical claim, namely for breach of warranty*" (paragraph 8 of the First Claimant's submissions).

    ii. Its submissions draw attention to paragraphs 30 and 31 of the substantive judgment which record that, in the Court's view, it "*cannot [in our view] be disputed that her claim against IFSQ was in existence as at the date of the SPA*" and that the Defendants did not contend "*that*

any [such] disclosure in writing ever happened" (paragraph 8 of the First Claimant's submissions).

iii. The volume of pleadings and time taken at the hearing in relation to the point on which it – the First Claimant – was successful, was "*much greater*" than on any other point (paragraph 9 of the First Claimant's submissions).

iv. The First-Third Defendants had "*no real defence*" to the claim upon which the First Claimant was successful, in that there was no contention advanced that there was any acknowledgement in writing as to the claim of Ms. Richards (paragraph 10 of the First Claimant's submissions).

v. The Court made adverse findings against Mr Fewtrell and Mr Perera which were "*damming*" (paragraphs 11-12 of the First Claimant's submissions).

vi. Any reduction to reflect that the First Claimant was not successful on all of its claims should be – at a maximum – 10% (paragraph 13 of the First Claimant's submissions).

Analysis

24. On 11 May 2023 I was provided with the ledger containing the work done on this matter by the lawyers for the First Claimant, Eversheds Sutherland (International) LLP: the litigation was conducted by Mr Alexander Whyatt, a partner, along with counsel Mr Paul Fisher (4 New Square, London, United Kingdom). Mr Whyatt's hourly rate is QAR 2,790.00, and Mr Fisher's is GBP 250.00 (circa QAR 1,130 as at the date of this judgment). Appendix 1 to the costs submissions of the First Claimant comprises a table of fees incurred during each stage of the case. I note at this stage that Mr Whyatt's hourly rate is reasonable and is comparable to other fee earners at his level in this jurisdiction; similarly, it seems to me that Mr Fisher's hourly rate is also reasonable for a London barrister of his level of experience. It is also reasonable in my view to have instructed a barrister of Mr Fisher's experience in a case such as this. The ledger provided on 11 May 2023 notes higher fees incurred than those noted and claimed in

Appendix 1. This disparity is due to the fact that the matter was conducted on a fixed fee basis – confirmed by Mr Whyatt on 14 May 2023 – and therefore Appendix 1, which includes both the fees of Eversheds Sutherland (International) LLP and Mr Fisher, constitutes the full liability of the First Claimant to its lawyers.

25. It seems most logical to me first to deal with the fact that not all of the First Claimant's claims were successful, to apply a general percentage reduction to the overall sum claimed, and then to deal with the residue. The First Claimant submits that a 10% reduction ought to be applied (see paragraph 23(vi), above). As noted above, I have not had any assistance from the First-Third Defendants on this point.

26. The First Claimant made three core claims – see paragraphs 29, 35 and 37 of the judgment) and paragraph 4 (above); two of those claims were unsuccessful. The First Claimant has described the claim upon which it was successful – clause 9.3.2 of the SPA – as "*its critical claim*", namely for breach of warranty, although the unsuccessful claim in relation to clause 9.3.1 of the SPA was also a claim for a breach of warranty. In its judgment, the Court devoted most time in relation to the First Claimant's claim on the breach of clause 9.3.2, and significantly less time on the claims relating to clauses 9.3.1 and 4.4. Indeed, the fully pleaded claim in relation to clause 4.4 was only made out in the Amended Statement of Claim dated 27 March 2022. It appears to me that the claim in relation to clause 4.4 was a substantially smaller part of the overall claims made by the First Defendant. The real nub of the First Claimant's case concerned the existence of the Aycan Richards claim and whether or not this was disclosed, properly or at all, to the First Defendant. This appears to me to have been where most of the argument existed, including a number of points taken by reference to various authorities (see paragraphs 29-35 of the judgment). It is also fair to note that the majority of argument on these three claims on the face of the judgment occurred in relation to the breach of clause 9.3.2 of the SPA.

27. That said, in my view, a 10% reduction is significantly over-optimistic. Conversely, a simple pro-rating calculation would also be inappropriate in that it would not reflect the realities of the litigation and the weighting of the different issues in this case. Looking at the matter in the round, my view is that the claim upon which the First Defendant was successful could fairly be said to comprise three-quarters of the overall case. By

way of example, significant time was spent on the clause 9.3.2 issue and some of the work in relation to that issue will also have been appliable to the clause 9.3.1 issue. The reduction results in approximately QAR 265,500.00 remaining for assessment.

28. As noted above, Mr Whyatt and Mr Fisher conducted the case without further assistance. Their combined hourly fees are approximately QAR 3,900. I am satisfied that the heads of costs at Appendix 1 of the First Claimant's costs submissions are all reasonable matters to claim as part of a litigation of this nature.

29. However, as high quality a service an experienced partner of an international law firm provides, and notwithstanding the fact that a party may instruct whosoever it wishes to conduct litigation on its behalf, it is in my view not reasonable to compel the party who has received an adverse costs order to reimburse fees entirely at that level where it would be reasonable to deploy fee earners at a lower level to conduct a significant proportion of the litigation under supervision. As this was/is a significant piece of litigation (presently ongoing, with two hearings having already been conducted) with a number of legal issues upon which expertise and experience was required, it is in my view reasonable to have greater partner input than on a simple case where an associate can do the vast bulk of the work. Whilst this matter was conducted on a fixed-fee basis, it appears to me that it would have been reasonable to factor in another fee-earner at a lower level to that of Mr Whyatt in constructing that fixed fee.

30. In my view, the case for the First Claimant was suitable for a partner to conduct appropriately half of the work, with an associate conducting the other half of the work. Appendix 1 includes Mr Fisher's fees as counsel. For the conduct of the matters under consideration, they come to GBP 29,125.00 out of the total of GBP 41,875.00 (the work allocated to 30 July 2021, 18 February 2023, and all work in 2023 not being subject to this assessment), which at the time of writing equals approximately QAR 132,000. Reducing that by three-quarters to reflect the reduction I applied in paragraph 28, above, leaves approximately QAR 99,000 out of the approximate total of QAR 265,500.00, with thus QAR 166,500 (representing Mr Whyatt's fees within this envelope).

31. Allowing Mr Whyatt 50% of the work above means that a further reduction must be applied to approximately QAR 83,250.00. My view is that QAR 2,000.00 would have

been appropriate for an associate to have conducted half of the litigation alongside Mr Whyatt. That is approximately 30% less than Mr Whyatt's rate and so I will apply a 30% reduction to the QAR 83,250.00, which leaves QAR 58,275.00.

32. Subject to the reductions noted above, and having taken account of all of the documentation that I have before me, I am satisfied that in the context of this litigation, items 1 and 6-12 of Appendix 1 to the First Claimant's submissions are reasonably incurred and reasonable in amount. One can work out the rough time allocated to each item with Mr Whyatt's and Mr Fisher's hourly rates in mind, and that time in my view is reasonable (e.g. circa 9 hours for the Claim Forms, circa 7.5 hours for the witness statement of Mr Veiss etc.).

33. Looking at the matter in the round and being careful not to trespass on the territory properly occupied by the First Instance Circuit when it comes to quantum, a matter that is the subject of further proceedings: it appears to me proportionate to claim in the region of QAR 200,000-300,000 for a matter that was listed for a 3-day in-person trial before the First Instance Circuit against four defendants, taking account of the partial success. This case is clearly of great concern to the First Claimant which avers that had it been made fully aware of the Aycan Richards issue, that it may not have entered into the SPA, and therefore it was reasonable for the First Claimant to incur the costs that it did (subject to the reductions made above).

34. I do not have any evidence before me that the conduct of the First Claimant in relation to this litigation ought to result in a further reduction. While the First Claimant fairly categorized some of the findings made against the First and Second Defendants as "*damming*", given that the First Claimant's lawyers have acted on a fixed fee, they do not suggest that they have reasonably incurred extra costs which ought to be recoverable. I also have not been provided with any settlement offers that suggest that either a higher or a lower costs order should be made in favour of the First Claimant.

35. I am satisfied that all of Mr Fisher's fees are reasonably incurred and are reasonable in amount. Having studied the narratives attached to his fee note/invoice dated 9 May 2023, the fees charged are reasonable, and the costs are reasonably incurred in this type of case (see analysis above).

Order

36. Taking account of the factors noted above, I am satisfied that the First Claimant reasonably incurred costs in relation to the items noted at Appendix 1 of its submissions (excluding the jurisdiction issues). Subject to the reductions made for the reasons above, those costs are reasonably incurred.

37. Therefore, I order that the First-Third Defendants are to pay the First Claimant the sum of **QAR 240,525** broken down as follows: QAR 99,000 (counsel's fees), QAR 83,250.00 (Mr Whyatt's fees), and QAR 58,275.00 (work that ought reasonably to have been allocated to an associate).

Costs order in favour of the Fourth Defendant

38. The Fourth Defendant was dragged into this litigation, through no fault of his own. This was the first issue that the Court dealt with in its judgment starting at paragraph 26. Essentially, the evidence that the Court heard was from Mr Fewtrell on the one hand, and Mr Ivinson on the other hand. The Court noted as follows (at paragraphs 27 and 28 of the judgment):

> *… We found Mr Ivinson to be an impressive witness, who gave his evidence in a measured and careful way. We were not favourably impressed by Mr Fewtrell's account, the substance of which was volunteered by him only in the course of cross-examination … We do not know how Mr Ivinson's signature came to be on the SPA, but we accept that he did not sign it, and did not give authority for anyone to sign it on his behalf.*
>
> *For these reasons we have no difficulty in finding that Mr Ivinson's version. That he never entered into the SPA, is to be preferred. This means that the Claimant's claim against him is bound to fail. As to the costs resulting from these claims, we hold the view that, because Mr Fewtrell's untruthfulness was contributory to the institution of the claim against Mr Ivinson, he should be held liable, jointly and severally with the Claimants for the costs that may have been incurred by Mr Ivinson in defending this claim.*

39. Mr Ivinson produced a timesheet logging the dates and times on which he did various work also specified in the timesheet. He spent approximately 100 hours working on the matter (103.6 hours according to his submission), and has claimed GBP 1,968.40 (approximately QAR 8,900.00 at the time of writing). This is significantly less time than was spent by either the representatives of the First Claimant or the First-Third Defendants. Mr Ivinson's time was spent, inter alia, undertaking the following work:

i. Reading submissions from other parties.

ii. Corresponding with other parties.

iii. Preparing written arguments.

iv. Preparing a witness statement.

v. Attending the hearing.

40. I am in no doubt that the matters noted above are reasonable matters for Mr Ivinson to have incurred. They also appear to be reasonable in amount with appropriate timings logged for each item. Mr Ivinson directed me to the provisions of Cook on Costs 2017 and CPR 46 supplemented by Practice Direction 46 (paragraph 3.4) which notes that the allowable rate for a litigant in person under the CPR is GBP 19 per hour (circa QAR 86 at the time of writing). However, thereafter, judgment was handed down in *Mieczyslaw Dominik Wernikowski v CHM Global* LLC [2023] QIC (C) 1 (drawn to the attention of the parties via email on 2 February 2023), in which Mr Christopher Grout, sitting as a Consultant Registrar, noted as follows (at paragraph 14 of that judgment):

> *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).*

41. I endorse that approach. While Mr Ivinson has claimed the rates noted in Practice Direction 46 to CPR 46, in my view it is important to ensure consistency in such cases not least so that parties are able to predict more accurately what their potential costs liability will be when they are in litigation with a litigant in person.

42. I am satisfied that Mr Ivinson did incur the costs that are noted in his timesheet. The time that he has spent is entirely reasonable, and indeed it is commendable that as a non-lawyer he was able successfully to ward off the claim made against him. They are reasonable in amount. The Claimants along with the First Defendant must pay Mr Ivinson the sum of QAR 10,360.00 (that is, QAR 100 per hour for a total of 103.6 hours).

43. I must add that there was some suggestion in some communications between the Second Claimant and the Fourth Defendant of an offer as to costs, however no detail has been provided and therefore I cannot not take account of those indications. The First Claimant also attempted to reach agreement with the First-Third Defendants as to costs incurred by the Fourth Defendant (on an erroneous basis as the only the Claimants and the First Defendant are liable in costs to the Fourth Defendant) by suggesting that each pays the Fourth Defendant 25% of the costs. The First Defendant did not respond to this suggestion.

44. Taking account of that offer, I therefore order that the First Claimant must pay the Fourth Defendant **QAR 3,453.33** (being one-third of the total costs award). The Second Claimant and the First Defendant are jointly and severally liable for the remaining **QAR 6,906.67**.

Costs order against the Second Claimant

Submissions

45. The First-Third Defendants are represented in this aspect of the costs proceedings by Sultan Al-Abdulla & Partners. They represented the First-Third Defendants during the substantive proceedings, and have provided invoices totalling QAR 661,018.50 for their work in this matter. Their submissions are, inter alia, as follows:

    i. There were a total of seven claims: five claims made by the First Claimant and two made by the Second Claimant (paragraph 7 of their submissions).

ii. I should apply a ratio of 5:2 in apportioning costs that they seek in defending the Second Claimant's claim, for a total sum of QAR 188,862.42 (paragraph 8 of their submissions).

iii. The sum sought was proportionate in the context of a trial which took 3 days and which comprised matters of some legal complexity (paragraph 12 of their submissions).

iv. The time spent included (a) preparation of pleadings and witness statements, (b) trial preparation, (c) attendance at trial, and (d) that this time was reasonable, with resources appropriately used (paragraph 13 of their submissions).

v. The hourly rates charged are the same level as those at similar firms in Qatar (paragraph 14 of their submissions).

46. On behalf of the Second Defendant, Al Tamimi & Company filed and served submissions in opposition to those filed by the First-Third Defendants. Those submissions made, inter alia, the following points:

i. The First-Third Defendants should be penalized for not appointing lawyers that deployed reasonable fixed fees or reasonable hourly rates (paragraph 5.1 and 5.7 of their submissions), and that the hours were excessive (paragraphs 5.9 and 5.20 of their submissions).

ii. Items were duplicated by having more than one fee earner on the matter which is inappropriate as Mr Thomas Williams – the partner with conduct of the matter – should have been "*more than capable of representing the Defendants on his own*" (paragraph 5.3 of their submissions).

iii. There was various duplication of costs throughout the matter which comprise unreasonable costs (paragraphs 5.4 and 5.5 of their submissions).

iv. The suggested apportionment of costs at a ratio of 5:2 was inappropriate as some of the claims overlapped, and that therefore a ratio of 6:1 was more appropriate (paragraph 5.10 of their submissions).

v. That there was little evidence led at trial relating to the Second Claimant's claim and that it did not involve significant legal or factual complexity (paragraphs 5.12 and 5.13 of their submissions).

vi. The total spent by the First-Third Defendants on their defence to all of the claims, namely QAR 661,018.50 – was not proportional to the remedy sought in the proceedings.

Analysis

47. As above in relation to the costs order made in favour of the First Claimant, it seems most logical to me first to make an assessment of the ratio to apply to the total costs. The First-Third Defendants have suggested a ratio of 5:2, approximately 29%, whereas the Second Claimant has suggested 6:1, approximately 17%.

48. It seems to me that the best way of calculating the ratio is to posit that there were five core claims made by the Claimants: largely breach of warranty claims, specifically in relation to clauses 4.4, 9.3.1, 9.3.2 (First Claimant), and 10.1 of the SPA, along with a breach of directors' duties under article 55 of the Companies Regulations (Second Claimant). Thus, the First-Third Defendants were successful on two out of those five claims. However, it is not in my view reasonable to apply a simple ratio which as this does not take account of any overlap, nor to the extent to which the core claims were breach of warranty claims made by the First Claimant (for example, by having already concluded that the core claim in relation to clause 9.3.2 of the SPA comprised approximately three-quarters of the First Claimant's case). It seems to me that – having reviewed the pleadings and the judgment –the First-Third Defendants' defence to the Second Claimant's claims comprised around one-quarter of its overall case, or QAR 165,254 (to the nearest QAR).

49. As to the substance of the invoices rendered by Sultan Al-Abdulla & Partners – one dated 13 September 2022 and 23 February 2023 – the vast majority of the total work (350 hours) was conducted by Mr Thomas Williams (QAR 2,465.00 per hour – approximately 180 hours) and Mr Shezadul Haq (QAR 1,000.00 per hour approximately 167 hours). First as to the rates, I disagree with the Second Claimant that these rates are unreasonable. I note the submissions made by the Second Claimant and the documents submitted concerning the practices in Australia and South Africa. However, these have limited utility in the context of litigation before this Court and the rates charged are, in the experience of this Court, comparable to those charged by other firms in this jurisdiction (compare, by way of example, the respective rates of Mr Whyatt [paragraph 24, above] and Mr Williams).

50. I must make one further observation prior to the next section of this judgment. As noted above in the case of the First Claimant, this is a case in my view where it is appropriate for a partner to have conducted half the work with an associate conducting the other half. However, with a paralegal involved with the partner, it is in my view reasonable for the partner to conduct a greater proportion of the work (see below for the relevance of this view). This is rather a double-edged sword as if an associate were involved which would reduced the hours that the partner would spend on the case, their hourly rate would be significantly greater than that of the paralegal.

51. Taking the objections raised by the Second Claimant as a starting point (see paragraph 5.20 of its submissions), and in no particular order (the following heads of incurred costs are, in my view, clearly reasonably incurred; as to whether they are reasonable in amount is the subject of the following):

    i. Pleadings and skeleton arguments:

        a. Pleadings: Sultan Al-Abdulla & Partners produced a significantly amended Defence. It is a comprehensive document evidently prepared with care, thoroughness, and skill.

The Second Claimant is right to observe that it is not possible – on the invoices rendered – precisely to ascertain how much time has been spent on this pleading. The Second Claimant has suggested that – on the invoices – approximately 80 hours appears to have been spent on these pleadings. I take account of the manner in which the Second Claimant has calculated this, having gone through the invoices line-by-line, but I am not of the view that it is possible to put a precise figure on the timings for the reason noted above.

However, taking a step back, and reviewing the matter in the round given that Sultan Al-Abdulla & Partners conducted a full three-day trial on behalf of three clients, with all the attendant preparation work that comes with this type of scenario, my view is that a reasonable amount of time to have spent on amending pleadings in this matter would be 45 hours. This will be apportioned 25 hours to Mr Williams and 20 hours to Mr Haq.

b. Skeleton arguments: similar to the pleading section, above, the skeleton argument produced on behalf of the First-Third Defendant has been produced with care and skill.

Again, I take account of the Second Claimant's observations on timings and potential duplication. The skeleton argument is a document which the advocate works from when on their feet in Court. It is a crucial document that forms the roadmap for an advocate. With that in mind, I am of the view that a reasonable amount of time to have spent on crafting this skeleton argument would be 30 hours. This will be apportioned 20 to Mr Williams and 10 to Mr Haq (the significantly greater weighting given to Mr Williams for this item is to reflect the fact that as the advocate, Mr Williams would be responsible for every word of the skeleton

argument and would therefore likely have spent significant time and care on that document, work that a paralegal would not have been able to undertake). I take account of the fact that there will have already been significant work which would have gone into the Amended Statement of Defence that would also have been applicable to the skeleton argument.

ii. Witness statements: the First-Third Defendants produced 3 witness statements totalling 21 pages. The witness statement of the First Defendant and the Second Defendant involved some detail and exhibits. The Third Defendant's witness statement was very short and ought to have been compiled with relative speed. This process would have involved taking instructions, being familiar with the documentation in the case, drafting a witness statement, and then refining that statement so that it accurately reflects the position of the individual. My view is that a reasonable amount of time to have spent on these witness statements was 45 hours in total. This will be apportioned 20 to Mr Williams and 25 to Mr Haq (a great proportion has been allocated to Mr Haq here as it is reasonable for an individual at paralegal level working on the case to be able to do the bulk of the witness statement work).

iii. Preparation for trial: the Second Claimant concedes that it would have been reasonable for Mr Williams to have spent 63 hours preparing for and attending the trial. I agree that this is reasonable. I disagree with the Second Claimant that it is unreasonable for Mr Haq to have prepared for and attended the hearing on the grounds of duplication. Mr Williams as advocate would have been 'on his feet' and would have required support from another fee earner which would have included taking a note of the evidence, client-handling, and discussions with Mr Williams on general strategy and progress. Mr Haq was also heavily involved with this matter and would have been acquainted with the facts and issues and therefore would have been of considerable value to Mr Williams before and during the hearing. I am therefore of the view that the 32.6 hours logged

by Mr Haq in relation to preparation for and attendance at the hearing are reasonable in amount and reasonably incurred. Indeed, had Mr Williams have been unable – for whatever reason – to conduct the hearing, Mr Haq may have had to be in a position to take over conduct of the matter, and therefore it would have been imperative for him to have prepared properly and been present.

iv. Internal meetings: the Second Claimant's point made concerning internal meetings generally not being payable in their experience made at paragraph 5.20(a) of its submission appears, in my experience, unrealistic. It is entirely normal in even the simplest litigation matters for lawyers to meet to discuss the case strategy, next steps, and other such relevant matters. In my view, it is not reasonable to expect lawyers working on litigation together within a firm to work in a silo and not to meet to discuss the case. In my experience, it is also reasonable to expect clients to pay for such meetings and therefore, where reasonably incurred and reasonable in amount, for those costs to be recoverable.

I do not agree with the Second Claimant's characterisation of internal meetings as being a didactic process whereby the senior lawyer "*teaches*" or "*instructs*" the junior lawyer. These meetings are an invaluable part of the litigation process where different tasks are being carried out by different people where important strategy can be discussed. Indeed, such meetings could help avoid duplication of work (where, for example, one lawyer informs the other lawyer on a case that they have reviewed a particularly lengthy document, that there is nothing in that document and that therefore the other lawyer need not review that same document).

This matter was not the most straightforward piece of litigation, and Sultan Al-Abdulla & Partners was representing three defendants, rendering matters slightly more complex (for example, they would have had to have been cognizant of the potential for conflicts of interest to emerge by way of example, and would have had to cross-check the

recollections of three people in preparing their case). From the beginning of their engagement (7 August 2022 was when the first piece of work was logged) to the trial in late October 2022, it would have been reasonable for the fee earners to have meetings, particularly as this was an intense period of work from instruction in August 2022 to trial in October 2022 (the Second Claimant has taken a point concerning the intense period of preparation given that the First-Third Defendants switched to Sultan Al-Abdulla & Partners but: (i) no fees are being claimed by the First-Third Defendant's former lawyers and so there is no duplication of work in that respect, and (2) preparation work would have had to have been done in any event for the trial and so the key question is whether amounts are reasonably incurred and reasonable in amount). Again, it is difficult precisely to quantify how much time was spent on these meetings but in my view, 15 hours by way of internal meetings between Mr Williams and Mr Haq would have been reasonable in this matter.

v. Miscellaneous work: as a final category of work, miscellaneous work will include reading-in where not covered elsewhere, preparation for internal meetings, client meetings, telephone calls with clients, other correspondence with clients, taking instructions (where that is not covered in the witness statement work, above), and liaising with the other parties and the Court. These items are made out in the invoices rendered by Sultan Al-Abdulla & Partners. In a case such as this one, much of this work could have been conducted by the lower-level fee earner, Mr Haq here, as much of it is routine case management which, whilst very important, does not need to be done by a lawyer at the level of Mr Williams. Therefore, my view is that it would have been reasonable to have spent some 35 hours apportioned 5 hours to Mr Willaims and 30 hours to Mr Haq across the instruction period.

52. I am not of the view that the hours of Ahmed Durrani are reasonably incurred in light of the fact that both Mr Williams and Mr Haq were heavily involved in the matter. Although he is an experienced associate, his 25 hours comprising work on skeleton

arguments, internal discussions, and preparation of cross-examination are disallowed as that work could have been conducted by Mr Haq, and would also inevitably given rise to some duplication.

53. A further point on duplication appliable to this case is as follows: had Mr Williams had sole conduct of this entire case (as suggested by the Second Claimant in its submissions), the costs would have been even higher, his hourly rate being almost 2 ½ times higher than that of Mr Haq.

54. Defending claims – on behalf of three clients – relating to alleged breaches of an SPA (on different bases), which involved significant witness evidence, and breaches of directors' duties that under the Companies Act will have required a full appreciation of a somewhat convoluted factual matrix, along with an understanding of the law concerning directors' duties would reasonably have required a significant volume of work. The subject matter and law involved was not entirely straightforward (a number of authorities were raised, along with – by way of further example – the law on transferred loss) Therefore, the total hours that I am of the view that it is reasonable to claim for the entire litigation on behalf of the First-Third Defendants, is 281 hours (to the nearest hour), 148 for Mr Williams (QAR 364,820.00) and 123 (QAR 133,000.00) for Mr Haq (to the nearest hour), totalling QAR 497,820.00. This is, in my view, entirely proportionate when set against the factual background and that Sultan Al-Abdulla & Partners represented three defendants. I do not have any evidence before me that the conduct of the First-Third in relation to this facet of the litigation ought to result in a further reduction. There is suggestion made by the Second Claimant that "*various settlement*" offers were made but no further detail is provided and so I cannot take account of that submission. The matters claimed for in paragraph 52, above, were all reasonable heads of claim and I find that, for the reasons given and subject to the reductions that I have applied, those costs were reasonably incurred and reasonable in amount.

55. The sum of QAR 497,455.00 now must be reduced to reflect the fact that we are dealing with a successful costs order against the Second Claimant only (see paragraph 46, above). Reducing the sum of QAR 497,255.00 down to reflect the 25% proportion leaves a figure of QAR 124,455 (to the nearest QAR).

56. I therefore order that the Second Claimant pays the First-Third Defendants the sum of **QAR 124,455.00.**

Settlement offers

57. In various places of the documentation provided to me there is mention of settlement offers that were made and made/rejected. If parties wish for these offers – presumably made without prejudice save as to costs – to count in their favour in a costs assessment, full details of those offers must be provided to the Court. Simply asserting that offers have been made without providing details is entirely unhelpful.

By the Court,

[signed]

Mr Umar Azmeh, Registrar

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

Representation

The First Claimant was represented by Mr Alexander Whyatt (Eversheds Sutherland (International) LLP, Doha, Qatar) and Mr Paul Fisher of Counsel (4 New Square, London, United Kingdom).

The Second Claimant was represented by Al-Tamimi and Company (Dubai, United Arab Emirates).

The First-Third Defendants were represented by Mr Thomas Williams of Sultan Al-Abdulla & Partners (Doha, Qatar).

The Fourth Defendant was self-represented.