



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 RESPONDENT'S APPLICATION FOR COSTS



Neutral Citation:	[2020] ADGMCA 0003
Before:	Chief Justice, Lord David Hope His Honour Justice Kenneth Hayne His Honour Justice Sir Peter Blanchard
Decision Date:	31 March 2020
Decision:	The Applicant pay the Respondent's costs of the Applications for Permission to Appeal or Set Aside and Stay of Execution assessed on a standard basis in the sum of USD68,527.17.
Decision under appeal:	
Court of First Instance Division:	Civil
Date of Decision:	16 December 2019
Before:	His Honour Justice Stone SBS QC
Case Number(s):	ADGMCFI-2019-003
Hearing Date(s):	No hearing
Date of Orders:	31 March 2020
Catchwords:	Costs; assessment on a standard basis; consideration of whether time spent was proportionate to matters in issue; whether fees charged are reasonably incurred and are reasonable in amount
Case Number:	ADGMCA-APP-2019-002
Parties and representation:	Bird & Bird (MEA) LLP for the Applicant Freshfields Bruckhaus Deringer for the Respondent

JUDGMENT

1. On 16 December 2019 His Honour Justice Stone delivered judgment ("CFI judgment") on claim by the Respondent ("Rosewood") against the Applicant ("Skelmore") in favour of Rosewood. On 30 December 2019 Skelmore filed an application for permission to appeal or otherwise set aside the CFI judgment. On 9 January 2020 Skelmore applied for a stay of its execution pending determination of the appeal. On 12 February 2020 this Court issued a judgment refusing both applications. Skelmore was ordered to pay Rosewood's costs of the applications. Rosewood was ordered to file and serve its submissions as to costs by 4.00pm on 4 March 2020. It duly did so. Skelmore was ordered to file and serve any response by 4.00pm on 25 March 2020. It has allowed that time limit to expire without filing any such response.



2. Having considered Rosewood's submissions as to the costs of these applications, and having taken due account of the fact that Skelmore has not made any response to them, the Court now makes the following judgment in respect of Rosewood's application for those costs.
3. Rosewood has provided the Court with two statements to enable it to make a summary assessment of the costs incurred which, in the absence of any other direction, must be on the standard basis. One relates to the number of hours expended by Rosewood's solicitors, Freshfield Bruckhaus Deringer, in connection with the applications for permission to appeal or set aside the CFI's judgment. The other relates to the numbers of hours expended by Rosewood's solicitors in connection with the stay application. Each statement is supported by a schedule giving details of the hours spent by each fee earner at each stage of their work on documents. The questions which the Court must consider are (a) whether the time spent was proportionate to the matters in issue in these applications and (b) whether the fees charged were reasonably incurred and are reasonable in amount.
4. Five fee earners, and the rates per hour for each of them, are referred to in these documents: Sami Tannous, a partner in Dubai, whose rate is shown as USD874 (AED3,209.33); Kristin Lampe, an associate in London, whose rate is USD499 (AED1,832.33); Tala Fahoum, an associate in Dubai, whose rate is USD475 (AED1,744.20); and a trainee and a costs lawyer, each of whose rate is USD299 (AED1,097.93). The rates per hour for Tala Fahoum, the trainee and the costs lawyer are within the indicative hourly charge for trainees of up to 5 years as set out in ADGM's Practice Direction 9, which is AED1,750. The rate per hour for Kristin Lampe is marginally above that indicative rate but well within that for a lawyer of 6 to 10 years' experience, which is AED2,200. The rate per hour for Sami Tannous is substantially above the indicative rate for a partner, which is AED2,800.
5. Looking first at the time spent, the documents provided to the court set out the time spent by each fee earner on (i) attendance upon and correspondence with Rosewood and (ii) considering and preparing documents, including consideration of case law and research into the tests relevant to each of Skelmore's applications. The time spent on attendance and correspondence and the allocation of time between the three fee earners involved was modest and well within what could be regarded as reasonable and proportionate. The time spent on considering and preparing documents was much greater in comparison. But there are grounds for holding that nevertheless it was reasonable and proportionate. The Court has had regard to the fact that these were the first applications of their kind to have been made to this Court and to the way the time spent was allocated among the various fee earners. It is plain that it was necessary for research to be carried out into the relevant tests and to the relevant case law. It is to be noted also that costs were kept within a reasonable level because much the greater time required for this was allocated to Tala Fahoum and the trainee. For these reasons the Court considers that the time spent by each fee earner as shown on each of these documents was reasonable and proportionate to the issues that were raised by each of Skelmore's applications.
6. As for the fees charged, there are no grounds for taking issue with the rates charged for Kristin Lampe, Tala Fahoum, the trainee and the costs lawyer. On the other hand the rate charged



for Mr Tannous is significantly above the indicative hourly charge for a partner. On a previous occasion, when it was dealing with the costs incurred in connection with Skelmore's application for permission to appeal against an earlier judgment by Justice Stone (see [2020] ADGMCA 0001), the Court held, in view of the relatively simple nature of the issues raised, that his rate was more than could reasonably be justified. An hourly rate of USD850 was applied instead of the rate claimed. On this occasion, having regard to the numerous and wide-ranging assertions by Skelmore in support of its applications and the novelty of the issues raised as regards the work of this Court, the Court is satisfied that the rate that he has charged for his time can properly be regarded as reasonable.

7. The total amount of the costs claimed in regard to Skelmore's application to appeal or set aside the CFI judgment is USD34,230.40. The total amount in regard to its stay application is USD46,389.80. A discount of 85% must be applied to sum of these figures, which amounts to USD80,620.20, in order to arrive at an assessment on the standard basis.
8. The court therefore awards to Rosewood its costs in the sum of USD68,527.17.



Issued by:

Linda Fitz-Alan
Registrar, ADGM Courts
31 March 2020