



Neutral Citation Number: [2024] EWHC 797 (Comm)

Case No: CL-2022-000384

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT (KBD)

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 11/04/2024

Before :

CHRISTOPHER HANCOCK KC
SITTING AS A JUDGE OF THE HIGH COURT

Between :

SAUDI ARABIAN AIRLINES CORPORATION
- and -
SPRITE AVIATION NO.6 DAC

Claimant

Defendant

Tom Stewart Coats (instructed by **Norton Rose Fulbright LLP**) for the **Claimant**
Edward Cumming KC and **Catherine Hartston** (instructed by **Pillsbury Winthrop Shaw**
Pittman LLP) for the **Defendant**

Hearing date: 25 March 2024

Approved Judgment

This judgment was handed down remotely at 10.30am on Thursday 11 April 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....

Christopher Hancock KC:

1. My judgment in this matter was handed down on 13 March 2024. In that judgment, in essence, I declined to answer the preliminary issue that had been ordered.
2. The parties were in agreement on all consequential matters except costs. Accordingly, I heard argument on this on 25 March, at a hearing which had been postponed due to my unavailability.
3. At that hearing, I decided in favour of the approach advocated for by the Defendant, holding that the costs should be reserved to the trial judge.
4. Accordingly, I decided that the costs of the argument on 25 March be paid by the Claimant to the Defendant.
5. It now falls to me to summarily assess the costs of the argument on costs. I received written submissions from both parties on that topic, and a bill of costs from the Defendant, which totalled £42,267.31. The Defendant recognised that it could not claim 100% of those costs, but argued for a recovery of between 60% and 80% of that figure.
6. The Claimant argued that I should only award some £9,540.92, being about 20-25% of the costs claimed. In this connection, the Claimant raised various points, as follows:
 - (1) First, the Claimant argued that the hourly rates charged were too high, being significantly above the guideline rates for London firms doing heavy commercial work.
 - (2) Secondly, the Claimant argued that there was an inappropriate usage of grade A fee earners, since all work charged in the statement of costs was done by grade A fee earners. Instead, it was argued, a range of fee earners at varying rates should have been used.
 - (3) The amount of time spent was excessive and should be cut by a total of 6 hours.
 - (4) Counsel's fees were excessive, for a number of reasons:
 - (a) The hearing did not require two counsel, and junior counsel alone would have been sufficient.
 - (b) Had junior counsel alone been instructed, the fees could have been reduced from £22,000 to about £5,000, a saving of £17,000.
7. In response to these arguments, the Defendant argued as follows:
 - (1) The Claimant's arguments took no account of the fact that there had had to be two hearings and not one, through no fault of the Claimant or Defendant.
 - (2) The criticism of the hourly rates was misplaced given the very specialist nature of the dispute and the fact that both parties were instructing similar firms in this regard.

- (3) The choice to use higher rate fee earners served to reduce rather than increase costs, due to the fact that those fee earners had had closer contact with the dispute. The amounts charged were lower than those charged by the Claimant.
 - (4) As to the time spent, in fact the Defendant's representative spent less than the Claimant's.
 - (5) It was reasonable to instruct leading and junior counsel for both hearings, in view of the fact that leading counsel had conducted the advocacy at the hearing itself. The suggestion that in the Commercial Court the current practice is to instruct juniors to deal with costs is misplaced, since the Commercial Court Guide simply states that it may be appropriate for argument about costs or other consequential matters to be conducted by junior Counsel.
8. I do not think it is necessary or appropriate for me to approach this summary assessment on anything other than a broad brush basis. I have concluded that the amount which the Claimant should pay the Defendant in respect of these two hearings (bearing in mind all of the above submissions and giving due regard to each of them) is £22,000. My principal reason for the reduction in the costs claimed is my view that only one Counsel should have been instructed, and that a junior. I do however bear in mind the other points made by the Claimant, but overall take the view that, apart from the point that only a junior Counsel was necessary for the hearing, no very significant reduction should be made in relation to those other points.