



In The Supreme Court of Bermuda

CIVIL JURISDICTION

2021: No. 56

BETWEEN:

AML CREDITOR RECOVERY VEHICLE PTC

Plaintiff

and

(1) MADISON PACIFIC TRUST LIMITED

(2) SHANDONG IRON & STEEL GROUP CO, LTD

(3) SHANDONG STEEL INTERNATIONAL INVESTMENT LIMITED

(4) SHANDONG STEEL HONG KONG RESOURCES LIMITED

(5) SHANDONG STEEL HONG KONG ZENGLI LIMITED

(6) MR CUI JURONG

(7) MR LI QIANG

Defendants

RULING

Date of Hearing: 26 & 27 November 2024

Date Draft Ruling Circulated: 22 July 2025

Date of Final Ruling: 15 September 2025

Appearances: Claire van Overdijk, KC & Charlotte Donnelly of Carey Olsen
Bermuda Limited for the Plaintiff
Kevin Taylor & Izabella Arnold of Walkers (Bermuda) Limited
for the 2nd – 5th & 7th Defendants

*Taxation of Bill of Costs; Cost of Overseas Counsel
Necessary or Proper; Reasonableness and Proportionality*

RULING of Cratonia Thompson, Acting Registrar

INTRODUCTORY

1. This is a contested taxation of a Bill of Costs filed on behalf of the 2nd, 3rd, 4th, 5th and 7th Defendants (hereinafter referred to as the **Shandong Defendants**) pursuant to a Ruling on Costs of former Chief Justice Narinder Hargun dated 9 October 2023 (the **Costs Ruling**).
2. The Shandong Defendants set out in their Bill of Costs a helpful synopsis of the application that led to the Costs Ruling, which I have adopted in this Ruling for the purposes of setting out the background to these Taxation proceedings.
3. The Costs Ruling followed a Judgment of the Court handed down on 17 August 2023 (the **Judgment**). The Judgment related to an application by the Defendants to set aside Orders of the Court that granted leave, under Order 11, rule 1 of the Rules of Supreme Court 1985 (the **RSC**), to serve the Plaintiff's Specially Endorsed Writ of Summons out of the jurisdiction on the Defendants (the **Application**).
4. On the hearing of the Application, the Court held, *inter alia*, that (i) the causes of action pleaded by the Plaintiff against the Defendants could not be validly assigned, and therefore the Plaintiff lacked the necessary title to bring those causes of action against the Defendants; and (ii) the Plaintiff was obliged to pursue its claims in England and Wales, and was not entitled to pursue its claims in Bermuda.
5. Consequently, the Court (i) set aside the Order dated 27 January 2022; (ii) directed that the present action in Bermuda be stayed; and (iii) held that the Plaintiff be at liberty to pursue the claims against the Defendants in England. It is to be noted that all parties, save for the 6th Defendant, were represented by leading counsel during the 4-day hearing of the Application on 3, 4, 5 and 6 July 2023.
6. In the resulting Costs Ruling, Hargun CJ (as he then was) ordered costs in favor of the Defendants on the standard basis, with a 10% reduction in relation to the Defendants' claim that there was no serious issue to be tried. Hargun CJ also ordered that the Plaintiff make interim payments to the Shandong Defendants. Paragraphs 11 – 13 of the Costs Ruling provide as follows:

“[11.] The Court notes that in relation to the issue of material non-disclosure, the Court found that there was in fact material non-disclosure but that it was inadvertent. The Court does not consider that it would be appropriate to apply a discount in relation to that issue. Indeed, the Court does not consider it appropriate to apply a discount in relation to any of the other issues relied upon by the Plaintiff

save for the issue of whether the Plaintiff's pleaded case had raised a serious issue to be tried. In addition to the lack of standing due to the ineffective assignment and exclusive jurisdiction clause, the Defendants did rely upon other matters in support of their contention that there was no serious issue to be tried on the pleaded case. These additional matters required the parties to file significant affidavit evidence and a significant amount of time in presentation before the Court. In all the circumstances the Court considers it just that the Defendants' entitlement to taxed costs on the standard basis, in relation to this application, should be reduced by 10% and the Court so orders.

[12.] In relation to the issue of interim payment the Court has the jurisdiction to make such an order at this stage (see Bidzina Ivanishvili v Credit Suisse [2022] SC (Bda) 56 Civ at [106]). Indeed, the Plaintiff does not resist that the Court should exercise the jurisdiction to make such an order but contends that the interim payment should be proportionately reduced as the reduction in the overall costs.

[13.] Having considered the respective submissions and the second affidavit of Mr Rhys Williams, the Court orders that the Plaintiff is required to make the following interim payments on account of costs within the next 30 days: (i) payment in the amount of \$300,000 to the First Defendant; and (ii) payment in the amount of \$400,000 to the Shandong Defendants."

7. The Shandong Defendants filed their original Bill of Costs on 14 August 2024 (the **Original Bill**). The Plaintiff filed its objections to the Original Bill on 12 November 2024 (the **Plaintiff's Objections**). On 22 November 2024, the Shandong Defendants filed an Amended Bill of Costs (the **Amended Bill**), along with an application seeking leave to amend the Original Bill (**Leave Application**).
8. The Shandong Defendants' Leave Application was issued for hearing alongside these Taxation proceedings. The Leave Application was not opposed by the Plaintiff, and for the avoidance of doubt, leave was granted for the Shandong Defendants to amend the Original Bill. The Original Bill and the Amended Bill are collectively referred to in this Ruling as the **Shandong Defendants' Bill**.
9. On 25 November 2024, the Shandong Defendants' filed Reply Submissions to the Plaintiff's Objections (the **Reply Submissions**).
10. Bills of Costs were also filed on behalf of the 1st Defendant and the 6th Defendant, however an agreement was reached resolving each of these Bill of Costs prior to the Taxation hearing. Consent Orders setting out the parties' respective agreements were filed and sealed by the Court on 26 November 2024. As such, neither the 1st nor 6th Defendants appeared at the Taxation hearing.

11. The Plaintiff and Shandong Defendants were represented at the Taxation hearing by local (Bermuda) counsel. Although the Taxation was listed for a 2-day hearing, Counsel for the Plaintiff and the Shandong Defendants appeared on 26 November 2024 having agreed that the hearing should be adjourned to the following day. This gave Counsel for the Plaintiff an opportunity to consider and obtain instructions on a responsive letter received from Counsel for the Shandong Defendants in relation to the Plaintiff's Objections. The Taxation hearing proceeded the following day (27 November 2024) and concluded the same day.

THE LAW

12. The applicable law in relation to Taxation proceedings is set out in Order 62 of the RSC. Order 62, rule 12 (1) of the RSC provides the following on proceedings taxed on the standard basis:

"Order 62/12 Basis of taxation

12 (1) On a taxation of costs on the standard basis there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the Registrar may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party."

13. In exercising my discretion under Order 62, rule 12 (1), I must have regard to all relevant circumstances, and in particular to the following factors set out in Part II, Division I to Order 62 of the RSC (the **Order 62 Factors**):
- (a) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;
 - (b) the skill, specialised knowledge and responsibility required of, and the time and labour expended by, the attorney;
 - (c) the number and importance of the documents (however brief) prepared or perused;
 - (d) the place and circumstances in which the business involved is transacted;
 - (e) the importance of the cause or matter to the client;
 - (f) where money or property is involved, its amount or value;
 - (g) any other fees and allowances payable to the attorney in respect of other items in the same cause or matter, but only where work done in relation to those items has reduced the work which would otherwise have been necessary in relation to the item in question.
14. The law on Taxation proceedings set out above is not in dispute, and I am satisfied that these principles govern the present Taxation proceedings.

SUMMARY OF THE SHANDONG DEFENDANTS' BILL

15. The Shandong Defendants are seeking recovery of costs claimed for local (Bermuda) counsel, Walkers (Bermuda) Limited (**Walkers**), and also overseas counsel based in London (Linklaters LLP) and Shanghai (Linklaters Zhao Sheng) (together **Linklaters**). The Shandong Defendants also engaged Benjamin Valentin, King's Counsel of Fountain Court Chambers (**Valentin KC**) to advise and appear at the hearing of the Application. Ian Bergson, a Junior Barrister at Fountain Court Chambers, was also engaged to advise on the Application but did not appear at the hearing of the Application.
16. A summary of the professional charges sought by the Shandong Defendants in their Bill of Costs appears below:

SUMMARY OF PROFESSIONAL CHARGES	AMOUNT (IN USD)
Part I – Costs Payable to the Supreme Court Registry	400.00
Part II – Costs Payable to Walkers and Linklaters	1,793,793.02
Part III – Disbursements – Walkers	41,246.66
Part IV – Disbursements – Linklaters	366.59
Part V – Disbursements – Counsel Fees	425,374.32
TOTAL	2,261,180.59

17. In accordance with the Costs Ruling, the costs awarded on this Taxation in relation to the Defendants' claim that there was no serious issue to be tried are subject to a 10% reduction. In addition, an interim sum of \$400,000 paid by the Plaintiff to the Shandong Defendants must be taken into account. The parties are agreed in this respect.

SUBMISSIONS OF THE SHANDONG DEFENDANTS

18. At the Taxation hearing, the Shandong Defendants referred to the applicable law, and in particular the Registrar's duty in assessing the Shandong Defendants' Bill to take into consideration all relevant circumstances and the Order 62 Factors. In relation to the Order 62 Factors, specific reference was made to the following:
- (1) The complexity of the cause or matter;
 - (2) The skill and specialised knowledge required by the attorney;
 - (3) The number and importance of the documents prepared or perused;
 - (4) The place and circumstances in which the business involved is transacted; and
 - (5) The importance of the cause or matter to the client.
19. As to the complexity of the cause or matter, the Shandong Defendants referred the Court to paragraph 2 of the Judgment, which provides as follows:

“[2] Over a period of four days the Court heard applications made by all the Defendants that the Orders dated 18 February 2021 and 27 January 2022 granting the Plaintiff leave to issue and to serve the Writ on the Defendants out of the jurisdiction be set aside on the various grounds which included the contentions that (i) the Plaintiff has not been validly assigned the claims it seeks to bring; and/or (ii) the claims against the First Defendant do not fall within any of the provisions of Order 11 rule 1; and/or (iii) the claims do not disclose a serious issue to be tried; and/or (iv) the Courts of Bermuda are not the appropriate forum for the trial of the Plaintiff's claims against the Defendants; and/or (v) the Plaintiff failed to give full and frank disclosure when seeking leave to serve out of the jurisdiction.”

20. It was highlighted that the Application, while interlocutory, involved a number of Defendants (7 in total), and that all parties (including the Plaintiff) engaged leading counsel, except for the 6th Defendant. In fact, all parties had agreed that the Application warranted the use of leading counsel. Applications were made to the Bermuda Bar Council and then to the Court for the parties' respective leading counsel to be specially admitted to the Bermuda Bar. No objections were made to those applications, nor were any objections made to the issuance of temporary work permits.
21. As to the other Order 62 Factors highlighted by the Shandong Defendants, it was submitted that the Court should consider all factors met, and award the costs sought by the Shandong Defendants on the 'higher' end. It is of note that the Shandong Defendants filed the Amended Bill after having received the Plaintiff's Objections. It was highlighted by Mr Taylor that their amendments removed any time entries that are considered unreasonable within the scope of the taxation regime in Bermuda leaving only those entries that are properly recoverable.
22. With that in mind, it was also submitted that the individual reductions sought by the Plaintiff, when totaled, are excessive. When totaled, the proposed reductions would reduce the costs awarded in relation to the fees incurred by Walkers by 69%, and the fees incurred by Linklaters by 70%. The Shandong Defendants submitted that this is unreasonable, and that the Court must consider the individual reductions argued by the Plaintiff carefully.

PLAINTIFF'S OBJECTIONS AND RELEVANT FINDINGS

23. The Plaintiff's overarching position on the Shandong Defendants' Bill is that the costs claimed are excessive. Additionally, the Plaintiff raised two principal categories of objections to the Shandong Defendants' Bill:

A) Engagement of Foreign Lawyers

24. Under this category, the Plaintiff contests the recoverability and reasonableness of fees incurred by the Shandong Defendants through its engagement of Linklaters. The Plaintiff's primary position is that the Shandong Defendants have failed to prove that their engagement of Linklaters was necessary and proper for the attainment of justice. On this basis, the Plaintiff argues that the Shandong Defendants' engagement of Linklaters is not justified, and the costs should be disallowed.
25. In the event that I take the view that the work carried out by Linklaters should be allowed, the Plaintiff's alternative position is that the Shandong Defendants should only be permitted to recover fees that are shown to be necessary and reasonable. Once that has been determined, the Plaintiff also argues that the hourly rate of all lawyers should be taxed in accordance with the Bermuda scale, rather than the hourly rates charged by Linklaters.

B) Objections to Individual Items in the Bill of Costs

26. Under this category, the Plaintiff challenges the necessity or quantum of the costs incurred by the Shandong Defendants in respect of 10 separate sub-categories. The sub-categories of objections falling under principal Objection B are set out below:
- (1) Research
 - (2) Administrative Tasks
 - (3) Seniority of Fee Earner
 - (4) Duplication
 - (5) Supervision
 - (6) No Narrative/Not in the Fee Earner List
 - (7) Redactions
 - (8) Excessive Time
 - (9) Combined/Vague narratives
 - (10) Disbursement of Counsel Fees

27. Each category of objection is addressed in turn.

Objection A – Engagement of Foreign Counsel

Plaintiff's Primary Position – Recoverability of Overseas Counsels' Fees

28. It is accepted by the Plaintiff that the costs of engaging foreign lawyers is recoverable, *in principle*, as a disbursement falling within the definition of 'costs' in Order 62, rule 1(1) of the RSC. With that said, it is also the Plaintiff's case that the burden is on the Shandong Defendants to show that it was necessary and proper for the attainment of justice for foreign

lawyers to be engaged in the pursuit of the Application. Reference was made to the cases of McCullie v Butler [1962] 1 QB 309 (**McCullie**), Re Electric Mutual Liability Insurance Co [1997] Bda LR 24 (**EMLICO**), Capital Partners Securities Co Ltd. v Sturgeon Central Asia Balanced Fund Ltd. (Costs) [2017] Bda LR 43 (**Capital Partners**), and Societa Finanziaria Industrie Turistiche SpA v Manfredi [2006] EWHC 90068 (**Manfredi**) in support of the Plaintiff's case.

29. The Court was directed to page 195 of EMLICO where, in applying the principles in McCullie, Ground CJ held as follows:

"It is inevitable from Bermuda's position as an offshore business centre that many commercial cases will involve lawyers in other jurisdictions. Overseas lawyer (sic) are not, of course, "attorneys" within the meaning of the Bermuda Rules: see RSC Ord. 1, r.4 4(1), which defines that term as a person admitted and enrolled as a Barrister and Attorney under the provisions of the Supreme Court Act. However, that is no reason in principle why their necessary or proper time should not be allowed. Although the proper basis for such an allowance was not argued in detail before me, my provisional view is that such fees should be allowed as disbursements, following the reasoning of Diplock J, as he then was, in McCullie v Butler [1962] 2 QB 309 at 313. Disbursements are, of course, within the definition of "costs" in Order 62, r. 1(1). They are not provided for within the scale, but I do not think that that in any way inhibits their allowance, as Ord. 65, r. 25(1) expressly contemplates the inclusion of disbursements in all bills of costs submitted for taxation...In any event, notwithstanding Ord. 62, r. 32(2)(a), the Registrar has a general discretion to allow fees not provided for in the scale under Part II, item 97...the only contingency being that the fees are such as the Registrar "thinks proper". Where no fee is specified the Registrar is required to have regard to English practice, and that brings us back to the McCullie v Butler (supra). I therefore have no doubt that the Registrar has power to allow sums in respect of the charges of overseas lawyers, and that this is not contingent upon any finding that the matter is not a special case, or any direction or certification from the trial Judge. Indeed, on general principle it would be wrong for the trial judge to seek to fetter the Registrar's discretion by such a direction. In considering what to allow in respect of the costs of overseas lawyers it is for the Registrar to judge them according (to) the criteria established by the applicable basis of taxation. On a party and party taxation that will be whether they were necessary or proper for the attainment of justice. In general, when dealing with the costs of commercial litigation with a foreign element, the Registrar will no doubt approach this element in a taxation realistically, and with the offshore aspects of the litigation firmly in mind. Thus in this case, the Registrar will of course want to take into account the overseas genesis and ramifications of this matter. The applicant should assist her in this: "To avoid any difficulty for the taxing master in making up his mind on what the proper rate of charge for services is, it seems to me to be very desirable that when an item of this kind is included in the bill of costs there should be a detailed statement of the circumstances which required the services of the foreign lawyer...and that there should be a detailed charge for the individual items." Per Diplock J, McCullie v Butler (supra).

In summary, therefore, I consider that there is no reason in principle why costs incurred by the Company in respect of the services of the London solicitors, Freshfields, and the New York lawyers, Shearman & Sterling, should not be allowed. Whether, in the circumstances of this case, it is appropriate to do so, and in what amount, is a matter for the Registrar in the first instance, and I do not think it proper for me to seek to pre-empt her judgment in that respect.”

[Emphasis added]

30. It is the Plaintiff’s case that the principles set out above, particularly the requirement that the Registrar must consider whether the engagement of foreign counsel was “*necessary or proper for the attainment of justice*” (hereinafter referred to as the **Necessary or Proper Test**), were confirmed by Registrar Subair Williams (as she then was) (**Subair Williams R**) in Capital Partners¹. The Plaintiff also argued that it was accepted by Subair Williams R in Capital Partners that the burden arising out of the Necessary or Proper Test was on the receiving party to discharge.
31. As to discharging the burden arising out of the Necessary or Proper Test, the Plaintiff referred to the Manfredi case, and submitted that the following issues are relevant: (i) are the fees incurred overseas proportionate? (ii) if not, were they necessarily and reasonably incurred? (iii) if they are proportionate, were they reasonably incurred? The Plaintiff then submitted that to discharge the burden, it is the responsibility of the Shandong Defendants to:
 - (1) Provide a detailed statement of the circumstances, which required the services of the foreign lawyer;
 - (2) Provide a detailed charge for the individual items charged by the foreign lawyer; and
 - (3) Provide evidence addressing the local costs regime (in London and Shanghai) to determine the reasonable and proper amount to be charged by the relevant foreign lawyer.
32. While the Shandong Defendants accept that the Necessary or Proper Test is applicable in this Taxation, they reject the Plaintiff’s contention that it is the Shandong Defendants’ responsibility to discharge any burden arising out of the Necessary or Proper Test in the manner proposed by the Plaintiff.

¹ See paragraph 99 of Capital Partners Securities Co Ltd. v Sturgeon Central Asia Balanced Fund Ltd. (Costs) [2017] Bda LR 43, where the remarks of Ground CJ in Re Electric Mutual Liability Insurance Co [1997] Bda LR 24 set out at paragraph 29 of this Ruling were cited.

33. Further, the Shandong Defendants do not accept that the Manfredi case applies to this Taxation, and instead referred to the Bermuda case of Bateman Engineering Inc v Nelson Gold Copr Ltd & Ors [1997] Bda LR 48 (**Bateman**), and the following comments by Ground CJ at page 206:

“There is nothing in the Rule which delimits the Taxing Officer to work done in Bermuda. The question requiring her focus would be whether the actions taken by the claimant, whether in Bermuda or elsewhere, were necessary or proper for the attainment of justice or for enforcing or defending the claimant’s rights. In reaching her decision she would have to take into account all the surrounding circumstances including the nature, complexity and location of the matter in dispute, the skill, specialized knowledge and responsibility required of the attorneys, where the files are kept and prospective witnesses reside. And having considered all relevant factors the ultimate amount would have to be in conformity with the Bermuda scale unless the matter is a special case or falls within rule 29 or rule 31(2)”

[Emphasis added]

34. The Shandong Defendants also made reference to the very same remarks of Ground CJ in EMLICO referred to by the Plaintiff, and then to the comments of Registrar Wheatley (as she then was) (**Wheatley R**) in St. Johns Trust Company PVT Limited v James Watlington et al [2023] SC (Bda) 62 Civ. (**St. Johns**). Using St. Johns in support, the Shandong Defendants argued that even less justification is now required for the use of foreign counsel, as such use is becoming more and more frequent in cross-border litigation.
35. In St. Johns, Wheatley R considered a substantial claim for foreign solicitors and counsel fees in a bill of costs. Ultimately, Wheatley R allowed 50% of the costs sought in relation to foreign counsel fees, stating as follows at paragraph 28:

“[28] Taking into consideration the above as well as reviewing the time entries of Mishcon, it appears that Mishcon did a large portion of the drafting and preparation for this matter and as such it would be difficult to disallow the entirety of the costs claimed in relation to their fees. Generally, I take no issue with Cabarita employing overseas Counsel in this matter which has become a more frequent occurrence over the last decade. Therefore, in these circumstances, I do not accept that all of Mishcon’s fees should be disallowed in their entirety. Having said this, I do accept that Mishcon’s fees should be taxed down, but should be done so in considering other grounds of objections which will be addressed below.”

[Emphasis added]

36. Given the above, the Shandong Defendants are of the view that the Plaintiff's argument that they have failed to discharge any burden arising out of the Necessary or Proper Test "*wholly mischaracterises the law in relation to the material required to support a bill of costs.*"² The Shandong Defendants' position on what is required of the receiving party to support a bill of costs is helpfully summarised in their Reply Submissions as follows:

"[16] There is no mandatory process for a claiming party to follow in evidencing their use of foreign attorneys was necessary and proper. A number of cases have considered the issue:

- (a) In Re EMLICO the Court found at [196] that the applicant should "assist" the Court to understand the "overseas genesis and ramifications of the matter."*
- (b) The Court in Re EMLICO cited the English case of McCullie at [196] in which Diplock J suggested at [313] that it would be "very desirable" for the claiming party to provide "a detailed statement of the circumstances which required the services of a foreign lawyer".*
- (c) Bateman is silent on the sort of representations that might be required simply stating at [206] that the Court must, "take into account all the surrounding circumstances including the nature, complexity and location of the matter in dispute, the skill, specialized knowledge and responsibility required of the attorneys, where the files are kept and prospective witnesses reside..."*
- (d) In Capital Partners at [103], the justification for foreign attorneys was provided in the applicant's skeleton argument, "I am satisfied that the above reasons provided in the Plaintiff's skeleton argument are sufficient to establish that it was reasonable and even necessary for the Plaintiff to engage Harneys and Japanese Counsel."*
- (e) The Court's Practice Direction on Costs (Circular No. 15 of 2016) is entirely silent on the obligations (or otherwise) of a claiming party to justify their bill of costs. If evidence from a claiming party was required, one would expect to find it in the Practice Direction of the RSC – it is in neither."*³

37. As set out in the preceding paragraph, the Shandong Defendants do not accept that there is any mandatory process for a claiming party to follow in evidencing their use of foreign attorneys was necessary or proper. That said, it is the Shandong Defendants' case that they have provided ample justification for their use of foreign attorneys *in any event*. This is

² See paragraph 18 of the Shandong Defendants' Reply Submissions.

³ See paragraph 16 of the Shandong Defendants' Reply Submissions

evidenced within their detailed narrative fee notes, and also in a letter from their Counsel (Walkers) to the Plaintiff's Counsel dated 14 October 2024 (**Walkers 14 October Letter**).

38. Notably, the justifications set out in Walkers 14 October Letter were summarised in the Plaintiff's Objections⁴ as follows:

- (1) The multi-jurisdictional nature of the proceedings, with the Shandong Defendants being based in mainland China and Hong Kong.
- (2) The claims required consideration of English, mainland China and Hong Kong law on issues concerning mining assets situated in Sierra Leone.
- (3) The Linklaters team brought essential knowledge of the history and relationship among the parties and they had been involved for several years prior to the commencement of the Bermuda Proceedings. As a result, their continued involvement brought significant cost saving efficiencies.
- (4) Linklaters took the lead with preparing the affidavit evidence of Mr Christopher Stevenson, providing the history of both the original underlying transaction and subsequent administration, litigation, and scheme and the underlying documentation. It would not have been cost effective for Walkers to undertake that work.
- (5) The Linklaters team located in Shanghai (led by Mr Richard Gu) were especially necessary where those persons from whom they receive instructions speak limited English.

39. It was also submitted by the Shandong Defendants that the Application was a direct consequence of a dispute arising from a question of *forum non conveniens*, *inter alia*, with a legal and geographical nexus linked to multiple jurisdictions. Given their expertise on the foreign law points, geographic and cultural connection as well as their historic relationship with the Shandong Defendants, Linklaters undertook a large portion of drafting, preparation, and were the point of contact for the client and instructions. As such, Linklaters were essential to the attainment of justice for the Shandong Defendants.

40. Bearing in mind the Ruling of Wheatley R in *St. Johns*, it is clear that the engagement of foreign attorneys has become commonplace in modern litigation. In my view, this is also

⁴ See paragraph 28 of the Plaintiff's Objections.

evidenced at paragraphs 80-81⁵ of Capital Partners, where it was noted that the RSC was amended in January 2006 to include the following at Order 62 Part II, Division I, rule 2:

"Fees to counsel

2 (1) No fee to overseas counsel who has been specially admitted as an attorney shall be allowed unless –
(a) before taxation its amount has been agreed by the attorney instructing overseas counsel; and
(b) before taxation a fee note signed by overseas counsel or his clerk is produced.

(2) No costs shall be allowed in respect of more than one counsel appearing before the court unless the judge or registrar hearing the matter has certified the attendance as being proper in the circumstances of the case."

[Emphasis added]

41. Notably, the above provision of the RSC was not in force when the decisions in EMLICO and Bateman were handed down, but were in force when the decisions in Capital Partners and St. Johns were delivered. Although this point was not raised by Counsel for the Plaintiff or the Shandong Defendants in their submissions, it would be remiss of me not to highlight this addition to the RSC and its impact on the decisions in Capital Partners and St. Johns.
42. In Capital Partners, after highlighting the provisions of the RSC set out above, Subair Williams R then referred to the comments of Ground CJ in EMLICO and to the approach taken by the Court in Golar LNG Ltd. v World Nordic SE [2012] Bda LR 2 (Golar). Paragraph 88 of Capital Partners provides as follows as it relates to the recovery of counsel fees:

88. This approach was followed in Golar LNG Ltd v World Nordic SE No. 163 of 2009 (Commercial List) (para 7): Ground CJ in referring to the rule requiring the Court to certify the appropriateness of two Counsel attending Court, "I do not think that applies to pre-trial work and I do not think that it operates to debar a team approach to the preparatory work."

⁵ Capital Partners Securities Co Ltd. v Sturgeon Central Asia Balanced Fund Ltd. (Costs) [2017] Bda LR 43.

"[80.] In deciding whether or not to allow the costs of more than one Counsel, I must apply my mind to RSC O. 62 Part II Division I Item 2(2)..."

[81.] This provision came into effect on 1 January 2006, post-dating the ruling delivered by the learned Justice Richard Ground (as he then was) in Re Electric Mutual Liability Insurance Company Ltd [1997] Bda LR 24."

89. In my opinion, it is clear that the requirement for the adjudicator to certify a case as appropriate for more than one Counsel is applicable only to Counsel's appearance in Court. It does not under the rules or previous cases require such a certificate for preparatory work. The assessment of the costs for preparatory work is my function alone as the Taxing Master sitting in the original jurisdiction."

[Emphasis added]

43. In St. Johns, it was expressly noted that the parties in that case had accepted that in accordance with Part II, Division I, Item 2 (2) of the RSC, no costs shall be allowed in respect of more than one counsel appearing before the court unless the judge or registrar hearing the matter has certified the attendance as being proper in the circumstances of the case. Additionally, it was highlighted that in St. Johns the Chief Justice had granted a certificate for two counsel, which covered the costs of the receiving party's leading (overseas) counsel and their local (Bermuda) counsel appearances at the hearing⁶. It is against this background that Wheatley R made her determinations in St. Johns.
44. Of further note, is the fact that a certificate was not required in respect of the fees incurred by Mishcon, who did not appear at the hearing in St. Johns and only engaged in pre-trial work. Nonetheless, Mishcon were able to recover 50% of their fees.
45. Having considered the various cases referred to in support of the parties' respective positions, and having had regard to the provisions of the RSC, I am satisfied as follows:
 - (1) In determining the recoverability of the costs claimed in respect of overseas counsel generally, I must apply my mind to Order 62, Part II, Division I, rule 2 of the RSC.
 - (2) The requirements set out in Order 62, Part II, Division I, rule 2 of the RSC apply only to the appearance of overseas counsel in court and not to pre-trial or preparatory work, which is to be assessed by the Registrar.
 - (3) The question to be regarded in assessing the costs of pre-trial or preparatory work, is whether the work completed was necessary or proper for the attainment of justice.
 - (4) In considering whether the work completed (in Bermuda or elsewhere) was necessary or proper for the attainment of justice, regard must be given to all relevant circumstances, including the Order 62 Factors.

⁶ See paragraph 38 of St. Johns Trust Company PVT Limited v James Watlington et al [2023] SC (Bda) 62 Civ.

- (5) The Registrar's discretion in determining whether the work completed was necessary or proper for the attainment of justice is wide, and ultimately involves the Registrar assessing whether the costs incurred are reasonable and proportionate bearing in mind the facts of the particular case.
46. In line with the above, I do not accept the Plaintiff's primary position that the Shandong Defendants have failed to discharge the burden placed on them to prove their engagement of Linklaters was necessary and proper for the attainment of justice. While I would agree that the Necessary or Proper Test applies to this Taxation, I do not accept that it is the responsibility of the Shandong Defendants to discharge any burden that may arise in the manner proposed by the Plaintiff, i.e. in accordance with Manfredi. Rather, it appears to me that should any burden arise, it can be effectively discharged in skeleton arguments (as seen in Capital Partners) or on submissions at the taxation hearing.
47. In the present case, the Shandong Defendants have provided ample explanation for their engagement of Linklaters. I agree with the Shandong Defendants that these explanations, coupled with the fact that the engagement of foreign counsel has become commonplace in modern cross-border litigation generally, is sufficient to discharge any burden that may arise. As such, I am satisfied that the costs incurred by Linklaters should not be disallowed in their entirety, but rather should be assessed, having regard to all relevant circumstances, including the Order 62 Factors.
48. Although the Plaintiff's submissions under this category dealt primarily with the costs incurred by Linklaters, I have also considered whether the Shandong Defendants are entitled to recover the fees associated with the appearance of Valentin KC, as well as the fees incurred by Walkers at the hearing of the Application.
49. The Shandong Defendants have produced a fee note on behalf of Valentin KC. It is noted that this Fee Note was produced only after receipt of the Plaintiff's Objections where it was highlighted that no fee note had been produced. On 17 August 2023, the former Chief Justice Narinder Hargun granted a certificate for two counsel to the 1st Defendant and Shandong Defendants. As already highlighted, the provisions of the RSC set out the requirements for the recovery of fees paid to overseas counsel, which include the provision of a fee note and certification of the appearance of two counsel by the Court. Accordingly, I am satisfied that the Shandong Defendants may recover the costs incurred in relation to Valentin KC attending court (despite the belated submission of his fee note), as well as the costs claimed in respect of Mr Taylor's appearance.

Plaintiff's Alternative Position – Necessity & Reasonableness / Chargeable Rates

50. Having rejected the Plaintiff's primary position, I went on to consider the Plaintiff's alternative position that (i) the Shandong Defendants should only be permitted to recover fees that are shown to be necessary and reasonable, and (ii) the hourly rates charged by the attorneys at Linklaters should be in line with the Bermuda scale.
51. Notably, the Plaintiff does not dispute that some of the work carried out by Linklaters was necessary and reasonable, however this concession is limited *only* to work that could not have been reasonably carried out by Walkers. Therefore, the Plaintiff does not object, in principle, to costs incurred by Linklaters for the following limited work:
- (1) Obtaining evidence or examining witnesses overseas, which foreign counsel are objectively better placed to do for geographical reasons; and
 - (2) Providing evidence on foreign law that is relevant to the proceedings.
52. While the Plaintiff accepts that any work carried out by Linklaters that falls within one of the two categories identified in paragraph 50 above ought to be allowed, the Plaintiff submitted that the Shandong Defendants' Bill is impermissibly vague, such that it is not possible to accurately decipher these sums.
53. Consequently, the Plaintiff invited the Court to:
- (1) Disallow all costs incurred by Linklaters, on the basis that the work cannot be accurately deciphered as falling within one of the two identified categories; or
 - (2) If the Court should determine it is possible to accurately decipher the time spent by Linklaters as falling into one of the two categories, those costs should be taxed in accordance with the hourly rates set out in the Bermuda scale, and not the hourly rates claimed in the Shandong Defendants' Bill.
54. The Plaintiff objects to all other costs incurred by Linklaters, including those costs that are sought on the basis of Linklaters' history and relationship with the Shandong Defendants.
55. It is an established practice that a receiving party should only be permitted to recover fees that are shown to be necessary and reasonable. As to the hourly rates charged by attorneys, the Plaintiff noted that the Bermuda scale is set out in Practice Direction No. 15 of 2016, and is also cited in Capital Partners. Paragraphs 108 and 109 provide as follows:

“[108] The Defendant suggested that the rates employed by Harneys’ lawyers should be proven to be in line with the prevailing 2016 scales in Hong Kong. However, Mr White’s dominant argument was that these hourly rates should be consistent with the guideline rates which I set out in Practice Direction No. 15 of 2016 which in material part reads:

“...the below revised guideline rates are broad approximations and “post qualification experience” remains distinct from mere length of call:

*1-3 years post qualification experience - \$300 - \$400 per hour
4-9 years post qualification experience - \$350 - \$500 per hour
10+ years post qualification experience - \$500 per hour and upwards.
1-3 years post qualification experience - \$300 - \$400 per hour
4-9 years post qualification experience - \$350 - \$500 per hour
10+ years post qualification experience - \$500 per hour and upwards.*

[109] For Counsel who have more than 10 years post qualification experience, the rates allowed in previous cases (post PD 15 of 2016) have followed the below general pattern:

*11-15 years post qualification experience - \$500 - \$575 per hour
16-25 years post qualification experience - \$575 - \$650 per hour
25+ years post qualification experience - \$650 - \$700 per hour”*

56. The Plaintiff then referred to paragraph 113 of Capital Partners, where it states as follows:

“Having ruled that it was necessary and proper for foreign counsel to be engaged to act as a conduit for advice and instructions to pass between the Plaintiff and Bermuda Counsel, I think it is only fair that the Plaintiff should be permitted to recover the actual costs of all fees related to those conduit steps. However, where Harney participated in case preparation beyond the conduit nature, I think the hourly rate should not exceed the rate allowed for by Ms. Tornari (\$575) as these were steps to be actioned by Bermuda Counsel.”

57. The Plaintiff argued that in arriving to the conclusion above, the former Registrar was not required to consider evidence of local charging rates in Hong Kong when assessing Harneys’ fees because the Plaintiff had confirmed as follows:

“Harneys Hong Kong is not a local Hong Kong firm and it is not regulated by the Hong Kong Law Society. The fee earners are not subject to the scaled charge out rates. Harneys Hong Kong is an offshore law firm (BVI Cayman and Bermuda) and Harneys Hong Kong’s hourly rates are entirely consistent with those regimes. Their hourly rates are in line with the Defendant’s rates.”

58. As it concerns the present case, the Plaintiff highlighted that the Shandong Defendants have failed to provide any information or evidence concerning the local costs regime in London or Shanghai, which would enable me to determine whether the costs claimed are reasonable and proportionate having regard to the relevant foreign costs regime. While it was accepted by the Plaintiff that this information or evidence was not required in Bateman, the Plaintiff distinguished the case of Bateman on the basis that the Linklaters lawyers engaged in this matter are regulated in England and Wales and Shanghai. As such, it is the Plaintiff's case that those respective local costs regimes apply to work carried out by them.
59. Further, using the Manfredi case in support, the Plaintiff argued that when assessing costs incurred in a foreign jurisdiction, the place where the work was done will assume significant importance and it is not appropriate to apply domestic principles of legal charging to other jurisdictions' systems.
60. In response to the Plaintiff's submissions, the Shandong Defendants argued that the two categories of work conceded by the Plaintiff as being reasonable and proportionate are inexplicitly narrow and without any justification. Ultimately, the Shandong Defendants argued that when the Plaintiff's narrow conceded areas of work are explored in full, it becomes clear that they should encompass a much wider range of the work performed by Linklaters.
61. As to the Plaintiff's submissions on the hourly rates to be charged, the Shandong Defendants referred to the case of Bateman, which in their submission sets out the approach to be taken by the Court in determining what rates are chargeable. The following passage appearing at page 206 of Bateman was highlighted:

"If the Taxing Officer should decide that the engagement of foreign attorneys was necessary or proper for the attainment of justice or for enforcing or defending the rights of the claimant, the next question is what rates should be chargeable whether those charged by attorneys in Bermuda or those charged by attorneys elsewhere acting as agents for the Bermuda attorneys. Miss Cooper has argued that foreign attorneys' costs should be allowed at their usual rates. She relied on McCullie v Butler [1962] 2 QB 309 in which, in an action in England, the legal work done by Scottish solicitors was allowed not as attorneys' fees but as disbursements to an agent on a taxation. I understand the reasoning in that case to be that such work as is necessary which could not reasonably have been done in house by the local firm of attorneys may properly be contracted out to agents who may seek to be reimbursed their reasonable charges as disbursements. The taxing Officer will have to use his or her judgment to determine the reasonableness of those charges. That would be a question of fact in each case."

62. Reference was also made to the case of Capital Partners, and then to the case of Golar. In Golar, the paying party successfully argued that the hourly rates allowed on taxation were excessive.
63. It is not accepted by the Shandong Defendants that the appropriate hourly rates to be claimed by foreign lawyers is the amount that would be allowed under their home jurisdiction. Similarly, the Shandong Defendants do not accept that the Manfredi case is authoritative on the issue of hourly rates, arguing that the approach set out in Manfredi has not been adopted into Bermuda law, nor should it be. In fact, according to the Shandong Defendants, the approach in Manfredi is at odds with the approach to foreign fees highlighted in the Bermuda case of Bateman.
64. As to the Plaintiff's concession that the Shandong Defendants are entitled to recover *only* the costs incurred by Linklaters' on work that could not have been reasonably carried out by Walkers, I would disagree. As seen in St. Johns and in Capital Partners, it is permissible for foreign counsel to be engaged in work that can be completed by local counsel, i.e. drafting and preparation. However, in determining the amount that can be recovered, the question that arises is (i) whether the costs are reasonable and proportionate; and (ii) the chargeable rate.
65. The Plaintiff argued that the test to be applied in determining the chargeable rate is set out in the Manfredi case; I do not agree. Rather, I agree with the Shandong Defendants that the starting point is set out in the Bermuda case of Bateman, which provides that the Court must use his or her judgment in all the circumstances of the case to determine the appropriate rate.
66. As to determining the hourly rate of local counsel, the Shandong Defendants invited the Court to depart from the position on local (Bermuda) counsel's hourly rates set out in Capital Partners as that decision is now 7 years old. It was highlighted that Mr Taylor's hourly rate is currently \$1,100, but was reduced to \$800 in this matter. It was argued that the market has evolved and that Counsel's rate should not be reduced any further. It is of note that the decision on hourly rates in Capital Partners is based on a Practice Direction that is now nearing 10 years old. Therefore, I would agree that hourly rates have increased, and would accept that Mr Taylor's hourly rate denoted in the Shandong Defendants' Bill (\$800) is reasonable in the circumstances, particularly bearing in mind Mr Taylor's length of call.
67. Further, and for the avoidance of doubt, I would accept that the hourly rates of all other attorneys at Walkers, i.e. those admitted to the Bermuda Bar, denoted in the Shandong Defendants' Bill is reasonable. Additionally, I would accept as reasonable the hourly rate

for paralegals employed at Walkers. Notably, the hourly rate of paralegals was not disputed by the Plaintiff.

68. In determining the appropriate rate for overseas counsel, it was determined in Capital Partners, that tasks completed by overseas counsel that are not of a conduit nature, while recoverable, should be assessed at the rate of local counsel. Tasks of a conduit nature would include case preparation, as is necessary, which could not reasonably have been done in-house by local counsel. I consider this determination to be in line with the Plaintiff's overarching argument that the hourly rate of the attorneys at Linklaters should be in line with the Bermuda scale.
69. While I am minded to agree with this position, I am also cognisant, as noted in St. Johns, that employing overseas counsel has become far more frequent over the course of the last decade. With that being the case, local counsel's approach to litigation where overseas counsel is engaged, has evolved with foreign counsel being more involved in the drafting preparation of the case generally. I therefore consider the approach taken by Wheatley R in St. Johns, i.e. applying a global reduction, to be a far more practical approach given the circumstances of this case.
70. As to the position on the hourly rates of pupils (Bermuda) and also trainees (London and Shanghai), the Plaintiff submitted that such costs should be disallowed. In response, the Shandong Defendants argued that disallowing these costs would deter firms from allowing pupils or trainees, who can reasonably complete the work, from doing the work. The position on the recoverability of pupil costs was considered in the case of Extraordinary Mayoral Election of City of Hamilton [2008] SC (Bda) 31 Civ, where it was found that such costs are disallowed in proceedings taxed on a standard basis. I do not intend to depart from this position, therefore, all costs claimed in respect of pupils or trainees shall be disallowed.

Objection B – Individual Items of the Bill of Costs

B1: Research

71. Referring to the case of Golar, the Plaintiff argues that legal research is not an allowable cost on taxation. Ground CJ stated the following at paragraphs 13 and 14 of Golar:

"[13] As to the law, it is not usual to allow legal research, at least on routine issues:

'Time spent considering the law and procedure is usually non-chargeable and the higher the expense rate, the more law and procedure the fee earner is expected to know...'"

“[14] I do accept that this case had some novel elements – the statutory provisions seem to be unique to Bermuda, and the Applicant raised a series of potentially difficult issues which had to be dealt with. Nonetheless, legal research as an element of charge should be constrained, particularly for high fee earners who are entitled to charge a high fee precisely because they are experienced and presumed to know the law.”

[Emphasis added].

72. The Plaintiff also referred to the case of Moulder v Cox Hallett Wilkinson and Ors (Taxation Review) [2012] Bda LR 1 (**Moulder**), wherein Ground CJ disapproved a 4-hour claim by Counsel for legal research:

“I do not think that that was properly allowable at all: lawyers are assumed to know the law and cannot normally charge for researching it. I take that to be self-evident...”

73. On this basis, the Plaintiff argues that the 22.2 hours spent on research totaling \$12,700.41 in the Shandong Defendants’ Bill should be disallowed. In response, the Shandong Defendants argue that the items identified by the Plaintiff as research do not involve conducting research, but rather refer to either (i) discussing high-level legal research, or (ii) advising the client.
74. The Shandong Defendants also argue that certain items objected to by the Plaintiff on the basis that such items are ‘research’ are plainly marked in error, as those items do not relate to research at all. For example, some of the items identified by the Plaintiff as research (for example, item 1298 of the Shandong Defendants’ Bill) refer to reviewing evidence and expert reports. It is to be noted that at the Taxation hearing, the Plaintiff withdrew its objections under this head in relation to items 1284 and 1298, which clearly refer to “advising on the issues of double actionability” and “final review of evidence and swearing affidavit” respectively. It was submitted that those incorrectly marked (and now conceded) items should be allowed and/or assessed in the normal way.
75. It was further argued by the Shandong Defendants that the alleged 22.2 hours spent on legal research amounts to less than 0.6% of the overall costs claimed in the Shandong Defendants’ Bill and should be considered reasonable and in the normal course of matters.
76. Bearing in mind the established practice set out in Golar, I too am of the view that all costs claimed for research by the Shandong Defendants should be disallowed. The Shandong Defendants were represented by a team comprised of local (Walkers) and overseas (Linklaters) counsel. In addition, the Shandong Defendants were represented at the hearing of the Application by leading counsel (Valentin KC), who was assisted in his pre-trial work

by a junior barrister. Counsel are presumed to know the law, and the costs claimed for legal research is not recoverable on the basis that such costs are accounted for in counsel's hourly rate. In my view, this principle extends to conducting research and discussing that research. Consequently, the Shandong Defendants' submission that the costs claimed in this regard should be allowed, is rejected.

77. Similarly, I do not accept the alternative submission by the Shandong Defendants that the amounts claimed for research should be considered reasonable given its proportionality to the overall costs claimed.

B2: Administrative Tasks

78. This objection relates to any administrative tasks noted in the Shandong Defendants' Bill; this includes booking flights, arranging hotels, catering options and trial logistics. In addition, the Plaintiff argues that the Shandong Defendants have included in Part II of their Bill a significant and disproportionate amount of time on matters related to Opus 2.
79. In their Reply Submissions the Shandong Defendants argued that the costs identified as 'administrative' can be split into two categories: (i) purely administrative tasks or overhead; and (ii) administrative in nature, but essential and relevant work performed for effective case management. It was further argued that the Court should take into consideration that the Shandong Defendants were the 'lead Defendants' in this matter, and as a result they:
- (1) Established online bundles with case management platform with Opus 2.
 - (2) Spearheaded the use of a hybrid hearing to cut on costs of stenographers and clients attending the hearing in person from overseas.
 - (3) Prepared indices in conjunction with local counsel.
 - (4) Collated all documents and files to prepare the online bundles; and
 - (5) Lead arrangements with the Court to ensure an efficient experience with 4 local counsel teams and overseas clients for a 4-day hearing.
80. It was accepted by the Shandong Defendants at the Taxation hearing that the costs claimed in their Bill that involved booking flights, arranging catering and dealing with any contractual issues with Opus 2 are administrative. I agree and those costs shall be disallowed.

81. As to the remaining costs claimed involving Opus 2, the Shandong Defendants cautioned the Courts in disallowing these costs. It was submitted that doing so would set a precedent that parties should not make efforts towards cost saving measures, including utilising technology for the benefit of clients, the parties and the Court, because the costs of doing so will be irrecoverable. The Shandong Defendants argued that these costs should be assessed reasonably and with the Order 62 Factors in mind, including the Overriding Objective in enabling the Court to deal with cases justly by ‘saving expense’ and utilising Court resources appropriately.
82. As a starting point, I do not follow the Shandong Defendants argument that disallowing the costs incurred involving Opus 2 would set a precedent that parties to litigation should not make efforts towards costs saving measures. It is clear from a review of the Shandong Defendants’ Bill that a large amount of time was spent by attorneys at Walkers and Linklaters (including partners, associates and trainees/pupils) dealing with matters involving Opus 2, and in particular the preparation of online bundles.
83. Notably, the recoverability of costs for the preparation of bundles was considered in the case of *St. Johns*. Following the established practice in *Golar*, Wheatley R found that the preparation of bundles is also considered an administrative task falling within the overhead element embodied in the hourly rate, and therefore such costs should be disallowed⁷. In line with this decision, I too am of the view that the preparation of bundles is an administrative task falling within the overhead element embodied in the hourly rate, and that this principle extends to the preparation of online bundles.
84. Preparation of online bundles would include establishing the online bundles with Opus 2, collating documents and files, and preparing indices. Items in the Shandong Defendants’ Bill involving these tasks have been disallowed as appears in the Appendix to this Ruling.
85. While attorneys should not be discouraged from utilising case management platforms that might assist the parties and indeed the Court, firms should be cautioned regarding who will be engaged in this work. I do not consider it reasonable or proportionate that partners, charging upwards of \$800 per hour, should be engaged in this work, and then seek they be reimbursed their costs.
86. I also consider of an administrative nature the costs incurred (particularly by associates or partners) liaising with the Court regarding technical requirements and logistics for Court hearings. These costs have been disallowed as appears in the Appendix to this Ruling.

⁷ See paragraph 75 of *St. Johns Trust Company PVT Limited v James Watlington et al* [2023] SC (Bda) 62 Civ.

B3: Seniority of Fee Earner

87. This objection relates to work that the Plaintiff considers (i) should have been done by a paralegal or pupil, but was done by an associate or (ii) should have been done by a more junior member of staff, but was done by a partner.
88. In principle, I accept the Plaintiff's submission, however rather than disallowing these costs in their entirety, I am of the view that such costs should be assessed and reduced accordingly on the basis that these costs are disproportionate.

B4: Duplication

89. This objection relates to work that only required one fee earner, but is done by multiple fee earners leading to a duplication of work. The Plaintiff argues that these costs should be disallowed. In response, it was argued by the Shandong Defendants that it is impossible to assess which items marked as falling under this category of objection are duplicated with each other. It was further submitted that the Plaintiff has made no attempt to link narratives and items to assist the Court and Counsel as to the relevant duplication.
90. It is an established practice in taxation proceedings that work of a duplicative nature should be disallowed. Whilst a team approach to litigation is permissible, receiving parties are not entitled to recoup costs incurred for the same work. Typically, upon a review of a bill of costs, if the narratives are sufficient in setting out the work carried out by the relevant fee earner, the Court and the paying party can identify where fee earners have duplicated efforts.
91. I would agree that identifying all instances where fee earners had duplicated efforts in the Shandong Defendants' Bill was challenging. It is clear that Linklaters, who had a team of attorneys that engaged in the pre-trial work, took the lead on drafting and preparation. That work was then reviewed by Walkers, who also had a team of attorneys engaged in the pre-trial work. No doubt this has resulted in duplication, and such costs should be disallowed or reduced accordingly.

B5: Supervision

92. This objection was raised in the Plaintiff's written submissions and relates to work carried out by an associate who is (i) checking paralegal work; or (ii) giving instructions to a paralegal. The Plaintiff argued that these costs should be disallowed.
93. In their Reply Submissions, it was highlighted by the Shandong Defendants that the Plaintiff had not provided any reasons or authority as to why reviewing work or providing

instructions should be disallowed. The Court was therefore urged to consider the narratives in each item identified by the Plaintiff as ‘supervision’ carefully. Specific reference was made to item 1502 of the Shandong Defendants’ Bill, which in their submission made no reference to supervisory work.

94. At the Taxation hearing, the Plaintiff accepted that supervisory work is necessary, however argued that the work must be proportionate and not duplicative. I agree, therefore rather than disallow the costs on the basis of ‘supervision’, I am of the view that such costs should be disallowed or reduced on the basis that such work is often duplicative.

B6: No Narrative/Not in Fee Earner List

95. This objection relates to items 1519, 1633 and 1634 of the Shandong Defendants’ Bill. The Plaintiff argued in their submissions that these costs should be disallowed on the basis that the fee earner listed in the entry has not been included in the fee earner table provided.
96. It was accepted at the Taxation hearing that item 1519 was likely included in the Shandong Defendants’ Bill in error. The Shandong Defendants conceded that the cost associated with this entry should be disallowed. I am satisfied that this item should be disallowed.
97. As to items 1633 and 1634, it was noted that these entries clearly set out the relevant fee earner, and that the fee earner identified appeared in the fee earner table. I agree, therefore these entries will be assessed and reduced accordingly.

B7: Redactions

98. This objection relates to items in the Shandong Defendants’ Bill where the text in the narrative has been redacted. The Plaintiff argues that these items should be disallowed as the full content and context of the work cannot be properly assessed by the paying party, or the Court. It was highlighted, with reference to the RSC, that any doubt should be resolved in favor of the paying party.
99. It is the Shandong Defendants’ case that narratives in the Shandong Defendants’ Bill were redacted on the basis that those entries contained privileged information. It was submitted by the Shandong Defendants that it would be unreasonable for an entitled party to accept that privileged instructions or work done on behalf of its client should be disallowed. It was further submitted that in the absence of sufficient information in the narrative, the Court should resolve to reduce the amount allowed rather than disallow it entirely.

100. I agree in principle that excessive redactions to narratives in a bill of costs hinder both the paying party and the Court's ability to properly assess the work that is being carried out. It is undisputed that in taxations on a standard basis, any doubt must be resolved in favor of the paying party. Therefore, entries where the narrative is wholly deficient due to redactions, I have disallowed those costs in their entirety as appears in the Appendix to this Ruling.
101. I have also found that a number of the entries identified by the Plaintiff as falling under this category of objection involved tasks I consider administrative and/or duplicative. Those entries have also been disallowed in their entirety as appears in the Appendix to this Ruling. I am satisfied that the remaining entries identified as falling under this category of objection should be assessed and reduced accordingly.

B8: Excessive Time

102. This objection relates to items in the Shandong Defendants' Bill where the fee earner has spent a disproportionate amount of time on the relevant task. Aside from identifying a number of entries in the Shandong Defendants' Bill as falling in the category of 'excessive time' it was argued by the Shandong Defendants' that the Plaintiff did not provide any justification as to why the entries identified as falling under this category of objection should be classified as excessive.
103. It was further noted that a number of entries highlighted as falling under this category of objection related to the drafting of the First Affidavit of Christopher Stevenson, which was prepared and filed in support of the Application. According to the Shandong Defendants, the Affidavit supported their position that they had not been validly served with the proceedings, and that the Court had no jurisdiction to try the claim. It was submitted in the Reply Submissions as follows:

*"The 53-page affidavit set out a myriad of matters to the Court for the first time, including the factual background to the relevant transactions and enforcement steps, procedural background and service and the Shandong Defendants' challenge to the jurisdiction of the Bermuda Courts. Assessed in conjunction with the factors set out in the 14 October Letter, it was therefore entirely proper that Linklaters would take lead in preparing evidence that would support its clients' position and the costs should be allowed."*⁸

104. It was then argued that the same principle should be applied for all further affidavits required of Mr Stevenson and Linklaters' evidence.

⁸ See paragraph 60 of the Shandong Defendants' Reply Submissions.

105. It is noted that the Plaintiff did not submit that the costs identified as falling under this category of objection should be disallowed in their entirety, and I am satisfied that these costs should be assessed. Notably, for completeness, I am also satisfied that on a global assessment of the Shandong Defendants' Bill, the costs incurred appear, in the round, excessive. Therefore, the Shandong Defendants' Bill will be taxed accordingly, as appears later in this Ruling.

B9: Combined/Vague Narratives

106. This objection relates to narratives appearing in the Shandong Defendants' Bill that the Plaintiff argues are deficient, and also to items where the narrative combines several tasks into one block entry.

107. According to the Plaintiff, narratives on bills of costs must be sufficiently particularised in order for the paying party and the Registrar to identify the work performed and judge the propriety, reasonableness and necessity of such work. Where narratives in a bill of costs are not sufficiently particularised, the Plaintiff argues that the profit costs claimed ought to be disallowed or heavily discounted.

108. The recoverability of costs where the narratives are determined to be vague was considered by Wheatley R in *St. Johns*. It was determined that the costs associated with vague narratives ought to be disallowed⁹. I agree with this view.

109. Further, as argued by the Shandong Defendants, combined or 'block' narratives where fee earners have set out a number of tasks in one combined entry cannot also be classified as deficient or vague; I agree. In my view, rather than disallowing combined or block narratives in their entirety, such items are to be assessed by the Registrar. I am satisfied in this case, that items falling within this category of objection should be assessed and reduced accordingly.

Objection B10: Disbursements – Counsel Fees

110. As set out earlier in this Ruling, in accordance with Order 62 Part II, Division I, rule 2 of the RSC, no fees to overseas counsel who has been specially admitted as an attorney shall be allowed unless – (a) before taxation its amount has been agreed by the attorney instructing overseas counsel; and (b) before taxation a fee note signed by overseas counsel or his clerk is produced.

⁹ See paragraph 65 of *St. Johns Trust Company PVT Limited v James Watlington et al* [2023] SC (Bda) 62 Civ.

111. Fee Notes on behalf of Valentin KC and Ian Bergson (together **Counsel**) were submitted to the Plaintiff and the Court together with the Amended Bill. It was the preparation of the Fee Notes that led to the discovery that an amendment to the Original Bill was required to reflect the correct amounts paid to Counsel. The amendments to the Original Bill resulted in a reduction to the costs claimed for fees paid to Counsel from \$477,876.05 to \$425,374.32.
112. Despite the provision of the Fee Notes, and the corresponding amendments to the Original Bill, the Plaintiff continued to object to the costs claimed, however under specific categories of objection. Additionally, the Plaintiff argued that the Fee Notes do not clearly allow the paying party or the Court to properly reconcile the amounts actually paid by the Shandong Defendants. It was reiterated that any doubt should be resolved in favor of the paying party.
113. In line with my findings set out earlier in this Ruling¹⁰, I have allowed all costs incurred by Valentin KC in respect of his attendance in court. I have also disallowed all costs claimed by Counsel for research¹¹. Unfortunately, the entries in the Fee Notes are not numbered. I have therefore included in the Appendix to this Ruling the date on which such entries appear.
114. As to the remaining items set out in the Fee Notes, I have considered that the majority of these entries appear duplicative. For instance, costs are claimed for liaising with counsel at Linklaters, and reviewing pleadings that have been drafted by counsel at Linklaters. That being the case, bearing in mind the approach taken by Wheatley R in *St. Johns*, which I consider practical in the circumstances, I will apply a global reduction of 50% to the remaining costs.

SUMMARY OF FINDINGS AND DECISION ON TAXATION

Costs Payable to the Supreme Court Registry

115. I have allowed all costs incurred by the Shandong Defendants in respect of filing fees (revenue stamps) due to the Supreme Court Registry.

Costs Payable to Attorneys in Supreme Court

116. I have considered the costs claimed by the Shandong Defendants both globally, and on an item-by-item basis. Given the nature of the Application, I am of the view that the costs claimed by the Shandong Defendants, when considered in the round, are excessive. Although the hearing of the Application spanned over 4 days and all parties were

¹⁰ See paragraphs 48 and 49 of this Ruling.

¹¹ See paragraphs 76 and 77 of this Ruling.

represented by leading Counsel (which was their right), I do not agree that professional charges in the total sum of \$1,793,793.02 can be considered reasonable or proportionate in the circumstances.

117. It is to be noted that the Shandong Defendants' Bill is 152 pages, with 2180 entries from 19 fee earners. While I have set out my findings as it relates to the individual objections raised by the Plaintiff, and have set out in the Appendix to the Ruling with specific entries that I have disallowed, I am of the view that a more practical approach in assessing the remaining items set out in Part II of the Shandong Defendants' Bill is to apply a global reduction to the total amount claimed.
118. Therefore, all items set out in Part II of the Shandong Defendants' Bill that have not been disallowed as set out in the Appendix to this Ruling shall be reduced by 30%. This reduction shall be applied to the overall figure due to the Shandong Defendants once the Shandong Defendants' Bill has been revised to reflect the specific costs that have been disallowed in Part II of the Shandong Defendants' Bill.
119. For the avoidance of doubt, this 30% reduction is in addition to the 10% reduction set out in the Costs Ruling that relates to the Defendants' claim that there was no serious issue to be tried.

Disbursements

Walkers (Bermuda) Limited

120. I have allowed all costs incurred by the Shandong Defendants in respect of filing fees, and Valentin KC's work permit. I have also allowed the costs in relation to fees payable to Opus 2, provided the parties did not reach an agreement contrary to this finding when it was agreed that Opus 2 would be engaged.
121. All remaining disbursements claimed under this category (courier, catered lunch, etc.) have been disallowed on the basis that I consider such fees administrative.

Linklaters

122. It is noted that the amount claimed is nominal and relate to courier fees, search fees and fees in relation to affidavits. All disbursements claimed under this category have been disallowed on the basis that I consider such costs administrative.

Counsel Fees

123. I have allowed all costs incurred by Valentin KC in respect of his attendance in court. All costs claimed by Valentin KC or Ian Bergson involving research have been disallowed. All remaining costs claimed in respect of Counsel that have not been identified as being allowed or disallowed shall be reduced by 50%.

Costs of Taxation

124. I have allowed a total of 4 hours for attendance at the Taxation hearing for Mr Kevin Taylor.

CONCLUSION

125. Counsel for the Shandong Defendants are invited to submit a Revised Bill of Costs taking into effect this Ruling. The Revised Bill should take into account the global reductions set out in this Ruling and the Costs Ruling of Hargun CJ, as well as the interim payment of \$400,000 made by the Plaintiff.

DATED this 15th day of **September 2025**



CRATONIA THOMPSON, ACTING REGISTRAR

CIVIL JURISDICTION

2021: No. 56

APPENDIX TO TAXATION RULING

OBJECTIONS	ITEMS DISALLOWED
OBJECTION A	
Multiple Counsel	122, 127, 135, 140–143, 147–150, 154, 161–163, 170–172, 182–184, 196–199, 214, 215, 223, 224, 228–230, 243, 244, 252, 260–264, 272, 282–285, 308–314, 321, 329–331, 337, 340, 344, 346, 362, 363, 372, 410, 437, 440, 446, 455, 468, 471, 476, 491, 492, 500, 509, 515, 516, 518, 521, 526, 538, 558, 559, 565–567, 582, 585, 595, 596, 600, 606, 607, 610, 614, 626, 627, 633, 634, 641, 648, 662, 663, 671, 680, 683, 691, 702, 711, 713, 736, 742, 757, 765, 1058–1060, 1066–1068, 1075–1078, 1083, 1094, 1099, 1100, 1104, 1115–1118, 1124, 1129, 1135, 1136, 1215, 1228, 1234, 1241–1243, 1375, 1376, 1387, 1443, 1455–1458, 1463, 1475, 1476, 1479, 1489–1491, 1505–1507, 1515–1518, 1524–1526, 1535–1538, 1553–1556, 1621–1623, 1630, 1662, 1681, 1695, 1713–1716, 1731, 1739, 1754–1756, 1768–1772, 1801–1803, 1826–1830, 1854–1859, 1888–1892, 1909, 1939–1941, 2022–2026, 2048–2051, 2094, 2102, 2110, 2114, 2119
OBJECTION B	
B1: Research	14, 149, 177, 272, 295, 363, 368, 662, 671, 672, 681, 1289, 1315, 1346, 1355, 1694, 2094, 2149
B2: Administrative Tasks	140, 284, 313, 314, 321, 331, 755, 827, 841, 1027, 1029, 1036, 1066, 1072, 1099, 1100, 1401, 1402, 1454–1457, 1463, 1469, 1471, 1472, 1475, 1476, 1482, 1483, 1485, 1486, 1489, 1491, 1501, 1502, 1504, 1505, 1510, 1511, 1513–1519, 1523–1532, 1535–1545, 1547–1562, 1564–1574, 1576, 1577, 1579, 1581–1584, 1586, 1588, 1591, 1592, 1595–1598, 1600–1603, 1605–1610, 1614, 1615, 1616, 1623, 1625–1627, 1640, 1645–1647, 1662–1664, 1667, 1671, 1673, 1674, 1677,

	1683, 1684, 1695–1704, 1708, 1709, 1713–1716, 1718–1720, 1722, 1724–1727, 1733–1735, 1740, 1742–1748, 1752, 1758, 1759, 1760, 1761, 1762, 1765, 1774, 1776, 1785, 1793, 1796–1799, 1801, 1805, 1806, 1809–1821, 1822–1830, 1837, 1838, 1844, 1848–1850, 1853, 1862, 1863, 1865, 1867–1869, 1871, 1872, 1881, 1883–1886, 1894–1899, 1901, 1902, 1905, 1911, 1916, 1917, 1919, 1921–1929, 1945–1949, 1951, 1953, 1957, 1959, 1962–1967, 1972, 1976–1978, 1986, 1989–1993, 1999–2003, 2010–2018, 2022, 2023, 2025, 2030, 2031, 2034, 2035, 2120, 2125, 2130–2132
B3: Seniority of Fee Earner	
B4: Duplication	
B5: Supervision	
B6: No Narrative/ Not in the Fee Earner List	1519
B7: Redactions	79, 85, 232, 257, 499, 763, 1239, 1451, 1602, 1664, 1666, 1717, 1722, 1724, 1730, 1751, 1757, 1773, 2036, 2081, 2139, 2157, 2173, 2176, 2177
B8: Excessive Time	
B9: Combined/ Vague Narratives	86, 849, 1139, 1225, 1231, 1333, 1364, 1416, 1686, 1771, 1778, 1779
B10: Disbursement of Counsel Fees	14/04/2022, 20/04/2022, 22/07/2022, 01/03/2023, 02/03/2023

Note: some entries have been disallowed under more than one category of objection.