

THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

2021/CLE/gen/01260

BETWEEN

FEDERICO RIEGE

Plaintiff

AND

(1) SARKIS D. IZMIRLIAN

(2) THE PRESERVE DEVELOPMENT COMPANY LTD.

(Formerly CRIOLLO ONE LIMITED)

Defendants

Before Chief Justice Sir Ian Winder

Appearances: Gail Lockhart–Charles KC with Terrel Butler for the Plaintiff

Wilfred Ferguson Jr with Aquelle Tuletta for the Defendants

DECISION

WINDER, CJ

1. On 11 April 2023 when I refused the Plaintiff's interlocutory application for specific disclosure I gave the Defendants their reasonable costs of the application and indicated that I would receive submissions as to the costs, which I would summarily assess. Having received submissions from the Defendants, this is my decision on the assessment of the Defendants' reasonable costs.
2. The Defendants have submitted a purported bill of costs in the amount of \$29,122.50 plus \$838.20 in disbursements.
3. The interlocutory application was quite ably argued by Wilfred Ferguson Jr. The bill reflects the work done by three attorneys – Brian Simms KC, Wilfred Ferguson Jr and Aquelle Tuletta (pupil). In each case there is clearly an overlap in the work done by the three attorneys. Mr. Simms KC did not attend at the hearing of the interlocutory application. The actual hearing itself took just over 3 hours for both sides to present their arguments. The matter was not certified fit for any amount of counsel and I would be hard-pressed to certify that it was fit for 2 counsel or more.
4. The Court's discretion in assessing costs must be exercised not merely by looking at the work said to have been done by Counsel but also taking into account the reasonableness of incurring such costs. As the hearing judge, I am in a prime position to determine the reasonable level of costs to be awarded in what ought to have been a very simple interlocutory application.
5. In assessing the reasonableness of the costs, I have taken into account the time spent before me, the work reasonably to have been expended, the seniority of counsel and the importance of the matter to the client. Having looked at the work, in the round, I will fix the reasonable professional charges in this matter, at \$8,000 inclusive of disbursements.

Dated this 27th day of June 2023


Sir Ian Winder
Chief Justice