



**Tchenguiz v Akers & Hamedani**  
Royal Court  
25<sup>th</sup> October 2017

**JUDGMENT**  
**47/2017**

Costs of Taxation

**IN THE ROYAL COURT OF GUERNSEY**

**ORDINARY DIVISION**

**Civil No. 1849**

**IN THE MATTER OF:**

**ROBERT TCHENGUIZ**

**Applicant**

**- and -**

**(1) STEPHEN AKERS**

**(2) HOSSEIN HAMEDANI**

**Respondents**

**Before: Lieutenant Bailiff Master Peter Haworth**

**JUDGMENT handed down: 25th October 2017**

**Introduction**

1. On the 21<sup>st</sup> March 2017, I taxed the bills of cost of the First and Second Respondents, payable by the Applicant pursuant to Acts of Court dated the 13<sup>th</sup> May 2016 and 2<sup>nd</sup> November 2016.
2. On the 10<sup>th</sup> May 2017, an Act of Court recorded the agreement of the parties as to the amounts taxed by me as follows:

“1.The June 2016 Bill of Costs is taxed at £167,105.74.

2. The February 2017 Bill of Costs is taxed at £5,742.”

## The Issue

3. At the taxation hearing on the 21<sup>st</sup> March 2017, I directed the parties endeavour to agree the costs of taxation but in default of agreement, I directed that I would determine the issue on the papers.

## Facts

4. On the 3<sup>rd</sup> May 2017, the receiving parties' Advocate wrote to the Court indicating that the paying party was not willing to agree the cost of taxation, despite the fact that the receiving party had beaten an offer made prior to the taxation. The receiving Party sought its costs of taxation and relied on the following matters:
  - (a) The paying party's offer of settlement on the two bills of costs was £150,000 and £4,400 respectively.
  - (b) The receiving party recovered more costs on the taxation than the offers made by the paying party. In respect of the main bill of costs some £17,000 more. Whilst the outcome of the taxation represented a sizeable reduction on the sum claimed in the Bills of Cost, nevertheless, the end result was a significant amount over the offer which had been made by the paying party.
  - (c) The paying party opposed many points of principle upon which the taxation was fought, including foreign lawyers' fees, English Counsel and the appropriate hourly rates to be applied. The receiving party was successful in these points; the reduction in sums claimed was largely due to the reduction in individual time entries rather than points of principle.
5. In response the paying party wrote to the Court on the 10<sup>th</sup> May 2017, seeking an Order that the receiving party should pay the paying parties' costs of the taxation. The basis of their submission was that in relation to the 30<sup>th</sup> June 2016 bill, the receiving party had claimed the sum of £527,310.63. The paying party offered to settle those costs in the sum of £150,000. The bill was taxed at £167,105.74 of which £9,000 related to the costs of taxation. That being the case, the receiving party recovered only £8,000 more than the offer when taking into account the costs of taxation already allowed. Put another way, the receiving party recovered only 31% of the costs he had claimed, it being submitted that the receiving parties' claim for costs was "wholly unreasonable". In respect of the 21<sup>st</sup> February 2017 bill, the receiving party claimed £12,119.91 and the paying party offered to settle the costs at £4,400. The bill was taxed at £5,742 of which £500 related to the cost of taxation. That being the case, the bill was taxed at only £800 more than the offer from the paying party, taking into account the

costs of taxation. The receiving party, it was submitted, recovered only 45% of the costs claimed. As no reasonable counter offer had been made by the receiving party the paying party was left with no option but to go ahead with the taxation hearing.

6. The receiving party wrote to the Court on the 18<sup>th</sup> May 2017. The thrust of their further submissions was that the receiving party had beaten the paying parties' offer of settlement on both bills of cost and that as such, the usual order for costs should apply. The receiving party drew my attention to the relevant authorities, namely *Buckley v Ronez Limited* GLR 2009–10 120 applying the equivalent English provisions of CPR Part 36. Furthermore, they submitted that the Court should have regard to the timing of the offers which came late in the day and without any real indication of the basis upon which the offers were calculated.

7. The costs of taxation sought by the respective parties are:

- The receiving party (the Respondents) £12,984.25.
- The paying party (the Applicant) £25,573.

Both parties invite the Court to summarily tax the costs.

## Discussion

8. I have a broad jurisdiction to order costs “*of any stage*” of the proceedings pursuant to Rule 82 (1)(a) of The Royal Court Civil Rules 2007. The analogous provisions of CPR, in England are that in general the receiving party is entitled to its costs of assessment (see CPR Rule 47.20(1)). Furthermore, the receiving party has beaten the paying parties' offer of settlement in relation to both bills taxed by me. However, I take note of the submissions of the paying party that when the costs of taxation already allowed in the Bills are stripped out, the receiving party only beat the paying party's offer in relation to the 30<sup>th</sup> June 2016 Bill by £8,000 and in relation to the 21<sup>st</sup> February 2017 Bill, by £800. What I also take into account is that in relation to the 30<sup>th</sup> June 2016 Bill, a total sum of £527,310.63 was claimed, of which the receiving party recovered only 31%. Likewise, in relation to the 21<sup>st</sup> February 2017 Bill, the receiving party claimed £12,119.91 of which £5,742 was allowed, namely 45% of the costs claimed.

9. Whilst the analogous rule in CPR Rule 47.20(1) makes the general presumption that the receiving party is entitled to the costs of taxation, the provisions of CPR Rule 47.20(1)(b) allow the Court to make some other order in relation to all or part of the costs of the taxation proceedings. In particular CPR Rule 47.20(3), allows me to take into account the amount, if any, by which the Bill of Costs has been reduced. In this case it seems to me that this is an appropriate case so to do, on the basis that the receiving parties' costs have been reduced in relation to the 30<sup>th</sup> June 2016 Bill by some 69% and in relation to the 21<sup>st</sup> February Bill 2017, by some 65%. These are a substantial discount on what was claimed and to my mind, the appropriate order in this case is that there be no order as to the costs of taxation.

**Lieutenant Bailiff Master Peter Haworth**

**Dated this 25th October 2017**