THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION

SAINT LUCIA

[1] Claim Number: SLUHCV2024/0202 formerly SLUHCV2014/0100
BETWEEN

RAMBALLY BLOCKS LIMITED

Claimant

-and-

THE COMPTROLLER OF CUSTOMS & EXCISE

Defendant

Heard Together with:

[2] Claim Number: SLUHCV2024/0203 formerly SLUHCV2014/0309
Appeal Number: SLUHCVAP2017/0019

BETWEEN:

ECONO PARTS LIMITED

Claimant

-and-

THE COMPTROLLER OF CUSTOMS & EXCISE

Defendant

Consolidated with:
Claim Number: SLUHCV2016/0187
BETWEEN:

MR. PARTS LIMITED

Claimant

-and-

THE COMPTROLLER OF CUSTOMS & EXCISE

Defendant

Heard Together with:

[3] Claim Number: SLUHCV2024/0204 formerly SLUHCV2014/0513
Appeal Number: SLUHCVAP2018/0001
BETWEEN:

CHINA TOWN INC.

Claimant

-and-

THE COMPTROLLER OF CUSTOMS & EXCISE

Defendant

Before the Honourable Mr. Justice Alvin S. Pariagsingh

Appearances: Mr. Vandyke Jude and Mr. Mervyn Steele for all the Claimants/ Applicants
Mrs. Antonia Charlemagne for the Defendants in SLUHCV2024/0202 and SLUHCV2024/0203
Seryozha Cenac for the Defendant in SLUHCV2024/0204

2024: November 12
2025: January 31

JUDGMENT
Claimants' assessment of costs and vindicatory damages

INTRODUCTION:

[1] **PARIAGSINGH, J**: - Before the Court are three applications for the Claimants' assessment of costs and vindicatory damages pursuant to separate orders set out below. In furtherance of the overriding objective, and particularly the allocation of the Court's resources, all three assessments of costs arising out of the similar matters were heard together as they were docketed to this Court. I have also chosen to deliver one judgment, for those same reasons. The cases will also be referred to by the Claimant's names, for brevity. Additionally, all of the Claimants will be collectively referred to as the "Claimants".

THE ORDERS:

[2] **Rambally Blocks Limited:** - On 31 January 2018, Cenac – Phulgence J made the order that: "Costs to the Claimant to be assessed costs in accordance with CPR 65.12 if not agreed by the parties within 21 days of the date of judgment".

[3] **Econo Parts Ltd and Mr. Parts (consolidated matters)** - In SLUHCVAP2017/0019, an appeal from the decision of Smith J, SC (dated 10 May 2017), the Court of Appeal on 30 July 2019 ordered that:

1. The appeal is allowed.

2. Nominal damages in the sum of $20,000.00 together with vindicatory damages in the sum of $75,000.00 awarded to the appellant.

3. The appellants are entitled to their costs in court below, such costs to be assessed if not agreed within 21 days, and on appeal, to two-thirds of the assessed costs in the court below."

[4] **China Town Inc.** : In SLUHCVAP2018/0001, an appeal from the decision of Belle J (dated 28 November 2017), the Court of Appeal on 8 December 2020 ordered as follows:

1. The appeal is dismissed.

2. The case is remitted to the High Court to assess the quantum of vindicatory damages.

3. The costs of the appeal to be paid by the appellant at the rate of two-thirds of the amount assessed for the proceedings in the lower court.

[5] Pursuant to these orders, this judgment will first deal with the assessments of costs of the three matters, and then the assessment of vindicatory damages in China Town Inc.

THE APPLICABLE REGIME AND BASIS OF ASSESSMENT FOR COSTS:

[6] In their submissions, the Claimants argued that costs should be assessed on an indemnity basis, failing which, the global approach as set out in **Home Office v Lownds**[1], should be adopted.

[7] These are administrative claims, and the applicable costs regime is assessed costs. Costs are usually assessed on the standard basis and are recoverable only if they are both reasonable and proportionate to the matters in issue. The burden of proof lies with the receiving party to demonstrate this, and any doubt regarding the reasonableness or proportionality of the costs is resolved in favour of the paying

[1] [2002] 4 All ER 775

party. This default approach ensures fairness and prevents excessive penalties for the paying party.

[8] In contrast, costs assessed on the indemnity basis are more generous. Under this regime, costs are recoverable if they are reasonable, without the requirement of proportionality. The burden shifts to the paying party to show that the costs claimed are unreasonable, with any doubts resolved in favour of the receiving party. Indemnity costs are typically awarded in cases of misconduct, unreasonable behaviour, or other exceptional circumstances warranting fuller compensation for the receiving party.

[9] The primary distinction between the two bases lies in the role of proportionality and how doubts are resolved. On the standard basis, proportionality is a key requirement, and doubts favour the paying party. On the indemnity basis, proportionality does not apply, and doubts favour the receiving party. These differences allow the court to tailor costs awards to suit the conduct and context of the case.

[10] Indemnity costs are recognised in common law and codified in procedural rules in jurisdictions such as England and Wales. Although not explicitly addressed in the **Civil Procedure Rules (Revised Edition) 2023** or its predecessor, the **Civil Procedure Rules 2000 (as amended)**, indemnity costs under common law reflect the principle that a party should not bear undue costs caused by another party's unreasonable or improper conduct. This aligns with common law's broader goals of fairness and justice, deterring misconduct while compensating those unfairly burdened with expense.

[11] The Claimants submitted that no authority in this jurisdiction permits the court to consider assessing costs on an indemnity basis. This assertion is incorrect. In **The**

Attorney General of Saint Christopher & Nevis & Anor v Queensway Trustees Ltd[2], Gordon JA addressed the issue. At paragraph 12, he noted:

> "Having found (at paragraph 8 above) that indemnity costs or any grammatical derivative of that phrase are not referred to in CPR, an ineluctable corollary is that the term cannot be a term of art. Thus, the only interpretation of the term 'indemnity' as qualifying 'costs' must be its ordinary everyday meaning, but subject to any guidance, constraint, or direction contained in the law. Rule 1.1 and 1.2 of CPR are of vital significance in this regard and are reproduced for ease of reference…"

[12] A key issue in **Queensway** was that the order for indemnity costs was not appealed. At paragraph 15, Gordon JA observed:

> "Had the appellants approached this litigation in any other than the cavalier and dismissive way that it has, it is quite likely that this appeal might have been unnecessary... Costs of the appeal are awarded to the respondent."

[13] It is clear that the court's discretion on costs operates at two stages. The first stage determines liability for costs (e.g., whether assessed or prescribed costs are awarded). The second stage involves assessing or quantifying the costs to be paid. If the Claimant sought indemnity costs, this request should have been considered by the judge when determining liability for costs, not at the quantification stage.

[14] In **Rampersad v Ramlal**[3], the trial judge ordered the Defendants to pay assessed costs instead of prescribed costs after hearing the evidence. The Board upheld this decision, emphasising that it is the trial judge, fully acquainted with the case, who is best placed to decide on liability for costs. The taxing officer's role is limited to quantifying costs, not revisiting the basis for the order even if the taxing officer is the same judicial officer who made the order for costs. In the absence of a challenge to the order for costs by way of appeal, a request for indemnity costs cannot be entertained at the stage of quantification, if that basis of assessment does not form part of the order for costs.

[2] SKBHCVAP 2005/0015 (unreported)
[3] [2022] UKPC 50

[15] In the present case, if the Claimants wanted indemnity costs, such an application should have been made to the trial judge before the order for costs was finalised. Revisiting the order at this stage to include indemnity costs would be inappropriate and, if disputed, should have been the subject of an appeal.

[16] Further, the authorities cited by the Claimant—**Digicel (St. Lucia) Ltd v Cable & Wireless & Ors**[4], **Three Rivers DC v Bank of England**[5]**, Excelsior Commercial & Industrial Holdings Ltd v Salisbury Hamer Aspden & Johnson**[6], and **Kiam v MGN Ltd (No. 2)**[7]—are not relevant at the quantification stage. These cases address liability for costs and the court's considerations in awarding indemnity costs but do not support the proposition that a taxing court can alter an existing costs order.

[17] Accordingly, I decline to assess costs on an indemnity basis in these matters. The Claimants' contention that the Defendant's conduct was unreasonable, including ignoring pre-action attempts at engagement, was a matter to be addressed when the costs order was made, not during assessment. This court's role is confined to quantifying the costs order already made.

[18] Consequently, costs in this matter will be assessed on the standard basis. Only items that are both reasonable and proportionate to the matters in issue will be allowed.

[4] [2010] EWHC 888(Ch)
[5] [2006] EWHC 816 (Comm)
[6] [2002] EWCA Civ 879
[7] [2002] EWCA Civ 66

THE METHOD OF ASSESSMENT:

[19] The approach to the assessment of costs, is stated in **Irma Annette Hughes & Anor v Joseph Smith & Anor**[8]. It is a two-stage approach as explained in **Lownds v Home Office**[9]:

> "[31] …There has to be a global approach and an item-by-item approach. The global approach will indicate whether the total sum claimed is or appears to be disproportionate having particular regard to the considerations which Part 44.5(3) states are relevant. If the costs as a whole are not disproportionate according to the test then all that is normally required is that each item should have been reasonably incurred and the costs for that item should be reasonable. If on the other hand the costs as a whole appear disproportionate then the court will want to be satisfied that the work in relation to each item was necessary, and if necessary, the cost of the item was reasonable."

THE RATES ALLOWED:

[20] The rates claimed for the Claimants' attorneys were calculated based on an hourly rate: for Senior Attorneys Vandyke Jude and Clarence Rambally, the sum of $600.00 per hour, and Junior Attorney Mervyn Steele, the sum of $400.00 per hour. The Claimant submitted that these rates represent a reduction of their standard rates of $1,100.00 and $700.00 per hour respectively.

[21] In this jurisdiction there are no prescribed hourly rates. There are however several decisions of the Court with recommended ranges of rates. In **Paradise Beach Holdings Limited v Nevis Paradise Limited & Ors**[10], Moise M allowed the rate of $600.00 per hour for senior attorney and $600.00 per hour for junior attorney. In **Epicurean Limited v American International Bank Limited**[11], Chief Registrar, Cenac – Phulgence (as she then was) allowed a rate of $500.00 per hour for senior counsel and a rate of $300.00 per hour for junior counsel. In **Mark Brantley v**

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[8] SKBHCV2019/0177 (unreported)
[9] [2002] 4 All ER 775
[10] NEVHCV2017/0093
[11] HCVAP2004/0013

Hensley Daniel et al[12], Williams J allowed a rate of $550.00 per hour for counsel above 18 years call. In Vitaly **Gogokhia v Savannah Advisors Inc**, [13], Master John – Theobalds (Ag.) allowed a rate of $600.00 for a counsel of a little over 10 years call. A distinguishing factor in Gogokhia being that there was only one counsel.

[22] Taking the above into account, I am of the view that the rates claimed of $600 per hour for counsel of 40 years call, Mr. Jude and Mr. Rambally and $400.00 per hour for counsel of over 10 years call, Mr. Steele to be reasonable and proportionate. These are the rates which be used for the assessment of the three matters.

THE GLOBAL APPROACH:

[23] **Rambally Blocks Limited**:In Rambally Blocks Limited, the total sum claimed is $147,080.16, comprising $137,420 in legal fees and $9,660.16 in disbursements. The Court is of the view the issues in this claim were not so novel or complex so as to warrant the overall sum claim. The Court is of the view that the total sum claimed is disproportionate when the factors stated in CPR 65.2 (3) are taken into consideration.

[24] **Econo Parts & Mr. Parts Ltd:** The Claimants claimed the sum of $123,660.00 for legal costs for attorney Mr. Jude and $11,410.00 representing disbursements for the applications and documents filed in this matter. Applying the global approach, the sum claimed is disproportionate to the work to be done by hypothetical counsel.

[25] **China Town Inc:** The Claimants claimed the sum of $164,440.00 for legal costs for Mr. Jude, Mr. Rambally and Mr. Steele, and disbursements in the sum of $46,062.90.

[12] NEVHCV2013/0118
[13] NEVHCV2020/0027

[26] The Court is of the view global sums claimed are grossly disproportionate to the work done in these claims. The sums claimed do not represent fair compensation for the work actually done give the level of similarity between the issues in these claims. Additionally, the Claimants use of more than one Counsel in some of the matters does not automatically translate that they are entitled to costs for multiple counsel. Costs recovery is not based on fees paid it is based on an estimate of what a hypothetical counsel of reasonable competence would have charged to do the work done. These sums on the global approach consideration is disproportionate.

[27] The Court therefore must proceed to an item-by-item approach examination of the Bills of Costs.

THE ITEM-BY-ITEM APPROACH:

[28] Under this method, each item on the bill is assessed individually. The first question is whether the item was necessary. If the item is deemed unnecessary, no sum is allowed. Whereas, if deemed necessary, the court determines whether the sum claimed is reasonable. If the court deems the sum as reasonable for a necessary item, it is awarded. However, if the court finds that the item was necessary, but the amount claimed unreasonable, it will allow a sum it considers appropriate for a hypothetical competent counsel to perform the same work. This hypothetical counsel is presumed to be a reasonably competent lawyer, not one with specialised training in a specific area of law.

[29] **Rambally Blocks**: On this bill of costs, items 1 to 52 relate to the claim itself, while the remaining items pertain to the costs of preparing the bill, which are addressed separately.

[30] The total sum allowed is **$27,960.00** for Mr. Jude and **$3,200.00** for Mr. Steel. A comprehensive breakdown of the assessment is attached as **APPENDIX A** to this judgment.

[31] **Econo Parts & Mr. Parts:** Utilizing the item-by-item approach, the total sum allowed for legal costs in this matter is **$28,740.00** for Counsel. A comprehensive breakdown of the assessment is attached as **APPENDIX B** to this judgment.

[32] **China Town Limited:** Utilizing the item-by-item approach, the total sum allowed for legal costs in this matter is **$38,220.00** for Counsel. A comprehensive breakdown of the assessment is attached as **APPENDIX C** to this judgment.

DISBURSEMENTS:

[33] Disbursements represent pecuniary losses akin to special damages and refer to expenses already incurred. As such, they are subject to a process of "vouching," whereby bills and receipts are provided to substantiate the claim.

[34] The Claimants have not provided any such supporting documents. While it is evident that the Claimant incurred expenses (e.g., filing fees, copies, and service fees), the court cannot allow the sums claimed without proper details or evidence.

[35] **Rambally Blocks -** The Claimant has claimed $9,660.16 in disbursements, including $4,993.56 for photocopies. However, it is noted that some disbursements also relate to costs associated with the taxation process. Given the lack of specific evidence, the court awards a global sum of $5,000 to acknowledge that disbursements were incurred.

[36] **Econo Parts & Mr. Parts:** - For the same reasons as **Rambally Blocks**, I also decline to make any award for disbursements as claimed. I award the global sum of $5,000.00 for disbursements.

[37] **China Town** – Similarly to the above, the Claimant has not vouched most of these expenses claimed in the sum of $46,062.90. I do however acknowledge that the

Claimants incurred a greater expense in this matter than the others owing to a series of depositions prepared to an order of Belle J. I therefore award the global sum of $15,000.00.

INTEREST ON COSTS:

[38] The general rule is that interest on costs runs from the date of the order for costs and not from the date of the assessment of costs. Interest however remains at the discretion of the Court having considered all the factors; see **Powell v Herefordshire Health Authority**[14]**.**

[39] The Court invited both parties to make any submissions on this point specifically in light of **Powell**. Having considered the submissions of both parties, I agree with the submissions of the Defendant.

[40] The Bills of Costs in the three matters were all filed on 18 March 2024. Prior to that some semblance of taxation was filed which did not comply with the procedure for the commencement of taxation. In summary the Claimants sought to assess costs on affidavit evidence and exhibits of invoices of counsel. It was only when these applications came up for hearing before this Court on 19 February 2024 and it was frontally raised with the Claimants that there were no bills before the Court to be assessed. Permission was given to the Claimants to file bills in these three matters and this order was complied with.

[41] In short, the Claimants caused the delay in assessing these costs and they ought not to benefit from their own missteps in not filing proper bills.

[42] I exercise my discretion not to allow interest from the dates of the original costs orders, as the Claimants did not file a proper Bill of Costs until 18 March 2024. The

[14] 2002 EWCA Civ 1786

Defendant should not bear the burden of additional interest caused by the Claimants procedural errors.

[43] Accordingly, interest will only run on the costs assessed from the date of this order.

COSTS OF THE ASSESSMENT (all three matters)

[44] Ordinarily, if a litigant recovers less than 75% of the costs claimed during taxation, they are not entitled to recover the costs of the assessment. However, as the Defendant has not raised this issue, I will not apply this convention in the present case.

[45] In light of this, I summarily assess the costs of the assessment at $6,500.00 being $2,000.00 for the first and second matters and $2,500.00 for the third matter.

VINDICATORY DAMAGES (in the third matter only, China Town)

[46] Vindicatory damages serve a vital role in cases involving breaches of constitutional rights. These damages are not just about compensating for financial or emotional losses; they play a broader role in safeguarding the principles underpinning constitutional governance. Their primary functions include upholding the rule of law, deterrence of misconduct and restoration of public confidence. By awarding vindicatory damages, courts assure the public that constitutional rights are meaningful and enforceable, even against powerful state institutions.

[47] This principle was articulated in **Attorney General v Ramanoop**[15], where the Privy Council recognised that an award beyond compensation might be required to vindicate the breach of constitutional rights. The distinction lies in the focus on the breach itself and its impact on the public perception of justice. This rationale applies directly to the case at hand, where the Customs Agency's conduct demonstrates systemic failings and retaliatory behavior.

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[15] [2005] UKPC 15

[48] The circumstances of this case present compelling reasons for a meaningful vindicatory award. Key aggravating factors include:

Systemic Failures:

[49] The Customs Agency repeatedly failed to fulfill its procedural obligations. For example, the agency ignored the Claimant's detailed complaint of March 4 2014, displaying an apparent unwillingness to address grievances.

[50] The inability to produce critical documentation and the failure to initiate condemnation proceedings within a reasonable timeframe, point to deep-seated administrative inefficiencies. Similar systemic issues were criticised in **Maya Leaders Alliance v Attorney General of Belize**[16], where the court highlighted the detrimental impact of administrative failures on public trust and constitutional protections.

Disproportionate Actions:

[51] The seizure of Claimant's containers for an alleged duty discrepancy of $5,216.64 XCD, when the container's value was $66,407.47 USD, exemplifies disproportionate and punitive state action. See: **Ramesh Lawrence Maharaj v Attorney General of Trinidad and Tobago (No. 2)** (1978) 30 WIR 310**,** where disproportionate measures by public authorities were deemed a significant affront to fundamental rights.

Retaliatory Conduct:

[52] The agency's threat concerning container No. 2, aimed at coercing the Claimant into admitting offenses related to container No. 1, constitutes an egregious abuse of power. Retaliation by a public authority undermines trust in state institutions and

[16] BZ 2015 CCJ 3

contravenes constitutional principles as noted in **Merson v Cartwright and the Attorney General of the Bahamas**[17]**.**

Lack of Justification:

[53] The Customs Agency's failure to provide Claimant with adequate notice or justification for its actions further exacerbates the breach. As the Comptroller admitted, no proper justification was ever given. The need for transparency and due process is a cornerstone of administrative law. As emphasised in **Council of Civil Service Unions v Minister for the Civil Service**[18], actions lacking legal grounding are fundamentally flawed.

Economic and Reputational Harm:

[54] The financial losses and reputational damage Claimant suffered go beyond mere inconvenience. Whilst compensatory damages address the quantifiable losses, vindicatory damages are necessary to acknowledge the broader harm caused by the violation of constitutional rights.

Public Interest:

[55] Public confidence in state agencies is critical to maintaining the rule of law. The Customs Agency's conduct, including Officer Charlery's acknowledgment of a "no mercy" enforcement approach, undermines this confidence. In **Fose v Minister of Safety and Security**[19] the court recognised that vindicatory damages play an essential role in maintaining public trust in constitutional protections.

COMPARATIVE CASES:

[56] Several cases from the region underscore the importance of vindicatory damages in addressing breaches of constitutional rights:

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[17] [2005] UKPC 38
[18] [1985] AC 374
[19] [1997] 3 SA 786 (CC)

1. In **Rambally Blocks Limited v Comptroller of Customs and Excise** SLUHCV2014/0100, $50,000 XCD was awarded solely for the constitutional breach, despite a lack of compensatory evidence. The present case involves far more egregious conduct, warranting a higher award.

2. In **Econo Parts Ltd v. Comptroller of Customs and Excise**, the court awarded $75,000 XCD in circumstances less severe than those here.

3. In **Maya Leaders Alliance** (*supra*), the court emphasised vindicatory damages as a tool to reinforce the rule of law and deter state overreach, considerations that are especially relevant in this case.

[57] The Claimant submitted that damages ought to be in the range of $100,000.00 to $150,000.00. The Defendant submitted that damages ought to be in the range of $75,000.00 as the facts are comparable to the **Econo Parts** appeal.

DISPOSITION:

[58] This case presents a stark example of abuse of power and systemic maladministration by a state agency. A significant award of vindicatory damages is essential to affirm the importance of constitutional rights, deter similar violations, and restore public confidence. Such an award would underscore the principle that no individual or institution is above the law and that constitutional rights must be upheld at all costs.

[59] In light of the precedents and the aggravating factors outlined, an award of $100,000.00XCD is appropriate. Such a sum in my view reflects the severity of the constitutional breaches, the need for a strong deterrent against future misconduct and the public interest in affirming the sanctity of constitutional rights. This sum will attract no interest.

FINAL ORDER:

[60] For the reasons outlined above, I make the following orders:

1. In claim number SLUHCV2024/0202 formerly SLUHCV2014/0100, Rambally Blocks Limited v The Comptroller of Customs & Excise the Claimant's costs are assessed and allowed in the sum of $36,160.00;

2. In consolidated claims (1) SLUHCV2024/0203 formerly SLUHCV2014/0309 Econo Parts Limited -v- The Comptroller of Customs & Excise and (2) SLUHCV2016/0187 Mr. Parts Limited v The Comptroller of Customs & Excise the Claimants costs are assessed and allowed in the sum of $33,740.00;

3. In Civil Appeal Number SLUHCVAP2017/0019 Econo Parts Limited -v- The Comptroller of Customs & Excise the Appellant's costs are assessed and allowed in the sum of $22,493.33 being two thirds of the costs assessed in the court below;

4. In claim number SLUHCV2024/0204 formerly SLUHCV2014/0513, China Town Inc. v The Comptroller of Customs & Excise:

    i. The Claimants costs are assessed and allowed in the sum of $53,460.00; and

    ii. Vindicatory damages are awarded in the sum of $100,000.00.

5. In Civil Appeal Number: SLUHCVAP2018/0001, China Town Inc.-v- The Comptroller of Customs & Excise the Appellant's costs are assessed and allowed in the sum of $35,640.00 being two thirds of the costs assessed in the court below.

6. Interest shall accrue on the awards of costs at the rate of 6% per annum from today's date to the date of payment.

7. There shall be no interest on the award of vindicatory damages

8. The Defendant shall also pay the Claimants costs of these assessments summarily assessed in the sum of $6,500.00 being $2,000.00 for the first and second matters and $2,500.00 for the third matter.

9. The Claimants shall file this order.

EASTERN CARIBBEAN SUPREME COURT
SEAL
HIGH COURT

Alvin S. Pariagsingh
Judge

By the Court,

Registrar

Assisted by: Ms. Yeveeda Guiness
Judicial Research Assistant

Encl: Appendices A, B and C.

APPENDIX A

Item	Necessary		Reasonable		Sum Claimed		Sum allowed as reaonsable		Reason
	Yes	No	Yes	No	VJ	MS	VJ	MS	
1	✓			✓	4.5	4.5	1	2	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
2	✓		✓		1	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
3	✓			✓	1.5	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
4	✓			✓	3	3	1	1	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
5	✓			✓	0	15	3	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
6	✓			✓	3	0	2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
7	✓			✓	2	0	0.5	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
8		✓		✓	0.5	0	0	0	It is not necessary to review the application granting leave when a fee has already been allowed for drafting and settling same and counsel was present in Court when leave was granted and had the opportunity to have an input in the terms of the order
9	✓			✓	3.5	0	0.5	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
10	✓		✓		0.1	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
11	✓			✓	6	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
12	✓			✓	1.5	1.5	1	1	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge

13	✓			✓	3	0	2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
14	✓			✓	1.5	1	1	1	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
15	✓			✓	3.5	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
16	✓			✓	6	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
17	✓		✓		0.2	0	0.2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
18	✓		✓		0.1	0	0.1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
19	✓			✓	1	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
20	✓			✓	1	0	0.1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
21	✓			✓	6	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
22	✓			✓	0.3	0	0.2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
23	✓			✓	0.2	0	0.1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
24	✓			✓	6	0	2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
25		✓		✓	3	0	0	0	No sum is allowed for the preparation of a separate common law aciton as these costs would fall to be determined in that separate claim
26	✓			✓	1	0	0.2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
27		✓		✓	1.5	0	0	0	It was not necessary to sent a letter further demanding the return of the goods as the matter was already before the Court
28	✓			✓	4	4	1	1	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge

29	✓		✓		0.2	0	0.2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
30		✓		✓	1	0	0	0	The costs of the notice of discontinuance does not form part of the costs in this claim
31		✓		✓	1	0	0	0	The costs of the application to set aside the discontinuance do not form part of the costs in this claim
32	✓			✓	5	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
33	✓			✓	2	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
34	✓			✓	4.6	4	1	1	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
35	✓			✓	1.5	0	0.5	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
36	✓			✓	7	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
37	✓			✓	4	2	1	1	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
38	✓			✓	2.5	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
39	✓			✓	6	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
40	✓			✓	9	0	3	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
41	✓			✓	8	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
42	✓			✓	2	0	0.5	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
43		✓		✓	4	0	0	0	A notice to admit facts was not ncessary
44	✓			✓	0.5	0	0.5	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge

45	✓			✓	4	0	1	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
46		✓		✓	1	0	0	0	No permission was granted for the issue of a witness summons
47		✓		✓	4	0	0	0	There was no need to prepare or file any application to dispose any witness. That application does not form part of the costs of the claim. It is a separate application
48	✓			✓	25	0	3	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
49	✓			✓	3.5	0	0.5	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
50	✓			✓	11	0	2	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
51	✓			✓	1	0	0.5	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
52	✓			✓	6	0	3	0	Sum claimed is disproportionate to what sum is reasonable for a hypotehical counsel would charge
TOTALS (hrs)					**178.7**	**35**	**46.6**	**8**	
TOTALS ($) XCD					**$107,220.00**	**$14,000.00**	**$27,960.00**	**$3,200.00**	

APPENDIX B

Item	Necessary Yes	Necessary No	Reasonable Yes	Reasonable No	Sum Claimed VJ	Allowed VJ	Reason
1	✓			✓	4	1	10 hours in total for meetings with Customs is both unreasonable and
2	✓			✓	6	2	unrealistic. A reasonable amount of time spent for meetings (1+2) is 3 hours
3	✓			✓	7	2	7 hours to review notices of seizures and customs tallies is wholly unreasonable
4	✓		✓		0.5	0.5	Reasonable
5	✓		✓		0.5	0.5	Reasonable
6	✓			✓	8	2	7 hours to draft an application for leave to apply for judicial review is unreasonable in the context of this case where there were other such cases in train already. The claim raised largely the same issue. 2 hours is reasonable to draft the claim
7		✓		✓	1	0	No sum is allowed for the Claimant deeming it appropriate to amend its application for leave to apply for judicial review. The Defendant is not reasonable for this costs
8	✓			✓	7.5	1	7.5 hours to review the affidavit filed is unrealistic, unreasonable and grossly inflated. A reasonable and realistic time estimate is 1 hour
9	✓			✓	6	1	The record does not show this hearing lasted 6 hours. This hearing was finished in minutes. A reasonable time to be allowed is 1 hour taking into account wait time for the matter to be called
10	✓			✓	2.5	0.5	2.5 hours to review the affidavit filed is unrealistic, unreasonable and grossly inflated. A reasonable and realistic time estimate is 0.5 hour
11	✓			✓	6	1	Again this 6 hours is not reflective of the time spent on this hearing
12	✓		✓		0.1	0.1	Reasonable
13	✓			✓	5	1	5 hours for a meeting with customs is unreasonable. 1 hour is reasonable given that there was extensive meeting before the claim was filed and by this stage, evidence of the Defendant was also filed
14	✓			✓	1	0.3	1 hours to review a without prejudice letter from the Attorney General is unreasonable. A more reasonable estimate is 1/2 hour
15	✓			✓	2.5	0.5	2.5 hours to draft a letter in response is unreasonable. 1/2 hour is allowed

16	✓		✓		0.3	0.3	Reasonable
17	✓			✓	1	0.5	1 hour to draft a report from a meeting is unreasonable. 1/2 hour is allowed
18	✓			✓	6	1	The hearing on this day did not last 6 hours. 1 hour is allowed taking into account review of the file and waiting time
19	✓		✓		0.2	0.2	Reasonable
20	✓		✓		0.2	0.2	Reasonable
21	✓		✓		0.3	0.3	Reasonable
22	✓			✓	2	0.5	2 hours to prepare an email to the Attorney General is unreasonable. 1/2 hour is allowed
23	✓			✓	6	1	The hearing on this day did not last 6 hours. 1 hours is allowed
24	✓			✓	1.5	0.5	1.5 hours to prepare a letter is unreasonable. 1/2 hour allowed
25	✓			✓	3	1	3 hours to review an application to strike out is unreasonable. 1 hour is allowed
26	✓			✓	2	0.5	2 hours to prepare a supplemental brief is unreasonable as the only document needed to be added was the application to strike out. 1/2 hour allowed
27	✓			✓	1.5	0.5	1.5 hours to prepare a supplemental list of authorities is unreasonable. 1/2 hour allowed
28		✓		✓	0.2	0	No sum allowed. Its the Claimant's fault that an authority was omitted from the original bundle. The Defendant should not have the bill for the Claimant's error
29	✓			✓	6	1	The matter did not last 6 hours at this or any hearing. 1 hour is allowed to also take into account the review of the file and waiting time
30	✓			✓	9	1	9 hours to prepare a fixed date claim form is unreasonable and exaggerated. The Fixed Date Claim Form is largely a copy and paste of the application for leave and so to is the evidence in support for which the Claimant has already been compensated above. 1 hours is reasonable
31		✓		✓	2	0	It is not the practice to depose witnesses in administrative proceedings. No permission was granted for this and this application was wholly unnecessary. No costs is allowed for this
32		✓		✓	1.5	0	No leave was sought or granted for any witness to be deposed in this case nor
33		✓		✓	1.5	0	was it necessary in the circumstances of this case. This step in the proceedings

34		✓		✓	1.5	0	was not necessary and therefore not allowed.
35	✓			✓	6	1	The hearing on 17 January 2017 did not last 6 hours. 1 hour is reasonable consistent with the awards above for the same reasons
36	✓			✓	1.5	0.5	1.5 hrs. to review a simple application for an extension of time is unreasonable. 1/2 hour is allowed
37		✓		✓	0.5	0	
38		✓		✓	0.5	0	
39		✓		✓	0.5	0	No leave was sought or granted for any witness summons to be issued nor was
40		✓		✓	0.5	0	it necessary in the circumstances of this case. This step in the proceedings was
41		✓		✓	0.5	0	not necessary and therefore not allowed.
42	✓			✓	2.5	0.5	2.5 hours to prepare an opposition to an application for extension is unreasonable. 1/2 hour is allowed
43	✓			✓	6	0.5	6 hours to review an affidavit in response which is essence the same as was filed at the leave stage is grossly unreasonable. 1/2 hour is allowed
44	✓			✓	5	0.5	The times claimed for client meetings to discuss the Defendant's affidavits in
45	✓			✓	7.5	0.5	response, which in essence the contents were the same as the leave stage is
46	✓			✓	5.5	0.5	unreasonable and grossly exaggerated. 1/2 hour is allowed
47	✓			✓	0		Disbursement claimed as separate item in error
48	✓			✓	5	0.5	5 hours to prepare a letter is unreasonable. 1/2 is allowed
49	✓			✓	1	0.5	1 hour to prepare a letter is unreasonable. 1/2 hour is allowed
50	✓			✓	4	0.5	4 hour to prepare a letter is unreasonable. 1/2 hour is allowed
51	✓			✓	1.2	0.5	1.2 hours to prepare a letter is unreasonable. 1/2 hour is allowed
52	✓		✓		0.1	0.1	Reasonable
53	✓		✓		0.1	0.1	Reasonable
54	✓			✓	1.5	0.5	1.5 hours to prepare a letter is unreasonable. 1/2 hour is allowed
55	✓			✓	1	0.5	1 hour to prepare a letter is unreasonable. 1/2 hour is allowed
56	✓			✓	1	0.5	1 hour to prepare an email is unreasonable. 1/2 hour allowed
57	✓		✓		0.1	0.1	Reasonable
58	✓			✓	1	0.5	1 hour to prepare a letter to Kurt Thomas is unreasonable. 1/2 hour allowed
59	✓		✓		0.1	0.1	Reasonable
60	✓			✓	2.5	0.5	
61	✓			✓	2.5	0.5	2.5 hours to prepare a letter to Customs is unreasonable. 1/2 hour is allowed

62	✓		✓		0.1	0.1	Reasonable
63	✓			✓	1.5	0.5	1.5 hours to prepare a letter is unreasonable. 1/2 hour is allowed
64	✓			✓	3.5	0.25	grossly unreasonable, unrealistic and exaggerated. All counsel has to do it group together documents which he already had and create an index. For these items the total time allowed for counsel's input in the creation of bundles is 1 hour
65	✓			✓	3.5	0.25	
66	✓			✓	5	0.25	
67	✓			✓	1.6	0.25	
68		✓		✓	12	6	Counsel has already been compensated for each item of work including his research and drafting. 12 hours for drafting submissions in unreasonable given the nature of the claim and the lack of novelty and complexity of the issue. Also taking into account that there were parallel cases with the same issue with some overlap, a reasonable estimate is 6 hours
69	✓			✓	2.5	0	The Defendant did not occasion the filing of supplemental submissions by the Claimant. No sums are allowed for this item.
70	✓		✓		6	6	Reasonable
71	✓			✓	6	2	The sums claimed for a brief on damages and costs is unreasonable. The brief on damages will be considered as no proper bill of costs was filed in this matter before this Court made its order in March 2024. The costs of the assessment being considered separately, a reasonable sum to allow for the brief on damages is 2 hours
72		✓		✓	1.5	0	The need to supplement the brief on costs was not due to the Defendant. As such no time is allowed for counsel for this item
73	✓			✓	2	1	The judgment hearing did not last 2 hours. 1 hour is reasonable
74	✓			✓		0	Disbursement claimed as separate item in error
				TOTALS (hrs.)	**206.1**	**47.9**	
				TOTALS ($) XCD	**$123,660.00**	**$28,740.00**	

APPENDIX C

Item	Necessary		Reasonable		Sum Claimed in Attorneys' Fees			Sum allowed for Attorneys' Fees			Reasons
	Yes	No	Yes	No	VJ	CR	MS	VJ	CR	MS	
1	✓			✓	8	0	0	2	0	0	8 hours is unreasonable. 2 hours allowed
2	✓			✓	2.5	0	0	1	0	0	2.5 hours to prepare a letter is unreasonable. 1 hour is allowed.
3	✓		✓		0.3	0	0	0.3	0	0	Reasonable amount of time for the preparation of a letter
4	✓			✓	10	0	0	3	0	0	10 hours for the preparation of a Notice of Application seeking leave to apply for judicial review and affidavit in support is excaggerated and unreasonable. 3 hours is allowed.
5	✓			✓	6	6	0	0.2	0	0	6 hours for each Counsel for the preparation and filing of a Notice of Hearing is completely unreasonable and grossly inflated. One one attorney claim is allowed
6	✓			✓	7	0	0	2	0	0	7 hours for the preparation and filing of the Fixed Date Claim Form, Affidavit in Support and List of Exhibits is unrealitic and grossly exaggerated. 2 hours is allowed.
7	✓			✓	6	0	0	1	0	0	6 hours for court appearance at the first hearing is completely unreasonable. 1 hour is allowed.
8	✓		✓		0.2	0	0	0.2	0	0	Reasonable for court appearance and review/preparation and filing of order
9	✓		✓		0.2	0	0	0.2	0	0	Reasonable amount of time to review/prepare and file and order
10	✓			✓	3.5	0	0	1	0	0	3.5 hours is an unreasonable amount of time to review a list of exhibits and an affidavit

11	✓			✓	5	0	0	1	0	0	5 hours is an unreasonable amount of time to attend a meeting with clients to review an affidavit and exhibits
12	✓			✓	6	6	0	1	0	0	6 hours is unreasonable for a court appearance. 1 hour is allowed for one attorney
13	✓			✓	3	0	0	1	0	0	3 hours is unreasonable to review a witness statement/summary. 1 hour is allowed.
14	✓			✓	3	0	0	1	0	0	3 hours is unreasonable to review a witness statement/summary. 1 hour is allowed.
15	✓			✓	3	0	0	1	0	0	3 hours is unreasonable to review a witness statement/summary. 1 hour is allowed.
16	✓		✓		1	0	0	1	0	0	1 hour to review a witness statement is reasonable.
17	✓			✓	4	0	0	1	0	0	4 hours to meet with clients and review witness statements/summaries is unreasonable. 1 hour is allowed.
18	✓			✓	6	6	0	0.3	0	0	6 hours for the preparation and filing of an order is wholly unreaosnably and excessive. Claim only allowed for one attorney
19	✓			✓	5	0	0	2	0	0	Given the length and nature of the document, 2 hours is more reasonable.
20	✓			✓	2	0	0	1	0	0	Given the length and nature of the document, 1 hour is more reasonable.
21	✓			✓	2	0	0	1	0	0	2 hours for the consultation with client and preparation of the List of Documents is unreasonable. 1 hour is allowed.
22	✓			✓	2	0	0	1	0	0	1 hour was more reasonable for the preparation of the notice of application and affidavit in support
23	✓			✓	1.5	0	0	0.5	0	0	Item 23 was a similar application to item 22. As a result, only 1/2 hour was allowed.

24	✓			✓	1.5	0	0	0.5	0	0	Item 24 was a similar application to items 22 and 23. 1/2 hour allowed.
25	✓			✓	1.5	0	0	0.5	0	0	Item 25 was a similar application to items 22,23 and 24. 1/2 hour allowed.
26	✓			✓	1.5	0	0	0.5	0	0	Item 26 was a similar application to items 22, 23, 24 and 25. 1/2 hour allowed.
27	✓			✓	10	0	0	5	0	0	10 hours for the preparation of the skeleton arguments is excessive and unreasonable. 5 hours is allowed.
28	✓		✓		0.2	0	0	0.2	0	0	Reasonable amount of time for preparation of order
29	✓			✓	6	6	0	1	0	0	6 hours for the appearance at court for a case management hearing is unreasonable and excessive. 1 hour is allowed for one attorney as it was not necessary to have two lawyers prepare for an hour each for a CMC
30	✓			✓	2	0	0	0.2	0	0	2 hours to review an order of the court is wholly unreasonable.
31	✓			✓	4	0	0	2	0	0	4 hours to review the Defendant's skeleton arguments and list of exhibits is unreasonable. 2 hours is allowed.
32	✓			✓	6	6	0	1	0	0	unreasonable. 1 hour is allowed for one
33.1	✓			✓	3	0	0	1	0	0	and witness statement in preparation for a
33.2	✓			✓	3	0	0	0.5	0	0	and witness statement in preparation for a
34	✓			✓	3	0	0	1	0	0	3 hours is unreasonable to review an affidavit and witness statement in preparation for a deposition. 1 hour is allowed taking into consideration the length and nature of the documents

35	✓			✓	3	0	0	1	0	0	3 hours is unreasonable to review an affidavit and witness statement in preparation for a deposition. 1 hour is allowed taking into consideration the length and nature of the documents
36	✓			✓	3	0	0	1	0	0	3 hours for the preparation of issues for cross-examination and discovery is unreasonable. 1 hour is allowed.
37	✓			✓	10	10	10	4	0	0	unreasonable and unrealistic. 4 hours is
38	✓			✓	10	10	0	7	0	0	10 hours for attendance at a deposition is unreasonable and unrealistic. 7 hours is allowed for one attorney
39	✓			✓	10	10	0	3	0	0	10 hours for attendance at a deposition is unreasonable and unrealistic. 3 hours is allowed for one attorney
40	✓			✓	10	10	0	1	0	0	10 hours for attendance at a deposition is unreasonable and unrealistic. 1 hour is allowed for one attorney
41	✓		✓		0	0	0	0	0	0	Disbursement for preparation of deposition transcript
42	✓		✓		0	0	0	0	0	0	Disbursement for preparation of deposition transcript
43	✓		✓		0	0	0	0	0	0	Disbursement for preparation of deposition transcript
44	✓		✓		0	0	0	0	0	0	transcript
45	✓			✓	2	0	0	1	0	0	1 hour was allowed for the review and preparation of summary of deposition trasncript
46	✓			✓	2	0	0	1	0	0	1 hour was allowed for the review and preparation of summary of deposition trasncript
47	✓			✓	2	0	0	1	0	0	1 hour was allowed for the review and preparation of summary of deposition trasncript

48	✓			✓	2	0	0	1	0	0	1 hour was allowed for the review and preparation of summary of deposition trasncript
49	✓			✓	4.5	0	0	1	0	0	1 hour is reasopnable for attendance at pre-trial conference with clients
50	✓			✓	10	0	0	5	0	0	10 hours for the trial appearance is both unreasonable and excessive. 5 hours is allowed.
51	✓		✓		0	0	0	0	0	0	Disbursements for affidavits of service
52	✓			✓	0	0	0	0	0	0	$15,967.30 for printing and binding of bundles - disbursements
Total (hrs)					**197.4**	**70**	**10**	**64.1**	**0**	**0**	
Total ($) XCD					**$ 118,440.00**	**$ 42,000.00**	**$ 4,000.00**	**$ 38,460.00**	**$ -**	**$ -**	