

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**CIV-2010-404-003038
[2014] NZHC 2097**

BETWEEN JOSEPH FRANCIS KARAM
 Plaintiff

AND KENT PARKER
 First Defendant

VIC PURKISS
Second Defendant

Submissions filed: 4 and 16 July 2014

Judgment: 2 September 2014

JUDGMENT OF COURTNEY J

This judgment was delivered by Justice Courtney
on 2 September 2014 at 3.00 pm
pursuant to R 11.5 of the High Court Rules

Registrar / Deputy Registrar

Date.....

Costs claimed by plaintiff

[1] In my judgment dated 9 April 2014 I found in favour of the plaintiff, Mr Karam, and awarded indemnity costs against both defendants. I invited a memorandum from the plaintiff as to the reasonable costs incurred for the purposes of fixing the indemnity costs.

[2] Mr Karam's counsel has filed a memorandum advising that Mr Parker is now bankrupt and Mr Purkiss thought to be living in the United Kingdom. In those circumstances Mr Karam seeks only to have costs awarded on a 2B basis so as to avoid the time and cost of compiling the relevant information.

[3] I accept that position and make an order varying my previous decision on costs and fixing costs now on a 2B basis in accordance with the table contained in Mr Reed QC's memorandum of 4 July 2014, which totals \$64,774.50, together with the disbursements sought totalling \$11,350.

Costs claimed by first defendant

[4] Mr Parker has filed a memorandum seeking to have a previous application for costs in favour of the defendants determined. This application was filed in July 2012 in relation to Mr Karam's application to strike out the second amended statement of defence and the defendants' application for determination of preliminary questions. The defendants' strike out application was withdrawn and, as a result of Mr Karam's indication that he would re-draft the statement of claim, the defendants' application for determination of preliminary questions was also withdrawn.

[5] Mr Parker seeks indemnity costs and has produced invoices from the barrister who prepared submissions for the purposes of the application totalling \$7,417.50. Mr Parker also seeks filing fees of \$725. There has been no response to Mr Parker's memorandum from Mr Karam.

[6] In the ordinary course costs would be fixed in relation to these applications in the defendants' favour. However, the right to seek costs is a right now vested in the official assignee. The application is therefore declined.

[7] There is a final matter. The fee notes are addressed directly to Mr Parker. It is not apparent that there was an instructing solicitor. I do not intend to take any action in relation to this but a copy of my decision will be sent to the barrister concerned, drawing attention to rule 14.4 of the Lawyers and Conveyancers (Lawyers: Conduct and Client Care) Rules 2008.

A handwritten signature in cursive script, appearing to read 'P Courtney J', written over a horizontal line.

P Courtney J