

COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity Division
2019/CLE/gen/01052

BETWEEN

NAUTICAL MARINE LIMITED

Claimant

AND

SHERWOOD HANNA
JILL YVETTE HANNA

Defendants

Before: Hon. Chief Justice Sir Ian R. Winder

Appearances: Yvette McCartney Meredith (completed by Martin Lundy)
Philip Lundy for the Defendants

Hearing Date(s) On the papers

JUDGMENT

SIR IAN WINDER, CJ

- [1.] This is my decision on costs arising from my judgment dated 5th February 2025 in favor of the claim of the Claimant at trial. In my decision, at paragraphs [18] – [21], I gave judgment in the following terms:

[18.] **On the question of the outstanding rent payments there is little dispute that these sums remain due and outstanding. [The Defendants] accepted that he owed outstanding sums in his Defence and indicated that he would pay the sums. In the circumstances I give judgment for those sums in the amount of \$12,096.**

[19.] **I find that [the Defendants] have engaged in trespass to [the Claimant's] property and that it is entitled to an award of damages. Having regard to the size of the encroachment I will award a nominal sum for damages in the amount of \$4,000.**

[20.] **[The Defendants] are directed to remove the concrete pillar and any other chattels from the subject property. They are hereby restrained from entering or otherwise engaging in any further trespass on the encroachment and are to replace all survey markers which were removed.**

[21.] **I order that [the Claimant] shall be entitled to its costs, that such costs be summarily assessed (if not agreed) and that a pro forma bill of costs be laid over to the Court (and served on the Hannas) within 21 days. “**

- [2.] On 19 March 2025 a pro forma bill of costs was received from the Claimant in accordance with the judgment as costs have not been agreed. There have been no objections or submissions by the Defendants.

- [3.] The discretion to fix costs must be exercised judicially in the circumstances of the case. In the case of **McPhee (as Administrator of the Estate of Thelma Mackey) v Stuart** [2018] 1 BHS J. No. 18, Charles J (as she then was) identified the following factors that inform whether costs are reasonable:

- “a) any order that has already been made;**
- b) the care, speed and economy with which the case was prepared;**
- c) the conduct of the parties before as well as during the proceedings;**
- d) the degree of responsibility accepted by the legal practitioner;**
- e) the importance of the matter to the parties;**
- f) the novelty, weight and complexity of the case; and**

g) the time reasonably spent on the case.”

- [4.] In the present case, I have considered the pro forma bill of costs setting out the work done on behalf of the Claimant and the factors identified by Charles J. Taking into account all of the circumstances of the case, including the time spent before me, the work reasonably expended, the seniority of counsel, the importance of the matter, the nature of the issues which required determination, I order that that the Defendants pay the gross sum of \$25,000 to the Claimant in lieu of taxed costs.

Dated this 30th day of June, 2025



Sir. Ian R. Winder
Chief Justice