

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

SAUDI BASIC INDUSTRIES	)	
CORPORATION,	)	
	)	
Plaintiff/Counterclaim Defendant,	)	
	)	
v.	)	C.A. No. 00C-07-161-JRJ
	)	
MOBIL YANBU PETROCHEMICAL	)	
COMPANY, INC. and EXXON	)	
CHEMICAL ARABIA, INC.,	)	
	)	
Defendants/Counterclaim Plaintiffs.	)	

Date Submitted: June 3, 2003
Date Decided: August 26, 2003

*Upon ExxonMobil's Motion for Taxation of Costs -
GRANTED IN PART and DENIED IN PART*

ORDER

AND NOW, TO WIT, this 26th day of August, 2003, upon consideration of the briefs, it appears to the Court that:

1. Following a verdict in its favor after a two-week jury trial, plaintiff ExxonMobil Corporation ("ExxonMobil") moves for costs against defendant Saudi Basic Industries Corporation ("SABIC") pursuant to Superior Court Civil Rule 54 and title 10, section 5101 and section 8906 of the Delaware Code.

2. The decision whether to award costs is a matter of judicial discretion under section 5101.¹ The Court finds that ExxonMobil, as the prevailing party, is entitled to recover the following reasonable costs pursuant to Rule 54, Delaware Uniform Rule of Evidence 706 and title 10, section 5101 and section 8906:

- | | | |
|----|---|------------|
| a. | Deposition Transcript of Richard A. Pai (July 17, 2002) | \$3,356.20 |
| b. | Deposition Transcript of Richard A. Pai (Aug. 7, 2002) | 1,957.23 |

The Court has deducted \$564.36 representing 50% of the court reporter's travel expenses (New York to London). Prior to Dr. Pai's deposition, the parties jointly agreed to share the cost of transporting the court reporter from New York to London. Under these circumstances the Court will not award ExxonMobil's share of this travel expense as costs. Had ExxonMobil not agreed to this arrangement and, instead, hired a London-based reporter, there would be no such travel expense.

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|----|---|----------|
| c. | Deposition Transcript of Nigel Bruce (Aug. 8, 2002) | 866.61 |
| d. | Deposition Transcript of W. Jack Butler | 4,416.10 |

¹See *Donovan v. Delaware Water & Air Res. Comm'n.*, 358 A.2d 717, 723 (Del. 1976).

e.	Costs associated with Court Appointed Expert, Herbert S. Wolfson	7,560.00
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Under the unique circumstances in this case that prompted the Court to retain its own expert, and because of the (1) amount of work requested from Mr. Wolfson on such short notice, (2) his willingness to disrupt his law practice to accommodate the Court's demanding deadlines and (3) the very helpful assistance he rendered to the Court, the Court will award as costs all of Mr. Wolfson's travel time at his billable rate of \$400.00 per hour. For the same reasons, the Court will also award as costs the time Dr. Wolfson spent at the Saudi law hearing at the Court's request.

f.	Costs associated with in-court Expert testimony of Dr. Wael B. Hallaq	3,744.50
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The Court agrees with SABIC that it should not award as costs the time Dr. Hallaq spent in court listening to other witnesses.

g.	Costs associated with in-court testimony of Vincent Love	9,049.00
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The Court will not award as costs the seven hours that Mr. Love spent in court listening to other witnesses. The Court will not award the full travel costs claimed by Mr. Love based on his hourly rate of \$475.00 per hour. Instead, the Court will

award travel expenses based on a rate of \$237.50 per hour for a total of \$950.00.

h.	Costs associated with the in-court	
	Testimony of Creighton Hoffman	3,217.50

The Court will not award as costs the five hours Mr. Hoffman spent waiting to testify on March 12, 2003. The Court agrees with SABIC the ExxonMobil could have called Mr. Hoffman to testify on March 12, 2003 but opted not to do so.

IT IS SO ORDERED

Jan R. Jurden, Judge