

ANNE OTTO

APPELLANT

- and -

LILLIAN RYHORSKI, Executrix of the Estate of ALICE KAPACILA

RESPONDENT

Henry R. Kloppenburg Q.C. for the Appellant
Deidre L. Aldcorn for the Respondent

**Paper Taxation before Melanie A. Baldwin
Registrar, Court of Appeal
December 15, 2011**

The appeal was allowed with costs to the Appellant under Column 3 of the Court of Appeal Tariff of Costs [see Judgment of the Court dated November 28, 2011]. Counsel for the Appellant took out an appointment for taxation and served that appointment for taxation on counsel for the Respondent on November 29, 2011. The appointment with proof of service was filed with me on December 8, 2011.

On December 14, 2011, counsel for the Respondent advised that she did not intend to appear or make argument at the taxation scheduled for December 16, 2011. I therefore advised counsel that it was my intention to cancel the taxation hearing and proceed to a paper taxation of the proposed bill of costs (without hearing further from counsel). Neither counsel expressed any concern about this course of action. This fiat represents my decision arising from the paper taxation.

Authority for Taxation

Rule 54 of *The Court of Appeal Rules* provides for taxation of costs and indicates that Part Forty-Six of *The Queen's Bench Rules* applies, with any necessary modification, to a taxation of costs under Rule 54. Rules 563 and 564 in Division 3 of Part Forty-Six of *The Queen's Bench Rules* deal specifically with assessment of party and party costs.

Proposed Bill of Costs

The proposed bill of costs lists the following fees under Column 3 of the Court of Appeal Tariff of Costs:

| | | |
|---|--|--------|
| 2 | Preparing Notice of Appeal | \$500 |
| 6 | Agreement as to Contents of Appeal Book | \$300 |
| 7 | Preparing Appeal Book | \$750 |
| 8 | Preparation of Factum | \$3500 |

| | | |
|----|---|--------|
| 9 | All Other Preparation for Hearing | \$1000 |
| 10 | Appearance to Present Argument on Appeal before Court of Appeal | \$500 |
| 11 | Preparing Formal Judgment | \$300 |
| 12 | Correspondence | \$300 |
| 13 | Preparation of Bill of Costs | \$200 |
| 14 | Taxation of Bill of Costs | \$100 |

The proposed bill of costs also lists disbursements of \$226.62 representing filing fees for the Notice of Appeal (\$100) and the Appeal Book and Factum (\$100) and courier fees for forwarding the Appeal Book, Factum and Book of Authorities to the Court (\$26.62). An affidavit of disbursements was filed providing support for the disbursements claimed.

Decision

I advised counsel on December 14, 2011 that, if I proceeded with a paper taxation, I would tax off the \$100 tariff item relating to the taxation. In all other respects, the tariff fee items claimed are allowed.

With respect to the disbursements amounting to \$226.62, the Appellant has provided evidence that they were incurred. Court filing fees and courier fees are both commonly considered to be disbursements contemplated by item 16 of the tariff. The disbursements are therefore also allowed.

The proposed bill of costs will be taxed as follows:

| | | |
|------------|-------|--|
| Taxed on: | \$nil | |
| Taxed off: | \$100 | tariff item 14 (Taxation of Bill of Costs) |

The proposed bill of costs is therefore taxed and allowed at \$7576.62. Mr. Kloppenburg may prepare and file a Certificate of Taxation of Costs to this effect (in Form C) for issuance, if necessary.

DATED at Regina, Saskatchewan, this 15th day of December, 2011



REGISTRAR – COURT OF APPEAL

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- and -

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DATED at Regina, Saskatchewan, this 15th day of December, 2011



REGISTRAR – COURT OF APPEAL