

Deborah Hurrell in her capacity as the Executrix  
of the Estate of Marjorie Dean Thorsteinson

APPELLANT

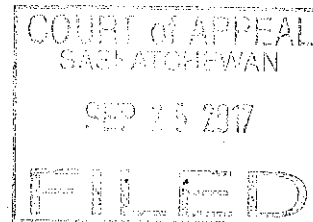
- and -

William Olson

RESPONDENT

No one appearing for the appellant  
Thomas Hynes for the respondent

**Taxation before Melanie A. Baldwin, Q.C.  
Registrar, Court of Appeal for Saskatchewan  
September 25, 2017**



### Background

[1] On October 25, 2016, the Court dismissed this appeal and directed the appellant to pay the respondent his costs "with respect to this appeal assessed in the usual way." An appointment for taxation was taken out on behalf of the respondent, made returnable before me on September 25, 2017. On September 25, 2017, Mr. Hynes appeared before me at the taxation hearing and informed me that Mr. Crane, counsel for the appellant, had advised him that the appellant had no quarrel with the proposed bill of costs and that I could therefore proceed with the taxation on the basis that it was unopposed by the appellant.

### Proposed Bill of Costs

[2] The proposed bill of costs lists the following fees under column 3 of the Court of Appeal Tariff of Costs:

3	Fee to Respondent on receipt of Notice of Appeal	\$ 150
4	Simple motion	\$ 500
6	Agreement as to contents of Appeal Book	\$ 300
7	Preparation of 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
11	Preparing formal order	\$ 300
12	Correspondence	\$ 300
13	Preparation of Bill of Costs	\$ 200
14	Taxation of Bill of Costs	\$ 100

The fees claimed total \$7900. The proposed bill of costs also claims disbursements of \$861.98 which includes court fees for filing a notice of motion (\$25), issuing a formal judgment (\$20), a formal order (\$20) and the appointment for taxation (\$20) and photocopying, printing, postage, courier, fax and long distance charges.

### Issues

[3] As noted above, the appellant took no issue with the proposed bill of costs submitted by the respondent. Notwithstanding this state of affairs, I raised, on my own motion, several concerns with the proposed bill of costs which are dealt with below.

### Decision

[4] The respondent claims fee and court disbursement amounts under items 4 and 11 of the tariff relating to a simple application (to amend the style of cause) made after the Court's decision on the appeal. The respondent did not claim costs as relief in the notice of motion and costs were not mentioned in the subsequently filed draft order. In addition, the order has not yet been issued. Under these circumstances, I am not inclined to allow these amounts and they will be taxed off.

[5] The respondent claims a fee amount under item 7 of the tariff for preparation of the appeal book. A respondent is permitted to claim the item 6 amount where there is an agreement as to contents of appeal book on the basis that the agreement involved both parties. A respondent is not entitled to claim the item 7 amount for preparation of the appeal book however unless, for some reason, the respondent actually prepared the appeal book. This amount will be taxed off.

[6] In all other respects, the fee amounts claimed in the proposed bill of costs appear to be reasonable and appropriate. I might have found the level of detail in the affidavit of disbursements wanting in some respects if the disbursement amounts had been opposed by the appellant but, under the circumstances, I accept the affidavit of disbursements as constituting the proper voucher described in the tariff.

[7] The fees are therefore taxed as follows:

3	Fee to Respondent on receipt of Notice of Appeal	\$ 150
6	Agreement as to contents of Appeal Book	\$ 300
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 total fees allowed are \$6350.

[8] As for disbursements, once the \$25 court fee for filing the notice of motion and the \$20 court fee for issuing the order resulting from the notice of motion are taxed off, the amount remaining is \$816.98 which is allowed.

[9] The proposed bill of costs is therefore taxed and allowed at **\$7166.98** (\$6350 in fees + \$816.98 in disbursements).

DATED at Regina, Saskatchewan, this 25<sup>th</sup> day of September, 2017



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REGISTRAR – COURT OF APPEAL