

605499 Saskatchewan Ltd., 605857 Saskatchewan Ltd., Harold Neufeld, Pierre Neufeld,
Alexander M. Neufeld, Nicholas H. Neufeld and Suzanne F. Fischer

APPELLANTS

- and -

Rifle Shot Oil Corp.

RESPONDENT

- and -

Surface Rights Arbitration Board

RESPONDENT

Murray Douglas for Rifle Shot Oil Corp.

No one appearing for the Appellants or the Surface Rights Arbitration Board

**Taxation before Melanie Baldwin, QC
Registrar, Court of Appeal for Saskatchewan
February 19, 2020**

Background

[1] On July 26, 2018, Justice Jackson granted the appellants leave to appeal one aspect of a decision of the Surface Rights Arbitration Board. Costs for the application for leave to appeal were fixed by Justice Jackson at \$400 payable to Rifle Shot Oil Corp. The appeal was heard by the Court on October 23, 2019. The Court released its decision dismissing the appeal on December 16, 2019. In addition to dismissing the appeal the Court concluded that "the respondents are entitled to the costs of this appeal." A formal judgment, issued on December 30, 2019, identified column 2 as being the appropriate column of the Court of Appeal Tariff of Costs for the determination of the costs payable by the appellants.

[2] Rifle Shot Oil Corp. took out an appointment for taxation of costs returnable before me on February 19, 2020. The appointment, draft bill of costs and an affidavit of disbursements were subsequently served on the appellants and the Surface Rights Arbitration Board and filed with the Court. On February 10, 2020, counsel for the Surface Rights Arbitration Board advised that she would not be taking part in the taxation hearing. On February 19, 2020, counsel for the appellants advised that he would not be attending the taxation hearing. This fiat is my decision on the taxation.

Proposed Bill of Costs

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

1	Motion for leave to appeal	\$ 400
3	Fee to respondent on receipt of notice of appeal	\$ 125
7	Preparation of Appeal Book	\$ 500
8	Preparation of factum	\$2000
9	All other preparation for hearing	\$ 750
10	Appearance to present argument on appeal before Court of Appeal	\$ 400
11	Preparing Formal Judgment or Order	\$ 200
12	Correspondence	\$ 200
13	Preparation of Bill of Costs	\$ 150
14	Taxation of Bill of Costs	\$ 37.50

The fees claimed total \$4762.50. The respondents also claim disbursements of \$3980.60 comprising the \$20 fee for issuing the formal judgment, the \$20 fee for issuing the appointment for taxation, \$3864.60 for photocopying and \$76 for courier fees. The disbursements claimed are supported by an affidavit of disbursements.

Issues

[4] As noted above, neither the appellants nor the Surface Rights Arbitration Board took part in the taxation hearing. As such, no issues were raised by a party to the appeal with the draft bill of costs.

[5] I raised the issue of the per copy cost for photocopying claimed by Rifle Shot Oil Corp. In all other respects, the proposed bill of costs and the fee and disbursement items claimed on it appear to be non-controversial.

Analysis

Photocopying Disbursement

[6] Rifle Shot Oil Corp. claims \$3864.60 for photocopies at \$0.30 per page. The claim is supported by an Affidavit of Disbursements which constitutes a proper voucher.

[7] I summarized taxation practice on photocopying disbursements in my March 27, 2019 decision in *AG Canada v Merchant Law Group LLP*, CACV2860 as follows:

There are, however, costs incurred by law firms that are properly characterized as disbursements and not as part of office overhead. One of these costs is the cost of in-firm photocopying. While, historically, in-firm photocopying charges were not considered to be proper disbursements, a review of registrar's fiats on taxations reveals a gradual change in this area. Since 2008, in-firm photocopying charges have been allowed as disbursements with certain limits. Those limits relate to the per copy charge -- which has not been allowed at more than \$0.25 per copy -- and to the number of copies -- which must correspond with the length of the documents filed with the Court by the party claiming the disbursement.

[8] The claim for photocopies here accords with the number of copies limit described above but the per copy cost claimed by the appellant (\$0.30) exceeds the established per copy charge limit. I am not inclined to depart from the \$0.25 maximum established in taxation case law. I will allow the appellant to claim a disbursement for 12,882 pages of photocopying at \$0.25 per page.

Decision

[9] The fee items claimed on the proposed bill of costs are taxed and allowed under column 2 of the Tariff as follows:

1	Motion for leave to appeal	\$ 400
3	Fee to respondent on receipt of notice of appeal	\$ 125
7	Preparation of Appeal Book	\$ 500
8	Preparation of factum	\$2000
9	All other preparation for hearing	\$ 750
10	Appearance to present argument on appeal before Court of Appeal	\$ 400
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The total fees allowed amount to \$4762.50.

[10] The disbursements claimed by the respondents are taxed and allowed at \$3336.50 (\$3220.50 for photocopying, \$76 for courier fees and \$40 for court fees).

[11] The proposed bill of costs is therefore taxed and allowed at **\$8099** (fees of \$4762.50 plus disbursements of \$3336.50). Rifle Shot Oil Corp. may wish, for enforcement purposes, to prepare and file a certificate of taxation of costs in Form 11d in this amount for issuance.

DATED at Regina, Saskatchewan, this 19th day of February, 2020.



REGISTRAR – COURT OF APPEAL