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*Louise Joy Allison and Debra Gillis*

Applicants / Prospective Appellants  
(Plaintiffs)

*And*

*Janssen-Ortho Inc., Johnson & Johnson Inc.,  
Johnson & Johnson, Johnson & Johnson  
Pharmaceutical Research & Development, LLC,  
Ortho-McNeil Pharmaceuticals Inc., Bayer Inc.,  
Bayer Corporation, Bayer Healthcare  
Pharmaceuticals, Inc., Bayer Healthcare, LLC,  
Ranbaxy Pharmaceuticals Canada Inc., Apotex,  
Inc. and Teva Canada Limited*

Respondents /  
Prospective Respondents  
(Defendants)

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Before: Amy Groothuis, Registrar (on October 6, 2022)

***Fiat***

[1] Ms. Louise Joy Allison and Ms. Debra Gillis [prospective appellants] applied for leave to appeal an interlocutory order made by a judge of the Court of King's Bench, sitting in Chambers, that related to the sequence in which an application to dismiss for want of prosecution was heard relative to a certification application pursuant to *The Class Actions Act*, SS 2001, c C-12.01. The application for leave to appeal came before Schwann J.A. on May 25, 2022. In a fiat dated August 3, 2022, Schwann J.A. denied the prospective appellants leave to appeal and awarded one set of costs to the prospective respondents.

[2] On behalf of all prospective respondents, counsel for Janssen-Ortho Inc., Johnson & Johnson Inc., Johnson & Johnson, Johnson & Johnson Pharmaceutical Research & Development, LLC, and Ortho-McNeil Pharmaceuticals Inc. [prospective respondents] served and filed a formal order reflecting the decision dismissing the prospective appellants' leave application, which was issued on September 20, 2022. At the same time, the prospective respondents prepared and served a notice of appointment for taxation of costs supported by a proposed bill of costs, returnable before me on October 6, 2022. On October 3, 2022, counsel for the prospective appellants wrote to the Registry advising that he would not be attending the taxation hearing. The taxation hearing proceeded on October 6, 2022, as scheduled; neither the prospective appellants nor their counsel appeared. This fiat is my brief decision.

[3] The prospective respondents claim the following fees under Column II of the Court of Appeal Tariff of Costs [Tariff]:

1.	Motion for leave to appeal	\$1,500.00
11.	Preparing Formal Order	\$ 200.00
12.	Correspondence	\$ 200.00
13.	Preparation of Bill of Costs	\$ 150.00
14.	Taxation of Bill of Costs	\$ 75.00

[4] The proposed fees total \$2,125.00, plus GST on fees in the amount of \$106.25 and PST on fees in the amount of \$127.50. The only disbursements claimed are for Court filing fees: \$20.00 for the fee to issue the order, and \$20.00 for the fee to issue the appointment for taxation. Both filing fees are non-taxable. During the taxation hearing, counsel for the prospective respondents confirmed their intention to take out a certificate of taxation of costs in Form 11d following the taxation, which has a non-taxable cost of \$20.00, for the purposes of enforcement. I tax on that additional disbursement.

[5] *The Court of Appeal Rules (Civil)* provide at Rule 54(1)(b) that where non-monetary relief is involved, Column II of the Tariff applies. In this instance, the underlying dispute centred on whether the Chambers judge erred when determining the sequence of hearing an application to certify and applications to strike the claim for want of prosecution. I am satisfied that the proposed appeal sought non-monetary relief, and therefore Column II applies.

[6] I reviewed the Court file and am satisfied that all Tariff items and non-taxable disbursements claimed on the proposed bill of costs are proper. However, given that counsel for the prospective appellants did not appear and did not raise any issues with the proposed bill of costs, the taxation hearing was brief. As a result, I decrease the amount claimed under Tariff item #14 by half and therefore tax off \$37.50. This necessarily results in a minor adjustment to the GST and PST claimed on fees.

[7] The proposed bill of costs is therefore taxed and allowed at \$2,087.50, plus GST in the amount of \$104.38 and PST in the amount of \$125.25, for a total of \$2,317.13. With the addition of \$60.00 in non-taxable disbursements, the prospective respondents are entitled to a global amount of \$2,377.13. Upon receipt of a Form 11d outlining these amounts, the same will issue.



Counsel: No one appearing for Louise Joy Anderson and Debra Gillis  
Amanda Quayle, K.C. for Janssen-Ortho Inc., Johnson & Johnson Inc., Johnson & Johnson, Johnson & Johnson Pharmaceutical Research & Development, LLC, and Ortho-McNeil Pharmaceuticals Inc.