
Eddy Larry Mosiuk and Patricia Skrapek

Appellants
(Plaintiffs)

and

Brent Alan Black

Respondent
(Defendant)

Before: Amy Groothuis, Registrar (on April 29, 2025)

Fiat

I. Introduction

[1] On April 9, 2025, the Court of Appeal dismissed the appellants' appeal: *Mosiuk v Black*, 2025 SKCA 39, with costs to the respondent for the appeal as well as for an application to perfect that had been granted at an earlier stage of the proceedings.

[2] On April 28, 2025, a formal judgment reflecting the appeal's disposition was issued. A notice of appointment for taxation of costs was taken out, supported by a proposed bill of costs, returnable before me on April 29, 2025. This fiat addresses the proposed bill of costs.

II. Proposed Bill of Costs

[3] The respondent's proposed bill of costs relies on Column 4 of the Court of Appeal Tariff of Costs. At the commencement of the taxation of costs hearing, counsel for the appellants confirmed that the only issue was the proposed Column; that is, the appellants did not dispute the respondent's entitlement to the specific Tariff items claimed, only the value of those items, which are calculated according to which Column is applied. Additionally, the appellants identified no concerns with respect to the disbursements claimed, all of which were for court filing fees and all of which I confirmed from a review of the court file were properly incurred.

III. Analysis

[4] Rule 54 of *The Court of Appeal Rules* describes the Registrar's authority in taxing costs. For the purpose of the within taxation, the relevant provisions provide:

54(1) Unless otherwise ordered:

- (a) the costs of an appeal or application shall be taxed as between party and party by the registrar in accordance with the fees set out in the appropriate column of the “TARIFF OF COSTS IN THE COURT OF APPEAL” which is attached as Schedule 1 to these Rules; and
- (b) Column 2 of Schedule 1 applies to the taxation of costs where non-monetary relief is involved.

[5] Ultimately, the core of the dispute centred on what is meant by the phrase “where non-monetary relief is involved”. Counsel for the respondent argued that the appropriate Column is determined on the basis of the value of the claim advanced in the court below, which in this instance was approximately \$388,000. In his submission, “non-monetary relief” only applies to those appeals taken from a judgment or order relating to actions or applications where the relief does not include a claim for monetary damages, such as an appeal from a decision that granted an injunction.

[6] Conversely, counsel for the appellants made two arguments. First, he argued that the word “included” in Rule 54(1)(b) suggests that where some form of non-monetary relief is present, then Column 2 will apply. In this instance, the costs awarded by the Court related both to the appeal as well as an application to perfect the appeal (which sought procedural and not monetary relief). Second, counsel for the appellants argued that the decision under appeal was not from a judgment that awarded damages, but was related to a non-monetary, procedural ruling. More particularly, the appeal was taken following a decision that dismissed the plaintiff’s claim for delay, with the value of that claim having never been determined, such that the only relief that could be granted at the Court of Appeal – if the appeal had been successful – would have been to return the matter to the Court of King’s Bench to allow the action to proceed.

[7] The long-standing interpretation of the term “non-monetary relief” and the Registrar’s corresponding approach in determining the appropriate Column has been to examine the relief sought in the notice of appeal and the appellant’s factum: *Lloyd Hanna v Nancy Beckman*, CACV3053, April 8, 2019 (Baldwin), *Marguerite Kirk and Paul Kirk v Gerald Kirk et al*, CACV3022, December 12, 2017 (Baldwin), *Lorne Hoedel v WestJet Airline Ltd. et al*, CACV3864, February 21, 2024 (Groothuis) and *Janet Milburn v Jason Sansom*, CACV4025, May 12, 2023 (Groothuis).

[8] I see no reason to depart from this well-established approach. In this instance, the two primary challenges to the lower court decision identified in the notice of appeal were (a) the striking of the appellants’ statement of claim because of delay of prosecution and (b) the finding that it would not be in the interests of justice to allow the appellants’ claim to proceed. Each of these were further advanced in the appellants’ factum, with the requested relief being that the appeal be allowed and the “claim be reinstated with costs in this court and the court below”.

[9] The lower court never considered the value of the prospective damages because not only had they not been examined and tested, but liability was never established given the dismissal of the action for delay. The appeal did not seek any monetary relief, and in line with past authorities

I am entirely convinced that in this instance, the relief sought was non-monetary and thus Column 2 applies to the taxation of these costs.

IV. Decision

[10] As a result of the above, I tax the respondent's cost on Column 2 of the Tariff:

3.	Fee to Respondent on receipt of Notice of Appeal	\$ 125.00
4.	Simple Application (Perfect Appeal)	\$ 375.00
11.	Prepare Formal Order (Perfect Appeal)	\$ 200.00
8.	Preparation of Factum	\$2,000.00
9.	All Other Preparation of Hearing	\$ 750.00
10.	Appearance to Present Argument on appeal	\$ 400.00
11.	Preparing Formal Judgment	\$ 200.00
12.	Correspondence	\$ 200.00
13.	Preparation of Bill of Costs	\$ 150.00
14.	Taxation of Bill of Costs	<u>\$ 37.50</u> (half-hour hearing)
		\$4,437.50

[11] The proposed bill of costs is therefore taxed and allowed at \$4,437.50, plus disbursements in the amount of \$85.00.

[12] The respondent is entitled to receive \$4,522.50 from the appellants for the taxable costs related to dismissal of their appeal. For enforcement purposes, the respondent may wish to prepare and file a certificate of taxation of costs in Form 11d in the amount of \$4,522.50 for issuance.



Amy Groothuis, Registrar
Court of Appeal for Saskatchewan

Counsel: Jason M. Clayards for Eddy Larry Mosiuk and Patricia Skrapek
Adam T. Ailsby for Brent Alan Black