

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Green v. John M. Richter Law Corp. & Others*,
2018 BCSC 1652

Date: 20180925
Docket: S183600
Registry: Vancouver

Between:

Chris Green

Plaintiff

And

John M. Richter Law Corporation, doing business as Richter Trial Lawyers, Taylor & Blair, and Roger Dawson

Defendants

Before: Master Vos

Ruling Re: Costs for the Assessment Hearing

Plaintiff, acting on his own behalf:	C. Green
Counsel for the defendant, John M. Richter Law Corporation, dba Richter Trial Lawyers	A. James
Counsel for the defendant, Taylor & Blair	B. Jacobson
Written submissions of John M. Richter Law Corporation, dba Richter Trial Lawyers	September 10, 2018
Written submissions of Taylor & Blair	September 10, 2018
Written submissions of the plaintiff, Chris Green	September 12, 2018
Place and Date of Ruling:	Vancouver, B.C. September 25, 2018

[1] The parties attended at an assessment hearing on August 22 and 23, 2018. The hearing was scheduled by Mr. Green to review legal services bills two law firms, John M. Richter Law Corporation and Taylor & Blair, provided to him.

[2] I provided written reasons for judgment with respect to the hearing, indexed as *Green v. John M. Richter Law Corp. & Others*, 2018 BCSC 1449. The parties were granted leave to provide written submissions regarding costs for the two day assessment hearing.

[3] The Defendant, John M. Richter Law Corporation claims costs, disbursements and taxes thereon totalling \$4,925.15. The defendant, Taylor & Blair claims costs, disbursements and taxes thereon totalling \$5,963.85.

[4] In his written submissions dated September 12, 2018, the plaintiff, Mr. Green, indicates that he reached an agreement to accept the costs claimed by both firms “under protest” in order to obtain the balance of his settlement funds as quickly as possible. This is a reference to the fact that, pursuant to a court order, John M. Richter Law Corporation holds funds in trust from Mr. Green’s settlement for his claims for damages for personal injuries and consequent losses he sustained as a result of a motor vehicle accident that occurred on July 20, 2010.

[5] After they filed their written submissions, the parties asked to appear before me to speak to the terms of a consent order. A hearing was set for September 21, 2018. On September 21, Mr. Green indicated that he had reconsidered the proposed settlement and no longer agreed to settle the matter.

[6] The claims for costs for the assessment hearing are therefore to be determined on the written submissions provided.

[7] Section 72(1) of the *Legal Profession Act* provides that costs of a review of a lawyer’s bill must be paid by the person charged if less than 1/6 of the total amount of the bill is subtracted from it. At the hearing both law firms conceded that the law firms’ claims would be limited to sharing the fee that would be payable under the contingency fee agreement Mr. Green entered into with John M. Richter Law

Corporation (i.e. 33 $\frac{1}{3}$ % of the settlement). John M. Richter Law Corporation claimed 80% of that fee plus \$10,058.91 for disbursements and taxes on disbursements. It was awarded the fee claimed plus \$7,538.91 for disbursements. The amount subtracted is less than 1/6 of the amount claimed at the hearing, so Mr. Green must pay John M. Richter Law Corporation's party/party costs for the review hearing.

[8] Taylor & Blair claimed 20% of the contingency fee plus disbursements and taxes on disbursements that totalled \$11,837.79. They were awarded that amount. Mr. Green must therefore pay Taylor & Blair's party/party costs for the review hearing.

Bill of Costs of John M. Richter Law Corporation

[9] John M. Richter Law Corporation claims costs under Appendix "B" tariff items 21 and 22 for preparation for and attendance at applications that proceeded on January 24, 2018 and March 26, 2018. These claims refer to applications made in Mr. Green's personal injury action, SCBC Action M123458, Vancouver Registry, *Chris Green v. Chui Tsun Hui*. The January 24, 2018 application was for an order that settlement funds owing to Mr. Green in that action be held in trust pending determination of the law firm's claim for fees. It was successful. The March 26, 2018 hearing was for an application brought by Mr. Green, seeking an order that funds then held in trust be paid out to him and Rhino Legal Finance Inc. John M. Richter Law Corporation consented to the payment to Rhino Legal Finance Inc. and opposed the application for payment of funds to Mr. Green. Mr. Green did not succeed on his application to get the balance of the funds. Those applications relate to this *Legal Profession Act* assessment proceeding. The orders entered for both applications were silent as to costs. *Supreme Court Civil Rule (SCCR) 14-1(12)* therefore applies. John M. Richter Law Corporation is entitled to costs for preparation for and attendance at both applications. Both applications lasted less than 2.5 hours, so, pursuant to *SCCR* Appendix "B", s. 4, half the daily rate is allowed for each. John M. Richter Law Corporation is awarded 1.5 units for

preparation for each of these two applications and 2.5 units for attendance in court for each. The total under these items therefore is 8 units (2 x 1.5; plus 2 x 2.5).

[10] John M. Richter Law Corporation claims costs under Appendix “B” tariff items 24 and 25 for preparation for and attendance at the assessment hearing. The assessment hearing was scheduled for three days but lasted only two days. Costs are claimable only for the time actually spent at the hearing. John M. Richter Law Corporation is awarded 3 units for preparation for each day of the hearing and 6 units for attendance at each day of the hearing. The total under these items therefore is 18 units (2 x 3; plus 2 x 6).

[11] John M. Richter Law Corporation claims costs under Appendix “B” tariff items 31 and 32 for preparation for and attendance at the pre-hearing conference that proceeded on July 4, 2018. The amounts claimed are one unit for each, which is the minimum claimable. Those claims are appropriate and are granted.

[12] The costs awarded to John M. Richter Law Corporation total 28 units (8 + 18 + 2). Costs are at Scale B. Costs and taxes on costs total \$3,449.60 (28 units x \$110 per unit + GST(5%) + PST(7%) = \$3,449.60).

[13] Disbursements totalling \$366.75 are claimed by John M. Richter Law Corporation. There are three claims for parking. They must be for counsel to attend at the hearing, as no witnesses were called by John M. Richter Law Corporation. Parking fees paid by counsel to attend for court appearances are generally considered to be part of lawyer’s overhead and therefore not recoverable on a party/party bill of costs (see: *Practice Before the Registrar*, The Continuing Legal Education Society of British Columbia, section 2.67). Those claims are not allowed on this bill of costs. The remainder of the disbursements are proper and are awarded to John M. Richter Law Corporation. The disbursements awarded total \$343.90.

Bill of Costs of Taylor & Blair

[14] Taylor & Blair claims costs under Appendix “B” tariff items 1 and 2. Those items are for a full action or petition proceeding and do not apply for just an assessment hearing. Those claims are therefore not allowed.

[15] Taylor & Blair claims costs under Appendix “B” tariff items 24 and 25 for preparation for and attendance at the assessment hearing. Costs are claimable only for the time actually spent at the hearing. Taylor & Blair is awarded 3 units for preparation for each day of the hearing and 6 units for each day of attendance at the hearing. The total under these items therefore is 18 units (2 x 3; plus 2 x 6).

[16] Mr. Jacobson attended at the pre-hearing conference on July 4, 2018. Taylor & Blair is entitled to costs under Appendix “B” tariff items 31 and 32 for preparation for and attendance at that pre-hearing conference. The amounts awarded are one unit for each item.

[17] The costs awarded to Taylor & Blair total 20 units (18 + 2). Costs are at Scale B. Costs and taxes on costs total \$2,464.00 (20 units x \$110 per unit + GST(5%) + PST(7%) = \$2,464.00).

[18] Disbursements totalling \$974.25 are claimed by Taylor & Blair. There are five claims for parking. They must be for counsel to attend at the hearing, as no witnesses were called by Taylor & Blair. Parking fees paid by counsel to attend for court appearances are generally considered to be part of lawyer’s overhead and therefore not recoverable on a party/party bill of costs (see: *Practice Before the Registrar*, The Continuing Legal Education Society of British Columbia, section 2.67). Those claims are not allowed on this bill of costs. There are three filing fees claimed, which are proper and are allowed. A courier expense is claimed. It is related to this assessment hearing and is allowed. A photocopying fee of \$600 is claimed; 2000 pages at \$.30 per page. This must be for some tasks done while Taylor & Blair handled this file on behalf of the plaintiff, as the photocopies produced at the assessment hearing were nowhere near 2000 pages. The rate charged is

greater than the \$.25 per page directed by Administrative Notice AN- 5. There will be an award for photocopying of \$100, plus GST and PST. The disbursements awarded to Taylor & Blair total \$382.00 ($\$80 + \$60.90 + \$33.60 + \$75.34 + \$20.16 + \112).

Result

[19] The costs, disbursements and taxes thereon of John M. Richter Law Corporation relating to the assessment hearing are allowed against the plaintiff, Chris Green, in the amount of \$3,793.50 ($\$3,449.60 + \343.90).

[20] The costs, disbursements and taxes thereon of Taylor & Blair relating to the assessment hearing are allowed against the plaintiff, Chris Green, in the amount of \$2,846.00 ($\$2,464.00 + \382.00).

“Master Vos”