

Federal Court



Cour fédérale

Date: 20100316

Docket: T-1847-05

Citation: 2010 FC 301

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

In the matter of the *Income Tax Act*,

and

In the matter of an assessment or assessments by the Minister of National Revenue under one or more of the following acts: the *Income Tax Act*, the *Canada Pension Plan* and the *Employment Insurance Act*,

Against:

RÉGIS DELAUNIÈRE

and

9039-0402 QUÉBEC INC.

Judgment debtors

ASSESSMENT OF COSTS – REASONS

ASSESSMENT OFFICER JOHANNE PARENT

[1] On October 21, 2005, the Court (Mr. Justice Simon Noël) granted the applicant leave to take the measures set out in paragraphs 225.1(1)(a) to (g) of the *Income Tax Act* against the judgment debtors, the whole with costs against the judgment debtors. Subsequently, an application to review and vacate that collection order was dismissed with costs by the Honourable Justice Gauthier on

June 14, 2007. Upon receipt of the applicant's bill of costs, directions were given on June 25, 2009, informing the parties that the assessment of the bill of costs would proceed without personal appearance of the parties and of the time limit for filing written submissions. On August 7, 2009, counsel for the judgment debtors filed a motion for removal of solicitor of record under Rule 125 of the *Federal Courts Rules*, which was allowed by Prothonotary Richard Morneau on October 30, 2009. Based on the terms of that order, the appropriate service was made. According to information in the Court record, the judgment debtors did not retain a new solicitor. Consequently, on December 18, 2009, new directions were issued and served by fax to the applicant and by registered mail to the judgment debtors setting out a new time table for serving and filing written submissions with regard to the assessment of costs. Despite the service of these new directions and the bill of costs to all parties, no written submissions were received within the time limit.

[2] I will therefore proceed with the assessment of the bill of costs, taking into consideration the comments of my colleague in *Dahl v. Canada*, 2007 FC 192:

Effectively, the absence of any relevant representations by the Plaintiff, which could assist me in identifying issues and making a decision, leaves the bill of costs unopposed. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by an assessment officer stepping away from a position of neutrality to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the Tariff.

[3] The number of units claimed under items 4 (preparation and filing of an uncontested motion), 5 (preparation and filing of a contested motion), 6 (appearance on a motion), 25

(services after judgment) and 26 (assessment of costs) are allowed as claimed. The disbursements incurred by the applicant are justified, reasonable and considered necessary to the conduct of the matter and are therefore allowed.

[4] The applicant's bill of costs is allowed in the amount of \$2,248.59. A certificate of assessment will be issued for this amount.

“Johanne Parent”
Assessment Officer

Toronto, Ontario
March 16, 2010

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1847-05

STYLE OF CAUSE: In the matter of the *Income Tax Act*, v. In the matter of an assessment or assessments by the Minister of National Revenue under one or more of the following acts: the *Income Tax Act*, the *Canada Pension Plan*, and the *Employment Insurance Act*
Against:
RÉGIS DELAUNIÈRE v. 9039-0402 QUÉBEC INC.

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

PLACE OF ASSESSMENT: TORONTO, ONTARIO

ASSESSMENT OF COSTS – REASONS: ASSESSMENT OFFICER
JOHANNE PARENT

DATE OF ASSESSMENT: MARCH 16, 2010

WRITTEN REPRESENTATIONS BY:

Sophie Matte FOR THE APPLICANT

N/A FOR THE JUDGMENT DEBTORS

SOLICITORS OF RECORD:

John H. Sims, Q.C. FOR THE APPLICANT
Deputy Attorney General of Canada

N/A FOR THE JUDGMENT DEBTORS