

SUPREME COURT OF NOVA SCOTIA
Citation: *Gillis v. BCE. Inc.*, 2014 NSSC 336

Date: 20140919
Docket: Hfx No. 234376
Registry: Halifax

Between:

John Gillis et al

Plaintiffs

v.

BCE Inc. et al

Defendants

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Judge: The Honourable Justice Peter P. Rosinski
Heard: [By Written Submissions Only]
Final Written Decision: September 19, 2014
Subject: Costs of Interlocutory Motion in the case of Class-Action Proceedings: s.40(1) *Class Proceedings Act* and *Civil Procedure Rule 77*

Summary: The Defendants sought a permanent stay of proceedings against the Plaintiffs' Class Action Proceeding herein regarding "system access fees" collected by the Defendants from consumers from 1987 to present. The Defendants argued that multiple parallel actions had been commenced in various Canadian jurisdictions, and that the one in Nova Scotia was an abuse of process as not having progressed in any significant fashion since its filing in 2004. While the Court's decision on that motion was under reserve, the Defendants made a motion to reopen the main motion to

present further evidence. The main motion and subsequent motion were dealt with together in the reserved decision. The Court determined that both the Defendants' motions should be dismissed. The parties could not agree upon costs and the court was consequently required to address the issue in this decision. The main motion involved one full day in court, followed by a written reply submission. The motion to reopen was by correspondence and characterized as the equivalent of a one half day motion. Thus, more than one and a half days effectively were required. The material supporting the motion, both factual and legal, was complex and extensive. The Plaintiffs sought \$3,000 as a base amount pursuant to *Tariff C Rule 77*, and a multiplier of three for a total all-inclusive amount of \$9000 [no disbursements were sought to be reimbursed]. The Defendants sought pursuant to *Tariff C Rule 77*, an amount of \$2,500, plus disbursements to be taxed.

Issues:

What is the proper costs award on this situation?

Result:

Although s. 40(1) of the *Class Proceedings Act* adds an additional dimension to costs awards in class-action proceedings, *Rule 77* is still supervening. The Court found the Plaintiffs have fairly characterized the matter as involving a base amount of \$3,000, and in the circumstances a multiplier of three was appropriate to calculate a "just and appropriate award" for a total all-inclusive amount of \$9,000, as against the Defendants jointly and severally, to be paid in any event of the cause, and forthwith.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***