

Docket: 2003-4555(IT)G

BETWEEN:

JOVO MRKALJ,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

CERTIFICATE OF COSTS

I CERTIFY that I have taxed the party and party costs of the Respondent in this proceeding under the authority of subsection 153(1) of the *Tax Court of Canada Rules (General Procedure)* and I ALLOW THE SUM OF \$8,535.49.

Signed at Toronto, Ontario, this 21st day of December 2009.

“B.G. Tanasychuk”

Taxing Officer

Docket: 2003-4557(IT)G

BETWEEN:

MILIC MRKALJ,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

CERTIFICATE OF COSTS

I CERTIFY that I have taxed the party and party costs of the Respondent in this proceeding under the authority of subsection 153(1) of the *Tax Court of Canada Rules (General Procedure)* and I ALLOW THE SUM OF \$8,535.50.

Signed at Toronto, Ontario, this 21st day of December 2009.

“B.G. Tanasychuk”

Taxing Officer

Citation: 2009 TCC 637
Date: 20091221
Dockets: 2003-4555(IT)G
2003-4557(IT)G

BETWEEN:

JOVO MRKALJ,
MILIC MRKALJ,

Appellants,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR TAXATION

Barbara Tanasychuk, T.O., T.C.C.

[1] This taxation came on for hearing by way of a telephone conference call on July 28, 2009. It follows Judgments of the Honourable Justice Cameron H. McArthur dated November 23, 2007, in which the appeals were allowed for the 1995 taxation year, without costs, and the appeals for the 1996, 1997 and 1998 taxation years were dismissed, with costs. Mr. Milic Mrkalj did not participate in this hearing. Mr. Jovo Mrkalj represented himself. Mr. Ronald MacPhee represented the Respondent. These Reasons for Taxation apply to both dockets.

[2] The Respondent filed one Bill of Costs for both Appellants, as follows:

<u>Item No.</u>	<u>Item</u>	<u>Fees</u>	<u>Disbursements</u>
B1(1)(a)	Services prior to examinations for discovery	\$ 350.00	
B1(1)(b)	Discovery of documents	\$ 100.00	
B1(1)(c)	Examination for discovery (November 30, December 1, 2004)	\$ 700.00	
B1(1)(c)	Taxation of costs	\$ 350.00	
B1(1)(g)	Preparation for hearing	\$ 350.00	
B1(1)(h)	Conduct of Hearing		

	March 26, 27, April 12, July 11, 2007 (4 x \$1,000)	\$ 4,000.00	
B1(1)(i)	Services after Judgment	<u>\$ 150.00</u>	
B1(2)	Transcript and reporting fees of examination for discovery		\$3,038.55
B1(2)	Transcript of trial		\$ 764.74
B1(2)	Photocopies		\$6,117.85
B1(2)	Bailiff fees		<u>\$1,149.85</u>
	Total fees	\$ 6,000.00	
	Total disbursements	<u>\$11,070.99</u>	
	Subtotal	\$17,070.99	

[3] Mr. Jovo Mrkalj stated that he was not disputing the amounts claimed for counsel fees. However, he raised two issues with respect to the Bill of Costs. His position was that he should only be responsible for one half of the total amount of the costs. The second issue was the claim for the cost of photocopies in the amount of \$6,117.85, which he submitted was an excessive amount.

[4] Mr. MacPhee stated that the Appellants were jointly and severally liable for the costs awarded to the Respondent. He further stated that if the appeals had proceeded separately, the costs would have been higher. It was his position that an apportionment of the costs between the two Appellants would penalize the Respondent for handling the litigation in a reasonable, cost efficient manner.

[5] Mr. MacPhee submitted that the amount claimed for photocopies was reasonable and represented the actual costs incurred by the Respondent. He also stated that many of the copies were made at the request of the Appellants' former counsel. All of the photocopies were made by an outside firm and copies of the invoices were included with the Bill of Costs to support the amount claimed.

DECISION

[6] These appeals were heard on common evidence. The Honourable Justice McArthur issued a separate Judgment for each appeal, accompanied by one set of Reasons for Judgment. Each Judgment awarded costs to the Respondent.

[7] Mr. MacPhee referred to the decision of the Taxing Officer in *Mungiovi v. Her Majesty the Queen*, [unreported T.C.C. Docket No. 97-2223(IT)G, December 5, 2000], which was contrary to the position he put forward on this taxation. In that decision, the Taxing Officer held that unless the Court ordered that each Appellant

on an appeal heard on common evidence was jointly and severally liable for the total costs, then each Appellant was only liable for a proportionate share.

[8] Following the decision in *Mungiovi*, I will apportion the costs equally between the two Appellants.

[9] The amounts claimed for counsel fees are proper and in accordance with Schedule II, Tariff B of the *Tax Court of Canada Rules (General Procedure)*. I will allow the amount of \$6,000.00 for counsel fees.

[10] The only disbursement in dispute was the sum of \$6,117.85 claimed for photocopies. This amount was supported by copies of invoices from Bradda Printing Services Inc. While the amount claimed for photocopies is substantial, I do not find it to be unreasonable. I accept Mr. MacPhee's explanation that many of the copies were made at the request of the Appellants' former counsel. In addition, the hearing of these appeals took place over several days, with numerous exhibits filed. I am satisfied that the expense is reasonable and was incurred for the purpose of the litigation. I will allow the full amount claimed for photocopies of \$6,117.85.

[11] The amounts claimed for transcripts and bailiff fees were not in dispute and I will allow them as submitted for a total of \$4,953.14.

[12] The Respondent's Bill of Costs in the amount of \$17,070.99 is taxed and the full amount is allowed. Two Certificates will be issued as follows:

<u>Docket No.</u>	<u>Appellant</u>	<u>Amount</u>
2003-4555(IT)G	Jovo Mrkalj	\$8,535.49
2003-4557(IT)G	Milic Mrkalj	\$8,535.50

Signed at Toronto, Ontario, this 21st day of December 2009.

“B.G. Tanasychuk”

Taxing Officer