

Federal Court



Cour fédérale

**Date: 20201001**

**Docket: T-472-17**

**Citation: 2020 FC 947**

**Ottawa, Ontario, October 1, 2020**

**PRESENT: The Honourable Mr. Justice Gleeson**

**BETWEEN:**

**ROGER ROBIDOUX**

**Plaintiff**

**and**

**MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPAREDNESS**

**Defendant**

**REASONS AND ORDER**  
**(Regarding costs)**

[1] This action, brought under section 135 of the *Customs Act*, RSC 1985, c 1 (2nd Supp) appealing a decision of the Minister upholding a finding that Mr. Robidoux had contravened the *Customs Act*, was dismissed in a Judgment released on July 17, 2020 (*Robidoux v Canada (Public Safety and Emergency Preparedness)*, 2020 FC 766, [Robidoux]).

[2] At the hearing of the action, counsel for the Defendant, citing delays in bringing the matter to trial, requested the opportunity to make further submissions on costs. Accordingly, I established a timeline for the parties to serve and file written submissions on the issue of costs (*Robidoux* Judgment, paras 2 and 3).

[3] In accordance with the timeline, counsel for the Defendant filed supplemental submissions on July 23, 2020 together with a Solicitor's Certificate of Service stating that the supplemental submissions had been served by email. The timeline provided for responding submissions from the Plaintiff within five (5) days of the service of the Defendant's submissions. No supplementary submissions on behalf of the Plaintiff have been filed nor has the Plaintiff otherwise communicated with the Court seeking an extension of time.

[4] A review of the Index of Recorded Entries indicates that the Registry sent copies of the Judgment and Reasons to the Parties on July 17, 2020. Counsel for the Defendant acknowledged receipt on the same date. There is no entry indicating the Plaintiff acknowledged receipt of the Judgment and Reasons. In late September 2020, the Registry attempted to contact counsel for the Plaintiff concerning costs submissions. An entry dated September 30, 2020 states counsel for the Plaintiff has not responded. The Court is left to assess costs based on the submissions and evidence before it.

[5] The Defendant seeks costs in the amount of \$8,000. In support of this position, the Defendant has filed the affidavit of Méline Robidoux, Paralegal, Department of Justice affirmed on July 22, 2020. The July 22 affidavit attaches a Bill of Costs, and excerpts from

correspondence evidencing a series of settlement offers and delays in satisfying the Plaintiff's undertakings on discovery.

[6] The Defendant submits that the costs sought represents only a portion of the approximately \$13,300 amount arrived at using Column III, Tariff B of the *Federal Courts Rules*. This amount is reflected in the Defendant's Bill of Costs.

[7] The Defendant argues that in the context of the numerous settlement offers made and the Plaintiff's role in delaying the action coming to trial, a lump sum costs award in the amount of \$8,000 is entirely reasonable.

[8] The Court has full discretion over the amount of costs to be awarded. That discretion is guided by a non-exhaustive list of factors that the Court may consider (*Federal Courts Rules*, r 400(3)). In this instance the result of the proceeding, the complexity of the issues, the offers to settle and conduct that tended to lengthen the proceeding are factors upon which I place particular emphasis (*Federal Courts Rules*, r 400(3)(a),(c), (e), and (i)).

[9] The Defendant was successful in the action, however the issues raised were not complex. The Plaintiff disregarded numerous offers to settle that could have avoided a hearing. However, there is no evidence to suggest that the position taken on the offers to settle was driven by anything other than the Plaintiff's subjective view that he remained a resident of the United States (*Robidoux* at para 38). The delay in proceeding to trial similarly did not render the

proceedings more complex or difficult and there is no evidence that the Defendant suffered any prejudice as a result of the delay.

[10] Having considered the Defendant's submissions and the factors identified above the Defendant shall have costs in the amount of \$5,000.

**ORDER IN T-427-17**

**THIS COURT ORDERS that:**

The Defendant shall have costs inclusive of disbursements and taxes in the fixed amount of \$5,000.

“Patrick Gleeson”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-472-17

**STYLE OF CAUSE:** ROGER ROBIDOUX v MINISTER OF PUBLIC  
SAFETY AND EMERGENCY PREPAREDNESS

**PLACE OF HEARING:** MONTREAL, QUEBEC

**DATE OF HEARING:** NOVEMBER 18, 2019  
NOVEMBER 19, 2019

**REASONS AND ORDER:** GLEESON J.

**DATED:** OCTOBER 1, 2020

**APPEARANCES:**

Zave Kaufman FOR THE PLAINTIFF

Véronique Forest FOR THE DEFENDANT

**SOLICITORS OF RECORD:**

Colas Moreira Kazandjian FOR THE PLAINTIFF  
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