

**Date: 20071005**

**Docket: T-626-96**

**Citation: 2007 FC 1033**

**BETWEEN:**

**HUSSEIN FARZAM**

**Plaintiff**

**and**

**HER MAJESTY THE QUEEN IN RIGHT OF  
THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Defendant**

**ASSESSMENT OF COSTS - REASONS**

**Charles E. Stinson**  
**Assessment Officer**

[1] The Court dismissed with costs this action for damages relative to alleged negligence in processing the Plaintiff's application for permanent residency. I issued a timetable for written disposition of the assessment of the Defendant's three bills of costs.

[2] The Plaintiff did not file any materials in response to the Defendant's materials. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by having an assessment officer step away from a neutral position 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.

I examined each item claimed in the bills of costs and the supporting materials within those parameters.

[3] Certain items warrant my intervention in view of my expressed parameters above as I feel that the Defendant cannot establish entitlement thereto notwithstanding the absence of objections from the Plaintiff. The Defendant claimed counsel fee item 24 several times for the time of counsel and a paralegal to travel for various purposes. I disallow each item 24 further to my conclusions in *Marshall v. Canada*, [2006] F.C.J. No. 1282 at para. 6, that there must be a visible direction by the Court to the assessment officer specifically authorizing fees for the time of counsel in transit. Such a direction is not however necessary to assess the associated travel disbursements. The Defendant claimed counsel fee item 28 several times for the services of a paralegal. In *Air Canada v. Canada (Minister of Transport)*, [2000] F.C.J. No. 101 (A.O.), I considered the circumstances for allowing item 28. I find that the record does not support any allowances. There were other items in the bill of costs for the action which might have attracted disagreement, but the remaining amount claimed is generally arguable as reasonable within the limits of the award of costs.

[4] The Defendant presented a bill of costs for the Plaintiff's unsuccessful motion to introduce certain evidence at trial, a bill of costs for the Plaintiff's unsuccessful motion to adduce at trial the evidence of certain witnesses and a bill of costs for the action. The Defendant claimed a counsel fee item 26 (assessment of costs) for each bill of costs. The practice may be different in other jurisdictions, but the practice in this Court is to present a single bill of costs addressing all events, including motions, only after the trial judgment. The exception is an interlocutory award providing

for costs payable forthwith, in which case a separate bill of costs may be assessed and enforced before the trial. I allow only a single item 26 in these circumstances at the maximum 6 units (\$120.00 per unit). The Defendant's two bills of costs for the motions are assessed and allowed as presented at \$901.55 and \$1,171.20 respectively as I find them generally arguable as reasonable within the limits of their awards of costs. The Defendant's bill of costs for the action, presented at \$78,808.92, is assessed and allowed at \$63,505.32.

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"Charles E. Stinson"  
Assessment Officer

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-626-96

**STYLE OF CAUSE:** HUSSEIN FARZAM v. HER MAJESTY  
THE QUEEN IN RIGHT OF THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF  
THE PARTIES**

**REASONS FOR ASSESSMENT OF COSTS:** CHARLES E. STINSON

**DATED:** October 5, 2007

**WRITTEN REPRESENTATIONS:**

n/a FOR THE PLAINTIFF

Mr. Michael Roach FOR THE DEFENDANT

**SOLICITORS OF RECORD:**

n/a FOR THE PLAINTIFF

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