

**Date: 20021028**  
**Docket: T-826-02**  
**Neutral Citation: 2002 FCT 1118**

**BETWEEN:**

**DOMINIQUE LAUNIÈRE**

**Plaintiff**

**and**

**ATTORNEY GENERAL OF CANADA**

**and**

**CONSEIL DES MONTAGNAIS DU LAC SAINT-JEAN**

**Defendants**

**ASSESSMENT OF COSTS - REASONS**

**DIANE PERRIER, ASSESSMENT OFFICER**

[1] On July 19, 2002, Mr. Richard Morneau, Prothonotary, allowed with costs a motion by the defendant, the Conseil des Montagnais du Lac Saint-Jean, for the dismissal of the simplified action.

[2] On September 16, 2002, counsel for the defendant, Luis Diaz, asked that the costs be assessed without appearance of the parties. On October 3, 2002, we received an objection

to the assessment of costs from Frédéric Boily, counsel for the plaintiff. On October 21, 2002, Mr. Diaz informed us that he would not be filing any reply.

[3] The defendant claims the following fees in its bill of costs:

<b>Item</b>	<b>Description</b>	<b>Number of units</b>
2	Preparation and filing of written submissions in response to the plaintiff's response book	7
5	Preparation of a notice of motion to dismiss the simplified action	7
7	Discovery of affidavits, documents, authorities in support of the notice of motion and in response to the response book	5
15	Written argument by memorandum instead of a hearing	7
25	Services after judgment	1
26	Assessment of costs	6

Sub-total 33 units at \$110.00 = \$3,630.00

7% GST = \$254.10

7.5% QST = \$291.31

The defendant claims disbursements in the amount of \$264.30 for service of documents, postage and photocopy costs.

[4] The plaintiff argues that the number of units claimed by the defendant is exaggerated and that the assessment officer should instead allow three units for item 5 and two units for item 26. The units claimed by the defendant under items 2, 7 and 15 should not be allowed separately to the defendant since item 5 of the tariff provides the number of units for the preparation and filing of a contested motion, including materials and responses

thereto. For item 25, the plaintiff argues that there is no justification for this number of units.

[5] I agree wholeheartedly with the plaintiff on items 2, 7 and 15 since item 5 of the tariff provides the number of units for the preparation and filing of a contested motion, including materials and responses thereto. Consequently, items 2, 7 and 15 are not allowed.

[6] However, I think the defendant, Conseil des Montagnais du Lac Saint-Jean, having had to present a motion to the Court, should be allowed five units for the preparation of a notice of motion.

[7] As for the services after judgment (item 25), these are allowed as requested by the defendant, one unit for services after judgment.

[8] For item 26, the plaintiff says the assessment officer should allow only two units while the defendant is claiming six. Since the matter proceeded without personal appearance, I would be inclined to allow three units, which seems reasonable to me in the circumstances.

[9] The total costs claimed on behalf of the defendant will therefore be nine units at \$110.00, or  $\$990.00 + 7\% \text{ GST: } \$69.30 + 7.5\% \text{ QST: } \$79.45 = \$1,138.75$ .

[10] In regard to the disbursements claimed by the defendant, the plaintiff leaves this to the discretion of the assessment officer, explaining to this effect that no amount is provided in the tariff for the service of documents by fax machine or for photocopies of exhibits to be placed in the record.

[11] The disbursements will therefore be allowed as requested for the service by bailiff in the amount of \$104.80, and for postage costs for the filing of documents in Court in the amount of \$23.50. In regard to the costs of photocopies in the amount of \$105.00, these will be allowed as requested since these are costs incurred by the party itself and these costs seem reasonable to me. Furthermore, for the service by fax machine, I would be prepared to allow \$0.25 per page instead of \$1.00 per page requested by the defendant, which seems to me to be an arbitrary tariff since the cost paid in some companies specializing in this field is \$0.25 per page. I will therefore allow 31 pages at \$0.25/page in the amount of \$7.75. The total disbursements allowed are therefore \$241.05.

[12] The costs in favour of the defendant will therefore be assessed in the amount of \$1,379.80. A certificate is issued for that amount.

“Diane Perrier”  
\_\_\_\_\_  
Assessment Officer

QUÉBEC, QUEBEC  
October 28, 2002

Certified true translation

Suzanne M. Gauthier, C.Tr., LL.L.

**FEDERAL COURT OF CANADA**  
**TRIAL DIVISION**

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**CERTIFICATE OF ASSESSMENT OF COSTS**

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**ASSESSMENT OF COSTS - REASONS**

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**FEDERAL COURT OF CANADA**  
**TRIAL DIVISION**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET NO:** T-826-02

**BETWEEN:** DOMINIQUE LAUNIÈRE

and

ATTORNEY GENERAL OF CANADA

and

CONSEIL DES MONTAGNAIS DU LAC SAINT-JEAN

**ASSESSMENT OF COSTS WITHOUT PERSONAL APPEARANCE**

**PLACE OF ASSESSMENT:** Québec, Quebec

**REASONS OF DIANE PERRIER, ASSESSMENT OFFICER**

**DATE OF REASONS:** October 28, 2002

**SOLICITORS OF RECORD:**

Bouchard, Voyer, Boily, Advocates  
Dolbeau-Mistassini, Quebec

for the plaintiff

Cain Lamarre Casgrain Wells  
Roberval, Quebec

for the defendant