

Federal Court



Cour fédérale

Date: 20120130

Docket: T-2046-10

Citation: 2012 FC 114

**BETWEEN:**

**LA CAISSE POPULAIRE DE LA PÉNINSULE  
LTÉE**

**Plaintiff**

**and**

**THE VESSEL M/V GUY GEORGES  
RECENTLY CHANGED TO M/V J.J.C.R. AND  
ÉRIC O. GIONET AND BERTE GIONET,  
BOTH RESIDING IN THE VILLAGE OF BAS-  
CARAQUET, IN THE COUNTY OF  
GLOUCESTER AND THE PROVINCE OF  
NEW BRUNSWICK, AND ALL OTHER  
OWNERS AND ALL OTHERS HAVING AN  
INTEREST IN THE VESSEL “M/V GUY  
GEORGES RECENTLY CHANGED TO M/V  
J.J.C.R.” AND ITS CARGO**

**Defendants**

[ENGLISH TRANSLATION]

**REASONS FOR ASSESSMENT OF COSTS**

**JOHANNE PARENT, Assessment Officer**

[1] On October 5, 2011, the Court, upon submission of an application for default judgment on an *ex parte* basis, ordered the Defendants Éric O. Gionet and Berte Gionet to pay the sum of fifty-nine thousand eight hundred and seventy-five dollars and seventy-six cents (\$59,875.76), plus the

amount of thirteen dollars and thirty-three cents (\$13.33) per day beginning September 14, 2011, plus costs. Subsequently, the Plaintiff submitted its bill of costs to the Court. Directions were given on October 14, 2011, informing the parties that the assessment of costs would proceed in writing and of the time limit for the filing of submissions.

[2] At the time of the assessment, it was noted that neither the bill of costs nor the directions issued on October 14, 2011, had been served to the Defendants. Consequently, new directions were issued and served to all parties on December 21, 2011, pursuant to Rule 145 of the *Federal Courts Rules*, which stipulates that, with the exception of the final judgment and subsequent documents, to which I equate the bill of costs, a party who has been served with an originating document is not required to be served with any further documents unless the party has filed a notice of appearance or a defence. In light of the final paragraph of Rule 145 and despite the fact that the Defendants never appeared or filed a defence in the Court record, I considered the bill of costs to be a document served and filed subsequently to the final Court judgment and therefore had to be served to the Defendants with the directions on December 21.

[3] Following service of the directions and bill of costs to all parties, the Court Registry received no written submissions or applications to extend the time limit. Consequently, I will assess the bill of costs pursuant to the *Federal Courts Rules*, Tariff B and the observations of my colleague in *Dahl v. Canada*, 2007 FC 192 (OT) at paragraph 2:

Effectively, the absence of any relevant representations by the Plaintiff, which could assist me in identifying issues and making a decision, leaves the bill of costs unopposed. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by an assessment officer stepping away from a position of neutrality 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.

[4] The units claimed for preparing and filing the originating document (item 1) and for preparing and filing an uncontested motion (item 4) will be allowed as claimed.

[5] The disbursements claimed in the bill of costs are not disputed and are considered necessary to the conduct of this matter. The amount is justified and will therefore be allowed as claimed.

[6] The Plaintiff's bill of costs is allowed in the amount of \$1,150.00

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“Johanne Parent”  
Assessment Officer

Toronto, Ontario  
January 30, 2012

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

**DOCKET:** T-2046-10

**STYLE OF CAUSE:** LA CAISSE POPULAIRE DE LA  
PÉNINSULE  
LTD. v. THE VESSEL M/V GUY GEORGES  
RECENTLY CHANGED TO M/V J.J.C.R.  
AND ÉRIC O. GIONET AND BERTE GIONET ET  
AL.

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

**REASONS FOR ASSESSMENT BY:** JOHANNE PARENT, Assessment Officer

**DATED:** January 30, 2012

**WRITTEN SUBMISSIONS:**

Charles R. LeBlanc

FOR THE PLAINTIFF

N/A

FOR THE DEFENDANTS

**SOLICITORS OF RECORD:**

Charles R. LeBlanc c.p. Inc.  
Caraquet, New Brunswick

FOR THE PLAINTIFF

N/A

FOR THE DEFENDANTS