

MAXWELL V LUCK and PUROLATOR COURIER

Heard: by submissions in writing

For plaintiff: R. Littlejohn and M. Lemieux

For defendants: M. Grant and D. Craig

TRANSCRIPTION of ENDORSEMENT of Dec. 24, 2014

I have reviewed both submissions and the reply. I have reflected my own agreement with the defendant on the plaintiff's tendency to use block fees which of course can lead billing beyond what is reasonable for the case. I do allow some costs for the application for AB benefits. It is an application the plaintiff under statutory compulsion to bring.


Moodie v Greenaway 1997 CarswellOnt 6388

Finally, I view the defendant's "approach" to their offers and to the whole issue of resolution as muted at best. Neither offer shows any reasonable attempt to resolve this case. The stance at mediation of attending on the day appointed on the basis of no one's offer to be forthcoming.

I view my task as fixing costs having in mind the principles of reasonable value for work that is required. It is not a line-by-line assessment but a bringing to bear one's years of experience as a trial judge on a bill of costs having in mind also the principle of legitimate expectations of a losing party. However in this case I intend to follow *Kearns v Caddy* in applying a remedial penalty. This was a hard-nosed position which the insurer must realize would attract some censure by way of costs. See also *Ross v Bacchus* [2013] ONSC 7773, Ramsay J. I assess \$50,000 on this account.

Fees are fixed in the sum of	\$150,400
Disbursements are fixed in the sum of	\$ 56,332
Remedial Penalty (See <i>Kearns v Caddy</i> 2010 ONCA 565 at para 28.)	<u>\$ 50,000</u>
	\$256,732.

The defendants shall pay to the plaintiff forthwith her costs fixed in the sum of \$256,732, plus HST on the taxable parts.


"P.H. Howden"

Dec. 24/2014

I have reviewed both submissions of the
 reply & have reflected my own agreement with the defendant
 in the plaintiff's ~~reply~~ tendency to use block fees which
 of course lead to billing beyond what is reasonable for the
 case. I do allow some costs for the application for
 A.B. sample. I ~~do~~ am an application the plaintiff is
 under ~~statutory~~ compulsion to bring. Modic v Greenway
 1999 Carswell Ont 6388. Finally, I ~~review~~ the defendant's
~~offer as not within a strict zone of reasonableness~~
 the ~~fact of the~~ ~~defendant's~~ approach to ~~the~~
 their offers and ~~to~~ ^{the} whole issue of resolution as
 merited at best. Neither offer shows any reasonable
 attempt to resolve this case. The stance of immediate
 of attending on the ~~very~~ day appointed on the basis
 of no money offer is to be followed
 I view my task as fixing costs having in
 mind the principles of reasonable value for work that
 is required. It is not a line-by-line assessment but
 to be based on years of experience as a trial judge
 (over)

ONTARIO
 SUPERIOR COURT OF JUSTICE
 Proceedings commenced at Barrie

PLAINTIFF'S COST SUBMISSIONS

LITTLEJOHN BARRISTERS
 Professional Corporation
 400 Bayfield Street, Suite 200
 Barrie, Ontario L4M 5A1

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Solicitor for the Plaintiff
 (File No.: 07035)

on a bill of costs. Warrington did not expect damages of nearly \$150,000. However, in this case I intend to follow Keam v Ladd in applying a remedial penalty. This was a hard-nosed position which the insurance industry would attract ~~the~~ such an award. See also Ross v Baehus, 2013 ONSC 7773.

Ramsay J. I assess \$50,000 on this account.

Fees are fixed in the sum of \$ 150,400.00

Disbursements are fixed in the sum of \$ 56,332.00

Remedial Penalty (see Keam v Ladd, 2010 ONSC 565) at para 28.

\$ 50,000.00
Total \$ 256,732.00

The defendants shall pay forthwith to the plaintiff her costs in the sum of \$ 256,732.00 plus HST on the taxable portion.

