

August 1, 2014.

Costs

I have received and reviewed the written submissions of both Counsel on costs. Counsel also appeared before me to make oral submissions.

The trial before me was 5 days. The litigation had approx. an 8-year history.

The sole issue ^{was} & always was liability.

The jury found no liability on the part of the defendants, ^{by Vnet et al} so they were totally successful. Costs should follow the event.

Moreover, my impression was that the defendants by Vnet et al were also successful on the merits of an evidentiary ^{hearing} that they were engaged in at the commencement of trial.

I do not agree with Counsel for Defendant Raps that the ^{evidentiary} issues were straightforward & required little research time.

I have taken into acct. the factors set out in Rule 57.01 of the Rules of Civil Procedure. I have also taken into acct. the various offers to settle made by the def's by Vnet & def Raps. The def's by Vnet

SUPERIOR COURT OF JUSTICE

Proceeding commenced at
Peterborough, Ontario

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made an offer on Oct 19, 2010 that continued until trial. That successful offer clearly beat that offer. The cost consequence of Rule 49.10(2) ought to be engaged from Oct 19, 2010. Consequently, Raps by Unit is entitled to substantial indemnity costs from Oct 19, 2010 and prior to that to partial indemnity costs.

The real issue here is quantum. The Raps criticized the Raps by Unit's Costs Claim on a number of fronts, all of which I have considered. I agree that the Raps by Unit's claim for costs should be reduced to reflect the fact that they were Raps

in the main Arman acted & they consented
to dismissal via Arman without costs.
~~Arman~~ Def. 5 by Unit's costs should be
reduced by 25% up to May 10/13 the
date of dismissal. A reduction of \$12,000
would be appropriate.

As well, a reduction ~~of~~ ^{for} the costs ordered
by McLoughlin J. ~~reduction~~ in the amt. of
\$6,500 + paid, should be made.

Def. Raps has a lot of other criticisms
aimed at the Def. 5 by Unit's bill of costs on the
facts.
I find the criticism completely unwarranted.
There was some duplication but that was
recognized by the adj'ment of the trial ~~referred~~
by Def. Raps ^{cannot} by delaying of a later report.
Remaining duplication can be explained by
the sheer length of this litigation. moreover
it is unfair to attack 5 by Unit's bill of
costs when Raps does not produce her
own. It is as Winkler J. said
"an attack in the air."

Def. 5 by Unit's Counsel did an
extraordinarily good job of representing his
client. These 2 sets of def's are professional

litigators. They know what litigation costs & they know what to expect.

Rel.^s by Unit in the final analysis asked for costs of \$100,000 plus HST @ 13% plus disb^s of \$23,588.67. That is

a fair & reasonable amount & is what I am ordering the Rel Reps to pay, inclusive of today.

Myra L. Lach
LACK.