

COURT FILE NO.: 02-CV-231912SR

DATE: 20031029

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Loondeo Bekah and Umardev Ramkishore, the Plaintiffs

A N D: Three for One Pizza & Wings (Canada) Inc., and Triple Holdings Limited, the Defendants

BEFORE: KARAKATSANIS J.

COUNSEL: *B Hanuka*, for the Plaintiffs
J Chidley-Hill, for the DefendantENDORSEMENT re COSTS

[1] The Plaintiffs brought a motion for judgment at the outset of the trial based upon the Defendants' agreement to admit for the purposes of the motion that disclosure had not been provided. The motion involved an important issue of legal interpretation of the *Arthur Wishart Act*. It also shortened the proceedings and obviated the need for a full trial. The Plaintiffs were entirely successful and obtained judgment in the amount claimed.

[2] The Plaintiffs seek costs on a substantial indemnity basis in the amount \$14,444.46. I agree with the Defendants that there are no exceptional circumstances to merit an award of costs on a substantial indemnity basis. The Defendants did not otherwise challenge the Bill of Costs and the amount of work claimed appears reasonable given the history of these proceedings.

[3] I do not apply a straight one-third reduction of the substantial indemnity fees as submitted by the Defendants to achieve a partial indemnity costs. The submissions are clear that counsel actually charges \$300 per hour and the maximum partial indemnity rate for counsel of his experience is \$225 per hour. Given the importance of the issues and the expertise required, I am prepared to allow \$175 per hour, \$150 per hour for assisting counsel and a \$2000 counsel fee. Total costs on a partial indemnity basis, inclusive of GST and disbursements are therefore fixed at \$11,475.4.

Costs to the plaintiffs fixed at \$ 11,475.40 payable forthwith.


A. KARAKATSANIS J.

Released: Oct 29, 2003

BEKAH ET AL.

Plaintiffs

Def -

3 FOR 1 PIZZA & WINGS ET AL.

1 defend

Court file no. 02CV2 1912

Oct 29, 2003

Costs to the plaintiffs fixed at \$11,475.40 payable forthwith typed endorsement attached.

J. Hanuka

Proceeding commenced at Toronto

ONTARIO
SUPERIOR COURT OF JUSTICE

BILL OF COSTS

GOLDMAN SLOAN NASH & HABER LJ
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Ben V. Hanuka
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SUPERIOR COURT OF JUSTICE

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FAX COVER SHEET

Date: Oct 29 / 03

TO:

FAX NO.:

B. Hanuka

416 597 ~~6489~~³³⁷⁰

J. Chidley-Hill

416 443 9422

FROM: Justice Koukatzanis

TOTAL PAGES (INCLUDING COVER PAGE): 3

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