

CITATION: Law Help LTD. v. Briggs, 2024 ONSC 6489
COURT FILE NO.: CV-14-502458
DATE: 2024-11-21

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: JOE ALESSANDRO and LAW HELP LTD., Plaintiffs

AND:

JOSEPH GAVIN BRIGGS, ROBERT JEFFREY BURD and NOT GUILTY
PLEA PARALEGAL SERVICES PROFESSIONAL CORPORATION,
Defendants

BEFORE: Parghi J.

COUNSEL: Plaintiffs, Self-Represented

Robert D. Moss, for the Defendants,
Jeffrey Robert Burd and Not Guilty Paralegal Services Professional Corporation

Rachel Hung and Tom Macintosh Zheng, for the Defendant, Joseph Gavin Briggs

HEARD: June 24, 2024

COSTS ENDORSEMENT

- [1] This Endorsement addresses costs on the motion for default judgment brought by the Defendant Joseph Gavin Briggs in respect of his counterclaim. Mr. Briggs was successful in his motion and was granted \$45,285.00 in damages, plus pre-judgment interest and disbursements. I subsequently invited the parties to provide submissions on costs. I have now reviewed both parties' submissions.
- [2] In exercising my discretion to fix costs under s. 131 of the *Courts of Justice Act*, R.S.O. 1990, c C.43, I may consider the factors enumerated in Rule 57.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg 194. Those factors include the result achieved, the amounts claimed and recovered, the complexity and importance of the issues in the proceeding, the principle of indemnity, the reasonable expectations of the unsuccessful party, and any other matter relevant to costs.
- [3] In the recent case of *Apotex Inc. v. Eli Lilly Canada Inc.*, 2022 ONCA 587, the Court of Appeal for Ontario restated the general principles to be applied when courts exercise their discretion to award costs. The Court held that, when assessing costs, a court is to undertake a critical examination of the relevant factors, as applied to the costs claimed, and then “step back and consider the result produced and question whether, in all the circumstances, the result is fair and reasonable” (at para. 60). The overarching objective is to fix an amount

for costs that is objectively reasonable, fair, and proportionate for the unsuccessful party to pay in the circumstances of the case, rather than to fix an amount based on the actual costs.

- [4] Applying these principles here, I note that Mr. Briggs was entirely successful in his motion for default judgment. He recovered approximately \$45,000.00 in damages, including aggravated and punitive damages. Mr. Alessandro’s conduct, which included evading service, not attending at scheduled court dates, and generally acting in an obstructive manner, undoubtedly increased the costs of the litigation over a period of many years. In addition, in my Reasons for Decision granting default judgment, I found that Mr. Alessandro abused Mr. Briggs’ trust “on repeated occasions” by purporting to provide legal advice he was not qualified to give, acting in contravention of Mr. Briggs’ instructions, and lying to Mr. Briggs about having done so. I found that Mr. Alessandro “used his knowledge of the court system to defraud” Mr. Briggs and others “for his own gain”. All these factors support granting a costs award in Mr. Briggs’ favour.
- [5] It is clear at law that costs may be awarded even where counsel has acted *pro bono* (*1465778 Ontario Inc. v. 1122077 Ontario Ltd.*, 2006 CanLII 35819 (ONCA), at para. 35). In my view, important policy considerations support this approach. As this court recently held in *Bocchini v. Attorney General of Canada*, 2024 ONSC 4181 (at para. 100), allowing costs awards in cases where counsel work *pro bono* “ensures that all parties know they are not free to abuse the system without fear of the sanction” of an adverse costs award. It also “promotes access to justice by enabling and encouraging more lawyers to volunteer to work *pro bono* in deserving cases.” In my view, both of these principles apply in this case and underscore the appropriateness of a costs award.
- [6] I award Mr. Briggs his costs in the amount of \$15,000.00, inclusive of HST. I consider this to be a fair and reasonable amount for Mr. Alessandro to pay. He is to pay this amount within 30 days.

Parghi J.