

CITATION: Townson & Alexander Consulting Services Inc. v. Pearl, 2016 ONSC 7510
COURT FILE NO.: CV-15-11116-00CL A1
DATE: 20161206

SUPERIOR COURT OF JUSTICE – ONTARIO

COMMERCIAL LIST

RE: TOWNSON & ALEXANDER CONSULTING SERVICES INC. and HARRY ALEXANDER, Plaintiffs/Defendants by Counterclaim

AND:

BRIAN PEARL, Defendant/Plaintiff by Counterclaim

AND:

XPRIMA.COM CORPORATION, Third Party

BEFORE: HAINEY J.

COUNSEL: *Albert S. Frank*, for the Plaintiffs/Defendants by Counterclaim, Townson & Alexander Consulting Services Inc. and Harry Alexander

Alex Van Kralingen and *Katherine Chau*, for the Defendant/Plaintiff by Counterclaim, Brian Pearl

W. Eric Kay, for the Third Party, Xprima.com Corporation

HEARD: In Writing

COSTS ENDORSEMENT

[1] On August 24, 2016 two motions before me were settled.

[2] The defendant, Brian Pearl, submits that he achieved substantial success in the outcome and is, therefore, entitled to his costs for both motions.

[3] The plaintiffs submit that costs should be in the cause or determined upon the outcome of the motions on the merits.

[4] Mr. Pearl's motion sought a stay of the proceedings on two different grounds.

[5] The plaintiffs' motion sought to strike out unspecified paragraphs of the Amended Defence and Counterclaim.

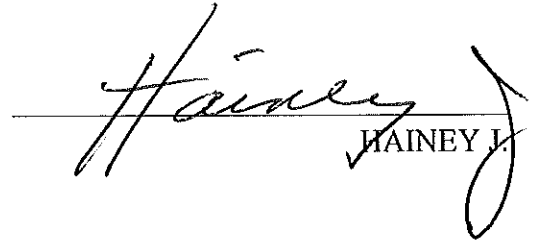
[6] The settlement of the motions resulted in a stay of the proceedings pending the final disposition of arbitration proceedings in Quebec. The plaintiffs agreed not to proceed with their motion to strike which I had indicated was unlikely to succeed.

[7] Under the circumstances I agree that the Mr. Pearl achieved success in the outcome of the motions. He is, therefore, entitled to recover an amount for the costs of both motions.

[8] However, I find the amounts he seeks as costs to be excessive. He claims \$9,690.34 for the motion to strike and \$22,397.56 for the motion to stay the proceedings.

[9] In my view an award of costs in the amount of \$5,000 for the motion to strike and \$15,000 for the motion to stay is fair and reasonable. These amounts should have been within the reasonable expectations of the plaintiffs.

[10] I, therefore, award Brian Pearl all inclusive costs of \$5,000 for the motion to strike and \$15,000 for the motion to stay for a total of \$20,000 payable by the plaintiffs within 30 days.


HAINEY J.

Date: December 6, 2016