

ASSESSMENT OF COSTS

February 27, 1996

Ed Upenieks
Dingwall, McLauchlin

Canadian Bar Association
- Ontario Seminar

TABLE OF CONTENTS

<u>Item</u>	<u>Tab No.</u>
Guide for Solicitor and Client Assessments	1
Guide for Party and Party Assessments	2
Sample Dockets	3
Bill of Costs Worksheet	4

SOLICITOR AND CLIENT ASSESSMENTS

WHO DOES IT	WHAT TO DO	WHEN
Client	to obtain delivery and assessment of a solicitor's bill or to obtain an appointment for assessment of a bill already delivered, requisition the local registrar by taking the requisition for assessment (by client), the order for assessment (client's application) with all accounts attached (if already delivered), to the Court office*	within one month following delivery of solicitor's account
	serve personally, copy of the appointment for assessment, the order for assessment and the bill (if already delivered)	at least seven days before the date fixed for the assessment
Client	to obtain an order for assessment, must apply by way of application for an order directing reference of the bill to an assessment officer**	within twelve months following delivery of the solicitor's account
	serve personally, copy of the appointment for assessment, the order for assessment and the bill	at least seven days before the date fixed for the assessment
Client	motion for reference (must show special circumstances)	after twelve months following delivery of solicitor's account
Solicitor	to obtain an order for assessment, requisition the local registrar for an assessment of a bill already delivered by taking the requisition for assessment (by solicitor), the order for assessment (solicitor's application) with all accounts attached, to the Court office*	after the expiration of one month from the delivery of the bill if no order for assessment has previously been made
	serve personally, copy of the appointment for assessment, the order for assessment and the bill	at least seven days before the date fixed for the assessment

Solicitor	to obtain an order for assessment, must apply by way of application for an order directing reference of the bill to an assessment officer	can be obtained if the solicitor cannot obtain an order on requisition because of a dispute as to his retainer or where there are special circumstances
Solicitor	motion to a judge for authority to commence an action pursuant to s.8, where there is probable cause for believing that the party chargeable is about to leave Ontario	within one month of delivery of bill

NOTES:

- time limit for solicitor and client assessments are pursuant to the Solicitors Act
- all documents require back pages
- * can be obtained only if the solicitor's retainer is not disputed and there are no special circumstances
- ** can be obtained if the client fails to obtain an order on requisition within the stipulated time, or the client may not be able to do so because there is a dispute as to the retainer or there are special circumstances

Court File No.

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

B E T W E E N:

(Name of Solicitor(s))

Solicitor(s) of the
Ontario Court of Justice

- and -

(Name of Client(s))

Client(s)

APPLICATION UNDER THE SOLICITORS ACT

**REQUISITION FOR ASSESSMENT
(By Client(s))**

TO THE LOCAL REGISTRAR at (City)

I REQUIRE:

AN ORDER for the Assessment of the bill(s) of fees, charges and disbursements

OF: (Name of Solicitor(s))

delivered

TO: (Name of Client(s))

AT: (Address of Client(s))

on or about the (day) day of (month), 19^C (list all dates of the accounts if more than one account), no order for the assessment of such bill(s) having been previously made, the retainer of the Solicitor(s) not being disputed, and there being no special circumstances.

(Date)

(Name of Client(s))
(Address of Client(s))

Court File No.

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

B E T W E E N:

(Name of Solicitor(s))

Solicitor(s) of the
Ontario Court of Justice

- and -

(Name of Client(s))

Client(s)

APPLICATION UNDER THE SOLICITORS ACT

ORDER FOR ASSESSMENT
(Client's Application)

On requisition of the above-named Client(s), it is ordered that the bill of fees, charges and disbursements delivered to the applicant by the said Solicitor(s), a copy (copies) of which is (are) attached hereto, be referred to the Assessment Officer at 145 Queen Street West, Toronto, to be assessed.

(Date)

Local Registrar

Court File No.

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

B E T W E E N:

(Name of Solicitor(s))

Solicitor(s) of the
Ontario Court of Justice

- and -

(Name of Client(s))

Client(s)

APPLICATION UNDER THE SOLICITORS ACT

**REQUISITION FOR ASSESSMENT
(By Solicitor)**

TO THE LOCAL REGISTRAR at (City)

I REQUIRE:

AN ORDER for the Assessment of the bill(s) of fees, charges and disbursements

OF: (Name of Solicitor(s))

delivered

TO: (Name of Client(s))

AT (Address of Client(s))

on or about the (day) day of (month), 19^C (list all dates of the accounts if more than one account), no order for the assessment of such bill(s) having been previously made, the retainer of the Solicitor(s) not being disputed, and there being no special circumstances.

(Date)

(Name of Solicitor(s))
(Address and Phone Number)

Court File No.

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

B E T W E E N:

(Name of Solicitor(s))

Solicitor(s) of the
Ontario Court of Justice

- and -

(Name of Client(s))

Client(s)

APPLICATION UNDER THE SOLICITORS ACT

**ORDER FOR ASSESSMENT
(Solicitor's Application)**

On requisition of the above-named Solicitor(s), it is ordered that the bill of fees, charges and disbursements delivered by the said Solicitor(s) to the said Client(s), a copy (copies) of which is (are) attached hereto, be referred to the Assessment Officer at 145 Queen Street West, Toronto, to be assessed.

(Date)

Local Registrar

WARNING TO CLIENT - The Assessment Officer will certify what, if anything, is due by you to the Solicitor(s) and, upon confirmation of his certificate, payment may be enforced by execution.

PARTY AND PARTY ASSESSMENTS

WHO DOES IT	WHAT TO DO	WHEN
Party entitled to costs	to obtain appointment for assessment take the notice of appointment for assessment of costs (Form 58A), bill of costs and a copy of the order giving rise to the entitlement to costs, to the Court office (i.e. in Toronto at 361 University Ave.)	
	serve notice of appointment for assessment of costs and bill of costs	at least 7 days before date fixed for assessment
Party liable to pay costs	to obtain delivery of a bill of costs, take the notice to deliver bill of costs for assessment (Form 58B) to the Court office ¹	
	serve notice to deliver bill of costs for assessment	at least 21 days before date fixed for the assessment
Party required to deliver bill of costs	serve and file a copy of the bill of costs	at least 7 days before date fixed for the assessment

NOTES:

- all appointments and notices to deliver bill of costs are given by the assessment officer
 - all forms require back pages
- ¹ if party entitled to costs fails or refuses to serve a bill of costs for assessment within a reasonable time, the party liable to pay the costs may obtain this notice

Court File No.

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

BETWEEN:

(Name of Solicitor(s))

Solicitor(s) of the
Ontario Court of Justice

- and -

(Name of Client(s))

Client(s)

NOTICE OF APPOINTMENT FOR ASSESSMENT OF COSTS

TO THE PARTIES

I HAVE MADE AN APPOINTMENT to assess the costs of (identify party), a copy of whose bill of costs is attached to this notice, on (day), (date), at (time), at (address).

(Date)

Assessment Officer

TO: (Name and Address of solicitor(s) or party on whom notice is served)

Ally Newborn

Court File No.

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

B E T W E E N:

(Name of Solicitors(s))

Solicitor(s) of the
Ontario Court of Justice

- and -

(Name of Client(s))

Client(s)

NOTICE TO DELIVER A BILL OF COSTS FOR ASSESSMENT

TO THE PARTIES

I HAVE MADE AN APPOINTMENT, at the request of (identify party who obtained appointment) to assess the costs of (identify party entitled to costs and what costs are to be assessed) ON (day) at (time), at (address).

TO (identify party entitled to costs)

YOU ARE REQUIRED to file your bill of costs with me and serve your bill of costs on every party interested in the assessment at least seven days before the above date.

Date:

Assessment Officer

TO: (name and address of solicitor or party on whom notice is served)

DOCKETS

<u>NAME</u>	<u>DATE</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
Upenieks, E.G.	14/06/92	2.0	Meeting client, facts investigation;
Upenieks, E.G.	21/06/92	1.9	Reviewing corporate searches; Researching recent case law; Preparing a draft statement of claim;
Upenieks, E.G.	27/06/92	0.9	Revising draft claim and reviewing same with client;
Upenieks, E.G.	28/06/92	0.2	Call from client;
Upenieks, E.G.	28/06/92	0.4	Finalizing statement of claim;
Upenieks, E.G.	28/06/92	0.1	Instructions to staff concerning service;
Upenieks, E.G.	30/07/92	0.2	Correspondence from defendant's solicitors;
Upenieks, E.G.	15/08/92	0.2	Reviewing first statement of defence and counterclaim;
Upenieks, E.G.	30/08/92	0.3	Reviewing statement of defence from second defendant;
Upenieks, E.G.	04/09/92	0.4	Call to client;
Upenieks, E.G.	04/09/92	0.5	Preparing reply and defence to counterclaim;
Street, L.L.	17/09/92	1.2	Preparing affidavit of documents;
Street, L.L.	18/09/92	0.5	Completing affidavit of documents and correspondence to other solicitors concerning examinations for discovery;
Upenieks, E.G.	18/09/92	0.2	Reviewing plaintiff's affidavit of documents;
Upenieks, E.G.	31/01/93	0.5	Reviewing file;
Upenieks, E.G.	23/06/93	1.2	Reviewing productions from defendants;
Upenieks, E.G.	25/06/93	0.6	Call from client and to other solicitors;

<u>NAME</u>	<u>DATE</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
Upenieks, E.G.	26/06/93	1.2	Preparation for mutual examinations for discovery;
Upenieks, E.G.	27/06/93	7.1	Preparation for examination for discovery including meeting with client from 2:00 p.m. to 4:30 p.m.;
Upenieks, E.G.	02/07/93	0.2	Preparing offer to settle and correspondence to other counsel;
Upenieks, E.G.	07/07/93	7.0	Preparation for and attendance on examinations of all parties, all day (08:00 a.m. to 4:45 p.m.);
Street, L.L.	06/10/93	3.2	Reviewing discovery transcripts for undertakings and refusals;
Street, L.L.	11/10/93	2.1	Preparing motions for answers to undertakings and refusals;
Upenieks, E.G.	12/10/93	0.2	Call to client;
Student, Litigation	25/10/93	0.4	Reviewing motion record;
Student, Litigation	26/10/93	1.5	Preparing for Master's motion for tomorrow;
Student, Litigation	27/10/93	5.5	Preparation for and attendance on motion before Master Peterson (matter heard 2:30 p.m. to 4:00 p.m.);
Student, Litigation	28/10/93	0.4	Preparing draft order and correspondence to all other solicitors;
Street, L.L.	04/11/93	0.2	Preparing notice of listing for trial;
Upenieks, E.G.	20/04/94	0.6	Reviewing file and call to client;

<u>NAME</u>	<u>DATE</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
Upenieks, E.G.	25/01/95	2.5	Preparing pre-trial memorandum and reviewing same with client;
Upenieks, E.G.	26/01/95	0.4	Completing pre-trial memorandum;
Upenieks, E.G.	27/01/95	0.8	Reviewing pre-trial conference memoranda of the two defendants;
Upenieks, E.G.	30/01/95	1.5	Attendance at pre-trial before Mr. Justice Rutherford and reporting to client thereon;
Upenieks, E.G.	20/09/95	0.5	Preparation of request to admit;
Upenieks, E.G.	02/10/95	2.6	Meeting the client at his house (one way travel of 0.8 hrs.);
Upenieks, E.G.	04/10/95	3.9	Preparation for trial;
Student, Litigation	04/10/95	6.5	Research for trial;
Street, L.L.	04/10/95	7.2	Preparing a trial brief and general preparation for trial, including serving all summonses;
Upenieks, E.G.	16/10/95	1.2	Preparation for trial;
Upenieks, E.G.	16/10/95	2.5	Meeting client to prepare for trial;
Upenieks, E.G.	16/10/95	5.2	Preparation for trial;
Upenieks, E.G.	17/10/95	9.5	Preparation for trial since 07:30 a.m.;
Upenieks, E.G.	18/10/95	10.3	Preparation for trial; Attendance at trial to 3:30 p.m.; Preparation for trial re Section 32 Claim; Preparation for trial at night;
Upenieks, E.G.	19/10/95	6.8	Preparation for trial and attendance at trial (afternoon only); Meeting client afterwards; Preparation afterwards;

<u>NAME</u>	<u>DATE</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
Upenieks, E.G.	20/10/95	7.4	Preparation for trial and attendance at trial until 4:30 p.m.;
Upenieks, E.G.	22/10/95	5.7	Preparation for trial including preparing for cross-examinations and preparing a book of authorities and other preparation on Sunday;
Upenieks, E.G.	23/10/95	7.4	Preparation for trial and attendance at trial until 4:55 p.m.;
Upenieks, E.G.	24/10/95	5.9	Preparation for trial and attendance at trial;
Upenieks, E.G.	25/10/95	8.3	Attendance at trial and evening preparation;
Upenieks, E.G.	26/10/95	3.5	Preparation for final argument and attendance at trial until 1:15 p.m.;
Upenieks, E.G.	23/11/95	1.5	Receiving reasons from the court and reviewing same;
Upenieks, E.G.	24/11/95	1.0	Preparing draft bill of costs;
Street, L.L.	24/11/95	5.5	Preparing draft bill of costs;
Upenieks, E.G.	25/11/95	0.5	Correspondence to opposing counsel and to the trial judge concerning appointment for interest and costs;
Upenieks, E.G.	02/12/95	1.5	Preparing written submissions concerning costs and interest;
Street, L.L.	02/12/95	1.2	Preparing written submissions concerning costs and interest;
Upenieks, E.G.	03/12/95	0.8	Reviewing the defendants' submissions on interest and costs;

<u>NAME</u>	<u>DATE</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
Upenieks, E.G.	04/12/95	4.5	Preparation for and attendance before the trial judge in chambers with respect to interest and costs;
Street, L.L.	05/12/95	0.5	Preparing draft judgment;

ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)

B E T W E E N:

AGGRESSIVE REALTY CO.

Plaintiff

- and -

**GREEDY LANDLORD and
NEW REAL ESTATE COMPANY**

Defendants

**BILL OF COSTS OF THE PLAINTIFF
(On a Party and Party Scale to July 2, 1993)
(On a Solicitor and Client Scale, thereafter)**

Item No.

1. Pleadings

- preparation of statement of claim
and of reply and defence to counterclaim

Time Spent:

Lawyer	hrs. @ \$	= \$
--------	-----------	------

2. Discovery of Documents

- preparing plaintiff's affidavit of documents
(32 documents) and reviewing productions of two
defendants (21 documents and 4 documents)

Time Spent:

Lawyer	hrs. @ \$	= \$
Law Clerk	hrs. @ \$	= \$
TOTAL:		=

3. Setting Matter Down for Trial \$30.00

4. Motion

- including preparing notice of motion and supporting affidavits, counsel fee on motion before Master Peterson on October 27, 1993 and settling, signing and entering the order (costs ordered to the plaintiff in the cause)

a. Preparation for Motion

Time Spent:

Lawyer hrs. @ \$ = \$

Law Clerk hrs. @ \$ = \$

TOTAL:

b. Attendance on Motion

Time Spent:

Student hrs. @ \$ = \$

c. Settling and Entering the Order

Time Spent:

Student hrs. @ \$ = \$

5. Examinations for Discovery

a. Preparation for Examinations for Discovery

Time Spent:

Lawyer hrs. @ \$ = \$

Law Clerk hrs. @ \$ = \$

TOTAL: =

b. Attendance on Examinations
for Discovery of all Parties
on July 7, 1993

- i. Examination of the Plaintiff
- 120 pages
- ii. Examination of the Defendant,
Landlord
- 79 pages
- iii. Examination of the Defendant,
New Realty Company
- 25 pages

Time Spent:

Lawyer	hrs. @ \$	= \$
Law Clerk	hrs. @ \$	= \$
TOTAL:		=

c. Follow-up in Relation to Refusals
and Undertakings of all the Parties

Time Spent:

Lawyer	hrs. @ \$	= \$
Law Clerk	hrs. @ \$	= \$
TOTAL:		=

6. Pre-Trial Conference

- including preparing pre-trial memorandum
and reviewing pre-trial memoranda of the
defendants, obtaining specific settlement
instructions from client, and preparation
for and attendance on pre-trial on January
30, 1995 before His Honour Judge Rutherford

Time Spent:

Lawyer	hrs. @ \$	= \$
Law Clerk	hrs. @ \$	= \$
TOTAL:		=

7. Preparing Notices or Offer

- offer to settle dated July 3, 1993
- preparing request to admit dated September 20, 1995

8. Preparation for Trial

- including reviewing transcripts and exhibits, compiling document briefs, obtaining and organizing evidence, consulting with and briefing witnesses, communication with opposing counsel, parties and witnesses, preparing evidentiary aids for trial

Time Spent:

Sr. Lawyer	hrs. @ \$	= \$
Jr. Lawyer	hrs. @ \$	= \$
Law Clerk	hrs. @ \$	= \$
Student	hrs. @ \$	= \$
TOTAL:		=

Trial Brief 350.00

Correspondence

- 92 letters sent and received
- 12 @ \$12.00/letter = \$ 144.00
- 80 @ \$20.00/letter = \$1,600.00
- TOTAL: 1,744.00

9. Trial

- attendance at trial on October 18, 19, 20, 23, 24, 25, and 26, and preparation for and attendance on December 4, 1995 regarding submissions on interest and costs

10. Judgment

- review of reasons and preparing judgment 100.00

Assessment of Costs

a. Preparation of Bill of Costs

Time Spent:

Lawyer hrs. @ \$ =
Law Clerk hrs. @ \$ =

b. Attendance on Assessment

TOTAL FEE: \$
G.S.T. (7%): \$

Disbursements

Paid to Issue Statement of Claim	\$ 50.00
Paid for Service of Statement of Claim	126.60
Paid to Official Examiner	
- \$ 75.50	
- \$410.20	
- <u>\$162.00</u>	647.70*
Paid for Conduct Money	
- 3 witnesses called at trial, JT, RM and PS including travel allowance 3 @ \$53.00	159.00
○ Paid for Service of Subpoena on Witnesses	145.12*
Paid for Copies of Documents or Authorities	
- 125 copies @ \$0.15 = \$ 18.75	
- 1252 copies @ \$0.25 = <u>\$313.00</u>	331.75
Paid for Costs of Certified Title Documents	32.00
TOTAL:	\$
(*G.S.T. included in Disbursements)	
GRAND TOTAL:	\$

ASSESSED AND ALLOWED AT \$, this day of , 1996.