

PARTIES: JAMES JUSTICE ROBERTSON bhlg
WILLIAM IVEY ROBERTSON
v
MELISSA JANE BARNES and ANOR
TITLE OF COURT: SUPREME COURT OF THE NORTHERN
TERRITORY OF AUSTRALIA
JURISDICTION: Interlocutory Application
FILE NO: 156/96
DELIVERED: 4 December 1997
HEARING DATES: 27 November 1997
JUDGMENT OF: The Master

CATCHWORDS:

PRACTICE - Northern Territory - costs - form of bill - particulars -
r 63.40(6)(c) Supreme Court Rules - guidelines

REPRESENTATION:

Counsel:

Plaintiff: Mr O'Loughlin
Defendant: Ms Kelly

Solicitors:

Plaintiff: Cridlands
Defendant: Waters James McCormack

Judgment category classification:
Judgment ID Number: mas9726
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IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

156/96 (9617507)

Between:

JAMES JUSTICE ROBERTSON

b.h.l.g. WILLIAM IVEY ROBERTSON

Plaintiff

and

MELISSA JANE BARNES and ANOR

Defendants

MASTER COULEHAN: REASONS FOR DECISION

(Delivered 4 December 1997)

On 3 June 1997 it was ordered that the defendants pay the plaintiff's costs of this proceeding. The summons to tax the bill the subject of these applications was filed on 24 September and was made returnable on 3 November 1997, on which date a directions hearing was held. Separate bills had been raised in relation to work done by other solicitors on behalf of the plaintiff and these were made returnable on the same date.

At the directions hearing the defendants, who had not filed a notice of objection, raised objections to the form of the bill, namely, the number of bills, the failure to number each item in the bill and deficiency in detail. As the plaintiff was seeking an early resolution because of pressing claims for payment, the taxation was fixed to commence on 8 December 1997, notwithstanding that the objections were not resolved.

A further directions hearing was held on 7 November 1997 at which it was indicated that the plaintiff would bring an application for an interim order for costs and the defendants would apply for an extension of time in which to file a notice of objection. As to the taxation, it was decided that the taxation of the bill, insofar as it related to

work done by the plaintiff's other solicitors, would commence on 8 December 1997. It was envisaged that the plaintiff's application for an interim payment of costs may be dealt with following the taxation of the other bills.

The foreshadowed applications were duly made, as was an application by the defendants for particulars of the bill. It is convenient to deal with this application first.

The application is supported by an affidavit in which it is alleged that the defendants are in some difficulty in providing a notice of objection because of the lack of particularity in that part of the bill relating to preparation. This section comprises 557 pages and examples have been extracted which indicate that items relating to attendances and the drawing of letters have been claimed without any description of the nature of the work done. A cursory examination suggests that this criticism may apply to a significant portion of the bill.

It is contended on behalf of the plaintiff that the description is sufficient and the defendants only need to inspect the documentation, which is available, to ascertain the nature of the work. The Guidelines provide for the production of relevant documentation to the Taxing Master before the taxation, if so required. Further, reliance was placed on a form of a bill which was provided by the Master some years ago to demonstrate the format under the new Rules.

The Rules provide that the third column "..... shall contain succinct details of each item" (O.63.40(6)(c)). The principles relating to the provision of particulars suggest that it may reasonably be expected that the details would provide some indication of the nature of the work done so that the paying party may understand the item sufficiently to know the case it has to meet on taxation and be able to decide whether or not to object and, also, to consider an offer of compromise.

It is not reasonable to require the paying party to examine the receiving party's files in order to understand the nature of an item in a bill. Further, the Guidelines provide that the third column "..... is to contain sufficient details to enable the other party and

the Taxing Master to ascertain the nature of the attendance or correspondence for which the claim is made.....” (paragraph 3(c)).

As to the form of bill referred to, I have been unable to ascertain its status. It was published when the new taxation Rules were introduced but does not appear to have been included in the Guidelines published in the Law Almanac since and it is in conflict with the Guidelines quoted above. It was said to be for guidance only and not to be seen as a precedent. I assume that its purpose was to provide general assistance as to the format of the bill but not to indicate the degree of particularity required.

I conclude that the bill is inadequate in its lack of particularity. This may not adequately be remedied by the provision of particulars as another document may unduly complicate the taxation. It is appropriate that I order that the plaintiff file another bill pursuant to O.63.43(b). The plaintiff may also take this opportunity to number each item as required by the Rules and include any claims for costs on a solicitor/client basis.

It follows that the defendants’ application for an extension of time to file a notice of objection is unnecessary.

As for the plaintiff’s application for interim payment, I agree with the defendants’ submission that the application is premature because O.63.54(3) requires that such an order be made in the course of the taxation.