

Federal Court



Cour fédérale

**Date: 20191129**

**Docket: T-815-19**

**Citation: 2019 FC 1532**

**Ottawa, Ontario, November 29, 2019**

**PRESENT: Madam Justice Walker**

**BETWEEN:**

**HER MAJESTY THE QUEEN  
IN RIGHT OF CANADA**

**Plaintiff**

**and**

**ZIELINSKI BROTHER'S FARM INC.  
AND DARCY ZIELINSKI**

**Defendants**

**JUDGMENT AND REASONS**

**UPON *EX PARTE* MOTION** in writing filed November 18, 2019 on behalf of the Plaintiff, Her Majesty the Queen in Right of Canada, pursuant to Rules 210(1) and 369 of the *Federal Courts Rules*, SOR/98-106 (Rules) for:

- (a) judgment against the Defendants as claimed in the Statement of Claim on the basis that the Defendants have not filed a Statement of Defence;

- (b) the Plaintiff's costs of this action; and
- (c) such further or other order as this Honourable Court may deem just;

**AND UPON** reading the motion record filed on behalf of the Plaintiff:

[1] On a motion for default judgment, the Court has two questions before it: (1) are the defendants in default?; and (2) is there evidence to support the plaintiff's claim? (*Chase Manhattan Corp v 3133559 Canada Inc*, 2001 FCT 895).

[2] On the first question, the Plaintiff has established that personal service of the Statement of Claim was effected on the Defendants on May 31, 2019. There is no record of any statement of defence being filed by or on behalf of the Defendants within the time provided in Rule 204. In the circumstances, I am satisfied that the Defendant is in default.

[3] With regard to the second question, the Plaintiff's motion is supported by the affidavits of Mark De Luca and Shelley Warner. On the basis of the deponents' evidence, I am satisfied that: (1) the amounts claimed by the Plaintiff in the Statement of Claim, as a result of three advances under the *Agricultural Marketing Programs Act*, SC 1997, c 20, are due and owing by the Defendants; (2) that demand for payment was made by the Plaintiff; and (3) the Defendants have failed to pay the outstanding amounts and accrued interest. In the circumstances, the Plaintiff is entitled to the relief requested in the Statement of Claim and the Plaintiff's costs, as detailed in the affidavit of Shelley Warner.

**JUDGMENT IN T-815-19**

**THIS COURT'S JUDGMENT is that:**

1. The Plaintiff recover from the Defendants the sum of \$552,720.92, together with Her costs hereby fixed at \$1,363.95 in lieu of taxation.
  
2. Interest on the above-noted sums shall accrue at the per diem rate of \$105.25 from November 13, 2019 to the date of this Judgment and thereafter at the rate of 5.00 percent per annum.

"Elizabeth Walker"

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** T-815-19

**STYLE OF CAUSE:** HER MAJESTY THE QUEEN IN RIGHT OF CANADA  
v ZIELINSKI BROTHER'S FARM INC. AND DARCY  
ZIELINSKI

***EX PARTE* MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO  
PURSUANT TO RULES 210 AND 369 OF THE *FEDERAL COURTS RULES***

**JUDGMENT AND REASONS:** WALKER J.

**DATED:** NOVEMBER 29, 2019

**WRITTEN REPRESENTATIONS BY:**

Cailen Brust

FOR THE PLAINTIFF

**SOLICITORS OF RECORD:**

Attorney General of Canada  
Saskatoon, Saskatchewan

FOR THE PLAINTIFF