

Date: 20081209

Docket: T-283-08

Citation: 2008 FC 1363

BETWEEN:

**THE CANADIAN COPYRIGHT LICENSING AGENCY
("ACCESS COPYRIGHT")**

Plaintiff

and

**ERIC ZHANG and all other persons
carrying on business under the business name HAPPY COPY CENTER, and
CHIEF OF POLICE, WILLIAM BLAIR, OF THE TORONTO POLICE SERVICE,
OR DESIGNATE**

Defendants

ASSESSMENT OF COSTS – REASONS

**Johanne Parent
Assessment Officer**

[1] Upon a motion on behalf of the plaintiff for summary judgment, the Court on August 12, 2008, delivered a final judgment and ordered that the defendants, Eric Zhang (also known as Lixin Zhang), and all persons who carried on business under the business name Happy Copy Center in the period of February 20, 2005 to November 27, 2007 pay costs to the plaintiff in accordance with the highest end of Column III of Tariff B of the *Federal Courts Rules*. A timetable for written disposition of the assessment of the plaintiff's bill of costs was issued on October 2, 2008.

[2] The only submission on behalf of the defendant Eric Zhang is related to the fact that the Happy Copy Center is no longer operating and that he is currently seeking employment to pay all his debt. As stated in *Solosky v. Canada* [1977] 1 F.C. 663, and many times confirmed:

Furthermore, in deciding whether costs should or should not be awarded against an unsuccessful plaintiff, neither the ability to pay nor the difficulty of collection should be a deciding factor but, on the contrary, the awarding or refusal of costs should be based on the merits of the case. Unless special circumstances exist to justify an order to the contrary, costs should normally follow the event.

[3] In accordance with the above-mentioned reference, the defendant's argument concerning his financial situation is not a consideration in the assessment of costs. The Court, in ordering costs, made an unambiguous decision and I have no authority to interfere with the Court on establishing the allocation of costs.

[4] The assessable services claimed by the plaintiff are all allowed as claimed. All the disbursements claimed are charges deemed necessary to the conduct of this matter. The amounts claimed are not contested, considered reasonable and are, therefore, allowed.

[5] The plaintiff's bill of costs is allowed for a total amount of \$7,179.63, plus GST (\$332.08) for a total amount of \$7,511.71.

“Johanne Parent”
Assessment Officer

Toronto, Ontario
December 9, 2008

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-283-08

STYLE OF CAUSE: THE CANADIAN COPYRIGHT LICENSING AGENCY (“ACCESS COPYRIGHT”) and ERIC ZHANG and all other persons carrying on business under the business name HAPPY COPY CENTER, and CHIEF OF POLICE, WILLIAM BLAIR, OF THE TORONTO POLICE SERVICE, OR DESIGNATE

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

PLACE OF ASSESSMENT: TORONTO, ONTARIO

REASONS FOR ASSESSMENT OF COSTS: JOHANNE PARENT

DATED: DECEMBER 9, 2008

WRITTEN REPRESENTATIONS:

Arthur B. Renaud FOR THE PLAINTIFF
Jeilah Y. Chan

Self-represented FOR THE DEFENDANT
ERIC ZHANG
(SELF-REPRESENTED)

SOLICITORS OF RECORD:

Bennett Jones LLP FOR THE PLAINTIFF
Toronto, ON

None FOR THE DEFENDANT
ERIC ZHANG
(SELF-REPRESENTED)