

## SPECIAL COSTS

**What is it?** Special costs may be awarded by the court to address the conduct of the parties. Special costs are intended to “resemble closely” the reasonable fees charged by a lawyer to his or her own client. The bill is the same as in a *Legal Professions Act* review; that is, a bill that has a description of services rendered with a lump sum total. The tariff in Appendix B does not apply.

A court may order that costs payable between party and party be assessed as special costs [Civil Rule 14-1(1) or Family Rule 16-1(1)]. Special costs were formerly called “solicitor and client costs”.

A bill for special costs is presented in the same form as a bill between solicitor and client under the *Legal Profession Act*. It may be presented on a lump-sum basis [Civil Rule 14-1(30) or Family Rule 16-1(27)]. This only means that the fee may be set as one lump sum and not allocated item by item. A lump-sum bill must contain such description of the nature of the services and of the matter involved as would, in the opinion of the registrar, afford any solicitor sufficient information to advise a client on the reasonableness of the charge made [Civil Rule 14-1(31) or Family Rule 16-1(28)]. Particulars may be demanded and ordered if a sufficient description is not given.

The party who files the appointment must, no later than 4 p.m. on the business day that is one full business day before the date set for hearing, provide to the registry where the hearing is to take place, a hearing record. The hearing record

- a) must be in a ring binder or in some other form of secure binding;
- b) must contain, in consecutively numbered pages, or separated by tabs, the following documents in the following order:
  - i. a title page bearing the style of proceeding and the names of the lawyers, if any, for the applicant and the persons served with the appointment;
  - ii. an index
  - iii. a copy of the filed appointment and of every document that is required to be filed with the appointment (legal accounts);
  - iv. a copy of the affidavit of service of the appointment, which copy must

- v. not include the exhibits to the affidavit;
  - v. a copy of the entered order for special costs;
  - vi. a copy of every filed affidavit and pleading, and of every other document, that is to be relied on at the hearing;
- c) may contain
    - i. a draft of the certificate, and
    - ii. a list of authorities;
  - d) must not contain
    - i. written argument,
    - ii. copies of authorities, including case law, legislation, legal articles or excerpts from text books, or any other documents unless they are included with the consent of the applicant and the respondents.
    - iii.

### Documents required:

- Appointment [Civil Form 49 or Family Form F55]
- Legal accounts
- Entered order
- Proof of service of the appointment if the other party does not appear
- Proof of disbursements
- Filing fee of \$80.00

This is an Information Sheet that provides general guidance only. It is not intended as legal advice. In the event of any conflict between this information and any Acts, Rules or law, the provision of the Acts, Rules or law apply.