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**The Law of Costs**

**Mark M. Orkin**

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This is a unique looseleaf service that covers all costs issues in legal proceedings, with relevant decisions analyzed and rules of court and tariffs referenced for every jurisdiction. This practical all-in-one resource provides coverage of the awarding and fixing or assessment of costs between party-and-party and between solicitor-and-client; costs in both civil and criminal proceedings; and costs awards in bankruptcy and insolvency proceedings and construction liens.

**What's New in this Update**

- **Chapter 2, Party-and-Party Costs** — new commentary and case law has been added in this chapter.
- **Chapter 3, Solicitor-and-Client Costs** — new commentary and case law has been added in this chapter.

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- **Appendix - Tariffs** — the appendix has been updated for amendments to relevant regulations.

## Highlights

- Proportionality does not override other considerations when determining costs; and should not be used as a sword to under compensate a litigant for costs legitimately incurred: *Armstrong v. Gallagher's Garage Ltd.* (2018), 50 C.C.L.T. (4th) 321 (Ont. S.C.J.) (Chapter 2, 202.5.3.1).
- A party may not set up impecuniosity as a shield against existing costs sanctions: *Clifford Todd Monahan v. Adam Mitchell Rose* (2018), 296 A.C.W.S. (3d) 485 (Ont. S.C.J.) (Chapter 2, 205.2(2).1).
- A successful self-represented defendant did not prove loss of opportunity costs necessary to claim for more than disbursements: *McLaughlan v. Maynard* (2018), 288 A.C.W.S. (3d) 426 (Ont. S.C.J.) (Chapter 2, 209.15.1).
- Costs orders could be made against non-parties only in unusual circumstances, including fraud: *Aslam v. Aslam* (2018), 298 A.C.W.S. (3d) 30 (Ont. S.C.J.) (Chapter 2, 209.17(1)).
- Full indemnity costs of \$320,899 were ordered for contempt of court: *9646035 Canada Ltd. et al v. Kristine Jill Hill et al.* (2018), 297 A.C.W.S. (3d) 50 (Ont. S.C.J.) (Chapter 2, 219.1).
- The costs of successful defendant were reduced by 30% to reflect a public interest component: *Livingston v. Cabot Links Enterprises ULC* (2018), 298 A.C.W.S. (3d) 28 (N.S. S.C.) (Chapter 2, 219.5.2).
- An Ontario judge termed a claim of \$900.00 for legal research “problematic”, noting that “[i]f artificial intelligence sources were employed no doubt counsel’s preparation time would have been significantly reduced”: *Cass v. 1410088 Ontario Inc.*, 2018 CarswellOnt 19514 (Ont. S.C.J.) (Chapter 2, 219.6(8).2).
- Another Ontario judge said: “My own view is that the hours spent on legal research is recoverable both as a component of counsel fee and as a disbursement. The reality is that computer-assisted legal research is a necessity for the contemporary practice of law and computer-assisted legal research is here to stay with further advances in artificial intelligence to be anticipated and to be encouraged”: *Drummond v. The Cadillac Fairview Corp. Ltd.* (2018), 296 A.C.W.S. (3d) 256 (Ont. S.C.J.) (Chapter 2, 219.6(8).2).

- There is no requirement for serious misconduct to justify an order that a lawyer pay party-and-party costs, but a finding of reprehensible conduct is necessary to justify an order for special costs: *Nuttall v. Krekovic* (2018), 427 D.L.R. (4th) 498 (B.C. C.A.) (Chapter 2, 220.2).

