

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

MARGARITA CASTILLO

Applicant

and

XELA ENTERPRISES LTD., TROPIC INTERNATIONAL LIMITED, FRESH
QUEST INC., 696096 ALBERTA LTD., JUAN GUILLERMO GUTIERREZ and
CARMEN S. GUTIERREZ, Executor of the Estate of Juan Arturo Gutierrez

Respondents

AND IN THE MATTER OF THE RECEIVERSHIP OF XELA ENTERPRISES LTD.

BILL OF COSTS OF THE RECEIVER

STATEMENT OF EXPERIENCE				
A claim for fees is being made with respect to the following lawyers, law clerks and law students:				
Name of lawyer	Years of experience (Year of Call)	Partial Indemnity Rate¹	Substantial Indemnity Rate²	Actual Billable Hourly Rate
Monique J. Jilesen	22 years (2000)	\$558-\$591	\$837-\$887	\$930-\$985
Derek N. Knoke	4 years (2018)	\$273-\$312	\$410-\$468	\$455-\$520
Grace Tsakas, Law Clerk		\$210	\$315	\$350
Law Student		\$174	\$261	\$290

¹ The partial indemnity rate has been set at 60% of actual fees. Per the Court of Appeal in *Inter-Leasing, Inc. v. Ontario (Revenue)*, 2014 ONCA 683, “the cost rates set out in the Information for the Profession set out in the preamble to [Rule 57](#) of the [Rules of Civil Procedure](#) are now out of date, and that amounts calculated at 55%-60% of a reasonable actual rate might more appropriately reflect partial indemnity, particularly in the context of two sophisticated litigants well aware of the stakes”

² The substantial indemnity rate is 1.5 times the partial indemnity rate, per Rule 1.03.

01 - Tasks related to criminal complaint and Motion Record re Contempt							
	Hours	Partial Indemnity	Substantial Indemnity	Actual Billable Rate			
Monique J. Jilesen	4.4	\$558	2,455.20	\$837	3,682.80	\$930	4,092.00
Derek N. Knoke	26.3	\$273	7,179.90	\$410	10,769.85	\$455	11,966.50
	Subtotal		\$9,635.10		\$14,452.65		\$16,058.50

02 - Tasks related to Supplementary Motion Record re Contempt							
	Hours	Partial Indemnity	Substantial Indemnity	Actual Billable Rate			
Monique J. Jilesen	23.6	\$591	13,947.60	\$887	20,921.40	\$985	23,246.00
Derek N. Knoke	65.8	\$312	20,529.60	\$468	30,794.40	\$520	34,216.00
Grace Tsakas, Law Clerk	15.8	\$210	3,318.00	\$315	4,977.00	\$350	5,530.00
Law Student	16.4	\$174	2,853.60	\$261	4,280.40	\$290	4,756.00
	Subtotal		\$40,648.80		\$60,973.20		\$67,748.00

03 - Tasks related to Disclosure Package							
	Hours	Partial Indemnity	Substantial Indemnity	Actual Billable Rate			
Monique J. Jilesen	4.3	\$591	2,541.30	\$887	3,811.95	\$985	4,235.50
Derek N. Knoke	26.2	\$312	8,174.40	\$468	12,261.60	\$520	13,624.00
Grace Tsakas, Law Clerk	39.3	\$210	8,253.00	\$315	12,379.50	\$350	13,755.00
	Subtotal		\$18,968.70		\$28,453.05		\$31,614.50

04 - Tasks related to Contempt Motion Prep and Hearing (May and June 2022)							
	Hours	Partial Indemnity	Substantial Indemnity	Actual Billable Rate			
Monique J. Jilesen	82.4	\$591	48,698.40	\$887	73,047.60	\$985	81,164.00
Derek N. Knoke	138.8	\$312	43,305.60	\$468	64,958.40	\$520	72,176.00
Grace Tsakas, Law Clerk	11.8	\$210	2,478.00	\$315	3,717.00	\$350	4,130.00
Law Student	126.8	\$174	22,063.20	\$261	33,094.80	\$290	36,772.00
	Subtotal		\$116,545.20		\$174,817.80		\$194,242.00

05 - Tasks related to Motion re Penalty on Contempt							
	Hours	Partial Indemnity	Substantial Indemnity	Actual Billable Rate			
Monique J. Jilesen	42.9	\$591	25,353.90	\$887	38,030.85	\$985	42,256.50
Derek N. Knoke	88.7	\$312	27,674.40	\$468	41,511.60	\$520	46,124.00
Grace Tsakas, Law Clerk	20.3	\$312	6,333.60	\$315	6,394.50	\$350	7,105.00
Law Student	106.9	\$174	18,600.60	\$261	27,900.90	\$290	31,001.00
	Subtotal		\$77,962.50		\$113,837.85		\$126,486.50

06 - Tasks related to all sections noted above completed by the Receiver							
	Hours	Partial Indemnity	Substantial Indemnity	Actual Billable Rate			
Robert Kofman	108.05	\$459	49,594.95	\$689	74,446.45	\$775	83,738.75
Noah Goldstein	28.75	\$397	11,413.75	\$595	17,106.25	\$675	19,406.25
Other	6.30	\$240	1,848.00	\$360	2,268.00	\$160	1,008.00
	Subtotal		\$62,856.70		\$93,820.70		\$104,153.00

SUMMARY OF FEES				
		Partial Indemnity Rate	Substantial Indemnity Rate	Actual Billable Rate
1	Criminal Complaint and Motion Record re Contempt	14,229.00	21,343.50	23,715.00
2	Supplementary Motion Record re Contempt	40,648.80	60,973.20	67,748.00
3	Disclosure Package	18,968.70	28,453.05	31,614.50
4	Contempt Motion Prep and Hearing	116,545.20	174,817.80	194,242.00
5	Motion re Penalty on Contempt	77,962.50	113,837.85	126,486.50
6	Receiver's Fees	62,856.70	93,820.70	104,153.00
	TOTAL FEES	\$331,210.90	\$493,246.10	\$547,959.00

SUMMARY OF DISBURSEMENTS		
Courier Charges		65.78
Online Searches Fees		3,766.72
Court Filing Fees (Non-Taxable)		629.00
Transcript Fees		3,458.75
eDiscovery Expenses		374.73
	Total Disbursements	\$8,294.98
*HST Except	HST at 13%	996.58
	Total Disbursements and HST	\$9,291.56

TOTAL FEES AND DISBURSEMENTS CLAIMED			
	Partial Indemnity Rate	Substantial Indemnity Rate	Actual Rate
Fees	\$331,210.90	\$493,246.10	\$547,959.00
HST on Fees at 13%	\$43,057.42	\$64,121.99	\$71,234.67
Disbursements	\$8,294.98	\$8,294.98	\$8,294.98
HST on Disbursements at 13%	\$996.58	\$996.58	\$996.58
TOTAL	\$383,559.88	\$566,659.65	\$628,485.23

October 26, 2022

LENCZNER SLAGHT LLP
 Barristers Suite 2600
 130 Adelaide Street West Toronto ON
 M5H 3P5

Monique J. Jilesen (43092W)
 Tel: (416) 865-2926
 Fax: (416) 865-2851
 Email: mjilesen@litigate.com
 Derek Knoke (75555E)
 Tel: (416) 865-3018
 Fax: (416) 865-2876
 Email: dknoke@litigate.com

AIRD & BERLIS LLP
Brookfield Place
181 Bay Street, Suite 1800 Toronto,
ON M5J 2T9

Kyle Plunkett
Email: kplunkett@airdberlis.com
Sam Babe
Email: sbabe@airdberlis.com

Tel: (416) 863-1500
Fax: (416) 863-1515

Lawyers for the Moving Party, the Receiver

TO: THE SERVICE LIST

MARGARTIA CASTILLO et al.
Applicants

-and-

XELA ENTERPRISE LTD. et al.
Respondents

Court File No. CV-11-9062-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

BILL OF COSTS OF THE RECEIVER

LENCZNER SLAGHT LLP

Barristers
Suite 2600,
130 Adelaide Street West
Toronto ON M5H 3P5

Monique J. Jilesen (43092W)

Tel: (416) 865-2926

Fax: (416) 865-2851

Email: mjilesen@litigate.com

Derek Knoke (75555E)

Tel: (416) 865-3018

Fax: (416) 865-2876

Email: dknoke@litigate.com

AIRD & BERLIS LLP

Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Kyle Plunkett

Email: kplunkett@airdberlis.com

Sam Babe

Email: sbabe@airdberlis.com

Tel: (416) 863-1500

Fax: (416) 863-1515

Lawyers for the Moving Party, the Receiver