

# PLUS TC&D: THE ASSESSMENT OF COSTS AND DISBURSEMENTS IN MOTOR VEHICLE INJURY LITIGATION

## EXCERPTS FROM CHAPTERS 2 AND 3

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### **Chapter 2: Costs Assessments in Motor Vehicle Actions**

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#### **II. Principles Governing the Assessment of Costs in Supreme Court [§2.2]**

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D. Specific Items under the Tariff [§2.13]

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13. Item 13—Process for Answering Interrogatories [§2.32]

#### **13. Item 13—Process for Answering Interrogatories [§2.32]**

Units allowed: Minimum: 1 Maximum: 10

“Process” is defined in s. 1, Appendix B of the Supreme Court Civil Rules as “the drawing, filing, or service of a document and any amendment to it or particulars of it, but does not include an application made with respect to the process or any part of the process”.

Accordingly, this item is restricted to drafting responses to interrogatories.

Interrogatories in motor vehicle cases are usually straightforward and one to three units is typically appropriate.

One unit was awarded in *Semenoff Estate v. Bridgeman*, 2014 BCSC 1845 (Registrar), a non-motor vehicle case in which four questions were answered.

Two units were allowed for an unsworn, page-and-a-half response to interrogatories that was said to be on the lower end of the scale insofar as the range of units was concerned in *Parrotta v. Bodnar*, 2006 BCSC 787 (Registrar).

Four units were allowed for two sets of interrogatories in a somewhat complicated motor vehicle accident case in which the plaintiff had been involved in two other accidents (*Hazbani v. Lucier*, 2001 BCSC 844 (Registrar)).

10 units were allowed in *Holland v. Marshall*, 2011 BCSC 607 (Master), leave to appeal refused 2011 BCSC 1871 (Chambers), a non-motor vehicle case in which extensive interrogatories were partially answered.

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## Chapter 3: Witness Fees

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### IV. Specific Disbursements Awards [§3.4]

#### A. In the Tort Action [§3.5]

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#### 44. Witness Fees [§3.72]

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Daily witness fees and conduct money tendered pursuant to Schedule 3 of Appendix C (Fees Payable to Witnesses) will be allowed. If the trial or examination does not proceed and the travel does not take place, counsel should request the witness to repay the fees, otherwise they risk having the disbursement disallowed.

Conduct money paid to family and friends out of an abundance of caution, even though some were travelling together, was allowed in *McCreight v. Currie*, 2008 BCSC 1751 (Registrar).

The expense for an expert who charged for 12 hours of trial preparation when the other experts charged for only two or three hours was reduced in *McCreight v. Currie*, 2008 BCSC 1751 (Master).

Professionals, such as doctors and physiotherapists, who testify as to facts and observations as opposed to opinions are entitled to charge for preparation at professional rates but only standard witness fees (i.e., the \$20 daily witness fee) for actual attendance at trial (*Van de Mortel v. Flagg*, 2006 BCSC 689 (Registrar); *Dosanjh v. Martin*, 2001 BCSC 1759 (Registrar)).

Preparation expenses charged by professional witnesses have little relation to the sum that will be allowed. A chiropractor was allowed \$100 for preparation in *Summers v. McGinnis*, 2005 BCSC 523 (Registrar).

Conduct money attached to subpoenas is recoverable, including money paid to treating physicians and fees paid for appearances that did not occur due to an adjournment, where the witness did not repay the witness fee despite a request (*Zachary v. Gallant*, 1997 CanLII 3871 (BC SC) (Registrar)). See also *Reed v. Amell*, 2014 BCSC 1613 (Registrar).

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