
Who's On The Hook For Outside Counsel Costs?

Reported Case:	<i>Minet et al. v. Kossler</i>
Citation:	2009 YKSC 18
At Issue:	In litigation in remote areas where few lawyers are available, are defendants responsible to pay for travel costs of out-of-town plaintiff counsel?
The Court:	Supreme Court of Yukon
Judgment Rendered:	March 10, 2009
Factual Summary:	The plaintiff retained counsel from Edmonton to represent her in a personal injury action filed in Whitehorse. There are approximately 60 resident lawyers in private practice in the Yukon, including 10 lawyers doing personal injury work. 5 of these lawyers are personal injury specialists. Prior to retaining Edmonton counsel, the plaintiff made two attempts to locate a local lawyer. She did not utilize a public service available to answer general legal questions by the public nor did she contact the Law Society of Yukon to obtain a referral. After a five day trial, the plaintiff succeeded approximately \$85,000 in damages and then sought \$4,061.91 in costs. Her claim for costs included her counsel's travel and hotel costs.
Disposition:	Costs relating to accommodation and travel expenses of outside counsel may only be recovered from a defendant when they are necessarily and properly incurred on the basis of conflict, lack of local expertise or other special circumstances. This was not the case in this instance; accordingly those costs were unjustified and not recoverable from the defendant.