

SUPREME COURT OF NOVA SCOTIA

Citation: *Doug Boehner Trucking & Excavating Ltd. v. United Gulf Developments Ltd.*, 2013
NSSC 114

Date: 20130322

Docket: Hfx No. 192468

Registry: Halifax

Between:

Doug Boehner Trucking & Excavating Limited,
a body corporate

Plaintiff/Defendant by Counterclaim

v.

United Gulf Developments Limited, a body corporate
and Greater Homes Inc., a body corporate

Defendants/Plaintiffs by Counterclaim

v.

W. Eric Whebby Limited

Third Party by Counterclaim

v.

Garden Crest Developments Limited

Fourth Party by Counterclaim

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Judge: The Honourable Justice M. Heather Robertson

Heard: March 4, 2013, in Halifax, Nova Scotia

Decision: March 22, 2013 (**COSTS**)

Subject: Costs following Trial # 1 2006 - Appeal 2007 - Trial # 2 2012

Summary: On appeal a retrial was ordered due to failure of the court recording system that provided no record of the evidence of the first trial. Unusual circumstances - no fault of parties. Mediation entered into voluntarily by the parties with the Province of Nova Scotia for recovery of some trial #1 costs.

Issue: Calculation of prejudgment interest, appropriate tariff and calculation of costs award for both trials and Appeal costs. *Rule 77.*

Result: Award of costs are at the discretion of Court with guidance from the *Rule*. Court applied *Bevis v. CTV Inc.*, 2004 NSSC 209 and applied 1989 Tariff A for both trials on the amount of \$487,295.57, and applied a treasury bond rate of 2.15% for prejudgment interest, with fixed appeal costs of \$6,000 to be paid by Whebby to Garden Crest and United Gulf. Disbursement costs agreed to by counsel.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***