

## **PRACTICE NOTE 20**

### **SECURITY FOR COSTS**

1. Counsel might wish to follow the attached affidavit and draft bill of costs that was filed in a motion in Ontario seeking security for costs. It addresses the information the Court requires on such a motion. Only the material that relates to the issue of the calculation of the costs is attached.

BETWEEN: ONTARIO COURT (GENERAL DIVISION)  
POLAR PRODUCTIONS AND  
SPORTS CONSULTANTS INC. Plaintiffs  
- and -  
AULT FOODS LIMITED, carrying on  
business as THE SPORTS NETWORK,  
TEN ENTERPRISES and JLL BROADCAST GROUP Defendants

**NOTICE OF MOTION**

The Defendants will make a motion to the Court on Thursday, the 15th day of April, 1992 at 10:00 a.m., or as soon after that time as the motion can be heard, at 145 Queen St. West, in the City of Toronto.

**THE MOTION IS FOR an Order for security for costs.  
THE GROUNDS FOR THE MOTION ARE:**

1. The Plaintiff is ordinarily resident outside Ontario.
2. The Plaintiff is a corporation and there is good reason to believe that the Plaintiff has insufficient assets in Ontario to pay the costs of the Defendants.
3. Rule 56 of the rules of Civil Procedure.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

1. The Affidavit of C. Clifford Lax.
2. The Affidavit of Peter Pleckaitis

**DATE:** March 24, 1992  
GOODMAN & GOODMAN  
250 Yonge Street  
Suite 2400  
Toronto, Ontario M5B 2M6  
Solicitors for the Defendants

**TO:** MORRIS COOPER  
Cumberland Court  
99 Yorkville Avenue  
Toronto, Ontario M5R 2K5  
Solicitors for the Plaintiffs

PRACTICE NOTE 20

Court file No. 92-CQ-2887

ONTARIO COURT (GENERAL DIVISION)

BETWEEN:

POLAR PRODUCTIONS AND  
SPORTS CONSULTANTS INC.

Plaintiffs

- and -

AULT FOODS LIMITED, carrying on  
business as THE SPORTS NETWORK,  
TEN ENTERPRISES and JLL BROADCAST GROUP

Defendants

AFFIDAVIT OF C. CLIFFORD LAX

I, C. Clifford Lax, of the City of Toronto, in the Municipality of Metropolitan Toronto, MAKE OATH AND SAY:

1. I am a partner in the firm of Goodman & Goodman, solicitors for the Defendants herein, and as such have knowledge of the matters to which I hereinafter depose.

2. I was called to the Bar in 1970 and am the senior litigation partner at Goodman & Goodman.

3. A review of the pleadings in this action indicates that it deals with ongoing dealings between the parties over a period of almost three years. It involves serious allegations against the Defendants including breach of fiduciary duty, breach of confidence and deceit and misappropriation of assets. It also alleges intentional interference of contractual relations and claims that there have been damages to the reputation of the Plaintiff. Fundamentally, at issue in the action is a complicated allegation that the Defendant has somehow expropriated a "syndication network" allegedly developed by the Plaintiff pursuant to its contractual relationship with the Defendant.

4. It is my conservative estimate in reviewing the pleadings that there will be five days discovery in total in these proceedings. One day of these discoveries would arise as a result of the Defendant's counterclaim. A reasonable estimate of the length of the trial is twelve days of which I consider that two days in total would be attributable to the Defendant's counterclaim. Up to the point of trial, the file will be handled by Ken Crofoot, a partner in Goodman & Goodman called to the bar in 1984. At trial, due to the amount in issue and the nature of the claim I consider it appropriate that the Defendant be represented by myself and Mr. Crofoot with the further assistance of an articling student.

5. Attached hereto as Exhibit "A" is a draft Bill of Costs which I consider to be a reasonable estimate of the costs on a partial indemnity basis which will be incurred by the Defendant in the defence of this proceeding. This draft Bill of Costs is exclusive of the time which will be involved in the prosecution of the counterclaim.

SWORN BEFORE ME at the City of Toronto,  
in the Municipality of Metropolitan Toronto,  
this 23rd day of March, 1993)  
Commissioner for taking Affidavits)

C. Clifford Lax

**EXHIBIT "A"**  
**DRAFT BILL OF COSTS**

Pleadings		\$1,000.00
Affidavit of Documents	Clerk - 10 hrs x \$50	\$500.00
	Counsel - 2 hr. x \$150	\$300.00
Motions	Security for Costs	\$1,000.00
	Strike Jury Notice	\$1,000.00
	Refusals	\$1,000.00
Discoveries	Preparation - Counsel - 20 hrs. x \$140	\$2,800.00
	Attendance - four days - 32 hrs. x \$140	\$4,480.00
Trial	Preparation	
	- 1st counsel 20 hrs. x \$160	\$3,200.00
	- 2nd counsel 40 hrs.x \$140	\$5,660.00
	- student 50 hr. x \$50	\$2,500.00
	Attendance (10 days)	
	1st counsel (\$1,600 day)	\$16,000.00
	2nd counsel (\$1,400 day)	\$14,000.00
	student (\$500 day)	\$5,000.00
	<b>TOTAL FEES:</b>	<b><u>\$58,440.00</u></b>
 <u>Disbursements</u>		
	Statement of Defence	\$70.00
	Transcript - 1st copy, 175 pages x 2 days x \$3.75	\$1,312.50
	2nd copy, 175 pages x 2 days x \$.75	\$262.50
	Court copy, 175 x 2 x \$.75	\$262.50
	Form and Reporter fee per hour (\$34 x 7hrs. 2 days)	\$476.00
	<b>TOTAL DISBURSEMENTS:</b>	<b><u>\$2,383.50</u></b>
	<b>TOTAL FEES AND DISBURSEMENTS:</b>	<b><u>\$60,823.50</u></b>
	GST at 7%	\$4,257.65
	<b>TOTAL</b>	<b><u>\$65,083.15</u></b>