SUPREME COURT OF NOVA SCOTIA
Citation: Creighton v. Nova Scotia (Attorney General), 2011 NSSC 437

Date: 20111125
Docket: Bwt 220834
Registry: Halifax

Between:

David S. Creighton

Plaintiff

v.

The Attorney General of the Province of Nova Scotia, James Adams, Helen Adams, both of Chester, Nova Scotia and Car-Con Holdings L.L.C., a body corporate, incorporated under the laws of the State of New York, United States of America

Defendants

Judge:	The Honourable Justice Arthur W.D. Pickup
Heard:	October 6, 2011, in Halifax, Nova Scotia **(Decision on Costs)**
Counsel:	Richard Bureau and Adam Crane, for the plaintiff Peter Rogers, Q.C. and Erin Fowler (Articled Clerk), for the defendants

By the Court:

[1] This matter arises out of a nine day trial held in Bridgewater, Nova Scotia, between January 24 and February 3, 2011. By decision of March 31, 2011 I found that the plaintiff, David S. Creighton, had good title to the disputed lands described in the decision as lots 3 and 4 and granted a certificate of title under the *Quieting Titles Act*, R.S.N.S. 1989. C. 382, for these lots.

[2] Two issues have arisen as a result of this decision. The first issue is the request by the defendant, Car-Con Holdings LLC, for a certificate of title to a piece of land consisting of the remaining portion of the water lot that was included within Grant 4701. That is, the defendant seeks a certificate of title for the portion of the water lot that is located outside lot 4 (which was granted to the plaintiff) and that is within Grant 4701. The plaintiff takes no position in respect of this request.

[3] I am satisfied that both the plaintiff and defendants claimed title to the whole of Grant 4701 which contained the land for which the defendants seek a certificate of title. Pursuant to the motion for directions granted in the quieting of titles application, the adjoining owners to Grant 4701 were served. The only parties who came forward to contest the claim were James and Helen Adams and subsequently Car-Con. I am satisfied that it is appropriate that a certificate of title be issued to Car-Con for the remainder of Crown Grant 4701 which lies outside lot 4 as claimed by Mr. Creighton.

[4] The second issue is costs. Costs were awarded to the plaintiff. The parties cannot agree on the amount and request I determine the appropriate award.

[5] Mr. Creighton seeks costs on a solicitor/client basis. In the alternative, He seeks costs on a lump sum basis arguing that an award of costs under the 1989 tariff would be inadequate to serve the principle of providing a substantial but incomplete indemnity of real costs incurred.

[6] Mr. Bureau indicates in his affidavit that Mr. Creighton incurred legal fees with the law firm of Cassidy Nearing Berryman and then with Morris Bureau, totalling $133,992.25 (including HST). He also claims general disbursements incurred with Morris Bureau in the amount of $26, 218.96 and with Cassidy Nearing Berryman in the amount of $1,643.03.

[7] The defendants submit that costs should be calculated on a party-and-party basis using the 2004 *Tariffs of Costs and Fees*, and that it is inappropriate to allow costs on a solicitor/client basis or on a lump sum basis. They submit that the costs under the 2004 tariff would be adequate to serve the principle of a substantial but incomplete indemnity of real costs incurred by Mr. Creighton.

[8] Costs are in the discretion of the court. Costs of a proceeding generally follow the result. *Civil Procedure Rule* 77.01(1) describes the types of costs the court may order:

> 77.01(1) The court deals with each of the following kinds of costs:
>
> (a) party and party costs, by which one party compensates another party for part of the compensated party's expenses of litigation;
>
> (b) solicitor and client costs, which may be awarded in exceptional circumstances to compensate a party fully for the expenses of litigation;
>
> (c) fees and disbursements counsel charges to a client for representing the client in a proceeding.

Solicitor/Client Costs

[9] Solicitor/client costs are awarded in exceptional circumstances to compensate a party fully for the expenses of litigation. Both parties make reference to *Brown v. Metropolitan Authority*, [1996] N.S.J. No. 146 (C.A.), where the court stated, at para. 94:

> While it is clear that this Court has the authority to award costs as between solicitor and client, it is also clear that this power is only exercised in rare and exceptional circumstances, to highlight the court's disapproval of the conduct of one of the parties in the litigation.

[10] Mr. Creighton submits that the actions of the defendants were reprehensible, scandalous and/or outrageous and, as a result, solicitor and client costs ought to be awarded. His counsel, Mr. Bureau, asserts that the defendant, Mr. Adams, claimed at trial that he received title to lot 3 when he purchased an adjacent lot at 18 Water Lane. The court, however, determined his claim was inconsistent with all of the

other evidence presented at trial and with his own actions. As to Mr. Mraz, Mr. Bureau refers to Mr. Mraz's suggestion at trial that he saw Mr. Adams and his son Russel Adams use lot 3, a claim he retracted during cross-examination. Generally, Mr. Bureau says there was no merit to the claims put forth by the defendants and they caused the dispute to take 12 years to be resolved. The evidence provided by the defendants with respect to their possessory claim to lot 3 was, in Mr. Bureau's view, "completely untrue and contradicted by all of the evidence provided by Mr. Creighton from his witnesses and many of the witnesses called by the defendants".

[11] With respect, I am not persuaded that the actions of the defendants were reprehensible, scandalous and/or outrageous as alleged by Mr. Creighton. Rather, I am satisfied that the defendants behaved as routine defendants. Although this court found against the defendants, I am satisfied that they obviously believed in the legitimacy of their claim to title. Credibility findings were made in respect of all of the witnesses called at trial. I agree with counsel for the defendants that credibility findings are difficult to predict in advance. More to the point, it should not be unexpected that some witnesses provided stronger evidence than others. I am satisfied on the facts that there is no basis to support the plaintiff's allegation. The defendants presented evidence and cross-examined the plaintiff's witnesses. The evidence for the plaintiff was stronger than that of the defendants which was why the plaintiff was successful. In litigation this is not unusual. I see no factual basis to support the plaintiff's request for solicitor/client costs.

Party-and-Party Costs

[12] Party-and-party costs are determined by reference to *Civil Procedure Rule* 77.06(1), which provides:

> (1) Party and party costs of a proceeding must, unless a judge orders otherwise, be fixed by the judge in accordance with tariffs of costs and fees determined under the Costs and Fees Act, a copy of which is reproduced at the end of this Rule 77.

[13] The parties agree that the 1989 tariff applies as the action was commenced prior to September 29, 2004. Both counsel also acknowledge that the court has discretion under Rule 77 to use Tariff A. Tariff A sets out a fee of $2,000.00 per day of trial and goes on to provide a determination of the amount of costs that

should be awarded based on the “amount involved” and the scale chosen. Scale 2 is the basic scale.

[14] The parties cannot agree on the amount involved. The defendants say the “amount involved” should be assessed with respect to the 2010 tax assessment for Grant 4701 which was entered as an exhibit at trial. This assessment notice valued the entire grant at $93,300.00. The defendants submit that this grant involves substantially all the land awarded to the plaintiff and involves a significantly larger water lot partly overlapping the water lot awarded to the plaintiff. The defendants say that for ease of calculation they are prepared to use the figure of $93,000.00, even though it is an assessment for a larger piece of land than the lots awarded to the plaintiff (lots 3 and 4). The defendants say that in reference to Tariff A, this amount falls within the monetary range of $90.001.00 - $125,000.00 and, therefore, the costs should fall somewhere between $9,188.00 - $15,313.00, depending on what scale is used.

[15] The defendants say the trial was long but not complex and the length of the trial is separately compensated for. They suggest Scale 2, which allows $12,250.00 as the appropriate award. Since the trial lasted nine days an additional $2,000 per day would be added for a total cost award of $30,250.00.

[16] The plaintiff argues that this is not the appropriate approach. He says that without lot 3 and water lot 4 being a part of his existing lot at 15 Water Lane, the resulting decrease in market value of his property would be at least $250,000.00. Therefore, he argues this should be the “amount involved”. There was no evidence at trial to support the decrease in market value described by the plaintiff.

[17] In the alternative, the plaintiff submits there was no evidence at trial to support a market value for lot 3 and water lot 4, and the court should proceed to determine the “amount involved” as if it was a claim for a non-monetary amount.

[18] I am not satisfied that this is the case. I am prepared to find that the amount involved is $93,000.00 for purposes of calculating party-and-party costs. I am satisfied Scale 2 is the appropriate scale. On this basis, the party-and-party costs to which the plaintiff would be entitled would be $30,250.00.

Lump Sum Costs

[19] Another means of awarding costs is by lump sum. Rule 77.08 permits a judge to award lump sum costs instead of tariff costs.

[20] Mr. Creighton seeks lump sum costs. He submits that an award of costs under the tariff would be inadequate to serve the principle of a substantial, but incomplete, indemnity of real costs he incurred.

[21] The defendants submit that a lump sum award is not appropriate and take the position that tariff costs are adequate to provide a substantial but incomplete indemnity. During argument the defendants' counsel suggested that the court could only award a lump sum in "exceptional circumstances". Counsel later acknowledged, however, that courts have awarded costs on a lump sum basis after determining that party-and-party costs under the tariff were not adequate. For example, in *Geophysical Services Incorporated v. Sable Mary Services Incorporated and Matthew Kimball*, 2010 NSSC 357, Warner J. said, at paras. 29 and 30:

> 29 I agree that the principles respecting court costs in Nova Scotia, since Justice Saunders' analysis in *Landymore v. Hardy* [(1992), 112 N.S.R. (2d) 410] have focussed on providing a successful party with a substantial contribution to its legal costs, objectively assessed. This may be modified by conduct of the winning party.
>
> 30 The analysis of whether the tariff costs constitute a substantial contribution to the plaintiff's actual reasonable costs requires, first, an analysis of what tariff costs would be.

[22] Further, in *Boutcher v. Clearwater Seafoods Limited Partnership,* 2010 NSSC 64, MacLellan J., made the following comments regarding lump sum costs:

> 10 Counsel for both plaintiffs in their submission after the trial requested that the Court approach the matter by looking at Tariff A Scale 2 (Basic) costs based on the amount awarded to each plaintiff plus the daily amount for trial, and then add a lump sum to bring the costs award up to a level which would be a substantial contribution to their actual costs.
>
> ...
>
> 28 I conclude that an award of $22,250.00 would not be a substantial contribution to the plaintiffs' legal costs. The plaintiffs had to deal with two applications prior to trial and the trial took five days to hear. It involved a lot of

> evidence on the issue of how the defendant came to terminate the plaintiffs' services after many years of employments.
>
> 29 To allow costs that would be significantly less than their actual legal costs would result in the plaintiffs using a significant part of their damage awards to pay their lawyer. In the case of *Burns v. Sobeys Group Inc.*, [2008] N.S.J. No. 117, Warner J. of this court made a lump sum award in addition to the tariff amount in circumstances where the tariff amount would not adequately compensate the plaintiff for his actual legal costs. In *Morash v. Burke*, [2007] N.S.J. No. 95, Wright J. of this court did the same thing by increasing the tariff amount of costs there from $12,700.00 to $22,500.00.

[23] Justice MacLellan went on to refer to the statement of costs principles set out by Justice Moir in *Bevis v. CTV Inc.*, 2004 NSSC 209, where he said, at para. 13:

> ... (1) Costs are normally set in accordance with the Tariff. (2) However, the Tariff system serves the principle of a substantial but incomplete indemnity. The Courts do not choose artificial means, such as selection of an artificial 'amount involved', in order to make the Tariff serve the principle. Therefore, when reasonable approaches to amount involved or scale under the Tariff fail to produce a substantial but partial indemnity, the Court may resort to its discretion under rule 63.02(a) and order a lump sum. (3) To settle an appropriate lump sum the Court will have regard to the actual costs facing the successful party or the labour expended by counsel, but the Court will seek to settle the amount objectively in conformity with one of the policies of the Tariff, to provide an indemnity that has nothing to do with the particularities of counsel's retention. The Court will attempt to provide a substantial but partial indemnity against what would ordinarily be charged by any competent lawyer for like services. (4) Finally, the Courts have usually avoided percentages. Substantial but partial indemnity is a principle, not a formula.

[24] In *GE Canada Equipment Financing G.P. v. 3068485 Nova Scotia Ltd.*, 2010 NSSC 204, Justice Murphy made the following comments regarding lump sum costs:

> 18 Costs are normally set according to the tariff, but when reasonable approaches to amount involved or scale under the tariff do not produce a substantial but partial indemnity, the court may depart from the usual and exercise its discretion to order a lump sum. Care should be taken to avoid employing fixed percentages or embracing the party's actual bill over a more generalized assessment...

[25] The defendants refer to *Arab v. Izsak* , 2009 NSSC 275. In that case the court developed a list of 12 relevant costs principles, two of which were referred to by the defendants at para. 6:

> 7. The tariff of costs and fees is the first guide used by the Court in determining the appropriate quantum of the cost award.
>
> ...
>
> 10. If the award determined by the tariff does not represent a substantial contribution towards the parties' reasonable expenses "it is preferable not to increase artificially the "amount involved", but rather, to award a lump sum". However, departure from the tariff should be infrequent.

Costs

[26] The amount of party-and-party costs determined under Rule 77 and Tariff A is $30,250. The question then becomes whether this amount represents a substantial contribution, but incomplete indemnity, of the plaintiff's expense of carrying the proceeding.

Plaintiff's Legal Fees

[27] I have calculated the plaintiff's legal fees based on the fees submitted, but without HST. The total fees for Mr. Bureau, excluding HST is $114,139.50 and the total for Cassidy Nearing Berryman is $8,304.15 for a total of $122,443.65. The Cassidy Nearing Berryman firm represented Mr. Creighton prior to the retainer of Mr. Bureau. I have been provided with sealed copies of the fees for these two firms.

[28] I am satisfied that these fees are reasonable. As a result, for purposes of determining the lump sum approach, I will use the sum of $122,500.00 as being the reasonable fees charged to the plaintiff. I am satisfied that party-and-party costs in the amount of $30,250.00 are not a substantial contribution to the plaintiff's expense of carrying the proceedings. I have arrived at this conclusion because of the length of time this matter has taken to conclude, the length of the trial, the number of witnesses called, as well as considering the reasonable legal fees of the plaintiff.

[29] I am satisfied it is more appropriate to substitute a lump sum award in the amount of $50,000.00, which I am satisfied is a reasonable contribution to the plaintiff's expense of carrying the proceedings.

[30] I asked the parties to provide submissions as to whether or not this amount should be increased for HST. Like the positions taken by counsel, the jurisprudence on this issue is divided. However, I accept the submission of the defendants and elect not to add HST to this lump sum award.

Disbursements

[31] The plaintiff claims disbursements totalling $46,129.49 made up of the following specific items:

a) Mr. Creighton's general disbursements in the amount of $27,861.99. (At Tab C of the Bureau affidavit are the Morris Bureau disbursements and at Tab D the Cassidy Nearing Berryman disbursements).

b) Mr. Creighton's out of pocket expenses in the amount of $9,967.50 (Exhibit N to the affidavit of Richard A. Bureau).

c) Disbursement in the amount of $8,300.00 representing the cost incurred by Mr. Creighton to repair the damage to lot 3 caused by the defendants (Exhibit O of the Richard Bureau affidavit).

[32] Defendants' counsel has challenged a number of these disbursements, some on the grounds of amount, others on the basis that they are not proper disbursements.

[33] The disbursements claimed by Morris Bureau are as follows:

Morris Bureau

Category	Totals
Photocopies/Printing/Scanning	$149.34

Long Distance	$19.13
Facsimile	$22.67
Courier	$105.09
Online Search Fee	$57.00
Title Information Search Fee	$157.32
Quicklaw Research Fee	$152.90
Kwik Copy (List of Documents)	$168.17
Surveyor Expense	$339.60
Discoveries & Transcripts (NS Business Centre Ltd. and Transcript Plus)	$1,445.94
E-Print it (Date Assignment Conference, Settlement Conference, Trial)	$980.71
Wade Atlantic (Exhibit Book/Exhibits)	$492.53
Mileage	$1,152.39
Hotel Accommodations	$3,001.30
Food, Gas & Supplies (Trial)	$1,106.55
Parking	$18.18
Filing Fee (Motion for Directions)	$59.41
Chester Clipper Advertisements	$1,288.20
David J. Whyte (Surveyor/Expert) * Incurred under both Cassidy Nearing Berryman and Morris Bureau	$13,671.82
Attorney General of NS Fee (Samuel R. Lamey)	$1830.71
SUBTOTAL	**$26,218,96**

a) Counsel's Travel, Food and Hotel Expenses

[34] Mr. Bureau claims $1,152.39 for mileage which appears to be for attendance at discoveries, meetings and trial. He also claims hotel accommodations in Bridgewater during the trial of $3001.30, food, gas and supplies of $1106.55 and parking of $18.18, for a total claim of $5,278.42. The defendants object to these disbursements and have provided case law to support their position.

[35] In *Western Nova Scotia v. Canadian Mortgage Brokers* (1978), 26 N.S.R. (2d) 112 (S.C.A.D.), Chief Justice MacKeigan held in respect to a claim for mileage, that there was "no authority in the *Costs and Fee Act* or any rule of court" permitting the court to allow travel costs for counsel "for the purposes of appeal" (para. 14).

[36] In a more recent case, *DeWolfe v. Ferguson*, 2000 CarswellNS 424 (S.C.), Justice LeBlanc observed at para. 88:

> 88 There are no provisions in our *Civil Procedure Rules* to permit the defendant's counsel to recover the costs associated with their attendance at the trial in Antigonish. Their offices are in Halifax. The defendant elected to have these counsel represent them. They were free to do so. However, it would be unreasonable to conclude that this choice of counsel should be indemnified by the Plaintiffs, either in whole or in part. I would conclude that the defendant in choosing a Halifax counsel made a choice but the additional costs of travel and lodging is one for the defendant to meet and not the plaintiffs.

[37] I am not prepared to allow the claim of $5,278.42 as a disbursement.

Quicklaw Charges

[38] The plaintiff claims the costs of Quicklaw research completed by Mr. Bureau in the amount of $152.90. The defendants say that law office allocations replacing the standard overheard item of a law library are not recoverable.

[39] In *Cunning v. Doucet*, 2009 NSSM 35, on the subject of Quicklaw disbursements, the court stated:

> **Other specific items**

> 32 $37.55 for Quicklaw research: There was a time years ago when online research was a novel development and lawyers paid for this research by the time spent and could track individual client files. Most lawyers, including Mr. Richey, no longer do this. They pay the much less costly monthly fee and take advantage of the system's ability to track individual clients or files and bill out the amount that would have been charged, had the lawyer subscribed to the "pay as you go" plan. That amount is basically a fiction because it is not an actual expense to the lawyer.
>
> 33 Performing legal research is part of a lawyer's job. In my view, the ability to do online research is merely a convenience to lawyers, which is now available for a minimal cost. Absolutely free services are quickly becoming available, eg. through CanLII, which will in time as their databases grow likely give the commercial services a run for their money. As such, it is my view that online research is part of overhead and is not a necessary disbursement that can be passed along on a party and party basis.

[40] I am not prepared to allow an amount for Quicklaw searches.

Photocopy, Long Distance, Facsimile and Courier

[41] In Mr. Bureau's disbursements there is an amount for these items totalling $296.23. He proposes reducing these by 25%, a reduction of $74.06, which would leave a total disbursement claim of $222.17. The defendants submit that they should not pay more than $0.11 to $0.15 per page of photocopying.

[42] I am prepared to allow the total disbursement of $222.17, for those items, which I consider to be reasonable.

Expert Testimony

[43] The plaintiff claims the sum of $14,011.42 ($13,671.82 + $339.60) for his expert. The defendants rely on *MacIntyre v. Cape Breton District Health Authority*, 2010 NSSC 170, where Justice MacLellan said that before obliging the unsuccessful party to pay significant disbursements for an expert, the trial judge must consider whether the amount charged is just and reasonable, and that the onus is on the person seeking payment of the disbursement.

[44] The defendants say that Mr. Whyte's survey and expert bills are single line entries with no description of the work done and that the total of $14,011.42 is unreasonable.

[45] The defendants say that even if I find that the survey work prepared by Mr. Whyte was just and reasonable, they should not pay the full amount of the work due to its lasting value to the plaintiff beyond this litigation. In other words, the fact that the property was surveyed by Mr. Whyte has lasting value beyond the litigation for Mr. Creighton.

[46] In *MacCormick v. Dewar*, 2011 NSSC 10, Bourgeois J. reduced the bill for survey work by approximately 40% based on its lasting value to the plaintiff and made the following comments:

> 16 I am also mindful however, that the work conducted by Mr. MacDonald in surveying the Plaintiffs' property does have lasting value to them beyond the present litigation. The Court was made aware of problems relating to the boundary line between the Plaintiffs' property and that of another neighbour. The survey addresses not only the issue with the Defendants, but provides clarification with respect to other boundaries as well. Undoubtedly, a thorough and well prepared survey as resulted from Mr. MacDonald's efforts will benefit the Plaintiffs in future for other reasons. I therefore view it as being reasonable to reduce the amount claimed in this invoice for that reason. I find that the Plaintiffs are entitled to $5000.00 in this regard.

[47] I am satisfied that the fees charged by Mr. Whyte are reasonable for the materials produced. There were difficulties with establishing boundary lines and this would have involved additional work. Also, an expert report was prepared and Mr. Whyte would have had to prepare for his trial testimony.

[48] The defendants argue that Mr. Whyte's bill be reduced by 40% due to the lasting value to the plaintiff of the survey materials. I am not prepared to do so. The position taken by the defendants ignores the fact that they too are obtaining a certificate of title for the remaining portion of Grant 4701 as described in the Whyte survey. In other words, there is value to the defendant Car-Con in obtaining a certificate of title to a portion of the land surveyed by Mr. Whyte.

Cassidy Nearing Berryman disbursements:

[49] The disbursements charged by Cassidy Nearing Berryman are at Tab D of Mr. Bureau's affidavit and are as follows:

Cassidy Nearing Berryman

Category	Totals
Photocopying	$50.38
Postage	$18.33
Long Distance	$16.48
Facsimile	$266.80
Courier	$4.03
Wendy Gingell (Title Search)	$574.71
Filing Fee (Originating Notice)	$175.00
Law Stamp (Originating Notice)	$28.75
Bailiff Services (Service of Adams)	$149.50
Filing Fee (Interlocutory Notice)	$53.00
Nova Scotia Resources Unit	$8.05
Recording of Statutory Declarations (Timothy Harris, Brenda Mulroney, Daniel Blain and Kimber Woodroofe)	$298.00
Subtotal	**$1,643.03**

[50] The total claimed for photocopies, for postage, long distance, facsimile charges and courier charges, amounts to $356.02, which I reduce by 25%, for a total allowable disbursement of $267.01 for these items.

[51] I allow the remaining disbursements claimed by Cassidy Nearing Berryman, including the fee for the title searcher, Wendy Gingell, of $574.71 and the recording of the statutory declarations. Therefore, the total allowable disbursements for Cassidy Nearing Berryman are $1,554.02.

Plaintiff's airfare, car rental, taxi expenses incurred during trial

[52] In addition to expenses attributable to his counsel, the plaintiff seeks recovery of his own out-of pocket expenses throughout the various stages of the quieting of titles action, including travel to and from Montreal and has attached a breakdown of these expenses at Exhibit N of Mr. Bureau's affidavit. These costs include accommodations at a hotel in Bridgewater, rental car, airfare and other miscellaneous expenses.

[53] The defendants suggest that the sum of $9,967.50 for Mr. Creighton's out-of pocket expenses is not recoverable. They rely on *Alto-Import, A. Larsson AB v. Fairbanks,* (1990), 98 N.S.R. (2d) 387, [1990] N.S.J. No. 207 (S.C.T.D.), where Richard J. held that for "general policy considerations, I am of the view that a losing party in an action ought not be substantially penalized merely because the successful party resides in some distant part of the world" (para. 12). The defendants suggest that these travel expenses should not be recoverable to attend trial or other steps in preparation for trial and that these costs, in any event, include expenses for his wife. I agree and disallow the claim.

Costs incurred by Mr. Creighton to repair damage to lot 3

[54] Mr. Creighton claims the sum of $8,300.00 and attaches copies of accounts rendered by a contractor (Exhibit O of the Bureau affidavit) which appear to relate to replacement of the fence and repair of the damage to lot 3 caused by the defendants. I agree with counsel for the defendants that this is akin to a damage claim and not a proper allowable disbursement.

Conclusion

[55] In summary, the amount of allowable disbursements are as follows:

Morris Bureau Disbursements:	
$20,713.58	$ 1,554.02
Nearing Cassidy Berryman	
Disbursements:	$22,267.60

Total:

[56] Therefore, total costs are as follows:

a) Party-and-party costs on a lump sum basis: $50,000

b) disbursements: $22,267.60

Total: $72,267.60

[57] Costs are awarded to the plaintiff in the total amount of $72,267.60.

Pickup, J.