



# Civil Resolution Tribunal

Date Issued: June 19, 2024

File: SC-2023-004166

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Smith (dba Smiths IP) v. Piccone Holdings Ltd.*, 2024 BCCRT 571

BETWEEN:

PAUL SMITH (Doing Business As SMITHS IP)

**APPLICANT**

AND:

PICCONE HOLDINGS LTD.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This dispute is about unpaid legal services. Piccone Holdings Ltd. hired Paul Smith (doing business as Smiths IP) for intellectual property and legal services. Smiths IP says Piccone has failed to pay all or part of its last 5 invoices. It seeks a total of \$4,752.24. Mr. Smith is a lawyer and represents Smiths IP.

2. Piccone admits it failed to pay Smiths IP over \$4,000. However, it says it had to find a new IP lawyer which has cost Piccone significant extra and unnecessary costs. Piccone is represented by its director.

## **JURISDICTION AND PROCEDURE**

3. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. These are the CRT's formal written reasons.
4. The CRT conducts most hearings in writing but has discretion to decide the format of the hearing, including by telephone or videoconference. In this dispute, the parties largely agree on the facts and there are no credibility concerns. I find that I am properly able to assess and weigh the documentary evidence and submissions before me, and that an oral hearing is not necessary in the interests of justice.
5. Section 42 of the CRTA says that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.
6. Where permitted by section 118 of the CRTA, in resolving this dispute, the CRT may order a party to do or stop doing something, pay money, or make an order that includes any terms or conditions the CRT considers appropriate.

## **ISSUE**

7. The issue is whether Piccone owes Smiths IP \$4,752.24 for outstanding invoices.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, the applicant Smiths IP must prove its claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the parties'

submitted evidence and arguments, I have only addressed those necessary to explain my decision.

9. Smiths IP has provided intellectual property and legal services to Piccone off-and-on since 1995. Neither party submitted any form of written agreement, so I infer they proceeded on an informal basis.
10. From 2017 to December 2021, Smiths IP provided services to Piccone specifically related to 3 patent applications. Smiths IP provided Piccone with 5 invoices between October 25 and December 8, 2021 for those 3 patents, which remain mostly unpaid. They are as follows:
  - a. Invoice 49735, October 25, 2021: \$47.25 outstanding
  - b. Invoice 49736, October 25, 2021: \$1,104.75 outstanding
  - c. Invoice 49798, November 1, 2021: \$283.75 outstanding
  - d. Invoice 49799, November 1, 2021: \$283.75 outstanding
  - e. Invoice 50151, December 8, 2021: \$3,032.74 outstanding.
11. The 5 invoices' outstanding amounts total \$4,752.74, the amount Smiths IP claims in this dispute. Notably, Piccone does not dispute that Smiths IP performed the work as billed. Nor does it argue that Smiths IP overcharged for its services. Instead, Piccone says it should not have to pay Smiths IP's bills because Mr. Smith joined a new law firm as of January 2022 and, as a result, was conflicted out of performing any further legal services for Piccone. So, Piccone says it has had to pay a new lawyer to get up to speed on his files.
12. I find Smiths IP is entitled to payment for its invoices. While I acknowledge Piccone has incurred further charges with a new lawyer, that does not mean it is not responsible for paying for the work Smiths IP undisputedly did on Piccone's behalf. I also note that much of the subsequent work billed by its new lawyer in the example

work ledger Piccone submitted is related to a different patent than the ones Smiths IP worked on. I find Piccone must pay the claimed \$4,752.24.

13. The CRT small claims limit is exclusive of *Court Order Interest Act* interest and CRT fees. Smiths IP is entitled to pre-judgment interest under the *Court Order Interest Act*. Calculated from March 8, 2022, at Smiths IP's request, this equals \$386.69.
14. Under section 49 of the CRTA and the CRT rules, I order Piccone to reimburse Smiths IP \$175 in paid tribunal fees. Neither party claimed dispute-related expenses.

## ORDERS

15. Within 30 days of the date of this decision, I order Piccone to pay Smiths IP a total of \$5,313.93, broken down as follows:
  - a. \$4,752.24 in debt,
  - b. \$386.69 in pre-judgment interest under the *Court Order Interest Act*,
  - c. \$175 in tribunal fees.
16. Smiths IP is also entitled to post-judgment interest, as applicable.
17. This is a validated decision and order. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Andrea Ritchie, Vice Chair