NOVA SCOTIA COURT OF APPEAL
Citation: Richards v. Richards, 2012 NSCA 7

Date: 20120120
Docket: CA 341497
Registry: Halifax

Between:

Sandra Lynn Richards

Appellant

v.

Robert James Richards

Respondent

Judges:	Oland, Fichaud and Bryson, JJ.A.
Appeal Heard:	September 26, 2011, in Halifax, Nova Scotia
Held:	Leave to appeal granted and the appeal is allowed, per reasons for judgment of Bryson, J.A.; Oland and Fichaud, JJ.A. concurring.
Counsel:	Rubin Dexter, for the appellant William L. Ryan, Q.C., for the respondent

Reasons for judgment:

[1] Sandra Lynn Richards appeals the oral decision of the Honourable Justice Arthur Pickup dismissing her interim motion for spousal support. For the reasons that follow, I would grant leave and allow the appeal.

[2] The parties were married on September 25th, 1976. They separated on March 13, 2010, but continued to reside separately in the matrimonial home. After a short trial reconciliation in August 2010, Mr. Richards moved out of the matrimonial home. He paid one-half of the matrimonial home expenses until the end of August 2010, but not thereafter.

[3] The parties have three adult children, one of whom still attends university and is financially dependent on his parents.

[4] The parties jointly own two successful Nova Scotia companies, Jaylynn Enterprises Limited ("JEL") and Home Realty Limited ("Home Realty"). JEL was incorporated in 1975. It is engaged in the business of land development, rental of lots for manufactured homes, subdivision development of freehold lots as well as the purchase, sale and service of manufactured homes. JEL is also a retailer of Kent Homes. Mr. and Ms. Richards are the sole officers and directors of JEL. Mr. Richards is president of JEL and controls its day-to-day operations, subject to the terms of a shareholders agreement.

[5] Ms. Richards owns 1,204 preference shares of JEL and Mr. Richards owns 730 preference shares. The common shares are held by the Richards Family Trust.

[6] Home Realty was incorporated in 1989 to list homes of prospective purchasers of manufactured homes which were offered for sale by JEL and to operate as a conventional real estate brokerage. Mr. Richards is president of Home Realty and until September 2010, Ms. Richards was vice-president/ secretary/treasurer. The parties equally own the common shares of Home Realty.

[7] Both companies have been profitable. JEL's after tax earnings in the last three years have been $209,284 in 2008, $146,997 in 2009 and $518,796 in 2010. Its retained earnings in 2010 exceed $1.3 million.

[8] The parties took no employment income from JEL. They had draw accounts to pay joint personal expenses. In addition, they received trust income from the Family Trust which was funded by dividends from JEL. Mr. and Ms. Richards and two relatives are the trustees of the Family Trust. Dividend income paid by JEL to the Family Trust was substantial. In 2009 it was $273,654. In 2010 it was $180,662. In 2009 the Line 150 taxable income for Ms. Richards was $79,413.10 and for Mr. Richards, $77,861. Virtually all of this money constituted distributions from the Family Trust.

[9] The parties took no employment income from Home Realty. They did take dividend income directly from that company from time to time. They last drew income from Home Realty in 2007, totalling $84,000. Home Realty's after tax 2010 revenue was $40,889.

[10] The parties enjoyed an affluent lifestyle. They employed domestic help, drove new motor vehicles, and had frequent and luxurious vacations. Their personal expenses alone averaged over $5,500 a month.

[11] Following their separation, Mr. Richards proposed that he and Ms. Richards each take a monthly salary of $5,000 from JEL until the matrimonial issues between them "were resolved within 60 to 90 days". Ms. Richards proposed that they each draw $12,000 a month from JEL. Mr. Richards subsequently withdrew his $5,000 a month offer.

[12] Later, Mr. Richards proposed that Ms. Richards draw $2,000 per month from JEL as a shadow bookkeeper. She countered that she wanted $5,000 per month. Her evidence was that Mr. Richards would not agree unless she remained in the marriage.

[13] Offers for division of matrimonial property have gone back and forth between the parties. Mr. Richards has offered to pay Ms. Richards half of the listed price of the matrimonial home. This would have netted her over $110,000. In June 2010, Mr. Richards had reached a tentative agreement to sell the family cottage but Ms. Richards refused to agree.

[14] In May 2010, Ms. Richards began drawing on a line of credit in order to support herself. Ms. Richards says that she has been seeking employment and

worked temporarily in September 2010, as a personal care worker. Her monthly expenses exceed $6,000. These were unchallenged by Mr. Richards.

[15] Since their separation in early 2010, Mr. Richards has refused to authorize any more dividend payments from JEL to the Family Trust. All payments to both parties ceased. Although Mr. Richards continues to operate JEL, he draws no income from the company. Neither does Ms. Richards.

[16] On September 23, 2010, Ms. Richards petitioned for divorce and moved for interim spousal support.

Issues

[17] Ms. Richards raises four issues in her notice of appeal:

1. Did the judge err in his application of legal principles applicable to a motion for interim spousal support under the *Divorce Act*?

2. Did the judge err in taking into account offers to settle in dismissing her motion?

3. Did the judge ignore or misapprehend the evidence with respect to the means and needs of Mrs. Richards?

4. Would a patent injustice result from the judge's dismissal of the motion for interim support?

[18] For his part, Mr. Richards submits that all four grounds of appeal can really be dealt with as one issue:

> ...whether the Motion Judge erred in failing to award interim spousal support, ***based on the established factors and objectives to be considered on such a motion and on the evidence presented***. [Emphasis added]

During oral argument, counsel for Ms. Richards agreed that "to a large extent" the parties were really talking about one ground of appeal. He submitted that the first three grounds really buttress and support the fourth.

[19] I agree that the question is whether the Chambers judge correctly identified the legal principles relevant to a motion for interim spousal support and whether he correctly applied those principles.

Standard of Review

[20] The parties are in agreement about the standard. It was recently restated by this Court in *S.S. v. D.S.*, 2010 NSCA 74:

> [4] This is an appeal from an interlocutory ruling for interim child support in a divorce. Section 21 of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp) permits this court to hear an appeal from an interim ruling, and s. 21(5)(b) permits the court to order a new hearing to correct a substantial wrong or miscarriage of justice. Section 21(6) says that, except as otherwise provided, the appeal proceeds in accordance with the Court of Appeal's normal practice. Generally, the Court of Appeal overturns an interlocutory ruling only if the judge has applied a wrong principle of law or if a patent injustice would result from the decision under appeal.

Also see: *Exco Corporation Limited v. Nova Scotia Savings and Loans et al* (1983), 59 N.S.R. (2d) 331, at 333; *Minkoff v. Poole* (1991), 101 N.S.R. (2d) 143 (App. Div); *Ocean v. Economical Mutual Insurance Co.*, 2009 NSCA 81, at para. 44.

Test for Interim Spousal Support

[21] Section 15.2 of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.) authorizes the court to order interim spousal support:

> Spousal support order
>
> **15.2** (1) A court of competent jurisdiction may, on application by either or both spouses, make an order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse.
>
> Interim order

(2) Where an application is made under subsection (1), the court may, on application by either or both spouses, make an interim order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse, pending the determination of the application under subsection (1).

. . .

Factors

(4) In making an order under subsection (1) or an interim order under subsection (2), the court shall take into consideration the condition, means, needs and other circumstances of each spouse, including

(*a*) the length of time the spouses cohabited;

(*b*) the functions performed by each spouse during cohabitation; and

(*c*) any order, agreement or arrangement relating to support of either spouse.

. . .

Objectives of spousal support order

(6) An order made under subsection (1) or an interim order under subsection (2) that provides for the support of a spouse should

(*a*) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;

(*b*) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;

(*c*) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and

(*d*) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.

[22] The Supreme Court of Canada has summarized s. 15.2(4) of the *Divorce Act* as the "condition, means, needs and other circumstances" test (*Moge v. Moge*, [1992] 3 S.C.R. 813; *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420, paras. 34-43). At an interim hearing, the emphasis is on means and needs rather than ultimate entitlement (*Stever v. Stever*, 2005 NSSC 157, para. 19). The respondent provides a helpful quotation which summarizes the court's approach to such motions when he refers to Justice Haliburton's comments in *Mitchell v. Mitchell*, 1993 CarswellNS 620; [1993] N.S.J. No. 504 (Q.L.) at para. 21:

> [21] ...Any Order ought to permit a reasonable standard of living for the dependent spouse relative to the contributing spouse; ought to permit, if not ensure, the preservation of matrimonial assets; ought to preserve the status quo insofar as possible; and ought to encourage the dependent spouse to consider in realistic terms how best to arrange [their] affairs to achieve economic self sufficiency when a final settlement is made. Any Order will not become a model for a final Order of support.

Decision of Chambers Judge:

[23] Before the Chambers judge, Mr. Richards took the position that Ms. Richards should be denied any relief because her conduct had been unreasonable. She had refused reasonable offers which would have relieved any need that she currently has. Moreover, the parties are in the same position. Although Ms. Richards has no income from the companies, neither does Mr. Richards. He has nothing to give her and the companies and the Family Trust cannot be forced by the court to do so. Indeed, they are not parties and Ms. Richards has not brought an oppression remedy against Mr. Richards or the companies.

[24] The Chambers judge largely accepted Mr. Richards' submissions. He said:

> Unfortunately, I can come to no other conclusion that Ms. Richards has not met her onus proving the means and needs. She's chosen to refuse all reasonable offers to put her in that position. And I say this because the parties on paper, are relatively equal in shareholding. As a matter of fact, Ms. Richards has a ... is in a better position for preference shares and there's going to be an argument that Mr. Richards should be entitled. So on paper, I mean, they're, they're both entitled.
>
> Anyway, I agree with Mr. Richards' counsel, that the disadvantage now being suffered as a result of separation, has the mo...has for the most part been

> because Ms. Richards does not appear to want to resolve the issues. The money is there.
>
> Having not proved the means and needs as set out in the test, the application for interim spousal support is denied. ... (A.B., p. 14-15)

[25] The Chambers judge also accepted that it was Mr. Richards who controlled and cut off the income stream:

> Now, the, the real issue arose I think in May of 2010 when Ms. Richards alleges that Mr. Richards took steps to exclude her from participating in the day-to-day affairs of both companies and assumed control of the finances of those companies and refused to authorize the payment of any money to her. Or as I put it to counsel, the tap was turned off. It appears from the materials that Ms. Richards voluntarily wanted to have... wanted to withdraw. ***But in any event, it's clear that the tap was turned off, so called, by Mr. Richards.*** (A.B., p. 10) [Emphasis added]

[26] Mr. Richards' decision was ultimately linked to a resolution of all issues (A.B. pp. 542-543):

> **Q.** Now, let's just go back for a moment. Whose decision is it, whose decision has it been that no dividends be declared by Jaylynn?
>
> **A.** Well, when this whole matter started, when I tried to make a negotiation as to what we could do in the interim for us to sell our ... be able to finance ourselves so that neither one of us would be sort of out on the street I guess, is that I had made an offer of X amount of dollars and, and she refused all the proposals I made. ***So I said well, until we settle this, I'm not taking anything out of Jaylynn and you're not to take anything out of Jaylynn***.
>
> **Q.** So you made the decision?
>
> **A.** Yes.
>
> **Q.** ***Until it was settled, no money would come out of Jaylynn. That was your decision?***
>
> **A.** ***And it was based upon the fact that I had made several offers*** and she rejected them. Well, the idea was I thought we were going to co-operatively work

on this and maybe over a, a short period of time, because to me it was fairly cut and dry, this should be easily settled.

. . .

Q. You made the decision?

A. Yes. I had to.

Q. ***You made the decision that no money would be taken out of Jaylynn?***

A. Yes.

And again at pp. 556-559:

Q. So it's your position that this application, this motion for interim support isn't necessary. Correct?

A. It wouldn't be if she had of taken my offers or, and, and tried to settle within a reasonable time. So it wouldn't have been, but ...

Q. And I want to make sure we're clear. So if the motion, this motion is dismissed, she still doesn't get five, does she?

A. No. I, I need some kind of settlement. ***I need some kind of time frame that this is going to end.*** The way I see it now, is she's just going to keep living the way she's living forever and, and we need to settle this thing for both our sakes.

. . .

Q. ***So, before your wife gets any money, all of the matrimonial issues must be settled. That's your position?***

A. Well, I had offers ...

Q. Is that your position?

A. It is now.

. . .

> **Q.** I see. ***So if you don't settle satisfactorily all the issues, your wife gets no income. Fair?***
>
> **A.** ***Now it is, yes.*** [Emphasis added]

[27] The foregoing reveals that:

(a) Ms. Richards had no money because Mr. Richards changed the financial status quo. The fact that he also earned no money is incidental to her need.

(b) She would have had money had she agreed to settle all issues – not just the issue of interim support.

(c) Offers made were no longer available at the time of hearing.

[28] One can well understand the Chambers judge's apparent frustration with two parties who cannot agree on interim support, despite the availability of ample resources. But the failure to accept an offer – reasonable or otherwise – is not a reason to deny interim support because it does not relieve the applicant's need. Unless the offer remains open for acceptance up to the time the judge makes a decision, it cannot supply the means to meet the need.

[29] Moreover, it would not usually be appropriate for courts to determine the reasonableness of offers on interim support hearings because they are not well placed to decide whether offers have been reasonable or not – and parties should not be encouraged to litigate such an issue at the interim stage because that would frustrate the swift and summary process which such proceedings require (i.e., *Mitchell*, para. 22 above). Again, in this case, the evidence is that Mr. Richards' offers were not confined to interim support – they were tied to resolution of other issues. While the court obviously favours and encourages settlement, it should not do so to the prejudice of one party on substantive issues going to ultimate entitlement. Reasonableness is better determined at the end of the day when the matter can be viewed globally and intransigent parties can be penalized in costs – not entitlement.

[30] It is unfortunate that the negotiations between the parties did not bear any fruit. But with respect, this should not disentitle a spouse to interim support. The fact remains that Ms. Richards has little or no income and has no immediate access either to the capital assets of the companies or an income from them. The Chambers judge took into account an irrelevant factor (the failure to settle) when concluding that Ms. Richards did not prove need. That factor was material to his decision. He thereby erred in law. The evidence is uncontradicted that Ms. Richards is in need. That need is not mitigated nor diminished because negotiations between the parties were unsuccessful. There was no evidence that her ownership of JEL preference shares gave Ms. Richards unilateral access to income or capital of the company. Nor should she be required to bring an oppression remedy to obtain that access.

[31] Although Ms. Richards has no income, Mr. Richards replies that he is equally prejudiced; that he has no income from which spousal support could be paid to Ms. Richards and the court cannot require the company or the trust to pay any income to the parties. But this argument ignores two things: Mr. Richards can unilaterally restore dividend income because Ms. Richards has never objected to that; and his management control of JEL.

[32] The management of a private Nova Scotia company resides in its directors. Its day-to-day management is carried out by the managing director, president or chief executive officer. Where directors are at an impasse, it is obvious that *de facto* control resides with the president. In this case, that control is circumscribed by a shareholder agreement.

[33] The JEL shareholder agreement provides that the Board of Directors shall comprise only two people: the parties or their nominees. It requires that Mr. Richards hold the office of president and Ms. Richards that of secretary. It grants day-to-day management to Mr. Richards, but requires that both directors consent to certain actions:

> 3:01 The Company shall be organized as follows:
>
> . . .
>
> (d) all cheques and other banking documents, deeds, transfers, contracts, agreements and other documents that are required to be

> executed by the Company from time to time and involve transactions in excess of $50,000.00 shall be executed on its behalf by the President and Secretary unless otherwise designated by a resolution of the Board of Directors. For transactions under $50,000.00, either the President or Secretary may execute the documents on behalf of the Company.
>
> . . .
>
> 3.04 The President of the Company shall be responsible for the day-to-day operation of the Company and shall be given full power and authority to conduct the business of the Company as he deems appropriate, subject to the restrictions contained herein. [A.B., pp. 164-166]

[34] Nothing in these restrictions precludes the president from paying himself a reasonable salary or consulting fee for services rendered. The agreement places no limitation on the president's capacity to hire and fire employees. There are a number of family members who are employees of JEL. Mr. Richards has unilateral authority to draw up to $50,000 a year to pay himself and/or Ms. Richards that amount.

[35] Clause 4.01 of the shareholder agreement limits the authority of the directors:

> Restrictions on Power to Manage
>
> 4.01 The Board of Directors and Officers of the Company shall not take any of the following actions without the unanimous consent and approval of all Shareholders, namely:
>
> (a) make any material change to the business of the Company;
>
> (b) enter into any sale, lease or mortgage of the Company's assets;
>
> (c) make capital expenditures in excess of the total of $50,000.00;
>
> (d) borrow funds in excess of a total of $50,000.00;
>
> (e) incur any liability or obligation in excess of $50,000.00;

(f) make, amend or appeal any articles of the Company;

(g) grant a loan from the Company to any person or entity;

(h) pay any dividends or distribute any surplus or earnings of the Company;

(i) pay any bonuses to Directors or Officers of the Company in such capacity or otherwise; or

(j) issue or redeem any securities of the Company.

[36] The shareholders are Mr. and Ms. Richards and the Family Trust. But Mr. and Ms. Richards are the trust's nominees under the shareholder agreement. The trustees of the Family Trust are the parties and a family nominee of each. Trust decisions must be by a majority. The parties appoint trustees by unanimous agreement. Accordingly, Mr. and Ms. Richards have practical and legal control over any shareholder consent required pursuant to Clause 4.01 of the shareholder agreement.

[37] Mr. Richards objects that he cannot "unilaterally" pay Ms. Richards any dividends, because as directors they have to agree and Ms. Richards would not accept his reasonable offers. It was clear that Ms. Richards did not object to the status quo of continuing the practice of dividend distribution (A.B. pp. 541-542):

Q. So when you say you have no authority or your authority is limited in terms of the ability to declare dividends, it's limited only to the extent that you need your wife's approval?

A. To give it to the family trust, yes.

Q. Yes. When was the last time your wife disagreed or said, we are not going to do that?

A. I, I don't recall her saying we're not going to do that at any time, I don't think.

Q. She never said that.

A. So I guess we agree.

Q. All right. So, we've got that clear then.

A. Yes.

[38] In the result, Mr. Richards' plea of corporate impotence is hollow. He blames Ms. Richards for not settling: but it is he who blocked payment of income to either or both of them.

Remedy:

[39] Section 21(5) of the *Divorce Act* provides this Court with the following jurisdiction:

(1) It can order a new hearing where it considers it necessary to correct a substantial wrong or miscarriage of justice.

2) The Court can render a decision which should have been made by the court below.

[40] In asking the court to impute income to Mr. Richards, Ms. Richards relies upon the Court's power to impute income under the *Federal Child Support Guidelines*, citing *Hawco v. Myers*, 2005 NLCA 74, at paras. 41-43, *Rilli v. Rilli*, [2006] O.J. No. 4142 (Q.L.), at paras. 14 and 16. In *Hawco*, the Newfoundland Court of Appeal said:

> **42** Imputing income for purposes of child support is authorized under section 26.1(1)(g) of the Divorce Act and section 19 of the Federal Child Support Guidelines. There is no specific provision regarding the imputing of income for purposes of spousal support. However, if income is imputed for purposes of determining child support, there is no basis in principle for using a different income to ascertain spousal support. An example of imputing income in the context of spousal support is found in Boston v. Boston, [2001] 2 S.C.R. 413. Major J., speaking for the majority, commented:
>
> > [66] Finally, if the payee spouse receives assets in exchange for a share of the capitalized value of the other spouse's pension and she does not invest those assets in an attempt to produce an income, the court should impute an income to the payee spouse based on what those assets could reasonably produce if invested. ...

[41] Founding the imputation of income on *Child Support Guidelines* for the purposes of awarding spousal support may be appropriate where child support is in issue and it would be problematic to have two spousal incomes imputed: one for child support purposes and the other for spousal support purposes. But the purpose of each is different. Here I would endorse the comments of Justice Greckol in *Jean v. Jean*, 2006 ABQB 938, at paras. 108 and 109:

> **108** The underlying rationale for a child support order is that the children of the marriage should not be worse off as a result of the marriage breakdown and that both parents should bear the responsibility of child-rearing despite the marriage breakdown. Entitlement to child support is automatic if the child is determined to be a child of the marriage. Quantum is determined by the *Guidelines*, which is a Regulation that has the force of law, and which requires the ascribing of a "hard and fast"number to the income of a payor spouse. This may explain the strictness and severity of the imputation provisions found in s. 19 of the *Guidelines*, particularly as they relate to the payor spouse's underemployment or unemployment.
>
> **109** By contrast, the objectives of a spousal support are to: (a) recognize any economic advantages or disadvantages arising from the marriage or its breakdown; (b) apportion any financial consequences arising from the care of any child of the marriage over and above the obligation for support of any child of the marriage; (c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and (d) promote, as far as practicable, the economic self-sufficiency of each spouse within a reasonable period of time.

[42] Ms. Richards acknowledges the parties could not agree. She asks the court to overcome the impasse and make an order. By doing so, she is impliedly waiving any objection to Mr. Richards paying himself an income from which support could be paid to her. Alternatively, she clearly is consenting to payment of dividend income which can be directed to the parties through their ownership of preference shares in JEL. Indeed, her counsel explicitly agreed to this during the hearing.

[43] Ms. Richards asks this Court to impute income to Mr. Richards effectively equal to the total of the dividend income of Mr. and Ms. Richards prior to their separation. The Chambers judge decided not to do so on the grounds that “this made no sense”. He did not elaborate. The judge’s exchange with counsel suggests that he would not impute the parties’ gross taxable income to Mr. Richards alone. But Ms. Richards’ need was plain. Mr. Richards’ ability to access

corporate resources to relieve her need – and indeed his – was equally plain. The Chambers judge erred in law in not imputing income to Mr. Richards.

[44] JEL has more than sufficient revenue to cover a salary to Mr. Richards of $157,000. The after tax revenue of JEL over the last three years in total has exceeded $850,000. The Court is required to recognize the money that is available to Mr. Richards from the company's income. In the absence of evidence from the payor to establish that the company's pre-tax income is unavailable to him, the Court will presume that pre-tax corporate income is available, *Hausmann v. Kluka*, 2009 BCCA 32, at 50. Amounts previously paid to Ms. Richards are not relevant in determining the income available for imputation to Mr. Richards and should not be deducted from the amounts available to him for that purpose: *Chapman v. Summer*, 2010 BCCA 237, at para. 33.

[45] Like Justice Greckol, I would prefer to base an imputation of income on the "means factor" in s. 15.2(4) of the *Divorce Act*. Means is a broad term and should be generously interpreted to give effect to the statutory purposes of spousal support. Certainly, "means" would include all financial resources, capital and income, as well as earning capacity. In this case, that would extend to a salary that Mr. Richards could receive from JEL with Ms. Richards' consent – effectively given by her resort to the court.

[46] In my view, the most equitable way of resolving the interim support application is to return the parties as much as possible to the status quo before Mr. Richards "turned off the tap". That takes into account the factors in ss. 4 and 6 of s. 15.2 of the *Divorce Act* and does least violence to the circumstances of the parties and JEL. The Divorce-Mate NDI calculation provided by the appellant was not challenged by Mr. Richards (A.B. p. 714). It shows that a gross income of $157,275, would yield spousal support payments of $76,957 and a net disposable income to both parties of $55,187. One hundred and fifty-seven thousand dollars is approximately the gross amount of both parties' 2009 Line 150 taxable income. In all the circumstances, I would impute income to Mr. Richards of $157,000 and would order spousal support of $72,000 per year or $6,000 per month commencing as of November 1, 2010. However, I would defer making an order for two weeks to allow the parties to consider whether it would be preferable to have funds paid as dividend income which as directors they could jointly authorize and which could be embodied in the court's order.

[47] A later hearing may or may not determine that Ms. Richards behaved unreasonably in her settlement posture. If that determination is made, the court can reflect that in an appropriate costs award. That is for another day. I would order costs of this appeal to Ms. Richards in the amount of $2,500, inclusive of disbursements.

Bryson, J.A.

Concurred in:

Oland, J.A.

Fichaud, J.A.