

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** Wadden v. National Bank Financial Ltd., 2012 NSCA 15

**Date:** 20120131

**Docket:** CA 355940

**Registry:** Halifax

**Between:**

Calvin Wadden, the Estate of Michael Barthe and Lutz Ristow

Appellants (Cross Respondents)

v.

National Bank Financial Ltd.

Respondent (Cross Appellant)

**Judges:** Hamilton, Fichaud and Bryson, JJ.A.

**Appeal Heard:** January 31, 2012, in Halifax, Nova Scotia

**Written Judgment:** February 2, 2012

**Held:** Appeal and cross-appeal are dismissed, per reasons for judgment of the Court.

**Counsel:** Sean MacDonald, for the appellants (cross-respondents)  
David G. Coles, Q.C., and Andrew A. Nahas, Articled Clerk, for the respondent (cross appellant)

**By the Court (Orally):**

[1] This appeal and cross-appeal relate to a costs decision given orally by the case management judge, Justice Gregory M. Warner, on August 18, 2011, following his dismissal of two third party claims of the respondent against the three appellants. He awarded total lump sum costs of \$25,000 plus disbursements of \$1,000 to the three appellants.

[2] Justice Warner has been case managing the complex series of actions the parties have been involved in for many years. He has a firm grasp of the pleadings and the parties. His exercise of discretion in ordering costs on the motions that were before him is entitled to considerable deference. This Court will not interfere with his costs award unless he applied wrong principles of law or his decision is so clearly wrong as to amount to an injustice; **National Bank Financial Ltd. v. Mahoney**, 2005 NSCA 139, para. 20; **Awan v. Cumberland Health Authority**, 2010 NSCA 50, para. 1.

[3] Having read the materials filed and heard the arguments of counsel, we are satisfied Justice Warner did not apply wrong principles of law and that his award of costs is not so clearly wrong as to amount to an injustice.

[4] Accordingly, we dismiss the appeal and cross-appeal and direct that each party absorb their own costs in this Court.

Hamilton, J.A.

Fichaud, J.A.

Bryson, J.A.