

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Baker Estate v. Baker*, 2018 NSCA 80

**Date:** 20181016

**Docket:** CA 475405

**Registry:** Halifax

**Between:**

Kerry Haley, Lila Haley, and Annette Collicutt,  
Executors and Trustees of the Last Will and Testament of  
The late Rebecca J. Baker

Appellants

v.

Jennifer Helene Baker and Jacques David Alexandre Baker

Respondents

**Judge:** The Honourable Justice David P.S. Farrar

**Appeal Heard:** October 1, 2018, in Halifax, Nova Scotia

**Subject:** Wills and estates; removal of executor; interim costs

**Summary:** The appellants were appointed as executors of the estate of Rebecca Jean Baker who died on February 10, 2017. The respondents are beneficiaries of the estate. In September 2017, the respondents filed a motion to remove the appellants as executors of Ms. Baker's estate and to appoint a replacement executor and trustee. In December 2017, Royal Trust Company of Canada was appointed to act as interim administrator pending the removal motion. In February 2018, the executors filed a motion seeking to have the estate pay their legal fees in defending the removal motion.

Justice Mona Lynch heard the executor's motion for interim costs on March 9, 2018. After hearing argument, she rendered an oral decision dismissing the motion.

The appellants sought leave to appeal from the order and

decision dismissing the motion to pay their legal fees.

**Issues:**

- (1) Should leave be granted?
- (2) Did the motions judge err in failing to award interim costs to the executors?

**Result:**

Leave to appeal granted and the appeal dismissed with costs to the respondents in the amount of \$2,000.

The motions judge, in exercising her discretion, properly applied the law to the facts before her. In declining to award interim costs to the appellants, she did not commit any legal error nor would a potential injustice result from her decision.

*This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 11 pages.*