SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION
Citation: *Armoyan v. Armoyan*, 2015 NSSC 191

Date: 2015-07-03
Docket: *Halifax* No. 1201-65036
Registry: Halifax

Between:

Lisa Armoyan

Applicant

v.

Vrege Armoyan

Respondent

Judge:	The Honourable Justice Theresa M. Forgeron
Heard:	February 26 and May 8, 2015 in Halifax, Nova Scotia
Written Decision:	July 3, 2015
Counsel:	Harold Niman and Leigh Davis, for the Applicant Gordon Kelly and Stacey O'Neill, for the Respondent

By the Court:

Introduction

[1] Lisa Armoyan calls upon the court to grant a rare and exceptional remedy based on the doctrine of abuse of process because of Mr. Armoyan's egregious litigation conduct and the need for justice and fairness. Mr. Armoyan disputes the claim.

Issues

[2] Should prior decisions involving the parties be considered as evidence in the abuse of process motion?

[3] Should the extraordinary remedy for abuse of process be granted?

Background

[4] The parties have been engaged in aggressive and acrimonious litigation in Florida and Nova Scotia since their separation in 2009. Numerous motions, applications, hearings, trials and appeals have been heard in both jurisdictions. The Florida divorce petition was the first in time, having been filed by Ms. Armoyan on October 20, 2009. Mr. Armoyan commenced divorce proceedings in Nova Scotia on December 9, 2009, which he subsequently discontinued, only to refile on December 22, 2010.

[5] The Nova Scotia Court of Appeal comprehensively detailed some of the salient history of the Florida and Nova Scotia litigation in **Armoyan v. Armoyan**, 2013 NSCA 99. Fichaud, JA noted that there were over one hundred rulings in the Florida litigation, 722 pleadings, together with various appeals: para 77 (k). The Florida litigation included an unsuccessful **Hague Convention** petition filed by Mr. Armoyan. A myriad of motions, applications, hearings and appeals also shaped the Nova Scotia litigation, which included proceedings involving jurisdiction, divorce, matrimonial property, maintenance, property transfers, injunctions, evidence and contempt.

[6] Ms. Armoyan filed a *forum non conveniens* motion on March 4, 2011 as part of the 2010 divorce proceeding. D. Campbell, J rendered a decision on this

motion on September 5, 2012, followed by further reasons on September 14, 2012. Ms. Armoyan immediately appealed the decision and other rulings.

[7] About one month later, on October 26, 2012, the Florida divorce proceeding was concluded by the issuance of a Final Judgment of Dissolution of Marriage. This judgment ordered Mr. Armoyan to pay $29,612 in monthly child and spousal support, $703,067 in retroactive support, costs of $1,201,217.47, forensic accounting fees of $273,375, and a division of property.

[8] The Florida support order was registered in Nova Scotia on February 23, 2013 pursuant to the provisions of the **Interjurisdictional Support Orders Act**, SNS 2002, c 9, as amended. On March 11, 2013, Mr. Armoyan applied to set aside the registration of the Florida support order. This application was adjourned pending the outcome of the appeal.

[9] On September 10, 2013, the Nova Scotia Court of Appeal released its decision on several issues, including that of jurisdiction, as reported in **Armoyan v. Armoyan**, *supra*. Fichaud, JA held that Florida was the *forum conveniens* for the divorce, child support, spousal support and related issues, while Nova Scotia was the *forum conveniens* for matrimonial property issues. Costs of $306,000 were awarded by subsequent decision reported at **Armoyan v. Armoyan**, 2013 NSCA 136. Mr. Armoyan did not pay any portion of the costs award.

[10] Mr. Armoyan appealed to the Supreme Court of Canada. Leave was denied and costs were assessed against him, on a solicitor and client basis, in the amount of $10,945. Mr. Armoyan did not pay any portion of the costs award.

[11] Despite these rulings, Mr. Armoyan pressed on with his application to set aside the registration of the Florida support order. Ms. Armoyan filed several motions in response.

[12] Ms. Armoyan filed a motion for security for costs. On May 2, 2014, this court awarded $100,000 as security for costs in the **ISOA** proceeding; and $400,000 in the **MPA** proceeding in **Armoyan v. Armoyan**, 2014 NSSC 143. Mr. Armoyan paid the $400,000 security for costs; he did not pay any portion of the $100,000 security for costs.

[13] Ms. Armoyan also filed two motions for suit costs. On May 2, 2014, in **Armoyan v. Armoyan**, *supra*, this court awarded $25,000 in suit costs in the **MPA** proceeding. Mr. Armoyan paid this award. On April 1, 2015, in **Armoyan**

v. Armoyan, 2015 NSSC 92, this court awarded $375,000 in suit costs. Mr. Armoyan did not pay any portion of this award.

[14] Ms. Armoyan eventually filed a summary judgment motion. This motion was granted on May 14, 2014, in **Armoyan v. Armoyan**, 2014 NSSC 174. Costs of $41,000 were awarded by decision reported at **Armoyan v. Armoyan**, 2014 NSSC 403. Mr. Armoyan did not pay any portion of this award.

[15] The Florida support order could now be enforced in Nova Scotia. Mr. Armoyan, however, refused to comply with the provisions of the maintenance order. Arrears of $1,601,984.12 were outstanding as of April 29, 2015. Mr. Armoyan had only paid $12,485 to the Director of Maintenance Enforcement in the month of February and in the month of March 2015.

[16] Given the extent of the noncompliance, Ms. Armoyan was forced to file additional pleadings in an attempt to enforce the various court orders, seeking the exceptional remedies of contempt and abuse of process.

[17] Contempt proceedings were initially commenced by motion, and then discontinued in favor of an application. The contempt application was heard on April 29, 2015 and a decision granted by this court on June 15, 2015 in **Armoyan v. Armoyan**, 2015 NSSC 174.

[18] The abuse of process motion was filed on February 9, 2015; an amended notice of motion for abuse of process was filed on February 24, 2015. This contested motion was heard on February 26, 2015. Twenty-nine exhibits, inclusive of many affidavits, were filed during the February 26 hearing.

[19] On May 1, 2015, Ms. Armoyan filed a motion by correspondence to present further evidence in relation to the abuse of process motion. The motion was granted by oral decision on May 8, 2015, and the additional evidence was tendered at that time. This evidence, in conjunction with that provided on February 26, together with the submissions of counsel, and the law, have been considered.

Analysis

[20] **Should prior decisions involving the parties be considered as evidence in the abuse of process motion?**

Position of the Parties

[21] Ms. Armoyan relies on factual findings found in various court decisions rendered by this court, the Nova Scotia Court of Appeal, and the courts in Florida. She states that such decisions are relevant to the abuse of process motion.

[22] In contrast, Mr. Armoyan states that it is wrong to treat his conduct in other court proceedings as determinative of his claims in the abuse of process motion. The abuse of process motion relates to the **MPA** application; the other proceedings are separate and distinct. Factual findings made in other court proceedings are not relevant.

Authority to Reference Prior Decisions

[23] Contrary to the submissions of Mr. Armoyan, this court is entitled to consider statements and rulings made by various courts about the parties since their 2009 separation to assist in the abuse of process determination. I am not restricted to findings which arose exclusively under the **MPA** litigation. My authority to do so is confirmed by the comments of Saunders, J in **National Bank Financial Ltd. v. Barthe Estate**, 2015 NSCA 47, at paras 138, 139, and 146 which state as follows:

> [138] Accordingly, in my opinion, we are entitled to take into account a series of statements made by judges over the years as well as by Commissioner Gruchy to show the Bank's pattern of misconduct and the fact that the Bank had been admonished on several occasions for its actions. Such commentaries and severe rebukes are reflected in sources of indisputable accuracy – the text of the prior published decisions. The facts underlying those decisions were established after all parties had an opportunity to be heard and to make submissions before experienced decision-makers. The facts were proved to a civil standard on a balance of probabilities. Most importantly, those findings and the conclusions upon which they were based were not challenged on appeal to this Court. The question we were asked to decide was whether such conduct would – in the eyes of this Court – amount to an abuse of process, and if it did, how might that finding affect our disposition of all three appeals.
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> [139] In the alternative, if I am wrong in the approach I have taken, I would nonetheless take into account these prior decisions when assessing the Bank's conduct, on the basis of either the doctrine of judicial notice or the rules established by the Supreme Court of Canada in **British Columbia (Attorney General) v. Malik**, 2011 SCC 18.
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> …
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> [146] My reading of **Malik** suggests that admissibility of the prior judgments as proof of their findings and conclusions depends on three factors:

i) Relevance;

ii) Whether the parties are the same or were themselves participants in the prior proceedings on similar or related issues; and,

iii) The purpose for which the prior decision is put forward and the use sought to be made of its findings and conclusions.

Decision

[24] The parties were involved in family law litigation in Florida and Nova Scotia. Contrary to usual practice, issues arising from the parties' separation could not be determined in the same proceeding for jurisdictional reasons: **Armoyan v. Armoyan,** 2013 NSCA 99. As a result, both parties accessed various courts in Canada and the USA to determine discrete issues. Although each court proceeding produced separate rulings, it is illogical to view each result in isolation because each decision involves the same family and issues arising from their separation and divorce. The decisions are therefore relevant.

[25] Further, both Mr. and Ms. Armoyan participated, or had the opportunity to participate, in every aspect of each proceeding. It is therefore appropriate that the prior decisions be referenced to contextually demonstrate whether Mr. Armoyan's litigation conduct resulted in an abuse of process.

[26] **Should the extraordinary remedy for abuse of process be granted?**

Position of Ms. Armoyan

[27] Ms. Armoyan seeks an order striking the pleadings of Mr. Armoyan for the following reasons, including:

- Mr. Armoyan avails himself of the court's process where it is a benefit to him. However, when a resolution is achieved that does not accord with his view point, inevitably, with a few minor exceptions, Mr. Armoyan simply disregards the unfavorable orders.

- Mr. Armoyan owes in excess of $1.6 million in retroactive support and continues to refuse to make regular maintenance payments in the proper amounts and by following the proper procedures.

- Mr. Armoyan failed to post $100,000 in security for costs in respect of the **ISOA** proceeding.

- Mr. Armoyan impedes the court processes, avoids his obligations and attempts to frustrate steps undertaken by Ms. Armoyan to collect support and the financial awards granted to her by the courts. He has strategically moved millions of dollars from the jurisdiction to avoid payment.

- Mr. Armoyan's noncompliance must have consequences. Ms. Armoyan is entitled to have her claims dealt with justly and expeditiously. The court must not indulge Mr. Armoyan any further.

- Ms. Armoyan continues to incur significant legal fees as a result of Mr. Armoyan's noncompliance with court orders, both in Florida and in Nova Scotia.

- Mr. Armoyan has breached orders in the interconnected and interrelated proceedings in both Nova Scotia and Florida. He has shown a flagrant and systemic disregard for orders of the court over a period of several years. He has deliberately defied orders and deliberately provided false information to the court without sanction.

- Given Mr. Armoyan's prolonged noncompliance with court orders and given the ample opportunity and time to remedy the breaches, Mr. Armoyan's actions are an abuse of the court process. His pleadings must be struck to allow a just and expeditious determination of the matters.

Position of Mr. Armoyan

[28] Mr. Armoyan, in contrast, states such an order is not appropriate for a number of reasons, including the following:

- The **ISOA** application was dismissed; it was concluded by virtue of the court's May 2014 decisions, and as confirmed in the **ISOA** order which issued on July 4, 2014.

- Mr. Armoyan has already been punished for failing to pay the security for costs in the **ISOA** application as the proceeding was dismissed because of the successful summary judgment motion and Mr. Armoyan's failure to post security for costs, as confirmed by the court order dated July 4, 2014.

- The **MPA** application is not an attempt by Mr. Armoyan to relitigate a claim that has already been determined.

- The **MPA** application, commenced by Mr. Armoyan, is not an oppressive or vexatious proceeding.
- Mr. Armoyan's conduct does not amount to a misuse of process for any purpose other than that which it was designed to serve. His conduct does not violate the fundamental principles of justice underlying the community's sense of fair play.
- Mr. Armoyan did not engage in vexatious litigation. In the **MPA** application, Mr. Armoyan only filed one motion which related to commission evidence for two witnesses who are resident of Lebanon. In contrast, Mr. Armoyan had to respond to many motions filed by Ms. Armoyan, including motions to withdraw as counsel of record; for adjournments; security for costs; suit costs; abuse of process; contempt; appointing an expert; and to add parties.
- Mr. Armoyan was compliant with all **MPA** orders.
- Mr. Armoyan's failure to pay the outstanding judgments for security for costs and costs was based on an inability to do so.
- The execution process is to be pursued to collect money judgments; abuse of process remedies were not intended to serve as collection mechanisms.
- Ms. Armoyan also owes outstanding costs awards.
- Mr. Armoyan is providing for the parties' children; he will continue to do so, despite the outstanding maintenance arrears.
- The **MPA** application should be heard on its merits, with evidence and submissions from both parties.

Jurisdiction to Grant Remedy

[29] In its recent decision, **National Bank Financial Ltd. v. Barthe Estate**, *supra*, the Nova Scotia Court of Appeal explored the doctrine of abuse of process. The court's jurisdiction to grant relief for abuse of process derives from s 41(e) of the **Judicature Act** , RSNS 1989, c 240; **Civil Procedure Rule** 88, and the court's inherent jurisdiction as noted by Saunders, JA at paras 156 and 175, which provide in part, as follows:

> [156] Our jurisdiction derives from three sources: the **Judicature Act**, R.S.N.S. 1989, c. 240; the **Civil Procedure Rules**; and the inherent jurisdiction of the Court. I will start with the **Judicature Act**.
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> …
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> [175] From all of this we can see that our **Civil Procedure Rules** and the **Judicature Act** serve as a vehicle whereby this Court's inherent jurisdiction finds expression. Recalling the history of Nova Scotia's early and prominent place in what is now Canada, the inherent jurisdiction of this province's superior courts may be quite different than that claimed in other provinces. Our jurisprudence stands on its own unique footing …

Amorphous and Flexible Nature of Doctrine

[30] In explaining the amorphous and flexible nature of the doctrine, which focuses on fairness, the integrity of adjudicative functions and the administration of justice, Saunders, JA, describes the doctrine as follows, at paras 235 and 239 of **National Bank Financial Ltd. v. Barthe Estate**, *supra*:

> [235] From all of this, certain general principles emerge, which seem to apply to all types of abuse of process claims. The doctrine enables the court to prevent the misuse of its own procedures, in cases where such violations have proven to be manifestly unfair to a party to the litigation before it, or have in some other way brought the administration of justice into disrepute (**C.U.P.E., Local 79**). In all of its applications, the primary focus of the doctrine is the integrity of the adjudicative functions of courts (**Nixon**). Abuse of process is a flexible doctrine, which exists to ensure that the administration of justice is not brought into disrepute (**Behn**). Successful reliance upon the doctrine will be extremely rare – only a process that is tainted to such a degree that it amounts to one of the clearest of cases (**Power**; **Blencoe**, **Mahalingan**).
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> . . .
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> [239] Having regard to the numerous cases I have considered as well as the amorphous nature of the doctrine to begin with, I would not presume to prescribe a rigid test to be applied in all future civil disputes. I fully recognize that abuse of process is a "broad" and "somewhat vague" concept and one that "varies with the eye of the beholder". Great care must be taken not to narrowly define the boundaries of the doctrine, or try to mechanically fit different factual situations within its limits.

[31] In **National Bank Financial Ltd. v. Barthe Estate**, *supra*, Saunders, JA held that abuse of process comes in many forms, and is directed towards the reputation of the administration of justice. Saunders, JA stated as follows at paras 214 and 215:

> [214] My review of these and other leading authorities shows that abuse of process comes in many forms. Inordinate delay; vexatious litigation; multiple proceedings commenced in different jurisdictions claiming virtually the same relief on facts involving identical parties; bogus re-litigation; following previous judicial determinations of the same matters or issues; are all examples of situations where the courts have found an abuse of process. Other examples would include cases where the complaint was not so much directed towards the nature of the proceedings, but rather the conduct of the parties during the litigation. This case falls within the latter category.
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> [215] But whatever the type, the focus of the court's inquiry will always be directed towards the reputation of the administration of justice. Justice Arbour put it best in **Toronto (City) v. CUPE, Local 79**, **supra**, when she said:
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> > 51 Rather than focus on the motive or status of the parties, the doctrine of abuse of process concentrates on the integrity of the adjudicative process. …

Availability of Remedy of Abuse of Process

[32] In **National Bank Financial Ltd. v. Barthe Estate**, *supra*, the Nova Scotia Court of Appeal, after comprehensively reviewing jurisprudence, confirmed that the remedy of abuse of process is one which is to be sparingly accessed and only in exceptional circumstances, as noted by its acceptance of the following judicial observations:

- Striking pleadings was a "severe remedy and the power to apply it should be measured and proportionate": **Grewal v. Nijjer**, 2011 BCCA 505 at para 14.
- Striking pleadings was a "[d]raconian remedy only to be invoked in the most egregious of cases because it deprives the litigants of a trial on the evidence": **Homer Estate v. Eurocopter S.A.**, 2003 BCCA 229 at para 4.
- Striking out a defence "is a severe remedy" … and … "ought generally not to be a remedy of first resort …, without at least providing the defaulting defendant with an opportunity to cure the default": **Bell ExpressVu Partnership v. Corkery**, 2009 ONCA 85, at para 35.

- The "power to order a stay of proceedings is an exceptional power which should only be exercised in the clearest of cases:" **Global Petroleum Corp. v. C.B.I. Industries Inc.**, 1997 NSCA 42, at para 16.

[33] The rationale for such hesitancy lies in the principle that disputed legal proceedings should be determined on their merits through the adversarial process. When this principle collides with conduct that is unfair, or which impairs the integrity of the adjudicative functions, or which places the administration of justice into disrepute, then the court must intervene. The object of such intervention, however, is compliance, and not sanction, as noted in **National Bank Financial Ltd. v. Barthe Estate**, *supra*, at para 186, which states in part as follows:

> [186] The same court also dealt with striking pleadings in the context of family law proceedings in **Pucaru v. Pucaru**, 2010 ONCA 92 at ¶49-50:
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> > The adversarial system, through cross-examination and argument, functions to safeguard against injustice. For this reason, the adversarial structure of a proceeding should be maintained whenever possible. Accordingly, the objective of a sanction ought not to be the elimination of the adversary, but rather one that will persuade the adversary to comply with the orders of the court. As this court said at p. 23 of *Marcoccia v. Marcoccia* (2009), 60 R.F.L. (6th) 1 (Ont. C.A.), the remedy of striking pleadings is "a serious one and should only be used in unusual cases". The court also explained at p. 4 that the remedy imposed should not go "beyond that which is necessary to express the court's disapproval of the conduct in issue." This is because denying a party the right to participate at trial may lead to factual errors giving rise to an injustice, which will erode confidence in the justice system.

Approach to Issue

[34] In **National Bank Financial Ltd. v. Barthe Estate**, *supra* , the Nova Scotia Court of Appeal approached the abuse of process issue in the following manner:

> [240] That said, I would respectfully conclude that the approach this Court ought to take is to ask whether the Bank's conduct has tainted the case to such a degree as to be manifestly unfair to another party to the litigation, or has brought the administration of justice into disrepute by impairing the adjudicative function of the courts and undermining public confidence in the legal process.

Decision – Failure to Pay Monetary Orders

[35] I have determined that Mr. Armoyan's litigation conduct is an abuse of process. Mr. Armoyan has repeatedly refused to follow the vast majority of the decisions and orders of this court on monetary matters as confirmed by the following:

- The Nova Scotia Court of Appeal ordered Mr. Armoyan to pay costs to Ms. Armoyan of $306,000. Mr. Armoyan refused to comply with this order.
- The Supreme Court of Canada ordered Mr. Armoyan to pay solicitor and client costs to Ms. Armoyan of $10,945. Mr. Armoyan refused to comply with this order.
- This court ordered Mr. Armoyan to post $100,000 as security for costs in the **ISOA** application. Mr. Armoyan refused to comply with this order.
- This court ordered Mr. Armoyan to pay costs to Ms. Armoyan of $41,000 in the **ISOA** application. Mr. Armoyan refused to comply with this order.
- This court ordered Mr. Armoyan to pay $375,000 suit costs to Ms. Armoyan in the **MPA** application. Mr. Armoyan refused to comply with this order.
- The Florida support order is registered and enforceable in Nova Scotia as of February 23, 2013. Mr. Armoyan was, and is, required to pay all child and spousal support arrears, and ongoing support in conformity with the order. Mr. Armoyan refused to comply with this order, except that he did make two payments, one in February and one in March, 2015, each in the amount of $12,485. Arrears of $1,601,984.12 have accumulated as of April 2015. Mr. Armoyan refused to comply with the support order.
- The Florida Circuit Court ordered Mr. Armoyan to pay Ms. Armoyan legal costs of $1,201,217.47, together with forensic accounting fees and costs of $273,375. Mr. Armoyan refused to comply with this order, although it is recognized that Mr. Armoyan did provide Ms. Armoyan approximately $10,000 US a month from September 2012 until January 2015, which this court said must form a credit against the outstanding Florida costs award for reasons stated at para 24 of **Armoyan v. Armoyan**, 2015 NSSC 188.

Financial Ability to Pay

[36] Mr. Armoyan's refusals were not grounded on an inability to pay, as he professed. The evidence confirms otherwise. The evidence proves that Mr. Armoyan accessed, possessed and controlled $6,377,759.01 between the registration of the Florida order in Nova Scotia on February 23, 2013 until the contempt hearing on April 29, 2015, as illustrated by the following:

- Between October and November 2013, Mr. Armoyan sold his Lamborghini for $105,000; a Dodge Charger for $17,000 and a Corvette for $62,000; he pledged shares in an Ontario company, together with placing chattel mortgages on his three remaining cars and three boats, for a cash influx of $484,000.
- On October 15, 2013, Mr. Armoyan received $2 million from APL Properties Limited, which represented a tax free capital dividend.
- On October 15, 2013, Mr. Armoyan received $1 million from his mother.
- In 2013, Mr. Armoyan withdrew $1.12 million from his RRSP accounts.
- On September 11, 2013, Mr. Armoyan received $50,759.01 from his mother.
- On August 15, 2013, Mr. Armoyan received $50,000 from his mother.
- On May 29, 2013, Mr. Armoyan received $150,000 from his mother.
- On April 11, 2013, Mr. Armoyan received $50,000 from his mother.
- In 2012, Mr. Armoyan withdrew $1.473 million from his RRSP accounts.

Avoidance of Collection Process

[37] These moneys were strategically transferred out of the jurisdiction so that they would not be subject to execution. These funds joined the $23 million, and the million dollar yacht, that Mr. Armoyan had previously moved from Nova Scotia.

[38] Mr. Armoyan also encumbered the assets that remained within the jurisdiction, such as his vehicles and boats, and pledged his remaining corporate shares, to ensure that these assets would not be subject to seizure in aid of the execution process.

[39] Finally, when Mr. Armoyan realized that he may face personal penalties, including that of imprisonment, because of the contempt application, he too left the jurisdiction. He no longer participated in the contempt application, nor in the various motions which were heard as part of the **MPA** application post April 2015.

Financial Impact Upon Ms. Armoyan

[40] In comparison, Ms. Armoyan's financial circumstances are bleak; they stand in stark contrast to those which Mr. Armoyan has the financial capacity to enjoy.

[41] Ms. Armoyan and the children are entirely dependent on Mr. Armoyan for financial support, following the demise of the sixteen year traditional marriage. Because Mr. Armoyan refuses to comply with court orders, Ms. Armoyan struggles to survive. She has moved to inferior accommodations. She must borrow from family and rely on credit. Bills and stress mount. The following comments adopted by the Supreme Court of Canada in **Leskun v. Leskun**, 2006 SCC 25, aptly describe the weariness which is often the fruit of improper litigation conduct, wherein Binnie, J stated as follows at para 34:

> 34 In all of these circumstances, the appellant has a poor platform from which to launch an attack against the trial judge's conclusion regarding his assets and liabilities. As Fraser J. commented in *Cunha v. Cunha* (1994), 99 B.C.L.R. (2d) 93 (B.C. S.C.), at para. 9:
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> > Non-disclosure of assets is the cancer of matrimonial property litigation. It discourages settlement or promotes settlement which are inadequate. It increases the time and expense of litigation. The prolonged stress of unnecessary battle may lead weary and drained women simply to give up and walk away with only a share of the assets they know about, taking with them the bitter aftertaste of a reasonably-based suspicion that justice was not done.
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> If problems of calculation exist the appellant is largely the author of his own difficulties. I would not interfere on that basis.

[42] In the midst of stress and financial pressure, Ms. Armoyan has been forced to relentlessly litigate to attempt to collect the various money judgments. Legal fees have been staggering because of the litigation conduct of Mr. Armoyan. Despite her attempts, Mr. Armoyan has managed to evade paying the vast majority of the money orders. This is an affront to the administration of justice.

Court Censures

[43] Further, courts of all levels have reprimanded, reproached and rebuked Mr. Armoyan for his dishonorable and shameful litigation conduct. There have been countless stern warnings and sharp rebukes. None of these censures brought about compliance. Mr. Armoyan continued to conduct himself "as if he was above the law, as if the law was no consequence": **Armoyan v. Armoyan,** 2015 NSSC 188, para 24.

[44] Examples of the many censures are found throughout the decisions rendered in Florida and Nova Scotia. For example, in Judge Turnoff's Report, written in response to Mr. Armoyan's **Hague Convention** petition, Mr. Armoyan's conduct was characterized as "nothing more than a carefully orchestrated scheme to overwhelm Respondent financially by forcing her to defend herself in numerous causes of action filed by Petitioner in multiple jurisdictions."[1]

[45] Judge Turnoff's Report also held that the catalyst and sole purpose for the **Hague Convention** petition "was to harass, intimidate, and quite frankly, bully the Respondent - while at the same time conveniently continuing to delay the underlying dissolution of marriage proceedings …"[2] He further condemned Mr. Armoyan's misuse of his financial position in that he "relentlessly used his vast means and resources to initiate litigation geared solely towards delaying a determination as to support payments, and forcing Respondent to defend herself with limited means."[3]

[46] Martz, J of the Florida Circuit Court described the court's dissatisfaction with Mr. Armoyan's litigation conduct as follows:

> M. This Court cannot permit a litigant in this jurisdiction to file pleadings before this Court; request relief before this Court; stipulate to acts before this Court; permit this Court to act on those stipulations; and based upon what the Court perceives is the litigant's dissatisfaction with the results of this Court's decisions to date, attempt to usurp this Court's jurisdiction by filing actions in another jurisdiction. The result of which may (but for this order enjoining the Husband from prosecuting those actions) proceed to adjudication of identical issues or substantially similar issues that are before this Court.
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> N. Such result, if permitted unheeded, would cause this jurisdiction, as well as, any other jurisdiction, (particularly the Canadian Court) to forego

[1] As quoted by Fichaud, JA in **Armoyan v. Armoyan**, 2013 NSCA 99 at para 22.
[2] Ibid at para 22.
[3] Ibid at para 22.

> uniformity, and embrace anarchy and literally chaos should this Court would [*sic*] not enter this order as stated.
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> O. The public policy of this State requires that the parties initially before the Court, (unless this Court determines lack of jurisdiction) to respect and honor the decisions of this Court. And, from this Court's review the Country of Canada has no less of a requirement. [4]

[47] Martz, J held that Mr. Armoyan's "actions were solely to plummet the Wife and children to financial oblivion, and to deprive her of access to legal counsel."[5] He also noted that Mr. Armoyan "deliberately misled this Court regarding his ability to abide by its order for support of the Wife and children."[6]

[48] Fichaud, JA commented on Mr. Armoyan's litigation misconduct at paras 285 to 288, which state in part as follows:

> [285] Ms. Armoyan filed her Florida divorce petition in October 2009. Mr. Armoyan responded with strategies that included: (1) his spurious Hague Convention Application and (2) his rejected Disqualification Motion, (3) his resistance to disclosure, (4) his stipulation to the Florida Court to avoid disclosure, (5) his motions for stays or adjournments related to the above, (6) his refusal to abide by the Interim Support Order notwithstanding his stipulation, (7) his disobedience of the Florida costs orders and (8) his Florida motion for a *forum non conveniens* ruling followed by (9) his successful request for a condition in the Nova Scotia Court's February 24 and March 13, 2012 order that restrained Ms. Armoyan from responding to his Florida *forum non conveniens* motion. …
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> Ms. Armoyan has accumulated staggering legal accounts, responding to Mr. Armoyan's initiatives, while Mr. Armoyan has defaulted in his court-ordered reimbursement of her costs after his initiatives were rejected. Meanwhile, the stays and delays that accompanied his Florida initiatives have well served Mr. Armoyan, who has used the time to avoid support payments, convey assets to relatives and move tens of millions of dollars from Nova Scotia to the Middle East.
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> …
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> [287] Mr. Armoyan now says that Florida's slate should be wiped clean, and everyone should start again in Nova Scotia, like hitting a mulligan off the first

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[4] Ibid at para 73.
[5] Ibid at para 79.
[6] Ibid at para 79.

> tee. Mr. Armoyan has the multi-million dollar capital to pay for this. Ms. Armoyan is in financial tatters, with no resources for a replay.
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> [288] … Having bled Ms. Armoyan financially with litigious shenanigans, he seeks to disregard the resultant costs awards against him and the Interim Support Order, then take advantage of the financial disparity in a fresh proceeding.

[49] This court also expressed dissatisfaction with Mr. Armoyan's litigation conduct. In its May 2, 2014 decision of **Armoyan v. Armoyan**, 2014 NSSC 143, this court stated that " Mr. Armoyan has attempted to make himself insolvent in this jurisdiction": para 31; and that "Mr. Armoyan shrewdly removed the majority of his assets from the jurisdiction, …and then encumbered remaining chattels after the Nova Scotia Court of Appeal decision was rendered": para 34.

[50] In its costs decision on the summary judgment motion, **Armoyan v. Armoyan,** 2014 NSSC 403, this court noted the following at para 20, which states in part as follows:

> ….
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> - Mr. Armoyan's litigation conduct was inappropriate. His position was unsustainable and vexatious.
>
> ….
>
> - Mr. Armoyan thwarted the payment of maintenance by aggressively engaging in tactics designed to delay hearings and shelter his financial position.
>
> …
>
> - Mr. Armoyan's position was not based on fact and principle, but, was rather a blatant exploitation of a system already congested by *bona fide* proceedings, in an attempt to avoid the obvious and inevitable.

[51] Mr. Armoyan continues to wilfully disregard the orders against him. He has abused the legal process for his own purposes. Mr. Armoyan's "scorched earth

approach" can no longer be tolerated[7]. Fairness and justice demand that Mr. Armoyan's "litigation shenanigans" cease.[8] Warnings, rebukes, censures, and a contempt application have not curbed Mr. Armoyan's errant behavior. The execution process has been rendered futile because of Mr. Armoyan's misconduct. The only remedy remaining is abuse of process.

Summary and Result

[52] This exceptional and rare remedy must be invoked because of Mr. Armoyan's misuse of the court's process and procedures. The abuses have proven to be manifestly unfair to Ms. Armoyan; the misconduct is so tainted that it has brought the administration of justice into disrepute. The integrity of the court's adjudicative functions has been compromised. Mr. Armoyan's conduct has violated principles of fundamental justice underlying the community's sense of fair play; public confidence in the legal process is thus undermined.

[53] Ms. Armoyan has proven abuse of process.

Conclusion

[54] Ms. Armoyan's motion for the exceptional remedy of abuse of process is granted given the litigation misconduct of Mr. Armoyan. Mr. Armoyan's **MPA** pleadings are struck. The **MPA** application will proceed on the basis of Ms. Armoyan's pleadings and evidence. Mr. Armoyan may apply to the court to have this order vacated once he has complied with all court orders.

[55] Mr. Niman is to prepare the order. Costs submissions are due in thirty days.

Forgeron, J.

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[7] Scanlan, J, as he then was, coined this phrase to describe the husband's reprehensible conduct in **Werner v. Werner**, 2012 NSSC 230, at para 61.
[8] Fichaud, JA in **Armoyan v. Armoyan,** ***supra,*** at para 258.