

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Burke v. Burke, 2008 NSSC 186

Date: 20080612

Docket: 1201-059106

Registry: Halifax

Between:

Joseph Gregory Burke

Petitioner

v.

Corinne Ella Burke

Respondent

Judge:

The Honourable Justice Deborah Gass

Heard:

September 25 and 26, 2007, in Halifax, Nova Scotia

Counsel:

Mary Jane McGinty, for the respondent

By the Court:

[1] This is an application for costs by the Respondent following a two day trial and further post trial submissions to perfect the order resulting from the decision. There were a number of issues at trial. In the result, the Respondent was substantially successful.

[2] Costs are authorized by Civil Procedure Rules 57 and 63, and are ultimately in the discretion of the Court. A successful party is generally entitled to costs unless there is a reason for not awarding them.

[3] In matrimonial matters, the challenge often arises in quantifying costs, where many of the issues are not monetary in nature (or if they are, they are not definable as a fixed amount), but nevertheless involve considerable time and effort to present. I have considered the various approaches, including the “amount involved”, the “rule of thumb” and the “lump sum”. I must balance this with the financial implications of the decision itself upon the petitioner. The application seeks costs of \$9,063.00. The order for arrears of maintenance, together with spousal and child support, have a significant impact on the Petitioner’s circumstances. Taking into account all of the factors, the settlement discussions

and the time involved in a somewhat complex case, I am ordering the Petitioner to pay costs to the Respondent in the amount of \$6500.

J.