

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Thackeray v. Thackeray, 2008 NSSC 223

Date: 20080822

Docket: S.H. No. 1201-54667
(SFHD-005700)

Registry: Halifax

Between:

John Eric Thackeray

Petitioner

v.

Dawn Thackeray

Respondent

Revised decision: The text of the original decision has been corrected according to the errata issued October 21st, 2008 and November 6, 2008. The errata are appended to this document.

Judge: The Honourable Assoc. Chief Justice Robert F. Ferguson

Heard: April 28 & 29, 2008, in Halifax, Nova Scotia

Written Decision: August 22, 2008

Counsel: William E. Nearing, counsel for the Petitioner
Lynn M. Henry, counsel for the Respondent

By the Court:

[1] John and Dawn Thackeray were married in England on June 21, 1985. They had spent a brief time in Nova Scotia prior to their marriage. After their marriage, they returned to reside in Nova Scotia. Mr. Thackeray returned to England in 2001 where he currently resides. Ms. Thackeray remains a resident of Nova Scotia. In February of 2000, while still residing in this Province, Mr. Thackeray petitioned for divorce. He also sought an equal division of the couple's matrimonial property and debt. In July of 2000, Ms. Thackeray filed an Answer to the Petition seeking spousal support, exclusive possession of the matrimonial home and an unequal division of the couple's matrimonial property. She further requested authority to revert to her maiden name of Peters.

[2] This matter has come forward for trial in 2008.

ISSUES NOT IN DISPUTE

Divorce

[3] I have heard the evidence as to the possibility of reconciliation and determined there is no such possibility. I am satisfied all matters of jurisdiction have been fulfilled. The requirements of the *Divorce Act* have been complied with in all respects and the grounds for divorce as alleged has been proved. The Divorce Judgment shall be granted on the grounds set forth in s. 8(2)(a) of the *Divorce Act* in that there has been a breakdown of the marriage and the spouses have lived separate and apart for more than a year immediately preceding the determination of the divorce proceeding and have lived separate and apart since the commencement of the proceeding.

Change of Name

[4] Ms. Thackeray, pursuant to the *Change of Name Act*, seeks to change her name from Thackeray to Peters (her name prior to marriage). Mr. Thackeray does not oppose this request and it is granted.

ISSUE NOT PURSUED

Spousal Support

[5] Mr. Thackeray is 78 years old, understandably not currently employed and living on a limited pension. Ms. Thackeray acknowledged at trial she would not be seeking spousal support. There was no evidence presented nor submissions made on this issue. There will be no order for spousal support.

Length of Relationship

[6] As indicated, the parties married in 1985. In his Petition, Mr. Thackeray states the parties separated in 1995. In her Answer, Ms. Thackeray submitted the couple separated in 1999. What is clear is that the parties ceased to be involved with one another when Mr. Thackeray returned to England in January of 2001.

ISSUES IN DISPUTE

[7] The parties are at odds as to (1) the identification of what is a matrimonial asset and debt; (2) the date of valuation of such assets and debt; (3) the valuation of such assets and debt; (4) the division between the couple of such assets and debt.

[8] The parties provided information in relation to what they submit should be considered matrimonial assets and debt. They did so in the form of Statements of Property, Pre-Trial Memorandums, exhibits and oral testimony. Not all such information has been consistent.

[9] Justice Hallett, in *Gomez-Morales v. Gomez-Morales* (1990) 100 N.S.R. (2d) 137 spoke to the issue of asset valuation and stated at p. 12:

While one attempts to make the calculations with as much accuracy as possible, the basis of such calculations are generally estimates of value by experts. As a consequence, even as a general rule, a Court's division of property is, at best, an estimate of what is fair in the circumstances applying the criteria of the matrimonial property legislation. Furthermore, the Courts are regularly called upon in assessing damages arising out of personal injuries or death to fix amounts involving numerous contingencies and there is no reason why the Court should not do so in determining fair values in matrimonial property cases.

RELEVANT LEGISLATION

[10] The *Matrimonial Property Act*:

"matrimonial assets" defined

4 (1) In this Act, "matrimonial assets" means the matrimonial home or homes and all other real and personal property acquired by either or both spouses before or during their marriage, with the exception of

(a) gifts, inheritances, trusts or settlements received by one spouse from a person other than the other spouse except to the extent to which they are used for the benefit of both spouses or their children;

(b) an award or settlement of damages in court in favour of one spouse;

(c) money paid or payable to one spouse under an insurance policy;

...

Factors considered on division

13 Upon an application pursuant to Section 12, the court may make a division of matrimonial assets that is not equal or may make a division of property that is not a matrimonial asset, where the court is satisfied that the division of matrimonial assets in equal shares would be unfair or unconscionable taking into account the following factors:

(a) the unreasonable impoverishment by either spouse of the matrimonial assets;

(b) the amount of the debts and liabilities of each spouse and the circumstances in which they were incurred;

(c) a marriage contract or separation agreement between the spouses;

(d) the length of time that the spouses have cohabited with each other during their marriage;

(e) the date and manner of acquisition of the assets;

(f) the effect of the assumption by one spouse of any housekeeping, child care or other domestic responsibilities for the family on the ability of the other spouse to acquire, manage, maintain, operate or improve a business asset;

(g) the contribution by one spouse to the education or career potential of the other spouse;

(h) the needs of a child who has not attained the age of majority;

(I) the contribution made by each spouse to the marriage and to the welfare of the family, including any contribution made as a homemaker or parent;

(j) whether the value of the assets substantially appreciated during the marriage;

(k) the proceeds of an insurance policy, or an award of damages in tort, intended to represent compensation for physical injuries or the cost of future maintenance of the injured spouse;

(l) the value to either spouse of any pension or other benefit which, by reason of the termination of the marriage relationship, that party will lose the chance of acquiring;

(m) all taxation consequences of the division of matrimonial assets. R.S., c. 275, s. 13; revision corrected.

SUBMISSIONS

[11] Mr. Thackeray makes the following submissions:

- the only matrimonial assets that should be considered are the parties' two properties located in Nova Scotia;
- the only debt that should be considered is the mortgage and line of credit that encumber the properties;
- the valuation of the assets and debt should be as of the date of this trial;
- the matrimonial property and debt should be divided equally between the parties.

[12] If this reasoning was adopted, the properties collectively would have a value of approximately \$225,000.00 and a corresponding debt of approximately \$80,000.00. This would provide a net matrimonial asset value of approximately \$145,000.00 providing each party with an entitlement of approximately \$72,500.00.

[13] In Schedule “A” of Ms. Thackeray’s memorandum filed on April 18, 2008, she sets out what she considers to be matrimonial property and debt. In so doing, she submits the properties and their encumbrances (the mortgage and line of credit) should be valued as of the date the parties’ separated. In other words, any increase in the value of the properties or decrease in the amount of the encumbrances since separation should not be considered in calculating the parties’ respective interests. By her calculations, with her retaining both properties and her suggested debt, there would be a total matrimonial asset value of approximately \$53,200.00 – \$41,500.00 of which would be retained by her and \$11,500.00 being held by Mr. Thackeray. An equal distribution would require Ms. Thackeray to pay Mr. Thackeray approximately \$15,000.00. However, Ms. Thackeray submits there should be an unequal division of the matrimonial property in her favour presumably allowing her to retain both properties while not providing an equalization payment to Mr. Thackeray.

Matrimonial Assets

[14] I find the following to be matrimonial assets:

- Matrimonial home in Chezzetcook
- Rental property in Dartmouth
- Household contents
- Motor vehicles (two)
- Construction tools and equipment

[15] I do not find evidence to support a conclusion that Mr. Thackeray should have assets subscribed to him under the heading of “Household tools, wedding rings or bow and arrow.”

Matrimonial Debt

[16] I find the following to be matrimonial debt:

- Mortgage
- Line of credit
- Utility bills
- Tax deferral
- Tax arrears/sale
- Student loan

[17] I do not find evidence to support a conclusion that the items Ms. Thackeray submitted under the heading of “Personal loan or credit cards” to be matrimonial debt.

[18] Ms. Thackeray also submits that a debt to the Department of Social Services in the amount of \$4,896.00 and a Judgment in favour of the Bank of Montreal in the amount of \$4,987.00 be considered matrimonial debt and her responsibility. Ms. Thackeray is currently legally responsible for these debts. This responsibility occurred by her making legal assignments of expected insurance compensation to the bank and government department.

[19] Mr. Thackeray, during the course of the marriage, was injured in a manner that allowed him to ultimately receive insurance compensation in the amount of approximately \$129,000.00. As previously noted, the *Matrimonial Property Act* indicates that money paid to one spouse under an insurance policy is an exception to an inclusion as matrimonial property. Nevertheless, Mr. Thackeray used most of this award to pay down matrimonial debt that existed at the time he received this amount. If such had not occurred, the parties, at separation, would have had at least an additional \$100,000.00 of matrimonial debt. Ms. Thackeray, during the course of her relationship, was twice injured in a manner that allowed her to pursue insurance compensation. She has received compensation regarding one of the accidents; the other claim is still ongoing. Ms. Thackeray has made legal provision to attribute a portion of her claims to pay off these debts.

[20] By committing the vast majority of his insurance policy award to paying down matrimonial debt Mr. Thackeray removed in the vicinity of \$100,000.00 of matrimonial debt that would otherwise remain to be considered at this time. I find that Ms. Thackeray by her legal undertaking to provide approximately \$10,000.00 of her insurance policy awards to what she suggests to be matrimonial debt is also removing that amount from consideration as matrimonial debt. It is not unfair that

she did so. I do not conclude, under these circumstances, Ms. Thackeray's current obligation to the Bank of Montreal or the Department of Community Services to be matrimonial debts.

Date of Valuation of Matrimonial Assets

[21] This issue relates primarily to the two properties in Nova Scotia owned by the parties.

[22] In *Simmons v. Simmons*, 2001 CanLII 4617 (NS S.F.), Justice Campbell stated:

VALUATION DATE

The *Matrimonial Property Act*, S.N.S., 1980, c.9 (the "Act") does not specify a date for valuation. This is left to the discretion of the trial judge. The case law in this province suggests that such discretion is a positive thing so that a fair and equitable result can be obtained on a case by case basis. The Act is based on the principle of fundamental fairness in the division of assets. In an unreported case of *MacDonald v. MacDonald*, August 23, 1991, Judge Daley of the Family Court in his capacity as a referee stated:

"The key in valuating the matrimonial property is an orderly and equitable settlement of the spousal affairs, and whatever the date has to be to accomplish this purpose, it is the proper date."

The Nova Scotia Court of Appeal in the case of *Lynk v. Lynk* (1989), 92 N.S.R. (2d) 1 held that the date of commencement of the proceedings "which may be varied at trial in accord with the evidence" is the appropriate date for valuation.

The court's position was further elaborated in the case of *Reardon v. Smith* (1999) 1 R.F.L. (5th) 83 at page 93:

"The case law in Nova Scotia does not set a specific valuation date. The court decides what is fair and just (see Stoodley v. Stoodley (1997), 172 N.S.R. (2d) 101 (N.S.S.C.)). (For decisions on various valuation dates: Mason v. Mason (1981), 47 N.S.R. (2d) 435 (N.S.C.A.) says it is at the time of trial; Lynk v. Lynk (1989), 92 N.S.R. (2d) 1 (N.S.C.A.) and Tibbetts v. Tibbetts (1992), 119 N.S.R. (2d) 26 (N.S.C.A.) say it is at the commencement of the proceedings subject to variation according to the evidence and

Ray v. Ray (1993), 121 N.S.R. (2d) 340 (N.S.S.C.) says it depends on the nature of the asset and it could be the date of the divorce.

Although Ms. Reardon is not asking that the valuation chosen by the trial judge be overturned, she objects to choosing different dates for different assets without any indication of why. I know of no requirement in Nova Scotia to assign a single valuation date for all matrimonial assets.”

Subject to some exceptions, there are some general guidelines which can be stated for the purpose, of offering counsel more specific guidance in applying these general statements of principle to the facts of a given case.

...

In the case of *O’Hara v. O’Hara (1991), 104 N.S.R. (2d) 426*, Saunders, J. (as he then was) made a distinction between depreciating assets and appreciating assets suggesting that the former should be valued at separation date and the latter at trial date.

[23] Since Mr. Thackeray left Nova Scotia in January of 2001, Ms. Thackeray has been responsible for maintaining the two properties. She suggests the properties have increased in value primarily because of her maintenance of them and her paying down the mortgage and line of credit. Mr. Thackeray submits the properties have increased in value primarily because of the current property sales market. Further, as to the matrimonial property, that, during his absence, Ms. Thackeray has a friend who spends considerable time occupying the home. Further, that her son also spends considerable time in that residence. As to the rental property, Mr. Thackeray suggests that those renting the property have reduced the debt related to that property since his departure from Nova Scotia.

[24] I conclude, in this instance, it is appropriate to value these two properties as of the current date.

Valuation of Matrimonial Assets and Debt

Matrimonial Home - West Chezzetcook

[25] Assessment notices show the Municipality’s assessed value in 1996 as \$41,800.00. This assessment increased to \$64,000.00 in 1997; \$105,000.00 in

1999; \$125,500.00 in 2002; \$126,000.00 in 2004; and \$131,200.00 in 2005. In January of 2008, the Municipality assessment indicates “taxable market value – \$141,300.00; taxable cap value – \$126,100.00.” In October of 2002, a realtor wrote to Ms. Thackeray suggesting the property be listed for sale at \$107,000.00. In December of 2006, a realtor wrote to Ms. Thackeray suggesting the property be listed for sale at \$150,000.00.

[26] A decision of the Nova Scotia Utility and Review Board of April 2007 concluded the Municipality’s 2006 assessment of this property at \$120,900.00 to be appropriate. This decision acknowledged that the property “stopped short of having ocean frontage. The records now classify the property as a building lot with ocean view.”

[27] I find from the available evidence, including the 2008 assessment, the property be valued at \$140,000.00 less the following:

Mortgage	\$ 41,360.00
Real estate fees	\$ 7,000.00
HST	\$ 980.00
Legal fees (including HST)	\$ 1,200.00

Creating a value of \$99,460.00.

Rental Property - Westphall

[28] Assessment notices show the Municipality assessed value as \$76,000 in 2001. The assessment increased to \$95,900.00 in 2006. In January of 2008, the assessment indicates “taxable market value \$121,800.00; taxable cap value \$105,200.00.” In October of 2000, a realtor suggested the property be listed for sale between \$79,000.00 and \$85,000.00. In December of 2006, a realtor suggested the property be listed for sale between \$105,000.00 and \$110,000.00 and suggested it would attract an ultimate sale price between \$95,000.00 and \$100,000.00.

[29] I find from the evidence available, including the 2008 Municipal assessment, the property be valued at \$120,000.00 less the following:

Mortgage/Line of Credit	\$ 38,135.00
Real estate fees	\$ 6,000.00
HST	\$ 840.00
Legal fees (including HST)	\$1,200.00

Creating a net value of \$73,850.00.

Household Contents

[30] I accept the submission of Ms. Thackeray and place a value on such contents in her possession at \$2,600.00.

Motor Vehicles

[31] Ms. Thackeray submits she retained a Hyundai Excel valued at \$500.00 while Mr. Thackeray retained a Chevrolet Impala valued at \$5,000.00. Mr. Thackeray testified the automobile he retained was an Oldsmobile which he sold for \$1,600.00.

[32] I value the motor vehicle of Ms. Thackeray at \$500.00 and the motor vehicle of Mr. Thackeray at \$2,000.00.

Tools and Equipment

[33] Ms. Thackeray submits Mr. Thackeray retained and possibly sold equipment from their construction business of a value of \$5,000.00 and household tools of a value of \$1,500.00. Mr. Thackeray testified that, at separation, there was very little equipment remaining; that it was used and of little monetary value.

[34] I attribute a value of \$2,000.00 to the equipment retained and/or sold by Mr. Thackeray prior to his departure.

Matrimonial Debt

[35] All of the items I find to be matrimonial debt have been or are being paid by Ms. Thackeray or acknowledged by her to be her responsibility. I presume she

makes this acknowledgement as both properties remain in her control and such debt (with the exception of the student loan) are primarily attributable to the properties.

Mortgage/Line of Credit

[36] The mortgage and line of credit as matrimonial debts have already been included in valuing the properties.

Utility Bills

[37] Utility bill owing around the time of separation was \$750.00.

Tax Deferral

[38] A property tax deferral was sought and granted beginning in 2000 regarding the matrimonial home. The amount of such referral is payable in full if the property changes ownership. In January of 2007, the amount of such deferral stood at \$9,126.00.

Tax Arrears and Other Related Charges

[39] I agree with the submission of Ms. Thackeray that, shortly after separation, tax arrears on the matrimonial home amounted to \$4,644.00.

Student Loan

[40] Ms. Thackeray acquired this debt during the marriage. Around the time the couple separated the amount owing on this loan was \$8,060.00 and I attribute this amount to the matrimonial debt.

Division of Matrimonial Property & Debt - Equal or Unequal

[41] The *Matrimonial Property Act* dictates that matrimonial assets be divided equally unless, using factors considered in paragraph 13 of the *Act*, such equality would be unfair or unconscionable. There is no similar provision related to debt.

[42] Mr. Thackeray seeks an equal division. Ms. Thackeray seeks an unequal division and bears the burden of satisfying the court it would be unfair or unconscionable to divide the assets and debt equally.

[43] Ms. Thackeray submits two main reasons why it would be unfair or unconscionable for Mr. Thackeray to share equally in the matrimonial property and debt. The first reason has to do with their earlier financial involvement while still residing in England. The second has to do with what has transpired since Mr. Thackeray returned to England in January of 2001.

[44] Prior to moving to Canada, Ms. Thackeray operated a bar/club on leased premises. Mr. Thackeray was a brick layer and builder. At the time he and Ms. Thackeray got together, he and his son, John, were involved in developing dilapidated row housing. Government funding was being made available for such development. Mr. Thackeray testified he and his son purchased one such property (the Silverdale Street property) putting it in Ms. Thackeray's name "because government grants were payable quicker when the property was owned by a third party." Ms. Thackeray testified she acquired this Silverdale Street property from Mr. Thackeray's other son, Ray, in exchange for her interest in her bar/club. She also testified that, around that time, she began to work side-by-side with Mr. Thackeray and his son, John, on this property. Mr. Thackeray maintains his son, Ray, never intended to purchase Ms. Thackeray's bar/club but was managing it primarily as a favour to her. Ms. Thackeray obtained a mortgage on the Silverdale Street property. Some of this mortgage funding was used to advance Mr. And Ms. Thackeray's life together primarily in Canada. Mr. Thackeray's son, John, moved into the Silverdale Street property on the understanding he would pay the monthly mortgage.

[45] Ray ceased his involvement in the bar/club. Ms. Thackeray returned to England and, in time, disposed of this asset. Years later, while living in Nova Scotia, Ms. Thackeray discovered the mortgage on the Silverdale Street property had not been paid and the property had been foreclosed without notice to her.

[46] Ms. Thackeray submits, as a result of the actions of Mr. Thackeray and his sons, she has lost her interest in the Silverdale Street property – a valuable residence – having attributed the mortgage funds gained from this property to their establishing in Nova Scotia.

[47] Mr. Thackeray submits his son, Ray, never acquired an interest in Ms. Thackeray's bar/club and that she was the owner of that Silverdale Street property in name only to more quickly acquire government funding. Further, that neither he nor Ms. Thackeray were required to be responsible for the repayment of the mortgage funds advanced on the Silverdale Street property.

[48] This was a convoluted time in the couple's life. I find the evidence of both parties as to this time to be uncertain, evasive and self-serving. Whatever happened would appear to have been a joint venture of the couple. The evidence presented on this point does not convince me it would be appropriate to have an unequal division of the couple's matrimonial property.

[49] The second main reason advanced by Ms. Thackeray relates to what has transpired since Mr. Thackeray has left Nova Scotia in December of 2001.

[50] I conclude that Ms. Thackeray has provided evidence in the form of pictures, receipts and oral testimony as to upgrading she has done or had done to the matrimonial home since Mr. Thackeray left the area. Much of the evidence and information provided dealt with normal items of ongoing maintenance. However, there were other expenditures and improvements made by her that were above and beyond what one would consider general maintenance of the property. I do not agree with Ms. Thackeray's submission as to an amount that should be attributed to this endeavour. I find, however, that a figure of \$30,000.00 could be safely subscribed to the value of the matrimonial home that could be attributed to Ms. Thackeray's efforts after Mr. Thackeray left the Province.

[51] I, therefore, conclude that, in accordance with section 13(f) of the *Matrimonial Property Act*, it would be unfair and unconscionable not to make an unequal division of matrimonial property to the extent of such expenditures.

[52] The following chart reflects my decision:

ASSETS	Value	Ms. Thackeray	Mr. Thackeray
Matrimonial Home	\$ 89,460.00	\$ 89,460.00	
Rental Property	\$ 73,825.00	\$ 73,825.00	
Household Contents	\$ 2,600.00	\$ 2,600.00	
Motor Vehicles (2)	\$ 2,500.00	\$ 500.00	\$ 2,000.00
Tools & Equipment	\$2,000.00		\$ 2,000.00
Total Assets		\$ 166,385.00	\$ 4,000.00
DEBT	Value	Ms. Thackeray	Mr. Thackeray
Utility Bills	\$ 750.00	\$ 750.00	
Tax Deferral	\$ 9,126.00	\$ 9,126.00	
Tax Arrears	\$ 4,644.00	\$ 4,644.00	
Student Loan	\$ 8,060.00	\$ 8,060.00	
Total Debt		\$ 22,580.00	0
Balance		\$ 143,805.00	\$ 4,000.00
Net Equity: \$ 147,805.00			
Equal Distribution: Ms. Thackeray pays Mr. Thackeray \$ 69,902.50			
Unequal Distribution as Ordered: Ms. Thackeray pays Mr. Thackeray \$ 69,902.50 - \$ 30,000.00 = \$ 39,902.50			

[53] Ms. Thackeray has expressed a wish to retain both properties. Mr. Thackeray expressed a wish to retain one of the properties.

[54] I have made my decision based on Ms. Thackeray retaining both properties. Mr. Thackeray indicates he is living on a very restricted income. In addition, he may encounter problems regarding his wish to be able to return and live in Nova Scotia. On Ms. Thackeray relieving Mr. Thackeray from any responsibility with regard to the mortgage and line of credit pertaining to the properties (if such responsibility currently exists) and providing Mr. Thackeray with the sum of

\$45,192.00, Mr. Thackeray shall, at the same time, provide Ms. Thackeray with a deed relinquishing his interest on both properties.

[55] In the event such arrangements cannot be made, other options will have to be considered. I will retain my jurisdiction in this matter should further intervention be required.

[56] I would ask counsel for the respondent to prepare the order.

J.

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Thackeray v. Thackeray, 2008 NSSC 223

Date: 20080822

Docket: S.H. No. 1201-54667
(SFHD-005700)

Registry: Halifax

Between:

John Eric Thackeray

Petitioner

v.

Dawn Thackeray

Respondent

ERRATUM TO DECISION

Judge: The Honourable Assoc. Chief Justice Robert F. Ferguson

Heard: April 28 & 29, 2008, in Halifax, Nova Scotia

Written Decision: August 22, 2008

Counsel: William E. Nearing, counsel for the Petitioner
Lynn M. Henry, counsel for the Respondent

ERRATUM

Page 15 is replaced with the attached page 15 which notes italicized calculation changes in the table set out in Paragraph [52].

subscribed to the value of the matrimonial home that could be attributed to Ms. Thackeray's efforts after Mr. Thackeray left the Province.

[51] I, therefore, conclude that, in accordance with section 13(f) of the *Matrimonial Property Act*, it would be unfair and unconscionable to make an unequal division of matrimonial property to the extent of such expenditures.

[52] The following chart reflects my decision:

ASSETS	Value	Ms. Thackeray	Mr. Thackeray
Matrimonial Home	\$ 99,460.00	\$ 99,460.00	
Rental Property	\$ 73,825.00	\$ 73,825.00	
Household Contents	\$ 2,600.00	\$ 2,600.00	
Motor Vehicles (2)	\$ 2,500.00	\$ 500.00	\$ 2,000.00
Tools & Equipment	\$2,000.00		\$ 2,000.00
Total Assets		\$ 176,385.00	\$ 4,000.00
DEBT	Value	Ms. Thackeray	Mr. Thackeray
Utility Bills	\$ 750.00	\$ 750.00	
Tax Deferral	\$ 9,126.00	\$ 9,126.00	
Tax Arrears	\$ 4,644.00	\$ 4,644.00	
Student Loan	\$ 8,060.00	\$ 8,060.00	
Total Debt		\$ 22,580.00	0
Balance		\$ 153,805.00	\$ 4,000.00
Net Equity: \$ 157,805.00			
Equal Distribution: Ms. Thackeray pays Mr. Thackeray \$ 74,902.50			
Unequal Distribution as Ordered: Ms. Thackeray pays Mr. Thackeray \$ 74,902.50 - \$ 30,000.00 = \$ 44,902.50			

IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Thackeray v. Thackeray, 2008 NSSC 223

Date: 20081106

Docket: S.H. No. 1201-54667
(SFHD-005700)

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John Eric Thackeray

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Dawn Thackeray

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Counsel: William E. Nearing, counsel for the Petitioner
Lynn M. Henry, counsel for the Respondent

ERRATUM

1. The Erratum issued on August 22, 2008 is replaced by this Erratum.
2. Paragraph [27] on Page 10 where it states \$99,460.00 it should state *\$89,460.00*.
3. Page 15 is replaced with the attached page 15 which notes italicized calculation changes in the table set out in Paragraph [52].

subscribed to the value of the matrimonial home that could be attributed to Ms. Thackeray's efforts after Mr. Thackeray left the Province.

[51] I, therefore, conclude that, in accordance with section 13(f) of the *Matrimonial Property Act*, it would be unfair and unconscionable to make an unequal division of matrimonial property to the extent of such expenditures.

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Tax Deferral	\$ 9,126.00	\$ 9,126.00	
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