

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Moore v. Moore Estate, 2008 NSSC 319

Date: 20081029

Docket: SPHa-252489

Registry: Port Hawkesbury

Between:

Marion Moore and Connie Moore,

Plaintiffs

v.

The Estate of Donald Moore, represented by Evelyn Moore, Personal
Representative, and Darlene Moore, and Marlene Moore Power,

Defendants

Editorial Notice

Addresses and phone numbers have been removed from this unofficial electronic version of the judgment.

Judge: The Honourable Justice Frank Edwards

Heard: September 22 - 24, 2008, in Port Hawkesbury,
Nova Scotia

**Final Written
Submissions:** October 21, 2008

Written Decision: October 29, 2008

Counsel: Adam D. Rodgers, for the plaintiffs
Ralph W. Ripley, for the defendants

By the Court:

[1] I have now reviewed Counsels' post-trial submissions on costs.

[2] This was a family dispute over ownership of a piece of land. The case turned upon the authenticity of a particular deed. Two highly qualified handwriting experts - one called by each side - disagreed about the authenticity of the questioned signature. Both sides therefore acted reasonably in pursuing their respective claims.

[3] Striking an appropriate "amount involved" in a case such as this is problematic. There is no appraisal of the property in evidence. The only indication of value is an offer to purchase for \$80,000.00. For all I know, that offer may have been based on pure sentimentality rather than a realistic knowledge of the market. And perhaps, the purchase would not have been completed for any number of other reasons. In any event, I have no reliable evidence of the value of the property. This is a dispute over an inheritance – the winning side effectively gets a windfall whatever the dollar value may be. Moreover, I am satisfied that here money was not the motivating factor for the unsuccessful party.

[4] Similarly, as I noted recently in *MacLean v. Williams et al*, 2008 NSSC 293, an offer to settle in a case like this usually requires one side or the other to capitulate. There is not much room for compromise. As I have noted, it was not unreasonable for the Plaintiffs' to refuse to capitulate in this case. I therefore give little weight to the Plaintiffs' rejection of the offer to settle.

[5] This was a relatively straightforward matter which required less than three days of court time. In light of what I said above, the tariff is of little assistance. I would fix costs at \$7,000.00.

[6] **Disbursements:** I find that Mr. Lindbloom's bill of \$6,301.28 is excessive. I have had highly qualified medical specialists testify for a lot less. I will allow \$3,000.00. Lindbloom's hotel and airfare are also allowed.

[7] I will allow \$150.00 for cost of counsel's travel to discovery in Amherst. I will also allow the \$186.17 for Counsel's Amherst hotel.

[8] Counsel's cost of travel for trial (\$94.50) is disallowed as is the cost of Counsel's accommodation while in trial (\$387.44).

[9] Internal photocopies, I will allow \$100.00, not \$221.76.

[10] I therefore allow disbursements in the total amount of \$8,040.91.

[11] Summary:	Costs:	\$ 7,000.00
	Disbursements:	<u>8,040.91</u>
	Total:	\$15,040.91

Order accordingly.

J.