

**SUPREME COURT OF NOVA SCOTIA**  
**FAMILY DIVISION**

**Citation:** *Wheeler v. Wheeler*, 2016 NSSC 154

**Date:** 2016-06-16

**Docket:** 1201-069065 (SFHD-098423)

**Registry:** Halifax

**Between:**

Richard Kenneth Wheeler

Petitioner

v.

Tammy Wheeler

Respondent

**Judge:** The Honourable Justice Leslie J. Dellapinna

**Heard:** May 17 and 18, 2016, in Halifax, Nova Scotia

**Counsel:** Kelsey Hudson for the Petitioner  
Cheryl Arnold for the Respondent

**By the Court:**

**BACKGROUND**

[1] The parties are husband and wife. They were married on July 27, 1990 and separated on October 25, 2014 after a little over 24 years of marriage.

[2] The parties had two children. Their son is 26 and their daughter 23. It was agreed that neither child is dependent on their parents.

[3] Mr. Wheeler (“the Petitioner”) petitioned for divorce on November 13, 2015. In addition to the divorce itself he sought an order pursuant to the *Matrimonial Property Act*, R.S.N.S. 1989, c. 275 as well as an order for spousal support pursuant to the *Divorce Act*, R.S.C. 1985, c.3.

[4] Mrs. Wheeler (“the Respondent”) did not file an Answer but through counsel made her position known. She seeks an equal division of matrimonial assets and debts and is opposed to paying spousal support.

[5] A two day trial was held on May 17 and 18, 2016. This is my decision arising out of that trial.

**ISSUES**

[6] In addition to the determination of the divorce, the issues are:

1. The determination of the appropriate division of assets and debts between the parties; and
2. Whether the Petitioner is entitled to spousal support from the Respondent and, if so, the quantum.

**THE DIVORCE**

[7] The parties separated on October 25, 2014. They were separated when the Petitioner initiated his Divorce Petition. At no time since their separation did they resume cohabitation. They have not reconciled and I find that a reconciliation is not possible.

[8] There has been a breakdown in the parties’ marriage and a Divorce Order will issue.

## DISCUSSION OF COROLLARY ISSUES

### The division of assets and debts

[9] The applicable legislation is the *Matrimonial Property Act*, supra. The definition of “matrimonial assets” is found in sub-section 4(1). Sub-section 12(1) provides for the equal division of matrimonial assets once a petition for divorce has been filed. Section 13 provides for the possibility of an unequal division of matrimonial assets or a division of property that is not a matrimonial asset where the Court is satisfied that an equal division of matrimonial assets would be unfair or unconscionable taking into account the factors listed therein.

[10] The Petitioner sought an unequal division of assets essentially because he came to the realization that without financial help from his wife he will not likely be able to pay down his share of the parties’ debts.

[11] I find that it would not be unfair or unconscionable to divide the matrimonial assets and debts equally.

[12] Section 13 of the *Matrimonial Property Act* includes as a factor sub-section (b) which says: “the amount of the debts and liabilities of each spouse and the circumstances in which they were incurred”. The parties have substantial debts. They were incurred by both parties. There was nothing about those debts or the circumstances in which they were incurred that would cause me to believe that the assets (and debts) should be divided in the Petitioner’s favour. I do not accept the Petitioner’s evidence that he was unaware of the parties’ debt load until after they separated.

[13] There was no significant disagreement between the parties over what assets and debts existed at the time of their separation. They did however differ quite considerably on the values to be assigned to the assets and to some extent on how they should be distributed. Unfortunately neither party made any effort to have the assets appraised. Both simply provided the Court with their estimates.

[14] The following are my conclusions regarding the parties’ matrimonial assets and debts and their values:

1. The former matrimonial home was sold in February of this year. Prior to its sale the home had been listed for \$269,900.00. The eventual purchasers made an offer of \$250,000.00. The Respondent wanted to make a counteroffer of \$260,000.00 and before doing so their realtor

received a verbal indication from the purchasers that they would accept such a counteroffer. The Petitioner refused to sign the counteroffer unless the Respondent first returned to him a travel trailer (referred to below) and paid to him the sum of \$5,000.00. She met his terms in order to sell the home. An agreement to that effect was signed by the parties on December 23, 2015. Nowhere in that agreement does it say that the \$5,000.00 paid to the Petitioner was not to be accounted for in the final distribution of assets. It also did not limit the Court's jurisdiction over the trailer.

After paying out the mortgage and all other expenses associated with the sale as well as the money paid by the Respondent to the Petitioner there remained net sale proceeds of \$61,444.65. Those proceeds are being held in trust pending the release of this decision.

I find that from the sale of the former matrimonial home there were total net sale proceeds of \$66,444.65 of which the Petitioner has already received \$5,000.00. That money is a matrimonial asset.

2. The parties jointly own another property located on Cow Bay Road in Eastern Passage, Nova Scotia. The property is currently occupied by the Respondent, the parties' daughter and her boyfriend. The Respondent is paying the costs associated with maintaining that property. The Petitioner is contributing nothing. The property had been listed for sale for approximately a year and according to the Respondent there were between 40 and 50 showings but no offers were received. It had been listed for \$159,900.00. The Respondent believes that the only way the property will sell is if the listing price is reduced. The Petitioner refused to sign a new listing agreement with a reduced price.

As of April 2016 the outstanding balance on the mortgage securing this property was \$93,858.79 not including any penalties that may be payable if the mortgage is paid prior to the maturity date. The maturity date is January 1, 2021.

The Petitioner did not indicate any desire to buy out the Respondent's interest in this property nor did he appear to have the ability to do so. The Respondent said that she wants to continue with her efforts to sell the property but wants sole authority over its sale. Based on their

inability to sell the property for the previously listed price, the gross value of the property, logically, appears to be less than the \$159,900.00.

3. On the date of separation there were numerous items of household contents and other chattels. There is an interim order of this Court issued March 10, 2015 which provided for a partial distribution of the household contents. That order contained a list of the items that the Respondent was to receive at a time when the matrimonial home was occupied solely by the Petitioner. The Respondent received many of those items but not all. The missing items are either in the possession of the Petitioner or he has sold them. The items that were sold were sold in contravention of an order of this Court issued November 19, 2015 which specifically stated that the Petitioner was not to dispose or sell any further household items until a final resolution of these proceedings was reached.

Without evidence of the household contents or proof of their values, the Court is limited in what it can do. The Petitioner's conduct however may be relevant on the issue of costs.

4. On the date of separation the Petitioner owned a 2011 GMC Sierra truck. Like all the other assets it was not appraised. In his affidavit sworn April 2, 2016 the Petitioner said that he believed the truck to be worth "in or around \$5,000.00". In her affidavit sworn April 15, 2016 the Respondent "conservatively" estimated the value of the truck as being \$15,000.00 and based her opinion on a Kijiji ad that she found for a "similar" truck.

The relevant date to value the truck is the date of the parties' separation (see *Simmons v. Simmons*, 2001 NSSF 35), not the date of the trial. That vehicle has been in the possession of the Petitioner since the date of separation.

In the Petitioner's Statement of Property sworn November 9, 2015 he estimated a value for the truck at \$5,000.00 "as of separation" but in an earlier Statement of Property sworn February 3, 2015 he estimated its value as of that date as being \$25,000.00. In the Respondent's Statement of Property sworn February 18, 2015 she estimated the truck's value as being \$26,000.00 but that included the value of a plow which the Petitioner has since sold.

The parties' estimates of the value of this vehicle were unreliable at best. Someone else's advertisement of a "similar" asset is of no probative value whatsoever. The Sierra should have been appraised but, failing that, the production of its Black Book value may have carried some weight. In summation counsel for the Respondent indicated her client was prepared to accept a figure of \$15,000.00 as the value of the Sierra on the date of separation. Given the parties' conflicting estimates, I find that figure as reasonable as any. I therefore assign a value of \$15,000.00 to the Sierra truck.

5. There is a loan owing to the Royal Bank of Canada in relation to the truck. It is a joint debt of the parties. The parties both agreed that the amount owing on that loan as of the date of the trial was \$12,103.00. After the parties separated and before the date of trial the Respondent paid the loan payments but I do not have evidence of the amount by which she reduced the principle of the loan. All I do know for sure is that going forward the amount outstanding is \$12,103.00.
6. The Respondent has in her possession a 2008 Hyundai Santa Fe motor vehicle. Registration for the Santa Fe is in the names of both parties. The Petitioner estimated its value at \$7,000.0 and the Respondent indicated a value of \$5,000.00.

Given that the vehicle was seven model years old by the time the parties separated I believe an estimate of \$5,000.00 is not unreasonable. I therefore place a value of \$5,000.00 on the Santa Fe as of the date of separation.

7. The Petitioner owns a 2006 Laredo travel trailer which he purchased "in or around 2010 – 2011". The parties disagreed regarding the condition of the trailer. The Petitioner said that it was poor and the Respondent said that it was excellent. Again there was no independent appraisal of the trailer. The Petitioner estimated its value at \$3,000.00. The Respondent estimated its value at \$9,500.00 based on a Kijiji ad for a similar trailer. In the absence of evidence from either party, I assign a value to the trailer of \$6,250.00 being the average of their two estimates.
8. The Petitioner had a 2007 ATV Outlander four-wheel drive recreation vehicle. He sold it to a friend almost immediately after the parties separated. He said in his affidavit that he sold it for \$500.00 but provided no proof of that sale. The Respondent in her February 2015

Statement of Property estimated the value of that vehicle as \$5,000.00 but in her affidavit sworn in April 2016 estimated it as “around” \$8,000.00. Again she came to that value by relying on a Kijiji ad for what she described as the “same type and model of the four-wheeler”.

The timing of the Petitioner’s sale of the four-runner and the lack of evidence of what he actually received for it caused me to be suspicious of both his motives and what he estimated the value of the vehicle to be. It was within the Petitioner’s ability to obtain an appraisal of the vehicle prior to its sale or at the very least to present the buyer as a witness at trial. He did neither.

For the purpose of these proceedings I assign a value of \$5,000.00 to the ATV as of the date of the parties’ separation.

9. The Petitioner owns a 2014 Stingray boat. He estimated its value at \$35,000.00 on the date of separation. The Respondent did not dispute that figure. I therefore assign a value of \$35,000.00 to the boat.
10. The boat is secured by a loan in an amount roughly equivalent to its value. The parties paid little more than interest on that loan since they separated. The evidence doesn’t disclose the financial institution to which the money is owed but both parties agreed the loan is owed jointly. I fix a value of \$35,000.00 to that loan.
11. On the date of separation the Petitioner had a plow that he would attach to his truck so that he could plow snow in the winter. The Respondent valued the plow at \$5,000.00 but gave no indication as to how she came up with that figure. The Petitioner said that he sold the plow and received \$500.00. He also said that since selling the plow he has rented it back from the person he sold it to for as much as \$200.00 per month.

Again, the Petitioner could have had this asset appraised and could have presented evidence of its sale price other than his own testimony. He did not. On the other hand, the Respondent’s figure of \$5,000.00 is without foundation.

Without any other evidence to assist the Court, I find that the plow had a value of \$2,000.00 as of the date of the parties’ separation.

12. Prior to the parties’ separation the Respondent purchased a motorcycle which is in the Petitioner’s possession. It was the

Petitioner's position that the motorcycle should be excluded from the division of assets because it was a Father's Day gift to him. The Respondent acknowledged that it was a gift but it was a gift that she paid for. Only gifts from persons "other than the other spouse" are excluded from the definition of "matrimonial assets" (see s.4(1)(a)). I find the motorcycle to be a matrimonial asset.

In the Petitioner's Statement of Property sworn February 3, 2015, a little over three months after the parties separated, the Petitioner said the motorcycle had a value of \$2,500.00. It was the Respondent's evidence that she purchased the motorcycle in May of 2014 for \$5,000.00 so she believed that in October of the same year the motorcycle would have been worth essentially the same amount. For the purpose of these proceedings I place a value of \$4,000.00 on the motorcycle.

13. On the date of separation the Respondent had two RRSP accounts. One was with CIBC and the other with Standard Life. Within the CIBC account was a GIC having a value as of January 28, 2015 of \$4,133.80 as well as mutual funds having a value of \$7,236.13. The value of her Standard Life account was \$5,224.28 as of December 31, 2014. Her total RRSP savings, therefore, as of the end of January 2015 came to approximately \$16,594.21. I was not given the value of those savings as of the date of separation nor was I given the value of those accounts as of the date of trial. Both sides agreed that the RRSP savings are matrimonial assets and both sides agreed that they should be discounted to take into account income tax.

I assume that the values of the two RRSP accounts grew since the end of January 2015. However, the Court recognizes that between January 2015 and the date of trial the rates of return on both Guaranteed Investment Certificates as well as stocks listed on the TSE and the New York Stock Exchange were modest. I therefore estimated an overall growth rate of approximately 5% per year on the Respondent's RRSP accounts to arrive at a total value of \$17,786.00 as of the date of trial (see *Simmons*, supra at paras. 19 and 20). I then reduced that figure by 30% to take into account the effect of income tax to arrive at a net figure of \$12,450.00.

14. On the date of separation the parties jointly owed on a loan to CIBC. There was no evidence of the amount of the loan outstanding on the



date of separation however counsel for the Respondent suggested a figure of \$30,815.00 based on a loan statement issued in or around May of 2015. I am prepared to accept that figure as the amount outstanding on the loan at or near the date of separation. Since the parties separated the Respondent has been servicing that loan such that there is now only about \$22,000.00 owing. However, it is the date of separation value that is to be accounted for in any division.

15. The Petitioner had a CIBC Visa credit card debt. In his Statement of Property sworn November 9, 2015 he showed the value outstanding on that credit card as "Unknown". In his affidavit sworn April 2, 2016 he said that the then outstanding balance of that credit card account was \$30,000.00. He provided no evidence of the date of separation value. The Respondent provided a copy of the Petitioner's Visa statement which covered the period September 18 to October 17, 2014. The balance outstanding on that statement was \$15,605.90. There was nothing before the Court to show what the balance was eight days later, on the date of separation. Both parties agreed that the Visa debt is a matrimonial debt. I have adopted \$15,605.90 as the date of separation value.
16. The Respondent had a CIBC Visa credit card debt. During summation both counsel, on behalf of their clients, accepted \$7,236.13 as being the outstanding balance on the date of separation.
17. The Petitioner had an MBNA credit card debt outstanding on the date of separation. Counsel for both parties agreed during summation that this account was a matrimonial debt. According to the invoice which covered the period October 7, 2014 to November 4, 2014 the balance outstanding on this debt as of the date of the parties' separation was \$12,344.05.

[15] A review of both parties' Statements of Property suggested that there may have been other debts on the date of separation such as a loan owing to Leon's for the purchase of a couch. No confirming documentation was supplied by either party. If such a debt existed it appears to have been paid by the Respondent. She however made no mention of that debt in her affidavit nor did either counsel make reference to it during summation. I have not included it in my calculations.

[16] In addition to the assets and debts listed above, the sum of \$2,990.00 from the sale of the matrimonial home is being held in trust by the Respondent's

counsel. That money represents what may or may not be owing to the parties' real estate agent in relation to the sale of the matrimonial home. The Petitioner took issue with the amount of their agent's invoice although the Respondent's position was that the money was owing and should be paid to him. If no additional funds are owing to the real estate agent then both of the parties are entitled to one half of that money.

[17] Further, the Respondent sought reimbursement from the Petitioner for expenses that she paid on his behalf since the parties separated. Those expenses include half the cost of the power bills in relation to the former matrimonial paid by the Respondent up to the date of its sale, the cost of the renewal of the license plate for the trailer paid by the Respondent since the parties separated, half the cost of pumping the septic tank of the former matrimonial home property prior to its sale, half the cost of removing garbage from the former matrimonial home property prior to its sale, boat insurance paid by the Respondent since the date of separation, half the insurance on the former matrimonial home since the date of separation, money paid on insurance on the trailer, the Petitioner's truck and the Petitioner's motorcycle, the Petitioner's cell phone bill up to March of 2016 when he was removed from the Respondent's plan and half of the cost of various expenses incurred to repair the Cow Bay Road property to improve the prospects of its sale. The total for which the Respondent seeks reimbursement comes to \$10,838.14.

[18] The Petitioner is also required to pay to the Respondent the sum of \$6,410.00 by virtue of the order of this Court issued November 19, 2015 which order includes costs of \$1,000.00.

[19] The Petitioner sought an unequal division of assets in his favour. Counsel for the Respondent indicated during summation that her client was adopting a pragmatic approach. While she hoped for an overall equal division plus the \$6,410.00 owing to her by virtue of the November 19, 2015 interim order as well as reimbursement for the expenses she paid post separation (referred to above), she prioritized the relief that she sought recognizing that due to the quantity of their combined debts, she may not receive everything that she hoped for. First and foremost she wanted sole authority over the sale of the Cow Bay Road property. She was concerned that she and the Petitioner could not cooperate with the sale of that property. Secondly, she sought payment of the \$6,410.00 that is owed to her pursuant to the Court's interim order and thirdly, she wanted to ensure that the joint debts were paid off. While she hoped for an equal division as well as reimbursement of the expenses referred to in paragraph 17 above, she was prepared

to accept less than that to which she believed she was entitled if her primary objectives referred to above were met.

[20] Having considered all of the evidence I order that the various matrimonial assets and debts be distributed between the parties in accordance with the following chart and the parties are ordered to execute whatever deeds, bills of sale, affidavits, releases or other instruments or assurances as may be necessary to give effect to this division:

<b>ASSETS/DEBTS</b>	<b>VALUE</b>	<b>PETITIONER</b>	<b>RESPONDENT</b>
Matrimonial Home Proceeds	\$ 66,444.65	\$ 5,000.00	\$ 61,444.65
House contents	Unknown	in specie	in specie
2011 GMC Sierra	15,000.00	15,000.00	
2008 Hyundai Santa Fe	5,000.00		5,000.00
Travel Trailer	6,250.00		6.250.00
2007 Outlander ATV	5,000.00	5,000.00	
Stingray boat	35,000.00	35,000.00	
Plow	2,000.00	2,000.00	
Motorcycle	4,000.00	4,000.00	

RRSP's	12,450.00		12,450.00
<b>SUBTOTAL</b>	<b>\$151,144.65</b>	<b>\$ 66,000.00</b>	<b>\$ 85,144.65</b>
RBC Truck Loan (joint)	(\$12,103.00)		(\$12,103.00)
Boat Loan (joint)	( 35,000.00)		( 35,000.00)
CIBC Joint Debt	( 30,815.00)		( 30,815.00)
Petitioner's CIBC Visa Debt	( 15,605.90)	( 15,605.90)	
Respondent's CIBC Visa Debt	( 7,236.13)		( 7,236.13)
MBNA Credit Card	( 12,344.05)	( 12,344.05)	
<b>NET ASSETS</b>	<b><u>\$ 38,040.57</u></b>	<b><u>\$38,050.05</u></b>	<b><u>(\$ 9.48)</u></b>

[21] I chose to make the Respondent responsible for all the joint debts because I share her concern for the Petitioner's ability and willingness to retire those debts.

[22] Excluding any consideration for the Cow Bay Road property, using the above figures the Petitioner would owe the Respondent an equalization payment of \$19,029.76. In addition he is to pay to the Respondent \$6,410.00 pursuant to the interim order of this Court for a total of \$25,439.76.

[23] There is no way to know what the Cow Bay Road property will ultimately sell for. If the property sold for \$155,000.00 (which I acknowledge may be an

optimistic figure) the parties would net the sum of \$51,479.50 calculated as follows:

SALE PRICE	\$155,000.00
LESS REAL ESTATE COMMISSION	
(INCLUDING H.S.T.)	8,912.50
LEGAL FEES AND DISBURSEMENTS	750.00
MORTGAGE	<u>93,858.00</u>
<b>NET SALE PROCEEDS</b>	<b>\$ 51,479.50</b> (excluding any mortgage penalty)

If that figure was added to the chart above, the net asset columns would change as follows:

	VALUE	PETITIONER	RESPONDENT
Net Assets	\$38,040.57	\$38,050.05	(\$ 9.48)
Cow Bay Rd.	51,479.50		51,479.50
<b>Net Assets Including Cow Bay Rd. Property</b>	<b>\$89,520.07</b>	<b>\$38,050.07</b>	<b>\$51,470.02</b>

[24] The equalization payment would then be \$6,709.97 payable by the Respondent to the Petitioner. That figure however can be reduced by the \$6,410.00 owed by the Petitioner to the Respondent. These figures make no allowance for any mortgage penalty.

[25] Without knowing precisely what the Cow Bay Road property will ultimately sell for, it is my decision that in addition to the asset division in paragraph 20 above, I order that title to the Cow Bay Road property be transferred to the

Respondent. She in turn will be responsible for the expenses associated with that property, including the mortgage, and will be entitled to retain 100% of the net sale proceeds if and when the property sells. Under this arrangement it will be deemed that the Petitioner has paid the \$6,410.00 obligation that he owes to the Respondent pursuant to the Court's interim order and there will be no equalization payment by either party to the other.

[26] I recognize that the division as ordered will likely result in the Respondent receiving less than an equal division of matrimonial assets using my values. However the values in paragraphs 14 and 20 are less than perfect because the evidence of the parties was less than perfect. It is as close to an equal division as the parties can reasonably expect.

[27] With respect to the Respondent's request for a reimbursement for the expenses that she paid post-separation, I decline to make such an order. Firstly, the money is just not there to meet her demand and, at the Petitioner's level of income, it is unrealistic to expect that he will be able to pay those expenses. Secondly, in the year in which those expenses were incurred the Respondent was earning considerably more than she is now. It is possible that had a Motion been made at that time for interim spousal support, she could have been ordered to pay spousal support on an interim basis roughly equivalent to the Petitioner's share of the expenses for which she now seeks reimbursement.

[28] Finally, I order that from the \$2,990.00 that is being held in trust by the Respondent's counsel, one half of that sum (\$1,495.00) will be released to the Respondent so that it may be applied to the Respondent's share of any outstanding debt to the parties' real estate agent.

### **Spousal Support**

[29] The Petitioner seeks an order for periodic spousal support.

[30] It was the Petitioner's evidence that he once worked as a truck driver and moved furniture. He, however, injured his back as a result of lifting a lot of heavy equipment and from a fellow employee dropping a washing machine on him. He said that he has had a spinal fusion. He never worked during the marriage. The Respondent seems to accept the fact that he is incapable of working.

[31] According to his Statement of Income the Petitioner earns a total of \$22,009.00 per year being comprised of C.P.P. disability and Workers'

Compensation Benefits. That income is tax free. If grossed up at his marginal tax bracket to take into account the absence of a tax liability, he is receiving the equivalent of employment income of approximately \$29,345.00 per annum.

[32] The Respondent is a minority shareholder in a limited company which operates under the name of Fastening House Atlantic. Until recently she had a reasonably healthy income from that business, earning over \$83,000.00 in the year of the parties' separation. It was her evidence that the business experienced a "downward turn in sales resulting in a loss of revenue and profitability". In order to prevent the business from being shut down (resulting in the loss of employment to 10 employees) the existing shareholders sought assistance from a new investor who ultimately became the majority shareholder. Counting the Respondent there are now three shareholders – the majority shareholder who owns 60% of the shares of the company and the Respondent and one other shareholder who hold 20% each. In a further effort to improve the fortunes of the company, the minority shareholders' incomes have been reduced to \$35,000.00 per year plus a car allowance. As part of the deal with the new majority shareholder, the Respondent is required to stay with the company. She testified that she prefers to stay with the company in any event because she did not want to walk away from her investment in the company and she is also a co-signer on the company's line of credit.

[33] The applicable legislation is found in section 15.2 of the *Divorce Act*, supra. I have also reviewed the Supreme Court's decision in *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420 to which the Petitioner's counsel referred in her brief.

[34] The Petitioner has not established that he is entitled to spousal support on a contractual or compensatory basis. At his level of income however, he may, under different circumstances, have been entitled to spousal support on a non-compensatory basis. If the Respondent's income was still in the vicinity of \$83,000.00 per year I may have ordered her to pay some level of periodic support to her husband. However, given the Respondent's current income and expenses (including her share of the matrimonial debts) and the minor difference between her income and the income of the Petitioner, I make no order for spousal support.

[35] On behalf of the Petitioner it was argued that because the Respondent allows the parties' daughter and their daughter's boyfriend to reside with her, she should require their daughter and their daughter's boyfriend to contribute more to the household expenses in order to free up a portion of the Respondent's income to be available for spousal support. I was not persuaded by that argument. The only

reason the parties' daughter resides with the Respondent is to provide the Respondent with a degree of protection from the Petitioner. Furthermore, the parties' daughter and her boyfriend left a rent free situation in order to reside with the Respondent and if they were compelled to pay what amounts to rent they may very well fail to see the benefit of remaining with the Respondent. Finally, if it is reasonable to expect the Respondent to take in boarders in order to pay support, it is equally reasonable to expect the Petitioner to do the same in order to mitigate if not eliminate his need for support.

## CONCLUSION

In conclusion, the various assets and debts will be distributed according to the chart appearing in paragraph 20 above. The Petitioner will convey to the Respondent his interest in the Cow Bay Road property by way of a quit claim deed (to be prepared by the Respondent) and shall do so forthwith. If he does not do so the Court would be prepared to provide the Respondent with an order pursuant to section 15(a) of the *Matrimonial Property Act* transferring title to that property to the Respondent. If that should prove to be necessary I would be willing to receive submissions on the issue of costs for having put the Respondent to that trouble and expense.

[36] Similarly, the Petitioner will immediately convey to the Respondent his interest in the Hyundai Santa Fe motor vehicle and the travel trailer. Again, if he does not do so in a timely manner, the Court would be prepared to order a transfer of title to those assets on the same conditions.

[37] The equity that the Respondent receives from the Cow Bay Road property will be deemed to include the \$6,410.00 owed to her by the Petitioner by virtue of the Court's interim order.

[38] Of the \$2,990.00 being held in trust by the Respondent's counsel, \$1,495.00 will be released and paid to the parties' real estate agent representing the Respondent's half share of the outstanding account.

[39] No spousal support will be paid by either party to the other.

[40] If either party wishes to be heard on the issue of costs they are to contact my office within 30 days of the release of this decision.



[41] Under the circumstances, I direct counsel for the Respondent to prepare the Divorce Order and the Corollary Relief Order.

Leslie J. Dellapinna, J.