

IN THE SUPREME COURT OF NOVA SCOTIA  
(FAMILY DIVISION)

**Citation:** Andrews v. Andrews, 2007 NSSC 35

**Date:**20070129

**Docket:** 1206-014195

**Registry:** Halifax

**Between:**

Mary Ellen Andrews

Petitioner

v.

R. Sheldon Andrews

Respondent

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**ADDENDUM TO DECISION**

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

**Heard:** September 9, 11, 2003, in Sydney, Nova Scotia

**Counsel:** Elizabeth Cusack, for the Petitioner  
Candee McCarthy, for the Respondent

**By the Court:**

[1] This is an addendum to my written decision released April 20, 2006.

[2] The parties were married on June 5, 1976 and separated on August 31, 2001 after approximately 25 years of marriage.

[3] A two day divorce trial was held in September 2003 after which it became impossible for the learned trial judge to continue acting in the proceeding and he subsequently retired. The parties agreed to have me decide on all of the corollary issues based on a transcript of the trial and the exhibits presented.

[4] In my decision I intended to provide the Court's ruling on, among other things, the division of all of the assets and debts owned or owed by the parties as of the date of their separation.

[5] Subsequently it was brought to my attention that my decision made no reference to the employment pension of the Petitioner.

[6] According to the evidence the Petitioner became enrolled in the Nova Scotia Association of Health Organizations Pension Plan on May 21, 2000. She contributed to the pension plan for approximately 15 months prior to the date of separation on August 31, 2001. Her contributions with interest during the marriage came to \$2,364.56 and her estimated monthly pension earned during the marriage is \$61.57.

[7] My failure to address the Petitioner's pension in my decision was an inadvertent omission. Civil Procedure Rule 15.07 states:

“Clerical mistakes in judgements or orders, or errors arising therein from any accidental mistake or omission, or an amendment to provide for any matter which should have but was not adjudicated upon, may at any time be corrected or granted by the court without appeal.”

[8] The division of the Petitioner's pension was an issue that should have been addressed in my earlier decision but, through oversight, was not. It is the kind of omission contemplated by Rule 15.07.

[9] Previously I concluded that an equal division of matrimonial assets and debts would not be unfair or unconscionable. The pension of the Petitioner with the N.S.A.H.O. pension plan up to the date of the parties' separation is a matrimonial asset and will therefore be divided equally between the parties. Unless the parties are able to agree on a division of the capitalized value of the pension to be satisfied by way of a lump sum payment by the Petitioner to the Respondent, the division will be at source.