

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Armco Capital Inc. v. Armoyan, 2010 NSSC 206

**Date:** 20100602

**Docket:** Hfx No. 321297

**Registry:** Halifax

Between:

Armco Capital Inc.

Applicant

and

Lisa Armoyan

Respondent

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DECISION on COSTS

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**Judge:** The Honourable Justice Gerald R. P. Moir

**Written Submissions:** April 21, 2010 to May 11, 2010

**Counsel:** Colin D. Piercey and Scott Campbell, counsel for  
the applicant  
Mary Jane McGinty, Lynn Reiersen, Katherine  
Salsman, and Kristen Floyd of the Florida Bar,  
counsel for the respondent  
William L. Ryan, watching brief for Vrege  
Armoyan

**Moir, J.:**

[1] Armco applied for a mandatory injunction to require Ms. Armoyan to hand over a copy she made of the hard drive of a laptop supplied by Armco to her estranged husband for business uses. Ms. Armoyan moved for a stay on the basis that the State of Florida is the convenient forum. Ms. Armoyan succeeded. I now have to determine costs.

[2] As I said in the main decision, Ms. Armoyan was not candid with Armco or this court about whether she had copied the hard drive. Ms. Armoyan now asserts:

The absence of any mention of this in her direct evidence was the direct result of Ms. Armoyan's effort to avoid commenting on any aspect of the merits of the claim until the application on jurisdiction had been heard.

In supplemental submissions, Ms. Armoyan puts it this way:

She simply failed to provide evidence, which in the opinion of her counsel, was not relevant to the issues before the Court at the time.

[3] There are two problems with this submission. Firstly, Ms. Armoyan's motion could not be, and was not, determined in a vacuum, in which all evidence touching on the merits is somehow excluded. Secondly, Ms. Armoyan's motion

resulted in a stay, and I must concern myself with the costs of the application as well as costs of the motion.

[4] On the first point, just one example, one which is referred to by Armco in its submissions on costs, shows clearly that Ms. Armoian could not, and did not, attempt to segregate evidence that went to the merits from evidence that went to convenience. To establish a ground for deferring to Florida, Ms. Armoian swore:

That it is noteworthy that the evidence upon which the Applicant relies in asking the Court to draw an inference that I have acquired proprietary Armco information, involves the evidence of three individuals in Florida, the most important of which would appear to be our housekeeper, Maria Delazquez.

When Ms. Armoian finally admitted copying the hard drive, the testimony of these three witnesses became irrelevant. This is just one of many instances in which evidence about the case was necessary to determining convenience.

[5] This court is most concerned about the injustices that can result from the cost of litigation. Consequences are necessary when we see tactics that make a motion more complicated, and thus more expensive, than is necessary. The same goes for the second point, where we see a deliberate lack of candour causing

significant expense in the preparation for, commencement of, and presentation of evidence for a proceeding.

[6] Ms. Armoyan is focussed on her successful motion. I am taking a broader view. Her lack of candour started with her reply when Mr. George Armoyan asked whether she had copied the hard drive, which includes information about his businesses. So, Armco had to pay an expert \$10,031 to determine whether the laptop had been copied, it had to gather evidence from various witnesses on whether Ms. Armoyan had had it copied, and it had to start a proceeding and present evidence tending to show that she had done so.

[7] All of this was a waste because the only real issue is whether Ms. Armoyan rightly copied the hard drive.

[8] For these reasons, I am of the view that Armco's proposal for costs is reasonable. Armco submits for one-half of Tariff C costs calculated at the highest level plus the \$10,031 disbursement. By depriving Ms. Armoyan of costs, providing a small contribution to Armco's expenses on the proceeding, and requiring reimbursement for the unnecessary disbursement, the court provides fair

compensation for the expense unnecessarily caused by Ms. Armoyan's lack of candour.

[9] Armco will have an order for costs against Ms. Armoyan in the amount of \$12,031.

J.