

SUPREME COURT OF NOVA SCOTIA

Citation: Edwards v. Edwards Dockrill Horwich Inc., 2010 NSSC 287

Date: 20100720

Docket: Hfx. 175050

Registry: Halifax

Between:

Michael L. Edwards, M.L. Edwards Inc. and Nican Incorporated
Plaintiffs

v.

Edwards Dockrill Horwich Incorporated, Minnej (N.S.) Incorporated, Michael Dockrill and James N. Horwich, carrying on business under the firm name and style of "Dockrill Horwich Chartered Accountants", Michael Dockrill as principal trustee of the M.B. Dockrill Family Trust and James N. Horwich, as principal trustee of the J.N. Horwich Family Trust

Defendants

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Judge: The Honourable Justice A. David MacAdam

Heard: May 25, 2010 in Halifax, Nova Scotia

Final Written Submissions: May 17, 2010

Written Decision: July 20, 2010

Subject: Costs; Entitlement; Mixed Results; Conduct of Parties

Summary: The proceeding arose out of the breakup of an accounting firm. The plaintiffs advanced claims for recovery of consulting fees, oppression and breach of fiduciary duty, among others. While certain of the plaintiffs' claim were allowed in part, the result was mixed, with the defendants being successful on elements of their counterclaim. Both

parties claimed to have been successful at trial. Both parties claimed to have incurred legal costs (including fees) in the range of \$400,000.

Issue: Entitlement to costs, the appropriate scale and the method of determining the amount involved.

Result: There was no clear winner at trial, and the manner in which the parties conducted the proceeding did not assist in determining whether one party was more successful than the other. Each side had disregarded the interests of the other in the course of the breakdown of the business. The party witnesses' evidence had been found to be enhanced in the manner most likely to advance their own interests. On the basis of the mixed result and the conduct of the parties, there was no basis to award costs to either party.

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