

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

**Citation:** M.A.B. v. L.A.B., 2013 NSSC 122

**Date:** 20130411

**Docket:** 1201-065983, SFHD-079735

**Registry:** Halifax

**Between:**

M.A.B.

Petitioner

v.

L.A.B.

Respondent

**Judge:**

The Honourable Justice Beryl MacDonald

**Written Submissions:**

April 4, 2013 from Nicole A. Figueira

April 5, 2013 from Stacey Dawn O'Neill

**Counsel:**

Nicole Figueira, counsel for the Petitioner

Stacey Dawn O'Neill, counsel for the Respondent

**By the Court:**

[1] On March 12, 2013 I provided a written decision in this matter. It is reported as *M.A.B. v L.A.B.* 2003 NSSC 89. I invited the parties to provide written submissions if either requested a cost award. Both counsel have now provided those written submissions.

[2] In coming to this decision I have considered the principles I described in *Gagnon v Gagnon* 2012 NSSC 137.

[3] The Mother was the successful party at trial. She had provided the Father with a Settlement Proposal and later with an Offer to Settle pursuant to Civil Procedure Rule 10, both of which contained terms somewhat more advantageous to the Father than the results of my decision. These factors argue in favor of an award of costs to the Mother.

[4] The Mother suggests costs according to the tariff using the “rule of thumb” principle to determine the amount involved. This proceeding required a two day trial . She requests, to provide adequate contribution toward her legal expense, costs on the basic scale with the addition of \$2,000.00 per day, providing a total of \$10,250.00.

[5] The Father argues he has no ability to pay this cost award. I considered his financial situation when I provided for monthly payment toward his retroactive child support obligation. I am not satisfied a cost award will prevent him from adequately caring for his children when they are with him. In addition, my order will provide for the collection of part of the cost award through the Maintenance Enforcement Program. This will reduce the lump sum he will be required to pay.

[6] The Father is to pay costs to the Mother in the amount of \$3,000.00 which solely relates to the portion of her application requesting ongoing and retroactive child support. This is to be paid by the Father in installments of \$100.00 per month, payable to the Mother through the Maintenance Enforcement Program until paid in full.

[7] The Father is to pay costs to the Mother in the amount of \$7,250.00 for the balance of her cost award.

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Beryl MacDonald, J.S.C.