

SUPREME COURT OF NOVA SCOTIA

Citation: *MacMillan v. MacMillan*, 2016 NSSC 361

Date: 2016-10-19

Docket: PtH No. 335261

Registry: Port Hawkesbury

Between:

Ronald J. MacMillan and Gary MacMillan

Plaintiffs

v.

Norman MacMillan

Defendant

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Judge: The Honourable Justice Patrick J. Murray

Heard: By written submissions received May 30, 2016 and May 31, 2016

Cost Decision: October 19, 2016

Summary: Costs. Plaintiffs argued costs should not be awarded, rather each party bearing its own costs. The Plaintiffs argued there were mixed results, with neither party receiving what they sought. Neither party sought the appointment of Commissioners to divide the land.

The Defendant sought costs, because: i) costs follow the cause; ii) he was largely successful; iii) numerous offers to settle were made by him; and iv) while not identical, the final outcome is close to what the Commissioners decided.

Result: The Court awarded the Defendant costs in the amount of \$30,000 plus the disbursements claimed for a total of \$32,410.77.

Cases cited: *Force Construction Ltd. v. Campbell*, 2008 NSSC 310; *Hines v. N.S. Registry of Motor Vehicles*, [1990] 99 N.S.R. (2nd) 167; *Landymore v. Hardy*, [1992] 112 NSR (2d) 410; *GE Canada Equipment Financing G.P. v. 3068485 Nova Scotia Ltd.*, 2010 NSSC 204; *Founders Square Ltd. v. Nova Scotia (Attorney General)*, 2000 NSSC 70; *Armoyan v. Armoyan*, 2013 NSCA 136 (CanLII).

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