

**SUPREME COURT OF NOVA SCOTIA**  
**(Family Division)**

Citation: Fedortchouk v. Boubnov, 2018 NSSC 66 and 2017 NSSC 233

**Date:** 20180329  
**Docket:** 1201-065948  
**Registry:** Halifax

**Between:**

Iana Fedortchouk

Applicant

and

Pavel Boubnov

~~Respondent~~

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**Judge:** The Honourable Associate Chief Justice Lawrence I. O’Neil

**Hearing:** December 7, 8, 9, 2015; January 25, 26, 27, 2016; February 10, 12, 22, 24, 29, 2016; October 17, 18, 19, 21, 24, 2016; November 15, 21, 2016; March 3, 17, 20, 21, 2017; and May 9, 2017, in Halifax, Nova Scotia

**Issues:** What is the best parenting arrangement for the parties four (4) children? What has been and what is the ongoing obligation of the parties to pay child support and to contribute to the special and extraordinary expenses of the children? Has the equalization payment provided for in the parties’ separation agreement been retired by set off ?

**Summary:** The Court issued two decisions. The first decision dealt with parenting issues. The second decision addressed historical and ongoing financial issues.

The decision on parenting issued August 31, 2017 (2017 NSSC 233). The Court confirmed the parenting status quo of the children. The youngest child’s primary care and his sister’s primary care remained with the mother. One son remained in the primary care of the father and the oldest was found not to be a child of the marriage.

The decision addressing unresolved financial issues issued in March 2018. The Court ordered that the equalization payment plus interest on it, as provided for in the parties’ separation agreement, is to be paid to the father on or before June 30, 2018 (2018 NSSC 66).

The Court found the provisions in the parties’ separation agreement dealing with child support and the payment of special expenses to be

inapplicable because they were uncertain, contrary to s.13 of the Child Support Guidelines and because the parties themselves sought to abandon these provisions within months of concluding the separation agreement.

The Court applied the economics of scale approach for the period of approximately two (2) years when the parents had a hybrid parenting arrangement. For other periods until August 2017 and ongoing, the Court determined the parties' child support obligations based on traditional conclusions as to the residency of the children; the parties' incomes and the child support tables. The Court also set global amounts as each party's historical and ongoing contribution to the special expenses of the children.

The Court found Mr. Boubnov had met or exceeded his obligation to contribute to meeting the special expenses of the children. The Court found a net financial obligation to Mr. Boubnov in the amount of \$16,057.27 in addition to the equalization payment of \$47,200 plus interest due him.

**Keywords:** Best interests; hybrid parenting; setoff; shared parenting;

**Legislation:** *Divorce Act, RSC 1985, c 3 (2nd Supp)*  
*Maintenance and Custody Act, R.S., c.160, 1989*  
*Parenting and Support Act, R.S., c.160*  
*Child Support Guidelines, SOR/97-175*

**Cases Considered:** *Fedortchouk v. Boubnov, 2017 NSSC 233*  
*Fedortchouk v. Boubnov, 2013 NSSC 277*  
*D.B.S. v. S.R.G., 2006 SCC 37*  
*Kerr v. Baranow, 2011 SCC 10*  
*Mitsui & Co. (Point Aconi) Ltd. V. Jones Power Co., 2000 NSCA 95*  
*Fridman, The Law of Contract in Canada, Carswell, 6th Edition 2011*  
*Day v. Day, 2006 NSSC 111*  
*Child Support Guidelines in Canada, 2015, Irwin Law*  
*Slawter v. Bellefontaine, 2012 NSCA 48*  
*MacDonald v. Pink, 2011 NSSC 421*  
*Harrison v. Falkenham, 2017 NSSC 139*  
*Contino v. Leonelli-Contino, 2005 SCC 63*

**Authors Cited:** *Child Support Guidelines in Canada, 2015, Irwin Law*  
 JP Boyd

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