IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: *Bean v. Bean*, 2005 NSSF 13

Date: 20050210
Docket: 1201-56707 (SFHD-14874)
Registry: Halifax

Between:

Constance Elizabeth Bean

Petitioner

v.

William Gordon Bean

Respondent

Judge: The Honourable Assoc. Chief Justice Robert F. Ferguson

Heard at: Halifax, Nova Scotia

Written Decision: February 10, 2005

Counsel: Sally B. Faught, for the Petitioner
G. Michael Owen, Q.C. for the Respondent

By the Court:

[1] Constance and William Bean were married on February 18, 1987, and separated on June 15, 2000. They are the parents of Laura, born […], 1985, and Justin, born […], 1988. Mr. and Mrs. Bean entered into an extensive Separation Agreement on July 3, 2002. Because of the numerous references to this document in this decision and submissions as to the intent to be attributed to its specific and general wording, the agreement is attached and noted as Schedule "A."

[2] In April, 2002, Mrs. Bean petitioned for divorce seeking the following relief:

Divorce Act

Divorce Custody (Joint)
Child Support (according to the *Child Support Guidelines*) Costs

Matrimonial Property Act

Division of property as per Separation Agreement

[3] Mr. Bean filed an Answer in May of 2002 seeking the following relief:

Divorce Act

Joint Custody Access
Costs
Division of Matrimonial Property as per Separation Agreement

[4] After numerous court appearances the issues evolved and were set out as follows in the parties' pre-trial memorandums. Mrs. Bean's pre-trial memorandum, at p. 10 under the heading of "Issues," states:

1. To what extent should the parties' Cooperative Parenting Plan form a part of the Corollary Relief Judgment?
2. What is the appropriate quantum of child support?
3. Should retroactive child support the (sic) ordered and if so, in what amount?
4. What expenses of the children should be shared between the parties?
5. Should the parties' separation agreements be set aside with respect to the division of the equity of the matrimonial home, or in the alternative is the petitioner entitled to an award of damages for breach of contract?"

[5] Mr. Bean, beginning at p. 5 of his pre-trial memorandum under the heading

"General Issues," states:

[A] <u>Divorce Act</u>
i. Should there be detailed access provisions for the children as requested by Connie?
ii Child support pursuant to the Federal Support Guidelines and is Connie entitled to some retro-active child support?
iii What expenses are to be included as Section 7 expenses and should non-Section 7 expenses be included?
[B] <u>Matrimonial Property Act</u>
i. Should the property settlement be re-opened?
ii Can Ms. Bean assert a claim to one-half of the net proceeds of the sale of 390 Mason's Point Road given all property was divided in July, 2000?
iii Can one asset value be adjusted in isolation of the rest of the property settlement?"

DIVORCE

[6] I have heard the evidence as to the possibility of reconciliation and determined there is no such possibility. I am satisfied all matters of jurisdiction have been fulfilled. The requirements of the *Divorce Act* have been complied with in all respects and the grounds for divorce as alleged has been proved. The Divorce Judgment shall be granted on the grounds set forth in s. 8(2)(a) of the *Divorce Act* in that there has been a breakdown of the marriage and the spouses have lived separate and apart for more than a year immediately preceding the determination of the divorce proceeding and have lived separate and apart since the commencement of the proceeding.

CUSTODY AND ACCESS PROVISIONS

Relevant Legislation

[7] The *Divorce Act*: Section 16 "order for custody" with particular reference to ss. 16.(4) "joint custody or access," 16.(8) "factors," and 16.(10) "maximum

contact."

[8] The Separation Agreement, paragraph 6 entitled "Child Care" refers to the Cooperative Parenting Plan attached to the Agreement. The Cooperative Parenting Plan is detailed. It has numerous paragraphs with the following headings:

> General
> Principles of the Parent Plan
> Specific Time and Residence Schedule Guidelines of Good Communication Changes to the Parenting Plan Agreement Length of the Parenting Plan Agreement Child Support Provisions

[9] The parents do not object to the continuation of this parenting plan with the exception that the portions listed under "Specific Time and Residence Schedule" and "Child Support Provisions."

[10] While the children continue to spend time with both parents, the specific day-to-day provisions are not being followed. Laura has not complied with the schedule for some time. Justin, while being more faithful, is currently not abiding by the schedule. Four years have passed since the schedule took effect. Both children testified indicating a wish to continue to reside with both parents. They, however, do not wish to have their contact structured as in the agreement. They desire more latitude in making their own arrangements. Mr. Bean believes the residence schedule should be deleted from the parenting plan. Mrs. Bean submits the schedule should remain in effect especially as it relates to Justin. She believes to eliminate it would provide Justin, given his age, with an added burden rather than freedom. Neither party proposed an alternative detailed residence schedule.

[11] The children believe that such a routine is not necessary or appropriate for

them to continue their relationship with their parents. The parenting plan, without this section relating to residence schedule, still provides considerable detail as to Mr. and Mrs. Bean's responsibilities as custodial parents.

[12] At this time, given the children's ages, their view as to compliance with the residence schedule and the length of time they have been interacting with their parents without complying with such schedule, it would be practically impossible to impose such a regime on them. Further, I do not find it in their interest that such specific requirement continue to be court ordered. I conclude that the section of the Cooperative Parenting Plan entitled "Specific Time and Residence Schedule" be deleted from the plan. The remaining portion of the plan shall remain in effect as stipulated in the Separation Agreement.

CHILD SUPPORT

Relevant Legislation

[13] The *Divorce Act*, specifically s. 2.(1) "child of the marriage" and s. 15.(1) "child support orders."

[14] The *Federal Child Support Guidelines*, specifically s. 7 "special or extraordinary expenses," s. 9 "shared custody," and s. 15(2) to 15(19) "determination of annual income."

[15] Both parties are seeking a determination as to ongoing child support; both with regard to the table amount and special and extraordinary expenses. Mrs. Bean is also seeking retroactive child support.

[16] The Separation Agreement states Mr. and Mrs. Bean have annual incomes of $110,000.00 and $30,000.00 respectively while requiring Mr. Bean to provide child support in the amount of $400.00 per month.

Entitlement

[17] Justin is sixteen and in attendance at school. Laura is nineteen and her educational future is not quite as clear. She is working part-time and testified she intends to return to an educational pursuit. I find both siblings remain children of the marriage in accordance with the *Divorce Act* and are entitled to child support.

[18] The federal *Guidelines* table amount indicates that Mr. Bean with an income of $110,000.00 would provide Mrs. Bean with child support in the amount of $1,349.00 per month for their two children. Conversely, Mrs. Bean with an income of $30,000.00 would be required to contribute $260.00 per month to Mr. Bean. As the parents are sharing "custody" in accordance with the *Guideline* terminology, Mr. Bean would normally have been required to provide Mrs. Bean with an amount of $911.00 per month. Mrs. Bean submits she accepted an amount of $511.00 less than is normally prescribed as an acknowledgement of the financial burden to Mr. Bean of maintaining the matrimonial home as a residence for the children. Mr. Bean sold the Mason Point home in June of 2002. Mr. Bean began to pay Mrs. Bean $911.00 per month in November of 2002. Mrs. Bean requests such support should be made retroactive to the date of the agreement or, in the alternative, to the date of the sale of the home. Mr. Bean agrees he was providing monthly child support of a lesser amount than dictated by the *Child Support Guidelines*. He submits the amount was part of a global resolution of the family

separating. He further submits that, since the inception of the agreement, the items purchased by Mrs. Bean and attributed to him as a special expense for the children required him to spend money on the children beyond what would have been paid had he been providing for the children by paying the normal table amount. He rejects a request for the payment of retroactive child support.

ONGOING CHILD SUPPORT PROVISIONS

Parents Incomes for the Purposes of Determining Ongoing Child Support

[19] Mr. Bean submits the court should impute income to Mrs. Bean pursuant to s. 19.(1) of the *Federal Child Support Guidelines* which states:

> 19.(1) The court may impute such amount of income to a spouse as it considers appropriate in the circumstances, which circumstances include the following:
>
> (a) the spouse is intentionally under-employed or unemployed, other than where the under-employment or unemployment is required by the needs of a child of the marriage or any child under the age of majority or by the reasonable educational or health needs of the spouse.

[20] I have considered the evidence and submissions of Mr. Bean on this point and do not conclude this as an instance where income should be imputed. I do so by finding that Mrs. Bean has made an effort to find employment appropriate with her capabilities and that her income has increased modestly over the last few years.

[21] I find Mrs. Bean's annual income, as stated in a letter from her employer, to be $44,880.00 which would attract a *Guideline* table payment of $640.00 per month for two children.

[22] I find Mr. Bean's annual income, as stated in a letter from his employer, to be $125,000.00 attracting a *Guideline* table payment of $1,550.00 per month for two children.

[23] I conclude the parents continue to share custody of the children as stated in the parenting plan and, in accordance with s. 9 of the *Guidelines*, order Mr. Bean to pay to Mrs. Bean the amount of $901.00 per month beginning April 1, 2004.

SPECIAL OR EXTRAORDINARY EXPENSES

[24] There is currently no provision for providing what is often referred to as s. 7 or special expenses. The evidence reveals the parties have been sharing expenses incurred by either parent on a proportional basis in accordance with their incomes as stated in the agreement. Neither party presented a list of items they wished to be determine s. 7 expenses in the future. It is obvious from the evidence that Mr. and Mrs. Bean purchased and shared the cost of items which, in my view, would not qualify as special or extraordinary expenses in accordance with s. 7 of the *Guidelines*. Some of these items were purchased by agreement. In other cases, a parent felt the provision of his/her portion was forced on them without consultation. It should be open to Mr. and Mrs. Bean to continue to provide their children with items that would not normally be considered special expenses pursuant to the *Guidelines*. This, however, should only occur with the prior agreement of both parties.

[25] It is ordered that Mr. and Mrs. Bean shall share the expense associated with the provision of special or extraordinary expenses as contemplated by s. 7 of the *Guidelines* in accordance with their incomes. Currently, given Mr. Bean's income

of $125,000.00 and Mrs. Bean's income of $48,800.00 a sharing would be on a 71/29 percent basis.

RETROACTIVE CHILD SUPPORT

[26] In ***Davey v. Davey*** (2002), 205 N.S.R. (2d) 367, Williams, J. reviewed the law relating to retroactive support orders. He stated at p. 384-385:

> The factors that govern the discretion to award retroactive support were outlined by Rowles, J.A. in *L.S. v. E.P.* (1999) 50 R.F.L. (4th) 302 (BCCA) (at para.66):A review of the case law reveals that there are a number of factors which have been regarded as significant in determining whether to order or not to order retroactive child maintenance. Factors mitigating in favour of ordering retroactive maintenance include: (1) the need on the part of the child and a corresponding ability to pay on the part of the non-custodial parent; (2) some blameworthy conduct on the part of the non-custodial parent such as incomplete or misleading financial disclosure at the time of the original order; (3) necessity on the part of the custodial parent to encroach on his or her capital or incur debt to meet child rearing expenses; (4) an excuse for a delay in bringing the application where the delay is significant; and (5) notice to the non-custodial parent of an intention to pursue maintenance followed by negotiations to that end. Factors which have mitigated against ordering retroactive maintenance include: (1) the order would cause an unreasonable or unfair burden to the non-custodial parent, especially to the extent that such a burden would interfere with ongoing support obligations; (2) the only purpose of the award would be to redistribute capital or award spousal support in the guise of child support; and (3) a significant, unexplained delay in bringing the application. These principles have recently been specifically adopted by the Nova Scotia Court of Appeal (at pp.6-7, *Conrad v. Rafuse* 2002 Carswell N.S. 181). The Alberta Court of Appeal has recently revisited the issue of retroactive child support making it clear that such orders should be made in appropriate (not only exceptional circumstances) and may make orders that precede the date of commencement of the proceeding (see *Whitton v. Shippett* (2001) A.J. No 1568 (Alta. C.A.) and *Burke v. Burke* (2002) Carswell Alta. 380 (Alta. Q.B.). Catherine Davey has asked that the child support order be varied retroactive to the date she "commenced' that request."

[27] Mr. Bean was, from the date of the Separation Agreement, to November of 2002, providing Mrs. Bean with an amount of $511.00 per month less than would have been normally required in a child sharing arrangement. Mrs. Bean, as

previously noted, stated this was predicated on Mr. Bean's bearing the cost of maintaining the family home. Mr. Bean objects to such reasoning but acknowledges the maintaining of the family home had become an extreme financial burden; a burden that was lifted somewhat with the sale of the property.

[28] Given the factors outlined in ***Davey v. Davey, supra***, I consider it appropriate to exercise my discretion and order Mr. Bean to provide Mrs. Bean with retroactive child support of $511.00 per month for the months of July, August, September and October of 2002, for a total of $2,044.00.

[29] The current child support provisions are contained in the parenting plan which formed part of the Separation Agreement. These provisions will be altered by removing that portion of the provisions contained on page 5 of the agreement and replacing them with the ongoing child support conclusion and the special or extraordinary expense provision previously mentioned.

MATRIMONIAL PROPERTY

[30] The Separation Agreement purports in very detailed and definite terms to be a final settlement and division of Mr. and Mrs. Bean's matrimonial assets and debt together with an acknowledgment it be incorporated in their Corollary Relief Judgment. In this regard, the following paragraphs are specifically noted:

- Paragraph 3 "Acknowledgements"
- Paragraph 4 "Agreement"
- Paragraph 9 "Division of Assets"
- Paragraph 13 "Release of Rights to and Interests in Property"

- Paragraph 17 “Full and Final Settlement”
- Paragraph 19 “Voluntary Execution”
- Paragraph 20 “Independent Legal Advice”

[31] Both parties, in their original documents, Mrs. Bean’s Petition, Mr. Bean’s Answer, indicated the matrimonial property issue would be resolved by incorporating in the Separation Agreement in the Corollary Relief Judgment. Mr. Bean continues to be of that view. Mrs. Bean contends Mr. Bean’s selling of the Mason’s Point property in June of 2002 amounts to a breach of contract entitling her damages or, alternatively, creates a situation where the acceptance of the agreement as finalizing their matrimonial property issues would be unconscionable, unduly harsh or fraudulent and, accordingly, should be varied pursuant to s. 29 of the *Matrimonial Property Act*.

[32] In the Separation Agreement (July 31, 2000) Mr. Bean maintained the Mason’s Point property valued at $235,000.00. In June of 2002 he sold the property for $333,000.00.

[33] Mrs. Bean maintains the Separation Agreement (specifically the Cooperative Parenting Plan and more specifically the child support provisions of this plan) creates an obligation on Mr. Bean to maintain the Mason’s Point property until their youngest child entered university.

[34] By selling the home Mrs. Bean maintains Mr. Bean relieved himself prematurely of a financial burden undertaken in the children’s interests and further made a profit of approximately $100,000.00. Mrs. Bean submits she is entitled to share in this profit. She suggests this sharing could be realized by awarding an

amount as a remedy to a conclusion that Mr. Bean breached the Separation Agreement or varying the agreement and redistributing the matrimonial assets.

[35] Mr. Bean submits there is no agreement that he was to maintain the home for the children until Justin entered university. He acknowledges that he agreed to try and maintain the home for the children; however, his financial situation was such that he could no longer continue maintaining the home. He states that he consulted with the children regarding the sale of the home and the relocation and they agreed to move. He contends the children were and continue to be happy about the move. As a result of the sale of the home, he was in a position to purchase a larger boat to enhance his son's sailing interests. He suggests it was the purchase of this boat that triggered Mrs. Bean's current stance that the Separation Agreement not be processed as she originally noted in her Divorce Petition.

[36] Mrs. Bean submits the value placed on the Mason's Point property in the agreement, the impact on the children of the relocation and Mr. Bean's failure to provide her with notice of his intention to sell are issues that relate to the alternative forms of relief being sought.

VALUATION OF MATRIMONIAL HOME

[37] The Mason's Point property value, for purposes of the Separation Agreement ($235,000.00), resulted from an appraisal of T. R. Montaque dated March 20, 2000. A previous comparative market analysis had been prepared by Barbara Moore (March 15, 2000). Mrs. Bean expressed a reluctance to accept the view of Ms. Moore and Mr. Montaque was retained. Mr. Bean testified Mrs. Bean selected Mr. Montaque. Mr. Montaque testified he did not know Mr. Bean prior to

being retained and forwarded his account to Mrs. Bean. Mr. Montaque also testified he was not aware of Ms. Moore's previous market analysis when he completed his appraisal. While testifying, Mr. Montaque was given the opportunity to comment on Ms. Moore's analysis which estimated the property would sell for between $200,000.00 and $230,000.00.

[38] Kevin Clarke, a real estate consultant, in the fall of 2003, provided Mrs. Bean with an opinion that, in January of 2000, the Mason's Point property had a market value of between $265,000.00 and $275,000.00.

[39] Mr. Montaque has been a licenced real estate appraiser for forty-two years. He is also a licenced real estate broker. Under cross-examination, he maintained his appraisal of March, 2000. He acknowledged his appraisals are often used for the purposes of obtaining financing and not for resale. He further estimated that properties similar to Mason's Point increased in value between thirty and forty percent between 2000 and 2002.

[40] Mr. Clarke is not a licenced real estate appraiser. He acknowledged his assessment is designed for the seller. He acknowledged he is not aware of any changes made in the property or the home by Mr. Bean between July of 2000 and its sale. Mr. Bean testified that he had made considerable changes to the home in the intervening period.

[41] The value placed on the Mason's Point property for the purpose of settling Mr. and Mrs. Bean's financial affairs was provided by an appraiser with forty years experience. He did not know Mr. Bean prior to being hired. I conclude he performed his assessment in a professional and neutral manner. When questioned

about his conclusions four years later with the knowledge of the recent sale price, he maintained his original opinion.

CHILDREN'S RELOCATION

[42] Both children testified. I conclude they were both consulted prior to the sale of the matrimonial home. Further, that they had input into the general area and type of home to which they would relocate. They both prefer their current home and surroundings to the Mason's Point property. The move did not result in a change of school, friends or activities.

NOTICE OF INTENTION TO SELL

[43] Mrs. Bean submits Mr. Bean should have provided her with advance notice of his intention to sell the property. The notice she maintains would have allowed her the opportunity to purchase the property and maintain it for the children.

[44] Mr. Bean's response is that, as the sole owner of the property, he had no legal responsibility to provide her with such notice or, in effect, offer her the first opportunity to purchase. Further, he testified there were "For Sale" signs on the property for some period prior to its sale. Mrs. Bean suggests Mr. Bean counselled the children not to inform her of the pending sale. Mr. Bean rejects such a suggestion acknowledging that he may have had general discussions with them as to leaving family matters to the adults.

[45] The children acknowledge being aware the property was for sale and not mentioning it to their mother. I am satisfied with their explanation of wishing to

avoid discussing contentious issues between the parents.

[46] I conclude there were "For Sale" signs on the property prior to the sale. I find Mr. Bean's not providing Mrs. Bean with personal notice that the property was to be made available for sale does not advance her cause for the relief being sought.

BREACH OF SEPARATION AGREEMENT

[47] This is not, as is often the case, a situation where the issue is if there was or was not an agreement between the parties. Both parties acknowledge the agreement. Mrs. Bean submits Mr. Bean breached the agreement. Her evidence in support of this conclusion is the wording of the agreement and the sale of the home in June of 2002. Mrs. Bean maintains the general and specific wording of the Separation Agreement, including the Cooperative Parenting Plan, with its child support provisions, creates an obligation on Mr. Bean to maintain the Mason's Point property beyond the date it was sold. There is nothing in the Separation Agreement (paragraphs 1 through 26) that creates an obligation on Mr. Bean to maintain the property for a specific period. By virtue of paragraph 9, Mrs. Bean is required to execute a Quit Claim Deed to Mr. Bean of the property. The Cooperative Parenting Plan, part of the agreement, states at page 1, "Bill will maintain the family residence at 390 Mason's Point Road." Further, at page 4:

> (c) Moving the children again, at their ages and after all the changes they have already been through, would cause them emotional distress. Every reasonable attempt should be made for the parents to maintain the 390 Mason's Point home for the children, at least until the younger child goes to college (7 years)."

[48] With respect, I cannot agree with Mrs. Bean's submission. If the sale of the

matrimonial home prior to Justin entering university was a condition to this agreement, one would expect to have found it stated in clearer language, for example, it could have been mentioned in paragraph 9 of the agreement in conjunction with the execution of the Quit Claim Deed. It could have been found as a recital in the Quit Claim Deed. I conclude this Separation Agreement created a burden on Mr. Bean to make every reasonable attempt to maintain the Mason's Point property home. The evidence establishes he made such an attempt. When it became beyond his financial capabilities, he sold the property and provided appropriate living accommodations for the children within the same general area.

[49] I do not find Mr. Bean breached the Separation Agreement.

MATRIMONIAL PROPERTY ACT APPLICATION

Relevant Legislation

[50] Section 29 of the *Matrimonial Property Act* states:

> 29 Upon an application by a party to a marriage contract or separation agreement, the court may, where it is satisfied that any term of the contract or agreement is unconscionable, unduly harsh on one party or fraudulent, make an order varying the terms of the contract or agreement as the court sees fit. R.S., c. 275, s. 29.

[51] Mrs. Bean submits, and I quote from paragraph 87 of her Pre-Trial Memorandum:

> 87. In this proceeding the problem is that it's the breach of the agreement with respect to the issue of the matrimonial home that makes the agreement's continuing execution harsh and unconscionable. The respondent wishes to uphold the agreement his breach of which has enriched him.

FRAUD

[52] There is no evidence before me from which I could conclude that any term of the agreement, particularly the term regarding the valuation of the Mason's Point property, was the result of fraud, nor is there any evidence before me from which I could conclude that Mr. Bean or the real estate appraiser acted in a fraudulent manner in relation to the settlement agreement.

UNCONSCIONABLE

[53] I quote directly from Mrs. Bean's Pre-Trial Memorandum at p. 19:

> 28. Mr. Justice Hallett of our court in ***Crouse v. Crouse*** (#1201-37061), unreported - December 20th , 1988) considered at some length the authorities on the power of the court to set aside an unconscionable agreement. At page 12 of the decision, Hallett, J. stated:
>
> > To succeed on the ground that the bargain was unconscionable, the petitioner must show that there was inequality in the position of the parties arising out of ignorance, need or distress which left her in the power of her husband and secondly that the bargain she reached was substantially unfair to her.

[54] Both parties had legal counsel in the preparation of this detailed Separation Agreement. Mrs. Bean was personally involved, especially in the wording of the Cooperative Parenting Plan. Mrs. Bean was disturbed that Mr. Bean was unwilling to vacate the matrimonial home. However, it has not been shown that, at the time of entering into the agreement, there was an inequality in their positions, particularly with relation to Ms. Bean's ignorance, need or distress.

UNDULY HARSH

[55] At p. 20 of her Pre-Trial Memorandum, Mrs. Bean refers to the case of *Mundinger v. Mundinger* (1968), 3 D.L.R. (3d) 338. A portion of that quote states:

> 32. Section 29 sets out three situations, any one of which would justify a court setting aside the agreement. The requirements are disjunctive. Under appropriate circumstances, "unconscionable" or "fraudulent" agreements can be set aside on principles of equity. *The statute introduces a further ground - when the contract is "unduly harsh on one party". (Emphasis added)*
>
> 33. I have no hesitation in finding the agreement before me was "unduly harsh' on the husband. In doing so, I recognize the need to protect the sanctity of the freedom to contract. Obviously an agreement which could only be characterized as unbalanced or unfair should not be set aside as being unduly harsh. I would suggest the agreement should be found so severely unjust as to show on its face a disregard for the rights of one party. It is a test which would be more difficult to meet when both sides have had the benefit of legal counsel.

[56] As previously noted, both parties had counsel when they entered into their Separation Agreement. There is no evidence to support a conclusion Mr. Bean was aware he was receiving the Mason's Point property at an undervalued price. There is evidence to support a conclusion Mrs. Bean was aware the maintaining of the property was a considerable financial burden on Mr. Bean. There is, however, no evidence from which I should conclude she knew she was allowing the property to be conveyed to him at less than an appropriate value.

[57] Mrs. Bean relinquished her interest in the Mason's Point property at a value of $235,000.00. Two years later, the property was sold for $333,000.00. She introduced evidence suggesting that the property should have been valued at the date of the Separation Agreement at between $260,000.00 and $265,000.00. Even if I was to accept her submission as to the value of the Mason's Point property in 2000, which I have not, it would not satisfy me that a Separation Agreement

which, from a matrimonial property aspect, dealt with fourteen items of value and eight items of debt, was unduly harsh or, under these circumstances, should be varied.

[58] It is ordered that the Corollary Relief Judgment should indicate that the division of the matrimonial property is as pursuant to the Separation Agreement.

[59] If either party wishes to be heard as to costs, I request that, within thirty days, they contact scheduling to arrange for a one-half hour hearing before me and notify my office of the date arranged.

J.