

SUPREME COURT OF NOVA SCOTIA

Citation: *Churchill-Keating v Keating*, 2020 NSSC 205

Date: 20200724

Docket: 1204-006672

Registry: Kentville

Between:

Becky Lynn Churchill-Keating

Petitioner

v.

Irving Stanley Keating

Respondent

Judge: The Honourable Justice John A. Keith

Heard: January 27, 28, 29 and 30, February 10 and 18, 2020, in
Kentville, Nova Scotia

Counsel: Lynn Connors, Q.C., for the Petitioner
Irving Keating, self-represented Respondent

By the Court:

INTRODUCTION

[1] The Petitioner Dr. Becky Churchill Keating¹ (“**Dr. Churchill Keating**”) and the Respondent Irving Stanley Keating (“**Mr. Keating**”) met in high school during the fall of 1993 and soon settled into a long-term relationship. They married on August 11, 2001 and have two children together. Their eldest child was born in May 2009 and is 11 years old. The youngest was born in May 2011 and is 9 years old.

[2] The parties separated on August 25, 2017. There is no possibility of reconciliation.

[3] On October 6, 2017, Dr. Churchill Keating filed a Petition for Divorce, with Mr. Keating filing an Answer on December 4, 2017 and an Amended Answer on July 31, 2018.

[4] Mr. Keating and Dr. Churchill Keating should be commended for resolving the priority issues of child custody and child support prior to trial. As part of that resolution:

1. Mr. Keating agreed that the existing custody arrangements should continue, with primary care of their two daughters remaining with Dr. Churchill Keating;
2. Dr. Churchill Keating withdrew her claim to impute income to Mr. Keating. Mr. Keating will pay table support for the two children based on his total income as declared on Line 150 of his tax returns, less his union dues;
3. Dr. Churchill Keating also agreed to pay all Section 7 expenses related to the parties’ children. Mr. Keating accepted that concession.

¹ Dr. Churchill Keating received her Doctorate in Psychology in 2006 – after the commencement of her relationship with Mr. Keating. That said, she is now a practising psychologist. For ease of reference and in recognition of her professional designation, I refer to the Petitioner as Dr. Churchill Keating throughout this decision.

Ms. Connors, Q.C. indicated that she would include the “standard” clauses respecting these issues in the Corollary Relief Order.

[5] Two mainly financial issues remained for judicial determination:

1. **Division of Property:** This aspect of the dispute centred around the significant financial consequences associated with a new home which Dr. Churchill Keating and Mr. Keating built and only began to occupy about three weeks before their separation on August 21, 2017. The dispute revolved primarily around the market value of the new home. Both parties tendered expert opinion evidence on that issue; and there was a dramatic difference in their opinions as to value. Dr. Churchill Keating’s expert concluded that the market value of the home was \$425,000.00 as of January 7, 2019, significantly below the cost of construction. Mr. Keating’s expert concluded that the market value of the home was \$510,000.00 as at March 19, 2019, barely above the cost of construction. In his submissions, Mr. Keating also seeks an unequal division of assets although that remedy was not included in his pleadings; and
2. **Spousal Support:** Mr. Keating claims spousal support from Dr. Churchill Keating. The claim is not based on any contractual arrangement. To the extent the Respondent has a claim for spousal support, it would be compensatory and/or non-compensatory in nature.

[6] Despite the narrowing of issues in dispute, the trial began on January 27, 2020 and continued for six days, including submissions. The relevant evidence often sunk under waves of personal recrimination and historic wounds. Nevertheless, for the reasons below, I have determined that:

1. After determining that the matrimonial property has a value of \$475,000.00, the property is divided in accordance with Schedule “A” attached to this decision, with the equalization payment being made from the sale proceeds of the Oakfield property and the balance to be divided equally between the parties.
2. Mr. Keating is entitled to spousal support of \$1,119.00 per month for five (5) years from the date of this decision.

DIVORCE

[7] The Petitioner seeks a divorce on the grounds that the parties have been living separate and apart since August 25, 2017. The Respondent does not dispute the separation date.

[8] The parties each testified that they have not reconciled since the separation date and would not reconcile if this matter were adjourned.

[9] Based on the evidence I have heard, I am prepared to grant the divorce.

DIVISION OF ASSETS

[10] Nova Scotia's *Matrimonial Property Act*, R.S.N.S. 1989, c. 275, as amended ("*MPA*") governs the division of assets.

[11] In this case, there are two primary disputes related to the division of assets: the value of the matrimonial home and Mr. Keating's claim for an unequal division of assets.

[12] As to the value of the matrimonial home, the parties each presented expert valuation evidence:

1. Dr. Churchill Keating relied on the opinion of Carol Wetmore, CRA, P. App. Ms. Wetmore concluded that the market value of the home was \$425,000.00 as of January 7, 2019 and \$400,000.00 as at the date of separation (August 25, 2017);
2. Mr. Keating relied upon the opinion of Darlene Wooden, CRA, P. App. dated March 27, 2019. Ms. Wooden concluded that the market value of matrimonial home was \$510,000.00 as at March 19, 2019.

Both experts appeared at trial to testify.

[13] I am satisfied that both respected their obligation to the Court and made good faith efforts to offer objective, independent opinion evidence. In valuing the home, both applied a common approach: direct comparison. Indeed, one of the comparison properties was used by both experts in preparing their reports. Having said that, there were glaring differences between the two reports that skewed the results. In particular, there was a significant disagreement in terms of the extent to

which certain items such as unfinished landscaping or an inground pool affected the market value of the matrimonial home.

[14] I do not fully adopt the valuations offered by either expert. On balance, I preferred the explanations offered by Ms. Wooden when justifying her conclusions – particularly in light of the parties’ stated intention to construct the home to a relatively high standard of construction in an upscale neighbourhood. I was also somewhat concerned that Ms. Wetmore’s report contained certain inaccuracies on matters such as the existence of street lights or underground wiring in the subject neighbourhood; as well as her acknowledgement on the stand that she still had to confirm certain details around items such as flooring, security systems and ditches at the matrimonial home.

[15] Yet, I do agree with Ms. Wetmore’s concern that certain of Ms. Wooden’s own adjustments were not reasonable including, for example, the effect of unfinished landscaping and a virtual negligible adjustment made by Ms. Wooden (\$2,000.00) for an inground pool at an otherwise high-end property.

[16] Overall, I am not prepared to simply average the two reports or calculate the midpoint of the values contained in the two reports. I lean slightly towards Ms. Wooden’s report and conclude that the market value of the matrimonial home is \$475,000.00 less real estate commission, legal fees and HST. I note that this market value is lower than the monies borrowed to construct the home, reflecting cost overruns that both parties acknowledged occurred during the course of constructions.

[17] Except for the vehicles discussed below, the values of all other matrimonial assets (including the market value of another property which the parties jointly owned in Oakfield, Nova Scotia) were agreed upon.

[18] At trial, Mr. Keating attempted to resile from certain values which he allocated to his own vehicles in his sworn Statement of Property. In particular, Mr. Keating submitted that his two Volkswagen vehicles had no value at all (\$0.00). Mr. Keating discussed the expenses associated with operating his vehicles but offered no independent evidence to support his arguments that these vehicles had no value. When confronted with his own sworn statement as to their value, he simply sought to shift responsibility to his then-legal counsel. Mr. Keating stated that his former counsel simply allocated “Blue Book” values to vehicles that Mr. Keating now says are, in fact, completely worthless.

[19] I did not have any evidence to support Mr. Keating's position, beyond his statements at trial. In particular, I was not provided with any independent expert valuations for these vehicles. I am not prepared to reduce the vehicle values based only upon Mr. Keating's say, especially as Mr. Keating was prepared to accept those values prior to trial.

[20] I turn now to Mr. Keating's claim for an unequal division of matrimonial assets. I conclude this claim has no merit.

[21] Section 13 of the *Matrimonial Property Act* reads:

Factors considered on division

13 Upon an application pursuant to Section 12, the court may make a division of matrimonial assets that is not equal or may make a division of property that is not a matrimonial asset, where the court is satisfied that the division of matrimonial assets in equal shares would be unfair or unconscionable taking into account the following factors:

- (a) the unreasonable impoverishment by either spouse of the matrimonial assets;
- (b) the amount of the debts and liabilities of each spouse and the circumstances in which they were incurred;
- (c) a marriage contract or separation agreement between the spouses;
- (d) the length of time that the spouses have cohabited with each other during their marriage;
- (e) the date and manner of acquisition of the assets;
- (f) the effect of the assumption by one spouse of any housekeeping, childcare or other domestic responsibilities for the family on the ability of the other spouse to acquire, manage, maintain, operate, or improve a business asset;
- (g) the contribution by one spouse to the education or career potential of the other spouse;
- (h) the needs of a child who has not attained the age of majority;
- (i) the contribution made by each spouse to the marriage and to the welfare of the family, including any contribution made as a homemaker or parent;

- (j) whether the value of the assets substantially appreciated during the marriage;
- (k) the proceeds of an insurance policy, or an award of damages in tort, intended to represent compensation for physical injuries or the cost of future maintenance of the injured spouse;
- (l) the value to either spouse of any pension or other benefit which, by reason of the termination of the marriage relationship, that party will lose the chance of acquiring;
- (m) all taxation consequences of the division of matrimonial assets.

[22] Mr. Keating was self-represented, as indicated. He did not include a request for unequal division of property in his Answer or Amended Answer. He raised this issue for the first time at trial. He also did not refer to any particular statutory authority or case law in support of his position. Rather, he requested an unequal division of property based on his own sense of equity and fairness in the circumstances.

[23] I am bound by the statutory regime and applicable jurisprudence regarding unequal division of property. In *Pothier v Pothier*, 2017 NSSC 230 (“*Pothier*”), Justice Warner provides helpful summary of the applicable legal principles (at paras 122 to 126).

[24] None of the specific factors identified in the applicable statute or case law support Mr. Keating’s claims for an unequal division of property.

[25] In particular and while Mr. Keating offered moral support, he clearly did not make any meaningful financial contribution to Dr. Churchill Keating’s education or career. Similarly, Mr. Keating did not assume any significant ongoing housekeeping, childcare or other domestic responsibilities. Those matters fell primarily upon Dr. Churchill Keating with Mr. Keating’s support.

[26] There is virtually no evidence to suggest that an equal division of assets is either unconscionable or unfair in the circumstances, let alone the strong evidence required to assert such a claim.

[27] Schedule “A”, which forms part of this decision, shows my ultimate determination regarding the division of the real property.

[28] My final comments with respect to Schedule “A” are:

1. **Matrimonial Home:** During the trial, Ms. Connors submitted that Dr. Churchill Keating will have the ability to refinance the matrimonial home within 90 days of my determination. I direct that no later than 90 days from the issuance of the Certificate of Divorce (signifying the end of either party’s right to appeal my determination), Dr. Churchill Keating shall refinance the former matrimonial home removing Mr. Keating from the mortgage and, assuming Mr. Keating is released from any further obligations under the mortgage, transferring title to the matrimonial property to Dr. Churchill Keating. Mr. Keating will sign in a timely fashion any documents or deeds that are reasonably required to:
 - a) Ensure that this refinancing occurs; and
 - b) Subject to Mr. Keating being released from any further obligations under the mortgage, transferring title to the matrimonial home to Dr. Churchill Keating.
2. **Household Contents:** The new matrimonial home was completed just prior to the parties’ separation. In the months preceding separation (and in anticipation of occupying the new home), they jointly purchased new household furnishings.

By way of background, Mr. Keating assumed responsibility for storing many of their household furnishings while the matrimonial home was built. Mr. Keating decided to use a semi-truck trailer container to store these furnishings. Unfortunately, the trailer was not fully sealed. As result, mice and other vermin gained entry. Most of the household furnishings were fouled and ruined as a result.

Notwithstanding, Dr. Churchill Keating was prepared to accept the entirety of the debt associated with purchasing new household furnishings for the matrimonial home on the understanding that this property was purchased shortly before separation and she will become the beneficiary of those purchases with no equalizing value;

3. **Travel Trailer:** I accepted the parties’ agreement regarding the value of the travel trailer. At trial, Dr. Churchill Keating alleged that the trailer has been in Mr. Keating’s possession and it may have diminished in

value due to poor maintenance (rodent infestation). I was provided no additional evidence (e.g. photographs or independent valuation opinion) to support this allegation. I accept the parties' agreement. Adopting the same approach, I took in response to Mr. Keating's attempt to devalue his own vehicles at trial, I am not prepared to reduce the value of the travel trailer below that which was previously accepted by the parties. I also note that Mr. Keating has maintained control over the travel trailer since the separation and will be retaining ownership in accordance with the division of property set out in Schedule "A";

4. **Hot Tub:** The parties agreed to purchase a hot tub when building their new matrimonial home. The value of the hot tub was included in the valuation of the matrimonial home. The value of the debt has been in the division of property as set out in Schedule "A". Mr. Keating suggested he should not be responsible for any part of this debt.

Mr. Keating noted that he applied for the original financing for the hot tub, but the company went bankrupt. Dr. Churchill Keating was forced to renegotiate the terms of the loan. Mr. Keating argued that Dr. Churchill Keating should have just returned the hot tub and that, in all events, he should not be responsible for any part of this loan. I disagree. The parties agreed to incorporate a hot tub into their matrimonial home. The debt associated with that decision is reasonable in the circumstances. Mr. Keating is required to assume his fair share of that debt;

5. Indemnification and Transfers with Respect to Personal Property:
 - a) Dr. Churchill Keating and Mr. Keating shall execute in a timely fashion any documentation reasonably required to transfer title to any of the personal property in accordance with the terms of this decision (e.g. the vehicles Mr. Keating currently drives or the travel trailer which will become Mr. Keating's property in accordance with this decision).
 - b) Dr. Churchill Keating and Mr. Keating shall further execute any document required to release each other from any debt associated with personal property which will belong to the other in accordance with this decision (e.g. the vehicles Mr. Keating currently drives or the travel trailer which will become Mr.

Keating's property) and indemnify the other in respect of any claims made or arising in respect of this property.

6. **Oakfield Property:** As indicated, the parties have agreed on valuation of the Oakfield property. Neither party expressed an interest in developing the Oakfield Property. As a result, the property will be sold, and any residual equity divided. The terms under which this property shall be sold are:

- a) The property shall be immediately listed for sale with a mutually acceptable realtor acting reasonably. Commission payable for the sale of the property shall be 5%. The property will be listed on MLS for no less than \$45,000.00. If the parties cannot agree on a realtor, either may make application to the Court.
- b) The parties shall be bound to accept any offer which is \$45,000.00 or more.
- c) Mr. Keating's obligations to pay Dr. Churchill Keating shall be suspended until such time as the Oakfield Property is sold. That said, Dr. Churchill Keating shall be entitled to payment of the amounts owing to her in priority to any claim by Mr. Keating for his share of the sale proceeds. From the sale proceeds, the following payments shall be made:
 - d)
 - i. the 5% real estate commission,
 - ii. reasonable legal fees and disbursements associated with the sale of the property,
 - iii. the equalization of \$15,740.40 to Dr. Churchill Keating, and
 - iv. any remainder shall be divided equally between the parties.

7. Because this decision is made during an unprecedented health pandemic, the parties are urged to follow any reasonable recommendations of the agreed upon realtor for a quick sale of the property at the best price possible. If any dispute arises respecting either the appointment of a realtor or that realtor's advice or any offer to purchase this property

below \$45,000.00, either party is at liberty to make further application to this Court for a determination of any such dispute.

[29] Finally, both parties have employment pension. Dr. Churchill Keating has a pension as a result of her employment with the Nova Scotia Health Authority and more recently with the Board of Education. Mr. Keating has a pension with Canada Post under the Federal Civil Service Commission.

[30] Mr. Keating suggests that each party simply keeps their own pensions. I disagree. The pensions shall be subject to an equal division at source.

SPOUSAL SUPPORT

a) The Law

[31] Section 15.2(1) of the *Divorce Act*, R.S.C., 1985, c. 3 (2nd Supp.) (the “*Divorce Act*”) confers the requisite jurisdiction to “make an order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse.”

[32] As the proposed recipient of spousal support, Mr. Keating bears the burden of proof.

[33] The analytical path for determining spousal support begins with the preliminary, threshold issue of entitlement. Where there is a demonstrated entitlement to spousal support, the analysis shifts to quantum (how much?) and duration (for how long?).

[34] Before focussing on these discrete elements of spousal support (entitlement, quantum, and duration), it is helpful to identify several concepts which inform the analysis.

[35] The Court’s discretion to award spousal support is broad but it is obviously not arbitrary. In *Fisher v. Fisher*, 2001 NSCA 18, Cromwell, J.A. (as he then was) described the overall principles and goals which govern any determination of spousal support. He wrote that:

The fundamental principles in spousal support cases are balance and fairness. All of the statutory objectives and factors must be considered. The goal is an order that is equitable having regard to all of the relevant considerations. (para 82)

[36] The *Divorce Act* provides more specific objectives and factors which help guide the Court towards a balanced and fair result. Section 15.2(4) of the *Divorce Act* states that the Court:

shall take into consideration the condition, means, needs and other circumstances of each spouse, including:

1. the length of time the spouses cohabited;
2. the functions performed by each spouse during cohabitation; and
3. any order, agreement or arrangement relating to support of either spouse.

[37] These factors must be examined in light of Section 15.2(6) of the *Divorce Act* which states that:

an order ... for the support of a spouse should

- a) recognize the economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
- b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;
- c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and
- d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.

[38] Bearing these broad objectives and factors in mind, a more focussed assessment of each element of the claim for spousal support can begin.

[39] As to the threshold question of entitlement, there are three bases upon which a claim for spousal support may be advanced: compensatory, non-compensatory and contractual. As indicated, there is no contractual basis for spousal support in this case. Mr. Keating's claim for spousal support is compensatory and/or non-compensatory in nature.

[40] With compensatory support, the Supreme Court of Canada confirmed that compensatory spousal support often focuses on the economic losses or disadvantages which arise as a result of roles taken during the marriage (*Moge v Moge*, [1992] 3 S.C.R. 813, referred to as "*Moge*").

[41] *Moge* recognized that the roles taken (or contributions made) by a spouse during marriage may involve personal sacrifices including, for example, impairment of income-earning potential; or foregoing one's own educational and career opportunities; or contributing to the career development of the other spouse. Compensatory spousal support recognizes the financial impact of these contributions or sacrifices. And it provides for a financial response which the Court considers just in the circumstances. As L'Heureux-Dube, J explained in *Moge*, spousal support on a compensatory basis: "seeks to recognize and account for both the economic disadvantages incurred by the spouse who makes such sacrifices and the economic advantages conferred upon the other spouse." (at para 74)

[42] Facts which influence a claim for compensatory support include such things as whether the person claiming support or seeking support has primary care for children after separation; or whether that person contributed to the education or career of the person from whom support is being requested. The form of contribution can vary, but includes direct financial assistance, or physically moving to remain together as a family unit or sacrificing one's own career opportunities to advance those of a spouse.

[43] As to non-compensatory support, the underlying philosophical underpinnings and related financial concerns are different. Compensatory support is premised upon an underlying assumption of independence between spouses. Thus, for example and as indicated, compensatory support offers redress for losses or disadvantages arising out of certain sacrifices made *during* the marriage. As the Supreme Court of Canada indicated in *Bracklow v Bracklow*, [1999] 1 S.C.R. 420 ("***Bracklow***"), compensatory support seeks to ensure that the "clean break", or process of detachment, which follows marital breakdown includes "in a restitutionary sense any economic costs of the marriage on the other spouse" (para 24).

[44] By contrast, non-compensatory support is premised on an underlying interdependence within the marital relationship; and it assesses the extent to which the spouses relied upon (or reasonably expected) a shared life and standard of living. Non-compensatory support seeks to ensure that the financial repercussions associated with ending the marriage recognize the interdependence or merger of interests which developed over time – and offers redress in a manner which is reasonable and equitable. As the Supreme Court of Canada in the leading case of *Bracklow* stated: "marriage is an economic partnership that is built upon a premise

(albeit rebuttable) of mutual support.” (at para 32). Thus, non-compensatory support can ameliorate significant declines in the standard of living suffered by one spouse following the end of a marriage.

[45] When considering, non-compensatory support, the focus also shifts to a comparison of the “needs” and “means” of the parties. On that issue, the court is required to consider the actual ability of the spouse seeking support to fend for himself or herself and the effort that has been made to do so, including efforts made after the marriage breakdown.

[46] Facts which influence non-compensatory claims include the length of the relationship, economic hardship, or a drop in standard of living after separation. (Professor Carol Rogerson and Professor Rollie Thompson, “Spousal Support Advisory Guidelines: The Revised User’s Guide”, Final Draft, February, 2016, p. 10)

[47] If the person seeking spousal support demonstrates entitlement, the analysis advances to the related issues of quantum and duration. These issues are typically addressed through the Spousal Support Advisory Guidelines, including the Revised User’s Guide released in 2016 (collectively, “SSAG”).

b) The Parties’ Positions

[48] Mr. Keating originally did not claim spousal support. However, in an Amended Answer issued July 21, 2018, he sought spousal support under Section 15.2 of the *Act*. In his pretrial submissions, Mr. Keating suggested spousal support in the range of \$1,100.00 to \$1,200.00 per month for ten years. He also seeks retroactive spousal support beginning January 2018. Again, he provides no legal authority beyond the reference to Section 15.2 of the *Act*.

[49] In her brief, Dr. Churchill Keating states that there is no entitlement to spousal support based on compensatory or non-compensatory principles. Alternatively, if there is an entitlement to spousal support, Dr. Churchill Keating states that it should be at the low end of the range and for a limited duration.

c) Entitlement

[50] Mr. Keating has demonstrated entitlement to spousal support on the basis of non-compensatory and compensatory principles. However, in the unique circumstances of this case, Mr. Keating’s claims to entitlement are significantly

weakened by a number of important mitigating factors. These factors, among others, inform the application of the SSAGs which influence a just and balanced remedy. I return to this issue below.

d) Compensatory Support

[51] As to compensatory support, Mr. Keating fell into a pattern of following Dr. Churchill Keating from place to place as she pursued higher education and the corresponding professional opportunities. His financial role in the marriage became somewhat subordinated to Dr. Churchill Keating's professional aspirations. As a result, Mr. Keating's experienced a measure of economic disadvantage. This pattern began to emerge relatively early in their relationship.

[52] Mr. Keating and Dr. Churchill Keating began dating in high school. They graduated from high school in June, 1995.

[53] In September, 1995, Dr. Churchill Keating enrolled at Saint Mary's University in Halifax, Nova Scotia. She graduated four years later with a B.A. (Honours) in Psychology. She lived at her parent's home throughout this time, received some scholarship funding, and worked part-time. In short, she largely paid for her own undergraduate education.

[54] For his part, Mr. Keating envisioned a career in forestry after high school. In 1995 - 1996, Mr. Keating attended Bridgewater Community College and completed the forestry programme. In 1997, he graduated from the Maritime Forest Ranger School (now called the Maritime College of Forest Technology) in Fredericton, New Brunswick.

[55] For the next two years (1997 - 1999), Mr. Keating worked with Nova Scotia's Department of Environment on a seasonal basis (April – November) as Dr. Churchill Keating completed her undergraduate degree. Again, he hoped to pursue a career in forestry and, perhaps, supplement his income as a broker of exotic or expensive timber.

[56] While Mr. Keating consistently maintained a separate career, it is clear that he also left jobs so that he might live closer to wherever Dr. Churchill Keating's educational and professional opportunities took her. Dr. Churchill Keating's career choices predominated. The couple initially lived in Ontario so as to allow Dr. Churchill Keating to complete her education as a psychologist and then to pursue the opportunities that her chosen profession allowed. The couple stayed in

Ontario for Dr. Churchill Keating's first year as a psychologist, then moved back to Nova Scotia based on employment opportunities that Dr. Churchill Keating's chosen profession created. By contrast, even though Mr. Keating's employment history initially reflected an interest in forestry, his career opportunities ultimately depended more on what employment might be available in those places where they moved as a couple.

[57] I acknowledge that both parties testified as to a desire to return to Nova Scotia in order to raise a family. However, the timing of that move was again based upon career opportunities available to Dr. Churchill Keating – and not Mr. Keating. Mr. Keating agreed to the move and had the same desire to raise their family in Nova Scotia. However, how, and when that move became possible was more a function of Dr. Churchill Keating's employment opportunities.

[58] In the fall of 1999, after graduating from Saint Mary's, Dr. Churchill Keating moved to Toronto, Ontario to begin post-graduate work at York University. Mr. Keating followed in January, 2000 after completing another season working with Nova Scotia's Department of Natural Resources. Upon Mr. Keating arriving in Ontario, they began to cohabit as a couple.

[59] On August 11, 2001, he and Dr. Churchill Keating were married. Dr. Churchill Keating had just received her M.A. in Psychology and would begin working towards her doctorate at York University that September.

[60] About a year after their marriage, they bought a parcel of undeveloped land in Oakfield, Nova Scotia, even though they were still living in Ontario at the time. This property was relatively close to Halifax. It was purchased as part of a longer-term dream that they would eventually move back to Nova Scotia. The deed for this Oakfield property names Dr. Churchill Keating and Mr. Keating as owners in joint tenancy.

[61] During the first few years in Ontario, Mr. Keating's employment history was somewhat unsettled. He remained on unemployment insurance during his first year in Ontario. He then cycled through several relatively short-term jobs which often involved travel through Ontario, Quebec, and northern US states. At one point, Mr. Keating lived temporarily in Montreal as part of his employment.

[62] Dr. Churchill Keating was also compelled to move from Ontario for a period of time. In 2004 – 2005, she lived in Syracuse, New York while completing the residency portion of her doctorate.

[63] Despite these moves and times apart, I accept that Mr. Keating and Dr. Churchill spent as much time as they could together and lived as a couple, as best they could.

[64] In 2006, Dr. Churchill Keating was granted her Ph.D. in Clinical Development Psychology.

[65] By the time Dr. Churchill Keating received her doctorate, Mr. Keating's employment prospects had improved significantly. He had been working full time for several years with a company called Interforest Ltd. in Durham, Ontario. Interforest Ltd. operates in the forestry sector as a manufacturer and seller of lumber and decorative veneer.

[66] In March, 2007, he and Dr. Churchill Keating mutually decided to move back to Nova Scotia. There were three main reasons:

1. Dr. Churchill Keating had finished her Doctorate degree in Psychology and also fulfilled a one-year work term with the Grand River Hospital in Kitchener, Ontario where she covered for a person on maternity leave;
2. Dr. Churchill Keating and Mr. Keating wanted to begin their own family in Nova Scotia where they were both raised and where their immediate families still lived; and
3. Dr. Churchill Keating secured a full-time position as a clinical psychologist with the Valley Regional Hospital in Kentville, Nova Scotia.

[67] As part of this move back to Nova Scotia, Dr. Churchill Keating bought a home at 966 Parkview Drive, Centreville, Nova Scotia in March, 2007. The undeveloped property which they already owned in Oakfield was simply too far away from Dr. Churchill Keating's new job.

[68] The new home in Centreville was purchased by Dr. Churchill Keating alone. The mortgage taken out to purchase this home was also in Dr. Churchill Keating's name alone. During the trial, it was explained that Dr. Churchill Keating purchased the house in her own name because Mr. Keating had no job in Nova Scotia and no meaningful ability to contribute to the mortgage in any event.

[69] Both Dr. Churchill Keating and Mr. Keating accepted the fact that Mr. Keating would be required to leave his job at Interforest to move home. While at

Interforest, he worked within his chosen industry (forestry) and he had achieved at least a measure of full-time work and job security that he had not previously enjoyed. In addition, both Dr. Churchill Keating and Mr. Keating accepted the fact that he did not have a replacement job awaiting his return to Nova Scotia. Again, Mr. Keating's career was subordinated to that of Dr. Churchill Keating and their mutual decision to raise a family in Nova Scotia.

[70] Once in Nova Scotia, it took Mr. Keating about two years to achieve a level of job security similar to what he left behind with Interforest in Ontario. He would also eventually abandon a career in forestry. The brief chronology is:

1. Upon arriving back in Nova Scotia, Mr. Keating initially found work with a company called Asplen, but his employment was soon terminated;
2. He then returned to seasonal employment with the Department of Natural Resources, working on local fire crews and in provincial parks. At around this time, he also supplemented his income by delivering papers. He also applied to the park warden or conservation officer program at Holland College but was not accepted.

[71] There was a dispute as to the underlying reasons for any difficulties suffered by Mr. Keating in trying to find stable work following their return to Nova Scotia. A good deal of court time was spent dealing with the countervailing allegations.

[72] Dr. Churchill Keating argued that Mr. Keating's first job at Asplen was terminated "with cause" and she raised concerns that many of the problems which arose for Mr. Keating were self-inflicted. She described concerns over alcohol and marijuana abuse, portraying Mr. Keating as volatile and confrontational – both at home and at work. She attributed Mr. Keating's inability to obtain admission to Holland College and other problematic aspects of Mr. Keating's behaviours, at least in part, to ADHD and his refusal to accept proper treatment for this disorder.

[73] Dr. Churchill Keating's mother offered similar testimony on these issues; and expressed concerns over Mr. Keating's turbulent work history, alcohol consumption, lack of organization and a disinterested, dismissive approach to issues involving money.

[74] Mr. Keating rejected all of these accusations including Dr. Churchill Keating's diagnosis of ADHD. As to Asplen, Mr. Keating argued that he was "wrongfully terminated". In support of his position, Mr. Keating testified that he

successfully appealed the denial of unemployment insurance benefits after his job with Asplen was terminated. He flatly denied any drug or alcohol abuse and suggested that both he and Dr. Churchill Keating would drink socially from time to time. He also denied having ADHD, implying that these accusations were more of a manipulative ploy on the part of Dr. Churchill Keating to gain some advantage or diminish him.

[75] I am not prepared to draw any conclusions or inferences around the allegations made against Mr. Keating in terms of ADHD, drug or alcohol abuse, or the underlying reasons for any issues Mr. Keating experienced in the workplace. There was simply insufficient evidence and, it should be noted, no evidence from independent third parties who might have spoken to these issues.

[76] There is compelling, direct evidence around the family's finances and Mr. Keating's contribution to the family's finances. That issue is germane to my findings on spousal support, and I return to it below. For present purposes, and on the issue of entitlement, I am satisfied that Dr. Churchill Keating's career was enhanced by their mutual decision to return to Nova Scotia. By contrast, Mr. Keating's income and career status was compromised, certainly from 2007 until about 2009 when Mr. Keating finally abandoned a career in forestry in exchange for a more stable and secure position with Canada Post.

[77] Mr. Keating began working with Canada Post on a part-time basis at around the same time their eldest daughter was born (May 9, 2009). He had decided that a career in forestry was not sufficiently secure or viable. He continued to spend considerable amounts of his spare time trying to earn additional income buying and selling logs but conceded that those efforts never proved to be especially profitable.

[78] On February 10, 2010, Canada Post hired Mr. Keating on a full-time basis. About six months later, on August 15, 2010, Mr. Keating joined the Canada Post pension plan. As at the date of trial, Mr. Keating had worked full-time for Canada Post for more than 10 years.

[79] In summary, Mr. Keating made sacrifices during the marriage for the sake of his family and those sacrifices created at least a degree of economic disadvantage sufficient for spousal support on a compensatory basis.

[80] That said, there are important issues that weigh heavily upon the issues of quantum and duration. While Mr. Keating's entitlement to spousal support does

not sink and vanish beneath these factors, they do influence the application of the SSAGs. I discuss these issues in greater detail below.

e) Non-Compensatory

[81] As for entitlement to spousal support on non-compensatory principles, I similarly find that Mr. Keating suffered a measure of economic hardship due to the marital breakdown and the related loss of interdependency that developed during the course of the marriage. Evidence of their expanding interdependency (or merger of interests) includes:

1. jointly purchasing the property in Oakfield; and
2. joint retirement planning which involved, for example, mutual decisions regarding RRSP contributions to ensure maximum tax benefits.

[82] Their mutual decision to jointly finance the purchase and construction of a new home in Canaan, Nova Scotia, and the fallout from their separation shortly after the home was finished, also illustrates a degree of interdependency. The facts include:

1. On or about June 28, 2016, Dr. Churchill Keating sold the home in Centreville which she bought in March, 2007 as part of their move back to Nova Scotia. The deed to this home was in Dr. Churchill Keating's name alone, as was the mortgage taken out to purchase this home.
2. After the sale of their home, the family spent the summer in a trailer purchased mainly with funds inherited by Dr. Churchill Keating following the death of her grandmother. When summer was over, they moved into a condominium in Wolfville, Nova Scotia where they planned to stay until their new home was built;
3. On November 1, 2017, they bought an undeveloped parcel of land at 20 Heron Drive, Canaan, Nova Scotia, just outside of New Minas. By this time, Mr. Keating was employed with Canada Post. Unlike the purchase of their first home in Centreville (where Dr. Churchill Keating was on the deed by herself), Mr. Keating and Dr. Churchill Keating owned this land as joint tenants. Similarly, he also signed as a joint debtor the mortgage to finance the construction of their new home on this lot;

4. The new home was located in a new and desirable subdivision. And the quality of construction was relatively high. It was clearly the nicest home that the family ever occupied. I accept that Mr. Keating expected to be living in their new residence for the foreseeable future;
5. Mr. Keating and Dr. Churchill Keating separated shortly (approximately 3 weeks) after the home was finally finished and the parties began occupancy. Mr. Keating moved out and his standard of living dropped immediately and precipitously. Indeed, as indicated, at the time of separation his personal bank account was depleted, mainly due to the costs of constructing the new home;
6. As at the date of trial, he had been living full-time in a housekeeping unit at a nearby motel for some time. There was evidence to suggest that Mr. Keating has the means and ability to move to a more spacious apartment. That may be so. However, the fact remains that any such accommodations clearly would not approximate the new residence of Dr. Churchill Keating or their children;
7. Beyond living arrangements, other external indicators suggest that Mr. Keating's post-marriage lifestyle is well below that of Dr. Churchill Keating. Mr. Keating drives a modest, used vehicle of little value. Dr. Churchill Keating drives a relatively new, albeit leased, vehicle;
8. Mr. Keating's disposable income at the end of each month has been significantly reduced. His spending patterns have changed, and I am satisfied that he has suffered economic displacement. By contrast, Dr. Churchill Keating has the ability to pay. Her income is such that she remains in a surplus position and she has the additional financial upside associated with a private practice, which has consistently increased its annual revenues.

[83] All of these factors may, certainly in part, be traced back to the marital breakdown and disintegration of the financial interdependency that developed during the course of their marriage. I note that Dr. Churchill Keating's significantly higher income does not, by itself, generate entitlement to spousal support. However, increasingly joint efforts following their return to Nova Scotia did create a level of interdependence which, upon marital breakdown, has now translated into economic need and hardship on the part of Mr. Keating.

[84] In reaching this decision, I have read and considered the Nova Scotia Court of Appeal decision in *Volko v Volko*, 2015 NSCA 11 (“*Volko*”). While there are significant factual differences, I take particular note of the conclusion that a spouse’s needs and existing threats to an established standard of living serve as a useful tool to help assess the question of spousal support (*Volko*, at paras 80 – 81).

[85] On this issue, Mr. Keating testified that he also suffers from daily, virtually debilitating back pain brought on by the physical demands of his job with Canada Post. Mr. Keating apparently relied upon persistent back pain as a form of disability that compromises his ability to either achieve self-sufficiency or rise beyond the dependency developed during the marriage. Mr. Keating offered no independent medical evidence confirming the precise nature, cause, or extent of his back pain. Indeed, his evidence on this issue was inconsistent with the numerous times he plays recreational hockey during the week.

[86] In any event, I am not prepared to grant spousal support on the basis of Mr. Keating’s medical complaints. While I am satisfied that Mr. Keating has demonstrated an entitlement to spousal support, it is not because of any alleged health problems.

[87] Before leaving the issue of entitlement to non-compensatory spousal support, I reiterate that there are various mitigating factors which do not deprive Mr. Keating of entitlement to spousal support but they will inform the application of SSAG in the circumstances. I return to those issues below.

f) Income

[88] As indicated, I find Mr. Keating has proven entitlement to spousal support.

[89] For Dr. Churchill Keating’s 2019 income, she has employment and business income associated with her psychology private practice.

[90] As to employment income, Dr. Churchill Keating works with the Annapolis Valley Regional Centre for Education. Her December 28, 2019 paystub showed year-to-date income of \$95,622.04, less the union dues of \$850.00, for an adjusted income of \$96,472.04.

[91] As to her business income, Dr. Churchill Keating disclosed a Statement of Earnings prepared by her accountant under a “Notice to Reader” accounting standard. That statement confirmed total professional fee revenue of \$54,750.00

for the period January 1 – November 25, 2019. She testified that she travelled with her children to Costa Rica shortly after November 25, 2019 and therefore did not earn any significant revenue beyond that date.

[92] Against these revenues, the Statement of Earnings deducts \$15,429.00 for expenses. Those expenses include, for example, \$4,000.00 for leasing the premises where she operates her private practice. That expense is obviously entirely appropriate. However, I have some difficulty with an additional expense claimed in the amount of \$4,834.00 for “therapy dog supplies”. Dr. Churchill Keating testified that she purchased a therapy dog for her private practice, but that it also serves as the family dog.

[93] In the circumstances, I am not prepared to allow the entire expense associated with the therapy dog. I am prepared to allow an expense in the amount of \$1,000.00. This would result in a total allowable expense of \$11,595.00; and total revenues for the period ending November 25, 2019 of \$43,155.00. Based on the evidence before me, I am prepared to accept that figure as Dr. Churchill Keating’s total earnings before income tax for 2019.

[94] For the purposes of calculating spousal support, I attribute income to Dr. Churchill Keating of \$137,927.04 for 2019 in connection with both employment income and her private practice.

[95] In summary, the incomes upon which spousal support is calculated as follows:

| Dr. Churchill Keating | | | |
|---------------------------|--------------|------------------|--------------|
| Year | Line 150 | Less: Union Dues | Adjusted |
| 2017 | \$122,616.00 | \$1,516.13 | \$121,099.87 |
| 2018 | \$126,451.62 | \$1,377.05 | \$125,074.57 |
| 2019 | | | |
| Employment | \$95,622.04 | \$850.00 | |
| Business (as adjusted) | \$43,155.00 | | |

| | | | |
|-------------|-------------|----------|--------------|
| Calculated | | | \$137,927.04 |
| Mr. Keating | | | |
| 2017 | \$58,024.00 | \$960.00 | \$57,064.00 |
| 2018 | \$58,410.00 | \$900.00 | \$57,510.00 |
| 2019 | \$60,312.74 | \$872.85 | \$59,493.89 |

g) Additional Factors that Weigh Upon Quantum and Duration

[96] The following factors serve to weaken Mr. Keating's compensatory claim for spousal support:

1. As mentioned, Mr. Keating moved and sacrificed employment to remain physically connected with Dr. Churchill Keating as she advanced along her career path. At the same time, Mr. Keating consistently maintained an undeniably high degree of independence – both financially and in terms of his own domestic responsibilities.
2. Mr. Keating's employment with Canada Post has proven to be more secure and stable than anything he experienced in the past. It also includes a pension. Without diminishing the risks associated with Mr. Keating's move back to Nova Scotia, his current career with Canada Post helped alleviate much of the associated financial damage and now serve to assist in the transition towards self-sufficiency.
3. I have carefully listened to and considered the documentary evidence and oral testimony. There were many aspects of this matter which were clearly not traditional, for example:
 - a) Mr. Keating never contributed financially to Dr. Churchill Keating's education;
 - b) The primary care giver for their two daughters has always been Dr. Churchill Keating. She also performed most of the household chores. Mr. Keating candidly admitted his belief that, at least at this stage in their lives, their daughters should be with their mother. To be clear, I do not find that Mr. Keating's admission

diminishes the importance of his role as their father. Nor do I doubt Mr. Keating's commitment to his daughters. On the contrary, there can be no question that he is unreservedly devoted to their welfare. However, this is a family in which the role of primary caregiver for the children has been (and remains) with the mother.

- c) Dr. Churchill Keating has also been, virtually from the start of their relationship, the main financial manager and primary income earner. With one exception involving a rental storage unit, Dr. Churchill Keating paid the bills and administered their finances. Mr. Keating would clearly contribute at times and, at times, his financial contributions would be significant. For example, he paid large amounts towards a family trip to Costa Rica. He would also contribute relatively large sums towards the construction of their new home;
- d) By contrast, Mr. Keating maintained a measure of separation between his personal and family finances. He described himself as a "money man" who liked to keep his money separate and also liked to keep a certain amount of money "in reserve". The evidence is largely consistent with that description. Mr. Keating was responsible to pay for his own car expenses, but Dr. Churchill Keating was responsible for ensuring all other bills were paid. In addition, Mr. Keating's primary bank account was in his name alone. Dr. Churchill Keating also maintained a separate account. They both would transfer money from their separate accounts into a joint bank account which, in turn, would help pay the bills including a joint line of credit. Normally, Mr. Keating would make deposits into the joint account when asked, as opposed to Dr. Churchill Keating who made regular payments under a predictable schedule. One exception to Mr. Keating maintaining his own separate reserve of money is particularly notable for the purposes of this decision. In August, 2017, the couple separated just after the construction of their new home was complete in Canaan. Mr. Keating had been making significant contributions at that time and his own bank account was severely depleted. I accept that this caused Mr. Keating economic hardship post-separation, certainly

in the short term. This fact bears upon his claim for spousal support.

[97] There are also mitigating factors which influence Mr. Keating's claim for spousal support based on non-compensatory principles. In particular,

1. As indicated, Mr. Keating maintained a significant degree of independence (as opposed to interdependence) throughout his relationship with Dr. Churchill Keating. Mr. Keating did maintain his own career. Moreover, until the years leading up to the end of the marriage, he kept his own money separate and preferred keeping money for himself "in reserve". To the extent the marriage revealed the sort of interdependence which typically characterizes non-compensatory support, it would have begun after their return to Nova Scotia in 2007 and the birth of their two daughters; and it became particularly apparent during the years following the sale of their Centreville home (2016), as they were planning the construction of their new home in Canaan. Certainly prior to moving back to Nova Scotia, the couple remained especially independent in terms of managing their financial affairs;
2. Dr. Churchill Keating was (and is) primarily responsible for domestic affairs including childcare and financial management.

h) Quantum and Duration

[98] As mentioned, Mr. Keating suggested spousal income in the range of \$1,100.00 - \$1,200.00 for a period of 10 years.

[99] In terms of quantum, the SSAGs suggest monthly spousal support in the range of \$1,119.00 - \$1,508.00 at the high range. Having regard to all of these circumstances discussed above, I agree with Mr. Keating's general range as to quantum and conclude that an appropriate amount of spousal support is \$1,119.00 per month, which is the low-end of the SSAG range.

[100] My decision with respect to quantum is based largely on the various factors discussed in paragraphs 96 - 97 above.

[101] As to duration, I am not prepared to follow the SSAGs.

[102] Where entitlement to spousal support is demonstrated, the SSAGs provide a structure that addresses the financial impact of marital breakdown in a manner that

is both fair and predictable. The SSAGs also promote the salutary societal goal of consistency. Further, the SSAGs offer a range of potential outcomes in terms of both quantum and duration. As such, they are sufficiently flexible as to accommodate the vast majority of circumstances.

[103] At the same time, they are not mandatory and, indeed, the SSAGs specifically admit exceptions. Not every individual claim for spousal support will be amenable to resolution through these guidelines. As mentioned, the financial impact of marital breakdown is often measured against the degree of interdependence and financial sacrifice experienced during the course of marriage. This is particularly the case in marriages often characterized as “traditional” where one spouse’s career opportunities and financial independence are wholly surrendered and become subsumed within the marital commitment. Yet, rare cases will arise where these concerns around sacrifice and interdependence fade to the point that even the suggested ranges fail to achieve the balance and fairness that must underpin every award of spousal support.

[104] On the issue of duration, I conclude that this is one of those rare and unusual cases. My reasons include:

1. The financial and domestic roles adopted by Mr. Keating throughout the marriage afforded him considerable independence. Based on the parties’ oral testimony, I am of the firm view that Dr. Churchill Keating assumed much of the domestic burdens including childcare, housekeeping, paying the bills and managing the household finances. To be clear, I certainly do not find that Mr. Keating was somehow an absent or disinterested father. Again, I accept that he loves his children unconditionally. However, responsibility for childcare and domestic responsibilities were clearly not evenly distributed;
2. While Mr. Keating moved out of his preferred career in forestry, he secured employment with Canada Post, which is as, and arguably more, secure, and financially advantageous than anything he experienced in forestry. Among other things, he does not work seasonally, and he has the benefit of the pension. He was never entirely dependent upon Dr. Churchill Keating and his path to self-sufficiency is relatively clear;
3. Mr. Keating and Dr. Churchill Keating organized their financial affairs in a manner which gave Mr. Keating a very substantial degree of financial independence. The risk of economic need due to the merging of their

financial interests only began to emerge in the years following their return to Nova Scotia in 2007, about 10 years before separation. Even then, the degree of financial interdependence remained quite limited. They continued to keep separate bank accounts. Mr. Keating would still contribute to ongoing expenses primarily when asked. Mr. Keating was not named on the deed or the mortgage to their original matrimonial home in Centreville. That only began to change in a more significant manner in the last few years leading up to separation and accelerated when they began to build their new home. At that time and for the first time, Mr. Keating was named on both the deed and the underlying mortgage. In the unique circumstances of this case, to award Mr. Keating spousal support for the time periods suggested under the SSAGs would neither reflect the actual reality of this marriage nor achieve a result which is fair, balanced and just;

4. Mr. Keating described himself as a “money man” who preferred to keep his own cash in a separate reserve, or account. Again, his contributions to household expenses were not made according to any predetermined budget or consistent payment plan. Rather, he primarily contributed when requested by Dr. Churchill Keating. Mr. Keating testified that this process worked best for this family because Dr. Churchill Keating was largely responsible for managing the family’s finances. I do not doubt that the degree of independence which Mr. Keating enjoyed proved to be an acceptable arrangement for this family. However, it equally revealed a high degree of independence which the SSAG ranges cannot safely accommodate in terms of duration.
5. Dr. Churchill Keating not only voluntarily assumed debt which would otherwise be matrimonial debt, but she is also assuming the entirety of Section 7 expenses for their children. This obviously impinges upon Dr. Churchill Keating’s financial ability to pay lengthy spousal support.

[105] Mr. Keating seeks prospective spousal support for 10 years from the date of this decision. The SSAGs suggests a range of 8.5 to 17 years. Based on all of the circumstance described above, and including the limited sacrifices made by Mr. Keating, as well as the degree of financial independence he enjoyed throughout the marriage, I conclude that spousal support shall be paid for five (5) years beginning August 1, 2020.

[106] Mr. Keating also seeks retroactive spousal support from the date of separation. I am not prepared to grant retroactive support for the following reasons:

1. The decision to grant retroactive spousal support involves the exercise of judicial discretion, having regard to the particular factual circumstances of each case (*Kerr v Baranow*, 2011 SCC 10, referred to below as “*Kerr*”, at para 211).
2. As a general rule, the usual commencement date for spousal support is the date upon which the party seeking this relief provides effective notice of the claim. Moreover, “the fact that the order is sought effective from the commencement of proceedings will often be a significant factor in how the relevant considerations are weighed.” (*Kerr* at para 211). However, in this case, Mr. Keating did not seek spousal support from the commencement of proceedings. On October 6, 2017, Dr. Churchill Keating filed her Petition for Divorce. Mr. Keating filed his Answer on December 4, 2017 and did not advance a claim for spousal support. Mr. Keating first advanced a claim for spousal support when filing his Amended Answer on July 31, 2018. The delay in seeking spousal support is a relevant factor which impinges upon Mr. Keating’s claim for retroactive spousal support; and
3. Other relevant factors include the conduct of the payor which, in the case of spousal support, includes a failure to make appropriate disclosure (*Kerr* at para 212). In this case, Mr. Keating’s conduct at trial was somewhat problematic and exposed a failure to make appropriate disclosure. Indeed, Mr. Keating was still disclosing financial and other documentation during the trial itself. While evidence was being heard and on more than one occasion, Mr. Keating would distribute new financial records to the Court and opposing counsel. Moreover, the late disclosure was not simply inadvertence. Rather, Mr. Keating intentionally retained certain documents until such time as disclosure strategically suited his presentation of the evidence. I accept that these failings may be partly explained by the fact that Mr. Keating was self-represented at trial and unfamiliar with the underlying law around disclosure. However, inexperience or ignorance of the law helps to explain, but does not entirely excuse, the behaviour – particularly given that the underlying principles surrounding the obligation to make full

disclosure (e.g. not ambushing an opposing party at trial and facilitating efficient and just legal proceedings) are not founded on abstract legal theories. Rather, they are animated by common sense notions around basic fairness which should be evident to the layperson. In short, this type of last-minute, piecemeal disclosure was inconsistent with the obligation to make full disclosure in good faith and in a timely manner.

ORDERS

[107] I would direct that Ms. Connors, Q.C., as the only solicitor, prepare the following:

1. the Divorce Order,
2. the Corollary Relief Order, which includes the agreements regarding parenting and child support, the concessions made by Dr. Churchill Keating during the trial, as well as my determinations regarding the property division and spousal support.
3. the Pension Division Orders for each employer, that equalizes the pensions as of the date of separation.

[108] Ms. Connors, Q.C., shall prepare the orders, and comply with Rule 78.05(4) as follows:

1. Ms. Connors shall write a letter to Mr. Keating that attaches all of the orders with a reminder that he will have 10 days to provide any responses.
2. Within 10 days of the date of the letter, Mr. Keating shall either sign the orders on the designated line, indicating his consent, or write a letter to Ms. Connors that sets out his reasons for objecting to the form of order and his proposed version of the order.
3. If Mr. Keating has provided any objections and his form of order within the timeframe, Ms. Connors shall determine if she agrees to his suggestions, and the issue can be resolved, or, if the issue cannot be resolved, she will write a letter to my attention that attaches:
 - a) Her original letter and forms of orders,

- b) Mr. Keating's letter and any forms of orders, and,
- c) Dr. Churchill Keating's position regarding the objection.
- d) If Mr. Keating does not write within 10 days, Ms. Connors shall write a letter to the Court, copied to Mr. Keating, that attaches the original letter and forms of orders provided to Mr. Keating.

COSTS

[109] I reserve my determination respecting costs, and direct the following:

1. Within 20 days of receiving this decision, Ms. Connors shall make her submissions respecting Dr. Churchill Keating's position regarding:
 - a. Costs, including any settlement offers that may have been exchanged,
 - b. Any disbursements she incurred because of my directions to Ms. Connors as the only solicitor (for example, the preparation of the exhibit books), and
 - c. The expert reports.
2. Within 10 days of receiving Dr. Churchill Keating's position regarding costs, I direct Mr. Keating to write his position regarding:
 - a. Costs, including any settlement offers, and
 - b. The disbursements claimed by Dr. Churchill Keating as a result of my directions, and
 - c. The expert reports.
3. Dr. Churchill Keating will have 5 days to provide her response to Mr. Keating's submissions.

[110] I would ask that the submissions or brief respecting costs be no more than 10 pages in length, double spaced, and attach as separate documents any invoices, summaries, or cases that either party may be relying upon for their submissions.

Keith, J.

Schedule "A"

| | | Values | Petitioner | Respondent |
|---|---------------------------------|--------------|--------------|--------------|
| Matrimonial Home | | \$475,000.00 | | |
| | Less: Real Estate Commission | \$23,750.00 | | |
| | Less: HST on Commission | \$3,562.50 | | |
| | Less: Legal Fees | \$1,000.00 | | |
| | Less: Mortgage | \$463,274.86 | -\$16,587.36 | -\$16,587.36 |
| Household Contents | | \$0.00 | \$0.00 | |
| Vehicles | | | | |
| | 2000 VW Golf | \$1,000.00 | | \$1,000.00 |
| | 2007 Volkswagen | \$1,552.00 | | \$1,552.00 |
| | Travel Trailer | \$15,000.00 | | \$15,000.00 |
| Accounts | | Total | Adjusted | |
| | RRSP | \$63,348.07 | \$41,176.25 | \$41,176.25 |
| | RRSP | \$9,427.94 | \$6,128.16 | \$6,128.16 |
| | RRSP | \$6,297.12 | \$4,093.13 | \$4,093.13 |
| | Chequing Account | \$25.00 | \$16.25 | \$16.25 |
| Debts | | | | |
| | Joint Line of Credit (adjusted) | | -\$23,507.50 | -\$23,507.50 |
| | MasterCard | | -\$454.87 | -\$454.87 |
| | Trailer Loan | | -\$2,181.94 | -\$2,181.94 |
| | Hot Tub | | -\$15,740.40 | -\$15,740.40 |
| | VISA | | -\$851.60 | -\$851.60 |
| Total Assets & Debts: | | \$25,382.51 | \$4,572.74 | \$20,809.78 |
| Equalization pay to Dr. Churchill Keating: | | | \$15,740.40 | -\$15,740.40 |
| Total to Each Party after Equalization Payment: | | \$12,691.26 | \$12,691.26 | \$12,691.26 |