SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION
Citation: *T.E.H.D.* v. *M.I.D.D.*, 2025 NSSC 380

Date: 20251204
Docket: Tru No. 1207-005212
Registry: Truro

Between:

T.E.H.D.

Petitioner

v.

M.I.D.D.

Respondent

Judge:	The Honourable Justice Robert M. Gregan
Heard:	June 9, 2025, in Truro, Nova Scotia
Written Release:	December 4, 2025
Counsel:	Cassandra Armsworthy for the Petitioner
	Dianne Paquet for the Respondent

By the Court:

Decision Following Binding Settlement Conference:

Introduction

[1] This is a matter following a divorce proceeding, contested, and was scheduled for hearing on June 9, 2025.

[2] On the day of the hearing the parties reached a partial agreement on all outstanding issues with the exception of division of household goods and personal property/items.

[3] The parties agreed to resolve the matter by way of a binding judicial settlement conference.

[4] The binding judicial settlement conference was scheduled for June 16, 2025. The respondent's father passed away on June 10, 2025, and both parties, by consent, proceeded by way of written submissions only.

Position of the Parties

The wife T.E.H.D

[5] Attached to the counsel's brief for T.E.H.D. was a list of items that she had received from the matrimonial home. (Appendix A to counsel's brief.)

[6] T.E.H.D. also attached to counsel's brief in Appendix B, a list of items that she was seeking, and also a request to attend the home to retrieve those items as well as items she says she was unable to locate post separation.

[7] T.E.H.D. also requests that M.I.D.D. not be present when she attends the home to retrieve items. She seeks the court to retain jurisdiction in the event items are missing or damaged.

The Husband M.I.D.D.

[8] M.I.D.D. says that when the parties separated in 2022, the petitioner remained in the matrimonial home for a period of 6 weeks.

[9] Furthermore, M.I.D.D. says that when T.E.H.D. left the matrimonial home she took a number of items with her. He also says T.E.H.D. also received two large U-Haul containers of personal items from the home in March of 2025.

[10] In addition, M.I.D.D. says that in mid June of 2025 T.E.H.D.'s stepfather attended the home and collected more items, and that the truck was loaded to the point that not all of the items taken would fit in the truck. M.I.D.D. says that he offered for the stepfather to return to the home to pick up the items that were left

behind, and that offer was declined by the stepfather citing little or no additional value in the items to be picked up and therefore not worth an additional trip.

[11] M.I.D.D. says that all household items have been divided equally between the parties. He says that the demand for additional items is excessive, particularly given the fact that the children of the marriage remain primarily in his care.

[12] M.I.D.D. further says that division by the parties retaining all the items in their possession, is reasonable, because of the settlement that was reached between the parties wherein, he says T.E.H.D. received a payment of $350,000 for spousal support, while having no obligation to pay child support, despite the children being primarily in M.I.D.D.'s care.

[13] M.I.D.D. agrees that sentimental items such as T.E.H.D. late father's ashes should be returned provided they are still in his possession. He also agrees that sentimental items such as family photos should be shared.

Analysis

[14] Both parties have agreed to participate by way of a binding judicial settlement conference.

[15] Both parties have confirmed that they are aware that under this process there is a limited court record. That is particularly so in this case because as a result of

the parties' personal circumstances, as stated, the settlement portion of the binding settlement conference could not take place, and the parties relied on written submissions only.

[16] Furthermore, throughout the proceedings, neither party had completed valuations on any of the personal items including furniture and jewelry.

[17] It would also appear that neither party at this stage is seeking that a value be placed on items, or that there be monetary compensation for property, although, Ms. Armsworthy, on behalf of T.E.H.D., leaves open the possibility of compensation in the event items that are to be returned or delivered to her are determined to be missing or lost.

[18] Ms. Paquet on behalf of M.I.D.D. says there is little case authority dealing with personal property owing to such items typically being of lower value, and or of sentimental or emotional value.

[19] In my view, that position is partially on point. I think that it could more appropriately be said that it is not so much a limit on case authority but rather, case authority has been limited by the paucity of evidence when dealing with such matters. In *MacLean v Cox*, 2017 NSSC 309, Justice Jollimore was dealing with the issue of personal items and said as follows at paragraph 11:

> When they separated, Mr. Cox removed his personal items from the home. Other items remained in the home. Some of these remaining items were thrown out because they were damaged or broken. Others were given to neighbours. Still others were sold with the home. The items which weren't thrown out, given away or sold with the home have been stored since mid-2015, either at Ms. MacLean's home or her mother's home.
>
> While I heard considerable evidence about when the contents were acquired, I heard no evidence about their value. Mr. Cox didn't dispute that the items which were thrown out had no value. The value of the items which were sold with the house is reflected in the price paid for the house.
>
> Some photographs of the household contents also pictured Mr. Cox's sons as toddlers and youngsters. His sons are now aged 19 and 23. This means that the furniture is at least 10 to 15 years old, and possibly older. The household contents are second hand furniture.

[20] Here, to a large extent, that has already been done with T.E.H.D. already having received two U-Haul truck loads and one-half ton truck load of items.

[21] In *GLM v LT*, 2018 NSSC 150 Justice MacLeod-Archer, dealing with personal property found as follows:

> [89] G.L.M. says that when she left in December 2011, she took very few items from the home. She tendered a list of contents she wishes to retrieve or be paid for, but no appraisal. She relies on her own estimate of values in asking for compensation.
>
> [90] T.D. says that the contents were divided, and that G.L.M. has already retrieved a number of items on her list. He says the appliances were bought with the mortgage proceeds and stay with the home in any event.
>
> [91] I cannot divide assets for which I have no appraisal, or for which values are not agreed. Nor am I clear on the equitable basis of G.L.M.'s claim. In the circumstances, neither party will be required to deliver contents to the other or compensate the other for items retained.

[22] I note as well that in *GLM* Justice MacLeod-Archer also decided on jewelry at paragraph 93:

> [93] T.D. also claims compensation for the diamond engagement ring he bought G.L.M., which he says cost $10,000.00 (Can). At equity, and under contractual principles, there is no basis for ordering a return of the ring or compensation. T.D. assaulted G.L.M. in December 2011. That domestic violence incident precipitated their separation. G.L.M. had good reason not to complete the "transaction" for which the ring was given. If she was enriched at T.D.'s expense, there's a justiciable reason.

[23] In the context of this case the court is also being asked to deal with jewelry. I will have more to say about that in my comments throughout my decision.

[24] Finally, in *VonMaltzahn v Koppernaes*, 2018 NSSC 192, Justice Beryl MacDonald also dealt with the issue of personal property.

In that case the court was dealing with personal property in the context of a binding settlement conference. In the midst of the binding settlement conference, the wife Ms. Koppernaes went to the home of the husband Mr. VonMaltzahn and removed a number of personal property items a number of which contained sentimental items including paintings. Justice MacDonald set out the background of that case in paragraphs 23 – 28:

> [23] Mr. VonMaltzahn and Ms. Koppernaes separated in October 2012. Since then they have been mired in an epic battle to determine how their property and debt is to be divided. In the fall of 2015, counsel for Mr. VonMaltzahn and Ms. Koppernaes believed they had reached a comprehensive settlement. Unfortunately, Ms. Koppernaes did not agree with that assessment.
>
> [24] The parties did agree to participate in a binding settlement conference. It was scheduled before me on November 6, 2015. On that date, after beginning the conference, I became concerned Ms. Koppernaes did not understand the binding settlement process or the document that was the foundation of the alleged settlement agreement. I terminated the conference.

[25] Mr. VonMaltzahn filed a Notice of Motion for a declaration that a comprehensive and binding agreement had been reached. If the Motion was to be heard Mr.VonMaltzahn and Ms. Koppernaes would need to engage new counsel. Ms. Koppernaes did engage new counsel. That counsel informed me his client did wish to conclude the matter at a binding settlement conference. That conference was held over two days in May 2016.

[26] On June 23, 2016, I provided the parties with a written decision I expected would resolve all outstanding issues. The Order incorporating my decision was issued October 5, 2016. It was called an Interim Order. Because it divided property, it was, in fact, a final order in respect to the division of property and debt between the parties. The word interim was likely used because it was issued in a divorce proceeding that has not been finalized. There appears to be a practice to call all orders made prior to the conclusion of a Divorce proceeding "interim", but this word does not and cannot suggest the terms of the order may be changed at the final hearing.

[27] At the binding settlement conference, I was provided a document called "General Principles to be Applied to Settlement". I was informed it would govern the division of property and debt between the parties except for those items that required resolution at the binding settlement conference. Each party was to have exclusive possession and ownership of a residence. Ms. Koppernaes would have the "Beech Street" property and Mr. VonMaltzahn the "Green Bay Road" property. Each would have sole ownership and possession of the contents of each residence except for items on exchanged lists requiring each to deliver certain paintings, furniture, canoes, kayaks etc. to the other. Mr. VonMaltzahn had agreed with the list provided by Ms. Koppernaes except for items appearing on his list. At the binding settlement conference Ms. Koppernaes objected to the list of items to be given to and retained by Mr. VonMaltzahn. In my decision dated July 23, 2016, I said:

> This should have been resolved by the parties. Once again, I find Ms. Koppernaes intransigence to be the root cause of their inability to settle this issue. Given what the parties had by way of personal possessions Mr. VonMaltzahn's requests, described in Schedule "A" attached to his September 14, 2015, affidavit were reasonable and should not have been denied. Some of these items may be difficult for others to identify if an enforcement proceeding is required. I must leave that problem to Mr. VonMaltzahn. Ms. Koppernaes shall transfer and make arrangements to complete the transfer to Mr. VonMaltzahn of all of the items he requested as described in Schedule "A".

[28] On July 26, 2016, Ms. Koppernaes' counsel sent to Mr. VonMaltzahn's counsel a new list of items she wanted from "Green Bay". None of the requested items had been on her previous list, to which Mr. VonMaltzahn had agreed. She had not requested those items at the binding settlement conference. They were items that were to remain in his possession because they were not on a list and

> thus were part of the contents of "Green Bay" that were to be in his possession and ownership. For obvious reasons he refused her request.

[25] As a result, Justice MacDonald gave the following remedy:

> [35] I will not entitle Mr. VonMaltzahn to enter properties owned by Ms. Koppernaes to search for and retrieve items she has not returned to him. Many of those are, as he has commented, of sentimental value. He may not find them on her properties. To encourage her to return those items and comply with the original order, I have assigned a value greater than the value suggested by Mr. VonMaltzahn. I do not accept the proposition that Ms. Koppernaes should benefit from her wrongful action because Mr. VonMaltzahn cannot assign a "replacement value" to these items.
>
> [36] If the items below are returned to him within two weeks from the date of this decision she will not be required to pay him the amounts I have assigned:
>
> - Framed painting of the previous house on the Green Bay property painted by their son - value $1,000.00
> - Framed painting by their daughter of the present house on the Green Bay property - value $1,000.00
> - Mimeographed sheet announcing his wining president of the student council in 1972 - value $250.00
> - hand made canoe paddle - value $500.00

[26] Here in my view, the items and how they will be divided are made up into three categories:

1) The personal items of T.E.H.D., in appendix B to counsel's brief.

2) Jewelry and family heirlooms from T.E.H.D. family (which were also included in appendix B).

3) T.E.H.D. father's ashes and other sentimental items also included in appendix B.

[27] As mentioned, I will deal with the ashes of T.E.H.D.'s father separately, additional 'sentimental' and included in appendix B, such as the following items:

- The death certificates of her stepfather and grandfather;
- T.E.H.D. 's birth certificate and SIN card;
- T.E.H.D.'s bite plate;
- personal papers from the filing cabinet;
- Wooden white box;
- T.E.H.D.'s grandparents large measuring cup and lid;
- Book from her mother;
- Welcome standing sign made by T.E.H.D.;
- And T.E.H.D.'s grandfather's work bench.

[28] All other items in appendix B, with the exception of the jewelry, I decline to divide further because:

a. There has been no value of items provided and is difficult to obtain value for the exhaustive list of items that were provided.

b. It would require to T.E.H.D. going back to the matrimonial home again to retrieve additional items. I decline to do so for the following reasons:

i. As mentioned, there has already been three times that T.E.H.D. removed items from the home.

ii. There is already a substantial number of items which have been divided between the parties.

iii. it is not clear to me to what extent to what benefit some of those items would benefit the children who are in M.I.D.D.'s primary care. For example, bedroom furniture, chairs and T.V. stands which could benefit the children.

[29] The only exception I will make is pictures which M.I.D.D. has agreed to divide, and those are to be divided equally and are to be divided by M.I.D.D. given to T.E.H.D. within 90 days of the issuance of this order.

Jewelry

[30] Identified, as mentioned in the appendix, there are a number of pieces of jewellery which were family heirlooms that belong to T.E.H.D. The approach that

I will take in dealing with this jewelry is the as the approach by Justice MacDonald in the *VonMaltzahn* case, with a slightly different remedy.

[31] In *VonMaltzahn*, the court required the opposing party to pay within 90 days or to return items to the opposing parties or pay the fair market value of those items. If not returned in 90 days, then to pay the assigned value to the items.

[32] Here I will order that within 90 days of the issuance of the order, M.I.D.D. is to return to the respondent the following items;

- Her father's gold eagle charm;
- box with T.E.H.D. 's grandmothers watch;
- the collectable coins and bills located in the safe;
- the beaded baby bracelet belonging to T.E.H.D.;
- the other missing jewelry items contained in appendix B, which can be described as follows:
    - the gold diamond earrings from M.I.D.D. (certificate of diamond was in the safe);
    - solid gold bracelets from her stepfather;

- the gold rope chain bracelet from her brother;
- the gold rope chain necklace with the letter T;
- the diamond ring with diamonds on half of the band;
- the silver bracelet with the charm that says stronger than the storm;
- the esquire watch (white gold);
- gold plated coin bracelet;
- the watch from T.E.H.D.'s father;
- the chain with heart pendant that contained T.E.H.D.'s ashes;
- and as mentioned the gold eagle charm.

[33] M.I.D.D.'s will have 90 days to return those items. Some of the items may be with the parties' daughter Dakota, and M.I.D.D. is to check to see if those items had been given to her, and if so, they are to be retrieved and returned to T.E.H.D.

[34] Unlike the *VonMaltzahn* case because I don't have the benefit of an appraised value of the jewelry in question, if those items are not returned within 90 days, the matter may be returned before me and the court will give further

directions on the appraisal of the missing jewelry and further direction will be given to the parties then.

[35] Similarity if the birth certificate of T.E.H.D. and SIN card are not returned, the court will consider granting an award of costs, for the cost of replacing those items.

[36] One final note, some personal and sentimental items are irreplaceable, such as the lower bite plate for T.E.H.D., like her stepfathers' ashes and other sentimental items listed in paragraph 27 of this decision. It would be the courts hope that those items will be returned to T.E.H.D. The Court will hear more about those should the other issues have to be reviewed, following the 90-days of the issuance of the order. Hopefully, M.I.D.D. will be able to return those items to T.E.H.D. but given that they are sentimental items with no set value, it may be very difficult to replace those. Again, however, every effort should be made to return those items to T.E.H.D.

[37] Counsel will draft the order and circulate to the opposing counsel for review, and the court would hear further submissions on costs, within 30 days from the issuance of the order.

Gregan, J.