

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Ocean v Bennett*, 2026 NSSC 33

Date: 20260203

Docket: SFHPSA No. 127675

Registry: Halifax

Between:

May Ocean

Applicant

v.

Cathy Bennett

Respondent

Corrected Decision: The text of the original decision has been corrected according to the attached erratum dated February 13, 2026.

Judge: The Honourable Justice C. LouAnn Chiasson

Heard: October 7, 8, 9, 10 and 11, 2024; April 16, 22, 23, 24 and 25, 2025, in Halifax, Nova Scotia

Final Written Submissions: October 2025

Counsel: May Ocean, self-represented
Jennifer Reid for the Respondent

By the Court:

Introduction

[1] The relationship between Cathy Bennett and May Ocean was complex and multifaceted over their 27 years. At times, it was loving and cooperative. At other times, it was chaotic and abusive. The tragic end of their relationship highlights the complexities of extricating fact from fiction, relevant from irrelevant, and quieting the noise resulting from the thousands of pages of documentation filed in this proceeding.

[2] People come to court every day looking for justice. They want to have an impartial judge decide on the facts and make a well reasoned decision based on the law. They want to be treated fairly and with the respect mandated by a court of law. Ms. Bennett and Ms. Ocean came to court asking for justice to be done.

[3] This case was challenging from a number of perspectives – the number of witnesses and the volume of documents contributed to the complexity. The task of determining what is a “fact” can be clouded by emotions, values, assumptions, and the interests of the parties. This task is heightened in the family law context when there are allegations of family violence. Any allegation of family violence must be dealt with impartially but empathetically.

[4] The job of the judge is to sift through the evidence to determine what is relevant. That job is far more difficult when there is a significant volume of evidence which may be tangentially relevant at best. Such was the case in the proceeding between Cathy Bennett and May Ocean. In order to properly evaluate the relevant evidence, one must go back to the foundational documents – the pleadings.

[5] In October 2022, May Ocean filed an application requesting the following relief:

“spousal support... payable from January 2, 2021 forward” and “[u]njust enrichment and division of real property”.

[6] In November 2022, Cathy Bennett filed a Response claiming the following relief:

“I seek to have May Ocean’s claim against me for spousal support dismissed. I will agree to share some value out of the family house, 17 Indian Point Road, St. Margaret’s Bay, Nova Scotia, with Ms. Ocean and nothing more. There is a signed agreement between us dated April 16, 2003 wherein Ms. Ocean was paid out her interest in 17 Indian Point Road by Cathy Bennett.”

“I claim damages from May Ocean in the form of unjust enrichment and quarter [sic] merit [sic].”

“[T]ort of family violence- I claim relief and damages under the tort of family violence.”

[7] These pleadings were not amended. Although interim motions were made in the course of these proceedings, neither party varied their request for relief. Ms. Bennett was represented by legal counsel and Ms. Ocean had been represented by legal counsel but was self-represented at the time of the hearing. When making any determinations, I return to the relief claimed in the Application and Response.

[8] This decision is comprised of four sections:

1. Background
2. Family Violence & Coercive Control
 - a. Definitions
 - b. Allegations of Ms. Ocean
 - c. Allegations of Ms. Bennett
3. Impact of Family Violence on Financial Issues
 - a. Impact on Unjust Enrichment Claim
 - b. Impact on Tort of Family Violence
 - c. Impact on Tort of Assault and Battery
 - d. Impact on Spousal Support
4. Conclusion

BACKGROUND

[9] Thousands of pages of documents were submitted into evidence. Over 268 documents have been filed in this proceeding. Eight lay witnesses provided affidavits and most were cross examined. Four witnesses were subpoenaed including a member of the RCMP. Two experts were called and three expert reports were filed.

[10] A significant amount of evidence was tendered that was neither admissible nor relevant. I will review some of the more salient evidence from the trial but will not review all allegations or incidents. Were I to review all evidence presented, the decision would be an indecipherable tome providing little clarity to the parties.

[11] The parties began their common law relationship in 1994. Both had children from prior relationships. At the time they started to live together, Cathy Bennett's child was 12 and May Ocean's children were 13 and 15.

[12] The evidence of Ms. Ocean at trial was that all three children had left the home over the first 6 years of the parties' relationship, when the children were in their late teens. Ms. Ocean concentrated much of her effort in these proceedings in seeking to prove family violence by Ms. Bennett. The allegations of family violence did not relate directly to the actions of Ms. Bennett *per se* but rather to Ms. Bennett's child and the reaction of Ms. Bennett.

[13] Ms. Ocean alleged violent, abusive outbursts by Ms. Bennett's child from the time the child was a teenager. She alleged that these outbursts were not addressed by Ms. Bennett. She further alleged that she was "gaslighted" by Ms. Bennett when Ms. Bennett would not acknowledge the outbursts as abusive. Ms. Ocean made further allegations related to Ms. Bennett's child after the child reached adulthood.

[14] I will review the allegations of Ms. Ocean. She asserts she is the victim of coercive control in relation to the actions of Ms. Bennett and Ms. Bennett's child. The allegations of Ms. Ocean will be detailed later in this decision.

[15] Ms. Bennett has also alleged family violence by Ms. Ocean. She has alleged that Ms. Ocean has been abusive verbally, emotionally and physically over a number of years. Ms. Bennett alleged that an incident of family violence occurred in January, 2021, which led to the final separation of the parties. The criminal charge against Ms. Ocean was resolved by way of peace bond. I will review the allegations of Ms. Bennett in more detail later in this decision.

[16] Ms. Bennett asserts that the parties separated in 2003 and had a Separation Agreement prepared. Ms. Ocean denies the parties were separated and that an agreement was signed.

[17] Ms. Bennett testified that the parties reconciled in 2004 and another handwritten document (noted to be a pre-nuptial agreement) was signed in 2004.

Ms. Ocean testified that the documents are forgeries and that she did not sign either agreement. Nevertheless, the parties reconciled and continued to reside in a relationship for a further 17 years.

[18] In 2004, the parties contracted with an estate lawyer to prepare Powers of Attorney, medical consents and wills.

[19] Ms. Ocean was an entrepreneur and ran a business. When the parties commenced cohabitation, Ms. Ocean's income from her business exceeded that of Ms. Bennett. Ms. Ocean testified that commencing in 2001, there was a significant downturn in her business. She continued to operate the business but the business struggled to meet expenses as they fell due. Commencing in 2017, Ms. Ocean's income has been primarily from CPP and OAS.

[20] The income of Ms. Ocean was affected by her involvement in a motor vehicle accident in 2000. Over the course of nine years, litigation was ongoing related to the accident. Ms. Bennett indicated that she financially assisted Ms. Ocean in the litigation. Ms. Ocean refused any settlement which did not involve a finding of 100% liability against the other driver. As such, she turned down settlement offers including an offer of \$80,000. Ms. Ocean received no monies from the accident claim and instead was liable for costs.

[21] Ms. Bennett earned her income as a carpenter. She was self employed in the construction industry and also worked for a company from 2014 until 2023. In 2023 Ms. Bennett was off work on sick leave resulting from torn muscles in her rotator cuff. In May 2023, Ms. Bennett fully retired at the age of 66 as she was no longer able to continue in the construction industry. Her income is comprised of CPP, OAS and rental income from an Airbnb operated from the parties' residence.

[22] At the time the parties commenced cohabitation, Ms. Ocean owned a property (SB). She operated her business from that property and lived there with her two children. The property was in the name of her business.

[23] In 2011, Ms. Ocean's business suffered significant downturn and bankruptcy was an option. The SB property was listed for sale and an offer was made by a third party to purchase the property. Unfortunately, the third party could not obtain financing and the purchase did not go through. In order to avoid bankruptcy, the property was purchased by Ms. Bennett's contracting business and the monies were used to pay off business debt of Ms. Ocean.

[24] The SB property was sold to Ms. Bennett's company for \$150,000. Ms. Ocean confirmed that the sale was a joint decision of the parties. Ms. Ocean also asserts that the property was sold far less than fair market value.

[25] Ms. Bennett states that the SB property required significant renovations. She testified that she was solely responsible for the cost of all renovations and repairs to the property over the years.

[26] The parties entered into a lease agreement between the two businesses such that Ms. Ocean's business rented a portion of the premises at a set fee. Ms. Ocean ceased to pay the rental fee after the first 2 years. She acknowledges a number of other terms of the lease that were not met by her due to financial difficulties.

[27] Ms. Bennett undertook significant work to the SB property following the transfer to her company. There were other tenants in the SB property. Ms. Bennett testified that the rental income was insufficient to meet the expenses and that she was required to put monies in to cover expenses at the SB property. These additional funds were recorded as shareholder loans to the company by Ms. Bennett. The shareholder loans remain outstanding.

[28] The SB property was sold in 2024. Ms. Bennett asserts that she was solely paying the expenses of the property (including maintenance) and was solely responsible to pay various repairs to ready the property for sale (i.e. heat pump costs, septic repair, foundation repair, etc.) Ms. Bennett testified that additional costs were incurred in removing Ms. Ocean's belongings from the property, despite requesting Ms. Ocean remove those items for a period of years following separation.

[29] The proceeds of sale are held by Ms. Bennett.

[30] Prior to the relationship of the parties, Ms. Bennett owned another property, the I.P. property. When the parties commenced cohabitation, they decided to undertake significant renovations to the IP property prior to the parties residing there with all three children. In 1995, the parties and their children began to reside in the I.P. property.

[31] The I.P. property was solely in the name of Ms. Bennett. From 1995 to 2003 Ms. Ocean was listed as guarantor on the mortgage. Subsequent to 2003, the I.P. property was re-financed in 2007 and 2012. For the further re-finances, Ms.

Bennett was the listed as sole title holder and mortgagor. The IP property is comprised of two civic addresses: 16 I.P and 17 I.P.

[32] In 2019, the parties constructed a separate smaller home listed as 16 I.P.. They resided in the smaller home and the main home at 17 I.P. was rented out to Airbnb guests.

[33] Ms. Ocean asserts that she is entitled to spousal support. She indicates that she began working for Ms. Bennett when her business began to fail in 2011. She testified that she worked for Ms. Bennett approximately one day per week and was not paid for any of her work. Ms. Bennett denies Ms. Ocean worked to any significant extent.

[34] Ms. Bennett asserts that Ms. Ocean is not entitled to spousal support. She indicates that Ms. Ocean has not established any basis to be entitled to support. Further, she indicates that there are no significant discrepancies between the incomes of the parties post retirement.

FAMILY VIOLENCE & COERCIVE CONTROL- Definitions

[35] The starting point for the analysis of family violence is the definition of family violence.

[36] As noted in “Turning the Tide, the Final Report of the Mass Casualty Commission”, March 2023, (“the Commission”) Vol. 3, p. 7:

“Violence is not easy to talk about. Words matter, and it is important to be clear in the words, phrases, and concepts we use when we talk about violent behaviour and its consequences. These words and concepts matter because they help us to organize ideas and make distinctions between different forms of violence and the dynamics that underpin them. Most important, they help to ensure clear communication based on shared understandings...”

[37] The *Parenting and Support Act*, SNS 2015, c.44, (the “PSA”) references family violence. The definition of family violence is contained in s. 2(da):

“(da) "family violence, abuse or intimidation" means deliberate and purposeful violence, abuse or intimidation perpetrated by a person against another member of that person's family in a single act or a series of acts forming a pattern of abuse, and includes

(i) causing or attempting to cause physical or sexual abuse, including forced confinement or deprivation of the necessities of life, or

- (ii) causing or attempting to cause psychological or emotional abuse that constitutes a pattern of coercive or controlling behaviour including, but not limited to,
 - (A) engaging in intimidation, harassment or threats, including threats to harm a family member, other persons, pets or property,
 - (B) placing unreasonable restrictions on, or preventing the exercise of, a family member's financial or personal autonomy,
 - (C) stalking, or
 - (D) intentionally damaging property,but does not include acts of self-protection or protection of another person...”

[38] Similarly, the *Divorce Act*, RSC 1985, C.3, (2nd Suppl.) (as amended), references family violence and provides a definition at S. 2(1):

“family violence means any conduct, whether or not the conduct constitutes a criminal offence, by a family member towards another family member, that is violent or threatening or that constitutes a pattern of coercive and controlling behaviour or that causes that other family member to fear for their own safety or for that of another person — and in the case of a child, the direct or indirect exposure to such conduct — and includes

- (a) physical abuse, including forced confinement but excluding the use of reasonable force to protect themselves or another person;
- (b) sexual abuse;
- (c) threats to kill or cause bodily harm to any person;
- (d) harassment, including stalking;
- (e) the failure to provide the necessities of life;
- (f) psychological abuse;
- (g) financial abuse;
- (h) threats to kill or harm an animal or damage property; and
- (i) the killing or harming of an animal or the damaging of property; (violence familial)...”

[39] Section 16(3)(j) of the *Divorce Act*, confines the consideration of family violence to proceedings where there are parenting orders. It does not address the issue of family violence in the context of support.

[40] Likewise, the *PSA* addresses the issue of family violence to have application in the context of parenting, not in relation to support.

[41] The *Matrimonial Property Act*, RSNS 1989, c. 275, does not reference family violence in any way.

[42] There are no parenting issues to address. The sole issues before the court are financial. Both parties requested the court address the issues of family violence in the context of their competing financial claims.

[43] This proceeding involved a long term common law couple. Although I have referenced the *Divorce Act* and the *Matrimonial Property Act*, neither statute apply to the case before me. The definitions of family violence may be of utility to the court in examining the issues, but it is recognized that the claims of Ms. Ocean and Ms. Bennett are based on common law principles as opposed to statutory claims.

[44] The claim of Ms. Bennett is based in the tort of family violence and any damages flowing from that claim.

[45] Ms. Ocean's response to the claim of Ms. Bennett was to allege coercive control by Ms. Bennett against her. In her evidence she referenced an article from the Dalhousie Law Journal- Deanne Sowter, "*The Future Harm Exception: Coercive Control as Serious Psychological Harm and the Challenge for Lawyers' Ethics*" (2021) 44:2 Dal LJ 603. The article dealt with the duty of legal counsel when dealing with cases involving coercive control. I reference the article to highlight that I have considered the totality of the evidence of both parties.

[46] The article referred to the definition of coercive control used by Dr. Evan Stark at pages 3-4:

"Dr. Evan Stark defined the behaviour as an "ongoing pattern of domination by which male abusive partners primarily interweave repeated physical and sexual violence with intimidation, sexual degradation, isolation and control." There are competing definitions of coercive control that often turn on whether physical violence is necessary, but the commonality is a pattern of coercion and control tactics. Stark's conception does not demand violence, he defines coercion tactics as "the use of force or threats to compel or dispel a particular response" and control tactics as including "deprivation, exploitation, and command that compel obedience indirectly." The effect is "a condition of entrapment that can be hostage like in the harms it inflicts on dignity, liberty, autonomy and personhood as well as to physical and psychological integrity." (Footnotes omitted)

[47] It is clear that a gender-based definition should not be taken to mean that coercive control cannot be present in same sex relationships. It is equally true that a woman may be the perpetrator of coercive control.

[48] Ms. Bennett alleges family violence including verbal, emotional and physical abuse at the hands of Ms. Ocean. She also alleges that Ms. Ocean isolated her from family and friends and engaged in acts of coercive control.

[49] The definition of coercive control accepted by the Mass Casualty Commission was set out in the expert report of Dr. Katreena Scott:

“[A] pattern of behaviours to assert control over a person through repeated acts that disempower the other partner in a number of possible ways including through fear for the safety of self or others, removal of rights and liberties or fear of this removal, by isolating them from sources of support, exploiting their resources and capacities for personal gain, removing the victim’s rights and liberties, depriving them of the means needed for independence, resistance, and escape, and regulating their everyday behaviour.” (Report, Volume 3, p. 11)

[50] I accept the definition of coercive control as noted by the Commission. In this regard, I note the decision of *Mohammed v. Salam*, 2025, NSSC 228, which reached the same conclusion. The definition mandates a finding that there is a pattern of behaviour by a person to assert control over the other person by various means. If there is control, a finding may be made. If there is an absence of control and instead the evidence leads to the conclusion of choice and free will, a claim of coercive control must fail.

Allegations of Coercive Control made by May Ocean

[51] Ms. Ocean asserts that Ms. Bennett is the perpetrator of coercive control. The primary allegation relates to the behaviour of Ms. Bennett’s child during their teenage years. Ms. Ocean describes “abusive outbursts” of Ms. Bennett’s child and accuses Ms. Bennett of not properly addressing the outbursts. Ms. Ocean was clear that she was never fearful of Ms. Bennett’s child but believed the child’s outbursts and threats of self harm to be abusive and manipulative.

[52] Ms. Ocean alleges the child would scream during these outbursts and take on “threatening” behaviour. Other than threats of self harm, there were no significant particulars provided regarding the “threatening behaviour” other than the child “advancing”. Ms. Ocean confirms that she did not react and that the child would “just turn and leave, and in many cases threaten suicide before making off for [their] room or outside” (reference paragraph 75 of Exhibit 27, tab 19).

[53] Ms. Ocean focussed on one particular incident where the parties were vacationing in the Rocky mountains in 1997 or 1998. Ms. Bennett’s teenage child

was running along a stone wall overlooking the cliff. The child refused to come down despite being requested to do so. Ms. Ocean testified that the child's actions were reckless and could have resulted in catastrophic results.

[54] When the teenager did not descend, the family got back into the vehicle and drove away. The teenager descended from the wall, ran after the vehicle and was able to get in when the vehicle was stopped. Ms. Ocean describes this incident as another example of the child's abusive behaviour.

[55] On another occasion in or around 1999, the parties were travelling from another province back to Nova Scotia. They were to meet at a predetermined time and Ms. Bennett's teenage child was late. Ms. Ocean stated that they were not waiting and the family left for the airport. Both of these incidents were portrayed by Ms. Ocean as abusive on the part of the teenage child. She did not see any negative consequence to her actions in leaving the child behind on both occasions.

[56] At no time was Ms. Ocean fearful of the child, nor was she incapable of addressing the matter as she wished. Evidence is clear that Ms. Ocean intervened as she deemed appropriate during any time of behavioural difficulty. As stated by Ms. Ocean in her affidavit filed September 9, 2024 (Exhibit 3), at page 12:

“Cathy parented the three children her way, and I parented them my way. This was one area where our philosophy was similar- each child is different as are each parent, and so we gave each other room...”

[57] Despite Ms. Ocean acknowledging that each party was free to parent as they saw fit and had freedom of choice, she continued to assert that Ms. Bennett's actions amounted to coercive control. Ms. Ocean alleges that Ms. Bennett's perceived inability or unwillingness to address the behaviour of Ms. Bennett's child resulted in coercive control against Ms. Ocean.

[58] Evidence indicated that the child struggled with mental health issues during their teenage years. The issues related to threats of self harm and the child's need for attention. The adult child was subpoenaed by Ms. Ocean to appear at these proceedings. The adult child admitted to difficulties with mental health in their childhood.

[59] In cross examination by Ms. Ocean, the adult child referenced difficulties during their teenage years. The difficulties were not just at home but also at school where they were bullied. The adult child accepted their poor behavioural choices

as a teenager in acting out and threats of self harm. They acknowledged the difficult relationship with Ms. Ocean and the need to distance themselves from her.

[60] It is interesting to note, that there was also evidence of behavioural concerns related to the teenage child of Ms. Ocean. These behavioural concerns, admitted to by Ms. Ocean and her adult child, resulted in the child leaving the home for a period of months. Ms. Ocean's teenage child acted out physically against Ms. Ocean on one occasion and engaged in other problematic and risky behaviour as a teenager. Ms. Ocean's child was in counselling for a period of time.

[61] Although both Ms. Ocean and Ms. Bennett were dealing with behavioural issues related to their teenage children, Ms. Ocean has elevated the behaviour of Ms. Bennett's child to such a level as to imply that it led to family violence. It is very unfortunate that the children of these parties have been drawn into this litigation.

[62] There are a significant number of children that experience turmoil and difficulties in their teenage years. Both adult children in this proceeding acknowledged their struggles during teenage years. Despite this, they should not have to have their experiences *as children* brought before the court as reflective of family violence alleged between *the parents*.

[63] Arguments related to Ms. Bennett's child and their behaviour as a teenager continued for years. Even after the child left the home, Ms. Ocean was so incensed by the behaviour of Ms. Bennett's child during their teenage years, that she continued to raise the subject causing significant conflict with Ms. Bennett. The reason for the conflict was Ms. Ocean's position that Ms. Bennett did not act appropriately to address the child's behaviour.

[64] These concerns continued to be raised by Ms. Ocean despite insignificant contact between the adult child and the parties. Allegations made against Ms. Bennett's child did not abate after they left home and new allegations continued to be made by Ms. Ocean for years. Ms. Ocean went as far as to implicate Ms. Bennett's child in criminal activity as an adult.

[65] Ms. Ocean contacted Crime Stoppers, the adult child's current employer, media, and others – all in an effort to convince third parties of her belief of the adult child's criminal actions. She drew sketches of the adult child in an effort to show similarities with an alleged criminal. Despite Ms. Ocean's efforts, no criminal charges were laid against Ms. Bennett's adult child. Before Ms. Ocean

made these claims against Ms. Bennett's child, an unrelated third party had already been charged for these crimes.

[66] Despite this, Ms. Ocean continued throughout the present hearing to allege criminal involvement by Ms. Bennett's child. There is no evidentiary basis whatsoever for the allegations of Ms. Ocean against Ms. Bennett's adult child.

[67] It is difficult to analyze the allegations of coercive control made by Ms. Ocean. Some of the allegations of coercive control are found in the affidavit of Ms. Ocean filed in June 2023 (paragraphs 75, 78, 79, 94, 111, 112, 120, 123, 130). The allegations can be summarized as follows:

1. Ms. Bennett's differing parental response (or non-response) to the child's outbursts amounted to coercive control.
2. Ms. Bennett engaged in coercive control in not labelling the child's behaviour as abusive (often referenced as "gaslighting").
3. Ms. Bennett engaged in coercive control in indicating that the alleged "abuses" by the child were the result of arguments between Ms. Ocean and the child and not "abuse" by the child (often reference as "gaslighting").
4. Ms. Bennett engaged in coercive control in alleging that the child felt harmed by Ms. Ocean during their childhood.

[68] Ms. Ocean continued to vilify Ms. Bennett's adult child by referencing an incident of family violence between the adult child and their spouse. This incident is irrelevant to the issues before the court.

[69] The implications of the ongoing accusations against the adult child, however, are significant. They were married, raising a child, were employed and had distanced themselves from Ms. Ocean. Nonetheless, Ms. Ocean continued to use Ms. Bennett's child as a central focus of her allegations of victimization.

[70] There is a further incident involving Ms. Bennett's adult child that requires scrutiny by the court. There was an event which occurred at a dinner party where the parties, Ms. Bennett's adult child, and two other individuals were present. There is controversy as to whether the dinner party occurred in the winter of 2010 or 2012. I find as a fact that although the timing of the event is disputed, the recollection of the event was clear and primarily consistent, with the exception of

Ms. Ocean. The minor inconsistencies of the witnesses do not negate the findings of fact made herein.

[71] Ms. Ocean denies any physical assault on Ms. Bennett that evening. She indicates that the only abusive behaviour that evening came from the “outburst” of Ms. Bennett’s adult child. Ms. Ocean testified that she was merely having a discussion about a scientific theory which Ms. Bennett’s adult child did not accept. Ms. Ocean alleged Ms. Bennett’s adult child had an “outburst” which culminated in the stem off their wine glass being broken off by them.

[72] All other witnesses to the event confirm that it was Ms. Ocean who was escalated and not Ms. Bennett’s adult child. The dinner guests and Ms. Bennett confirm that Ms. Ocean’s escalation continued after Ms. Bennett’s child left the dinner. The guests and Ms. Bennett testified that Ms. Ocean was verbally escalated with one of the guests and physically kicked Ms. Bennett when she tried to calm Ms. Ocean down.

[73] Courts are often called upon to make findings of credibility. Such determinations are fact specific and unique to the witnesses involved in each case. The oft cited decision of *Baker-Warren v. Denault*, 2009 NSSC 59 addresses the issue of credibility. The principles for the court to consider were confirmed by our Court of Appeal in *Hurst v. Gill*, 2011 NSCA 100.

[74] As set out in the case of *Conrod v. Cooper*, 2025 NSSC 197, at paragraph 45:

“Credibility is the assessment of whether the evidence is reliable. The assessment is based on a balance of probabilities- is the evidence more likely than not to be true. Determining credibility is not a scientific exercise. The court must take into account the totality of the evidence in determining whether to find all or part of a witness' testimony to be credible.”

[75] Credibility was an issue in the case of *Tobin v. Hurley*, 2018 NSSC 313. That case also involved the issues of spousal support, unjust enrichment and allegations of family violence. In addressing the issue of credibility, Justice McLeod-Archer cited with approval the principles of credibility assessments found in *Hustins v. Hustins*, 2014 NSSC 185. In discussing the issue of family violence, the court held at paragraph 9 of the *Tobin* decision:

“Credibility plays a major role in determining whose version is accepted by the court in these cases...”

[76] I have taken into account the principles of credibility as set out in the case law. I have taken into account the admissible evidence before me. Where the evidence of Ms. Ocean differs from the other witnesses, I accept the evidence of the other witnesses and reject the evidence of Ms. Ocean in relation to the events of that evening.

[77] What is uncontroverted in the evidence is that Ms. Ocean wanted to have a conversation related to the “aquatic ape theory”. Evidence disclosed that Ms. Ocean would often attempt to monopolize conversations with various topics of conversation- aquatic ape theory, chimera theory, etc.. If those present did not accept her views on these subjects, she would be unrelenting in trying to convince them of the scientific proof of those theories.

[78] At one point in the proceedings, the court intervened to advise Ms. Ocean that the theories did not need to be discussed in detail as they were not relevant to the issues before the court. Ms. Ocean took umbrage with the court’s comments and indicated that they were not theories but rather scientifically based facts.

[79] In her evidence, Ms. Ocean also discussed the “Pingo theory” (Reference Exhibit 3, pages 124-125), and the inner twin world theory (Reference Exhibit 3, page 14). None of the theories are relevant. The only potential relevance is what happened as a result of the discussions of the theories.

[80] At the dinner party in late 2010 or 2012, it is clear that there was a dispute which culminated in acts of family violence. I find as a fact that the following occurred that evening:

1. Ms. Ocean was trying to convince Ms. Bennett’s adult child about the scientific basis of the aquatic ape theory. The discussion became heated. Out of frustration, Ms. Bennett’s adult child broke the stem from their wine glass and left the dinner table.
2. The two dinner guests referenced Ms. Ocean’s unrelenting need to dominate the conversation and continue to assert her opinions.
3. The parties and their two guests were sitting in a room when Ms. Ocean began arguing with one of the dinner guests. The guest indicated that Ms. Ocean was within inches of her face, angry, and yelling, and at one point spit on the dinner guest.

4. When Ms. Bennett approached Ms. Ocean in an attempt to calm her down, Ms. Ocean kicked Ms. Bennett in the chest with such force that Ms. Bennett fell backward a few feet.

[81] Ms. Ocean attempted to discredit the credibility of the two witnesses, CS and BS. She referenced events between CS and BS and other third parties. Ms. Ocean alleged fraud, inappropriate behaviour, etc. on the part of CS and BS in their dealings with other parties. Even if I were to accept the allegations made against CS and BS by Ms. Ocean (which I do not), it does not affect the credibility of the witnesses as it relates to the events of the dinner party.

[82] Their evidence was clear, and consistent on all major points – the argument with Ms. Bennett’s child, the ongoing argument when the parties were seated after dinner, the physically violent act of kicking Ms. Bennett in the chest. These are the significant events of that evening and I have made the findings of fact herein based on admissible and credible evidence.

[83] Ms. Ocean alleged further acts of coercive control. In 2018, Ms. Ocean and Ms. Bennett were having another argument in relation to the actions of Ms. Bennett’s child. This argument is 18 years following the child leaving the home. Nevertheless, Ms. Ocean wished to revisit the difficulties with Ms. Bennett’s child.

[84] Ms. Ocean recorded the incident and alleges that it proves coercive control by Ms. Bennett. In a filed affidavit Ms. Ocean referenced the actions of Ms. Bennett during the video and stated that she was downplaying: “...the horrific abuse and terror that I was repeatedly forced to endure as she assisted [the child] by turning a blind eye and then using coercive control tactics to victimize me further” (reference Exhibit 27, tab 19, paragraph 10).

[85] The eight-minute video was entered into evidence by consent of the parties. It was played in court on two occasions: one in relation to the testimony of Ms. Ocean and secondly in relation to Constable Clarke. A transcript of the video was obtained by Ms. Ocean and is contained in Exhibit 1 at tab 14.

[86] Rather than proving coercive control by Ms. Ocean, the video confirms the abusive behaviour of Ms. Ocean towards Ms. Bennett. In the video, Ms. Bennett is seated throughout and saying little. By contrast, Ms. Ocean can be heard raising her voice, yelling, and demanding that Ms. Bennett acknowledge the abuse perpetrated by Ms. Bennett’s child. Ms. Ocean interrupts, accuses Ms. Bennett of lying and becomes escalated.

[87] Ms. Ocean also alleges coercive control in relation to settlement proposals made by Ms. Bennett through her legal counsel.

[88] Ms. Ocean alleges coercive control by legal counsel (including past counsel) and references “aggressive and coercive tactics”.

[89] Ms. Ocean alleges coercive control in relation to criminal charges laid against her in January 2021 (which will be discussed later in the decision).

[90] Ms. Ocean alleges coercive control in relation to RCMP disclosure.

[91] Ms. Ocean referenced Ms. Bennett as “deranged” in her evidence (reference Exhibit 27, tab 19, para 10). She testified that Ms. Bennett was escalating her use of coercive control tactics to the point where Ms. Ocean felt compelled to provide the eight-minute video to the police, RCMP, various media, advocacy groups, and legal counsel (Exhibit 27, tab 19, para 138). I find as a fact that the party escalating the conflict was Ms. Ocean, not Ms. Bennett.

[92] I have been provided no legal authority where a court has determined that the actions of a child and the parental response have been found to lead to coercive control.

[93] Ms. Ocean was insistent that she was the victim of coercive control throughout the proceedings. The evidence does not support a single finding of family violence or coercive control perpetrated by Ms. Bennett. The evidence confirms Ms. Ocean’s unrelenting need to vilify Ms. Bennett’s child was at the root of much of the conflict between the parties.

Allegations of Family Violence made by Cathy Bennett

[94] Ms. Bennett has alleged family violence by Ms. Ocean. Ms. Ocean vehemently denies any family violence perpetrated by her. Ms. Ocean asserts that contrary to the evidence of Ms. Bennett, she is the victim. The evidence does not support Ms. Ocean’s assertions.

[95] In analyzing the issue of family violence, the court must be mindful of the multi faceted and complex nature of intimate partner relationships. When examining a relationship of over 27 years, both parties have acted and reacted in positive and negative ways. To portray one party as completely villainous ignores the nuanced and subtle approach that the court must take to issues of family violence.

[96] This decision will not address every allegation of family violence made by Ms. Bennett. Each allegation is contained in the voluminous affidavit evidence introduced. I will, however, review some of the allegations made against Ms. Ocean and Ms. Ocean's response to those allegations.

[97] As noted above under the heading- Allegations of Coercive Control made by Ms. Ocean, I made findings of fact related to family violence of Ms. Ocean against Ms. Bennett. I found as a fact that she was the perpetrator of family violence in relation to the incident at the dinner party. I found as a fact that the eight-minute video was indicative of the abuse of Ms. Bennett by Ms. Ocean.

[98] I will review three other allegations of family violence alleged by Ms. Bennett and her witnesses: (1) an allegation of Ms. Ocean choking Ms. Bennett in 2020; (2) allegations made in 2010 related to a camping trip; and (3) the incident which occurred in early January 2021.

[99] Alleged incidents of family violence need to be intricately analyzed from all perspectives to ascertain the relevant and material facts. Each incident may not be seen in a two dimensional way – as black and white. The court must be alive to context – explanations for their behaviour that may be seen as reasonable versus unreasonable.

[100] One such example is the incident between the parties which occurred on July 15, 2020.

[101] It is acknowledged by all parties that Ms. Ocean and Ms. Bennett were arguing that evening. It is also acknowledged that both parties were drinking that evening. During that argument, both parties testified that Ms. Ocean took Ms. Bennett's keys to her motor vehicle.

[102] Ms. Ocean testified that Ms. Bennett was drinking and that she did not want her to drive. That is a completely reasonable position to take. Removing the keys to prohibit someone from driving after they have been drinking is a positive action. That, however, is only one element of what occurred that night.

[103] Ms. Ocean stopping Ms. Bennett from driving was positive, but other actions of Ms. Ocean that night are problematic. Ms. Ocean does not address the evidence of Ms. Bennett that she not only took her keys but also her cell phone. Ms. Bennett testified that she found her phone thrown in the back yard the next day

(reference Exhibit 30, tab 24, page 2372, paragraph 69). Ms. Ocean does not address the allegation that she was “in a rage” that night.

[104] Evidence indicated that Ms. Bennett was attempting to get away from Ms. Ocean that night. Without a cell phone, Ms. Bennett went to the garage to use the landline to call her sister and brother-in-law to come get her. Ms. Bennett was without shoes and extremely upset when her sister and brother-in-law arrived.

[105] Despite her drinking that evening, Ms. Ocean was driving Ms. Bennett’s truck up the driveway when Ms. Bennett’s sister and brother-in-law arrived. Ms. Ocean took Ms. Bennett’s keys allegedly so she would not drink and drive and yet Ms. Ocean got behind the wheel of a motor vehicle when she had been drinking.

[106] Ms. Bennett was advised by her brother-in-law to get in her sister’s vehicle. The brother-in-law then requested Ms. Ocean get out of the truck and give him the keys. Ms. Ocean complied. Ms. Bennett left and went to her sister’s home.

[107] There was evidence of a much earlier incident in the summer of 2010. I reference this incident because other witnesses (BS and CS) corroborated the family violence. Family violence may often occur behind closed doors. The court must examine incidents where there may be corroborative evidence.

[108] In July 2010, the parties were travelling and stayed in a campground in Maine with two other parties, BS and CS. Ms. Ocean testified that she was verbally attacked by BS and was so uncomfortable that she wanted to leave and return immediately home to Nova Scotia. The evidence of Ms. Bennett and the two other witnesses was completely contradictory.

[109] They testified that Ms. Ocean became very angry at Ms. Bennett. The witnesses did not know the reason for Ms. Ocean becoming escalated. CS testified that when they returned after briefly leaving the camp site, they returned to Ms. Ocean screaming at Ms. Bennett.

[110] Following the return of BS and CS, Ms. Ocean insisted on leaving and wanted to go back to Nova Scotia separately from the other parties. CS testified that she advised Ms. Bennett they would leave and find their own way back to Nova Scotia. CS testified that:

“I did not want to cause more problems between Cathy and May and did not want to sit in a car with May. They dropped us at the hotel. Cathy was very apologetic

and upset about having to leave us there, she was crying.” (Exhibit 31, tab 30, p. 2659, paragraph 29).

[111] There is evidence of other witnesses, including Ms. Bennett’s sister and brother-in-law corroborating similar incidents of Ms. Ocean becoming angry at Ms. Bennett and the third parties not wanting to aggravate the situation further. Ms. Bennett’s sister testified that Ms. Bennett would stay with her on occasion as a result of Ms. Ocean’s aggression towards Ms. Bennett.

[112] Ms. Ocean urged the court to consider incidents involving CS, BS, and other third parties to provide context to her claim that CS and BS were not credible (as noted previously). I find the evidence of CS and BS as it relates to allegations of family violence perpetrated by Ms. Ocean to be credible. CS, in particular, was clear and forthright in her evidence. She testified to the events of July 2010 in a clear and measured manner. Despite allegations of inappropriate behaviour with third parties in unrelated and irrelevant incidents, both CS and BS denied any such allegations.

[113] Witnesses may be found to be credible in relation to one incident and not credible related to another. I may believe part, all, or none of a witness’ testimony (*Burghardt v. Burghardt*, 2019 NSSC 106). Credibility is a fact specific exercise undertaken by the trier of fact. I find as a fact that CS and BS were credible witnesses when testifying to the incidents they witnessed between Ms. Ocean and Ms. Bennett.

[114] Another incident occurred in March 2020. Ms. Bennett testified that Ms. Ocean grabbed her by the throat and started choking her during an argument. Ms. Bennett testified that she was able to get outside the residence when Ms. Ocean again grabbed her by the throat. Ms. Bennett testified that she was able to get to her vehicle and escape to her sister’s residence. Ms. Ocean’s response in her affidavit is “not true” (reference Exhibit 28, tab 21, p. 1984).

[115] In October 2010, a referral was made to the RCMP in relation to Ms. Ocean (“the first complaint”). The referral was made by a third party. Neither party referenced this incident in their trial affidavits. Ms. Ocean testified that she was unaware of the 2010 complaint against her. Ms. Bennett testified that she had not recalled the 2010 RCMP complaint made by a third party.

[116] Both parties sought full disclosure from the RCMP. A production order was issued and records were produced by the RCMP (Exhibit 32). Ms. Ocean alleges

that the disclosure from the RCMP was not complete. She was permitted to subpoena and cross examine members of the RCMP.

[117] Ms. Ocean subpoenaed Cst. Clarke. He was one of the officers investigating the second complaint which was made in January 2021.

[118] Cst. Clarke took the stand prior to the production of the RCMP documents. As a result, Ms. Ocean was afforded the opportunity to recall Cst. Clarke once the documents were provided by the RCMP. Ms. Ocean recalled Cst. Clarke a second time following receipt of the RCMP documents.

[119] Cst. Clarke was questioned regarding the first complaint (2010 General Occurrence Report). He testified that he was unaware of the first complaint in 2010 when responding to the second complaint in January 2021. He confirmed that the first complaint did not factor into his actions in responding to the second complaint in 2021.

[120] Ms. Ocean indicated that the 2010 General Occurrence Report had been improperly withheld from her. She indicated that the non-disclosure of the Report resulted in prejudice to her. It is difficult to ascertain the basis of Ms. Ocean's objections. She was afforded full opportunity to address any relevance to the 2010 Report. She was permitted the opportunity to address the evidence through her own evidence or through witnesses. She was permitted the opportunity to fully cross examine any and all witnesses related to the 2010 Report. Ms. Ocean did cross examine a number of parties related to the 2010 Report.

[121] The genesis of the 2010 Report was a complaint made by a third party to the RCMP on October 26, 2010. The third party alleged that Ms. Bennett had called them the prior evening and was crying and sounded intoxicated. They indicated in the Report that Ms. Bennett and Ms. Ocean had been arguing and that Ms. Ocean had left. Ms. Bennett then allegedly indicated that if anything happened to her, to contact her adult child.

[122] The documents indicate the third party then attended the property and nothing appeared out of the ordinary. The third party was unable to contact Ms. Bennett to ascertain that she was safe. As a result they contacted the RCMP.

[123] The RCMP officer involved in the 2010 complaint was Cst. Crocker. The officer was able to make contact with Ms. Bennett and Ms. Ocean the following day (October 26, 2010) when they were driving together. Ms. Bennett apologized

to the officer in relation to her inability to be contacted as she had been in court with Ms. Ocean that day. Ms. Bennett advised the officer that she was fine and apologized for the inconvenience.

[124] Ms. Ocean states that the complaint was a fabrication deliberately made to portray her in a negative light. She questioned two of the witnesses extensively to determine who made the complaint.

[125] I do not ascribe any weight to the 2010 General Occurrence Report. I find as a fact that the 2010 General Occurrence Report did not play any part in the RCMP response to the complaint in 2021. I find as a fact that there was no conspiracy to keep the 2010 Report hidden from the parties. The 2010 Report does not factor into the findings of family violence in this decision.

[126] The third event to be reviewed in detail occurred on January 2, 2021. This incident led to the final separation between the parties. The initial complaint made by Ms. Bennett is summarized in the General Occurrence Report found in Exhibit 32, tab 6, p. 47. Ms. Bennett reported that Ms. Ocean had threatened to kill her and tried to stop her from leaving. Ms. Bennett advised the RCMP that Ms. Ocean had assaulted her in the past and she was willing to provide a statement.

[127] The argument that evening related to Ms. Bennett's adult child and Ms. Ocean's ongoing allegation of abusive behaviour. Ms. Ocean was becoming escalated and was insistent that Ms. Bennett admit she was a bad parent. Ms. Ocean insisted that Ms. Bennett contact BS and CS, the dinner guests at the dinner party approximately one decade prior (as detailed above). Ms. Ocean was convinced that BS and CS would corroborate Ms. Bennett's admission of being a bad parent.

[128] Rather than confirm the admission, BS and CS stated they recalled the dinner party and Ms. Ocean kicking Ms. Bennett across the room. Ms. Ocean then insisted that Ms. Bennett call her adult child. Ms. Bennett testified that Ms. Ocean threatened to kill her if she left the residence.

[129] Ms. Bennett testified that she relented to Ms. Ocean's demands and contacted her adult child during this escalating incident. The adult child advised Ms. Bennett to "get out of there". Ms. Bennett indicated that Ms. Ocean had locked the door. She testified that Ms. Ocean tried to block her from leaving but she was able to get away and drive to her sister's.

[130] Ms. Ocean denies the entirety of this account. She indicates that the parties were having a discussion when Ms. Bennett escalated the situation. She denied locking the door, threatening Ms. Bennett or acting in any abusive way whatsoever. To the contrary, she indicates that Ms. Bennett pushed Ms. Ocean when running down the stairs before leaving.

[131] When providing a statement, Ms. Bennett referenced the events of January 2, 2021, as well as an allegation of being choked by Ms. Ocean in July 2020. When Cst. Clarke and Cst. Murphy attended at the residence to speak with Ms. Ocean, she was on the phone with her adult child. Ms. Ocean was charged with uttering threats and assault against Ms. Bennett.

[132] Following her arrest, Ms. Ocean indicated that Ms. Bennett should also be charged and that the threats were untrue. Ms. Ocean also showed the text exchange between the parties regarding separation. The text referencing separation did not impact the charges and Ms. Ocean was asked if she wished to provide a statement. She declined.

[133] Ms. Bennett and her sister testified that they prepared a further written statement and provided it to the RCMP the following morning. Ms. Bennett's sister, JC, was subpoenaed by Ms. Ocean. She was directed to bring her daytimer with her when providing testimony. JC attended at trial pursuant to the subpoena.

[134] Ms. Bennett, her adult child, BS, CS and JC were all cross examined by Ms. Ocean in relation to the events of that evening.

[135] I find as a fact that Ms. Ocean was the aggressor on January 2, 2021. When the testimonies of Ms. Ocean contradict the testimony of the other witnesses, I prefer the testimony of the other witnesses and reject the testimony of Ms. Ocean.

[136] JC was cross examined by Ms. Ocean in relation to her daytimer. JC indicated that she would write in her daytimer, contemporaneously with events that occurred. JC was asked to refer to her daytimer in relation to allegations of July 2020. JC testified that her daytimer entry from that date notes the following:

“July 15, 2020- “Cathy and May were renting the house; May attacked and Cathy came to my place overnight”

[137] The entry related to “May attacked” is clearly hearsay. The entry related to Ms. Bennett attending at her residence to spend the night is admissible.

[138] JC testified that Ms. Bennett would sometimes stay at her residence if she felt unsafe at her home with Ms. Ocean. JC described Ms. Ocean as extremely controlling of Ms. Bennett. She testified that Ms. Ocean was extremely jealous of Ms. Bennett's relationship with her sister and did not want Ms. Bennett to visit her without Ms. Ocean in attendance. JC testified that she tried very hard to get along with Ms. Ocean because she was Ms. Bennett's partner but that she was very controlling and argumentative.

[139] I find as a fact that Ms. Bennett has proven family violence perpetrated by Ms. Ocean. Where Ms. Ocean's evidence is contradicted by other witnesses, I reject the evidence of Ms. Ocean. I find as a fact that Ms. Bennett was the victim of family violence in July 2020, and January 2021. I find as a fact that there was a pattern of family violence including the incident at the dinner party in 2010 or 2012 whereby Ms. Bennett was kicked by Ms. Ocean with such force that she went backwards a number of feet.

[140] I find as a fact that there was a pattern of coercive control by Ms. Ocean where she attempted to isolate Ms. Bennett from family and friends. Ms. Bennett testified that she was made to feel guilty by Ms. Ocean if she wanted to spend any time with family or friends. This was the case even on Ms. Bennett's birthday when Ms. Ocean would tell Ms. Bennett that she was too needy and her friends would not like her because of that. JC indicated that Ms. Ocean would often insist on coming with Ms. Bennett if she was visiting her sister.

[141] Ms. Bennett testified to being scared of Ms. Ocean and her control over her. For example, in 2020 Ms. Bennett was scheduled to have an appointment with her psychologist. When the appointment was moved to virtual as a result of the covid pandemic, Ms. Bennett cancelled the appointment. She was fearful of reprisals from Ms. Ocean if she could hear the conversation with the psychologist. This is merely one example of the coercive control of Ms. Ocean over Ms. Bennett.

IMPACT OF FAMILY VIOLENCE ON THE FINANCIAL ISSUES

Impact of Family Violence on Unjust Enrichment Claims

[142] Counsel for Ms. Bennett argues that Ms. Ocean is estopped from advancing a claim for unjust enrichment. The argument is that Ms. Ocean is disentitled to any form of proprietary compensation as a result of coming to court without "clean hands". In essence, counsel for Ms. Bennett argue that any finding substantiating family violence would disentitle Ms. Ocean from any form of relief.

[143] Despite the assertion that a division of property pursuant to common law principles is not available to Ms. Ocean, Ms. Bennett is prepared to share the value of the IP property equally with Ms. Ocean (reference submissions of Ms. Bennett, June 13, 2025, para 120).

[144] The position that unjust enrichment is unavailable as a remedy to Ms. Ocean is not supported by case law nor the evidence before the court.

[145] As noted in *K.A.R. v. P.J.T.*, 2018 NSSC 4, at paragraph 34:

“*Turbide v. Moore* and these other authorities state that the clean hands doctrine gives the court discretion to dismiss a claim based in equity were [sic] the misconduct in question has an “immediate and necessary relation” to the claim or its subject-matter. It is based on the principle that a person cannot use their own “illegal or immoral act” to found such a claim.”

[146] *K.A.R.* involved claims related to division of property arising from the breakdown of a common law relationship. The court held that the misconduct alleged did not relate to the claim involving the property and did not bar the party from advancing their claim. (See also *Turbide v. Moore*, 2006 NSSC 71.)

[147] In order for the court to consider family violence in the context of property division, the family violence must have resulted in financial consequences (*He v. Guo*, 2022 BCCA 355; *Loss v. Walters*, 2024 BCSC 1012).

[148] The case of *Peters v. Reginato*, 2016 NSSC 345 also involved findings of family violence. In addressing the claim of unjust enrichment, the findings of family violence are not referenced. The findings of family violence are made only in relation to the parenting arrangements.

[149] In the present case, Ms. Ocean and Ms. Bennett were in a relationship for over 27 years. During that time they accumulated and disposed of property. I do not find that the incidents of family violence impacted the acquisition, maintenance or disposal of property by each of the parties over the years.

[150] The claim of Ms. Ocean to a division of property is rooted in unjust enrichment. As noted by Justice Cromwell in *Kerr v. Baranow*, 2011 SCC 10, [2011] 1 S.C.R. 269, there are three elements to establish a claim in unjust enrichment: an enrichment to the respondent, a corresponding deprivation of the applicant and the absence of a juristic reason for the enrichment.

[151] The first element involves a determination as to whether the applicant has transferred a tangible benefit to the respondent (*Bennett v. Pettipas*, 2023 NSSC 198). The evidence disclosed the following:

1. Ms. Ocean's property at SB was used as a family residence when the parties began to cohabit.
2. Ms. Ocean owned the SB property through her business which was transferred to Ms. Bennett's business in 2012.
3. Ms. Ocean and Ms. Bennett were both responsible for household responsibilities.
4. Ms. Ocean's income was higher than Ms. Bennett's for the first few years of the parties' relationship and her financial contribution was slightly higher than Ms. Bennett's.
5. Ms. Ocean assisted in some renovations and maintenance of the IP property.
6. Ms. Ocean assisted in the initial set up of the Airbnb business at the IP property.
7. Ms. Ocean assisted in the rentals of the Airbnb business including bookings, cleaning, etc.

[152] Ms. Ocean alleges that she has suffered financial deprivation:

1. Ms. Ocean's higher income enabled the parties to pay down the mortgage on the IP property faster.
2. Ms. Ocean's financial contributions to the family expenses exceeded Ms. Bennett's early in the relationship.
3. Ms. Ocean was guarantor of the IP property from 1994 until 2003.
4. Ms. Ocean contributed money and labour towards the IP property.
5. The equity in the SB property has been transferred to Ms. Bennett's business and she no longer has property in either her name or her business name.

[153] I accept that there has been some financial deprivation to Ms. Ocean. At the commencement of the relationship, she had a viable business which owned real estate. At the conclusion of the 27 year relationship all real estate or proceeds of sale (SB and IP properties) were in the name of Ms. Bennett or her company.

[154] The third prong of the analysis is whether there is a juristic reason for the enrichment. As noted in the decision of *Hiltz v. Armstrong*, 2024 NSCA 912, at paragraphs 13 and 14:

“[13] The absence of a juristic reason means there is no reason in law for the defendant to retain the benefit conferred by the complainant. This is what makes the retention “unjust”. [9]

[14] The category of juristic reasons that may result in a denied recovery are not closed, but include such things as the intention to make a gift, a contract between the parties, and disposition of the law, (i.e. where the law by statute may deny recovery). [10]” (footnotes omitted)

[155] There is no evidence to show that there is a juristic reason for the enrichment.

[156] Counsel for Ms. Bennett asserts that there may be a contractual reason to deny recovery. Ms. Bennett alleges that there was a separation agreement in 2003 and a pre-nuptial agreement in 2004. Ms. Ocean alleges the documents to be forgeries.

[157] I do not accept that the documents are forgeries. The evidence that Ms. Ocean was not the signatory on the agreements because her handwriting differed was contradicted on cross examination. I find as a fact that both parties signed the documents. The issue, however, is whether the documents are enforceable.

[158] Both agreements are handwritten, without legal advice and without witnesses. Although the validity of such agreements was broadened by the court in *Anderson v. Anderson*, 2023 SCC 13, there must still be some objective analysis as to whether the agreement is binding. I do not find that there is sufficient evidence before me to uphold the handwritten agreements as contractually binding on either party. I would also note that the parties reconciled after the execution of these agreements for a further 17 years.

[159] I have considered all admissible evidence. I find that Ms. Ocean has satisfied the burden of proving unjust enrichment.

[160] If unjust enrichment is found, the court then examines whether there is a joint family venture (*Peters v. Swayze*, 2018 ONCA 189 at paragraph 11). As noted in *Sidhu v. Sidhu*, 2025 BCCA 263, a joint family venture is not an independent cause of action. It arises subsequent to a finding of unjust enrichment.

If found to exist, it may increase the pool of assets to be considered in quantifying the unjust enrichment claim.

[161] In order to find a joint family venture, the court must be satisfied of the existence of four factors: mutual effort, economic integration, actual intent and priority of the family.

[162] The evidence discloses that the majority of the effort in the maintenance and renovation to the properties was done by Ms. Bennett. The lack of economic integration is most apparent when examining the business entities of the parties. The businesses were, to a large extent, the exclusive realm of each party individually with the exception of the Airbnb operating from the IP property.

[163] When Ms. Bennett's company purchased the SB property from Ms. Ocean's company, the parties executed a lease agreement with rental terms noted. Ms. Ocean asserts that the lease was solely designed to increase the market value of the property when the property was to be sold. I do not accept the evidence of Ms. Ocean that the lease was solely to increase market value. I accept the evidence of Ms. Bennett that the lease was to clearly delineate the financial responsibilities of each party.

[164] The responsibilities of each party in relation to the SB property was noted by Ms. Bennett. She indicates that she did the vast majority of the upkeep and renovations to the SB property. This is corroborated by GP, a tenant in the SB property. GP provided an affidavit and was cross examined by Ms. Ocean.

[165] GP was a tenant at the SB property for approximately ten years. He testified that Ms. Bennett was carrying the workload in relation to the SB property both in relation to maintenance and repairs. He did not agree with Ms. Ocean on cross examination that she was extensively involved in work at the SB property.

[166] Ms. Ocean asserts that the mutual effort and economic integration of the parties was evident in the transfer of the SB property in 2012 from Ms. Ocean's business to Ms. Bennett's business. Ms. Ocean asserts that the property was transferred for a value half the fair market value of the property. Ms. Ocean asserts that the property was worth at least \$300,000 and that she transferred it to Ms. Bennett for \$150,000. She indicates that both parties discussed and agreed on future planning related to the SB property.

[167] Ms. Bennett asserts that her company purchased the SB property for fair market value. The property was listed for \$259,000 and was reduced by \$30,000 after months on the market. There was one offer which could not be concluded.

[168] Ms. Ocean's evidence in relation to the offer was contradictory. She acknowledged that the offer lapsed as a result of the purchaser's inability to complete financing. She also testified that she declined the offer (Exhibit 1, tab 6, paragraph 31). There is no evidence to support that the offer was declined by Ms. Ocean. The listing of the property expired after a few months in December 2011.

[169] In March 2012, the parties reached an agreement whereby Ms. Bennett would purchase the property for \$150,000. A lease was drawn up specifying the terms including monthly rent of \$1,000 plus HST, payment of utilities, taxes, snow removal, insurance premiums, etc. (ref. Exhibit 30, tab 24 (g), pp. 2445 and 2446).

[170] Ms. Ocean's company paid rent sporadically but ceased paying any monies within the first two years. There is no evidence in relation to any payments made in relation to utilities, taxes, insurance, etc. Ms. Bennett testified that the SB property occupied by Ms. Ocean's business was in complete disarray a few years after the lease arrangement was made. Ms. Bennett indicated that it was a fire hazard and that there was no valid insurance on the property.

[171] Ms. Bennett, her brother, and GP (tenant) all testified to the amount of work required to be done by Ms. Bennett. This included clearing out items left by Ms. Ocean. Evidence disclosed a significant amount of renovations done and paid for by Ms. Bennett in relation to the SB property prior to and after the transfer of title.

[172] When Ms. Bennett's company was unable to pay for all expenses from the rental revenue, she had to put in personal funds noted as shareholder loans. The shareholder loans remain outstanding. The financial situation was not sustainable and the SB property was sold in 2024.

[173] Further evidence of the lack of economic integration was Ms. Ocean's limited knowledge of the re-financing of the IP property at various times. After 2003, the parties kept their monies separate to a large extent. Ms. Bennett indicates that this was because of a separation between the parties. Ms. Ocean denies they separated. The reason for the financial separation is immaterial. Following 2003, Ms. Ocean was no longer guarantor on the IP property mortgage.

[174] The third prong of the test is the actual intent of the parties. Although I have already determined that Ms. Ocean does not succeed on the first two prongs of the test for joint family venture, I will comment on the third prong – intent.

[175] The execution of the wills, powers of attorney and medical consents may lead to a conclusion of intent to participate in a joint family venture. In the years that followed, however, the ongoing family violence perpetrated by Ms. Ocean may have impacted the free will of Ms. Bennett. I am unable to find that Ms. Bennett intended to participate in a joint family venture with Ms. Ocean. Ms. Bennett's financial decisions to separate property and finances to a large degree are indicative of a lack of intention on Ms. Bennett's part.

[176] I do not find that the evidence establishes a joint family venture.

[177] Having found there is unjust enrichment, I then turn to the appropriate remedy. Ms. Ocean acknowledged that the parties would not be able to live in adjacent properties and share assets (Exh. 27, Tab 19, para 112). A monetary award is the appropriate remedy in this proceeding. As such, the court must now fix the appropriate quantum payable by Ms. Bennett to Ms. Ocean.

[178] As noted in *Kerr v. Barranow*, the court must determine a monetary remedy proportionate to the contributions of the claiming party (reference paragraphs 62 and 88). Ms. Ocean has not proven any contribution to the bank accounts or savings of Ms. Bennett. To the contrary, contributions to Ms. Bennett's savings were negatively impacted by shouldering the vast majority of the parties' expenses in the number of years prior to separation.

[179] Based on the evidence before me, there is no unjust enrichment of Ms. Bennett as it relates to the SB property. I have no evidence related to the fair market value of the property other than the failed attempt to sell at \$229,000. After payment of the mortgages on the property, there was limited equity (approximately \$10,000 disbursed to Ms. Ocean to pay business debts). Subsequent to the transfer, Ms. Bennett was responsible for the financial management of the property in addition to providing significant labour and improvements to the property over the years.

[180] I do find, however, that there is unjust enrichment of Ms. Bennett in relation to the IP property.

[181] Ms. Bennett, herself acknowledges the validity of Ms. Ocean's claim in relation to the IP property as noted in her affidavit filed August 27, 2024 (Exhibit 30, tab 24, p. 2384, para 200). The parties differ, however, on the value of the IP property.

[182] Ms. Bennett retained an expert to value the property in 2021. This was updated in 2022. The values of the IP property (civic numbers 16 and 17) were assessed individually as \$172,000 and \$480,000 (reference Exhibit 25, tab 12 and tab 15). As noted at paragraph 202 of the affidavit, Ms. Bennett was prepared to pay Ms. Ocean \$307,255 for her equity in the IP property. This represents the value as noted by the appraiser in 2022 less real estate commission plus HST (amounting to a reduction of \$37,490).

[183] The appraisal reports in 2021 and 2022 were signed by Kerrilee York, an appraisal candidate, with Phil Kempton as the co-signing AIC appraiser. Mr. Kempton was retired by the time of trial and was unavailable for cross examination. Mr. Kempton's retirement was known shortly before the trial was to commence.

[184] Ms. Bennett sought to introduce a further expert's report (entered as Exhibit 37). Again, Ms. Kerrilee York was a signatory as an appraiser candidate and Paul Young was the certified appraiser. Despite ascribing independent values to the properties in 2021 and 2022, the appraisal conducted in 2024 sought to value the properties as one unit. The 2024 appraisal signed by Mr. Young indicates the value of the combined properties to be \$2,000 less than the value in 2022. He found the properties to be valued at \$650,000.

[185] Ms. Ocean retained an expert, Tian Wigmore. He provided an appraisal report (ref. Exhibit 26. Tab 15, pp. 1358-1409). He agreed with the valuation method of Ms. Bennett's first expert, Mr. Kempton. He noted that the properties should be ascribed individual values.

[186] He provided a value of \$647,000 for 17 IP and \$167,000 for 16 IP. The total value of both civic addresses is \$814,000.

[187] Both Mr. Young and Mr. Wigmore were confirmed to be expert witnesses in the field of real estate appraisal. Their qualifications were not disputed. What is in dispute is the value ascribed to the properties.

[188] As it related to civic address 16 IP, Mr. Wigmore testified that he valued the property at \$175,000 based on “assemblage”. He indicated that based on the highest and best use, the owner could get a variance to build something from HRM or assemblage with another property. He did not agree that the properties should be valued together. The property at 16 IP was approximately one acre, had an ocean view, and could be considered for further construction, utilized as a bunky or assembled with another lot.

[189] Mr. Wigmore was cross examined in relation to the fact that another individual, a certified appraiser, attended the property and provided data to Mr. Wigmore to base his conclusions. Mr. Wigmore indicated that the appraiser was an expert in that location and was best suited to provide some information to Mr. Wigmore. Mr. Wigmore testified to receiving information from the certified appraiser and to discussing various issues with him while preparing the report.

[190] I do not discount the weight to be given to the appraisals as a result of using third parties to assist in the preparation of the appraisals.

[191] Mr. Wigmore took issue with the valuation method utilized by Mr. Young. He indicated that an appraiser must look to the “highest and best use analysis”. Two of the three appraisers considered the highest and best use analysis to result in individual assessments for both 16 and 17 IP. I reject the assertion by Mr. Young that the value of both civic addresses should be ascertained by treating both 16 and 17 as one property.

[192] Mr. Wigmore was cross examined in relation to the comparable sales used. Mr. Young testified that there were difficulties in the compatible properties and that some were inappropriate (due to their location, or the differing attributes).

[193] Mr. Wigmore testified that properties to be used as a comparable need to be closed sales typically within 8 months (although 6 months is preferable). Mr. Wigmore testified that if there is a rural area with very few sales, there is a need to expand the search for appropriate comparables. He indicated that location is important as is the condition of the home. In the case of the IP property (#17), the secondary suite was paramount.

[194] Mr. Young testified that there were inconsistencies in the description of the subject property. For example, he testified that there was only a partial basement and a crawl space on civic address 17 IP. Mr. Wigmore’s description was of a full basement. This may significantly alter the value of the property.

[195] I do not accept the valuation method utilized by Mr. Young in combining both properties into one parcel for valuation. I have some difficulty with the assessment of comparables and description as utilized by Mr. Wigmore. Without further evidence of value, I must determine the value of the IP property.

[196] I am prepared to accept that the average price between the two appraisals is appropriate in this circumstance. The value of the IP property is set at \$732,000. The equity available to distribute is to be determined after deduction of appropriate encumbrances and disposition costs. There is a line of credit secured against the property in the amount of \$76,762.09 as of the date of separation (reference Statement of Property, Exhibit 25, pp. 945 and 1193). Further, there are disposition costs including real estate commission, HST and legal fees.

[197] Real estate commission calculated at 5% is \$36,600. HST is another \$5,124 for a total commission payable of \$41,724. Legal fees may be estimated at \$2,500 (for both properties) plus HST for a further \$350 for total estimated legal fees of \$2,850.

[198] There has been no evidence in relation to the capital gains costs to Ms. Bennett on any transfer of the property.

[199] The net equity in the IP property is therefore \$687,426. An equal division of the net equity in this property is warranted in the circumstances of this case. Ms. Bennett herself acknowledges that Ms. Ocean ought to be paid 50% of the equity in the IP property.

[200] Ms. Ocean is entitled to an equalization payment of \$343,713. Ms. Bennett is solely responsible for any further expenses with the IP property including any capital gains tax owing.

[201] The parties had other assets in addition to the real property. They will each retain their vehicles. They will each retain any bank accounts, TFSA's and RRSP's in their respective names without further claim by the other party. They will each retain any value in the businesses operated by each of them individually.

[202] It is acknowledged that the parties had a bank account in relation to the Airbnb business. The account had \$22,499.98 in it at separation. Ms. Ocean received the benefit of \$13,986.35 from this account, representing more than 50% of this account. Although Ms. Ocean noted two post separation withdrawals from

that account by Ms. Bennett, it is irrelevant as she has received in excess of 50% of the account as of separation.

Impact of Family Violence as it relates to the Tort of Family Violence

[203] The tort of family violence is a tort originating in the case of *Ahluwalia v. Ahluwalia*, 2022 ONSC 1303 (Ont S.C.).

[204] On appeal to the Ontario Court of Appeal, (2024 ONCA 476), the court rejected the necessity for an independent tort of family violence and indicated that remedies existed under the current legislative framework. As noted by the Ontario Court of Appeal, establishing a new tort of family violence ignored the clear intention of the legislatures in confining the definition to considerations of parenting arrangements. The court went on to provide that redress was available to the victims of family violence through claims under existing torts, including the tort of assault and battery.

[205] *Ahluwalia, supra*, is currently under appeal to the Supreme Court of Canada. A decision is pending. Given the current state of the case law, I am not prepared to recognize the tort of family violence in this matter. That, however, would not leave Ms. Bennett without redress pursuant to the tort of assault and battery.

Impact of Family Violence as it relates to the Tort of Assault and Battery

[206] At the outset of the decision I referred to the pleadings of the parties. In particular, I note that Ms. Bennett was represented by legal counsel throughout the proceedings. Allegations of assault and battery are extremely serious and must be specifically addressed in order to allow the other party an opportunity to respond. Principles of natural justice require notice.

[207] Ms. Ocean was not aware that damages may be sought in relation to the tort of assault and battery. To advise of an intention to seek those damages through closing arguments is prejudicial. Natural justice mandates that all parties be provided an opportunity to know the case before the court and to provide appropriate and admissible evidence on their behalf. I am not prepared to entertain a claim for the tort of assault and battery raised for the first time by Ms. Bennett's counsel in closing arguments.

Impact of Family Violence as it relates to Spousal Support

[208] Ms. Ocean is seeking spousal support from Ms. Bennett. The basis of the spousal support is unclear. As noted in *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420, there are three grounds for the award of spousal support: compensatory, non-compensatory, and contractual.

[209] The case of *DJH v. RH*, 2025 NBKB 51, dealt with the issue of spousal support in the context of family violence. In that case, the proposed recipient of support was the victim of family violence. At paragraph 150 the court held:

“The mother has not established that family violence or other conduct on the part of the father had emotional consequences on her that impacted her ability to find work or maintain employment. I, therefore, do not find any misconduct on the father’s part is relevant to the mother’s entitlement to spousal support or to the duration or amount.”

[210] The case of *Leskun v. Leskun*, 2006 SCC 25, provides that family violence may be relevant if it effects the ability of the payee spouse to earn income.

[211] In the present case, Ms. Ocean is not the victim of family violence but rather the perpetrator.

[212] The perpetrator of family violence seeking spousal support was addressed by the court in *Gonzalez v. Astorga Bello*, 2025 ONSC 3671. The *Gonzalez* decision involved a consideration of the *Divorce Act*, as the parties were married.

[213] At paragraph 43 of the decision the court held:

[43] In contrast, there is little discussion in the jurisprudence to date regarding the section’s applicability to conduct by a perpetrator spouse who seeks support. It has previously been held that violent conduct by a putative recipient spouse could be considered in reducing spousal support where such conduct was not “in relation to the marriage” (*Sivarajah v Muralidaran*[18]). But in situations such as this one, where the individual claiming support admits to perpetuating family violence throughout the relationship, what is to be done with the wording of section 15.2(5)?

[214] Further, at paragraph 45, the court stated:

[45] Surely an order compelling a survivor to financially support her abuser would perpetuate financial abuse and would make the law “an ass,” to quote Dickens. It seems to me that in order to modify foundational public policy by statute, Parliament would need to refer specifically to the perpetuation of family violence in the wording of section 15.2(4). I am not suggesting that all situations of family violence should automatically trigger a denial of spousal support to the

alleged perpetrator; each case must turn on its own facts. I am simply concluding that, as with the impact of violence on a survivor's self-sufficiency, it must be open to the court to consider the public policy principle that, at its core, militates against requiring a survivor of abuse to support his or her abuser financially."

[215] The court in *Gonzalez* declined to order the victim of family violence to pay spousal support to the perpetrator. The opposite conclusion was reached in *Bray v. Watson-Bray*, 2021 NSSC 314. The *Bray* decision involved a married couple wherein the perpetrator of family violence was seeking spousal support. In that case, the court held that there was entitlement both on compensatory and non-compensatory grounds for the perpetrator of family violence.

[216] I have also considered the principles set out in *Menegaldo v. Menegaldo*, 2012 ONSC 2915, and *Sivarajah v. Muralidaran*, 2016 ONSC 5381. When there is family violence, the "clean break" principle is to be given considerable weight. To continue to tie victims of family violence to perpetrators through monthly spousal support payments may be necessary given current legal precedents, but it may exacerbate the cycle of abuse. If spousal support is to be ordered, a lump sum award may be more appropriate.

Spousal support claim of Ms. Ocean- findings

[217] In the case involving Ms. Ocean and Ms. Bennett, the statutory framework to consider spousal support is not found in the *Divorce Act*, but rather the *PSA*. The factors for the court to consider are set out in s.4 of the *PSA*. The *PSA* does not include the same legislative restriction negating the ability to consider spousal misconduct as set out in s. 15.2(5) of the *Divorce Act*.

[218] Does this mean that the court may consider misconduct pursuant to the *PSA*? It may be incongruous to consider spousal misconduct as it relates to unmarried couples but to have a prohibition on consideration of conduct for married couples. Although misconduct may not be considered under the *Divorce Act*, the court can consider the effect of spousal misconduct (i.e. family violence), if there is impact on the capacity of a spouse to earn an income.

[219] There is no evidence that the family violence perpetrated by Ms. Ocean impacted her ability to earn an income.

[220] The evidence does not disclose that Ms. Bennett impeded Ms. Ocean in any of her pursuits, whether financial or otherwise. Ms. Ocean references the support

of Ms. Bennett throughout her lengthy motor vehicle litigation (Exhibit 3, page 28 of 36). Ms. Bennett's support of Ms. Ocean throughout the relationship was acknowledged by Ms. Ocean not only in relation to the motor vehicle litigation, but also in relation to the downturn in her business and her pursuit of artistic endeavours and research pursuits.

[221] Ms. Ocean has not specified the basis of her entitlement to spousal support. She has not met the burden of proving entitlement to compensatory support. The evidence notes that throughout the majority of the relationship both parties pursued their individual business ventures. Ms. Ocean was very clear that her business was run as she saw fit as was Ms. Bennett's. Prior to a business downturn and motor vehicle litigation, Ms. Ocean was the higher income earner for periods of time.

[222] Following the downturn in Ms. Ocean's business, she turned her efforts to her research on scientific theories (chimera, inner twin world, etc). She continued to pursue her artistic interests. During the trial, Ms. Ocean referenced pursuing her art career "full time". Ms. Ocean also worked occasionally for Ms. Bennett.

[223] Ms. Bennett asserts that the work done by Ms. Ocean in relation to her contracting business was nominal. Ms. Ocean asserts that she provided significant assistance to Ms. Bennett and is entitled to compensation for this work. Based on the admissible evidence before me, I find as a fact that Ms. Ocean's assistance to Ms. Bennett was not significant and was comparable to the assistance provided by Ms. Bennett to Ms. Ocean.

[224] Ms. Bennett would occasionally forego work in order to assist Ms. Ocean in trade shows for her business. Evidence showed that while Ms. Ocean's business was active, Ms. Bennett would devote approximately 6-8 weeks per year to assist with trade shows. Ms. Bennett would also occasionally assist Ms. Ocean with maintenance and repair to Ms. Ocean's business space. Likewise, Ms. Ocean would occasionally assist Ms. Bennett with her business: varnishing, painting and finishing.

[225] In making these findings I rely not only on the evidence of Ms. Bennett, but also corroborating evidence.

[226] Ms. Bennett's brother also testified. He worked with Ms. Bennett in the construction business. He testified that Ms. Ocean did some work for Ms. Bennett although it was not often.

[227] Ms. Ocean is not operating her business to any significant degree and has not done so for years. Ms. Bennett is no longer operating her construction business. The sole business still in operation is the Airbnb business operating from the IP property.

[228] There is no evidence that a compensatory claim would arise from the roles each party assumed during their relationship. Each party contributed to household responsibilities both when their children resided with them and afterwards. There is no evidence that the efforts of Ms. Ocean in relation to the household responsibilities exceeded the efforts of Ms. Bennett. Any claim of spousal support based on compensatory grounds has not been met by Ms. Ocean.

[229] Ms. Ocean has not established any contractual basis for support.

[230] As it relates to non-compensatory support, the court would take into consideration any financial disparities between the incomes of each party. The means, needs and circumstances of the parties are to be evaluated based on the admissible evidence presented. It is a fact specific exercise based on the unique circumstances of the parties.

[231] Both parties are in their retirement years. Both receive CPP and OAS. The sole differential in incomes relates to Ms. Bennett's rental income from the Airbnb on the IP property.

[232] As noted above, the equity in the IP is to be shared equally between the parties. It is up to Ms. Ocean as to how she wishes to utilize her capital-investments, purchase of assets, etc.. The incomes of the parties post-retirement are comparable with exception of rental income earned by Ms. Bennett. As the equity in the rental property is divided equally, both parties will be in similar financial positions. No ongoing spousal support is payable pursuant to any non-compensatory claim.

[233] This, however, does not address any potential retroactive claim for spousal support from January 2021 to the date of the property division.

[234] I then turn to the admissible evidence related to the retroactive claim for spousal support. Ms. Bennett's income can be ascertained by examining both her personal and corporate tax returns. The personal tax returns disclose the following income (inclusive of dividends received from her company:

- 2021- \$43,907
- 2022- \$53,242
- 2023- \$32,936

[235] In reviewing the corporate tax returns, it is clear that the pre-tax net revenue of the company is not significant: \$6,082 (year end 2021), \$9,230 (year end 2022); \$5,510 (year end 2023). I also note an outstanding shareholder loan to Ms. Bennett in the approximate amount of \$50,000. Even attributing the entirety of the pre-tax corporate income to Ms. Bennett would not significantly alter her income.

[236] The income of Ms. Ocean is more difficult to ascertain. The income tax information reveals the following:

- 2021- \$1,634 (including a business loss of \$2,144)
- 2022- \$13,587 comprised of OAS, CPP and net federal supplements
- 2023- no tax information was provided

[237] Ms. Ocean filed a Statement of Income in September 2024- her total income was declared to be \$30,817.92 (reference Exhibit 6, tab 25). In addition to CPP and OAS income, Ms. Ocean noted income from Shubie Campground and NS Housing Supplement. The income from the NS Housing Supplement is noted to be \$157.58 monthly but the attached bank statements note monthly income from that source of \$534.

[238] The income from Shubie campground is noted to be \$423.51, net on Ms. Ocean's Statement of Income. I do not have details relating to the netting of the expense. The attached bank statements have deposits from "Resource Manage Pay". It is unknown if this is income from the Shubie Campground.

[239] The affidavit of Ms. Ocean filed March 2024 indicates her sole sources of income to be CPP and OAS and a small government supplement (reference Exhibit 1, tab 3, p.75). This information is contradicted by her Statement of Income prepared at the same time and filed in September 2024.

[240] The Statement of Expenses of Ms. Ocean filed in October 2022 reveal a surplus of \$156.62. It is a frugal budget. The statement indicates that Ms. Ocean was unable to afford dental expenses or holidays. It does not reveal any other expense not met. It does not note that Ms. Ocean has increasing debts. The expenses (excluding dental expense and holiday expense) were met from her

income without the necessity to rely on capital dispositions (i.e. cashing in of RRSP's).

[241] The Statement of Expenses filed in September 2024 reveal a deficit of \$1,039 per month. This is premised on a monthly income of \$2,568.16 (\$30,817.92). As noted above, the quantification of Ms. Ocean's income at \$30,817.92 does not appear to correspond with the amounts disclosed in the bank statements attached to her Statement of Income.

[242] The other financial circumstances of Ms. Ocean are also difficult to parse together from the evidence. Following separation, Ms. Ocean was residing with her daughter and her family. After an argument, Ms. Ocean left their residence and resided in a shelter for abused women for some period of time. Thereafter she resided in an apartment (as disclosed in her Statement of Expenses filed September 9, 2024- reference Exhibit 24, tab 11, p. 829).

[243] In October of 2022 Ms. Ocean was able to meet her expenses as they fell due (without dental and holiday expense) despite a limited income. She did not disclose utilizing any capital assets to meet her needs. Despite the lack of deficit noted in 2022, it would appear as though there was some income differential between separation and the date of the hearing. It is unfortunate that neither a precise calculation of income nor need can be determined through the evidence submitted.

[244] I find it appropriate that some amount of spousal support is payable by Ms. Bennett to Ms. Ocean based on non-compensatory grounds for the period following separation to the end of 2022. Commencing in 2023, the parties had relatively similar incomes: Ms. Bennett had income of \$32,936 and Ms. Ocean had declared income of \$30,817.92. Ms. Ocean's actual income may be slightly higher given the discrepancies in the government supplement and the additional income from Shubie campground as noted herein.

[245] I then turn to the quantification of the amount owing in retroactive spousal support. Despite the surplus position in the Statement of Expenses, it is clear that the expense statement of Ms. Ocean is quite frugal. I am also mindful of the additional costs in relation to Ms. Bennett's budget as she was responsible for upkeep and maintenance in relation to the existing IP property.

[246] Retroactive awards are discretionary. In exercising that discretion, I am mindful of all of the circumstances of this matter and the specific means of each party.

[247] Prior to the hearing, Ms. Bennett was solely responsible for all expenses related to the IP property. She was aware that Ms. Ocean had a claim and had a duty to ensure that the asset was maintained appropriately. Her expenses would be significant. In contrast, Ms. Ocean would have far more flexibility in her expenses. Additionally, there are issues in relation to the evidence presented by Ms. Ocean of her income.

[248] Given the circumstances of the parties as set out in the evidence I am prepared to order lump sum retroactive support in the amount of \$15,000.

[249] I have struggled with the issue of the payment of spousal support by the victim to the perpetrator of spousal abuse. The findings of fact related to domestic violence were clear on the evidence. What is less clear is the principled approach to spousal support in light of these findings. The court must not make decisions based on reactive empathy but rather must base decisions on a reasoned objective analysis of the law.

CONCLUSION

[250] Ms. Ocean has met the burden of proving her unjust enrichment claim. Ms. Bennett is to pay Ms. Ocean \$343,517.50 representing 50% of the equity in the IP property.

[251] Ms. Bennett is to pay a lump sum retroactive spousal support order of \$15,000. This lump sum spousal support order relates to the period January 2021 to December 2022.

[252] The payments to be made by Ms. Bennett to Ms. Ocean are subject to any claim for costs. Any request for costs must be made in writing to the court within 30 days of the decision.

[253] The evidence overwhelmingly supports a finding of family violence perpetrated by Ms. Ocean as against Ms. Bennett.

[254] There is no evidence of any acts of coercive control by Ms. Bennett as against Ms. Ocean.

Chiasson, J.

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Ocean v Bennett*, 2026 NSSC 33

Date: 20260203

Docket: SFHPSA No. 127675

Registry: Halifax

Between:

May Ocean

Applicant

v.

Cathy Bennett

Respondent

ERRATUM

Judge: The Honourable Justice C. LouAnn Chiasson

Heard: October 7, 8, 9, 10 and 11, 2024; April 16, 22, 23, 24 and 25, 2025, in Halifax, Nova Scotia

Final Written Submissions: October 2025

Counsel: May Ocean, self-represented
Jennifer Reid for the Respondent

Erratum Date: February 13, 2026

Erratum Details: Explanatory note: The erratum addresses the calculation of HST on real estate commission and legal fees in the decision. The HST calculation was based on 15% and not 14%.
Paragraph 197 reads “Real estate commission calculated at 5% is 36,600. HST is another \$5,490 for a total commission

payable of \$42,090. Legal fees may be estimated at \$2,500 (for both properties) plus HST for a further \$375 for total estimated legal fees of \$2,875.”

Paragraph 197 has been changed to “Real estate commission calculated at 5% is 36,600. HST is another \$5,124 for a total commission payable of \$41,724. Legal fees may be estimated at \$2,500 (for both properties) plus HST for a further \$350 for total estimated legal fees of \$2,850.”

Paragraph 199 reads, in part: “The net equity in the IP property is therefore \$687,035.” It has been changed to read: “The net equity in the IP property is therefore \$687,426.”

Paragraph 200 reads, in part: “Ms. Ocean is entitled to an equalization payment of \$343,517.50...” It has been changed to read: “Ms. Ocean is entitled to an equalization payment of \$343,713. ”