

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *MacDonald v. More*, 2026 NSSC 41

Date: 20260202

Docket: HFD *SFH* No. 1201-075519

Registry: Halifax

Between:

Christopher MacDonald

Petitioner

v.

Katelyn More

Respondent

Judge: The Honourable Justice Theresa M. Forgeron

Costs Submissions: August 15, 2025; September 15, 2025; and September 26, 2025, in Halifax, Nova Scotia

Decision: February 2, 2026

Counsel: Christopher MacDonald, self-represented
Jessie Chisholm, counsel for Katelyn More

By the Court:

Introduction

[1] Katelyn More seeks \$82,000 in costs from Christopher MacDonald flowing from my 2025 divorce decision, *MacDonald v. More*, 2025 NSSC 233. Mr. MacDonald objects. He states that each party should bear their own costs.

Position of Ms. More

[2] Ms. More states that a substantial award is warranted because she was the overwhelmingly successful party; Mr. MacDonald did not accept her favourable settlement offers; Mr. MacDonald did not provide financial disclosure in a timely manner; Mr. MacDonald clung to unreasonable litigation positions, especially with respect to family violence and relocation; and Mr. MacDonald was unwilling to discuss pretrial issues designed to reduce the amount of time required to litigate, such as an agreed statement of facts, while Ms. More did all that she could to resolve the issues and to reduce trial time.

[3] Ms. More states that a lump sum approach is appropriate because many of the issues cannot be assigned a monetary value. Her legal fees, inclusive of HST and disbursements, total \$126,532.16. Given her settlement offers, \$82,000 provides a principled amount that will do justice as between the parties.

Position of Mr. MacDonald

[4] Mr. MacDonald disputes Ms. More's costs submissions. Instead, he submits that each party should bear their own costs for the following reasons:

- His litigation position was based on his love for his daughter; he sought to preserve a meaningful relationship with Lily. Accepting Ms. More's settlement offer would have been devastating to Lily's relationship with him as well as his family.
- Ms. More made the unilateral and independent decision to relocate to British Columbia. Mr. MacDonald should not be responsible for legal fees incurred because of Ms. More's unilateral conduct.
- Mr. MacDonald has complied with every order, including making the equalization payment of \$192,086. He continues to work hard to rebuild his health and business while diligently meeting all court requirements.

- His financial position is severely compromised. He had to represent himself at the divorce hearing because he could not afford a further \$50,000 retainer. He had already paid about \$80,000 to his family law lawyer and over \$50,000 for his criminal lawyer. Mr. MacDonald states that he has no ability to pay any further legal fees, especially given the equalization transfer.
- Any costs award would negatively affect his ability to maintain regular contact with Lily, including travel

Issue

[5] What costs award will do justice as between the parties?

Decision

[6] To determine costs, I must find the successful party, calculate the amount involved, examine the impact of favourable settlement offers, review litigation conduct, and chose a principled approach.

Successful Party

[7] I find that Ms. More was the more successful party on the vast majority of the issues:

- ***Family Violence:*** Ms. More testified that Mr. MacDonald was violent. He disputed that allegation.¹ In addition, he insisted that Ms. More was emotionally abusive and manipulative. He said that she exaggerated and lied to bolster her relocation claim. At paras 25 to 33 of my decision, I accepted Ms. More's evidence and dismissed Mr. MacDonald's claims. Ms. More was successful on the pivotal issue of family violence.
- ***Relocation and Primary Residence:*** Ms. More sought to permanently relocate Lily to Victoria, B.C. Mr. MacDonald asked that Lily be returned to HRM. I granted Ms. More's relocation request and placed Lily in Ms. More's primary care. Ms. More was successful on the pivotal issue of relocation.
- ***Restrictions on Mr. MacDonald's Parenting Time:*** Ms. More asked that Mr. MacDonald's parenting time be supervised, with supervision being

¹ Other than the sexual act committed while Ms. More slept.

subject to review. Mr. MacDonald disagreed with any parenting time restrictions. At para 60 of my decision, Mr. MacDonald's parenting time continued to be supervised pending successful completion of therapy. Ms. More was successful on the pivotal issue of supervision.

- **Property Division:** Ms. More sought an equal division while Mr. MacDonald argued for an unequal division. Although Ms. More was successful, I did make some adjustments to the value of some of the assets which was beneficial to Mr. MacDonald's position. Ms. More was largely successful on the property division issue, especially if Ms. More's settlement offers were considered.
- **Income Determination:** Ms. More asked that an income of \$120,000 be imputed to Mr. MacDonald. Mr. MacDonald said that his income was \$40,000. I found that Mr. MacDonald had a prospective income earning capacity of \$90,000. There was divided success on this issue, but not if Ms. More's settlement offers were considered. As will be discussed, Ms. More was prepared to forego child support.
- **Child Support:** Success was divided. Although I granted the table amount of support to Ms. More, I did not grant any s. 7 expenses or retroactive support. As will be discussed, Ms. More was prepared to forego child support.
- **Spousal Support:** Mr. MacDonald was entirely successful on the spousal support issue as I denied entitlement and an ability to pay. It should be noted, however, that Ms. More was prepared to forego spousal support in favour of settlement.

[8] In summary, Ms. More was the more successful party on the issues which were the most critical and which consumed most of the trial time. Mr. MacDonald was successful on some of the monetary issues, but not if Ms. More's settlement offers were considered.

Amount Involved

[9] It is difficult to quantify the amount involved given the nature of many of the issues. The tariffs state that where there is a substantial non-monetary issue, I am to calculate the amount involved with reference to the proceeding's complexity and the importance of the issues.

[10] The proceeding was somewhat complex. It involved a four-day contested trial where parenting, income, support, and property division issues were determined. Further, the issues were of great importance as the most significant involved Lily's best interests and family violence.

Settlement Offers

[11] Rule 77.07(2)(b) instructs me to review settlement offers. Ms. More made three settlement offers to Mr. MacDonald.

March 18, 2024 Settlement Offer

[12] On March 18, 2024, Ms. More offered to resolve the parenting issues as follows:

- Decision-making based on consultation but in the event of a disagreement, final decision-making to vest with Ms. More.
- Lily to reside in Victoria with Ms. More and have parenting time with Mr. MacDonald. Ms. More offered to travel to N.S. three times a year for four-to-five-day visits. I ordered her to travel to N.S. twice per year for nine-day visits. Ms. More offered unlimited parenting time in Victoria. I ordered nine-day visits every two months which were not to occur during the months when Ms. More and Lily travelled to N.S.
- Mr. MacDonald's parenting time to be supervised. The need for supervision was subject to review. I ordered supervision subject to Mr. MacDonald's successful completion of therapy.

[13] In addition, Ms. More offered to resolve child support based on an income of \$80,000 and a reduction in the table amount because of Mr. MacDonald's travel expenses. I ordered prospective child support based on \$90,000 and no reduction in the table amount.

August 27, 2024 Settlement Offer

[14] On August 27, 2024, Ms. More filed a favourable settlement offer to resolve all of the issues:

November 13, 2024 Settlement Offer

- Decision-making based on consultation but in the event of a disagreement, final decision-making to vest with Ms. More.
- Lily to reside in Victoria with Ms. More and have parenting time with Mr. MacDonald. Ms. More offered to travel to N.S. twice per year for seven-to-ten-day visits. I ordered her to travel to N.S. twice per year for nine-day visits. Ms. More offered unlimited parenting time in Victoria. I ordered nine-day visits every two months which were not to occur during the months when Ms. More and Lily travelled to N.S.
- Mr. MacDonald's parenting time to be supervised. The need for supervision was subject to review. I ordered supervision subject to Mr. MacDonald's successful completion of therapy.
- Ms. More withdrew her request for child support so that Mr. MacDonald was not required to pay child support. I ordered the table amount.
- Ms. More withdrew her request for spousal support so that Mr. MacDonald was not required to pay spousal support. I also denied spousal support.
- The equity in the matrimonial home would be equally divided. The equity would be determined once an appraisal of the home was completed. No equalization of the other assets or debts was requested. An equal division of the equity in the home would have resulted in an equalization payment of \$175,427.50. I ordered an equalization payment of \$192,086.

[15] On November 13, 2024, Ms. More reiterated her August 27th settlement offer. In addition, she also indicated that she would welcome a counteroffer and that she was prepared to negotiate. No response was forthcoming.

Summary

[16] In summary, Ms. More made significant concessions in her three settlement offers which Mr. MacDonald did not accept. The favourable settlement offers will impact the costs calculation.

Litigation Conduct

[17] Mr. MacDonald's litigation strategy on the parenting issues was not reasonable. Although I do not doubt the sincerity of his love for Lily, Mr. MacDonald failed to be objective about likely outcomes based on the legislative best interests factors and the presence of family violence. As a result, Mr. MacDonald refused to negotiate any outcome that did not involve Lily living in N.S. The

comments of B. MacDonald, J in *Ibrahim v. Murphy*, 2017 NSSC 264, bear repeating:

[10] The potential for an adverse cost award is a reality that is expected to encourage parents to be more objective about their child's needs. Parents are to separate their own needs from those of the child. Sometimes this may require a parent to recognize the child can be adequately parented by the other parent and that his or her preferred plan is not practical or desirable for the child.

[11] It is always in the child's best interest for the child's parents not to engage in litigation. Anger, pride, a desire to win, jealousy, resentment, or dislike of the other parent may prevent a parent from objectively viewing the child's situation. Why should every parent in such circumstances, who cannot agree with the other parent about parenting issues, bring his or her issues in the court and expect to be relieved from an obligation to compensate the successful parent?

Lump Sum Approach

[18] A principled approach to the calculation of costs in this matter cannot be found in the tariffs. Instead, I find that a lump sum approach should be adopted based on *Armoyan v Armoyan*, 2013 NSCA 136 and *Ward v Murphy*, 2022 NSCA 20, paras 98 to 100, so that justice can be done as between the parties.

[19] In this case, I find that the legal fees charged to Ms. More are reasonable. I note that Ms. More's fees were reduced because of lower rates charged by associates and the applied discount. Further, the reasonableness of her legal fees is confirmed when compared to the legal fees charged to Mr. MacDonald. For example, Mr. MacDonald paid \$79,470.50 to his family law lawyer before he became self represented. In addition, he was asked to pay a further \$50,000 retainer for the divorce hearing itself. This would have resulted in legal fees of about \$129,470.50. In comparison, Ms. More's legal fees were \$126,532.16.

[20] I find that costs of \$82,000, as requested, should be awarded to do justice as between the parties for the following reasons:

- Ms. More was the successful party and is entitled to costs.
- Ms. More's settlement offers were reasonable. Ms. More incurred \$102,717.67 in legal fees after her March 18, 2024 settlement offer was sent and \$53,773.46 after her August 27, 2024 settlement offer was sent.

- Mr. MacDonald did not act reasonably in refusing Ms. More's settlement offers. Mr. MacDonald ought to have accepted the August 27th settlement offer.
- The hearing took place over four days and involved important issues of violence, parenting plans, and parenting time restrictions. Further, property division and support issues were determined.
- Mr. MacDonald did not seek an order pursuant to Rule 77.04 prior to the divorce being heard. Further, Mr. MacDonald has a greater income earning capacity than does Ms. More.
- I find that HST is recoverable as legal fees or as a disbursement: *Wolfson v Wolfson*, 2022 NSSC 263 at paras 9 to 21, and as reversed on other points at 2023 NSCA 57.
- Ms. More should receive about 55% of her legal fees incurred before the August 27th settlement offer and 80% after the August 27th settlement offer. Total fees \$126,532.16 - \$53,773.46 (fees incurred after August 27) = \$72,758.70 x 55% = \$40,017.29 + 43,018.77 (\$53,773.46 x 80%) = \$83,036.06.

Conclusion

[21] Mr. MacDonald must pay costs to Ms. More of \$82,000, which are payable within 45 days. Counsel for Ms. More will draft and circulate the order.

Forgeron, J.