

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Brooks v. Griggs*, 2026 NSSC 42

Date: 20260202

Docket: HFD *SFH* No. 1201-070402

Registry: Halifax

Between:

Pamela Brooks

Applicant

v.

Steven Griggs

Respondent

Judge: The Honourable Justice Theresa M Forgeron

Costs Submissions: August 15, 2025 from Pamela Brooks
No submissions from Steven Griggs

Endorsement: February 2, 2026

Counsel: Vanja Mitrovic, counsel for Pamela Brooks
Steven Griggs, self-represented

By the Court:

Introduction

[1] In my decision, *Brooks v. Griggs*, 2025 NSSC 235, I retroactively increased Steven Griggs' spousal support payment to Pamela Brooks. She now seeks \$29,912 in costs. Ms. Brooks filed her written costs submissions on August 15, 2025. Steven Griggs elected not to file submissions. They were due on September 15, 2025.

Position of Pamela Brooks

[2] Ms. Brooks outlines three reasons to support her costs claim. First, Ms. Brooks states that she was successful in that every point of relief she sought was granted, including on the issues related to a material change, the calculation of Mr. Griggs' income, and the amount of retroactive and prospective spousal support.

[3] Second, Ms. Brooks notes that Mr. Griggs engaged in poor litigation conduct. He did not file the ordered disclosure as mandated in the corollary relief order and then in subsequent orders and directions granted during the variation proceeding. His failure to do so resulted in Ms. Brooks incurring unnecessary legal fees and being unable to meaningfully engage in settlement discussions. The significance of this factor is compounded because Ms. Brooks is a vulnerable litigant.

[4] Third, a lump sum approach should be adopted because of the difficulty quantifying the amount involved. Given the circumstances, Ms. Brooks should be awarded 75% of her legal fees.

Issue

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

Decision

[6] To determine the appropriate costs award, I must find who was the successful party, review the amount involved, make adjustments to the tariff A amount because of litigation conduct, and resolve the appropriate approach to be adopted.

Successful Party

[7] Ms. Brooks was indeed the successful party on all litigated issues. First, she proved that the variation could proceed as she established a material change in circumstances. Second, she proved that Mr. Griggs' income should be based on what he reported in his prior year's tax return, and not a reduced amount as Mr. Griggs proposed. Third, Ms. Brooks proved continued entitlement and that a termination date was not warranted. Fourth, I granted Ms. Brooks \$3,400 in prospective periodic support and retroactive spousal support, both in the amounts requested.

[8] Ms. Brooks succeeded on all issues and in the amounts requested. She was entirely successful. Mr. Griggs was not successful on any of the issues.

Amount Involved

[9] Some of the amount involved can be quantified. For example, Mr. Griggs was ordered to pay retroactive spousal support - \$21,435 as a lump sum and \$12,600 by periodic payments. The total amount involved for retroactive support is **\$34,035**.

[10] Further, Mr. Griggs was ordered to pay prospective spousal support of \$3,400 per month – an increase of \$2,100 from the \$1,300 he had been paying previously. Although there was no termination date, spousal support is subject to s. 17 of the *Divorce Act*. If the increase is calculated for at least three years, as is *minimally* appropriate in this case, the total amount involved for costs purposes is **\$75,600**.

[11] For the purposes of the costs calculation, I assign **\$109,635** as the amount involved. Tariff A would produce a costs award of \$12,250 plus \$2,000 for one day of trial, for a total payment of **\$14,250**, subject to other adjustments.

Adjustments

[12] Rule 77.07 states that I may increase the tariff award for various reasons, including:

- Conduct that affected the speed or expense of the proceeding.
- A step that was taken improperly, abusively, cautiously, neglectfully or mistakenly, or unnecessarily.
- A step taken because the other party unreasonably withheld consent.

- Or, a failure to admit that which should have been admitted.

[13] Ms. Brooks proved that a substantial upward adjustment should be made to the tariff A award because:

- Mr. Griggs failed to produce income information as required in the corollary relief order and subsequent orders to disclose. Failure to disclose is a serious issue and for which real consequences must flow, over and above the two small costs awards previously granted.
- Mr. Griggs' failure to disclose caused Ms. Brooks to incur legal fees unnecessarily because counsel had to secure the disclosure.
- Mr. Griggs' failure to disclose stymied settlement discussions.
- Mr. Griggs should have admitted entitlement from the outset. As he did not, Ms. Brooks had to secure an expert report to confirm her health diagnosis, status, and inability to work. Ms. Brooks should not have had to litigate this issue.
- Mr. Griggs should have admitted a material change in circumstances. Mr. Griggs' income had increased from that stated in the corollary relief order. Ms. Brooks should not have had to litigate this issue.
- Mr. Griggs should have admitted that an increase in spousal support was appropriate given the increase in his income and the fact that child support was no longer payable. Ms. Brooks should not have had to litigate this issue.
- Mr. Griggs' affidavit did not comply with evidentiary rules. As a result, Ms. Brooks filed a motion to strike. She was successful. Ms. Brooks should not have been put to this expense.
- Mr. Griggs misused the financial power imbalance between the parties to attempt to secure the relief he sought. Mr. Griggs' conduct requires censure.
- Ms. Brooks legal fees are reasonable. Counsel was efficient and appropriate throughout.

[14] In such circumstances, costs should be increased by a further **\$8,000** given the prior costs awards.

Disbursements and HST

[15] 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. Brooks is therefore entitled to all disbursements and HST charged to her accounts, which amounts total **\$7,502.80**.

Total Tariff A Award

[16] The total tariff A award is thus calculated at $\$14,250 + \$8,000 + \$7,502.80 =$ **\$29,752.80**.

Alternate Lump Sum Approach

[17] If I erred by calculating the amount involved in the manner undertaken, then a lump sum approach would have resulted in a similar outcome. Ms. Brooks legal fees were reasonable in the circumstances. For the reasons previously outlined, Ms. Brooks would have been entitled to a substantial indemnification based on approximately 75% of her reasonable legal fees which would have produced an **alternative award of \$29,912.62**.

Conclusion

[18] Mr. Griggs must pay Ms. Brooks costs of **\$29,752.80** which are payable in 45 days. Counsel for Ms. Brooks is to draft and circulate the order.

Forgeron, J