

SUPREME COURT OF NOVA SCOTIA

Citation: *O'Neil v. O'Neil*, 2026 NSSC 83

Date: 20260318

Docket: Ant SAT No. 545329

Registry: Antigonish

Between:

Adrian Ignatius O'Neil

Plaintiff

v.

James Ignatius O'Neil, Raymond Gerard O'Neil, Lawrence Ignatius O'Neil and
Moira Elizabeth Dowling

Defendants

DECISION ON COSTS

Judge: The Honourable Justice Scott C. Norton

Heard: By Correspondence

Decision: March 18, 2026

Counsel: Adrian O'Neil, self-represented Plaintiff
Justin E. Adams, for the Defendants, James O'Neil and Raymond O'Neil
Benjamin P. Carver and Jeffrey D. Waugh, for the Defendants, Lawrence
O'Neil and Moira Dowling

By the Court:

Introduction

[1] By decision dated February 2, 2026, I granted the defendants' motion for summary judgment on evidence and an order dismissing the proceedings against them on grounds that the plaintiff's claim is barred by the passage of time. *O'Neil v. O'Neil*, 2026 NSSC 39 ("Decision").

[2] The Decision directed that if the parties could not agree on costs, they would file written submissions, two weeks after receipt of the decision for the defendants, and two weeks after that from the plaintiff.

[3] The defendants were successful on the motion and are entitled to costs. The motion was determinative of the entire matter. Under Tariff C, this engages the application of a multiplier of up to four times the tariff amount based on the complexity of the matter, the importance of the matter to the parties, and the amount of effort involved in preparing for and conducting the motion.

[4] Pursuant to *Civil Procedure Rule 77.08*, the court may award lump sum costs instead of tariff costs.

[5] In this case, the motion hearing was more than an hour but less than half a day. This would permit tariff costs of up to \$1,000 with a multiplier of up to four times the tariff, or \$4,000.

[6] The successful defendants argue that this amount would not achieve justice between the parties, reflect the amount of effort involved or represent the importance of the issue at hand. They say that tariff costs would not provide the parties with substantial indemnity of their legal expense. The defendants, Lawrence and Moira, filed affidavit evidence of their actual legal expense and seek a costs award of \$25,733.29 including disbursements.

[7] The defendants, Raymond and James, filed affidavit evidence of their actual legal expense and seek a costs award of \$10,000 all inclusive.

[8] The unsuccessful plaintiff submits that the claims for costs are punitive, commercially unreasonable and disproportionate. He says that each party should bare their own costs or, alternatively, the costs should be restricted to a single award pursuant to Tariff C and divided between the successful defendants.

[9] The plaintiff argues that he made several attempts to try and resolve the litigation without avail. Regardless, he never offered to discontinue or dismiss the present claim, even after receiving notice of the motion to dismiss. At all times the plaintiff retained the option of ending his claim and avoiding further costs incurred by the defendants having to bring the motion to dismiss.

[10] In the circumstances of this case and noting that the motion was determinative of the proceeding, I exercise my discretion to award a lump sum representing a substantial contribution to reasonable legal expenses incurred by the defendants. This motion to dismiss a proceeding based on the statutory limitation period was not a complex matter. I also recognize that there was substantial duplication in work between the two sets of lawyers. I award costs to be paid by the plaintiff, Adrian O'Neil, to Lawrence O'Neil and Moira Dowling in the sum of \$7,500 inclusive of disbursements. I award costs to be paid by Adrian O'Neil to Raymond O'Neil and James O'Neil in the sum of \$7,500 inclusive of disbursements. Counsel for the defendants will prepare the orders.

Norton, J.