SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: Armoyan v. Armoyan, 2014 NSSC 174

Date: 20140514
Docket: SFHISO - 080027
Remo/Reso - 60829
Registry: Halifax

Between:

Lisa Armoyan

Applicant

v.

Vrege Armoyan

Respondent

Judge:	The Honourable Justice Theresa M. Forgeron
Heard:	April 11, 2014 in Halifax, Nova Scotia
Written Decision:	May 14, 2014
Counsel:	Mary Jane McGinty, for the applicant Gordon Kelly, for the respondent Megan Farquhar, for the Designated Authority

By the Court:

[1] **Introduction**

[2] Lisa and Vrege Armoyan are former spouses who continue to litigate issues surrounding the registration of a Florida support order under the provisions of the *Interjurisdictional Support Orders Act*, S.N.S. 2002, c. 9.

[3] Ms. Armoyan seeks an order for summary judgment in the *ISOA* proceeding. She wants the court to summarily dismiss Mr. Armoyan's application to set aside the registration of the Florida support order. She states that there are no material factual matters in dispute, and that Mr. Armoyan's claim has no chance of success. She states the doctrine of *res judicata* applies. Mr. Armoyan's opposition to the registration of the Florida support order must be rejected.

[4] For his part, Mr. Armoyan opposes the summary judgment motion and the *res judicata* claims. In the alternative, Mr. Armoyan seeks a summary judgment order of his own; he asks that the Florida support order be set aside. In the further alternative, Mr. Armoyan seeks an order reducing arrears and varying the support provisions of the Florida order.

[5] The designated authority, represented by Ms. Farquhar, also participated in this motion by clarifying procedural and process related issues relevant to the *ISOA*. The designated authority, however, took no position on the summary judgment or *res judicata* issues.

[6] **Issues**

[7] The following issues will be determined in this decision:

- Does the court have jurisdiction to grant summary judgment in *ISOA* proceedings?
- What is the summary judgment test?
- Has Ms. Armoyan proven there are no material factual matters in dispute?

- If so, has Mr. Armoyan proven that his claim has a real chance of success?

- If summary judgment is granted, does the court have authority to vary the Florida support order and reduce arrears?

- Do Mr. Armoyan's defences fail based upon the doctrine of *res judicata*?

[8] **Analysis**

[9] ***Does the court have jurisdiction to grant summary judgment in ISOA proceedings?***

[10] *Positions of the Parties*

[11] Mr. Armoyan argues that summary judgment is not available in *ISOA* proceedings. He makes several submissions in support of his position, including reliance on *Civil Procedure Rule* 59.57; the absence of a specific reference to summary judgment in the *ISOA* and the related *Maintenance Enforcement Act*, S.N.S. 1994-95, c. 6; the absence of case law on point; and the suggestion that summary judgment is unnecessary and redundant in the context of *ISOA* proceedings.

[12] In contrast, Ms. Armoyan argues that summary judgment applies to the *ISOA*. She relies upon s. 53 of the *Act*, and *Rule* 59.02.

[13] The designated authority disagrees with Mr. Armoyan's interpretation of *Rule* 59.57. The designated authority states that *Rule* 59.57 does not apply to an application to set aside a registration of a foreign support order under the *ISOA*. Whether *Rule* 59.57 precludes the applicability of *Rules* beyond Part 13 need not be determined by the court in the context of this proceeding.

[14] *Decision*

[15] The court does not accept Mr. Armoyan's submissions. Nothing in *Rule* 59.57 restricts the jurisdiction of this court to grant a summary judgment order in *ISOA* proceedings. Further, s. 53 of the *ISOA* confirms an expansive, and not restrictive, authority. This section states as follows:

> 53 This Act does not impair any other remedy available to a person, the Province, a province of Canada, a jurisdiction outside Canada or a political subdivision or official agency of the Province, of a province of Canada or of a jurisdiction outside Canada. 2002, c. 9, s. 53.

[16] The court has the jurisdiction to grant a summary judgment motion in appropriate *ISOA* proceedings.

[17] ***What is the summary judgment test?***

[18] *Impact of the Hryniak Decisions*

[19] The Nova Scotia Court of Appeal has not yet commented on the impact, if any, of the summary judgment decisions of the Supreme Court of Canada in **Hryniak v. Mauldin**, 2014 SCC 7, and its companion case, **Bruno Appliance and Furniture, Inc. v. Hryniak,** 2014 SCC 8. That these pronouncements possess both a specific and general value, is noted by Karakatsanis, J.A., in para. 35 of **Hryniak v. Mauldin**, *supra*., which states as follows:

> 35 Rule 20 is Ontario's summary judgment procedure, under which a party may move for summary judgment to grant or dismiss all or part of a claim. While, Ontario's Rule 20 in some ways goes further than other rules throughout the country, the values and principles underlying its interpretation are of general application.

[20] *Rule* 13 does not contain the expansive powers that are found in Ontario's summary judgment *Rule*. The Ontario rule grants evidentiary powers that have little or no parallel to *Rule* 13. Weighing evidence, drawing inferences, and making credibility findings, all of which are presumptively available on summary judgment in Ontario, are foreclosed or limited under *Rule* 13. The summary judgment test in Nova Scotia, therefore, continues to be based upon the two part test and analytical framework outlined in **Coady v. Burton Canada Co.,** 2013 NSCA 95, but subject to the proportionality principles reviewed in **Hryniak**. Summary judgment rules are to be "interpreted broadly, favouring proportionality and fair access to the affordable, timely and just adjudication of claims": para. 5 of **Hryniak v. Mauldin**, *supra*.

[21] *The Test and Analytical Framework*

[22] The two stage test and the analytical framework of a summary judgment motion which I must follow are stated at para. 87 of **Coady v. Burton Canada Co**., *supra*., wherein Saunders, J.A. states, in part, as follows:

> 87. Before turning to the final issue raised on appeal, I wish to provide a quick summary of the law as it presently stands in Nova Scotia concerning summary judgment litigation. From the jurisprudence to which I have referred as well as the case law cited therein, a series of well-established legal principles have emerged. I will list these principles in the hope that their enumeration will serve as a helpful checklist or template to guide counsel and judges in their application. In Nova Scotia:
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> 1. Summary judgment engages a two-stage analysis.
>
> 2. The first stage is only concerned with the facts. The judge decides whether the moving party has satisfied its evidentiary burden of proving that there are no material facts in dispute. If there are, the moving party fails, and the motion for summary judgment is dismissed.
>
> 3. If the moving party satisfies the first stage of the inquiry, then the responding party has the evidentiary burden of proving that its claim (or defence) has a real chance of success. This second stage of the inquiry engages a somewhat limited assessment of the merits of the each party's respective positions.
>
> 4. The judge's assessment is based on all of the evidence whatever the source. There is no proprietary interest or ownership in "evidence".
>
> 5. If the responding party satisfies its burden by proving that its claim (or defence) has a real chance of success, the motion for summary judgment is dismissed. If, however, the responding party fails to meet its evidentiary burden and cannot manage to prove that its claim (or defence) has a real chance of success, the judge must grant summary judgment.
>
> 6. Proof at either stage one or stage two of the inquiry requires evidence. The parties cannot rely on mere allegations or the

pleadings. Each side must "put its best foot forward" by offering evidence with respect to the existence or non-existence of material facts in dispute, or whether the claim (or defence) has a real chance of success.

7. If the responding party reasonably requires disclosure, production or discovery, or the opportunity to present expert or other evidence in order to "put his best foot forward", then the motions judge should adjourn the motion for summary judgment, either without day, or to a fixed day, or with conditions or a schedule of events to be completed, as the judge considers appropriate, to achieve that end.

8. In the context of motions for summary judgment the words "genuine", "material", and "real chance of success" take on their plain, ordinary meanings. A "material" fact is a fact that is essential to the claim or defence. A "genuine issue" is an issue that arises from or is relevant to the allegations associated with the cause of action, or the defences pleaded. A "real chance of success" is a prospect that is reasonable in the sense that it is an arguable and realistic position that finds support in the record, and not something that is based on hunch, hope or speculation.

9. In Nova Scotia, CPR 13.04, as presently worded, does not create or retain any kind of residual inherent jurisdiction which might enable a judge to refuse to grant summary judgment on the basis that the motion is premature or that some other juridical reason ought to defeat its being granted. The Justices of the Nova Scotia Supreme Court have seen fit to relinquish such an inherent jurisdiction by adopting the Rule as written. If those Justices were to conclude that they ought to re-acquire such a broad discretion, their Rule should be rewritten to provide for it explicitly.

10. Summary judgment applications are not the appropriate forum to resolve disputed questions of fact, or mixed law and fact, or the appropriate inferences to be drawn from disputed facts.

11. Neither is a summary judgment application the appropriate forum to weigh the evidence or evaluate credibility.

12. Where, however, there are no material facts in dispute, and the only question to be decided is a matter of law, then neither

> complexity, novelty, nor disagreement surrounding the interpretation and application of the law will exclude a case from summary judgment.
> ....

[23] ***Has Ms. Armoyan proven there are no material factual matters in dispute?***

[24] *Position of the Parties*

[25] Ms. Armoyan states there are no material factual matters in dispute based upon the evidence, and the findings of the Nova Scotia Court of Appeal in its decision reported at 2013 NSCA 99, and specifically those found at para. 301(a)(b) and (c). Ms. Armoyan argues that any factual disputes, that do exist, do not relate to the defences found in s. 20(4)(b) of the *ISOA*, and are therefore not relevant or material. Ms. Armoyan submits that she thus satisfied the first stage of the summary judgment test.

[26] In contrast, Mr. Armoyan argues that there are many material facts in dispute connected to the three defences found at s.20(4)(b) of the *ISOA*, including those connected with proper notice, a reasonable opportunity to be heard, and those which will prove that the Florida order is contrary to public policy. In some of his legal memorandums, Mr. Armoyan also argued the existence of a dispute regarding material facts on the jurisdictional issue.

[27] Some of the material facts that Mr. Armoyan states are in dispute relate to his reasons for not participating in the Florida proceedings after February 2012. These reasons include reliance on the jurisdiction decision of Campbell, J. which decision was neither stayed, nor overturned, prior to the final Florida maintenance order issuing. Mr. Armoyan should not be penalized for relying upon a decision from the Supreme Court of Nova Scotia. Further, Mr. Armoyan could not return to litigate the matter in Florida because of the injunctions and contempt orders which had issued from the Florida courts. Mr. Armoyan was facing incarceration unless he paid a number of money orders. Mr. Armoyan was uncertain of what was required to fully purge the contempt orders that had issued against him. Finally, Mr. Armoyan argues that his financial situation had drastically changed and says this was a significant factor which deterred him from participating in the Florida proceedings.

[28] In addition, some of the material facts that Mr. Armoyan states are in dispute relate to his position that the Florida support order is contrary to public policy. Mr. Armoyan suggests that the Florida court did not provide him with credit or set off as a result of moneys he paid to third parties, including the children, prior to the order issuing, and then on an ongoing basis thereafter. Mr. Armoyan also argues that the Florida support provisions are contrary to public policy because the quantum is excessive, based upon his actual income and financial circumstances. Other public policy concerns which Mr. Armoyan raised include the fact that the order states that spousal support is not deductible; the order linked the payment of spousal support to an excessive property transfer, over which the Florida court had no jurisdiction to grant; the child support order is at times vague and does not reduce as children become independent; and the fact that the court did not consider certain evidence from a lawyer when reaching its conclusion on the validity of the marriage contract.

[29] In his earlier memorandum, Mr. Armoyan argued a lack of jurisdiction in support of his position to set aside the registration of the Florida support order. It appears that this argument continues to be advanced with its attendant material factual disputes.

[30] Finally, Mr. Armoyan argues that Ms. Armoyan should have employed the *ISOA* procedure to seek maintenance; she should not have proceeded in the manner she chose.

[31] In summary, Mr. Armoyan argues that these factors, individually and collectively, involve material factual disputes which must lead to the rejection of the summary judgment motion at the first stage of the analysis.

[32] *Decision*

[33] I conclude that Ms. Armoyan has proven there are no material factual matters in dispute. This finding is premised on the characterization of the genuine issues as those which are associated with the defences raised in s. 20(4)(b) of the *ISOA*, which states as follows:

> (4) On an application under subsection (2), the Nova Scotia court may

> . . .
> (b) set aside the registration if the Nova Scotia court determines that
>
> > (i) in the proceeding in which the order was made, a party to the order did not have proper notice or a reasonable opportunity to be heard,
> >
> > (ii) the order is contrary to public policy in the Province, or
> >
> > (iii) the court that made the order did not have jurisdiction to make it.

[34] Notice and Reasonable Opportunity

[35] There are no material facts in dispute respecting the first defence which is based upon proper notice or a reasonable opportunity to be heard. There is no material factual dispute surrounding Mr. Armoyan's notice. The notice of the Florida hearing was sent by ordinary mail to the address stipulated at the time Mr. Armoyan's counsel withdrew from the Florida proceedings in 2012. Mr. Armoyan was aware of the trial dates. This is not disputed. To the contrary, this finding is confirmed in the evidence before me, as well as at para. 301(a) of the Nova Scotia Court of Appeal decision, 2013 NSCA 99, which states as follows:

> 301 Mr. Armoyan has provided no substantive basis to the Court of Appeal to support the view that the registration of the Interim Support Order should be set aside under s. 20(4)(b):
>
> > (a) As to s. 20(4)(b)(i), Mr. Armoyan had notice of the hearing, and a reasonable opportunity to be heard for both the Interim Support Order, where his counsel appeared, and the divorce hearing that led to the Florida Divorce Order of October 26, 2012, despite his decision not to appear at the divorce hearing. The Notice of Trial, dated September 6, 2012, was addressed to his Halifax address that was specified in the Order of February 14, 2012 which permitted his Florida counsel to withdraw from the record (above, paras 61 and 78). According to the Notice of Trial, "notice is being sent via U.S. Mail" to Mr. Armoyan at that address. Mr. Armoyan's testimony confirmed that this was his office address where he receives mail.

[36] Further, there are no material factual matters in dispute surrounding the issue of a reasonable opportunity to be heard despite the arguments advanced by Mr. Armoyan. In developing his argument, Mr. Armoyan relies upon cases which set aside the registration of foreign support orders based upon subjective factors: **Lee v. Morgan**, 2009 ONCJ 679, paras. 10 and 11. The cases which approve this reasoning involve payors who are of modest means. For example, in **Graune v. Graune**, 2010 NBQB 68, Wooder, J. set aside a provisional default judgment where the payor did not have the financial means to travel to Germany or to retain legal counsel. The payor's income was less than $44,000 per annum. In **Waszczyn v. Waszczyn**, 2007 ONCJ 512, Sherr, J. found that the payor did not have a reasonable opportunity to be heard in a Polish court given his modest means because of the distance and cost involved in travelling to Poland. A similar finding was made in **Browning v. Browning**, 2008 ONCJ 388, where the order was set aside because the payor was of modest means, without funds to either retain a solicitor or to travel to Germany within the time period allocated.

[37] Even if I apply a subjective lens to the defence raised in s. 20(4)((b)(i), Ms. Armoyan still has proven there are no material factual matters in dispute for two reasons. First, Ms. Armoyan is not, for these purposes, disputing the income shown in Mr. Armoyan's personal 2011 and 2012 tax returns. These returns were reproduced in Exhibit 13A, and disclose line 150 incomes for 2011 of $1,426,049.17, and $1,141,404.15 for 2012. There is no factual dispute here.

[38] Second, Mr. Armoyan's reasons for failing to participate in the Florida proceeding are neither material facts, nor are they disputed. Mr. Armoyan's decision to abandon the Florida litigation was based upon personal and strategic reasons. Ms. Armoyan does not dispute that Mr. Armoyan made tactical determinations before he abandoned the Florida proceedings. Mr. Armoyan was nonetheless aware that litigation was being processed in two separate jurisdictions; he was aware that Ms. Armoyan's Florida application was initiated before his Nova Scotia application; and he was aware that Florida would be determining the maintenance issues. These material factual matters were not in dispute.

[39] <u>Public Policy</u>

[40] Ms. Armoyan has also proven that there are no material factual matters in contest as it relates to the public policy defence, a defence that must be narrowly construed. In **Samis (Guardian of) v. Samis**, 2010 ONCJ 500, Sherr, J. reviews the rationale in support of a narrow application of this defence at paras. 39 to 41:

> 39 The Interjurisdictional Support Orders Act, 2002 came into force in 2002. It was the product of an effort to establish a uniform method and system for parties seeking to obtain, to challenge or to vary child or spousal support orders issued where the parties resided in different jurisdictions. The key to workable reciprocity is having jurisdictions with substantially similar laws about support that agree to recognize and honour the support orders made by each other.
>
> 40 The court should give careful consideration before deciding that something is contrary to public policy, particularly in the area of conflict of laws. See **Block Bros. Realty Ltd. v. Mollard**, 1981 CanLII 504, 27 B.C.L.R. 17, [1981] 4 W.W.R. 65, 122 D.L.R. (3d) 323, [1981] B.C.J. No. 4, 1981 CarswellBC 41 (B.C.C.A.). Setting aside a foreign order on a public policy basis should be given a narrow application. This defence is not meant to bar enforcement of a judgment rendered by a foreign court with a real and substantial connection to the cause of action for the sole reason that the foreign jurisdiction would not yield the same result as in Canada. See **Beals v. Saldanha**, 2003 SCC 72, [2003] 3 S.C.R. 416, 314 N.R. 209, 182 O.A.C. 201, 234 D.L.R. (4th) 1, 39 B.L.R. (3d) 1, 39 C.P.C. (5th) 1, 113 C.R.R. (2d) 189, [2003] S.C.J. No. 77, 2003 CarswellOnt 5101; and **Graune v. Graune**, ***supra***.
>
> 41 It is this court's view that the public policy defence is not meant to interfere with findings of fact by foreign jurisdictions when proper process has been followed. To find otherwise would undermine the integrity of the interjurisdictional scheme.

[41] The Nova Scotia Court of Appeal also confirmed the limited scope of the public policy defence in its judgment reported at 2013 NSCA 99, at para. 301(b), wherein Fichaud, JA, stated as follows:

> As to s. 20(4)(b)(ii), the phrase "contrary to public policy" does not assign to the enforcing court a plenary reconsideration of the merits that were before the issuing court. Rather, "public policy" refers to an issue invoking "fundamental morality of the Canadian legal system": **Beals v. Saldanha**, [2003] 3 S.C.R. 416, paras 71-72; Pitel, pp. 30-31, 179, 183-84; **Castel**, para 8.6. Mr. Armoyan has cited nothing of that gravitas at play with the Florida support orders.

[42] The order which Ms. Armoyan seeks to have registered is based on Florida law. The Book of Expert Evidence of Matthew Nugent, Exhibit 4, outlines Florida family law. His evidence was not disputed.

[43] Public policy concerns raised by Mr. Armoyan include the fact that the Florida order states that spousal support is not tax deductible; that spousal support is linked to a property payment; that support does not automatically decrease as a child ceases to be dependent; that the quantum of the support is high; and that there are other miscellaneous errors. The specific provisions of the Florida support order are not in dispute. Indeed, they are written in English and easily understood. These facts are not in dispute. The impact that these undisputed facts have on the viability of the public policy defence will be discussed in the next issue.

[44] On the other hand, the court must nonetheless acknowledge the factual disputes which did arise in the presentation of the motion. These concern the issue of credits and set offs. These disputes, however, are not material. The only motion that I am deciding is the summary judgment application which relates to the registration of a Florida support order. I am not setting arrears, nor authorizing a variation application. I have no authority to do so. I agree with the submissions of Ms. Farquhar, on behalf of the designated authority, in this regard.

[45] Section 19(4) of the *ISOA* does not furnish the court with the authority, as part of the registration process, to entertain a variation application, or an application to determine arrears. These are separate applications. The *MEA* is the vehicle under which a payor or recipient may apply to the court for a determination of arrears, in the event there is a dispute with the arrears calculation, as concluded by the Director of Maintenance Enforcement. There is no such application before me. Further, neither did Mr. Armoyan file a variation application.

[46] In addition, Ms. Armoyan, in her recent submissions, conceded that the court has no jurisdiction to determine whether the cost provisions of the Florida order are enforceable upon registration, as that is a matter which will proceed under the *MEA*, and not under the *ISOA*. This is no longer a material factual matter in dispute.

[47] In summary, any factual disputes associated with set off, the calculation of arrears, or variation are not material because they are not relevant to the allowable

defences set out in s.20(4)(b). They do not raise a genuine issue. They have no bearing on the motion. In contrast, the material factual matters which relate to the public policy defence were not in dispute.

[48] Lack of Jurisdiction

[49] This defence is no longer available to Mr. Armoyan. The Nova Scotia Court of Appeal categorically resolved the jurisdictional defence in its decision reported at 2013 NSCA 99. This issue is *res judicata*: **Danyluk v. Ainsworth Technologies Inc.**, 2001 SCC 44, paras. 53-58. As a result, the many disputes related to factual matters on this issue are no longer material.

[50] Summary of Stage 1 Analysis

[51] Ms. Armoyan has proven that there are no material factual matters in dispute arising from the three defences raised by Mr. Armoyan and based upon the legislative provisions of s. 20(4)(b) of the *ISOA*. The court will now proceed to the second stage of the analysis.

[52] ***Has Mr. Armoyan proven that his claim has a real chance of success?***

[53] I must now determine whether Mr. Armoyan has demonstrated, on the evidence, from whatever source, that his claim has a real chance of success. I am directed to consider the relative merits of each party's position by examining the whole of the evidence.

[54] Mr. Armoyan did not meet the burden upon him. He did not prove that he has an arguable or realistic chance that his claims will succeed at trial. The evidence before me does not sustain such a finding in relation to the three defences raised by virtue of s. 20(4)(b) of the *ISOA*.

[55] Notice and Reasonable Opportunity

[56] The evidence does not suggest that Mr. Armoyan has a real chance of proving lack of proper notice, or lack of a reasonable opportunity to be heard. Mr. Armoyan acknowledged notice. The Nova Scotia Court of Appeal, in its decision,

confirmed that Mr. Armoyan had notice: see para. 301 (a). Mr. Armoyan does not have an arguable position on the issue of notice.

[57] In addition, given that Mr. Armoyan's line 150 incomes for 2011 and 2012 exceeded $1 million, he does not have a reasonable chance of proving that he was of modest means, and was thus robbed of a reasonable opportunity to be heard.

[58] Further, Mr. Armoyan's strategic and tactical reasons for abandoning the Florida litigation will not realistically result in a finding that he did not have a reasonable opportunity to be heard. Payors occasionally choose not to participate in contested maintenance hearings. Mr. Armoyan was one such litigant. He did so knowingly and at his peril. Mr. Armoyan's reasons for failing to exercise his right to participate has no bearing on s. 20(4)(b)(i) of the *ISOA*. Simply put, Mr. Armoyan did have the opportunity, but chose not to exercise it.

[59] The evidence does not support the conclusion that Mr. Armoyan has a real chance of success in respect of the first defence.

[60] Public Policy

[61] The evidence does not support a finding that Mr. Armoyan has a real chance of proving that the Florida order should be set aside because it is contrary to public policy.

[62] The Book of Expert Evidence of Matthew Nugent, Exhibit 4, outlines Florida family law. This evidence confirms that Florida law does not offend the fundamental morality of the Canadian legal system. Mr. Armoyan does not have a reasonable prospect of succeeding in his claim that the Florida support order offends public policy.

[63] Further, the various and miscellaneous complaints raised by Mr. Armoyan, that relate to the specifics of the Florida order, do not have a real chance of succeeding at trial either. If Mr. Armoyan disagreed with the rulings of the Florida court, he should have addressed those concerns by launching an appeal. The solution, in the absence of an appeal, is not to set aside an order for maintenance based upon public policy concerns. Such factual findings include the following:

- The quantum of arrears outstanding as of the date of the Florida decision. Any set off or credit was within the purview of the trial court.

- The determination that the marriage contract was not enforceable, and the evidence considered and accepted in support of that conclusion.

- The quantum of the support based upon Mr. Armoyan's stipulation, absent financial disclosure - a process akin to that regularly conducted by courts in Nova Scotia pursuant to s. 19(1)(f) of the *Guidelines* when a payor parent does not disclose the requisite financial information.

- The duration of the support payment.

[64] Jurisdiction

[65] Mr. Armoyan has no chance of succeeding with this defence in light of the decision of the Nova Scotia Court of Appeal which found that Florida had jurisdiction.

[66] Conclusion on the Summary Judgment Issue

[67] Ms. Armoyan has proven that there are no material factual matters in dispute related to the three available *ISOA* defences. Further, the evidence which was presented by Mr. Armoyan, when he was required to put his "best foot forward", fails to prove that his claims have a real chance of success.

[68] The summary judgment motion is granted pursuant to *Rule* 13. Mr. Armoyan's application to set aside the registration of the Florida support order is "weeded out to free the system for other cases that deserve to be heard on their merits": **Coady v. Burton Canada Co.**, *supra*. para. 22. The registration of the Florida support order is now accomplished.

[69] ***If summary judgment is granted, does this court have the authority to vary the Florida support order?***

[70] Mr. Armoyan urges the court to adjust arrears and vary the support provisions if summary judgment is granted. There is no application or motion

before me to do so. This matter was scheduled and argued based upon a motion for summary judgment. I cannot decide what is not properly before me. Further, I have no authority under the *ISOA* legislation, as previously discussed, to grant the relief sought by Mr. Armoyan.

[71] ***Do Mr. Armoyan's defences fail based upon the doctrine of res judicata*?**

[72] It is not necessary to canvass this issue because of my ruling on the summary judgment motion.

[73] **Conclusion**

[74] Ms. Armoyan's motion for summary judgment is granted. Mr. Armoyan's applications to set aside the registration of the Florida support order are dismissed.

[75] All issues surrounding the registration of the Florida support order are now "disposed of" within the meaning of s.19(7) of the *ISOA*. Mr. Armoyan's request to fix arrears and vary the support order is denied.

[76] Written submissions on costs are due by June 2, 2014, with response submissions by June 9, 2014.

Forgeron, J