

IN THE SUPREME COURT OF NOVA SCOTIA  
(FAMILY DIVISION)

**Citation:** Faddoul v. Faddoul, 2005 NSSC 166

**Date:** 20050621

**Docket:** SFHD-020922 1201-057308

**Registry:** Halifax

**Between:**

George Faddoul

Petitioner

v.

Ellen Faddoul

Respondent

**Judge:**

The Honourable Justice Kevin Coady

**Heard:**

June 14, 15, 16, 17, 2004

September 28, 29, 2004

October 18, 2004

December 9, 16, 21, 2004 in Halifax, Nova Scotia

**Written Submissions:** April 12, May 19 and 20, 2005

**Decision:**

June 21, 2005 (*on Costs*)

**Counsel:**

Robert Ritchie Wheeler, for the Petitioner

D. Timothy Gabriel, for the Respondent

**Coady, J.:**

[1] This Court's decision respecting property division and *Divorce Act* relief was delivered by way of written decision on March 31, 2005. Submissions on costs were advanced by Ms. Faddoul on April 12, 2005. Mr. Faddoul's submissions on costs were received on May 19, 2005. I have fully reviewed these submissions.

[2] I agree with Mr. Gabriel's assessment of what constituted the "main issues" in this trial. There is no question but that the valuation of Bazoun Enterprises Limited, and the imputation of income for child support purposes, were the main issues among many. They were also the issues that consumed the most court time. I find they were the biggest obstacles to settlement. This was a case that had substantial settlement potential.

[3] It was entirely unreasonable for Mr. Faddoul to maintain his position on his income for child support purposes. In the exchange of settlement proposals, Mr. Faddoul never acknowledged his true level of income. Ms. Faddoul took the position throughout that his income should be imputed in the amount of \$50,000

plus. In her offer of September 24, 2004, Ms. Faddoul agreed to settle the income issue at \$50,000. I found his imputed income to be \$55,948. Ms. Faddoul was right on the issue and Mr. Faddoul was unrealistic, sticking to the \$24,189 figure. A great deal of documentation and court time were expended by Ms. Faddoul to establish the basis for this decision.

[4] Mr. Faddoul maintained a position that the Express Motel and property was worth \$490,000. There was ample evidence it was worth at least \$600,000. He agreed to sell the asset in 1999 for \$625,000. He mortgaged the asset in 2000, based upon a value of \$625,000. In 2004, an offer was received and refused in the amount of \$600,000. I found no evidence to suggest Ms. Faddoul ever took the position that she should receive this asset.

[5] On the totality of the trial issues, I find that Ms. Faddoul's position throughout negotiations mirrored this Court's decision more accurately than Mr. Faddoul's position throughout the same process. Many of the secondary issues were not particularly difficult and should have been resolved without the necessity of a trial.

[6] I find this is an appropriate family law case to award costs and I will order costs in favour of Ms. Faddoul. I make this decision based on my conclusions as above, the authorities cited and the exercise of my discretion.

[7] I accept Mr. Gabriel's submissions on "amount involved" and his calculation of \$8,875 as the basic award. I am not awarding costs on the interlocutory application, as no order of costs was made at the time. I award no costs respecting the discovery examination of July 30, 2003.

[8] I will allow the following disbursements:

- Fennel Appraisal Invoices	\$2,326.38
- Q & A Discovery Transcript	633.65
- Invoice - Paul Young	349.75
- Photocopying	1,200.00

[9] I have reduced the photocopying amount as I find the total excessive.

[10] Mr. Faddoul owes Ms. Faddoul her costs in the amount of \$13,384.78.

J.