

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Boulet v. Rushton, 2014 NSSC 265

**Date:** 20140710

**Docket:** 1201-066503

**Registry:** Halifax

**Between:**

Darlene May Boulet

Petitioner

and

Douglas Ernest Rushton

Respondent

**Judge:** Associate Chief Justice Lawrence I. O'Neil

**Written**

**Submissions:** Written Submissions on costs were received to June 6, 2014

**Counsel:** Michael King, Q.C., Counsel for the Petitioner  
Christopher I. Robinson, Counsel for the Respondent

**By the Court:**

**Introduction (Costs Decision)**

[1] This is a ruling on costs after the Court's written decision, reported at 2014 NSSC 75, released on February 25, 2014, following a hearing in October 2013. The applications related primarily to the Respondent's entitlement to and quantum of spousal support and division of matrimonial property (and debts).

[2] Written submissions on costs were received in March, April and June 2014.

## **General Principles Governing Costs**

[3] The governing Civil Procedure Rule on costs is now 77. This Rule incorporates the tariffs mandated by the *Costs and Fees Act*, R.S.N.S. 1989, c.104 when applying an amount involved assessment to determine costs payable by a party. The Rule provides *inter alia*:

### **Scope of Rule 77**

77.01 (1) The court deals with each of the following kinds of costs:

- (a) party and party costs, by which one party compensates another party for part of the compensated party's expenses of litigation;
- (b) solicitor and client costs, which may be awarded in exceptional circumstances to compensate a party fully for the expenses of litigation;
- (c) fees and disbursements counsel charges to a client for representing the client in a proceeding.

(2) Costs may be ordered, the amount of costs may be assessed, and counsel's fees and disbursements may be charged, in accordance with this Rule.

### **General discretion (party and party costs)**

77.02 (1) A presiding judge may, at any time, make any order about costs as the judge is satisfied will do justice between the parties.

(2) Nothing in these Rules limits the general discretion of a judge to make any order about costs, except costs that are awarded after acceptance of a formal offer to settle under Rule 10.05, of Rule 10 - Settlement.

### **Liability for costs**

77.03 (1) A judge may order that parties bear their own costs, one party pay costs to another, two or more parties jointly pay costs, a party pay costs out of a fund or an estate, or that liability for party and party costs is fixed in any other way.

(2) A judge may order a party to pay solicitor and client costs to another party in exceptional circumstances recognized by law.

(3) Costs of a proceeding follow the result, unless a judge orders or a Rule provides otherwise.

(4) A judge who awards party and party costs of a motion that does not result in the final determination of the proceeding may order payment in any of the following ways:

- (a) in the cause, in which case the party who succeeds in the proceeding receives the costs of the motion at the end of the proceeding;
- (b) to a party in the cause, in which case the party receives the costs of the motion at the end of the proceeding if the party succeeds;
- (c) to a party in any event of the cause and to be paid immediately or at the end of the proceeding, in which case the party receives the costs of the motion regardless of success in the proceeding and the judge directs when the costs are payable;
- (d) any other way the judge sees fit.

(5) A judge may order that costs awarded to a party represented by counsel with Nova Scotia Legal Aid or Dalhousie Legal Aid be paid directly to the Nova Scotia Legal Aid Commission or Dalhousie Legal Aid Service.

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#### **Assessment of costs under tariff at end of proceeding**

77.06 (1) Party and party costs of a proceeding must, unless a judge orders otherwise, be fixed by the judge in accordance with tariffs of costs and fees determined under the Costs and Fees Act, a copy of which is reproduced at the end of this Rule 77.

.....

#### **Increasing or decreasing tariff amount**

77.07 (1) A judge who fixes costs may add an amount to, or subtract an amount from, tariff costs.

(2) The following are examples of factors that may be relevant on a request that tariff costs be increased or decreased after the trial of an action, or hearing of an application:

- (a) the amount claimed in relation to the amount recovered;
- (b) a written offer of settlement, whether made formally under Rule 10 - Settlement or otherwise, that is not accepted;
- (c) an offer of contribution;

- (d) a payment into court;
- (e) conduct of a party affecting the speed or expense of the proceeding;
- (f) a step in the proceeding that is taken improperly, abusively, through excessive caution, by neglect or mistake, or unnecessarily;
- (g) a step in the proceeding a party was required to take because the other party unreasonably withheld consent;
- (h) a failure to admit something that should have been admitted.

(3) Despite Rule 77.07(2)(b), an offer for settlement made at a conference under Rule 10 - Settlement or during mediation must not be referred to in evidence or submissions about costs.

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Disbursements included in award

77.10 (1) An award of party and party costs includes necessary and reasonable disbursements pertaining to the subject of the award.

(2) A provision in an award for an apportionment of costs applies to disbursements, unless a judge orders otherwise.

[4] Justice B. MacDonald of this court summarized the applicable principles when assessing costs in *L. (N.D.) v. L. (M.S.)*, 2010 NSSC 159 and more recently in *Gagnon v. Gagnon*, 2012 NSSC 137. She stated the following at paragraph 3 in *L. (N.D.)*:

- 3 Several principles emerge from the Rules and the case law.
  1. Costs are in the discretion of the Court.
  2. A successful party is generally entitled to a cost award.
  3. A decision not to award costs must be for a "very good reason" and be based on principle.
  4. Deference to the best interests of a child, misconduct, oppressive and vexatious conduct, misuse of the court's time, unnecessarily increasing costs to a party, and failure to disclose information may justify a decision not to award costs to a otherwise successful party or to reduce a cost award.
  5. The amount of a party and party cost award should "represent a substantial contribution towards the parties' reasonable expenses in

presenting or defending the proceeding, but should not amount to a complete indemnity".

6. The ability of a party to pay a cost award is a factor that can be considered; but as noted by Judge Dyer in *M.C.Q. v. P.L.T.* 2005 NSFC 27: "Courts are also mindful that some litigants may consciously drag out court cases at little or no actual cost to themselves (because of public or third-party funding) but at a large expense to others who must "pay their own way". In such cases, fairness may dictate that the successful party's recovery of costs not be thwarted by later pleas of inability to pay. [See *Muir v. Lipon*, 2004 BCSC 65]."

7. The tariff of costs and fees is the first guide used by the Court in determining the appropriate quantum of the cost award.

8. In the first analysis the "amount involved", required for the application of the tariffs and for the general consideration of quantum, is the dollar amount awarded to the successful party at trial. If the trial did not involve a money amount other factors apply. The nature of matrimonial proceedings may complicate or preclude the determination of the "amount involved".

9. When determining the "amount involved" proves difficult or impossible the court may use a "rule of thumb" by equating each day of trial to an amount of \$20,000 in order to determine the "amount involved".

10. If the award determined by the tariff does not represent a substantial contribution towards the parties' reasonable expenses "it is preferable not to increase artificially the "amount involved", but rather, to award a lump sum". However, departure from the tariff should be infrequent.

11. In determining what are "reasonable expenses", the fees billed to a successful party may be considered but this is only one factor among many to be reviewed.

12. When offers to settle have been exchanged, consider the provisions of the civil procedure rules in relation to offers and also examine the reasonableness of the offer compared to the parties position at trial and the ultimate decision of the court.

[5] Arriving at a costs assessment in matrimonial matters is difficult given the often mixed outcome and the need to consider the impact on an onerous costs award on the families; and the children in particular. The need for the court to exercise its discretion and to move away from a strict application of the tariffs is often present.

[6] As stated at paragraph 13 in *Grant v. Grant*, 2002 N.S.J. 14, Justice Williams observes that divorce and family law proceeding "often involve a multitude of separate and inter-related problems". The result is that a determination of success is also more complex.

[7] It should be noted that Rule 77.07 provides that tariff costs may be increased or decreased after considering enumerated factors.

[8] Rule 77.08 provides for a lump sum of costs in cases where a tariff amount is not appropriate.

[9] In *O'Neil v. O'Neil*, 2013 NSSC 64 Justice Beaton ordered the parties to bear their own costs. The parties had exchanged offers to settle that were very close to the Court's ruling on the quantum of spousal support ultimately ordered. Both parties were partially successful and no costs were ordered.

[10] In *Robar v. Arseneau*, 2010 NSSC 175, I ordered costs of \$5,138 inclusive of HST and disbursements to be paid at a rate of \$150 per month. In that case, the Applicant's case to set aside the parties' separation agreement was dismissed and Ms. Robar was found to have been unreasonable. She was also found to have rejected offers to settle. The matter required court time on two days. I applied scale 1 of Tariff "A". The amount involved was within the \$40,001-\$65,000 range. Ms. Robar was subject to significant financial hardship at the time. This was a factor weighing against a higher costs award.

[11] The case of *Provost v. Marsden*, 2009 NSSC 365 involved an assessment of child support obligations. I applied Tariff "A", there being a decision following a half day hearing. The amount involved was in the \$40,001-\$65,000 range. Success on the issues was mixed but Mr. Marsden was found to have been the more successful party. This case also involved an offer to settle. Costs totalling \$3,000 inclusive of HST and disbursements were ordered (2010 NSSC 423 (cost decision)).

[12] The case of *R. (A.) v. R.(G.)*, 2010 NSSC 377 resulted in a costs award of \$3,000 inclusive of HST and disbursements. The hearing concerned the parenting arrangement for the parties' two children. The conduct of the Applicant was found to have been aggravating. The amount involved was \$20,000, this representing the amount involved when a full day of court time is consumed (2010 NSSC 424 (cost decision)).

[13] In *Godin v. Godin*, 2014 NSSC 46, I ordered costs of more than \$28,000 following a five day hearing and after having increased the scale by 50% to reflect Ms. Godin's *mal fides* in the conduct of the proceeding.

[14] Justice Jollimore in *Moore v. Moore*, 2013 NSSC 281 at paragraph 14 addressed the applicability of Tariff “C” to applications in the Family Division:

[14] Initial guidance in determining costs is the tariff of costs and fees. The proceeding before me was a variation application. Formally, Tariff C applies to applications. As I said in *MacLean v. Boylan*, 2011 NSSC 406 at paragraph 30, applications in the Family Division are, in practice, trials. Rule 77’s Tariffs have not changed from the Tariffs of Rule 63 of the Nova Scotia Civil Procedure Rules (1972). Despite the distinction between an action and application created in our current Rules, the Tariffs have not been revised. My view has not changed since I decided *MacLean v. Boylan*, 2011 NSSC 406: I don’t intend to give effect to the current Rules and their incorporation of the pre-existing Tariffs where this routinely results in lesser awards of costs for the majority of proceedings in the Family Division, such as corollary relief applications, variation applications and applications under the Maintenance and Custody Act or the Matrimonial Property Act. In these situations I intend to apply Tariff A as has been done by others in the Family Division: Justice Gass’ decision in *Hopkie*, 2010 NSSC 345 and Justice MacDonald in *Kozma*, 2013 NSSC 20.

[15] Our Court of Appeal recently reviewed the law governing awards of costs in family proceedings in *Armoyan v. Armoyan*, 2013 NSCA 136. I feel it is helpful to incorporate the court’s discussion of the basis upon which costs are ordered and the meaning and effect of Rule 77. Fichaud, J. on behalf of the Court summarized how costs should be quantified beginning at paragraph 9:

[9] Justice Campbell did not quantify costs for Ms. Armoyan. So there is no issue of appellate deference to the trial judge’s exercise of discretion on quantification. The Court of Appeal is calculating costs at first instance for both the forum conveniens proceeding in the Family Division and the two appeals in this Court.

[10] The Court’s overall mandate, under Rule 77.02(1), is to “do justice between the parties”.

[11] Solicitor and client costs are engaged in “rare and exceptional circumstances as when misconduct has occurred in the conduct of or related to the litigation”. *Williamson v. Williams*, 1998 NSCA 195, [1998] N.S.J. 498, per Freeman, J.A.. This Court rejected most of Mr. Armoyan’s submissions on the merits. But there has been no litigation misconduct in the Nova Scotia proceedings that would support an award of solicitor and client costs. So these are party and party costs.

[12] Rule 77.06 says that, unless ordered otherwise, party and party costs are quantified according to the tariffs, reproduced in Rule 77. These are costs of a trial or an application in court under Tariff A, a motion or application in chambers

under Tariff C (see also Rule 77.05), and an appeal under Tariff B. Tariff B prescribes appeal costs of 40% trial costs “unless a different amount is set by the Nova Scotia Court of Appeal”.

[13] By Rule 77.07(1), the court has discretion to raise or lower the tariff costs, applying factors such as those listed in Rule 77.07(2). These factors include an unaccepted written settlement offer, whether or not the offer was made formally under Rule 10, and the parties’ conduct that affected the speed or expense of the proceeding.

[14] Rule 77.08 permits the court to award lump sum costs. The Rule does specify the circumstances when the Court should depart from tariff costs for a lump sum.

#### Tariff or Lump Sum?

[15] The tariffs are the norm, and there must be a reason to consider a lump sum.

[16] The basic principle is that a costs award should afford substantial contribution to the party’s reasonable fees and expenses. In *Williamson*, while discussing the 1989 tariffs, Justice Freeman adopted Justice Saunders’ statement from *Landymore v. Hardy* (1992), 112 N.S.R. (2d) 410:

The underlying principle by which costs ought to be measured was expressed by the Statutory Costs and Fees Committee in these words:

“... the recovery of costs should represent a substantial contribution towards the parties’ reasonable expenses in presenting or defending the proceeding, but should not amount to a complete indemnity.”

Justice Freeman continued:

In my view a reasonable interpretation of this language suggests that a “substantial contribution” not amounting to a complete indemnity must initially have been intended to mean more than fifty and less than one hundred per cent of a lawyer’s reasonable bill for the services involved. A range for party and party costs between two-thirds and three-quarters of solicitor and client costs, objectively determined, might have seemed reasonable. There has been considerable slippage since 1989 because of escalating legal fees, and costs awards representing a much lower proportion of legal fees actually paid appear to have become standard and accepted practice in cases not involving misconduct or other special circumstances.

[17] The tariffs deliver the benefit of predictability by limiting the use of subjective discretion. This works well in a conventional case whose



circumstances conform generally to the parameters assumed by the tariffs. The remaining discretion is a mechanism for constructive adjustment that tailors the tariffs' model to the features of the case.

[18] But some cases bear no resemblance to the tariffs' assumptions. A proceeding begun nominally as a chambers motion, signalling Tariff C, may assume trial functions, contemplated by Tariff A. A Tariff A case may have no "amount involved", other important issues being at stake. Sometimes the effort is substantially lessened by the efficiencies of capable counsel, or handicapped by obstructionism. The amount claimed may vary widely from the amount awarded. The case may assume a complexity, with a corresponding workload, that is far disproportionate to the court time, by which costs are assessed under provisions of the Tariffs. Conversely, a substantial sum may turn on a concisely presented issue. There may be a rejected settlement offer, formal or informal, that would have saved everyone significant expense. These are just examples. Some cases may combine several such factors to the degree that the reflexive use of the tariffs may inject a heavy dose of the very subjectivity – e.g. to define an artificial "amount involved" as Justice Freeman noted in *Williamson* – that the tariffs aim to avoid. When this subjectivity exceeds a critical level, the tariff may be more distracting than useful. Then it is more realistic to circumvent the tariffs, and channel that discretion directly to the principled calculation of a lump sum. A principled calculation should turn on the objective criteria that are accepted by the Rules or case law. [emphasis added]

[19] In my view, this is such a case for a lump sum award. I say this for the following reasons.

[20] Justices of the Family Division have stated that trial-like hearings in matrimonial matters are more appropriate for Tariff A than Tariff C: *Hopkie v. Hopkie*, 2010 NSSC 345, para 7, per Gass, J.; *MacLean v. Boylan*, 2011 NSSC 406, paras 29-30, per Jollimore, J.; *Kozma v. Kozma*, 2013 NSSC 20, para 2, per MacDonald, J.; *Robinson v. Robinson*, 2009 NSSC 409, para 10, per Campbell, J..

[21] The forum conveniens proceeding was brought by Ms. Armoyan's "Notice of Motion" that, as Mr. Armoyan's counsel points out, literally would engage Tariff C. But the proceeding ripened with the features of a complex trial that spanned ten days of hearing over eleven months. It was not remotely equivalent to a conventional chambers motion, and its natural home would be Tariff A.

[22] But this proceeding had no "amount involved" within Tariff A. The issue was whether the Courts of Nova Scotia or Florida would take jurisdiction. That matter involved broad consideration of comparative comity, fairness and efficiency in the administration of justice. The "amounts" are for the separate matrimonial proceedings in Florida and this province. In *Williamson* Justice Freeman noted that the artificiality of a notional "amount involved" supported the use of a lump sum award:

Any attempt to adjust the amount involved to factor in the special circumstances of the present appeal to arrive at a more just result would require the arbitrary determination of a fictitious “amount involved” bearing no real relationship to the matters in issue.

[23] Rule 77.07(2)(e) permits an adjustment based on “conduct of a party affecting the speed or expense of the proceeding”. The supervening criterion is that the costs award “do justice between the parties” under Rule 77.02(1).

[16] Commenting on the impact offers to settle can have on an award, Justice Fichaud stated the following at paragraph 27:

[27] Rule 77.07(2)(b) permits the adjustment of a costs award based on an unaccepted written settlement offer, whether made formally under Rule 10 “or otherwise”. Rule 59.39(7) excludes Rules 10.05 to 10.10 (formal offers to settle in the Supreme Court - General Division) from family proceedings. But Rule 77.07(2)(b) is not excluded, and unaccepted offers of settlement may impact costs in family proceedings: e.g. *Fermin v. Yang*, 2009 NSSC 222, para 3, # 12, per MacDonald, J.. I agree with Justice Campbell’s sentiments in *Kennedy-Dowell v. Dowell* (2002), 209 N.S.R. (2d) 392 (S.C.), under the former Rules:

[12] In my opinion, the reasonableness of both the trial position and the bargaining position (including the timing of concessions made) is a very important factor in deciding whether an order for costs should be made. This is especially true in family law matters because the parties are often of limited resources and can often face legal fees after a trial which make the process uneconomical and devastating to the family including children. Family law disputes are capable of out of court resolution in many cases and the policy of the court regarding costs should promote compromise and reasonableness in the negotiating process. For that reason, the court should measure each party’s bargaining position against the court’s adjudication to measure the reasonableness of each position. ...

To similar effect - Justice Campbell’s comments in *Robinson*, paras 13-15.

[17] Ultimately, Justice Fichaud found a lump sum award of costs as the most appropriate mechanism for determining costs. He awarded costs of \$306,000 including disbursements.

### **Position of the Parties**

[18] Mr. King, Q.C., on behalf of Ms. Boulet, argues the following in his costs submission:

### **Amount Involved**

34. Mr. Rushton maintained his position throughout that he was entitled to  $\frac{1}{2}$  of all matrimonial assets which totalled approximately \$1,236,681.00 according to Mr. Rushton's own figures as set out in Tab 2 of the Respondent's Pre-Trial Brief and therefore the amount involved is within a range with a lower limit of \$200,000.00 and a maximum of  $\frac{1}{2}$  of the total matrimonial assets being \$618,340.50;

35. Ms. Boulet pursued an unequal division in her favour whereby she paid a net figure to Mr. Rushton of \$200,000.00. However, the Court awarded a net figure of \$231,000.00 and therefore I would put the lower limit of the range at that figure. There were some assets to be retained by Mr. Rushton over and above the Offer of \$200,000.00 such as the \$53,392.00 of assets of his own that he retained. Therefore I would suggest that in rough but fair numbers the amount involved ranged from \$300,000.00 to \$500,000.00;

### **Applicable Table**

36. It is respectively submitted that virtually all of the evidence at trial related to the matrimonial assets and the division of those assets between the parties. Mr. Rushton was unsuccessful in the position which he maintained throughout of being entitled to an equal division of all of those assets. Though he was successful with respect to his application for spousal support it was in fact formed a very small part of the efforts at trial and time spent at trial for that reason Ms. Boulet asks that this Honourable Court award her party and party costs pursuant to Tariff "A", Scale 2 (Basic) in the amount of \$34,750.00 plus 2 days of trial at \$2,000.00 per day for a total of \$38,750.00 plus disbursements in the amount of \$461.15 for an appraisal of the former matrimonial home;

[19] Alternatively, Mr. King, Q.C. submits that the parties should pay their own costs:

42. In the alternative it is respectively submitted that each party bare their own costs on the basis of the following:

- a) In this case there was divided success. On the one hand Ms. Boulet was successful in her claim for an unequal division of matrimonial assets in her favour;
- b) On the other hand Mr. Rushton was unsuccessful in his claim for an equal division of matrimonial assets. This was the focus of the parties prior to and at trial. Given the amount of money involved and the possible loss of financial security Ms. Boulet had no choice but to defend against Mr. Rushton's claim for an equal division which he maintained throughout the trial;

- c) Ms. Boulet was unsuccessful in her opposition to the payment of any form of spousal support to Mr. Rushton;
- d) Mr. Rushton was successful in his claim for spousal support. However, Mr. Rushton claimed the periodic payment of spousal support without a termination date notwithstanding the relatively short length of their cohabitation and marriage. However, Mr. Rushton was ordered a single lump sum payment of \$15,000.00. The payment of periodic spousal support without termination date could have been in place for a substantial period of time and amounted to far more than the \$15,000.00 lump sum payment; and

[20] In contrast, Mr. Robinson calculates Mr. Rushton's total financial award as \$430,758.25 determined by adding the following:

\$15,000 lump sum spousal support

\$341,008.25 being Mr. Rushton's share of the home equity and GICs

\$74,750 (being property purchased by Mr. Rushton with the line of credit funds following separation and being property now retained).

[21] Mr. Robinson says the total funds awarded respecting matrimonial property is 26% less than Mr. Rushton's pre-trial position, i.e. a claim of \$564,948.

[22] However, Mr. Robinson says the award respecting matrimonial property was 275% greater than Ms. Boulet's pre-trial position of \$110,593. He says the total award was 33% and 44% above Mr. Rushton's settlement offers.

[23] In his view, on the issue of the outcome of the litigation, Mr. Rushton was the more successful party.

## **Conclusion**

[24] The *Costs and Fees Act supra* provides six tariff structures, each addressing a particular type of proceeding.

[25] I am satisfied that costs should be determined by reference to the basic scale of Tariff "A":

## TARIFF A

Tariff of Fees for Solicitor's Services Allowable to a Party  
Entitled to Costs on a Decision or Order in a Proceeding

In applying this Schedule the “length of trial” is to be fixed by a Trial Judge.

The length of trial is an additional factor to be included in calculating costs under this Tariff and therefore two thousand dollars (\$2000) shall be added to the amount calculated under this tariff for each day of trial as determined by the trial judge

Amount Involved	Scale 1(-25%)	Scale 2 (Basic)	Scale 3 (+25%)
Less than \$25,000	\$ 3,000	\$ 4,000	\$ 5,000
\$25,000-\$40,000	4,688	6,250	7,813
\$40,001-\$65,000	5,138	7,250	9,063
\$65,001-\$90,000	7,313	9,750	12,188
\$90,001-\$125,000	9,188	12,250	15,313
\$125,001-\$200,000	12,563	16,750	20,938
\$200,001-\$300,000	17,063	22,750	28,438
\$300,001-\$500,000	26,063	34,750	43,438
\$500,001-\$750,000	37,313	49,750	63,188
\$750,001-\$1,000,000	48,563	64,750	80,938
more than \$1,000,000	The Basic Scale is derived by multiplying the amount involved by 6.5%.		

[26] I assess the amount involved in terms of property as being one half the equity in the home, plus one half the value of certain personal property. There was agreement that Mr. Rushton would receive a substantial share of assets acquired by Ms. Boulet before the parties met and that he receive additional property. I determine the amount involved in the litigation to be that amount about which the parties disagreed. This I place in the \$200,000 - \$300,000 range. The costs based on Tariff A, Scale 1 are \$17,063.

[27] This range is arrived at by adding the claim for one half the house equity, one half the value of identified personal property and after valuing spousal support, both retroactive and ongoing.

[28] Mr. Rushton was not seeking more than fifty percent. Ms. Boulet was. Although the parties were each partially successful, Mr. Rushton was the more successful party.

[29] He was seeking spousal support both ongoing and retroactive.

[30] The Divorce matter was before me for two and a half (2.5) days, resulting in a costs component based on the length of trial of \$5,000.

[31] The total costs payable by Ms. Boulet, inclusive of disbursements and HST applying the foregoing principles strictly, would be as follows:

\$17,063.00 (basic scale)  
\$ 5,000.00  
\$22,063.00

[32] As stated earlier, quantification of the amount involved in family litigation is difficult. An assessment of the amount involved by itself does not correctly reflect the liability of the parties in financial and non financial terms. The spousal support claim of Mr. Rushton was potentially a significant liability had I ordered periodic spousal support.

[33] In my view, this amount \$22,063.00 represents a substantial contribution to costs. Mr. Robinson estimates his fees and disbursements as approximately \$55,000.

**ACJ**