

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Costey v. Rundle*, 2018 NSSC 276

Date: 2018-10-30

Docket: 1201-069380; SFH-D 100062

Registry: Halifax

Between:

Sharon Eileen Costey

Petitioner

v.

Robert William Rundle

Respondent

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Judge: The Honourable Justice Elizabeth Jollimore

Summary: Ms. Costey moved for an order to enforce an oral settlement which she contends the parties reached. The motion shall be heard with the parties' divorce, in the interest of efficiency and economy.

Key words: Family, Civil Procedure

Legislation: *Nova Scotia Civil Procedure Rules* 1.01, 10.04

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ENDORSEMENT

Costey v. Rundle

October 30, 2018

1201-69380

- Kenzie MacKinnon, Q.C. for Sharon Costey
- Gordon R. Kelly for Robert Rundle

Under Rule 10.04, Ms. Costey moves for an order to enforce the terms of an oral settlement agreement which she contends the parties reached in 2016.

Decision:

Ms. Costey's motion will be heard with the parties' divorce.

Reasons:

1. Ms. Costey has petitioned for divorce. In her petition, she claims exclusive possession of the matrimonial home, a division of assets (including assets that are not matrimonial under section 13 of the *Matrimonial Property Act*), an order that a pension shall not be divided, and costs.
2. Ms. Costey claims that she and Mr. Rundle reached a comprehensive settlement agreement and if this oral agreement is enforced as an order, there will be no need for a divorce trial.
3. If no agreement was reached, a trial will be needed to resolve the claims in Ms. Costey's petition.
4. Mr. Rundle says that even if there is a binding agreement, a trial will still be necessary to address Ms. Costey's withdrawal of money from a company.
5. The Civil Procedure Rules seek to determine every proceeding in a way that is just, speedy and inexpensive: Rule 1.01.
6. The efficient use of court resources dictates that the same judge be responsible for organizing a case for trial and hearing the trial. Multiple judges are involved where

demanded by the confidentiality requirements of settlement conferences or case management.

7. Ms. Costey's motion, even if successful, will not eliminate the need for a hearing to address her removal of money from the company.
8. Combining all issues into a single trial is preferable to two. A single trial means counsel and the judge are required to prepare once, rather than twice. For the litigants, this avoids unnecessary expense.
9. Ms. Costey's motion will be heard with the divorce and can be argued in the alternative to her claims in the petition.

Elizabeth Jollimore, J.S.C.(F.D.)