

**IN THE SUPREME COURT OF NOVA SCOTIA**  
**Citation:** Turner-Lienaux v. Campbell, 2002 NSSC 248

**Date:** 20021114  
**Docket:** SH 177300A  
**Registry:** Halifax

**Between:**

Karen L. Turner-Lienaux and Smith's Field  
Manor Development Limited

Appellants

v.

Wesley G. Campbell

Respondent

Justice Walter R. E. Goodfellow

Halifax, NS

SH 177300A

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**Judge:** The Honourable Justice Walter R. E. Goodfellow

**Heard:** October 15, 2002 in Halifax (Final written submissions received  
November 8<sup>th</sup>, 2002)

**Subject:** APPEAL - TAXATION OF COSTS BY SMALL CLAIMS  
ADJUDICATOR

**Summary:** Trial lasted thirty-eight days and trial justice in unequivocal terms directed that Campbell should not be put to any expense for his costs in defending the outrageous and scandalous allegations against him. Costs taxed on a solicitor and client basis of all matters including several interlocutory applications and appeals that related to the issues at trial in the amount of \$656,721.12.

Numerous grounds of appeal, all but one of no substance. Small Claims Adjudicator included in the taxation of professional services those directly related to several interlocutory applications and appeals where the judge presiding or the Court of Appeal specifically exercised its discretion and addressed the issue of costs. No jurisdiction in trial justice to direct a review by appeal or otherwise specific cost determinations made by chambers judges or Court of Appeal necessitating a further review of the accounts by deleting services relating to the various applications and appeals where costs were specifically addressed. Determined standard of review on Small Claims Adjudication Appeal of taxation of solicitor and client costs extends beyond s.32(1) of the *Small Claims Court Act* as CPR 63.39 and 63.40 were neither amended or modified as a result of a transfer to a Small Claims Adjudicator of the powers that were exercised by Taxing Masters previously under the *Taxing Masters Act*.

Directions given for bringing this matter to a conclusion by this Court

finalizing the taxation to expedite the conclusion of what has been a long, exhausting, expensive and unnecessary litigation.

Adjudicator's reference to default in attendance by appellants at taxation would have constituted an error in law had he not clearly indicated in his decision an awareness and applied the principles required in taxation of a solicitor and client costs, namely, that a taxing officer is obligated to tax the account as though his or her client were the one resisting the bill and be satisfied as to the reasonableness of the costs being claimed. There is no waiver of the responsibility to tax an account in accordance with the law by default or absence.

Directions given to bring matter to a conclusion.

**Issue:** Principle issue whether trial justice's direction for costs to be taxed on solicitor and client basis can override costs determinations already made by Court of Appeal and Supreme Court on numerous interlocutory applications.

**Result:** Primary issue answered in the negative. Appeal granted and this Court will finalized the taxation with directions given to the parties.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***