IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
Citation: Wickwire Holm v. Stephen, 2008 NSSM 39

Date: 20080728
Claim: 293130
Registry: Halifax

Between:

Wickwire Holm

Applicant

v.

Melanie Stephen

Respondent

Adjudicator:	J. Scott Barnett
Heard:	April 29, 2008
Written Decision:	July 28, 2008
Counsel:	Lyndsay Jardine and Janet Stevenson, Counsel for Wickwire Holm
	Melanie Stephen, Self-represented

By the Court:

[1] **INTRODUCTION**: The Applicant, Wickwire Holm, has requested a taxation of the accounts that it issued to the Respondent, Melanie Stephen. Janet Stevenson and other members of her firm provided legal services to Ms. Stephen in connection with Ms. Stephen's divorce and related matters.

[2] According to her Response to Taxation, Ms. Stephen firmly believes that "this is an obvious overbilling." Ms. Stephen also says that Ms. Stevenson did not keep her informed of all actions taken on her behalf and that, on occasion, Ms. Stevenson acted without instructions. Ms. Stephen further alleges that Ms. Stevenson was negligent with regard to the execution of a Court Order that granted interim exclusive possession of a matrimonial home to Ms. Stephen's estranged spouse, Michael Patriquen.

[3] At the outset of the taxation hearing, Ms. Stephen made a motion requesting that I recuse myself because of an alleged apprehension of bias. After hearing from both parties and considering the matter, I dismissed that motion. In the following section of these reasons for decision, I will set out in detail why that motion was dismissed.

[4] Another procedural matter arose during the Ms. Stephen's cross-examination of Ms. Stevenson. Specifically, I decided to limit the extent of Ms. Stephen's cross-examination for reasons explained at the hearing. In a separate section below, I will set out in detail the exact nature of the limitation that I imposed and the reasons for it.

[5] Otherwise, this was a fairly straightforward and uncomplicated taxation.

[6] **THE RECUSAL MOTION**: As indicated, Ms. Stephen made a motion at the outset of the taxation hearing requesting that I recuse myself.

[7] The basis of the motion was that there was a reasonable apprehension of bias on my part.

[8] By way of background, on October 16, 2006, I adjudicated a Claim by Paul B. Miller of the law firm Blackburn English against Melanie Jane Stephen and Mega-Med Marijuana Enterprises Inc. (Claim Number 269894). The Respondent in the taxation hearing before me on April 29, 2008 is the same person as the named Defendant Melanie Jane Stephen in the aforementioned Claim.

Ms. Stevenson's representation of the Respondent immediately followed Mr. Miller's representation of the Respondent.

[9] In that prior Claim, Mr. Miller sought payment of outstanding legal accounts that he issued to the named Defendants.

[10] Ms. Stephen's main defence in that prior Claim was alleged negligence on the part of the Claimant. In the result, Ms. Stephen was wholly unsuccessful in establishing negligence on the part of Mr. Miller but, as required, I went on to assess the reasonableness of Mr. Miller's legal accounts and some reductions were made.

[11] After the Order flowing from my decision in that prior Claim was issued, Ms. Stephen appealed to the Nova Scotia Supreme Court. The decision rendered in that appeal is not reported but my understanding is that, subject to a mathematical error on my part that was corrected, the appeal was dismissed.

[12] My decision in that prior Claim was largely an application of the well developed and well known principles relating to taxations of legal accounts and

there were no serious issues of credibility that had to be determined. While Ms. Stephen took the position in that prior Claim that nothing was owed to Blackburn English, the final result was that she was ordered to pay several thousand dollars to that firm.

[13] The basis for Ms. Stephen's motion for recusal was the simple proposition that because I had adjudicated a matter in which she was previously involved and in which she had largely been unsuccessful, I could not hear this subsequent taxation.

[14] The proposition advanced by Ms. Stephen cannot at all be correct. My examination of a number of authorities bears this out.

[15] A recent restatement of the legal principles involved can be found in *Wewaykum Indian Band v. Canada,* 2003 SCC 45. The criterion for disqualification is whether or not there is a reasonable apprehension of bias. In *Wewaykum Indian Band v. Canada, supra*, the meaning of this concept is discussed at paragraph 60:

> … the apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information. In the words of the Court of Appeal, that test is "what would an informed person, viewing the matter realistically and practically - and having thought the matter through - conclude. Would he think that it is more likely than not that [the decision maker], whether consciously or unconsciously, would not decide fairly."

[16] "Bias" means, quite simply, a predisposition to decide the issues in a way which would suggest that the judge's mind is not completely open: *Wewaykum Indian Band v. Canada*, *supra*, at para. 58.

[17] The threshold for establishing bias is high. Mere suspicion or surmise is insufficient. In *R. v. S. (R.D.)*, [1997] 3 S.C.R. 484 at para. 113, Justice Cory wrote:

> Regardless of the precise words used to describe the test, the object of the different formulations is to emphasize that the threshold for a finding of real or perceived bias is high. It is a finding that must be carefully considered since it calls into question an element of judicial integrity. Indeed an allegation of reasonable apprehension of bias calls into question not simply the personal integrity of the judge, but the integrity of the entire administration of justice.

[18] The burden of demonstrating a reasonable apprehension of bias rests with the party arguing for disqualification: *Wewaykum Indian Band v. Canada*, *supra* at para. 59. Moreover, the inquiry that must be conducted is very fact-specific and there can be no "shortcuts": *Wewaykum Indian Band v. Canada, supra* at para. 77.

[19] In both civil law and criminal law contexts, courts have repeatedly found that a decision-maker's participation in earlier proceedings involving the same party or parties who are again before the decision-maker in fresh, new proceedings does not, and should not, invariably lead to recusal: see, e.g., *R. v. Novak*, [1995] B.C.J. No. 1127 (C.A.), *Cyr v. Roy* (1996), 171 N.B.R. (2d) 280 (C.A.), *R. v. James*, [2000] B.C.J. No. 2354 (C.A.), *West v. Wilbur*, [2002] N.B.J. No. 430 (C.A.), *Nowoselsky v. Canada (Attorney General)*, [2007] F.C.J. No. 1386 (F.C.) and *Kalo v. Manitoba (Human Rights Commission)*, [2008] M.J. No. 115 (Q.B.).

[20] Such prior participation as a basis for disqualification, without something more, appears to be, as pointed out by Justice Joyal in *Kalo v. Manitoba, supra*, at paras. 32 to 34, the exact type of shortcut in reasoning that is inappropriate in such cases of alleged apprehension of bias.

[21] In fact, an examination of the cases demonstrates that even when a person has previously appeared before the same judge and adverse findings of credibility were previously found with respect to that person, such does not, by itself, require recusal.

[22] All Adjudicators, when appointed, must take and subscribe an oath before a judge of the Nova Scotia Supreme Court whereby the Adjudicator promises to "do right to all manner of people after the laws of the Province without fear, favour, affection or ill will": Section 6(6) of the *Small Claims Court Act*, R.S.N.S. 1989, c. 430. There is a strong presumption in favour of judicial impartiality. The presumption is that such an oath as that made by an Adjudicator at the outset of his or her appointment will be respected by that Adjudicator.

[23] I should also point out that in some judicial districts in Nova Scotia, there may only be a roster of one or two Adjudicators who hear Small Claims Court cases. Those Adjudicators may well regularly encounter the same witnesses and the same parties time and time again in their role as Adjudicators of the Small Claims Court. Generally, the findings and the decisions of an Adjudicator on one night in Court should not, by themselves, give rise to a reasonable apprehension of

bias whenever those same persons again appear in the Small Claims Court before the same Adjudicator.

[24] In this case, Ms. Stephen requested that I recuse myself for no reason other than that she had previously appeared before me in the Small Claims Court as a named party in connection with the legal retainer immediately preceding the one in this case.

[25] There is simply no evidence of bias in this case. Perhaps Ms. Stephen speculates that I will not be able to confine myself to the evidence presented to me in this taxation when coming to a decision. That concern is unfounded.

[26] In the circumstances, I denied Ms. Stephen's recusal motion and I proceeded to hear the taxation.

[27] **PRINCIPLES APPLICATION TO THIS TAXATION**: The *Legal Profession Act*, S.N.S. 2004, c. 28, s. 66 requires that I determine whether or not the Applicant's legal accounts are "reasonable and lawful." The onus of demonstrating both of these qualities rests with the Applicant: *Gorin v. Flinn*

Merrick, (1994), 131 N.S.R. (2d) 55 (T.D.), aff'd (1995), 138 N.S.R. (2d) 116 (C.A.).

[28] *Civil Procedure Rules* 63.16(1) and (2) and 63.33(1) and (2) are obviously relevant and must be taken into account.

[29] I also note that Chapter 12 of the Nova Scotia Barristers' Society *Legal Ethics and Professional Conduct Handbook* makes reference to a number of factors that a lawyer may consider when determining whether or not a legal fee that the lawyer intends to charge a client is reasonable. Those factors are appropriately considered when assessing the reasonableness of a legal account during a taxation.

[30] In this case, I was presented with legal accounts derived from docketed time entries. While focus may necessarily be placed on a few (or even many) such entries, particularly ones that "stand out" and thus require greater scrutiny, I do not believe that it is always necessary to examine every single entry in detail on a line-by-line basis. An overall view can be taken of the entries contained in an account when assessing reasonableness: *Tannous v. Halifax (City)*, [1995] N.S.J. No. 422 (T.D.).

[31] I note that disbursements are subject to the same requirements of reasonableness and lawfulness as any other portion of a lawyer's accounts and the onus of proof rests with the lawyer to justify the disbursement charges: *Law Profession Act, supra*, ss. 65(a) and 66.

[32] I have taken all of the foregoing factors into account in assessing the legal accounts presented by the Applicant.

[33] **EVIDENCE OF THE APPLICANT AT THE HEARING**: Ms. Stevenson testified on behalf of the Applicant and she fully explained the nature and the scope of her retainer by Ms. Stephen. A copy of each of the legal accounts that the Applicant issued to Ms. Stephen were admitted into evidence (Exhibit C2) as was the signed Retainer Agreement (Exhibit C3).

[34] In a nutshell, Ms. Stevenson was retained at the beginning of August 2006 to act for Ms. Stephen in connection with a divorce action commenced by Ms. Stephen's husband, Michael Patriquen. Ms. Stephen was dissatisfied with her prior solicitor's services and her immediate concern was what to do about an Order granting interim exclusive possession of the matrimonial home and interim custody

of the child of the marriage to her husband.

[35] Ms. Stevenson explained the complicated legal picture presented by Ms. Stephen's family law matter, the criminal prosecutions against Ms. Stephen and the civil lawsuit between Ms. Stephen's husband and the purported purchaser of a piece of property that Ms. Stephen had sold.

[36] Among other things, there were problems with disclosure from Ms. Stephen's husband in the divorce action, with the settlement of the Order following an Interim Application by Ms. Stephen's husband before Mr. Stevenson's retainer, and with the pursuit of a Contempt Application concerning Mr. Patriquen's alleged failure to abide by previous Court Orders.

[37] Shortly before the beginning of the two day trial in the divorce Action, Ms. Stevenson testified that Ms. Stephen raised the possibility of an adjournment. Ms. Stevenson advised against seeking an adjournment and Ms. Stephen accepted this advice. The parties to the divorce Action instead used the first day of the scheduled trial as a Settlement Conference. Unfortunately, the parties could not reach an agreement.

[38] Shortly after the unsuccessful Settlement Conference, Ms. Stephen informed Ms. Stevenson that she intended to represent herself. The reason, according to Ms. Stevenson, was Ms. Stephen's stated inability to afford the cost of legal services.

[39] Ms. Stevenson says that the time entries set out in the legal accounts filed with the Court (and previously submitted to the Respondent at the time of issuance) accurately describe the work that she and others carried out on behalf of Ms. Stephen as well as the length of time that it took to do that work.

[40] The total amount of the accounts issued to Ms. Stephen is $21,247.17. Of that total, Ms. Stephen has paid the sum of $7,565.32, leaving a claimed principal balance owing of $13,681.85, plus interest.

[41] I note that the Retainer Agreement provides for payment of interest on overdue accounts at a rate of 1½ percent a month. The Applicant has calculated interest to February 22, 2008 (amounting to $1,079.29).

[42] The Applicant's evidence was presented during the time span of approximately thirty minutes.

[43] **CROSS-EXAMINATION CONDUCTED BY THE RESPONDENT**: After Ms. Stevenson had given her evidence in chief, I called upon Ms. Stephen (who represented herself at the taxation hearing) to begin cross-examination, if desired. Ms. Stephen elected to question Ms. Stevenson.

[44] From the very beginning, Ms. Stephen engaged in a tedious, tired and totally ineffective cross-examination that really shed very little light on the relevant issues at hand.

[45] By way of but one example of a series of questions that unfortunately was repeatedly posed numerous times, Ms. Stephen asked Ms. Stevenson to describe the exact content of emails referred to in various time entries in the various legal accounts.

[46] Ms. Stevenson responded by discussing the general nature of the emails but she could not recite the exact contents (and understandably so, in my opinion, given that few people can reasonably be expected to possess infallible photographic memory).

[47] Ms. Stephen would then ask Ms. Stevenson to produce a copy of the email in question. Ms. Stevenson was not in a position to produce each and every piece of email correspondence referred to by Ms. Stephen but she repeatedly noted that Ms. Stephen was either copied with emails to others or the email itself was actually sent to Ms. Stephen as the sole recipient.

[48] More often than not, Ms. Stephen would then admit to the Court that she actually had received a copy of the email in question. She would then move onto the next chronological time entry.

[49] After approximately fifteen minutes of this kind of questioning, I asked the Respondent to explain her purpose in engaging in this type of cross-examination. Ms. Stephen indicated that she intended to go through all of the accounts line by line. Unfortunately, it was never made apparent why it would be necessary to proceed in that fashion or why Ms. Stephen thought that she might achieve something through this type of questioning.

[50] At that point, I indicated to Ms. Stephen that I was exercising my discretion to limit her cross-examination, which I told her was, in my view, largely vexatious,

to a period of not more than one and one-half hours, in addition to the fifteen minutes of cross-examination that had already taken place. In my view, that total amount of time was more than sufficient for Ms. Stephen to canvass the relevant issues.

[51] Ms. Stephen argued strenuously that to limit cross-examination in this manner would constitute a breach of natural justice. She stated that she would need exactly double that amount of time (i.e. three hours) to complete her questioning.

[52] In the end, however, Ms. Stephen did respect my ruling and I kept her well advised of the amount of time remaining so that she could monitor how best to proceed with her cross-examination. She ultimately used her full allotment of time.

[53] By giving clear warning to Ms. Stephen that the time available to her to cross-examine Ms. Stevenson would be limited, the hope was that Ms. Stephen, who was clearly articulate and capable of representing herself, would focus on something other than minor and largely inconsequential details. I regrettably

cannot say that the limitation had the fully desired effect.

[54] There is very little in the *Small Claims Court Act*, *supra*, which specifically sets out the procedure to be followed in the Court.

[55] For example, Section 28 does discuss the issue of what evidence an Adjudicator may or may not admit but that section can hardly be described as a complete code of civil procedure or of evidence.

[56] Neither the *Small Claims Court Forms and Procedures Regulations*, N.S. Reg. 17/93, as amended, nor the *Small Claims Court Taxation of Costs Regulations*, N.S. Reg. 37/2001, as amended, really provide much guidance respecting appropriate procedure to be followed in the Small Claims Court.

[57] It has previously been held that reference can be made to the Nova Scotia *Civil Procedure Rules* for assistance in cases where there is no applicable Small Claims Court civil procedure provision: *Malloy v. Atton* (2004), 225 N.S.R. (2d) 201 (S.C.).

[58] I find *Civil Procedure Rule* 31.03 to be of some assistance. The relevant portions state as follows:

Scope of examination and cross-examination of witnesses

31.03 (1) The court shall exercise reasonable control over the mode of interrogation of a witness so as,

(a) to make such interrogation as rapid, as distinct, and as effective for the ascertainment of the truth, as may be, and

(b) to protect the witness from undue harassment or embarrassment.

…

(4) The court may disallow any question put in cross-examination of any party witness that appears to the court to be vexatious and not relevant to any matter proper to be inquired into in the proceeding.

[59] A brief and by no means comprehensive search for case law on my part revealed only one case, that of *Campbell v. Turner-Lienaux* (1998), 167 N.S.R. (2d) 196 (C.A.), in which cross-examination was time-limited. In that case, however, the Court of Appeal seemed to be at pains to mention that the time limitation of cross-examination arose during the course of an Application for Summary Judgment and not during a trial. The taxation hearing before me more closely resembles a trial than an Application and thus the Court of Appeal's decision may not be particularly applicable.

[60] In the final result, the Small Claims Court must have control over its own

procedure relating to the questioning of witnesses. Otherwise, the process could easily become unmanageable. The temporal limitation of cross-examination should be within the Court's scope of discretion.

[61] That said, however, particular attention must be paid to Section 2 of the *Small Claims Court Act*, *supra*, in all that is done. That section requires the Court to adjudicate claims informally and inexpensively while nevertheless respecting the requirements of law and natural justice.

[62] The placement of time-limitations on cross-examination should be the extreme exception and not the general rule. However, in the special circumstances of this case, I thought that it was the best way to ensure that the Respondent had a full and fair opportunity to challenge the Applicant's evidence while at the same time providing Ms. Stevenson with some measure of relief from vexatious questioning (in respect of which I thought she demonstrated great restraint).

[63] I note that I placed no restriction on Ms. Stephen's own direct evidence, other than that such evidence be relevant and non-repetitive.

[64] **ANALYSIS OF THE LEGAL ACCOUNTS**: I intend to consider Ms. Stephen's specific complaints regarding the legal accounts. I will also consider the reasonableness of the accounts. There can be no dispute that the accounts are lawful.

[65] Ms. Stephen's first complaint is that she was "overbilled." I find this complaint to be unfounded.

[66] Ms. Stevenson's initial hourly rate as set out in the Retainer Agreement, and the nominal increase that took place during the course of the retainer, are commensurate with Ms. Stevenson's level of legal experience. The hourly rates were (and are) reasonable. Although Ms. Stephen decried the $5 an hour increase in Ms. Stevenson's hourly rate as of January 1, 2007, the Retainer Agreement clearly provides that hourly rates "are subject to review and possible adjustment once per year, usually in January."

[67] In reviewing the accounts, it is clear that Ms. Stevenson asked more junior lawyers and other members of the Applicant law firm to assist with Ms. Stephen's matter in appropriate circumstances (and as expressly discussed in the Retainer

Agreement). The rates charged for those individuals' work also appear to be reasonable.

[68] Further, Ms. Stevenson made a voluntarily reduction in the amount of two legal accounts issued to the Respondent. While the exact reason for these reductions was not stated in evidence, I suspect that it was because of the time spent by a junior lawyer carrying out legal research.

[69] If so, those reductions cannot be impugned and I find that they were appropriate. The research added value to the file but the number of hours actually spent is perhaps reflective of a young lawyer's self-education, not all of which should be the Respondent's responsibility to fund.

[70] I further find without hesitation that the docketed time accurately reflects the actual amount of time spent working on Ms. Stephen's matter. The descriptions associated with each docketed time entry are clear and complete. They are more than sufficient for me to ascertain what work was carried out for Ms. Stephen. The work carried out and the time spent pursuing that work were reasonable.

[71] Having reviewed all of the time entries, I can find no indication whatsoever of overbilling whether with respect to legal fees or disbursements. In addition to the issues already mentioned, Ms. Stephen made reference in her Response to Taxation to Ms. Stevenson's "make work" projects but I can identify no such projects in these accounts.

[72] As previously noted, Ms. Stephen also alleged that Ms. Stevenson took action on her behalf without getting instructions from Ms. Stephen beforehand. However, this complaint focused solely on the question of whether or not Ms. Stephen instructed Ms. Stevenson to attend at Crownside when Mr. Patriquen's criminal case was before the Nova Scotia Supreme Court. Ms. Stephen admitted in her own direct evidence that she had authorized Ms. Stevenson to have contact with Ms. Stephen's criminal defence lawyer on many occasions and she did not raise any other instances of unauthorized work beyond one. She did say that she did not authorize any member of the Applicant to attend Crownside.

[73] Ms. Stevenson, in contrast, stated that Ms. Stephen expressly asked her to attend Crownside.

[74] Of the two versions provided to the Court, I prefer Ms. Stevenson's evidence on this point.

[75] The emails passing between Ms. Stephen and Ms. Stevenson are compelling.

[76] In particular, after Ms. Stephen expressly informed Ms. Stevenson of Mr. Patriquen's scheduled appearance in Crownside (see email of January 16, 2007 in Exhibit D23), and after Ms. Stevenson's email to Ms. Stephen reporting on what happened at Crownside (see email of January 18, 2007 in Exhibit D24), Ms. Stephen's reply was not one of indignation but rather of thanks that Ms. Stevenson had attended (see email from Ms. Stephen to Ms. Stevenson dated January 18, 2007 in Exhibit D25).

[77] Had Ms. Stevenson's attendance at Crownside been unauthorized, it is difficult to see why Ms. Stephen would not have immediately asked Ms. Stevenson why she went to Crownside.

[78] Apparently, Ms. Stephen's estranged husband had either been convicted of or plead guilty to a criminal charge and he did not pay a significant fine associated

with the crime. Mr. Patriquen's non-payment of the fine was to be discussed at Crownside. Because of the potential impact of that financial matter to the divorce Action, it makes sense that Ms. Stephen would instruct Ms. Stevenson to attend to see what financial information might come forward.

[79] I am also mindful of the degree of pressure Ms. Stephen must undoubtedly have been experiencing at the time of Mr. Patriquen's appearance in Court. Money was tight and she was facing criminal charges regarding alleged money laundering and the possession of proceeds of crime in addition to ongoing matters in civil court including the divorce Action involving a husband who was, according to Ms. Stephen, a "nightmare" and a "monster." Ms. Stephen stated in closing submissions that only now is she "starting to come out of the fog" (again, the Respondent's description). I question the extent to which Ms. Stephen can accurately recall events during this extremely difficult period of her life.

[80] Incidentally, Ms. Stephen freely admitted (without any prompting) that she was convicted of the criminal charges laid against her. Those convictions obviously impact negatively on Ms. Stephen's credibility. That said, I have placed very little weight on those convictions in coming to the conclusion that Ms.

Stevenson's evidence regarding her Crownside appearance should be preferred over that of Ms. Stephen. The other matters to which I have previously referred are sufficient by themselves to cause me to seriously doubt Ms. Stephen's assertion that she did not authorize Ms. Stevenson to attend Crownside.

[81] I now come to Ms. Stephen's complaints respecting the Interim Order of September 18, 2006 of Associate Chief Justice Ferguson. The Order was entered as Exhibit D15.

[82] By way of brief background, that Order granted Mr. Patriquen exclusive interim possession of the matrimonial home in which Ms. Stephen was living, effective September 22, 2006. Ms. Stephen says that due to Ms. Stevenson's negligence, Ms. Stephen was locked out of her home with only the clothes on her back. The police enforced the Order on the afternoon of September 22, 2006, a day that Ms. Stephen says is "the day that has forever changed [her] life."

[83] Ms. Stephen then goes onto say that because of Ms. Stevenson's failure to specify, in the Order, the actual time at which Ms. Stephen had to leave the matrimonial home, she was forced to abandon a significant amount of property in

the matrimonial home and a subsequent Application had to be made to secure the return of those abandoned items. She alleges that an Application in December 2006 before Justice Lynch would not otherwise have been necessary.

[84] For her part, Ms. Stevenson said that it is not common to put in an interim possession Order an exact time on a particular day that one party must vacate a matrimonial home. It was Ms. Stevenson's understanding in dealing with Mr. Patriquen's divorce lawyer that the Order was not going to be enforced until very late in the afternoon of September 22, 2006. However, it appears that Mr. Patriquen decided to call upon the assistance of the RCMP to have the Order enforced a couple of hours earlier.

[85] The blame for what happened to Ms. Stephen on September 22, 2006, appears to rest largely if not exclusively with Mr. Patriquen. I frankly cannot see any negligence on the part of Ms. Stevenson (she reasonably relied upon the representation of Michael Patriquen's lawyer about when the Order would be enforced) nor do I see any of the work following September 22, 2006 as being work that was necessitated by any alleged negligence.

[86] As Ms. Stevenson pointed out, the Application before Justice Lynch in December 2006 involved a number of issues, only some of which related to the sought-for return of Ms. Stephen's possessions that remained in the matrimonial home. Even if Ms. Stephen's allegation of negligence had been proven (which it was not), all of the work carried out after September 22, 2006 does not relate solely to addressing the ramifications of what Mr. Patriquen did in enforcing the interim possession portion of the Order.

[87] That being said, Ms. Stephen seems to have had an unusual number of possessions in the matrimonial home just a few short hours before she knew, based upon information provided by Ms. Stevenson, that she had to vacate the premises. This fact is not easily explained but it was clear from the evidence that Ms. Stephen had actually wanted to stay in the matrimonial home indefinitely.

[88] There was one final argument raised by Ms. Stephen that I will address.

[89] Ms. Stephen argued that because she had been making payments on the accounts, the Applicant was therefore not permitted to seek to have its accounts taxed. There is no authority of which I am aware that supports this argument nor is

there any principled reason that I can think of to explain why such an argument should be sustained.

[90] **CONCLUSION**: In the result, I am prepared to certify the accounts presented by the Applicant as filed and I will prepare a Certificate of Taxation to that effect.

[91] Neither party made any submissions with respect to costs. However, I am prepared to allow the Applicant to recover the taxation fee of $87.06.

Small Claims Court Adjudicator