

## SUPERIOR COURT OF JUSTICE



COURT FILE NO.  
FC-21-0000719-00

**ENDORSEMENT**

---

APPLICANT(S): Claudia Santello

COUNSEL: Caterina Licata

---

RESPONDENT(S): Alex Cordova

COUNSEL: Matthew Armstrong

---

Date: November 21, 2022

- 1) By 14B motion, the Applicant seeks orders changing the Final Court Order dated October 21, 2022.
- 2) In particular, the Applicant seeks an order changing the dismissal of the spousal support claim to "without prejudice" from the terminology of "with prejudice" as reflected in the final order.
- 3) In addition, she seeks a change to the final order reflecting that the interest rate for post-judgment interest be (3%) rather than the rate of 4% as ordered is "reasonable".
- 4) The Respondent seeks the dismissal of the Applicant's 14B or, in the alternative, that a short motion be scheduled.
- 5) In support of her position, the Applicant claims that there was a typographical mistake regarding the initial issue dealing with spousal support. Further, regarding the interest rate, the Applicant maintains that 3% is a more reasonable rate to be applied.
- 6) In support of his position, the Respondent states that the wording regarding the spousal support was found in the Minutes of Settlement proposed to the Applicant and that no request that the included terminology be changed was received although the Minutes were changed on other terms. After some changes were made, the Minutes were signed by both parties.
- 7) The Respondent maintains that without the wording of "with prejudice", he would not have entered into the Minutes of Settlement.

- 8) Further, the Respondent states that the interest rate included in the final document is as proscribed in accordance with the *Courts of Justice Act*.
- 9) Both parties request costs.
- 10) The Respondent is correct in stating that 14B motions are limited to motions that are procedural, uncomplicated or unopposed.
- 11) Furthermore, if there was a mistake (which is clearly not conceded by the Respondent), one would think that the motion would be framed under Rule 25 (19) of the *Family Law Rules* that enables the Justice to reconsider the matter if persuaded that a mistake, in fact, was made.
- 12) By way of obiter, I simply raise the following concerns. First, if a future spousal support claim was pursued, regardless of the wording, as the relief was granted under the *Divorce Act* would a future court not conduct an analysis in accordance with prevailing law as to whether or not the Minutes satisfy the objectives of the *Act* both at the time of signing the Minute and at the time of a future Motion to Change?
- 13) Second, regarding the interest rate to be applied from the date of the order until the transfer of funds is effected, could the parties have not precluded this argument by providing that the transfer amount shall be 50% of the benefits accruing during the marriage together with 50 % of the interest that had accrued thereon from the date of the order until the date of transfer?
- 14) Despite my obiter comments, it appears to be well-settled that the interest rate to be applied, unless otherwise negotiated between the parties, is that proscribed under the *Courts of Justice Act*.
- 15) The 14B motion is dismissed, without prejudice to it being resurrected as a regular motion. Reference to Rule 25 (19) cannot be inserted by the court and, in any event, should be returned, if possible, to the Judge who granted the final order.
- 16) The costs of the 14B will be reserved to the Judge deciding the issue on a regular motion. Presumptively, the Respondent has been successful but if the Applicant prevails on a regular motion, the presiding Judge can best weigh the litigation conduct of the parties.
- 17) In the event that the motion is not pursued, I would urge the parties to resolve the costs issue. If unable to do so and if a motion is not scheduled within 60 days (scheduled but not heard), then I will receive costs submissions, initially from the Respondent and then the Applicant with a 20 day turnaround. Submissions are limited to 3 pages, double-spaced, 12 font. Bills of Costs shall also be provided. I do not require legal submissions on how I should apply Rule 24. Submissions shall be filed with the court with a copy to my judicial assistant [Nurit.suzana@ontario.ca](mailto:Nurit.suzana@ontario.ca).

  
Mr. Justice Kaufman