

COURT OF APPEAL FOR ONTARIO

CITATION: Leitch v. Novac, 2020 ONCA 497

DATE: 20200804

DOCKET: C66681

Lauwers, Hourigan and Thorburn JJ.A.

BETWEEN

Jennifer Ann Leitch

Applicant (Appellant)

and

Anthony Charles James Novac, Michael Novac, Nelly Novac, Sonco Group Inc.,
The Novac 2011 Family Trust, The Novac Family Trust (2013), John McClure
and David Tam

Respondents (Respondents)

Linda Rothstein, Dan Rosenbluth, Ilana Zylberman Dembo, Sheila Gibb and
Stephanie Romano, for the appellant

Avra Rosen and Kelly Eckert, for the respondent, Anthony Novac

Bryan Smith, Lindsey Love-Forester and Cynthia Kuehl, for the respondents,
Michael Novac, Nelly Novac, Sonco Group Inc., The Novac 2011 Family Trust
and The Novac Family Trust (2013)

Heard: In writing

On appeal from the summary judgment order of Justice Cory A. Gilmore of the
Superior Court of Justice, dated January 31, 2019, reported at 2019 ONSC 794,
the costs award dated March 7, 2019, reported at 2019 ONSC 1534, and the order
for security for costs and preservation of assets dated April 30, 2019, reported at
2019 ONSC 1541.

ADDENDUM

[1] On April 17, 2020, this court released reasons granting the appeal of the summary judgment order, directing that the case proceed to trial, and reserving the costs below to the trial judge. An issue has arisen between the parties in settling the order of this court regarding the costs below.

[2] The dispute centres around para. 2 of the motion judge's costs order dated March 22, 2019, which provides:

The Applicant, Jennifer Ann Leitch, shall [sic] to the Respondent, Anthony Novac, costs, inclusive of HST, disbursements and fees, of \$300,000 for the within motions plus \$40,000 for the November 2017 motion for a total of \$340,000. Of the \$300,000 owed to the Respondent Anthony Novac for the within motions, 50% (or \$150,000) shall be enforceable as legal fees related to the payment/collection of spousal and child support and shall be enforceable as such.

[3] The respondents submit that our reasons should be interpreted to mean that the costs order below should be set aside except for the \$150,000 awarded to Anthony Novac on his motion to change his support obligations. They note that that the appellant was denied leave to appeal the support order by the Divisional Court and that the appellant also sought to appeal the costs of the support motion. Therefore, they say that the issue of the costs of the support motion was not before this court.

[4] The appellant argues that the motion judge awarded a global figure of \$300,000 in costs payable by the appellant to Anthony Novac and did not award a discrete amount for the costs of the support motion. She submits that para. 2 of the costs order speaks to the enforcement method, not allocation. Further, she observes that she appealed to this court from the motion judge's entire costs award and that the summary judgment motion costs are closely intertwined with the costs of the support motion.

[5] We agree with the appellant. The motion judge ordered the appellant to pay Anthony Novac a global amount of \$300,000 in costs relating to all the motions before her. The issues are intertwined, and this court set aside the entire costs award.

[6] The order of this court shall reflect our reasons that the costs below in their entirety are reserved to the trial judge.

"P. Lauwers J.A."

"C.W. Hourigan J.A."

"Thorburn J.A."