

# COURT OF APPEAL FOR ONTARIO

CITATION: Levin v. Levin, 2020 ONCA 675

DATE: 20201022

DOCKET: C66262

Watt, Trotter and Zarnett JJ.A.

BETWEEN

Alla Levin

Applicant (Respondent)

and

Nikolay Levin

Respondent (Appellant)

Peter I. Waldmann, for the appellant

Ryan M. Kniznik, for the respondent

Heard: in writing

On appeal from the order entered on November 14, 2018 by Justice Mary E. Vallee of the Superior Court of Justice, with reasons reported at 2018 ONSC 6805, and from the costs order entered on February 08, 2019, with reasons reported at 2019 ONSC 932.

## COSTS ENDORSEMENT

[1] This court heard Mr. Levin's appeal from the trial judge's order with respect to spousal support, child support, net family property, and costs. Subject to rectifying some minor errors conceded by Ms. Levin, the appeal was dismissed: *Levin v. Levin*, 2020 ONCA 604.

[2] In written submissions, Ms. Levin requests costs on a partial indemnity basis in the amount of \$13,585.00, inclusive of disbursements and taxes. She submits that Mr. Levin's minimal success on appeal could have been achieved by returning to the trial judge to resolve mathematical errors, just as the trial judge had invited the parties to do: *Levin v. Levin*, 2018 ONSC 6805, at para. 257. On all contested issues, which were largely factual in nature, Mr. Levin was unsuccessful. Nonetheless, Ms. Levin was put to considerable expense in responding to all the grounds of appeal.

[3] Mr. Levin submits that a proportionate award of costs would be \$10,000.00, inclusive of disbursements and taxes. In support of his submission, he relies on his modest success on appeal, as well as the negative impact of the COVID-19 pandemic on his income as a self-employed industrial electrician. However, Mr. Levin submitted no proof of any economic repercussions due to the pandemic.

[4] Nonetheless, we are of the view that the amount of \$12,000.00, inclusive of disbursements and taxes, is proportionate, especially in view of the fact that the appeal was heard in writing, requiring no attendance in court by the parties.

[5] Accordingly, Mr. Levin shall pay costs to Ms. Levin in the amount of \$12,000.00, inclusive, within 30 days of the release of this Costs Endorsement, with post-judgment interest: *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 129. Moreover, the costs of the appeal constitute a "support order" within the meaning

of s. 1(1) of the *Family Responsibility and Support Arrears Enforcement Act, 1996*, S.O. 1996, c. 31. Therefore, the costs are fully enforceable by the Family Responsibility Office.

“David Watt J.A.”

“G.T. Trotter J.A.”

“B. Zarnett J.A.”