

CANADA / JUDGMENT

Turabi v. Nabi

2025 BCSC 1773

COURT

Supreme Court of British Columbia

DECIDED

11 September 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 1773 Turabi v. Nabi

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Turabi v. Nabi,

2025 BCSC 1773

Date: 20250911

Docket: E191284

Registry: Vancouver

Between:

Zarmina Turabi

Claimant

And

Wahed Nabi also known as Wahid Nabi

Respondent

Before: The Honourable Justice Majawa

Reasons for Judgment on Costs

Counsel for the Claimant:

A.M. James

H.M. Gowans

Counsel for the Respondent:

J. Dubas

Place and Date of Hearing:

Vancouver, B.C.

August 22, 2025

Place and Date of Judgment:

Vancouver, B.C.

September 11, 2025

Table of Contents

OVERVIEW.. 3

KEY RELEVANT FINDINGS AT TRIAL. 3

MS. TURABI IS ENTITLED TO SPECIAL COSTS. 4

The Relevant Law.. 5

Analysis. 7

The Special Costs should be Assessed Summarily. 10

CONCLUSION AND DISPOSITION.. 16

OVERVIEW

- [1] The claimant, Zarmina Turabi, was substantially successful at the trial of this matter which took place over the course of 22 days in April, September, and October 2024. My reasons for judgement were issued on January 13, 2025, and are indexed at 2025 BCSC 48 (the "Reasons").
- [2] Ms. Turabi asks that her costs of the action be assessed as special costs. She also asks that the costs be summarily assessed and paid out of the remaining monies held in trust with the respondent's counsel. Alternatively, she seeks double costs.
- [3] I have determined that Ms. Turabi is entitled to special costs of the family action and that it is appropriate to assess the quantum of costs summarily in the amount of \$134,541.

KEY RELEVANT FINDINGS AT TRIAL

- [4] The 22-day trial involved both a civil and family dispute heard on common evidence. The most significant issue was the characterization of funds provided to the respondent, Wahid Nabi, by his mother Guhare Nabi ("Mme. Nabi"), as either a gift or a loan. These funds were intended, and used, for the purchase of a home in Surrey, and subsequently a home in North Vancouver, which were respectively referred to in the Reasons as the "Surrey Property" and the "Tatlow Property". Mme. Nabi was the plaintiff in the civil action in which she claimed

that the funds provided were a loan due and owing to her. Mr. Nabi and Ms. Turabi were defendants in the civil claim; however, Mr. Nabi and Mme. Nabi were aligned in their position that the funds advanced by Mme. Nabi were a loan.

- [5] The many factual findings and legal conclusions that I made are detailed in my lengthy Reasons. In summary, I concluded that the funds advanced by Mme. Nabi to Mr. Nabi were a gift. Although that gift was excluded property under the Family Law Act, S.B.C. 2011, c. 25, it lost its exclusion when Mr. Nabi gifted the previously excluded property to Ms. Turabi and purchased the Surrey Property in both parties' names. Consequently, I concluded that the equity in the Surrey Property was entirely family property.
- [6] I further determined that Ms. Turabi was entitled to a compensatory spousal support award and that a lump sum payment was appropriate. To affect this, I determined that the proceeds of the Surrey Property were to be divided 55%-45% in favour of Ms. Turabi. I dismissed Mr. Nabi's claim for spousal support, and I also determined that he was to make a payment of retroactive child support. Mme. Nabi's civil claim against Mr. Nabi and Ms. Turabi was dismissed in its entirety.
- [7] In my Reasons, I set out in detail numerous negative credibility findings with respect to Mr. Nabi. For present purposes, it is sufficient to highlight the following points which are particularly relevant to Ms. Turabi's application for special costs. I found that Mr. Nabi fabricated and forged many documents in the proceedings and that he provided false evidence while under oath at his examination for discovery (Reasons at para. 4). Mr. Nabi also lied in an affidavit he swore and relied upon as the basis for his pre-trial application to withdraw a key admission from his pleadings about the nature of the funds advanced by Mme. Nabi (Reasons at paras. 43-44). Furthermore, Mr. Nabi admitted to forging a gift letter that had purportedly been signed by his mother (Reasons at para. 47).
- [8] I further found the documents Mme. Nabi and Mr. Nabi tendered in support of the alleged loan agreement were not created contemporaneously to the advancement of the funds. Rather, I concluded that these documents were fraudulent, likely created by Mr. Nabi well after the funds were advanced, with Mme. Nabi's consent or assistance, for the purpose of misleading the Court to defeat Ms. Turabi's claims to family property (Reasons at paras. 111 and 123).

MS. TURABI IS ENTITLED TO SPECIAL COSTS

- [9] Ms. Turabi seeks to have the costs of this action assessed as special costs and summarily fixed at \$134,541.03 being her legal fees (including an approximately \$40,000 discount that her counsel provided) for the family matter. It should be noted that Ms. Turabi seeks costs only for the period beginning the month before trial and for the trial itself. Ms. Turabi's trial counsel only came on the record a few months before the trial. Ms. Turabi is not seeking special costs with respect to the legal fees incurred in the years leading up to trial before Ms. James was retained.

- [10] Ms. Turabi explains her position with respect to special costs in her written submissions at paras. 27 and 28:
- [27] In this action, Ms. Turabi is not seeking special costs on the basis of adverse credibility findings, rather, for the entirety of the action, Mr. Nabi, in concert with his mother used fabricated loan documents to maintain a position that the money from his mother was a loan. Mr. Nabi also lied during his discovery to obfuscate his true income, where support was at issue. Lying about the income received from the Surrey Property was also directly related to the Tatlow Debt because Mr. Nabi was claiming that all of the Tatlow and Surrey Debt was family debt (when in fact Surrey was cashflow positive).
- [28] It is not the fact that Mr. Nabi pursued a claim that the money was a loan that attracts special costs, it is the use of fabricated loan documents and lying under oath in support of that position and it permeated the entire action. It is not possible to "quarantine" certain actions by Mr. Nabi within the boundaries of particular steps in the family law case or even connect it to a limited percentage of the overall litigation.
- [11] As I understand his position, Mr. Nabi opposes an award of special costs because he submits that, in essence, this case involved little more than adverse credibility findings against him. Mr. Nabi says that because he only maintained at trial that some of the alleged loan documents were accurate and the claimant never accepted the veracity of the other documents, she was not misled. As I understand it, he submits that this mitigates his conduct. Mr. Nabi also says that the false testimony and documents are not material and consequently do not give rise to special costs.

The Relevant Law

- [12] In *Chapman v. Chapman*, 2020 BCSC 1896, Justice Jackson discusses the principles applicable to an award of special costs in the family law context. At para. 5, Jackson J. discusses the punitive nature of special costs and their intention to sanction a party's reprehensible conduct during litigation:
- [5] Special costs are punitive and imposed to sanction a party's reprehensible conduct during the litigation, conduct from which the court seeks to disassociate itself: *Garcia v. Crestbrook Forest Industries Ltd.* (1994), 1994 CanLII 2570 (BC CA), 119 D.L.R. (4th) 740 at 745, 9 B.C.L.R. (3d) 242 (C.A.) [Garcia]; *R.A.C. v. V.L.C.*, 2009 BCSC 1207 at para. 11. The word "reprehensible" is broad and encompasses scandalous or outrageous conduct as well as milder forms of misconduct deserving of reproof or rebuke: *Garcia* at 746-747. Improper pre-litigation conduct is excluded from consideration: *Smithies Holdings Inc. v. RCV Holdings Ltd.*, 2017 BCCA 177 at paras. 133-134.

- [13] At paras. 6 -7, Jackson J. explains that, while the purpose of special costs is to punish and deter litigation misconduct and not compensate the other party, special costs also enable a court to substantially indemnify a successful party for the expenses incurred by the other party's misconduct:
- [7] However, special costs also enable a court to substantially indemnify a successful party: *Everywoman's Health Centre Soc. (1988) v. Bridges* (1991), 1991 CanLII 5715 (BC CA), 54 B.C.L.R. (2d) 294 at 297, [1991] B.C.W.L.D. 816 (C.A.); *Tanious v. The Empire Life Insurance Company*, 2019 BCCA 329, leave to appeal ref'd 38924 (20 February 2020), at para. 49. The indemnification function is particularly relevant where one party has had to incur excessive costs due to misconduct on the part of the other party: *D'Atri v. Gonzalez*, 2017 BCSC 1244 at para. 55 [D'Atri].
- [14] At para. 8, the Court discusses the scope of a special costs award and when it is appropriate to award special costs for the entirety of an action or for particular steps in the litigation:
- [8] It is not necessary for the party's conduct throughout the litigation to have been reprehensible to warrant an award of special costs for the entire action: *Bradshaw Stenner*, 2012 BCSC 237 at para. 9, leave to appeal ref'd 2012 BCCA 481. Nonetheless, while special costs are usually awarded for the whole proceeding, where such an award would be disproportionate, the court has the discretion to award special costs with respect to particular steps in the litigation: SCFR R. 16-1(1)(b)(ii); *Gichuru v. Smith*, 2014 BCCA 414 at para. 91, leave to appeal ref'd 36221 (16 April 2015).
- [15] At para. 10 of *Chapman*, the court sets out a non-exhaustive list of examples of the types of conduct that may attract special costs in the family law context. Of particular relevance to this case are the following:
- a) disregarding the other party's interest in family assets;
 - b) pursuing meritless claims and being reckless with regard to the truth; and
 - c) making the resolution of an issue far more difficult than it should have been.

Analysis

- [16] Mr. Nabi's conduct in this matter went far beyond adverse credibility findings and it warrants special costs. Mr. Nabi, likely in concert with Mme. Nabi, pursued this litigation based on fabricated documents and repeated lies told under oath. I agree with counsel for the claimant that this behaviour permeated the entirety of the proceeding and cannot be limited to only a part of it.
- [17] The main issue in this case was the characterization of the cash advances made from Mme. Nabi to Mr. Nabi. As I stated at paras. 98-100 of the Reasons, the characterization set the stage for the financial issues in both the civil and family claims. The characterization of the advances was a key issue in respect of the property division in the family law claim.

- [18] It is important to recall that Mme. and Mr. Nabi were aligned in position with respect to the characterization of the funds advanced. Significant court time was spent addressing their position that the funds advanced were a loan. Many of the documents relied upon by Mr. and Mme. Nabi, that I ultimately found to be fabricated, were written in French. Considerable court time was also spent dealing with several evidentiary issues in respect of the translation of these documents to tender them as evidence. This is a very different situation than *K.R. v J.R.*, 2024 BCSC 2185, where counsel ultimately decided not to rely on fraudulent documents presented by their client during cross-examination. In the present case, Mr. and Mme. Nabi spent considerable court time on tendering these documents and relied on them in submissions.
- [19] As discussed in my Reasons, Mr. Nabi admitted to lying in the affidavit he swore in this proceeding which was used as the basis for his pre-trial application to withdraw a key admission (Reasons at paras. 43, 148, 159-161). This admission was that the Surrey Property was purchased with a gift from Mr. Nabi's mother. Mr. Nabi was ultimately granted leave to withdraw this admission, which had a very significant impact upon these proceedings. Had he not lied, it is unlikely that he would have been permitted to withdraw the admission, and the nature of this trial would have been very different. Instead, the admission was withdrawn and Mr. and Mme. Nabi pursued a position that the funds advanced were a loan and relied upon numerous fabricated documents in doing so.
- [20] There is no doubt that lying under oath and creating, tendering, and relying upon fabricated loan documents complicated and lengthened the resolution of this claim. Significant additional time was spent in discovery and in cross-examination at trial on these numerous documents (including the translations) and the credibility aspects that flowed from them. I discuss the documents tendered throughout my Reasons and in particular at paras. 111-123. The fraudulent loan documents were a key aspect of Mr. and Mme. Nabi's case and they were crucial to the outcome of the most important issue between the parties in the family law case - the division of property. Unlike in *K.R.*, they were not "eliminated" as a factor that could affect the outcome of the trial. Instead, they were relied upon by Mr. and Mme. Nabi throughout - from their pleadings to their closing submissions - such that they profoundly influenced the trial.
- [21] As I understand his argument, Mr. Nabi says that his evidence and position with respect to the October 2016 Agreement (as defined at para. 112 of the Reasons) mitigates his behaviour. He submits that he did not rely on this document as being created contemporaneously with the advancement of funds from his mother. Rather, he says that he acknowledged that this document was backdated and that it was put forward to simply explain the alleged loan transactions. I disagree with this benign characterization. The October 2016 Agreement was introduced along with the other fabricated documents to support Mr. Nabi's position that the funds advanced were a loan. They were referenced in pleadings. At trial, Mr. Nabi was not originally forthcoming about the backdating of this document. I explained my findings with respect to the October 2016 Agreement at para. 117 of my Reasons:

- a) At discovery, Mme. Nabi testified that she had no recollection of signing the October 2016 Agreement. At trial, she contradicted her previous evidence and testified that she signed the October 2016 Agreement in Paris as indicated on the document on October 16, 2020, in front of Hassib Raouf who has also signed the document as a witness. However, that could not be true because Mme. Nabi was in Canada on October 16, 2020, and if she did sign it in Canada on a different date, it could not have been signed in front of Mr. Raouf as he has never been to Canada.
- b) Mr. Nabi admitted in his testimony that the October 2016 Agreement was created in 2020, after he and Ms. Turabi separated, and that he backdated it to October 20, 2016. He explained that he created this document to "reflect" the other written notes. The October 2016 Agreement itself does not say this at all. Mr. Nabi had no satisfactory explanation as to why, on its face, the document appears to have been signed on October 20, 2016, and does not reference an earlier agreement. I am skeptical that Mr. Nabi would have been forthcoming about backdating this document had Mme. Nabi's evidence of signing the document in 2016 not been so effectively undermined before he took the witness stand.
- [22] In summary, Mr. Nabi's conduct in this litigation made its resolution far more difficult and time-consuming than it should have been. He pursued a meritless claim with reckless disregard for the truth, and in doing so he disregarded Ms. Turabi's interest in family assets. This is the type of conduct which the Court seeks to disassociate itself from and can fairly be described as reprehensible. Whether a spouse's parent advances funds to them as a loan or a gift is frequently the subject matter of litigation before this Court. Findings on this issue can have significant impacts on the financial future of the parties, and oftentimes their children. In such cases, the parties should be deterred from manufacturing evidence, relying upon it, and further lying under oath in support of their positions. Mr. Nabi's conduct is thus deserving of an award of special costs.

The Special Costs should be Assessed Summarily

- [23] The Registrar of the Court is usually best placed to assess the quantum of special costs and to determine if the fees billed by a lawyer are objectively reasonable. However, a judge of this Court has the discretion to award lump sum special costs, or in other words to assess them summarily, in certain circumstances. As explained by the Court of Appeal in *Gichuru v. Smith*, 2014 BCCA 414 at para. 106, that discretion should be exercised sparingly.
- [24] At paras. 107-110 of *Gichuru*, the Court discusses some of the circumstances in which it would be appropriate for a judge to determine the quantum of special costs. Those circumstances include the judge's familiarity with the matter, whether the time and cost of a registrar's hearing can be justified, and the amount involved:
- [107] An exception to that general proposition can arise in cases when the judge is intimately familiar with the litigation, or the time and costs of a registrar's hearing cannot be justified. In this regard, the words of Southin J.A. in *Interclaim* are often cited:

[27] As this division is also the division which heard the appeals mentioned in paragraph 13, we are substantially familiar with what happened below. I have in mind also that these litigants have taken unto themselves, from the pool of judicial resources available in this Province, more than can be said to be their fair share. They are not alone in doing such things but litigants must be encouraged to be economical of judicial time.

...

[38] I accept the submission of Mr. Willms that this is a proper case for the exercise of the power to fix a sum to be paid in lieu of taxation. This litigation has already consumed, as I have already indicated, far too much of the public resource of judicial time as it is. To send the claim to taxation will engage a large amount of the time of a taxing officer whose decision might be appealed and matters will go on and on. Among other things, the taxing officer would have to learn about this litigation all that we already know, a duplication of effort which does no one any good. ...

[108] However, the fact the judge has heard the trial does not necessarily lead to the conclusion that the assessment be done summarily or that the best use of judicial resources is for the judge to embark on the assessment of costs. The time the judge spends on the assessment is time the judge does not have for other matters.

[109] A related concern is that the party who might have to pay the costs will prolong any assessment by requiring microscopic review of the services undertaken by counsel for the successful party: Buchan at para. 25. This concern must be weighed against the right of a party to challenge the reasonableness of the opposing party's proposed costs. This right derives from the rules of natural justice: see Williston at para. 53.

[110] It is true that a more detailed review may be tedious and expensive. That does not mean such a review is unfair to the successful litigant, particularly given that significant amounts may be in issue. While R. 1-3(1) sets out that the object of the Rules is to secure the just, speedy and inexpensive determination of every proceeding on the merits, R. 1-3(2) mandates that the proceedings be conducted in a way that is proportionate to the amounts involved in the proceeding, the importance of the issue in dispute and the complexity of the proceeding. The amount involved may be an important consideration in determining whether a summary procedure is appropriate.

[25] I am intimately familiar with the litigation, having presided over this trial for 22 days. Ms. Turabi is not seeking special costs for the pre-trial proceedings with which I am not personally familiar. Rather, she is seeking special costs for the time her counsel had to prepare for the trial after being retained and for the trial itself.

- [26] Moreover, significant trial time was spent dealing with the admissibility of the various alleged loan documents, and the waiver of privilege and consequent evidence regarding the withdrawal of Mr. Nabi's admission in his original pleading. I made a number of mid-trial oral rulings with respect to these issues. The taxing officer would be required to familiarize themselves with all of this information, which would be a significant use of the Court's resources.
- [27] In my view, the time and cost of a registrar's hearing is not likely to be proportionally justifiable in the circumstances, as was conceded by counsel for Mr. Nabi. Further, besides the amount in Mr. Nabi's counsel's trust account, Ms. Turabi would struggle to recoup any of the costs of what would likely be a lengthy assessment, given Mr. Nabi's limited means. In sum, an assessment of special costs would require much more time before the registrar, result in further delay, and significantly increase expenses for Ms. Turabi that she is unlikely to recover.
- [28] While this Court must be mindful that the time a judge spends assessing the quantum of special costs could be spent on other matters, in the circumstances of this case, the assessment time is not significant. The costs hearing was scheduled for one day before me and lasted just over half a day. A comparatively small time of the application was spent on the quantum of special costs sought by Ms. Turabi; the vast majority of time was spent on the entitlement to special, or alternatively, double costs.
- [29] The Court of Appeal in *Gichuru* expressed concern about cases where the judge summarily assessed special costs in the absence of a bill of costs (see e.g. para. 115). However, the absence of a bill of special costs is not a concern in this case and Ms. Turabi is not asking this court to engage in the discouraged practice of applying the "rough and ready" approach (*Gichuru* at para 121). Rather, Ms. Turabi has tendered her legal bills in support of her application. A party's solicitor/client accounts (i.e. her legal bills) serves the same purpose and is essentially equivalent to a bill of special costs: *Buchan v. Moss Management Inc.*, 2010 BCSC 121 at paras. 13-14; *Gichuru* at para. 119. These bills have been available to Mr. Nabi to review for months - they were provided to him in an affidavit in April 2025. The bills provide detailed billing accounts for work done at trial, the amount for each lawyer, and the disbursements for the entirety of the trial.
- [30] Ms. Turabi has provided her legal bill for the period beginning March 5, 2024 (approximately five weeks before the commencement of trial), until the end of trial. The total legal fees billed were approximately \$175,000. Ms. Turabi and her counsel came to an agreement to cap her fees for the last two- and one-half weeks of trial. After taxes, disbursements, and the application of the discount, Ms. Turabi paid total legal fees of \$134,541.03.

- [31] In assessing the quantum of special costs, I am mindful of the guidance provided by the Court of Appeal in *Gichuru* at paras. 154-56. Further, I must consider whether the fees claimed by Ms. Turabi were proper and reasonably necessary for the conduct of the proceeding: R. 16-1(2)(a) of the Supreme Court Family Rules. I am to undertake this consideration by taking into account the non-exhaustive list of factors in R. 16-1(2)(b).
- [32] There was a degree of complexity and difficulty to this case. While the issue itself was not particularly novel, the overlapping civil and family claims presented some complexity. In particular, the authenticity challenges posed by the various documents tendered and relied upon by Mr. Nabi increased the difficulty of the case. The time spent by counsel appears to be reasonable, particularly in light of Mr. Nabi providing fabricated documents and lying under oath, which unduly lengthened the proceedings.
- [33] The amount at issue in the case was significant for both parties; it represented almost the entire amount of equity they accumulated in their lives. The case was clearly of utmost importance to both parties. The litigation position that Mr. Nabi advanced, if successful, would have resulted in Ms. Turabi essentially obtaining no division of property and no spousal support after nearly 20 years of marriage. Accordingly, the result that Ms. Turabi obtained was of a significant benefit to her.
- [34] As mentioned earlier, counsel for Mr. Nabi conceded that the time and cost of an assessment of special costs before the Registrar would not likely be justifiable. Consequently, he did not challenge the reasonableness of Ms. Turabi's bill except for two points.
- [35] The first is with respect to Ms. Turabi's use of two counsel. Mr. Nabi says that Ms. Turabi's use of junior counsel, Ms. Gowans, to assist senior counsel, Ms. James, was not warranted, and thus I take him to mean that junior counsel was not reasonably necessary. I disagree. Ms. Turabi's counsel was retained relatively shortly before the trial commenced. Instead of seeking an adjournment, Ms. James and Ms. Gowans prepared the matter for trial in a relatively short period of time. As discussed, the trial of this matter took place over 22 days of court time on three separate sittings in April, October, and November 2024. A total of 17 witnesses provided evidence, including the parties. Ms. Gowans did not simply take notes throughout the trial; she was an active participant and conducted many examinations. From my review of the bills, it also appears that Ms. Gowans played a meaningful role in the preparation of witnesses and the development of Ms. Turabi's case.
- [36] It should also be noted that although Mr. Nabi had only one counsel, Mme. Nabi also had counsel. Given that Mme. and Mr. Nabi's positions were aligned on the main issue affecting the division of property, Mr. Nabi benefited indirectly from the participation of Mme. Nabi's counsel. As discussed earlier, the matter was very important to Mr. Nabi and Ms. Turabi. Having considered all of these factors, I find it to be reasonable for Ms. Turabi to have had two counsel: *Chen v. Beltran*, 2011 BCSC 41 at para. 45. Moreover, I note that the combined billing rate for both of Ms. Turabi's counsel is under \$600 per hour which is reasonable, in my view.

- [37] The second point that Mr. Nabi makes in respect of the reasonableness of Ms. Turabi's legal fees is related to the fact that Ms. Turabi's legal bill includes the costs for prosecuting the family action and defending Mme. Nabi's civil action. In essence, Mr. Nabi argues that he should not be responsible for Ms. Turabi's legal costs solely attributable to Mme. Nabi's civil claim. There is some merit to this argument. However, the overlapping nature of the claims, and the alignment in position, and presumably strategy, between Mr. and Mme. Nabi are also relevant considerations. So too is the fact that both matters were heard together and few additional costs were incurred in respect of the civil matter because it was heard concurrently with the family matter.
- [38] Given the nature of the proceedings, it is impossible to precisely parse Ms. Turabi's bill for fees attributable solely to one or the other proceeding. However, some guidance can be taken from the parties' calculation of tariff costs in support of Ms. Turabi's alternative argument that Mr. Nabi pay double tariff costs. When removing duplicative entries for document discovery, preparation and attendance at examination for discovery, preparation and attendance at trial, and certain disbursements, Ms. Turabi determined that approximately \$8,300 of a total tariff bill of \$94,150 was solely attributable to Mme. Nabi's civil claim. Under this method, approximately 90% of the tariff bill was solely attributable to the family claim.
- [39] In this case, the civil action did not significantly prolong the trial of this matter. Many, if not all, of the same witnesses would have been called given Mr. Nabi's position on the family claim. In considering the reasonableness of the fees, I have also considered the parties' positions on the appropriate amount of tariff costs. On this point, the parties were not significantly far apart: Ms. Turabi submitted total tariff costs of the family action at \$85,900, and in oral submissions, Mr. Nabi says they would be approximately \$76,000.
- [40] I recognize that special costs and a lawyer's reasonable fees are not necessarily identical (as discussed by Associate Judge Muir in *MFSJ862 v. FFSJ862*, 2023 BCSC 273 at paras. 25-27). Some cases have discussed a "rule of thumb" that special costs will usually be around 80% to 90% of a similar bill assessed under the Legal Professions Act, S.B.C. 2024, c. 26. For example, see: *Bradshaw Construction Ltd. v. Bank of Nova Scotia*, 54 B.C.L.R. (2d) 309 (S.C.), 1991 CanLII 4019 (B.C.S.C.). However, in *Lee (Guardian ad litem of) v. Richmond Hospital Society*, 2005 BCCA 107, the Court of Appeal commented that this "rule of thumb" is merely an aid to a proper assessment and the trial judge is not bound to apply it:
- [47] However, a trial judge is not required to apply the rule of thumb and trial judges should not lose sight of the fact that the rule of thumb is merely an aid to a proper assessment. Each case will turn on what is proper or reasonably necessary in the particular circumstances within the meaning of the words in Rule 57(3).

[]

- [49] In my view, the legislative intention is clear that special costs under Rule 57(3) are in their nature to resemble closely the reasonable fees that would be charged by a lawyer to his or her own client. It may be that, in some cases, they will be equal in amount. However, special costs and lawyers' reasonable fees are not identical.
- [41] As Associate Judge Muir pointed out in MFSJ862 at para. 27 with reference to Gichuru at para. 155, the Court of Appeal has held that an award of special costs might be made on the basis of actual costs or some percentage of actual costs:
- [155] When assessing special costs, summarily or otherwise, a judge must only allow those fees that are objectively reasonable in the circumstances. This is because the purpose of a special costs award is to provide an indemnity to the successful party, not a windfall. While a judge need not follow the exact same procedure as a registrar, the ultimate award of special costs must be consistent with what the registrar would award in similar circumstances. Thus, a judge must conduct an inquiry into whether the fees claimed by the successful litigant were proper and reasonably necessary for the conduct of the proceeding as set out in R. 14-1(3)(a), taking into account all of the relevant circumstances of the case and with particular attention to the non-exhaustive list of factors in R. 14-1(3)(b).
- [42] Clearly, there is a wide discretion bestowed upon a trial judge in assessing the quantum of special costs in circumstances where it is appropriate for the judge to do so, as I have concluded that it is here. If one is to consider that 10% of the total amount billed to Ms. Turabi is solely attributable to Mme. Nabi's civil claim, then the amount of Ms. Turabi's legal bill for the family claim would be approximately \$157,000. Applying the 80%-90% "rule of thumb" results in an amount between approximately \$126,000 and \$141,750.
- [43] Having regard to all the factors discussed above, I find that the \$134,541 of legal fees Ms. Turabi actually paid are proper and reasonably necessary and that amount is allowed as special costs. I decline to reduce them further. Mr. Nabi should not benefit twice from the significant reduction in fees that Ms. Turabi's legal counsel provided to her. Moreover, these fees do not include expenses incurred by Ms. Turabi for work done by her previous counsel between the time the pleadings were filed in 2019 and when the trial occurred in 2024. The award of special costs in the amount of \$134,541 does not represent a windfall to Ms. Turabi; rather, it simply indemnifies her for what I believe are very reasonable legal fees for a 22-day trial.

CONCLUSION AND DISPOSITION

- [44] Ms. Turabi is entitled to her special costs of the family law proceedings in a total amount of \$134,541. Ms. Turabi also seeks that the costs of this costs hearing be determined summarily. I find that it is appropriate to do so and I fix those costs at \$1,500. Both costs awards are to be paid from the amounts held in trust by Mr. Nabi's counsel.

[45] Given my conclusions, it is unnecessary to consider Ms. Turabi's alternative arguments with respect to double and/or uplift costs.

"Majawa J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/25/17/2025BCSC1773.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/turabi-v-nabi-2025-bcsc-1773>

Prepared on 27 October 2026 · Esheria