

ROYAL COURT
(Samedi Division)

20th March, 1997

54.

Before: Sir Philip Bailhache, Bailiff and Jurats
Bonn and Potter.

Between	Nora Elena Zuber	Plaintiff
And	Carl Frederick Zuber	Defendant
And	The Bank of Nova Scotia (Channel Islands) Limited	Party Cited

Following agreement between the parties to end the action, application by the Defendant for an Order that he be paid his costs on a full indemnity basis.

Advocate A.D. Hoy for the Defendant
Advocate B.H. Lacey for the Plaintiff

JUDGMENT

THE BAILIFF: Matters of costs are for the presiding judge rather than for the Court as a whole. My decision is that I should award the Defendant costs on an indemnity basis arising out of the abandonment of the proceedings by the Plaintiff. There was, in my judgment, material and gross non-disclosure. In saying that I make no criticism of counsel making the application for the interlocutory injunction but it seems clear that counsel was not properly instructed when the application for that interim injunction was made. There was a material non-disclosure in the sense that the separation agreement entered into between the parties was not disclosed to the judge in chambers. Furthermore, it seems to me there was a further non-disclosure in failing to bring to the attention of the Judge the communications between the Plaintiff and the Defendant which took place during the course of this year and all those factors might very well have influenced the Judge in deciding whether or not to grant the interim injunction which was in fact granted. For those reasons I order the Plaintiff to pay costs on an indemnity basis and those costs will include the expenses of the Defendant to the extent that they are reasonable and that matter will be determined, if necessary, by the Judicial Greffier in default of agreement between the parties.

No Authorities