

**CITATION:** Aghdasi v. Asiyaban, 2025 ONSC 1102  
**COURT FILE NO.:** CV-19-00623015-0000  
**DATE:** 20250219

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:** )  
)  
HALIME KHATOUN AGHDASI ) *Gord McGuire and Sean Pierce, for the*  
) *Plaintiff*  
)  
Plaintiff )  
)  
– and – )  
)  
VAHID MEHDIZADEH ASIYABAN ) *Paul Portman, for the Defendants*  
and 2468692 ONTARIO LTD. )  
)  
Defendants )  
)  
) **HEARD:** In Writing

2025 ONSC 1102 (CanLII)

**PAPAGEORGIU J.**

**COSTS ENDORSEMENT**

**Overview**

[1] I awarded the plaintiff Halime Khatoun Aghdasi (“Halime”) judgment and dismissed the defendant Vahid Mehdizadeh Asiyaban’s (“Vahid’s”) claims in this consolidated action.

[2] This proceeding concerned a dispute over two properties.

[3] The first is a commercial two-story building located at 188 Deerfield Ave. (the “Deerfield Property”). Halime claims that this was a jointly held property even though it was registered in the name of the defendant corporation, 2468692 Ontario Ltd. (the “Corporation” or “246 Ontario”), which is solely owned by Vahid. Halime seeks a resulting trust or a constructive trust as a remedy for unjust enrichment.

[4] The second property is located at 123 Ellis Ave. (the “Ellis Property”) and was in Halime’s name. Halime claims damages she allegedly incurred when she sold the Ellis Property, which she says was at a distressed price because Vahid unreasonably registered a caution (the “Caution”) and

Certificate of Pending Litigation (the “CPL”) against this property. Vahid seeks a resulting trust or constructive trust as a remedy for unjust enrichment.

[5] I awarded Halime judgment. I found that the Deerfield Property was owned by Halime as to 50 % by way of resulting trust and that the Ellis Property was also 100 % hers alone and awarded her damages in respect of the Caution and CPL registered.

[6] Halime seeks costs on a full indemnity basis in the amount of \$310,550 plus HST plus \$15,279.45 in disbursements or \$279,495 in fees on a substantial indemnity basis and the same disbursements or \$201,857.50 on a partial indemnity basis plus the same disbursements.

[7] Vahid’s counsel submits that costs should be fixed in the amount of \$160,000 inclusive of HST and disbursements.

### **Decision**

[8] For the reasons that follow, I award Halime \$279,495 in fees on a substantial indemnity basis plus HST in the amount of \$36,334.35, plus \$15,279.45 in disbursements.

### **Analysis**

#### **The General Law**

[9] Pursuant to s. 131(1) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, costs are in the discretion of the court. Rule 57 of the *Rules* sets out the factors which courts should have regard to when awarding costs. The overall objective is “to fix an amount that is fair and reasonable for the unsuccessful party to pay in the particular proceeding, rather than an amount fixed by the actual costs incurred by the successful litigant”: *Zesta Engineering Ltd. v. Cloutier* (2002), 21 C.C.E.L. (3d) 161 (Ont. C.A.), at para. 4; *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), at para. 26; *Clarington (Municipality) v. Blue Circle Canada Inc.*, 2009 ONCA 722, 100 O.R. (3d) 66, at para. 52; and *G.C. v. Ontario (Attorney General)*, 2014 ONSC 1191, at para. 5.

#### **Scale of Costs**

[10] The court has the discretion to award substantial indemnity costs, but such costs are “rare and exceptional” and only warranted where there has been reprehensible, scandalous or outrageous conduct on the part of a party: see *DUCA Financial Services Credit Union Ltd. v. Bozzo*, 2010 ONSC 4601, at para. 5; *Foulis v. Robinson* (1978), 21 O.R. (2d) 769 (C.A.); and most recently *Mars Canada Inc. v. Bemco Cash & Carry Inc.*, 2018 ONCA 239, 140 O.R. (3d) 81, at para. 43; *Davies v. Clarington (Municipality) et al.*, 2009 ONCA 722 at paras 28-31

[11] In *Net Connect Installation Inc. v. Mobile Zone Inc.*, 2017 ONCA 766 at paras 8-10, the Court of Appeal noted that instances of fabricated evidence can be a basis for an elevated costs award.

[12] In this case, Vahid's conduct justifies elevated costs.

[13] I found that Vahid had fabricated documents in order to obtain a CPL and that he enlisted the assistance of another witness who gave testimony in the CPL proceeding which could not have been truthful given the same witness' testimony at trial. At trial, Vahid continued to suggest that it was Halime who may have fabricated these documents which made no sense at all and for which there was not any evidence.

[14] Further, Vahid made serious allegations against Halime and failed to adduce any evidence in respect of them. He alleged that she had committed adultery, fabricated criminal charges and fraudulently induced her to sign two July 20 confirmations.

[15] As noted in *The Investment Administration Solutions Inc. v. Pro-Financial Asset Management Inc.*, 2018 ONSC 2589 at para 14, citing *Hamilton v. Open Window Bakery Ltd.*, 2004 SCC 9 at para 26 held that elevated costs were appropriate where:

A party pleads but fails to prove that his or her opponent perpetrated a fraud or committed a criminal act or engaged in other dishonest or reprehensible conduct or makes unfounded allegations that impugn the integrity or good reputation of his or her foes.

[16] I reject the argument that I should not award substantial indemnity costs because I made an award of punitive damages in the amount of \$100,000. The conduct here, in filing fabricated evidence with the court is so shocking and frankly disrespectful to the justice system as a whole, that it justifies both a punitive damage award and an elevated costs award. Additionally, Vahid submitted an affidavit from a witness who could not speak English without the required jurat that the affidavit had been interpreted to the witness. Although the affidavit as written supported Vahid's case, when the affidavit was interpreted to the witness, the witness gave evidence that what had occurred was actually the opposite of what was in the affidavit that had been interpreted to the witness.

[17] I add here that the reasonable expectation that a party should have if they submit fabricated documents to the court and this is discovered is that they will have to pay elevated costs and likely also punitive damages. Fabrication of evidence is reprehensible, scandalous and outrageous conduct.

[18] There is another basis for an elevated costs award, the r. 49 offers made by Halime as follows:

- On August 29, 2021, Halime offered to settle both actions for a 50 % interest in the Deerfield Property and a \$300,000 payment.
- On October 10, 2023, without revoking the prior offer Halime offered to settle both actions for \$890,000 from Vahid to Halime.

- On November 9, 2023, without revoking the prior offers, Halime offered to settle both actions if Vahid paid her \$495,000 in damages. This offer was revoked on November 21, 2023, following the receipt of Vahid's affidavit to be used at the trial.

[19] Halime beat her August 29, 2021 offer as she was awarded a 50 % interest in the Deerfield Property, and \$341,000 in compensatory and punitive damages.

### **Quantum**

[20] I have reviewed the Bill of Costs submitted by Halime which is detailed and provides significant and comprehensive description of the work undertaken by her counsel. The rates charged are commensurate with the experience of the lawyers. The costs claimed are proportionate to the amount claimed and the hours billed are reasonable for a matter that spanned the length of time this did. This matter was commenced in 2019 and 2020, and the trial lasted 6 days. The matters at issue were complex. They dealt with complex factual and credibility issues as well as complex legal issues.

[21] The issues were important to Halime and Vahid should have expected that she would have spent considerable resources to pursue her claim and fight his.

[22] Vahid's Bill of Costs sets out a costs claim on a substantial indemnity basis of \$88,513.07 plus a disbursement amount of \$16,615.08.

[23] The difference in the Bills of Costs can be explained by the materials and work that the parties did prior to and at trial. While Halime submitted comprehensive materials that included a 60-page written affidavit with attached supporting documents, that traced the flow of funds over 15 years, Vahid filed only a 10-page bald affidavit copied mostly from his pleading and attaching no documents.

[24] At trial, Halime's counsel cross examined Vahid for two days which would have required time for preparation, while Vahid's counsel cross examined Halime for only one hour.

[25] The extensive work that Halime's counsel had to do to prepare for the trial was also increased by Vahid's denial of almost every fact and allegation in issue in Halime's claim, apart from his own identity. While he denied everything in his pleadings, he admitted everything at trial which demonstrates the unreasonableness of the denials that he made in his pleadings.

[26] I assess that the work that Halime did to prepare for trial was reasonable and necessary.

[27] I also conclude that even though the amount Halime claims is more than Vahid's claim for costs, her costs claim was still within his reasonable expectation. He cannot have thought that the complicated issues involved in this trial involving the flow of funds over a fifteen-year period, would not require the amount of preparation that Halime did. It was his choice to do less, but that does not mean that Halime's costs claim is not fair and reasonable.

[28] Finally, I reject Vahid's argument that there was duplication between counsel for Halime because they did not provide any examples of where this duplication was for the court to consider.

## **Conclusion**

[29] I award Halime \$279,495 in fees on a substantial indemnity basis plus HST in the amount of \$36,334.35, plus \$15,279.45 in disbursements all payable within 30 days.

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**Papageorgiou J.**

**Released:** February 18, 2025

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Plaintiff

– and –

VAHID MEHDIZADEH ASIYABAN and 2468692  
ONTARIO LTD.

Defendants

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**COSTS ENDORSEMENT**

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**Papageorgiou J.**

**Released:** February 19, 2025