

**NOVA SCOTIA COURT OF APPEAL**  
**Citation: *Moore v. Darlington*, 2012 NSCA 68**

**Date:** 20120621  
**Docket:** CA 350840  
**Registry:** Halifax

**Between:**

David Moore

Appellant

v.

Michelle Darlington

Respondent

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**Judge:** The Honourable Justice David P.S. Farrar

**Appeal Heard:** March 29, 2012

**Subject:** **Family Law. Adjournment of Custody and Maintenance Motion.**

**Summary:** The appellant, approximately ten (10) days before a three-day application for custody and maintenance was to commence, sought an adjournment based on the unavailability of his counsel which he had recently retained. The judge was prepared to grant the adjournment on two conditions:

1. the appellant pay costs in the amount of \$5,000;
2. he would not be permitted to file further materials as all of the filing deadlines had passed.

The application proceeded as scheduled with the appellant representing himself. The appellant appeals from the application judge's decision alleging a number of errors in the final result including the failure to properly consider his application for an adjournment.

**Issues:** Did the judge err in her consideration of the appellant's motion

for an adjournment?

**Result:**

Appeal allowed. New hearing ordered. The judge erred in her consideration of the request for an adjournment. She treated the adjournment as an issue to be mediated instead of adjudicated and in ordering that if an adjournment were to be granted that the appellant would be denied the opportunity to file further evidence for the adjourned hearing. Costs in the amount of \$11,750 plus HST were awarded to the respondent for the proceedings below. There were no costs on the appeal.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 18 pages.**