<u>CASE NO.</u> <u>VOLUME</u> <u>PAGE</u>

Cite as: Manning v. LaPaix, 1997 NSCA 180

GRISELDA MANNING (LAPAIX) WILLIAM LAPAIX

- and -

(Appellant) (Respondent)

C.A. No. 136191 Halifax, N.S. CROMWELL, J.A.

(orally)

APPEAL HEARD: November 19, 1997

JUDGMENT DELIVERED: November 19, 1997

WRITTEN RELEASE OF ORAL: Novembe 20, 1997

SUBJECT: Service of Notice of Appeal

SUMMARY: A Judge of the Supreme Court directed appellant's counsel to file proof

of personal service of a notice of appeal from the Family Court to Supreme Court. When proper proof of personal service was not filed, the appellant's appeal was dismissed. The appellant appealed the dismissal to the Court of Appeal. At the hearing of the appeal, the respondent, who was not represented by counsel, appeared and confirmed that he had,

in fact, received the notice of appeal.

ISSUE: Should the appeal be allowed and the matter remitted to the Supreme

Court for hearing on the merits?

RESULT: The appeal was allowed on conditions. The respondent confirmed at the

hearing of the appeal that he had been served personally, although proper proof of such service had not been filed before the Supreme Court Judge. Accordingly, the appeal was allowed on several conditions including that the respondent be served personally with 30 days notice in

writing of the date, place and time of the hearing of the appeal.

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