

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Clark v. Saberi, 2012 NSSC 310

Date: 20120822

Docket: 1201-062662, SFHD-058718

Registry: Halifax

Between:

Robert Alan Clark

Applicant/Petitioner

v.

Mojdeh Amanda Saberi

Respondent

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Judge: The Honourable Justice Beryl MacDonald

Heard: June 28, and July 19, 2012, in Halifax, Nova Scotia

Oral Decision : July 20, 2012

Written Decision: August 22, 2012

Keywords: Family, Variation of Corollary Relief Judgment, Child Custody, Mobility/Relocation, Evidence, Affidavits

Summary: The Mother, who had primary care of the three children of the parties marriage, intended to marry and move with the children to her partner's residence in the United States. The Father objected to the children's relocation. He was self-represented. Counsel for the Mother objected to many of the statements made in the Father's affidavits. Much of the Father's material was irrelevant and inadmissible. *Gordon v. Goertz*, [1996] 2 S.C.R. 27 was reviewed and the meaning of "the parent's reasons for the move are irrelevant absent a connection to parenting ability, as may be the case of a move the sole purpose of which will be to frustrate or interfere with access" was examined. The Mother's move was not to frustrate or interfere with access. As a result the court then analyzed two situations. The first was the situation of the children living with the custodial parent in the new location and the second was the children living with the non custodial parent in the former location. The court determined it was not to analyze these requests based upon what the custodial parent's situation would be if he or she did not move. The Father did not have the parental capacity to become the custodial parent and it was in the best interest of the children to relocate with the Mother.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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