

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: MacLean v. Williams, 2008 NSSC 293

Date: 20081006

Docket: SPHa 257339

Registry: Port Hawkesbury

Between:

Joan MacLean of R.R. #1, Orangedale, in the County of Inverness, Province of
Nova Scotia, B0E 2K0

Plaintiff

v.

Hector Williams, Laurie Williams and James Williams of R.R. #1, Orangedale, in
the County of Inverness, Province of Nova Scotia, B0E 2K0

Defendants

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Judge: The Honourable Justice Frank Edwards

Heard: October 2 and 3, 2008 in Port Hawkesbury, Nova Scotia

Subject: right-of-way dispute; licence revocable or irrevocable.

Facts: In 1994, the Plaintiff allowed the Defendants to build an access road over her property. In 2003, she gave notice that she would close the access road. In the meantime, the Defendants, in reliance upon what they thought was a permanent licence, spent \$8000.00 on road construction.

Issue: Whether the Plaintiff had granted the Defendants an irrevocable licence to cross her land.

Result: The Defendants had expended \$8,000.00 on road construction in reliance upon the Plaintiff's licence. I found that the Plaintiff had never given the Defendants any indication that the access

was temporary. I granted the Defendants a declaration that the right-of-way (licence) was irrevocable and unlimited. I enjoined the Plaintiff from interfering with the right-of-way.

Cases Noticed: *Pilcher v. Shoemaker*, 13 R.P.R. (3d) 42, [1997] B.C.J. No. 2038

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