

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** LeBlanc v. LeBlanc, 2009 NSSC 228

**Date:** 20090724

**Docket:** 1201-057505(SFHD-22893)

**Registry:** Halifax

**Between:**

Lena LeBlanc

Applicant

v.

Glen LeBlanc

Respondent

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**Judge:** Leslie J. Dellapinna, J.

**Subject:** Applications to vary the custody and access provisions of a Corollary Relief Judgement; mobility.

**Summary:** The parties separated in October 2002 and were divorced in February 2005. Their Corollary Relief Judgement incorporated a Separation Agreement signed by the parties in August 2004. Among other things the Separation Agreement provided that the parties would share joint custody of their two children (a daughter now aged 11 and a son now aged 8), that the children would reside primarily with their mother but it was agreed that the father would have generous access including alternate weekends, time during the week (including overnight access during each week), alternate March breaks, half of each summer, block time during Christmas and other special events. The Agreement also said that the father's access was "in recognition of the benefit to the children of maintaining an ongoing relationship" with him and "of the parents' desire to maintain a close relationship between the children and the Father and to ensure there is a meaningful involvement by the Father into the lives of the children".

Before the Separation Agreement was signed the mother began dating J.M.. Eventually they were married in January 2009.

The mother applied to vary the custody and access provisions of the Corollary Relief Judgement to permit her to move the children to Arichat where J.M. had his home. The father counter-applied. He opposed moving the children and sought an equal shared custody arrangement on an alternating week basis.

**Issue:** What was in the children's best interests?

**Result:** Both applications were dismissed. The Court was satisfied that the Applicant's plan to move to Cape Breton constituted a material change of circumstances in the lives of the children but after considering the principles outlined in *Gordon v. Goertz* the Court concluded that the current custody and access arrangement as contained in the parties' Separation Agreement best served the interests of the children. Moving the children would likely lead to a deterioration in their relationship with their father.

There was no change in circumstance that would lead the Court to conclude that a shared custody arrangement would be more appropriate.

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