

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Amar v. Fricker, 2009 NSSC 359

**Date:** 20091027

**Docket:** Hfx. No. 309983

**Registry:** Halifax

**Between:**

Mitchell M. Amar and Diana E. Brown

Applicants

v.

Aubrey Fricker and Joan Fricker

Respondents

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Suzanne M. Hood

**Heard:** October 26 & 27, 2009 in Halifax, Nova Scotia

**Written Decision:** November 27, 2009 (*Oral decision given on Oct. 27. 2009*)

**Subject:** Easement: by prescription or lost modern grant, application (not action) pursuant to *CPR 5*.

**Summary:** The parties to this application owned adjacent properties on Robie Street in Halifax. There is approximately eleven feet between the two properties, eight feet of which is owned by one party and approximately three feet by the other. The space is used as a driveway and the owner of the three foot strip has recently erected a fence along most of the driveway portion of the three foot strip.

**Issues:**

1. Is there a prescriptive right over the three foot strip?
2. If so, must the fence be removed?
3. If not, have there been acts of trespass?

**Result:** Prescriptive easement exists over three foot strip to allow access to and egress from vehicles. Damages of \$1,000.00 for interference with easement for one year.

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