

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Gouthro v. Gouthro, 2011 NSSC 214

Date: 2011/06/15
Docket: 1206-5648
Registry: Sydney

Between:

Laurie Lee Gouthro

Petitioner

v.

John James Gouthro

Respondent

Judge: The Honourable Justice Theresa M. Forgeron

Heard: January 26 and February 17, 2011, in Sydney,
Nova Scotia

Written Decision: June 15, 2011

Counsel: Laurie Lee Gouthro, Self-represented
John James Gouthro, Self-represented

By the Court:

I. Introduction

[1] Laurie and John Gouthro have been separated for about seven years. During this time, they resolved many of the outstanding issues. The terms of their agreement were previously placed on the court record, and will be incorporated into the corollary relief order. The unresolved issues include access and child support.

[2] The divorce trial was held on January 26 and February 17, 2011. Both parties testified and provided submissions. No other witnesses were called.

II. Issues

[3] The court will determine the following issues in this decision:

- a) Should Mr. Gouthro have overnight and extended access?
- b) What amount of child support should be payable for Jamie Lee?
- c) What amount of child support should be paid for Justin?
- d) How should the health needs of the children be addressed?
- e) Should retroactive child support be granted?

III. Analysis

[4] **Should Mr. Gouthro have overnight and extended access?**

[5] *Position of the Parties*

[6] Ms. Gouthro does not want Mr. Gouthro to have over night or extended access with the parties' teenage daughter, Jamie Lee. Jamie Lee is diagnosed with diabetes and frequently has erratic sugar levels. Ms. Gouthro is concerned that Mr. Gouthro lacks the knowledge and skills to properly monitor Jamie Lee's sugar levels. Ms. Gouthro is also concerned that Mr. Gouthro will consume alcohol and smoke during the exercise of access.

[7] Mr. Gouthro seeks over night and extended access to Jamie Lee so he can spend more time with her, especially during holidays and vacations. He wants to

take Jamie Lee camping during the summer. Mr. Gouthro states that he is more than capable of meeting the needs of his 16 year old daughter. In an effort to placate Ms. Gouthro, Mr. Gouthro agreed to abstain from the consumption of alcohol during the exercise of access, and not to smoke in Jamie Lee's presence, in his home, or in his vehicle.

[8] *Law*

[9] Section 16 of the *Divorce Act* provides this court with the jurisdiction to make an order respecting parenting. Section 16(6) of the *Act* authorizes the court to impose such terms, conditions, or restrictions on parenting as the court thinks "fit and just." The best interests of the child is the over riding consideration, as stated in s. 16(8) of the *Act*. Further, s. 16(10) of the *Act* indicates that the court is to give effect to the maximum contact principle.

[10] In **Gordon v. Goertz** [1996] 2 S.C.R. 27, McLachlin J. held that the best interests test requires a contextually sensitive inquiry into the means, needs, conditions, and circumstances of each child. In **Young v. Young** [1993] 4 S.C.R. 3, McLachlin J. held that the primary care parent does not have the right to forbid certain types of contact as the primary care parent's wishes are not the ultimate criteria for access limitations; limitations are only appropriate where contact is shown to be in conflict with the best interests of the child. McLachlin J. discusses this at para 24 wherein she states as follows:

24 I conclude that the ultimate criterion for determining limits on access to a child is the best interests of the child. The custodial parent has no "right" to limit access. The judge must consider all factors relevant to determining what is in the child's best interests; a factor which must be considered in all cases is Parliament's view that contact with each parent is to be maximized to the extent that this is compatible with the best interests of the child. The risk of harm to the child, while not the ultimate legal test, may also be a factor to be considered. This is particularly so where the issue is the quality of access — what the access parent may say or do with the child. In such cases, it will generally be relevant to consider whether the conduct in question poses a risk of harm to the child which outweighs the benefits of a free and open relationship which permits the child to know the access parent as he or she is. It goes without saying that, as for any other legal test,

the judge, in determining what is in the best interests of the child, must act not on his or her personal views, but on the evidence.

[11] *Decision*

[12] Although, it is clear that each party loves Jamie Lee, I nonetheless find that Ms. Gouthro has been inappropriately limiting the quality of the contact between Jamie Lee and her father. Such is not in Jamie Lee's best interests.

[13] Ms. Gouthro stated that her position is supportive of Jamie Lee's independent wishes. I do not accept this suggestion. Jamie Lee is a compliant, 16 year old who, for the most part, follows her mother's direction. Ms. Gouthro does not want overnight access to occur. Neither Jamie Lee, nor Mr. Gouthro, want to cause conflict. As a result, overnight access rarely occurs.

[14] There is no reason for overnight or extended access to be absent from the relationship that Jamie Lee has with her father. Mr. Gouthro is more than capable of meeting all of Jamie Lee's needs, inclusive of health needs. Mr. Gouthro also indicates that he is willing to attend medical appointments to acquire more information about Jamie Lee's diabetes if Ms. Gouthro wants. Mr. Gouthro also has previous experience dealing with Jamie Lee's diabetes.

[15] I order that Mr. Gouthro will have reasonable access, at reasonable times, which will include overnight access, extended holiday access, and 14 days of vacation access, that can be consecutive or nonconsecutive, based upon Mr. Gouthro's plans. Mr. Gouthro will notify Ms. Gouthro at least three weeks in advance of his planned vacation access, and will provide dates and particulars of where the vacation or vacations will take place, including emergency contact numbers. Further, Mr. Gouthro will have overnight access during all holidays, and every second weekend, when he is living in the area. When Mr. Gouthro is working away from the local area, he will have telephone and computer access to Jamie Lee.

[16] Ms. Gouthro will also advise Mr. Gouthro, in a timely fashion, of Jamie Lee's medical appointments. Mr. Gouthro may attend the medical appointments of Jamie Lee when he is in the local area, and is available to do so.

[17] The other consensual terms of the parenting arrangement placed on the court record on December 8, 2010 will also be added to the corollary relief order.

[18] **What amount of child support should be payable for Jamie Lee?**

[19] *Position of the Parties*

[20] The parties agree that Mr. Gouthro will pay the table amount of child support to Ms. Gouthro for the support of Jamie Lee. Jamie Lee is under the age majority and resides primarily with her mother.

[21] *Decision*

[22] Mr. Gouthro's employment income fluctuates from year to year because he is employed out west. Income estimates show that Mr. Gouthro's income will be approximately \$64,000 for 2010, based upon the employment and EI income earned, less union dues, as estimated during the trial.

[23] Child support will be set at \$557 per month commencing June 1, 2011 and continuing monthly thereafter until otherwise ordered. The usual reporting and disclosure provisions will also be included within the corollary relief order.

[24] **What amount of child support should be paid for Justin?**

[25] *Position of the Parties*

[26] Both parties agree that Justin remains a dependent child of the marriage for support purposes. Neither party is certain as to the amount, or method, by which child support should be payable because Justin is 20 years old and is attending U.N.B. He is in his first year of a nursing program, after having completed two academic years in an unrelated field. Although Justin typically returns to live with his mother for about four months each year, he also pays rent for twelve months. Justin is employed in a grocery store during the summer and while attending university.

[27] *Law and Decision*

[28] Section 15 of the *Divorce Act* provides the court with the jurisdiction to make an order for child support in conformity with the applicable *Guidelines*. Section 3(2) of the *Guidelines* states that the appropriate amount of child support payable for a child the age of majority, or over, can be determined as if the child were under the age of majority, or if the court considers that approach inappropriate, the amount that the court considers appropriate, having regard to the conditions, means, needs, and other circumstances of the child, and the financial ability of each spouse to contribute to the support of the child.

[29] In addition, s. 7.1(e) of the *Guidelines* provides the court with the jurisdiction to order additional support for the payment of university expenses. The guiding principle to be applied in determining the sharing of expenses is as outlined in s. 7.2 of the *Guidelines* which requires the expense to be shared by the spouses in proportion to their respective incomes, after deducting from the expense the contribution, if any, from the child. The court must also take into account subsidies, benefits, tax deductions/credits available as noted in s. 7(3) of the *Guidelines*.

[30] In rendering my decision I have applied these provisions and the principles enunciated in **Lu v. Sun** 2005 NSCA 112 (C.A.), leave to appeal to the Supreme Court of Canada refused at **Lu v. Sun** [2005] S.C.C.A. No. 454.

[31] *University Expenses*

[32] Justin's university expenses are as follows:

Shelter: \$400 x 12 =	\$ 4,800
Phone: \$60 x 12 =	\$ 720
Groceries: \$250 x 8 =	\$ 2,000
Transportation	\$ 300
Books and supplies	\$ 2,000
Tuition and miscellaneous fees	\$ 6,240
Total	\$16,060

[33] I was not given additional information about the need and cost of a computer, printer, and other technology, nor clothing and entertainment expenses. I have nonetheless assumed that such expenses will likely be incurred by Justin directly. The technological expenses will likely be prorated over time.

[34] *Shelter Expenses*

[35] Justin's off campus housing expenses for twelve months are comparable to residence expenses for eight months, primarily because he shares an apartment with another person. I also understand that Justin intends to return to live with his mother in the summer. This may change in future years. The order will deal with this contingency to reduce the need to make costly variation applications.

[36] *Justin's Income and Ability to Contribute*

[37] Justin has an ability to contribute to his university expenses, primarily through his employment income. In 2008, Justin earned \$9,854; in 2009, he earned \$8,654; and in 2010, he earned \$12,076.

[38] Justin's 2010 income was high because he worked more hours than usual during the summer due to the opening of a new store. Justin will not likely earn as much income in 2011 because his academic workload has increased, and because there will not likely be as many work hours available to him in the summer. I find that Justin's income for 2011 will be approximately \$10,500. He can reasonably contribute \$7,000 towards his university expenses.

[39] *Tax Credit*

[40] The available educational tax credit for 2010 will produce an income tax saving of \$1,189, if used. This amount will be deducted to determine the net university expenses.

[41] *Net University Expenses*

[42] University Expenses	\$16,060
Contribution from Justin	\$ 7,000
Tax Credit	\$ 1,189
<i>Net Expenses</i>	<i>\$ 7,871</i>

[43] *Parental Incomes*

[44] Mr. Gouthro's income is about \$64,000 for 2010¹. Ms. Gouthro's income is about \$45,000 for 2010. The prorata distribution, requires Mr. Gouthro to contribute 59% and Ms. Gouthro to contribute 41% of the net university expenses.

[45] *Child Support Payable for Justin's University Expenses*

[46] Child support payable to Justin by the parties is as follows:

a) Mr. Gouthro will pay Justin the sum of \$387 per month to cover his share of Justin's university expenses.

b) Ms. Gouthro will pay Justin the sum of \$269 per month to cover her share of Justin's university expenses.

c) Both payments will be made payable to Justin and will be payable through the Maintenance Enforcement Program. The payments will commence on June 1, 2011 and continue on the 1st day of every month until Justin graduates from university, or until otherwise ordered.

[47] *Periodic Child Support for Justin*

[48] I find that Mr. Gouthro should not be required to pay the full table amount of child support for Justin in the factual circumstances of this case. First, Justin does not live at home for most of the year. Second, Mr. Gouthro contributes to twelve months of shelter related expenses for Justin as part of the university expenses. Third, Justin is paying for many of his own personal expenses with the \$3,500 in earnings that have not been assigned to reduce the university expenses. Such expenses are not borne by Ms. Gouthro.

[49] Mr. Gouthro is required to pay \$557 in monthly child support to Ms. Gouthro for Jamie Lee. The table amount for two children would result in a monthly child support payment of \$904.

¹Mr. Gouthro did not supply all of his 2010 income information during the trial. He did not have all T4 slips. This is an appropriate estimate given the known income, and estimated EI benefits, less union dues.

[50] Given these circumstances, Mr. Gouthro will pay an additional \$150 per month in child support, for the months of May, June, July, and August, to Ms. Gouthro, provided Justin is residing with her on a full time basis during these months. If Justin remains in New Brunswick for these four months, Mr. Gouthro will contribute an additional \$150 to Justin directly.

[51] These payments will be payable through MEP and will commence June 7, 2011 and continue on the 1st day of every month until Justin graduates from university, or until otherwise ordered.

[52] **How should the health needs of the children be addressed?**

[53] *Position of the Parties*

[54] Jamie Lee has extra-ordinary expenses related to her diabetes. Ms. Gouthro seeks contribution towards these health payments. Mr. Gouthro agrees to share health expenses, but is concerned about unilateral decision making on the part of Ms. Gouthro.

[55] *Decision*

[56] Section 7 of the *Guidelines* provides the court with the jurisdiction to award additional child support for the payment of health expenses. These expenses should be prorated and reduced by available insurance benefits and income tax credits.

[57] Both parties have medical plans. Each party is required to make such plans available for the children for so long as the plans allow. Each party will utilize their health plans to reduce the overall cost of the extra-ordinary medical expenses of the children, and co-operate in ensuring indemnification for the party who incurred the expense.

[58] In the event, the combined health plans do not cover the entire cost of the health expense, then, the parties are required to pay any uninsured balance on a prorata basis, such that Mr. Gouthro is required to pay 59% and Ms. Gouthro is required to pay 41%.

[59] Ms. Gouthro will consult with Mr. Gouthro before any significant health expenses are incurred. A significant health expense is an expense which will cost over \$500, net of insurance reimbursement. If after consultation, there is a dispute as to the necessity of the expense, either party has the right to make further application to a court for direction.

[60] This provision is necessary because of the potential for unilateral action on the part of Ms. Gouthro. During the trial, Ms. Gouthro asked Mr. Gouthro if he would contribute to the cost of an insulin pump in the amount of \$7,000, together with additional equipment charges of approximately \$700. Unfortunately, Ms. Gouthro had not approached Mr. Gouthro earlier about such an expense. Before Mr. Gouthro will be required to pay for such an expense, he should be consulted and should be permitted to speak to the relevant medical professionals so that he can make an informed decision.

[61] **Should retroactive child support be granted?**

[62] *Position of the Parties*

[63] Ms. Gouthro seeks a retroactive child support order. Ms. Gouthro notes that Mr. Gouthro did not supply her with his financial information as required. The maintenance provisions in the interim consent order dated June 4, 2004 is based upon Mr. Gouthro earning \$19,200 per annum. Ms. Gouthro did not receive Mr. Gouthro's income information until November, 2008.

[64] Mr. Gouthro contests the retroactive payment. He notes that in addition to paying the interim order, he also paid for Jamie Lee's braces, hockey supplies and gear for both children, and school supplies for both children. Mr. Gouthro stated that he is also willing to assume the student loan debt of \$28,000 towards the past university expenses of Justin.

[65] Mr. Gouthro's income has not been consistent as indicated in the following schedule:

Year	Income	Union Dues	Income for Child Support Purposes
2005	\$ 27,995	\$ 530	\$ 27,465
2006	\$ 45,094	\$ 690	\$ 44,404

2007	\$ 62,930	\$ 895	\$ 62,035
2008	\$107,072	\$1,260	\$105,812
2009	\$ 37,178	\$ 621	\$ 36,557
2010	\$ 65,000	\$1,000	\$ 64,000

[66] *Law and Decision*

[67] In **S.(D.B.) v. G.(S.R.)** 2006 S.C.C. 37, Bastarache J. outlined the four factors that a court must balance when determining the issue of retroactivity. They are as follows:

- a) The reasonableness of the custodial parent's excuse for failing to make a timely application in the face of an insufficient payment for child support.
- b) The conduct of the noncustodial parent. If the noncustodial parent engaged in blameworthy conduct, then the issuance of a retroactive award is usually appropriate. Bastarache J. confirmed that the determination of blameworthy conduct is a subjective one based upon objective factors. The court should not encourage blameworthy behaviour; however, the court must also determine if the noncustodial parent has contributed to the child in any way that satisfied his or her obligation, or a portion of that obligation.
- c) The circumstances, past and present, of the child, and not of the parent. This includes an examination of the child's standard of living.
- d) The hardship which may accrue to the noncustodial parent as a result of the noncustodial parent's current financial circumstances and financial obligations, although hardship factors are less significant if the noncustodial parent engaged in blameworthy conduct.

[68] Ms. Gouthro had a reasonable excuse for not making a timely application. She assumed that Mr. Gouthro's income had not changed significantly from the time of the interim consent order in 2004. This assumption was appropriate in the face of Mr. Gouthro's nondisclosure of income information.

[69] Mr. Gouthro engaged in blameworthy conduct when he failed to disclose his income tax returns, and his substantial increases in income since the time of the 2004 court order.

[70] Mr. Gouthro's blameworthy conduct is somewhat offset by the fact that he has agreed to assume and pay the \$28,000 student loan, which he cosigned with his son. Mr. Gouthro is currently making the interest payments on that loan, and paying Justin's rent in New Brunswick. Further, Mr. Gouthro did pay the brace expenses of \$4,700, and supplied the children with the majority of their hockey gear and other miscellaneous items. In addition, Mr. Gouthro increased the child support that he paid as of June 2009.

[71] I also find that the children's needs have largely been met since the issuance of the interim consent order. Ms. Gouthro and Mr. Gouthro have assigned priority to the children. They have ensured that the needs of their children have been met.

[72] Mr. Gouthro's financial circumstances have also improved somewhat following his assignment in bankruptcy. His monthly financial obligations have decreased. However, Mr. Gouthro lacks savings and the ability to borrow because of his bankruptcy.

[73] The following chart represents the amount of support that should have been paid to Ms. Gouthro by Mr. Gouthro for two children. Insufficient evidence was adduced to prove all of Justin's university expenses and living expenses for prior academic years. For the purposes of the retroactive calculation for the period between January 1, 2005 until August 31, 2010, the table amount for two children will be utilized, with no reference to section 7 add ons, given the paucity of evidence on those points.

Year	Income	Amount Due
2005	\$27,465	\$413 x 12 = \$4,956
2006	44,404	638 x 12 = 7,656
2007	62,035	877 x 12 = 10,524
2008	105,812	1,414 x 12 = 16,968
2009	36,557	536 x 12 = 6,432
08 months 2010	64,000	904 x 8 = 7,232

Total Due = \$53,768

[74] According to the Maintenance Enforcement Records, Mr. Gouthro paid \$19,342 between January 1, 2005 and December 31, 2010, leaving a difference of \$34,426.

[75] According to reasoning set out in this decision, Mr. Gouthro should have paid the following from September 1, 2010 until April 30, 2011:

Child Support for Jamie Lee	\$557 x 8 = 4,456
Section 7 University Expenses	\$387 x 8 = 3,096
Child Support due to Ms. Gouthro for May for Justin	<u>150</u>
Total	7,702

[76] According to the Maintenance Enforcement Records to February 15, 2011, Mr. Gouthro paid \$1,655. In addition, I assume that Mr. Gouthro continued to make maintenance payments of \$331 per month, or another \$993. Mr. Gouthro also paid Justin's rent of \$400 a month, or \$3,600. These payments equal \$6,248.

[77] The total difference between the amount notionally due, and the amount paid, is thus tabulated as follows:

Amount Due	\$53,768
	<u>7,702</u>
	\$61,470
Amount Paid	\$19,342
	<u>6,248</u>
	\$25,590
Difference	\$35,880

[78] Ms. Gouthro requested the maximum retroactive award. However, after applying the **S.(D.B.)** factors, I have determined that no further sum will be awarded as retroactive support given the following:

- (a) Mr. Gouthro will assume, and be solely responsible to pay Justin's student loan, which he cosigned, in the amount of \$28,000.

- (b) Mr. Gouthro having paid for Jamie Lee's braces, many of the hockey expenses, and other expenses for the children.
- (c) Ms. Gouthro receiving an unequal division of the assets in the amount of \$3,500 as per the parties' previous agreement as placed on the court record during the pretrial conference.

[79] If Mr. Gouthro did not pay \$331 to Ms. Gouthro, and \$400 to Justin, for the months of March, April, and May 2011, these sums are also payable. Conversely, if Mr. Gouthro paid maintenance at a rate greater than stipulated, he will also receive credit for those payments.

[80] Costs of \$2,500 are also awarded to Ms. Gouthro because of Mr. Gouthro's steadfast failure to disclose his income in conformity with the interim court order, and over a period of four years. Costs are inevitable for the failure to disclose: **MacLean v. MacLean** 2002 NSSC 5. Costs will be payable at a rate of \$125 per month. The first payment is due July 15, 2011 and continuing on the 15th of every month until paid in full. These payments are to be made through the Maintenance Enforcement Program.

VIII. Conclusion

[81] The following relief is hereby granted:

- a) A divorce.
- Parenting Provisions:*
 - b) A joint custody order such that the parties will share joint custody of Jamie Lee Gouthro, who will have her primary residence with Ms. Gouthro.
 - c) Ms. Gouthro will seek the input of Mr. Gouthro on all matters affecting Jamie Lee Gouthro's health, education, and general welfare, but in the event of an impasse, after meaningful consultation, Ms. Gouthro will have final decision making authority, but subject to (i).
 - d) Ms. Gouthro will keep Mr. Gouthro advised, on a timely basis, of all important matters affecting Jamie Lee Gouthro's health, education,

and general welfare, including providing copies of school reports. Ms. Gouthro will also advise Mr. Gouthro, in a timely fashion, of Jamie Lee's medical appointments. Mr. Gouthro may attend the medical appointments of Jamie Lee when he is in the local area, and is available to do so.

- e) Mr. Gouthro will have reasonable access, at reasonable times, which will include overnight access, extended holiday access, and 14 days of vacation access, that can be consecutive or nonconsecutive, based upon Mr. Gouthro's plans. Mr. Gouthro will notify Ms. Gouthro at least three weeks in advance of his planned vacation access, and will provide dates and particulars of where the vacation or vacations will take place, including emergency contact numbers. Mr. Gouthro will have overnight access during all holidays, and every second weekend, when he is living in the area. When Mr. Gouthro is working away from the local area, he will have telephone and computer access to Jamie Lee.
- f) Mr. Gouthro will not consume alcohol during the exercise of access. Mr. Gouthro will not smoke in the presence of the children, or in his home or car during the exercise of access.

Health Plans

- g) Both parties will maintain their medical and dental insurance for the benefit of the children of the marriage for so long as the plans permit.
- h) Both parties will cooperate and submit all health expenses to their health plan administrators, and will keep the other party current and advised, on a timely basis, as to the details of their health plans.
- i) No new health expenses exceeding \$500, after insurance reimbursement, will be acquired without the consent of both parties. In the event there is a dispute as to whether or not a new health expense should be acquired, either party has the right to make application to a court of competent jurisdiction for further determination of the issue.

- j) All uninsured medical expenses for the children will be prorated between the parties, after proof of the expense and proof of the insurance reimbursement are supplied. Mr. Gouthro will be responsible for 59% and Ms. Gouthro will be responsible for 41% of the uninsured health costs.

Maintenance Provisions

- k) No spousal support will be payable by either party to the other.
- l) Mr. Gouthro will pay Ms. Gouthro child support for Jamie Lee Gouthro in the monthly amount of \$557 commencing June 1, 2011.
- m) Mr. Gouthro will pay Justin Gouthro \$387 per month, commencing June 1, 2011 for his university expenses.
- n) Ms. Gouthro will pay Justin Gouthro the sum of \$269 per month commencing **September 1, 2010** for his university expenses, less a credit for all sums already paid.
- o) Mr. Gouthro will pay an additional \$150 per month in child support, for the months of May, June, July, and August, to Ms. Gouthro, provided Justin is residing with her on a full time basis during these months. If Justin remains in New Brunswick for these four months, Mr. Gouthro will contribute an additional \$150 to Justin directly. Payments will begin June 1, 2011.
- p) Mr. Gouthro will pay Ms. Gouthro costs of \$2,500 payable at a rate of \$125 per month commencing July 15, 2011.
- q) Annual financial disclosure will be provided by each party to the other, and will include a copy of each party's income tax return, with all attachments, and all notices of assessment and reassessment. Disclosure is due June 1 of each year, commencing June 2011.
- r) All maintenance will be payable through the Maintenance Enforcement Program.

- s) Mr. Gouthro will assume, and will be solely responsible for the student loan debt which he cosigned with Justin in the amount of \$28,000, plus interest, less any payments made on the principal by Mr. Gouthro.

Division of Assets and Debts

- t) Each party will retain the personal property in his or her possession. Each party will be responsible for the payment of any debt held in his or her name.
- u) Ms. Gouthro will retain sole ownership of the matrimonial home situate at Sydney Mines, Nova Scotia. If he has not already done so, Mr. Gouthro will convey all of his right, title and interest in the property to Ms. Gouthro, and Ms. Gouthro will have Mr. Gouthro's name removed from the mortgage encumbering the property.
- v) Each party will retain sole ownership of his or her employment pension plans.
- w) There will be no equalization payment payable.
- x) The parties will name the children as beneficiaries of his/her life insurance to secure the maintenance obligations provided in this decision.

[82] The court will draft the orders flowing from this decision.

Dated at Sydney, Nova Scotia, this 15th day of June 2011.

Forgeron, J.
(NSSCFD)