

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Cox v. Hanrahan-Cox, 2011 NSSC 182

Date: 20110511

Docket: 1204-003921, SKD-036896

Registry: Halifax

Between: Catherine Pearl Hanrahan-Cox
Respondent/Petitioner
v.
James Roderick Cox
Applicant/Respondent

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Judge: The Honourable Justice Beryl MacDonald

Heard: March 31, and April 1, 2011, in Halifax, Nova Scotia

Subject: Family Law; Divorce Act; variation of child and termination of spousal support; income determination for a payor deriving income primarily from dividends and income splitting with a spouse and children; retroactive recalculation of child and spousal support.

Summary: The parents had signed a consent variation order in June 2008 reducing the Mother's spousal support but maintaining the same child support even though one child was to attend university and rarely live with either parent and another child was living primarily with the Father. In December 2009 the Father applied to reduce child support and, prior to trial, to terminate spousal support. The Mother applied to set aside the June 2008 order,

increase spousal support and retroactively recalculate spousal and child support.

Issue: What was the proper calculation of the Father's income?
Should the Consent Variation Order be set aside?
Did the Mother continue to be entitled to receive spousal support and if so what should be the quantum?
Who was to receive child support and in what amount?
Should there be a retroactive recalculation of child or spousal support?

Result: The Father's income is a total of earned income, the actual amount of dividends received and the dividends paid to his spouse and children. The Consent Variation Order was not set aside. The Mother continued to be entitled to spousal support in the amount of \$2,000.00 per month. The Father was to receive child support but because of the Mother's limited income, the table amount for three children was appropriate notwithstanding the fact that two children were in university. No retroactive recalculations were ordered.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***