

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** iNova Credit Union v. Giamac Inc., 2012 NSSC 431

**Date:** 20121211

**Docket:** Hfx No. 382080

**Registry:** Halifax

**Between:**

iNova Credit Union

Plaintiff

and

Giamac Inc.

Defendant

and

Gerald Giovannetti

Defendant/Guarantor

and

Attorney General of the Province of Nova Scotia

Intervenor

and

Alfred Smithers and Edward Webber

Parties to the Motion

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Michael J. Wood

**Heard:** December 10, 2012 in Halifax, Nova Scotia

**Decision:** December 11, 2012

**Written Release  
of Decision:** December 14, 2012

**Subject:** Foreclosure - Conduct of Sheriff's Sale

**Summary:** The highest bidder at the sale did not have the required 10% deposit and requested time to obtain it. The mortgagee objected because the second bid was sufficient to pay them in full. The Sheriff gave 22 minutes to obtain the security. When the high bidder did not return with the deposit, the property was sold to the second highest bidder. The high bidder applied to set aside the sale.

**Issue:** Should the Sheriff's sale be set aside in these circumstances?

**Result:** The sale could be set aside if the Sheriff acted unreasonably or if special circumstances existed. The Court found the Sheriff's actions were not unreasonable in light of the competing bids and the objection of the mortgagee. There were no special circumstances and the high bidder had no satisfactory explanation for not having the deposit at the sale. The application to set aside the sale was dismissed.

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