

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: *Newcombe v. Newcombe*, 2013 NSSC 183

Date: 2013-06-20 Docket: HFD No. 1201-66813

Registry: Halifax

Between:

Sharon Elaine Newcombe

Petitioner

v.

Kim Gregory Newcombe

Respondent

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Judge: The Honourable Justice Douglas C. Campbell

Heard: June 11 and 13, 2013 in Halifax, Nova Scotia

Subject: When a solicitor acting as an agent for her client legally binds her client to a settlement.

Summary: Both parties in this divorce were represented by counsel. Settlement was negotiated between lawyers by exchange of letters, emails and phone conversations. After it appeared that the parties had reached a settlement, the husband indicated that he did not consider himself bound by any of those discussions. His solicitor withdrew.

Issue: Whether the parties are bound by an agreement alleged to have been made on their behalf by their solicitors.

Result: The law of agency in the above context is discussed. The court concludes that the solicitor for the husband had both actual and apparent authority; that the husband is bound by the agreement made and that it should not be set aside for any reason and that his argument of unconscionability should not be entertained because it had not been pleaded.

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