

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Denninger v. Ross 2013 NSSC 237

Date:20130725

Docket:1201-063281

Registry: Halifax

Between:

Kristopher Denninger

Applicant

v.

Jennifer Ross

Respondent

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Judge: The Honourable Justice Carole A. Beaton

Date of Hearing: June 24, 25 & 26, 2013

Date of Decision: July 25, 2013

Issues: Application to Vary Corollary Relief Judgment by father regarding custody and parenting plan. Father seeking shared parenting. Response to Application by mother seeking retroactive table amount of child support and retroactive contributions to s.7 childcare expenses.

(1) Has there been a change in circumstances and if so, does that necessitate change(s) to the Order in the best interests of the children?

(2) Is shared parenting in the best interests of the children?

(3) Which parent should have final decision making authority in respect of the children?

(4) Are there arrears of child support owing?

(5) What should be the financial arrangement between the parties regarding childcare and are there arrears of section 7 *Guideline* expenses owing?

Summary: The Applicant sought a change from joint custody to shared parenting with a commensurate adjustment to the parenting schedule. The Respondent sought retroactive child support, and a retroactive contribution to child care expenses. A change in circumstances was found to exist which could not support shared parenting, but instead a parallel parenting order. The Applicant was found in arrears of both child support and section 7 child care expenses.

- Keywords:** Change of Name Act; Corollary Relief Judgment; Divorce Act; Family; Family-access to children; Family- child custody; Family-child custody-joint; Family-child support; Family-child support-application to vary; Family-child support-retroactive; Section 7 expenses.
- Legislation:** *Federal Child Support Guidelines*, SOR/97-175, s.7
Divorce Act, R.S.C. 1985, c.3, s.17
Change of Name Act, R.S.N.S. 1989, c.66
- Caselaw:** *Legace v. Mannette* [2012] NSSC 320
Young v. Young, 1993 4 SCR 31
Foley v. Foley (1993) 124 N.S.R. (2d) 198 (N.S.S.C.)
Burgoyne v. Kenny 2009 N.S.C.A. 34
Hewitt v McGrath, 2010 NSSC 275;
Harrison v MacKinnon, 2010 NSSC 445;
Murphy v Hancock, 2011 NSSC 197;
Gibney v Conohan, 2011 NSSC 268;
Hammond v Nelson, 2012 NSSC 27;
Conrad v Skerry, 2012 NSSC 77
Cooke v Cooke, 2012 NSSC 73
D.B.S. v. S.R.G; T.A.R v. L.G.W; Henry v. Henry; Himestra v. Himestra, 2006 S.C.C. 37
- Literature:** Julien N. Payne and Marilyn A. Payne, *Child Support Guidelines in Canada, 2012* (Toronto: Irwin Law Inc., 2012) at 438.

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