

SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)

Citation: Volcko v. Volcko, 2013 NSSC 342

Date: 2013-December-30

Docket: 1201-64277

Registry: Halifax

Between:

John B. Volcko

Applicant

v.

Susan Scheuermann Volcko

Respondents

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Judge: The Honourable Justice Carole A. Beaton

Date of Hearing: October 7-10, 2013

Date of Decision: December 30, 2013

Issues:

- (a) What is the correct date of separation?
- (b) Are certain shares held by the Husband properly characterized as matrimonial assets and subject to equal division between the parties, or are they business assets?
- (c) Child support: prospective (quantum) and retroactive; section 7 expenses.
- (d) Spousal support: prospective (quantum and duration) and retroactive.
- (e) Regarding certain matrimonial assets (household contents and furnishings; a golf membership), how are these items to be divided.

- Summary:**
- (a) Date of Separation is October 31, 2006.
 - (b) The shares in issue are properly characterized as business assets, not matrimonial property, and are therefore not available for division.
 - (c) The Petitioner shall assume all financial obligations associated with the parties overaged dependent child; there is no prospective or retroactive child support payable; certain section 7 medical expenses for the children are to be reimbursed by the Petitioner to the Respondent.
 - (d) Spousal Support is set at \$15,000.00 per month effective November 1, 2013 for an indefinite duration; there is no retroactive support payable. No income is imputed to the Wife.
 - (e) Household furnishings and golf memberships are to be divided equally.

Keywords: Divorce Act; Divorce Act-date of separation; Family-imputing income; Family-business assets; Family-child support; Family-child support-retroactive; Family-spousal support; Family-spousal support-retroactive; Matrimonial Property Act; Matrimonial Property Act-division of property; Matrimonial Property Act-business assets; Matrimonial Property-matrimonial assets.

Legislation: Divorce Act; s.8; s.15.2 (4), (6)
Matrimonial Property Act; s. 2(a); s. 4(1)
Federal Child Support Guidelines; s. 3(2)
Spousal Support Advisory Guidelines

Caselaw: Dupere v. Dupere (1974) 9 N.B.R. (2d) 554 (QB)
French v. French (1997) 162 N.S.R. (2d) 104 (SC)
Gardner v. Gardner (2005) 232 N.S.R. (2d) 68 (SC)
Miller v. Miller 2000 NSCA 64
J.L.L. v. G.A.L. 2010 MBQB 39
O'Brien v. O'Brien, 2013 ONSC S750
Morrison v. Morrison, 2013 NSSC 358
French v. French [1997] N.S.J. 287
K.L.S. v. D.R.S 2012 NBCA 16
L.(J.W.) v M.(C.B.), 2008 NSSC 215

Clarke v. Clarke [1990] 2 S.C.R. 795
Hickey v. Hickey [1999] N.J. No. 259
S.L.K. v. M.M.H. 2009 NSSC 319
Bishop v. Drohan 2004 NSSF 77
Osmond v. Clarke 2006 NLCA 47
Tibbetts v. Tibbetts (1992), 119 N.S.R. (2d) 26
D.B.S. v. S.R.G.; L.J.W. v. T.A.R. ; Henry v. Henry; Heimstra v.
Heimstra, [2006] S.C.J. 37
Bracklow v. Bracklow (1999) 1 S.C.R. Y20
Moge v. Moge (1992) 3 S.C.R. 813
Kerr v. Baranow [2011] S.C.J. No. 10

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