

IN THE SUPREME COURT OF NOVA SCOTIA

[Cite: Goodwin v. Rodgeron 2002 NSSC 24]

**GEORGE GOODWIN AND BEATRICE ELLIS**

(Applicant/Plaintiffs)

- and -

**CURTIS RODGERSON, MICHAEL JUBIS and  
ELAINE JUBIS**

(Respondents/Defendants)

S.Y.4170

Yarmouth, Nova Scotia

Stewart, J.

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**LIBRARY HEADING**

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**HEARD:** November 23, 2001. (Last brief filed January 24, 2002)

**JUDGEMENT**

**DELIVERED:** January 29, 2002.

**SUBJECT:** Practice; **C.P.R. 28.11**; Dismissal Order

**SUMMARY:** Plaintiffs' counsel failed to file Notice of Intention to Proceed within 30 days of receiving Prothonotary's notice; Prothonotary pursuant to **C.P.R. 28.11** granted and issued an Order of the Nova Scotia Supreme Court dismissing the action; Plaintiffs seek to set aside the order.

**ISSUE:** At issue is whether the Nova Scotia Supreme Court has jurisdiction or authority to set aside or dismiss the Supreme Court of Nova Scotia Order granted and issued by the Prothonotary dismissing the action and if the Supreme Court does have such jurisdiction, whether it should set aside the Order and reinstate the plaintiffs' action.

**RESULT:**

1989, c.  
Court

Neither the **Nova Scotia Civil Procedure Rules** nor the **Judicature Act** R.S.N.S. 1989 c. 240; nor the inherent jurisdiction of the Supreme Court; nor the **Limitations of Actions Act**, R.S.N.S. 1989, c. 258 read in conjunction with s. 5 and s. 9 of the **Interpretation Act**, R.S.N.S. 235 extend authority or jurisdiction to the Nova Scotia Supreme

to set aside a Nova Scotia Supreme Court Order in circumstances where the Prothonotary had power to act [**C.P.R.** 1.05(t) and (e)(ii); **C.P.R.** 28.11(3)]; and neither do the **Civil Procedure Rules** or legislation reveal an excess of jurisdiction on part of the Prothonotary in granting and issuing the Order of the Supreme Court. Motion dismissed.

*This information sheet does not form part of the court's decision.  
Quotes must be from the judgment, not this cover sheet.  
The full court judgment consists of 9 pages.*