

NOVA SCOTIA COURT OF APPEAL
Citation: *Doncaster v. Field*, 2013 NSCA 17

Date: 20130206
Docket: CA 400779
Registry: Halifax

Between:

Andrea Marie Doncaster

Appellant

v.

Jennifer Lynn Field and Ralph Ivan Doncaster

Respondents

Judge: The Honourable Justice Linda Lee Oland

Appeal Heard: January 16, 2013, in Halifax, Nova Scotia

Subject: Change of Place of Hearing - Costs

Summary: The appellant sought access to the children of the respondents who are her brother and his wife. She appeals the judge's dismissal of her motion to change the place of the divorce proceeding between the respondents from the judicial district where the children reside to the Family Division in Halifax, and the costs award against her. Her brother had earlier brought an unsuccessful motion for the same change of venue.

Issues: Whether the judge erred in dismissing the appellant's motion to change the place of the proceedings, in finding that her motion was frivolous, or in his costs award.

Result:

Appeal dismissed with costs. The judge's interlocutory discretionary order refusing to change the venue did not amount to a manifest injustice, nor did he apply incorrect legal principles. Costs are also discretionary and there were no grounds for appellate intervention in the amount or the timing of payment. Whether a motion is frivolous is a question of fact, and no palpable and overriding error was identified.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 7 pages.