

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
LORAN DEMONE and MERILYN HENDRY	- and -	EDMUND R. SAUNDERS
Applicants		Appellant
C.A. No. 156820	Halifax	ROSCOE, J.A. (Orally)

[Cite as: Demone v. Saunders, 1999 NSCA 145]

APPLICATON HEARD: November 23, 1999

DECISION DELIVERED: November 23, 1999

WRITTEN RELEASE OF ORAL: November 24, 1999

SUBJECT: **Civil Procedure Rule 62.18 - application to quash appeal
Probate Act, R.S.N.S. (1989), c. 359, s. 31(2): removal of
Executor**

SUMMARY: An Executor of an estate was removed pursuant to s. 31(2) of the **Probate Act** after failing to file security as previously ordered. The executor appealed. The new Administrator of the Estate and a beneficiary applied pursuant to **Civil Procedure Rule 62.18** to quash the notice of appeal on the basis that the appeal was frivolous and vexatious and that the appellant had not perfected the appeal.

ISSUES: Was the appeal absolutely unsustainable?

RESULT: Application to quash the appeal granted with solicitor/client costs. The appeal was absolutely unsustainable. The grounds of appeal were a substantial duplication of those considered in a previous appeal. (See: **Crouse Estate v. Saunders** [1999] N.S.J. No. 184; [1999] S.C.C.A. No. 317).

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