

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Gardiner v. Gardiner, 2007 NSSC 186

**Date:** 20070906

**Docket:** 1204-003919

**Registry:** Kentville

**Between:**

D. Mark Gardiner

Petitioner

v.

Lisa Gardiner

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Walter R.E. Goodfellow

**Heard:** June 13, 2007, in Windsor/Kentville, Nova Scotia

**Subject:** Divorce - Shared Custody

**Summary:** Parties married and, separated after 2 years. Reconciled and separated within a year. Have one Child. Interim Hearing - father sought declaration of shared custody and mother order for sale of matrimonial home occupied by Mr. Gardiner from which he carried on his law practice. Relief sought on Interim Hearing dismissed and finding no shared custody proven plus matrimonial home had inadequate equity to list for sale and concluded essential the file be managed and trial date set. During management several directions given and brush fires dealt with.

**Issues:**

- 1) **Custody - access?**
- 2) **Shared custody?**
- 3) **Should Mr. Gardiner be directed to take more remunerative employment?**
- 4) **Child support including retroactive child support and s. 7 expenses including now and retroactive?**
- 5) **Division of assets and debts?**

- Result:**
- 1) Determined joint custody defined as in *Loughran v. Loughran* 2000, 182 N.S.R. (2d) 143 (S.C.).
  - 2) Shared custody did not exist and not appropriate.
  - 3) Unlikely jurisdiction exists to direct a party to take specific employment. Only real option would have been to impute income, however, Mr. Gardiner entitled to continue profession in manner in which he conducted on entry and throughout marriage.
  - 4) Retroactive child support to date of separation and retroactive s.7 expenses.
  - 5) Realities dictate no payment by either party to the other.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***