

NOVA SCOTIA COURT OF APPEAL

Citation: *MacQueen v. Canada (Attorney General)*, 2008 NSCA 117

Date: 20081216

Docket: CA 298520

Registry: Halifax

Between:

Neila Catherine MacQueen, Joseph M. Pettipas, Ann Marie Ross,
Kathleen Iris Crawford, and The Estate of Carl Anthony Crawford by his
executor or representative Kathleen Iris Crawford

Appellants

v.

The Attorney General of Canada, representing Her Majesty the Queen in right of
Canada; The Attorney General of Nova Scotia, representing Her Majesty the
Queen in right of the Province of Nova Scotia; Sydney Steel Corporation, a body
corporate; and Canadian National Railway Company, a body corporate,

Respondents

- and -

CA 301824

Neila Catherine MacQueen, Joseph M. Pettipas, Ann Marie Ross,
Kathleen Iris Crawford, and The Estate of Carl Anthony Crawford by his
executor or representative Kathleen Iris Crawford

Appellants

v.

Canadian National Railway Company, a body corporate; The Attorney General of
Canada, representing Her Majesty the Queen in right of Canada; The Attorney
General of Nova Scotia, representing Her Majesty the Queen in right of the
Province of Nova Scotia; and Sydney Steel Corporation, a body corporate,

Respondents

Judge: The Honourable Justice Jamie W. S. Saunders

Appeal Heard: December 8, 2008

Subject: Representative common law action. **CPR 5.09.** Discovery examinations related to certification application. Interlocutory discretionary order. Standard of review.

Summary: The appellants commenced representative common law actions under **CPR 5.09** seeking redress for environmental harm to persons and property arising from decades of uncontrolled industrial pollution said to affect the entire geographical area of the Municipality of the Town of Sydney, Nova Scotia. They sought leave, and appealed from two orders which required them, and various experts, to attend for discovery prior to their application for certification.

Held: Leave granted, but two appeals dismissed. Both impugned orders confirmed directions given by the case management judge pursuant to his discretionary authority under the Rules. Applying proper standard of review, the Chambers judge neither erred in law, nor would the directives he issued clearly result in an obvious and substantial injustice.

Neither impugned order made any reference to the **Class Proceedings Act**, S.N.S. 2007 c. 28. For the purposes of this decision the court did not pronounce on the interpretation or application of that statute to this or future cases.

<p>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 5 pages.</p>
