

CASE NO.**VOL. NO.****PAGE**

KARL KENT, HAROLD DUFFETT and
KENT & DUFFETT CHARTERED
ACCOUNTANTS

DENNIS KEHOE

- and -

(Appellants)

(Respondent)

CA 157822

Halifax, N.S.

BATEMAN, J.A.
FREEMAN, J.A.
(Dissenting)

[Cite as: Kent v. Kehoe, 2000 NSCA 3]

APPEAL HEARD:

November 25, 1999

JUDGMENT DELIVERED:

January 7, 2000

SUBJECT:

Interlocutory appeal on entitlement to discovery by the defendant in a defamation action.

SUMMARY:

Plaintiff/appellant accountants and auditors for Town of Kentville sued defendant/respondent for allegedly defamatory remarks made in a letter to the Town of Kentville. Defence included was a bare plea of justification and fair comment. Defendant sought wide discovery under *Civil Procedure Rule 20*. Chambers judge held that the longstanding rule in defamation cases limited the defendant's discovery to the facts identified by the defendant as supporting fair comment or justification. She ruled, however, that although the pleadings did not identify the facts, the full letter containing the defamation was sufficient to entitle the defendants to the discovery sought.

ISSUES:

Appellant says that the Chambers judge erred in permitting discovery. Respondent cross-appealed saying entitled to full discovery pursuant to *Rule 20*.

RESULT:

Appeal allowed. In the circumstances of this case the pleadings were not adequate to identify the facts which the defendant intended to prove as true in support of the justification or fair comment. Nor was the full letter sufficiently specific to enable the

plaintiff to know what

was fact and what was comment and what facts the defendant intended to prove at trial.

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 21 pages.