

NOVA SCOTIA COURT OF APPEAL

Citation: *Knowledge House Inc. v. Stewart McKelvey Stirling Scales*,
2007 NSCA 113

Date: 20071123

Docket: CA 279804

Registry: Halifax

Between:

Knowledge House Inc. and Dan Potter

Appellants

v.

Stewart McKelvey Stirling Scales, Andrew W. Burke,
James K. Cruickshank and R. Blois Colpitts

Respondents

Judge: The Honourable Justice Thomas Cromwell

Appeal Heard: October 10, 2007

Subject: Pleadings - substantive adequacy - whether frivolous, vexatious or scandalous

Summary: The appellants sued their former lawyers for breach of fiduciary duty and negligence. The negligence claim derived from the breach of fiduciary duty claim, alleging negligence by failing to take reasonable care to avoid and remedy breaches of fiduciary duty. On application by the respondents, a chambers judge struck out “any allegations of negligence” as well as several specific paragraphs. The appellants appealed.

Issues: Did the judge err in striking out the negligence claims because they disclosed no cause of action and in striking out some other paragraphs on the basis that they were frivolous, vexatious and scandalous?

Result: Appeal allowed in part. The judge erred in striking out the

negligence claims and several of the specific paragraphs. However, he did not err in striking out some other paragraphs on the basis that they were scandalous.

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 17 pages.