

CASE NO.

VOLUME

PAGE

Cite as: Shirley v. Gould, 1998 NSCA 160

CLAYTON SHIRLEY, EVELYN RUSHTON, GARY LEWIS, EILEEN LEWIS, JAMES STEELE, MURIEL STEELE and WAYNE HELPARD (Appellants)

- and -

IVAN GOULD and SYLVIA GOULD (Respondents)

C.A. No. 144882

Halifax, N.S.

Glube, C.J.N.S.

APPEAL HEARD: September 8, 1998

JUDGMENT DELIVERED: September 24, 1998

SUBJECT: CONFLICT OF INTEREST

SUMMARY: Counsel from the law firm L, H represented three of the seven defendants until after discovery. Counsel D. from another firm took over as counsel for all defendants and the case proceeded to trial. It was settled during the trial and the court order required a new survey to be paid for by all the defendants and prepared by Mr. M. Greene. The survey was completed; no payment was made; the plaintiffs' counsel applied to the court for payment. He withdrew before the application was heard and Mr. Greene was represented by a member of the L, H firm. Counsel D. for the defendants raised with the court the issue of conflict of interest on the day of the hearing. The Chambers judge found there was no conflict of interest, confirmed the survey, ordered payment and costs were awarded.

ISSUE: Was the decision of the Chambers judge an error in law?

RESULT: Appeal allowed; held on the facts that the decision of the Chambers judge was an error in law and the entire order granted was quashed without costs in this Court or the Court below.

This information sheet does not form part of the Court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 7 pages