

NOVA SCOTIA COURT OF APPEAL

Citation: *Sable Mary Seismic Inc. v. Geophysical Service Inc.*, 2008 NSCA 83

Date: 20080930

Docket: CA 295491

Registry: Halifax

Between:

Sable Mary Seismic Incorporated and Matthew Kimball

Appellants

v.

Geophysical Service Incorporated

Respondent

Judge: By the Court

Appeal Heard: September 26, 2008

Subject: Civil Procedure, Striking Notice of Trial With a Jury

Summary: The facts are set out in Justice Warner's decision reported at 2008 NSSC 79. The judge struck the appellant's Notice of Trial With a Jury and the appellant appealed.

Issue: Did the judge err in striking the jury notice on the basis the claim and counterclaim involved the determination of complex issues of mixed fact and law and that a prolonged examination of complex documents and accounts would be required by the trier of fact?

Result: Appeal dismissed. The judge did not apply any wrong principles of law in deciding these issues and no injustice will result from his decision. The Court made no comment on the judge's conclusions to the effect that equitable issues of law, fact and remedy are not matters properly or historically for determination by juries (¶ 116 (c)) or on his reasoning that **Civil Procedure Rule** 1.03, providing for the just, speedy and

inexpensive determination of every proceeding, militates generally against jury trials (§§ 80-82, 106, 117).

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.