

CASE NO.

VOLUME

PAGE

Cite as: Keating v. Bragg, 1997 NSCA 117

CHARLES V. KEATING, GREGORY KEATING
and CATHERINE KEATING

Appellants

- and -

JOHN L. BRAGG, ROBERT RADCHUCK, WILLIAM
SAYERS, DONALD McDOUGALL, DAVID HOFFMAN,
RODGER TAYLOR, STUART RATH, BRAGG
COMMUNICATIONS INCORPORATED, a body corporate,
and HALIFAX CABLEVISION LIMITED, a body corporate

Respondents

C.A. No. 134657

Halifax, N.S.

HALLETT, J.A.

APPEAL HEARD:

May 13, 1997

JUDGMENT DELIVERED:

July 3, 1997

SUBJECT:

Costs - party and party - Tariff A to the Cost and Fees Act, R.S.N.S. 1989, c. 104, Scale 5 - Non- monetary issue

SUMMARY:

The appellant, beneficial minority shareholders and directors of Halifax Cable claimed the majority were oppressing the minority. The trial judge dismissed the application and awarded costs to the respondent (Bragg) applying Tariff A, Scale 5 and determined the amount involved at \$1,000,000.00.

The main appeal from the trial judge's dismissal of the application was dismissed.

The cost appeal was dismissed. The Court held the trial judge did not err in deciding the amount involved was \$1,000,000.00 nor did he err in applying Tariff A, Scale 5. Cases considered: **Conrad v. Snair et al** (1996), 150 N.S.R. (2d) 214; **Benson v. Third Canadian General Investment Trust Ltd.** (1993), 13 B.C.L. (2d) 265; **Wallersteiner v. Moir (No. 2)**, [1975] 1 All E.R. (849 (C.A.)).

The Appeal Court rejected the submission of the respondents that the costs award on appeal should be 40% of the costs awarded at trial. The Court concluded that under all the circumstances such an award would be excessive. The total costs awarded to the respective respondents for both appeals were as follows: Bragg - \$4,000 plus disbursements; Radchuck and Halifax Cable - \$1,500 plus disbursements; and, to the other Directors as a group - \$1,500 plus disbursements.

THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION. QUOTES MUST BE FROM THE DECISION, NOT FROM THE COVER SHEET. THE FULL COURT DECISION CONSISTS OF 11 **ENDFIELD PAGES.**