

CASE NO. VOL. NO.
Cite as: **Merzbach v. McSween, 1997 NSCA 158**

PAGE

ENGELBERT MERZBACH
and **LIESELOTTE MERZBACH**

(Appellants)

C.A. No. 139151
(ORALLY)

- and -

Halifax, N.S.

ELEANOR AGNES MCSWEEN,
ALAN NELSON, MORRIS J. HAUGG, and
HICKS, LEMOINE, a registered company

(Respondents)

CHIPMAN, J.A.

APPEAL HEARD: October 16, 1997

JUDGMENT DELIVERED: October 16, 1997

WRITTEN RELEASE OF ORAL: October 22, 1997

SUBJECT: **Costs - Solicitor/Client Costs - Rare and Exceptional Circumstances - Application of the Rule to Interlocutory Motions**

SUMMARY: A judge in Chambers granted amendments to the pleadings of the appellants but awarded solicitor/client costs to the respondents on the motion and with respect to amended pleadings and any further discoveries necessitated by the amendments.

ISSUE: Whether the Chambers erred in the exercise of his discretion in awarding solicitor/client costs.

RESULT: Court of Appeal affirmed the rule that solicitor/client costs are only awarded in rare and exceptional circumstances. This rule applies to interlocutory motions as well as costs of the proceeding generally. The appeal was allowed. The respondents' party and party costs on the application before the Chambers judge were fixed, and costs of the appeal were awarded to the appellants.

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 3 pages.