

NOVA SCOTIA COURT OF APPEAL

Citation: Kings Mutual Insurance Company v. Ackermann, 2010 NSCA 39

Date: 20100504

Docket: CA 317679

Registry: Halifax

Between:

The Kings Mutual Insurance Company

Appellant

v.

Adrian Ackermann and Kelly Ackermann

Respondents

Judge: The Honourable Justice Hamilton

Appeal Heard: March 24, 2010

Subject: Punitive Damages, Insurers duty of Good Faith

Summary: Kings denied the Ackermanns' insurance claim relating to damage to their barn. The Ackermanns sued and a jury found they were entitled to the maximum amount of their coverage and in addition awarded them punitive damages. Kings appealed only the award of punitive damages arguing that its investigation into the claim may not have been perfect, but was not so outrageous as to be deserving of punishment, deterrence or denunciation.

Issue: Did the jury err in awarding punitive damages against Kings?

Result: Appeal dismissed. The jury's answers to the questions put to it indicate it was satisfied Kings' investigation was outrageous. My review of the record satisfies me that this was a conclusion a reasonable jury could reach and that an award of punitive damages was a rationale response on the jury's part to its findings. Kings failure to follow up with third party and employee eye-witnesses was tantamount to ignoring relevant evidence and affected the value of its expert's opinion. It failed to provide a relevant report to the adjuster investigating the claim. It took no steps to distance itself from the biased and partisan position taken by its adjuster in his investigation.

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 14 pages.

