

**CASE NO.****VOL. NO.****PAGE**

Cite as: Big Pond Publishing and Production Ltd. v. Macumber, 1998 NSCA 157

BIG POND PUBLISHING  
AND PRODUCTION LIMITED

- and -

ALAN R. MACUMBER

Appellant

Respondent

C.A. No. 144267

Halifax

CHIPMAN, J.A.

**APPEAL HEARD:**

September 17, 1998

**JUDGMENT DELIVERED:**

September 17, 1998

**WRITTEN RELEASE OF ORAL:**

September 22, 1998

**SUBJECT:**

**CONTRACTS - Commercial arrangement whereby musician performed in concerts - Termination**

**SUMMARY:**

This is an appeal from a decision of Hamilton, J. finding that there was a wrongful termination by the appellant of a continuing commercial relationship between the parties whereby the respondent would perform as a musician for the appellant in performance. She found that the appellant terminated this relationship without notice, whereas in the circumstances reasonable notice would be 90 days, resulting in a damage award of \$19,890.00 to the respondent. The damages were calculated on the basis of the amount earned by another musician who performed for the appellant during the 90 days following the termination.

**ISSUE:**

Whether the trial judge erred in finding a commercial relationship, its termination, or in fixing the requisite period of notice of termination.

**RESULT:**

The Court of Appeal held that it had not been shown that the trial judge erred in finding a commercial arrangement or that it was terminated, but that she had erred in fixing the period of notice. The Court of Appeal, based on the evidence, substituted a period of 60 days notice for 90 days as fixed by the trial judge.

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