

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Conrad Estate v. Goodick Estate*, 2012 NSCA 42

**Date:** 20120425

**Docket:** CA 347092

**Registry:** Halifax

**Between:**

Brenton Conrad as representative of  
The Estate of Clifton Arnold Conrad

Appellant

v.

Lori Michelle Briand, as representative of the Estate of Michael Roger Goodick,  
Lori Michelle Briand to her personal capacity, Dylan Ryan Briand and Lauren  
Amara Briand, both infants, by their guardian *ad litem* and mother, Lori Michelle  
Briand and MacLeod's Farm Machinery Limited, a Nova Scotia Company

Respondents

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**Judge:** MacDonald, C.J.N.S.

**Appeal Heard:** April 2, 2012

**Subject:** **Civil Law. Conflicts. s. 45 Evidence Act, R.S.N.S. 1989, c. 154. Material Corroboration.**

**Summary:** Tragically, two snowmobile operators were killed when, in January of 2006, their machines collided near Margaree, Cape Breton Island. The issue in this appeal involves the ownership of one of the machines. Specifically, Justice Robert W. Wright of the Supreme Court was asked to decide whether the late Clifton Arnold Conrad had purchased or was simply test driving the new machine he had been operating at the time of the collision. If he had completed the purchase, thereby becoming the owner, then his liability insurer would have to respond to various claims flowing from the accident. On the other hand, had he been simply test driving the machine, then

ownership would have remained with the respondent Dealer and its liability insurer would have to respond.

The judge ruled for the respondent Dealer by finding that the deceased had taken ownership.

**Issue:** Did the judge err in concluding on the facts that the deceased had purchased the machine in question?

Did the judge commit reversible error by not applying s. 45 of the **Evidence Act**?

**Result:** Appeal dismissed. On the first issue, the appellant is simply inviting the Court to retry the case, which is not our role. There is no merit to this aspect of the appeal.

As to the second issue, it is acknowledged that the judge made no reference to s. 45 in his decision; it not being raised by any of the counsel at trial. This provision, in the context of this appeal, would prevent the dealership from obtaining a verdict against the Estate based solely on the deceased Mr. Conrad's purported admissions. However, this omission is of no assistance to the Estate because, despite not advertent to this provision, the judge nonetheless looked for, found and then relied upon ample material evidence of corroboration.

**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 9 pages.**