

NOVA SCOTIA COURT OF APPEAL

Citation: *Ocean Nutrition Canada Ltd. v. Matthews*, 2012 NSCA 127

Date: 20121221

Docket: CA 391703

Registry: Halifax

Between:

Ocean Nutrition Canada Limited

Appellant

v.

David Matthews

Respondent

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: November 20, 2012

Subject: Summary Judgment on Evidence; **Civil Procedure Rule 13.04**

Summary: Ocean Nutrition Canada Limited (ONC) applied to have Mr. Matthews' claim for an oppression remedy under the **Canada Business Corporations Act**, R.S.C. 1985, c. C-44 dismissed on summary judgment on evidence. In thorough reasons the judge denied the motion.

Issue: Did the judge err in dismissing the motion?

Result: Leave to appeal granted and appeal dismissed. The judge did not err in finding there were genuine issues of material fact requiring trial. There was a factual dispute before the judge as to whether Mr. Matthews was a "claimant" with standing to bring a claim for such a remedy. There was also a factual dispute as to why Mr. Matthews had been constructively dismissed which was material to the oppression remedy claimed. Nor did the judge err in considering the state of disclosure in making his decision, where the motivation to dismiss Mr. Matthews is exclusively within ONC's knowledge and control.

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.