

NOVA SCOTIA COURT OF APPEAL
Citation: *Poulain v. Iannetti*, 2013 NSCA 10

Date: 20130124
Docket: CA 353440
Registry: Halifax

Between:

George Poulain
Appellant/Respondent by Cross-Appeal
v.

David J. Iannetti
Respondent/Appellant by Cross-Appeal

Judge: The Honourable Justice M. Jill Hamilton

Appeal Heard: November 13, 2012

Subject: Non-suit Motion

Summary: Mr. Poulain appeals the order which granted a non-suit motion, dismissing his negligence claim against the respondent lawyer, who he alleges represented him on all matters that arose from the injuries he suffered in a motor vehicle accident that left him unable to work. He alleges the lawyer negligently advised him to settle the wage replacement aspect of his Section B claim for two years of payments “if he needed the money”, without explaining what he may be giving up by doing so. He claims damages equal to the value of the Section B wage replacement benefits retroactive to the date of settlement, the present value of future wage replacement benefits to age 65 and prejudgment interest.

Issue: Did the judge err in determining there was no evidence from which a properly instructed jury could infer that the lawyer was negligent?

Result:

Appeal allowed. Assuming, as required, that the evidence before the judge is true and assigning “the most favourable meaning” to that evidence capable of giving rise to competing inferences, there was evidence before the judge from which inferences could be drawn that the lawyer owed Mr. Poulain a duty of care, that the standard of care had been breached and that this breach caused damages to Mr. Poulain. That being the case, the judge was required to dismiss the motion for non-suit. He erred in not doing so.

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 11 pages.