

CASE NO.

Cite as: MacDonald v. Callaghan, 1997 NSCA 145

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WILLIAM ANGUS MACDONALD

- and -

JEFFREY CALLAGHAN

Appellant

Respondent

C.A. No. 133145

Halifax

CHIPMAN, J.A.

APPEAL HEARD:

September 30, 1997

JUDGMENT DELIVERED:

September 30, 1997

WRITTEN RELEASE OF ORAL:

October 1, 1997

SUBJECT:

DEFAMATION - Qualified Privilege

PRACTICE - Non-suit - Whether any evidence to go to jury.

SUMMARY:

The appellant brought an action against the respondent for damages for defamation. At the conclusion of the appellant's case, the trial judge granted a motion by the respondent for non-suit, pursuant to **Civil Procedure Rule 30.08** on the basis that the appellant had failed to exhaust internal remedies provided by the constitution of the Union to which both parties belonged, and on the basis that the words were spoken on an occasion of qualified privilege and in the absence of express malice.

ISSUE:

Whether the trial judge erred in granting the motion for non-suit?

RESULT:

The Court of Appeal held it was only necessary to deal with the issue of qualified privilege. The Court held that the trial judge did not err in holding that the words were spoken on an occasion of qualified privilege and in the absence of express malice. The appeal was dismissed.

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