

CASE NO. VOL. NO. PAGE
Cite as: **Point Tupper Terminals Company v. Global Petroleum Corporation,**
1998 NSCA 174

POINT TUPPER TERMINALS - and - GLOBAL PETROEUM
COMPANY CORPORATION

C.A. No. 147084 Halifax, N.S. Bateman, J.A.

APPEAL HEARD: October 6, 1998

JUDGMENT DELIVERED: October 20, 1998

SUBJECT: **Interlocutory appeal from Chambers Judge's order permitting amendment to Defence to Counterclaim.**

SUMMARY: The respondent unsuccessfully applied in Chambers to, *inter alia*, amend its defence to counterclaim. After a period of time and further developments in the case, the respondent applied again to amend its defence to counterclaim - this time successfully.

ISSUES: Did the second Chambers judge err in entertaining the second application or in granting the amendment.

RESULT: Appeal dismissed with costs. *Res judicata* did not apply in these particular circumstances and generally does not apply to interlocutory decisions of a procedural nature (**Pocklington Foods Inc. v. Alberta (Provincial Treasurer)**, (1995) 23 D.L.R. (4th) 141 (Alta.C.A.). Amendments to pleadings are to be granted in the usual course absent bad faith or prejudice to the other party that cannot be compensated in costs (**Baumhour v. Williams** (1977) 22 N.S.R. (2d) 564 (C.A.))

This information sheet does not form part of the court's decision. Quotes must be from the decision, not this cover sheet. The full court decision consists of 10 pages.

