

**CASE NO.**

**VOLUME**

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Cite as: Re-track USA, Inc. v. FX International Ltd., 1998 NSCA 177

RE-TRACK USA, INC.

FX INTERNATIONAL LIMITED

- and -

(Appellant)

(Respondent)

C.A. No. 147173

Halifax, N.S.

Freeman, J.A.  
(Orally)

APPEAL HEARD:

September 29, 1998

JUDGMENT DELIVERED:

September 29, 1998

WRITTEN RELEASE OF ORAL:

October 5, 1998

SUBJECT: **Civil Procedure; Mandatory Injunctions.**

SUMMARY: Appellant sought a mandatory injunction to enforce an agreement, terminated by the respondent, giving it exclusive distribution rights in the United States for two specialty lubricants. The applicant was dismissed at Chambers on findings that the applicant had not established a strong enough case to justify the court's intervention, nor had it shown it would suffer irreparable harm that cannot be addressed by damages.

ISSUES: Did the Chambers judge err in accepting inadmissible evidence imposing too high a standard for exercising his discretion to grant a mandatory injunction.

RESULT: The appeal was dismissed. The trial judge confined his remarks to evidence that was admissible. It was not necessary to decide whether the threshold test he expressed was too high, because the appellant would not have met a standard set considerably lower. The trial judge did not err in finding that harm suffered by the appellant could be addressed by damages.

**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 4 pages.**

