

**NOVA SCOTIA COURT OF APPEAL**  
**Citation: *Wall v. Horn Abbot Ltd.*, 2003 NSCA 129**

**Date:** 20031203  
**Docket:** CA 188469  
**Registry:** Halifax

**Between:**

David H. Wall

Appellant

v.

Horn Abbot Ltd., 679927 Ontario Limited (formerly  
Horn Abbot Productions Limited), Christopher Haney,  
Charles Scott Abbott, John Haney and Edward Martin Werner

Respondents

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**JUDGE:** Bateman, J.A.

**APPEAL HEARD:** November 24, 2003

**JUDGMENT DELIVERED:** December 3, 2003

**SUBJECT:** Discovery - refusal to answer certain questions on discovery

**SUMMARY:** Respondent individuals and companies refused to answer certain questions at Discovery on the basis that they were not relevant. Appellant applied in the Supreme Court, Chambers, to compel answers. The Supreme Court judge sitting in Chambers ordered some questions answered but determined that others were not relevant and were therefore not required to be answered.

**ISSUES:** Appellant appeals in relation to questions not required to be answered and as to costs of the hearing and place of discovery, as fixed by the Chambers Judge.

**RESULT:** Appeal dismissed. A practice has developed among members of the Bar to generally permit witnesses to answer all questions posed at discovery, even when not strictly relevant to the subject-matter of the proceeding. It is a good practice and one which should be preserved. A witness at discovery who arbitrarily refuses to answer questions risks an adverse ruling and cost consequences when the matter is brought before a judge. That said, when a dispute arises as to whether a particular question should be answered, relevance is the threshold issue. (**Coates v. The Citizen and Southam Inc. et al.**, [1986] N.S.J. No. 225 (C.A.)) The Court was not persuaded that the Chambers judge applied wrong principles of law nor that a patent injustice resulted from the order. Nor did he err in the exercise of his discretion as to costs nor in fixing the place for further discovery.

**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 5 pages.**