

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** Ashby v. McDougall Estate, 2004 NSCA 114

**Date:** 20040928

**Docket:** CA 215822

**Registry:** Halifax

**Between:**

Nancy Elizabeth Ashby

Appellant

v.

The Estate of Donald Corbett McDougall and Co-Executors,  
Trustees the Canada Trust Company, a body Corporate and  
Arleen Fagan and McDougall's Drug Store Ltd. and  
Directors Michael H. Whynot and Arleen Fagan  
and Michael H. Whynot and Arleen Fagan

Respondents

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**JUDGE:** Glube, C.J.N.S.

**APPEAL HEARD:** September 21, 2004

**JUDGMENT DELIVERED:** September 28, 2004

**SUBJECT:** **Civil Procedure Rule 14.25**  
(1) Application to reserve the striking of an amended Statement of Claim.  
(2) Application for fresh evidence.

**SUMMARY:** An amended statement of claim was struck on the basis that it disclosed no reasonable cause of action as there were no facts put forward to establish or sustain any of the claims.

**ISSUE:** Was there any error of law?

**RESULT:** No error of law resulting in an injustice. Application for fresh evidence denied as it was all available prior to the Supreme Court hearing and decision.

**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 4 pages.**