

SUPREME COURT OF NOVA SCOTIA

Citation: PCI Chemicals Canada Company v. ABB Trasmissione & Distribuzione S.p.A, 2005 NSSC 18

Date: 20041223

Docket: S.H. 192518

Registry: Halifax

Between:

PCI Chemicals Canada Company

Plaintiff

v.

ABB Trasmissione & Distribuzione S.p.A.

Defendant

LIBRARY HEADING

Judge: The Honourable Justice C. Richard Coughlan

Heard: December 23, 2004 (in Chambers), at Halifax, Nova Scotia

Decision: December 23, 2004 (Orally)

Written Decision: January 28, 2005

Subject: Injunctions - Anti-suit Injunctions

Summary: PCI commenced action against ABB. In June, 2003, ABB applied for an order setting aside the Nova Scotia action for lack of jurisdiction. The application setting aside the Nova Scotia action was dismissed and ABB filed a defence. In September, 2003, ABB filed a claim in Italy seeking a declaration it did not have an obligation to PCI with respect to the facts described in the Nova Scotia action. The first hearing of the Italian proceeding was held in May, 2004 and no one appeared at the hearing for PCI, other than to contest service of the writ.

PCI applies for an injunction restraining ABB from

proceeding with the Italian action.

Issue: Should the Court grant the injunction?

Result: The test dealing with anti-suit injunctions is set out in *Amchem Products Inc. v. British Columbia (Workers Compensation Board)*, [1993] 1 S.C.R. 897. Great caution should be exercised when invoking the power to enjoin foreign litigation. PCI has not applied to the Italian Court for a stay or other termination of the main proceeding, and failed. There is no reason the preferred practice should not be followed in this case.

The application is dismissed.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***