## IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Nova Scotia (Attorney General) v. Royal & Sun Alliance Insurance Company of Canada, 2005NSSC126

Date: 20050527 Docket: S.H. 149142 Registry: Halifax

## **Between:**

The Attorney General of Nova Scotia, Representing Her Majesty The Queen in Right of the Province of Nova Scotia

**Plaintiff** 

v.

Royal & Sun Alliance Insurance Company of Canada, Guardian Insurance Company of Canada, The Halifax Insurance Company, Wellington Insurance Company, General Accident Assurance Company of Canada and Quebec Assurance Company

**Defendants** 

## LIBRARY HEADING

**Judge:** The Honourable Justice Gerald R. P. Moir

**Heard:** 18 March 2005

Last Written Submission 24 March 2005

**Subjects:** Crown Law, applicability of Civil Procedure Rules to Crown, uses of a minister's

discovery responses Rule 18.14(1)(b); Practice and Procedure, rulings or directions

before trial, Rule 25.

**Summary:** The Minister of Justice voluntarily submitted to discovery. The defendants wish to know

whether his responses can be used on a summary judgment application or on trial for "all

purposes".

**Issues:** (1) Whether the question can be answered under Rule 25? (2) If so, does Rule 18.14(1)(b)

bind the Crown? (3) If so, whether a minister is an "officer" under that Rule?

**Result:** (1) The question can and should be dealt with under Rule 25. (2) The Crown is bound by

Rule 18.14(1)(b) because it has taken the benefit of the Rules and thereby waived its immunity from the burdens. (3) Decisions in Ontario, Alberta and British Columbia holding a minister is not an "officer" under discovery rules are based upon a theory of strict vrs. liberal construction that is no longer good law. Like any statute or subordinate legislation, the Rules are to be interpreted according to Driedger's modern principle.

Ministers are officers.

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