

CASE NO.

Cite as Berthier v Horton, [2001] NSSC 166

VOL. NO.

Donalda Ann BERTHIER

and

Weldon Esling HORTON

Associate Chief Justice M. MacDonald

S.P. No 06050

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HEARD: before the Honourable Associate Chief Justice Michael MacDonald in Pictou, Nova Scotia on June 15th, 2001.

ORAL DECISION: June 15th, 2001

WRITTEN RELEASE

OF DECISION: December 5, 2001

SUBJECT: Practice, *Civil Procedure Rules*, Application for Summary Judgment

SUMMARY:

In August of last year the Plaintiff was injured in a motor vehicle accident that occurred on Main Street, in Antigonish. She claims to have been rear-ended by the Defendant as she was stopped waiting for a red traffic light. She seeks summary judgment accordingly.

The Defendant denies any negligence on his part and states that it was the Plaintiff who was negligent by stopping suddenly.

ISSUE: Has the Defendant raised an arguable issue to be tried?

RESULTS: Application dismissed. The Defendant raised an arguable issue to be tried. See *McNeil v. Black* (1998), 166 NSR (2d) 127 (CA) distinguished.

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