

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Wall v. Horn Abbot Ltd., 2005 NSSC 276

**Date:** 20051013

**Docket:** S.N. 101331

**Registry:** Sydney

**Between:**

David H. Wall

Plaintiff

v.

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

Defendants

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**Judge:** The Honourable Justice A. David MacAdam

**Heard:** September 6, 2005 at Halifax, Nova Scotia

**Written Decision:** October 13, 2005

**Subject:** Trial - Striking Jury Notice

**Issue:** The defendants applied to strike the plaintiff's Notice of Trial with a Jury.

**Summary:** Plaintiff gave notice of a trial by jury, and in his submission stated the jury would only be asked to decide the credibility issue as to whether they believed the plaintiff or one of the individual defendants.

The plaintiff says he shared with one of the individual defendants his idea for a board game. This defendant denies meeting with the plaintiff. The defendants advance a number of reasons why the jury notice should be struck, including the length suggested by the plaintiff of the trial, the complicated legal issues raised in the pleadings, and the likelihood of the plaintiff inflaming the jury, based on the history of the proceeding.

The plaintiff says the jury will only be asked to decide whether the plaintiff shared with the individual defendant, Christopher Haney, his idea for the board game. The trial judge would, if required, then decide the legal consequences.

The plaintiff was put on notice that inflammatory rhetoric or conduct could result in the jury being dismissed, and the trial proceeding before the trial judge. The plaintiff, in his submission, acknowledged that in the event the jury had to be dismissed, his position was that the trial should continue before the trial judge.

**Result:**

The application to strike the jury was dismissed.

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