

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: White v. Weeks , 2005 NSSC 65

Date: 20050330
Docket: 115015
Registry: Sydney

Between:

Michael White

Applicant

v.

Robert Weeks, Marjorie Weeks, and Ernest Weeks

Respondent

LIBRARY HEADING

- Judge:** The Honourable Justice Frank Edwards
- Heard:** March 29, 2005, in Sydney, Nova Scotia
- Subject:** CPR 9.07(1) – application to renew originating notice and statement of claim.
- Facts:** Through inadvertence, solicitor had failed to arrange service of the Originating Notice and Statement of Claim during the requisite six months. Defendants opposed application stating that they had been prejudiced by the passage of time. They also argued that because they had limited financial means and no insurance, the continuation of the lawsuit would be a financial hardship for them.
- Issue:** Was the injustice to the Applicant outweighed by the potential prejudice to the Defendants.
- Result:** Application granted. Injustice to the Applicant if application denied far outweighed the potential prejudice to the Respondents. Further the financial means of the Respondents was not relevant to the application.

Cases Noted: *Minkoff v. Poole and Lambert* (1991), 101 N.S.R. (2d) 143; 275 A.P.R. 143 and *Gaul v. Pitts Insurance Co.*, [1977] N.S.J. No. 671 (SC TD)

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