

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Whey v. Halifax (Regional Municipality), 2005 NSSC 348

**Date:** 20051219

**Docket:** S.H. 166260

**Registry:** Halifax

**Between:**

Barbara Whey and Eric Whey

Plaintiffs

v.

Halifax Regional Municipality, a Body Corporate,  
Cunningham Lindsey Canada Ltd, a Body Corporate, & Michael Alwyn

Defendants

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**Judge:** The Honourable Justice Gregory M. Warner

**Heard:** November 7, 8, 9 & 21, 2005, in Halifax, Nova Scotia

**Subject:** Negligence - Public Carriers

**Issue:** 1. Liability of public carrier to passenger and, in particular (a) the standard of care and (b) factual causation and proximate cause. 2. Contributory negligence of passenger.

**Summary:** Plaintiff travelling to mall on Metro bus, seated over the right rear seats, The bus went over two curbs. The plaintiff fell off the seat into the aisle on the first curb. The defendant submitted that going over curbs on sharp turns was not negligent but a normal part of bus travel. The plaintiff submitted that because the driver was upset over an argument with an abusive passenger, he drove carelessly and too fast around the corner where he went over the first curb.

**Result:** Driver found negligent and passenger not contributorily negligent. The law respecting the standard of care for public carriers and of factual causation and proximate cause since **Snell** (“But For” v. “Material Contribution” Approaches) was reviewed.

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