

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Total E-com Home Delivery Inc. v. Smith, 2008 NSSC 37

**Date:** 20080205

**Docket:** SH No. 267692

**Registry:** Halifax

**Between:**

Total E-com Home Delivery Inc.

Plaintiff

v.

Jeffrey K. Smith, carrying on business as  
Smart Moving & Delivery

Defendant

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**LIBRARY HEADING**

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

**Heard:** 24 and 25 October 2007 at Halifax

**Last Written  
Submissions:** 29 October 2007

**Subject:** Goods withheld illegally to collect an inflated claim; Breach of contract;  
Commission of torts; Calculation of damages; Punitive damages

**Summary:** The plaintiff contracted with Future Shop to arrange home delivery of retail product in the Halifax area. The plaintiff subcontracted with the defendant carrier. There were numerous complaints, and plaintiff terminated the subcontract. The defendant appropriated nearly \$50,000 in Future Shop product. Plaintiff paid the retail value to Future Shop. Also, the appropriation caused havoc for the plaintiff.

**Issue:** Breach of contract? Conversion? Economic torts? Calculation of compensatory damages. Punitive damages?

**Result:**

The defendant was liable in both contract and tort. The measure of damages led to the same result in both. Amounts legitimately owed to defendant were deducted. Amount realized by illegal sale was not included in the calculation. An amount was allowed because of losses caused by disruption of the plaintiff's business. Punitive damages were awarded.

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