

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Wall v. Horn Abbot Ltd., 2008 NSSC 4

**Date:** 2008/01/08

**Docket:** SN 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:** December 18, 2007, Nova Scotia

**Subject:** Practice - Costs - Effect of Success - Lump Sum Award -  
Effect on Costs of Misconduct by Successful Party

**Summary:** The Plaintiff, being the unsuccessful party, the Defendants, being the successful party, each sought costs by way of lump sum following a lengthy and complex trial. Counsel requested costs by way of lump sum rather than a taxation.

**Issue:** Whether the Plaintiff, as the unsuccessful party, is entitled to an award of costs against the Defendants and whether the amount of costs awarded should be reduced because of the conduct of the Defendants in suing certain potential witnesses of the Plaintiff.

**Result:** There was no basis to depart from the traditional rule that the successful

party is entitled to costs and, in view, of the submissions of all parties, as well as the circumstances involved in the lengthy and protracted trial, a lump sum was awarded in lieu of taxed costs. The Defendants were awarded \$1,250,000, all inclusive, subject to a reduction of twenty percent for having sued two of the potential witnesses for the Plaintiff, on the basis of an allegation that they had been involved in a conspiracy with the Plaintiff against the Defendants.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
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