

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Jabez Financial Services Inc. v. Sponagle, 2008 NSSC 112

Date: 20080417

Docket: S.H. No. 285971

Registry: Halifax

Between:

Pricewaterhousecoopers Inc., in its capacity as
Receiver of the Property and Assets of Jabez Financial Services Inc.
Plaintiffs

v.

Garth Sponagle and Norma Sponagle
Defendants

LIBRARY HEADING

Judge: The Honourable Justice Walter R.E. Goodfellow

Heard: April 16, 2008 in Chambers, Halifax, Nova Scotia

Subject: Application to strike defence Civil Procedure Rule 18.15.

Summary: Plaintiffs claim funds sent to defendants that they were not entitled to. Defence filed and list of documents filed. Plaintiff amends Statement of Claim. Discovery held June 8, 2007 and defendants fail to honor undertakings. Application to court March 11, 2008 and order granted requiring compliance by April 1, 2008. Defendants' solicitor consents to deadline. No compliance. Application to strike defence. Notice sent by e-mail and hard copy to solicitor on record who had previously indicated he no longer had conduct of file. No Notice of Change of Solicitor filed. Plaintiff's solicitor forwarded copy of pre-chambers application and documentation direct to defendants. Solicitor on record failed professional courtesy to acknowledge Notice of application to strike defence and on hearing no one showed up on behalf of the defendants.

Issue: Should this Honourable Court exercise its discretion as to strike out the defence herein?

Result: Failure to honor undertakings outstanding now for 10 months and non-compliance with court order directing fulfilment of undertakings. Defendants wrote to the plaintiffs' solicitor and correspondence clearly indicates that the defendants do not consider that they are in any way, shape or form, bound by any order or direction from the Supreme Court of Nova Scotia and that they have a right to disobey and non-compliance.

Application granted, defence struck. Costs of application five hundred dollars (\$500) payable forthwith.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***