

IN THE SUPREME COURT OF NOVA SCOTIA  
IN BANKRUPTCY AND INSOLVENCY

**Citation:** George (Re), 2008 NSSC 304

**Date:** October 17, 2008

**Docket:** B 31998

**Registry:** Halifax

District of Nova Scotia  
Division No. 02 - Truro -Pictou  
Court No. B-31998  
Estate No. 51-976030

**IN THE MATTER OF THE BANKRUPTCY OF  
THOMAS JUSTIN GEORGE**

- and -

**IN THE MATTER OF THE APPLICATION OF THE  
BANKRUPT FOR DISCHARGE PURSUANT TO  
SECTION 169 OF THE *BANKRUPTCY AND INSOLVENCY ACT***

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**LIBRARY HEADING**

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**Registrar:** Richard W. Cregan, Q.C.

**Heard:** July 30, 2008

**Written Decision:** October 17, 2008

**Subject:** Discharge of Bankrupt

**Summary:** A substantial judgment had been obtained against the bankrupt for damages caused by an automobile accident where the bankrupt was driving without the owner's consent and thus

without insurance coverage.

**Issue:**

On being pressed for payment on the judgment he made an assignment in bankruptcy. With the support of the Trustee he sought his discharge. The assignee by way of subrogation of the judgment objected, arguing among other things that the bankrupt, not being able to pay fifty cents on the dollar, could not show his liability had arisen from circumstances for which he could not justly be held responsible. (Subsection 173(1)(a) of the *Bankruptcy and Insolvency Act*). Then his discharge would have to be conditional. (Subsection 172(2)). Reliance was made on *Kozack v Richter*, a Supreme Court of Canada decision, and a number of cases following it.

**Result:**

It was held that he had not discharged the burden of proving that he could not justly be held responsible. Notwithstanding his apparent impecuniosity, he was required to consent to judgment for a portion of the debt as the condition of his discharge.

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