

SUPREME COURT OF NOVA SCOTIA

Citation: Fleet v. Federated Life Insurance Company of Canada, 2008 NSSC 352

Date: 20081125

Docket: SH 247663

Registry: Halifax

Between: David Richard K. Fleet

Plaintiff

v.

Federated Life Insurance Company of Canada
and Paul Bellefontaine

Defendant

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Judge: The Honourable Justice Gerald R P Moir

Heard: 21, 22, 23 January 2008 at Halifax

**Last
Submissions:** October 1, 2008

Subjects: Costs and prejudgment interest

Issues: Whether Mr. Fleet should recover enhanced costs? Whether Mr. Fleet should have prejudgment interest greater than deposit rates?

Summary: The defendant, Mr. Bellefontaine, secured life coverage for the deceased from his principal, Federated. He then prepared a document falsely purporting to be the insured's answers to questions about her health. He forged her signature on it. He denied the forgery until trial. The deceased's husband, Mr. Fleet, was living on credit cards when his wife died. He would have used the insurance proceeds to pay those debts and live more prudently.

Result: Costs of \$10,000 added to tariff costs because of the expense caused by unwarranted denial. Prejudgment interest is usually based on deposit rates, but the *Judicature Act* allows a very broad discretion to establish a just rate. A rate of nine percent balanced the relevant considerations.

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