

SUPREME COURT OF NOVA SCOTIA

Citation: *Geophysical Services Inc. v. Sable Mary Seismic Inc.* , 2009 NSSC 404

Date: 20091231

Docket: Hfx No. 190408

Registry: Kentville

Between:

Geophysical Services Incorporated

Plaintiff

v.

**Sable Mary Seismic Incorporated and
Matthew Kimball**

Defendant

LIBRARY HEADING

Revised library sheet: The October 8 date in the summary has been changed from October 8, 200 to October 8, 2002. This revised library sheet replaces the previously distributed library sheet.

Judge: The Honourable Justice Gregory M. Warner

Heard: March 2, 3, 4, 5, 9, 10, 11, 12, 13, 16, 17, 18, 19, 2009
Kentville, Nova Scotia

Subject: Contract Law

Summary: GSI signed a contract with SMS and Matthew Kimball to provide crew for its seismic operations starting in January 1998. SMS and Matthew Kimball terminated the contract on October 8, 2002.

Issue: (1) Has SMS over billed GSI under the contract? If so, had SMS and/or Matthew Kimball done so fraudulently?
(2) Does GSI owe SMS for success sharing under the contract?

Result:

The Court decided that the contract allowed for billing by SMS to GSI at actual cost of the crew plus 5%. Judgment is granted to GSI against SMS for the amount of over billing as shown on the KPMG forensic report in the amount of \$1,764,251.70. GSI is entitled to judgment against SMS and Matthew Kimball jointly and severally for the amount of the fraudulent misrepresentation in the amount of \$451,885.41.

The contract signed by GSI and SMS, either written or verbally as part of the extrinsic evidence, did not constitute a legally binding contract.

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