

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** 3081169 Nova Scotia Ltd. v. Lunar Fishing (New Brunswick) Inc., 2010 NSSC 147

**Date:** 20100416

**Docket:** Hfx. No. 303682

**Registry:** Halifax

**Between:**

3081169 Nova Scotia Limited

Plaintiff

v.

Lunar Fishing (New Brunswick) Inc., a body corporate

Defendant

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**Judge:** The Honourable Justice Suzanne M. Hood

**Heard:** November 12, 16-19, 2009, in Halifax, Nova Scotia

**Subject:** Contract interpretation; good faith in meeting condition precedent; frustration of contract.

**Summary:** 3081169 Nova Scotia Limited sues for payment under a consulting agreement entered into as part of a transaction for the sale of fishing businesses. The plaintiff says the condition precedent for payment was met. The defendant, Lunar Fishing (New Brunswick) Inc. ("Lunar"), says it acted in good faith under the consulting agreement in its efforts to meet the condition precedent or, alternatively, the agreement was frustrated.

**Issue:**

1. Interpretation of consulting agreement;
2. Whether Lunar acted in good faith;
3. Alternatively, frustration of the agreement;
4. If Lunar was entitled to terminate the consulting agreement, entitlement of the plaintiff to payment for consulting services for six months.

**Result:** Lunar did not make good faith efforts to meet the condition precedent in the consulting agreement as interpreted. Contract not frustrated.

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