

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** MacIntyre v. Cape Breton District Health Authority, 2008 NSSC 305

**Date:** 20081017

**Docket:** S.N. 225468

**Registry:** Sydney

**Between:** Duncan F. MacIntyre  
Plaintiff

v.

Cape Breton District Health Authority,  
a body corporate

Defendant

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Gerald R P Moir

**Heard:** August 12, 2008 at Halifax

**Subject:** Disclosure of documents, implied undertaking against collateral use.

**Issues:** (1) Whether the implied undertaking extends to relieve a party from having to make disclosure of transcripts of relevant discovery answers given by the party in another proceeding?  
(2) Whether it extends to relieve the party from disclosing documents disclosed to the party in another proceeding despite the consent of the one who made disclosure?

**Summary:** The plaintiff brought separate actions based on the same facts, one against a disability insurer and the other against the authority for whom the plaintiff worked. The plaintiff was discovered in the disability insurance action and received documents from the insurer. It was agreed that the discovery transcripts and the documents were relevant in this action. The insurer consented to release, but the plaintiff resisted making disclosure.

**Result:** Disclosure ordered. The implied undertaking binds the party receiving disclosure, not the party who makes disclosure. It does not assist the party who submitted to discovery to limit disclosure obligations in the related action or give the party who received disclosure the ability to withhold further disclosure despite the disclosing party's consent.

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