

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Bell Aliant Regional Communications Inc. v. Cabletec Ltd., 2011 NSSC 136

**Date:** 20110406

**Docket:** Hfx No. 307920 and 307917

**Registry:** Halifax

Hfx No. 307920

**Between:**

Bell Aliant Regional Communications, Limited Partnership by its General Partner,  
Bell Aliant Regional Communications Inc.

Plaintiff

v

Cabletec Limited

Defendant

Supreme Court of Nova Scotia

Hfx No. 307917

Bell Aliant Regional Communications, Limited Partnership by its General Partner,  
Bell Aliant Regional Communications Inc.

Plaintiff

v.

J. Clair Callaghan

Defendant

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**Judge:** The Honourable Justice Allan P. Boudreau

**Heard:** February 9, 2011, in Halifax, Nova Scotia

**Counsel:** Joseph Herschorn , for the Plaintiff/Applicant  
Chris Robinson, for the Defendant/Respondent

**Summary:**

This is an application for Summary Judgement by the Plaintiff, Bell Aliant, on the grounds that the Defendant, Cabletec, and its principal, Clair Callaghan, have no evidence to support their allegations in defence of Bell Aliant's claim or to support their Counter Claim. The claim by Bell Aliant is for an unpaid amount arising out of a five year contract to supply telephone and other services to Cabletec. Cabletec was in the business of reselling these services. During the term of the latest contract, which contract is not in dispute, the "landscape" in the telecommunications industry was changing rapidly and significantly such that Cabletec could not continue to supply services to its customers at competitive prices if it had to pay Bell Aliant the contracted price. Cabletec alleges that Bell Aliant represented and gave its assurances that the contract prices would be adjusted in a number of ways so that Cabletec could stay in business and Bell Aliant would continue to sell its services to Cabletec. Cabletec alleges that it relied on the representations and assurances of Bell Aliant to its detriment and it now challenges the amount claimed owing to Bell Aliant. It also makes a Counter Claim against Bell Aliant. Bell Aliant contends that Cabletec has not a "shred" of evidence to support its allegations, that these are bare assertions, and it has moved that both the Defence and the Counter Claim be dismissed and Summary Judgement entered in its favour.

**Issue:**

1. Has the moving party, Bell Aliant, shown, on the evidence, that there is "no genuine issue of material fact requiring trial"?
2. If the answer to question No. 1 is yes; then have the responding parties, Cabletec and Mr. Callaghan, refuted or countered, on the evidence, and established that there is "a genuine issue of material fact requiring trial" and that they have "a real chance of success"?

**Result:** Found a “genuine issue of material fact requiring a trial”.  
Dismissed the motion for Summary Judgment.

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