

SUPREME COURT OF NOVA SCOTIA

Citation: *Mattatall Estate v. Whitehead*, 2016 NSSC 334

Date: 20161207

Docket: Hfx No. 434793

Registry: Halifax

Between:

Elaine Marie Mattatall and David Harold Mattatall through the Estate of James Phillip Mattatall, pursuant to the *Fatal Injuries Act*, R.S., c. 163, s. 1 and the *Survival of Actions Act*, R.S., c. 453, s. 1

Plaintiffs

v.

Jason William Whitehead and Toothy Moose Inc.

Defendants

v.

Daniel Mattatall

Third Party

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Judge: The Honourable Justice Suzanne Hood

Heard: October 6, 2016, in Halifax, Nova Scotia

Supplemental October 13 and October 18, 2016

Written

Submissions:

Written Decision: December 7, 2016

Subject: Adding third party: C.P.R. 35.08 and 83.04; *Limitation of Actions Act*, R.S., c. 258 and S.N.S. 2014, c. 35.

Summary: Toothy Moose Inc. is a defendant in a *Fatal Injuries Act* and *Survival of Actions Act* lawsuit. It wishes to add a third party who has already been made a third party by the other

defendant.

Issues: (1) Which *Act* applies and does Toothy Moose meet the requirements to add a third party?

Result: The 1989 *Limitation of Actions Act* applies. Third party can be added.

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