

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Matthews v. Ocean Nutrition Canada Ltd.*, 2017 NSSC 16

**Date:** 20170130

**Docket:** Hfx No. 353606

**Registry:** Halifax

**Between:**

David Matthews

Applicant

v.

Ocean Nutrition Canada Limited

Respondent

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**Judge:** The Honourable Justice Arthur J. Leblanc

**Heard:** November 2, 3, 4, 5, 9, 10, 12, 13, 2015, and January 28, 2016, in Halifax, Nova Scotia

**Final Written Submissions:** January 20, 2017

**Written Decision:** January 30, 2017

**Subject:** Employment; constructive dismissal, oppression remedy, punitive damages

**Summary:** The applicant was a chemist who worked for the respondent as Vice President New and Emerging Technologies until his resignation in June 2011. He alleged that the respondent's progressive removal of his responsibilities amounted to constructive dismissal. The applicant said the respondent was motivated by a desire to prevent him from receiving a payout

under a Long-Term Incentive Plan (“LTIP”). He sought damages for unjust dismissal, including compensation for loss of payouts under the LTIP and the Management Short-term Incentive Plan (“STIP”). In the alternative, he sought an oppression remedy under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44. He also claimed punitive damages.

**Issues:**

- (1) Was the applicant constructively dismissed by the respondent and, if so, what were his damages?
- (2) Was the applicant entitled to an oppression remedy under s. 241 of the *CBCA*?
- (3) Was the applicant entitled to punitive damages?

**Result:**

The applicant was constructively dismissed by the respondent. His damages included compensation for the loss of payouts under the LTIP and the STIP. It was unnecessary to consider the merits of the oppression claim. Although the respondent constructively dismissed the applicant, there was no evidence of bad faith. The claim for punitive damages was dismissed.

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