

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *Palmer v. Gurney*, 2025 NSSC 367

**Date:** 20251120

**Docket:** Ken No. 537943

**Registry:** Kentville

**Between:**

T. K. Palmer & Sons Contracting Inc., a body corporate Incorporated under the  
laws of Nova Scotia

*Plaintiff*

v.

Dean Gurney, Austen Anderson, Peter Kendrick, Nancy Lee Heath-Curtis, Tracey  
Tate (Smith) and John Conway in their respective personal capacities

*Defendants*

<b>DECISION ON MOTION FOR SUMMARY JUDGMENT ON PLEADINGS</b>
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**Judge:** The Honourable Justice Scott C. Norton

**Heard:** November 20, 2025, in Kentville, Nova Scotia

**Decision:** November 20, 2025

**Counsel:** Hanley Palmer and Timothy Palmer, self-represented agents  
of T. K. Palmer & Sons Contracting Inc.  
Jane Soucy, for the Defendants

**By the Court (Orally):**

**Overview**

[1] The Defendants bring this motion for summary judgment on the pleadings and for an order dismissing the claim on the basis that the Statement of Claim discloses no reasonable cause of action against them and is clearly unsustainable. I grant the motion and order the dismissal of the Action for the following reasons.

**Preliminary Issues**

[2] At the outset of the hearing, I addressed the fact that the Plaintiff filed an affidavit in response to the motion. *Rule* 13.03(3) does not permit the court to consider affidavit evidence on a motion for summary judgment on pleadings. I have not given any consideration to the contents of the affidavit.

[3] The Defence filed by the Defendants stated that they would make a motion for summary judgment on pleadings. In its response brief, the Plaintiff took issue with the fact that the motion was not served on the Plaintiff when it was filed. The Prothonotary advised the Plaintiff on October 23, 2025, of the pending motion on November 20, 2025, and advising that any response brief was due to be filed by November 12, 2025. The Plaintiff responded: “the Hearing date and the filing deadlines you have outlined, work well, if need be.” The Plaintiff filed the response brief on November 12, 2025. The Plaintiff alleges no prejudice and did not request an adjournment.

**Analysis**

[4] The Plaintiff filed a Notice of Action and Statement of Claim on October 31, 2024, against the Defendants expressly in their personal capacities. The Statement of Claim identifies each Defendant as an employee of Eden Valley Poultry Incorporated (“EVP”). It states, in para. 3, that “These Defendants make up the operational members of the Plaintiff’s claim as their duties involved the day-to-day function of EVP”. The basis of the relief sought is that the Defendants allegedly tortiously interfered with the Plaintiff’s business relations and caused them financial harm.

[5] *Civil Procedure Rule* 13.03 allows a party to move for summary judgment on pleadings that are clearly unsustainable. The test for summary judgment on

pleadings was recently confirmed in *Howe v. Rees*, 2024 NSCA 16, at para. 46. Even after assuming that all allegations contained in the impugned pleading are true, the court must be satisfied that the pleadings on their face show no reasonable cause of action, or that the claim is absolutely unsustainable, or that it is certain to fail. I summarized the principles applicable to such a motion in *MacGregor's Custom Machining Limited v. Sanikiluaq Development Corporation*, 2021 NSSC 139.

[6] In this case, EVP is an incorporated company. Actions taken by an employee on behalf of a corporation are generally considered to be the acts of the corporation and not the personal acts of the employee. Directing minds, employees and officers of the corporation are protected from personal liability by the “corporate veil”: *Wilson v. Cross-Roads Co-operative* (2001), 197 N.S.R. (2d) 51 (S.C.); *Horne v. QEII Health Services Centre*, 2016 NSSC 169; *Holloway Investments Inc. v. Hardit Corporation*, 2020 NSSC 132.

[7] There is no impugned activity alleged on the part of the Defendants outside of their role as employees of EVP. The allegations all relate to decisions and actions made within their ostensible authority as employees of EVP. There is no allegation of conduct rising to the level necessary in law to pierce the corporate veil.

[8] The allegations are that the Defendants engaged in discussions surrounding the potential purchase of the Plaintiff's shares and urged the Plaintiff to recruit and manage temporary foreign workers. The Plaintiff further pleads that the Defendants, acting in coordination with EVP undertook actions to replace the Plaintiff's business operations, replace the Plaintiff's temporary foreign workers, arrange for the acquisition of assets to operate a poultry catching operation, and obtained confidential information from the Plaintiff.

[9] Assuming these allegations to be true, there is no allegation that these actions were taken by the Defendants other than as employees of EVP and within their ostensible authority. Indeed, at paras. 4 and 19 of the Statement of Claim the Plaintiff alleges that the Defendants were acting under the direction of EVP.

[10] In summary, the pleading describes alleged acts by the Defendants undertaken as employees of EVP exclusively in the course of their employment and within the scope of their ostensible authority. The pleading contains no allegations of fraud, deceit, dishonesty, or true want of authority to give rise to a cause of action against the Defendants in their personal capacities.

[11] The Defendants acknowledge that the Plaintiff has filed a separate action against EVP in Ken No. 539465 and can address any alleged cause of action against EVP therein for the alleged actions of the Defendants in this pleading.

[12] The power to dismiss pleadings which have no reasonable prospect of success serves to improve the administration of justice by reducing the time and costs associated with litigation.

[13] The motion for summary judgment is granted, and the Notice of Action is dismissed. The Plaintiff shall pay the Defendants jointly costs in the amount of \$750 inclusive of disbursements. Counsel for the Defendants shall prepare the order.

Norton, J.