

SUPREME COURT OF NOVA SCOTIA

Citation: MacKean v. Royal & Sun Alliance Insurance Company of Canada, 2014 NSSC 33

Date: 20140130

Docket: Pic No. 296867

Registry: Halifax

Between:

Cindy L. MacKean and Dalton Holley, an infant, through his Litigation
Guardian Cindy L. MacKean

Plaintiffs

- and -

Royal & Sun Alliance Insurance Company of Canada

- and -

Joseph Allen Goodall

Defendants

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Judge: The Honourable Justice Michael J. Wood

Heard: January 16, 2013 and January 8, 2014 (in Chambers), in
Halifax, Nova Scotia

**Final Written
Submissions:** January 20, 2014

Written Decision: January 30 , 2014

Subject: Damages - Assessment of Quantum
Insurance - Subrogated Claims
Uninsured Motorist Coverage

Summary: The plaintiffs were injured in an accident allegedly caused by an uninsured driver. They settled their Section D claims with their insurer, RSA, and also assigned their claims to RSA. A motion was brought for assessment of damages against the uninsured driver who had default judgment entered against him.

Issue: What is the nature of the evidence required to assess damages on a subrogated claim?

Result: The plaintiffs argued that they were only required to show that the settlement with the insured was reasonable and, if so, obtain judgment in that amount. Court concluded that amount of settlement was irrelevant and the plaintiffs were required to prove their damages. Motion dismissed due to lack of sufficient evidence.

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