

IN THE SUPREME COURT OF NOVA SCOTIA
Citation: Wall v. Horn Abbot Ltd., 2006 NSSC 400

Date: 20060705
Docket: S. Sn. No. 101331
Registry: Sydney

Between:

David Wall

Plaintiff

v.

Horn Abbot Ltd., 679927 Ontario Limited (formerly Horn Abbot Productions Limited), Christopher Haney, Charles Scott Abbott, John Haney and Edward Martin Werner

Defendant

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Judge: The Honourable Justice A. David MacAdam

Heard: July 4 and 5, 2006 in Sydney, Nova Scotia

Oral Decision: July 5, 2006

Written Decision: January 31, 2007

Subject: Trial Procedure - Evidence - Similar Fact Evidence

Summary: The Plaintiff brought action against the Defendants claiming his idea for a board game had been stolen by one of the individual defendants. At the trial the Plaintiff sought to introduce evidence that this Defendant had collected Unemployment Insurance premiums under circumstances in which he was not entitled and had on another occasion claimed to have created and invented a board game, which he had not.

Issue: The issue is whether the suggested similar fact evidence sought to be introduced by the Plaintiff was admissible.

Result: The evidence of collecting Unemployment Insurance premiums was not similar fact evidence in that although alleging evidence of discreditable conduct by the Defendant, it was not strikingly similar to the circumstances contained in the Plaintiff's allegation in this matter. It simply went to disposition and character and therefore was not admissible.

With respect to the Defendant having claimed to have invented another game, this was disputed by others who were involved in the creation and/or marketing of the other game and therefore there would, of necessity, be a mini trial in which the credibility of the evidence being offered by the Plaintiff would have to be determined. In view of the contested nature of the evidence, its probative value was adversely affected. The necessity to determine the credibility of the allegation, in the face of the contested evidence, would require the Court to focus on issues not directly related to the issues in this trial. The application was therefore dismissed.

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