

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Little v. Jost Mission Day Care Society, 2014 NSSC 86

**Date:** 20140305

**Docket:** Hfx. No. 311550

**Registry:** Halifax

**Between:**

Wayne Little and Anne Little

Plaintiffs

- and -

Jost Mission Day Care Society

Defendant

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**Judge:** The Honourable Justice C. Richard Coughlan

**Subject:** Torts - Claim in Negligence and Nuisance

**Summary:** The plaintiffs live at 47 Punch Bowl Drive in the Armdale area of Halifax, Nova Scotia. Their property abuts property owned by the Jost Mission Day Care Society. The plaintiffs' property is lower than the Society's land. While renovating the basement the male plaintiff removed a portion of the foundation and saw water. He installed a sump pump. It would take a large or severe rain to start the pump. In 2007 new playgrounds and parking area were constructed on the Society's property. In August 2007 there were heavy rains. The basement of the plaintiffs' residence flooded causing damage. The plaintiffs sued the Society in negligence and nuisance claiming the defendant's actions caused the flooding of their basement.

**Issue:** Is the defendant liable to the plaintiffs in either negligence or nuisance.

**Result:** Action Dismissed. The plaintiffs did not establish on a balance of probabilities that any action by the defendant caused the flooding which occurred in their residence. Damages were provisionally assessed. The plaintiffs were found to be contributorily negligent and liability was apportioned 75% against the defendant and 25% against the plaintiffs.

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