

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Matthews v. MacMillan, 2003 NSSC 185

Date: 20030911

Docket: S.H. 157074C

Registry: Halifax

Between:

Stephen Matthews

Plaintiff

v.

Wanda S. MacMillan

Defendant

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Judge: The Honourable Justice Walter R. E. Goodfellow

Heard: September 2nd, 3rd and 4th, 2003 in Halifax

Subject: DEFAMATION

Summary: The parties associated in business of managing properties, particularly condominiums. Mr. Matthews transferred the business to Ms. MacMillan, as he had difficulty handling the stress and began to operate in other fields. Transfer was to be by Ms. MacMillan paying off the \$40,000.00 loan taken out at the time of transfer. Majority of the funds at the outset went to the personal benefit of Mr. Matthews. Mr. Matthews suffered cocaine addiction and a series of events transpired resulting in a permanent breakdown of their personal and business relationship. Up to that point, Mr. Matthews carried on deception with condominium boards that he was still the owner and Ms. MacMillan felt compelled to advise of the true situation and advised the chairman and one member of the board of one condo that Mr. Matthews had a cocaine-drug addiction. The conduct of Mr. Matthews unprofessional, credibility findings crucial to result.

Issue: Prerequisite of defamation. Defence of justification.

Result: Matthews' action for defamation dismissed. Defence of justification - truth established by Ms. MacMillan. Had action been successful, damages would not have been anywhere near the claim of \$100,000.00 to \$300,000.00 but would have been nominal in an amount less than

\$1,000.00. Ms. MacMillan limited publication of Mr. Matthews' problems. Mr. Matthews chose to make wide publication and in all respects was the author of any damages he may have suffered. Ms. MacMillan acting as her own counsel caused unnecessary work for Mr. Matthews' solicitor and other considerations resulting in denial of costs to Ms. MacMillan. An appropriate exercise of judicial discretion is for each party to bear their own costs.

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