

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Francis MacLean and Evelyn MacLean v. Grant Morash and Deloitte  
& Touche Inc., 2003NSSC219

**Date:** 20031112

**Docket:** 207118

**Registry:** Sydney

**Between:**

Francis MacLean and Evelyn MacLean

Plaintiffs

v.

Grant Morash and Deloitte & Touche Inc.

Defendants

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**Judge:** The Honourable Justice Frank Edwards

**Heard:** October 28, 2003, 2003 in Sydney

**Written Decision:** November 12, 2003

**Subject:** Bankruptcy and Insolvency

**Facts:** Discharged bankrupt seeks leave to bring action against former trustee of his estate under Section 215 of the Bankruptcy Act.

**Issues:**

1. Is there a factual basis to support the proposed claims?
2. Implications of Section 41(8) of the Act.

**Result:**

1. Leave was denied, no factual basis to support claims.
2. Trustee's discharge not obtained by fraud or concealment of material fact and therefore ought not be revoked under Section 41(8).

**Cases Cited:** *Mancini (trustee of) v. Falconi*, 1993 CarswellOnt 1861; *Nicholas v. Anderson*, 1998 Carswell Ont 3815 (C.A.); *Cross v. Bain, Pooler & Co.*, 1937 CarswellOnt 156 (H.C.); *Gordon v. McGibbon* (1875), 16 N.B.R. 49 (C.A.); *Wilson v. MacInnis* (1992), 1992 CarswellNS 5; *MacDulloch v. Price Waterhouse Ltd.*, 1992 CarswellNS 48 (S.C. T.D.); *Alec Smith Decorating Ltd. v. Parkland School Division No. 63*, 1982; CarswellSask 63 (Q.B.); *Mann v. KPMG Inc.* 2001 CarswellSask 207 (C.A)

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