

NOVA SCOTIA COURT OF APPEAL

Citation: *Clearwater Seafoods Limited Partnership v. Boucher*,
2005 NSCA 155

Date: 20051128

Docket: CA 250843

Registry: Halifax

Between:

Clearwater Seafoods Limited Partnership

Appellant

v.

Cecil Boucher and Clyde Knickle

Respondents

Judge(s): Justice Jamie W. S. Saunders

Appeal Heard: November 28, 2005, in Halifax, Nova Scotia

Written Judgment: November 28, 2005

Held: Leave to appeal denied with costs and disbursements to each of the respondents, as per oral reasons for judgment of Saunders, J.A.; MacDonald, C.J.N.S. & Roscoe, J.A. concurring

Counsel: Eric Durnford, Q.C. & Rebecca Pitts, for the appellant
Grant A. Machum, with Lisa Gallivan appearing for the respondents

Saunders, J.A. (Orally):

[1] This is an appeal from the interlocutory, discretionary order of Nova Scotia Supreme Court Justice Suzanne M. Hood in which she dismissed the appellant's application to strike the respondents' joint statement of claim and order that their actions be severed and commenced separately pursuant to **Civil Procedure Rule 5**. The material facts are all contained in Justice Hood's comprehensive decision, now reported as **Boutcher and Knickle v. Clearwater Seafoods**, [2005] N.S.J. No. 431.

[2] This is a matter where leave is required. We are unanimously of the view that leave ought to be denied. In doing so we fully endorse the reasons and disposition of Justice Hood.

[3] We award Captain Boutcher and Captain Knickle their costs: \$1,250 to each of the respondents payable forthwith, plus their respective disbursements, as agreed or taxed.

Saunders, J. A.

Concurred in:

MacDonald, C.J.N.S.

Roscoe, J.A.