

CASE NO.

VOL. NO.

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**BRUCE HOLDBROOK,
Operating as Best Print**

- and - **DAVID EMENEAU, TRIDENT
CONSTRUCTION COMPANY LIMITED,
EMENEAU CONSTRUCTION LIMITED,
CASTLEROCK ENTERTAINMENT INC.
and NEEDFUL PRODUCTIONS LTD.**

(Appellant)

(Respondents)

CA160678

Halifax, N.S.

Pugsley, J.A.

[Cite as: *Holdbrook v. Emeneau*, 2000 NSCA 48]

APPEAL HEARD:

March 30, 2000

JUDGMENT DELIVERED:

April 7, 2000

SUBJECT:

**Automobile Insurance - Section A of Standard Automobile Policy -
"Ownership, use or operation".**

SUMMARY:

Warehouse and contents were destroyed by fire resulting from an explosion arising from an unsuccessful attempt to commit suicide while sitting in the driver's seat of a truck parked in the warehouse. The engine of the truck was not engaged. Fire insurer sought recovery from truck auto insurer alleging the damages occurred "as a result of the ownership, use or operation" of the truck. The trial judge dismissed the action, concluding that the plaintiff failed to satisfy either the "purpose" test, or the "causation" test, mandated by the Supreme Court of Canada in **Amos v. Insurance Corp. of British Columbia**, [1995] 3 S.C.R. 405.

RESULT:

Appeal dismissed.

To succeed in the appeal, the appellant must satisfy both the "purpose" test and the "causation" test. The appellant failed to meet the purpose test which was expressed by the Supreme Court in these words:

Did the accident result from the ordinary and well-known activities to which automobiles are put?

The "ownership" of the truck was not a sufficient connecting factor. The activities carried out did not constitute "ordinary" activities. The truck was not being operated nor was it used as an automobile, but as a receptacle to accumulate and store gas fumes. To accept the appellant's submissions would be contrary to the very clear direction given in **Amos**, and if adopted, would extend coverage to "extreme and unpredictable" lengths.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 17 pages.