

CASE NO.**VOL. NO.****PAGE**ROBERT HATCH RETAIL INC.
and KAVANAGH INVESTMENTS LTD.CANADIAN AUTO WORKERS
UNION, LOCAL 4624

- and -

(Appellants)

(Respondent/Applicant)

CA 157415

Halifax, N.S.

CROMWELL, J.A.
(Orally)

[Cite as: **Robert Hatch Retail Inc. v. Canadian Auto Workers Union,
Local 4624, 1999 NSCA No. 150**]

APPLICATION HEARD: December 1st, 1999**DECISION DELIVERED:** December 1st, 1999**WRITTEN RELEASE OF ORAL:** December 2nd, 1999**SUBJECT:** Appeals - Mootness - Discretion to hear moot appeals

SUMMARY: An application for an interlocutory injunction to restrain alleged secondary picketing was dismissed. The labour dispute giving rise to the alleged secondary picketing settled. The applicants for the injunction sought leave to appeal. The respondent on the appeal applied to quash the appeal on the basis of mootness. The appellants conceded that the appeal was moot but submitted the Court should exercise its discretion to hear the appeal.

ISSUE: Should the Court exercise its discretion to hear this moot appeal?

RESULT: Appeal quashed. A significant issue sought to be raised on the appeal was the question of whether secondary picketing is unlawful per se. That issue is presently before, and is likely to be resolved by, the Supreme Court of Canada in **R.W.D.S.U., Local 558 v. Pepsi Cola** (1998), 167 D.L.R. (4th) 220 (Sask. C.A.). Moreover, the decision of the Chambers judge ultimately turned on findings of fact and the exercise of discretion which, if upheld on appeal, would have the result of making it unnecessary to resolve the legal issues sought to be raised. Taking all of the relevant factors into account, the Court was not persuaded that it should exercise its discretion to hear this moot appeal.

This information sheet does not form part of the court's decision. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 2 pages.