

NOVA SCOTIA COURT OF APPEAL

Citation: *Caterpillar Inc. v. Secunda Marine Services Ltd.*,
2010 NSCA 105

Date: 20101216
Docket: CA 337520
Registry: Halifax

Between:

Caterpillar Inc.

Appellant

v.

Secunda Marine Services Limited, Pucket Machinery Company
and Halter Marine Inc.

Respondents

Judge: The Honourable Justice Fichaud

Appeal Heard: November 30, 2010

Subject: Adjournments - *Rules* 4.20(3) and 4.21

Summary: Caterpillar applied for an adjournment because its lead counsel was committed to a trial in Ontario. The chambers judge denied the adjournment.

Issue: **Did the judge err in principle in applying the factors under *Rule* 4.20(3)?**

Result: The Court of Appeal allowed the appeal. When considering the prejudice to the party resisting the adjournment, the judge should have considered whether that prejudice was reparable by an indemnity under *Rules* 4.21(e) and (f). The Court of Appeal ordered Caterpillar to indemnify Secunda on a solicitor client basis, and granted the adjournment.

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 7 pages.

