

NOVA SCOTIA COURT OF APPEAL
Citation: *Morash v. Purdy*, 2011 NSCA 123

Date: 20111222
Docket: CA 339400
Registry: Halifax

Between:

Terrance Morash

Appellant

v.

Stephen Michael Purdy and Derek Andrew Purdy

Respondents

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: September 27, 2011

Subject: **Damages. Replacement cost versus cost to repair. Measure of Damages.**

Summary: The trial judge found the appellant liable for a fire which damaged the respondents' property. He awarded the respondents damages for the replacement cost of the building. The appellant argued that the trial judge erred in awarding damages for replacement cost to the appellant when there was no evidence that the building needed to be replaced.

Issues: Whether the trial judge erred in finding that the building needed to be replaced.

Result: Appeal allowed, matter remitted to the trial judge to reassess damages having regard to all relevant evidence. In these circumstances, where the trial judge's interjection prevented the introduction of relevant, probative and otherwise admissible evidence fairness dictated that the matter be returned to him to reassess the damages having regard to all of the relevant, admissible evidence.

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 12 pages.