

CASE NO.

VOLUME

PAGE

Cite as: Salvage Association v. North American Trust Company, 1998 NSCA 210

THE SALVAGE ASSOCIATION

NORTH AMERICAN TRUST
COMPANY and WESTLACO
INVESTMENT COMPANY

- and -

(Appellant)

(Respondent)

C.A. No. 148323

Halifax, N.S.

Bateman, J.A.

C.A. No. 149121

APPEAL HEARD:

November 26, 1998

JUDGMENT DELIVERED:

December 23, 1998

SUBJECT: Discovery Examination

SUMMARY: Defendant applied to Chambers for an Order requiring plaintiff's company to produce an officer for examination. Plaintiff resisted alleging that the subject matter upon which the defendant wished to examine the officer was not relevant within the requirement of **Rule 18**. Judge ordered examination for discovery with costs of the application payable forthwith to the defendant. Plaintiff appealed the order for discovery and the order for costs.

ISSUES: It was the plaintiff's position before the Chambers judge that certain of the defences raised in the Statement of Defence could not succeed at law, hence the inquiry into issues pertaining to those Defences was not relevant.

RESULT: In substance, the plaintiff was attempting to collaterally attack the pleadings, or, to have a point of law determined in advance of trial, without resorting to the proper **Civil Procedure Rules (14.25, 25 and 27)**. The Chambers judge should determine relevance on the basis of the pleadings on record. The Chambers judge did not err in awarding costs to the defendant. Appeal dismissed.

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