

NOVA SCOTIA COURT OF APPEAL
Cite as: **Hood v. Skipper Fisheries Ltd., 1994 NSCA 225**

Hallett, Matthews and Freeman, J.J.A.

BETWEEN:

S. CLIFFORD HOOD	)	James L. Connors and
	)	David G. Coles
Appellant	)	for the S. Clifford Hood
- and -)	
SKIPPER FISHERIES LIMITED	)	Douglas A. Caldwell, Q.C. and
	)	Lloyd I. Berliner
Respondent	)	for Skipper Fisheries Limited
	)	Thomas Pittman
	)	for Wayne and Claudette Thorbourne

AND BETWEEN:

WAYNE THORBOURNE and)
CLAUDETTE THORBOURNE)
Appellant)
- and -)
SKIPPER FISHERIES LIMITED)
Respondent)

C.A. No. 106891

BETWEEN:

PAUL EDWARD BLADES, BRIAN	)	Robert G. Belliveau, Q.C. and
ARTHUR BLADES and CLIFFORD	)	Christopher C. Robinson
V. GOREHAM	)	for the Appellants
Appellant)	
- and -	)	Douglas A. Caldwell, Q.C. and
	)	Lloyd I. Berliner
	)	for the Respondent
SKIPPER FISHERIES LIMITED	)	Appeal Heard:
Respondent	)	November 25, 1994
	)	Judgment Delivered:
	)	November 25, 1994

THE COURT: Appeal allowed with costs to the appellants per oral reasons for judgment of Hallett, J.A.; Matthews and Freeman, J.J.A. concurring.
The reasons for judgment of the Court were delivered orally by:

HALLETT, J.A.:

This is an appeal from an order of a trial judge sealing the Order and his decision finding the respondent in contempt of court for failing to disclose relevant documents in its possession.

The trial judge made findings of credibility and it can be implied from his decision that he caused the decision to be sealed so as not to taint the mind of the trial judge who eventually tries the case. He had excused himself from continuing with the trial upon deciding the motion for contempt.

We are of the opinion the learned trial judge erred in principle because (i) he did not give an opportunity to counsel to make submissions; the issue of sealing had not been put before him by any of the parties; (ii) the sealing of the decision may curtail the right of counsel at trial to cross-examination two witnesses as to their credibility; (iii) this case does not fall within a recognized class of cases where sealing of a decision or evidence might be appropriate.

Leave to appeal is granted and the appeal is allowed with costs to the appellants Blades, et al. of \$1000 plus disbursement; S. Clifford Hood - \$1000 plus disbursements and Thorbourne et al. \$400 plus disbursements.

Hallett, J.A.

Concurred in:

Matthews, J.A.

Freeman, J.A.

NOVA SCOTIA COURT OF APPEAL

BETWEEN:

S. CLIFFORD HOOD)
Appellant)

- and -)

SKIPPER FISHERIES LIMITED)
Respondent)

REASONS FOR
JUGMENT BY:

AND BETWEEN:

WAYNE THORBOURNE and)
CLAUDETTE THORBOURNE)
Appellant)

HALLETT, J.A.
(orally)

- and -)

SKIPPER FISHERIES LIMITED)
Respondent)

C.A. No. 106891

BETWEEN:

PAUL EDWARD BLADES, BRIAN)
ARTHUR BLADES and CLIFFORD)
V. GOREHAM)
Appellant)

- and -)

SKIPPER FISHERIES LIMITED)
Respondent)