

IN THE SUPREME COURT OF NOVA SCOTIA

**Citation:** Lunenburg Industrial Foundry and Engineering Ltd. v. Commercial Union Assurance Company of Canada, 2005 NSSC 62

**Date:** 20040927

**Docket:** S.H. No. 220046

**Registry:** Halifax

**Between:**

Lunenburg Industrial Foundry and Engineering Limited,  
Royal and Sun Alliance Insurance Company of Canada,  
Kingsway General Insurance Company, Sovereign  
General Insurance Company and Markel Insurance Company

Plaintiffs

v.

Commercial Union Assurance Company of Canada and AON Reed  
Stenhouse Inc.

Defendants

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**Judge:** The Honourable Justice Gregory Warner

**Heard:** September 27, 2004 (in Chambers) in Halifax, Nova Scotia

**Subject:** Expert Evidence

**Issues:** Admissibility of Expert Evidence - Application of **Mohan** criteria

**Summary:** The defendant, Commercial Union, proposed to call Reginald Wolfe, a retired insurance executive whose career was spent inspecting, claims investigating, underwriting and managing in the boiler and machinery insurance industry. He was to testify on the exact legal issues to be decided at trial, including: (a) interpretation of insurance policies including overlapping coverage; (b) determining whether a marine railway was excluded from coverage under the defendant's B&M Policy as a hoist or conveyor; and (c) determining whether the incident was an "accident" as defined in the defendant's B&M Policy.

**Result:** Applying the four part threshold criteria of relevancy, necessity, exclusionary rules and qualifications, the Court excluded his evidence.

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