

**IN THE SUPREME COURT OF NOVA SCOTIA**

**Citation:** Di-Anna Aqua Inc. v. Ocean Spar Technologies L.L.C., 2005 NSSC 354

**Date:** 20051229  
**Docket:** ST 09193  
**Registry:** Truro

**Between:**

Di-Anna Aqua Incorporated

Plaintiff

v.

Ocean Spar Technologies L.L.C. and  
Net Systems Incorporated

Defendants

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**Judge:** The Honourable Justice Hilroy S. Nathanson

**Heard:** November 23 and December 1, 2005, in Halifax, Nova Scotia

**Subject:** Conflict of Interest — Disqualification

**Summary:** Bradley, of PricewaterhouseCoopers, retained as a prospective expert witness by the defendants, interviewed and hired Anthony, who, unbeknownst to Bradley, had co-authored a report with Raynard while working for Grant Thornton, retained as a prospective expert witness by the plaintiffs.

**Issue:** Whether there exists a conflict of interest with respect to a prospective expert witness and his firm.

**Result:** The test in **MacDonald Estate** v. **Martin** (1990), 77 D.L.R. (4<sup>th</sup>) 249 (S.C.C.) is discussed and applied.

The evidence is less than clear and convincing that all reasonable measures were taken in a timely manner to ensure that no disclosure occurred to one or more members of PricewaterhouseCoopers. Bradley and the members of his firm, PricewaterhouseCoopers, were disqualified from acting as expert witnesses.