

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Matthews v. Ocean Nutrition Canada Ltd., 2012 NSSC 142

**Date:** 20120412

**Docket:** Hfx No. 353606

**Registry:** Halifax

**Between:**

David Matthews

Applicant

v.

Ocean Nutrition Canada Limited, Martin Jamieson,  
Daniel Emond and Richardson Capital Limited

Respondents

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**Judge:** The Honourable Justice Michael J. Wood

**Heard:** March 1, 2012, in Halifax, Nova Scotia

**Written Decision:** April 12, 2012

**Subject:** Practice - Conversion from Application to Action  
Practice - Summary Judgment  
Corporations - Oppression Remedy under *Canada  
Business Corporations Act*

**Summary:** The applicant resigned as vice-president of Ocean Nutrition Canada Limited and alleged that he was

constructively dismissed. He also claimed that he was forced out to avoid obligations under an executive incentive agreement. Individual officers of Ocean Nutrition were named as parties.

**Issue:** Should the claims against the individual corporate officers and Richardson Capital Limited be struck out?

Should the applicant's claim for oppression be dismissed?

Should the application be converted to an action?

**Result:** The pleadings did not disclose a cause of action against the individual officers and summary judgment was granted striking out those claims.

The oppression claim under the *CBCA* is an equitable remedy which depends on all of the circumstances. The applicant was able to show that the claim had some chance of success in the circumstances, and so summary judgment on this aspect of the claim was dismissed.

The respondent was unable to satisfy the Court that the applicant's choice to proceed by way of application in court should be interfered with. There was no significant advantage in proceeding by action, and so the motion to convert the proceeding was dismissed.

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