

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA**

**Cite as: Tibert v. Carter, 2011 NSSM 66**

BETWEEN

**Melvin Tibert/HSC Foundations Limited CLAIMANT**

**-and-**

**Dave Carter/MCJ CAMBRIDGE CONSULTANTS LIMITED**

**DEFENDANT**

**ORDER**

Counsel: Melvin Tibert was self represented  
Peter L. Coulthard Q.C. represented the defendant

Counsel for the defendant raised the issue that this court was without jurisdiction for two reasons. The matter before this court was before the Supreme Court of Nova Scotia and secondly that the counterclaim exceeded the monetary jurisdiction of this court.

After reviewing the pleadings in the Small Claims Court action and the action commenced in the Supreme Court of Nova Scotia it became obvious that the matters before both courts dealt with the exact same issues. It also became obvious from information provided for by the claimant a number of witnesses would be called upon by the claimant. Those witnesses were not present in the courtroom and the claimant was intending to provide correspondence from those witnesses. This matter would involve a

thorough examination and cross-examination of those witnesses and it would be more appropriate to have the matter heard in the Supreme Court of Nova Scotia where the civil procedure rules will assist in the litigation of this matter. For this reason and also because the matters involved in both actions were so intertwined or co-mingled it would better serve justice to have one court deal with the matter. In addition the counterclaim could not be severed and dealt with as a separate matter based on the pleadings and the information provided to this court and therefore the matter would be outside the monetary jurisdiction of the court.

It Is Therefore Ordered That the action by the claimant against the defendant be stayed with no order as to costs.

Dated at Halifax this 14th day of December 2011