

dismissed the appeal with costs of \$2,500 to the respondent, held that the policy covered the loss because the ordinary meaning of “sudden and accidental” encompassed the mechanism through which the diesel fuel had been discharged.

The appellate court determined that the lower court incorrectly found ambiguity in the decontamination expense coverage. The court also found that the policy’s terms covered the decontamination costs, applying the steps in the Supreme Court of Canada’s analysis in *Ledcor Construction Ltd. v. Northbridge Indemnity Insurance Co.*, 2016 SCC 37.

“The reason for the use of both ‘sudden’ and ‘accidental’ in the decontamination coverage is to include the element of abruptness and to ensure the exclusion of intentional acts.”

Michael Wood, Chief Justice,
Nova Scotia Court of Appeal

The court of appeal ruled that, when considering the policy as a whole and applying an ordinary meaning to its language, the decontamination clause was not ambiguous and applied to the causal events that had led to the diesel fuel discharges.

While “sudden” and “accidental” have similar meanings and convey the common element of unexpectedness and surprise, not all sudden events are accidental, such as an assault, and not all accidental events are sudden, such as the spoilage of food because it has been left unrefrigerated, the appellate court wrote.

When considering their ordinary meaning, the appellate court wrote that “sudden and accidental” are defined as abrupt, unexpected and unintentional. The policy included both words to ensure that intentional acts will be excluded, the appellate court found.



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Barteaux Labour & Employment Lawyers Inc.

- » Founded Mar. 1, 2015
- » Nancy F. Barteaux, Q.C. — Founder and Principal (LLB Dalhousie Law School, 1994; Admitted NS Bar 1995)
- » Andrea F. Baldwin — Immigration Law Practice Leader (LLB University of New Brunswick, 2002; Admitted NS Bar 2003)
- » Baldwin previously practiced with EY Law LLP — on Jan. 1, 2021, she joined her practice with Barteaux Labour & Employment Lawyers Inc.

Q&A

Nova Scotia-based Barteaux Labour and Employment Lawyers expands by adding immigration practice

Two leading lawyers in Atlantic Canada — one known for employment and labour law and the other for immigration law — have joined forces to exploit the natural synergies between the two practice areas. Andrea Baldwin (Business Immigration) and Nancy Barteaux recently joined forces, noting how business immigration is critical in filling persistent skill shortages. Their practice, based in Halifax, will do business under the Barteaux Labour and Employment Lawyers Inc. banner.

● What is the connection between immigration law and employment law?

Barteaux: We’re Atlantic Canada’s only homegrown management-side labour and employment law boutique. While the firm often assists employers in filling management-level and skilled positions, we also deal with clients looking to either bring in specific talent or fill critical labour gaps, including temporary foreign workers needed for Atlantic Canada’s technology, fish and agricultural industries.

● What is the scope of your immigration services?

Baldwin: We not only serve clients in Nova Scotia, Newfoundland and Labrador, New Brunswick and Prince Edward Island, we also work with our clients who bring in talent across the country. I’ve done everything from helping to bring energy workers to Alberta to assisting with the relocation of international talent into Quebec, though it has become more difficult for lawyers outside of Quebec to assist employers with the Labour Market Impact Assessment process due to Quebec’s own immigration requirements. The rules for bringing foreign workers to Quebec under facilitative work permit categories are the same as they are for elsewhere in Canada.

● What would you say are your firm’s key competitive advantages?

Barteaux: We have a small but extremely talented team — and we truly work as a team. Clients like knowing someone is always available who knows their business and that they can have the work performed at the appropriate level of experience. We are also the only Atlantic Canada member of the Employment Law Alliance — a global employment, labour, and immigration lawyer network. We were invited to join the network after satisfying rigorous selection criteria, including consultation with current members, in-house counsel and industry leaders. As an Employment Law Alliance member, we can provide multi-national companies with local expertise and knowledge and offer local clients access to employment, labour and immigration law services across Canada, the US, and more than 135 countries.

● How important is immigration to Canada and a province like Nova Scotia, where the population is ageing?

Baldwin: In regions experiencing a declining and ageing population, like Atlantic Canada, immigration is by necessity vital to our economic growth. It is estimated that Atlantic Canada needs to attract and retain 13,000 to 16,000 immigrants annually to sustain growth, and employers often struggle to find the talent they need domestically.