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Current Law Cases

**Scope** default judgments; enforcement; applications without notice; Canada

**Case** **Society of Lloyd's** v Van Snick \_\_\_\_\_

**Court** (Sup Ct (NS)) Supreme Court (Nova Scotia)

**Jurisdiction** Can

**Judgment** January 26, 2000

**Judges** MacAdam, J.

**Legislation** Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters; Canada and United Kingdom Reciprocal Recognition and Enforcement of Judgments Act 1989 (Nova Scotia)

**Reported** [2000] I.L.Pr. 805

**Abstract** SL obtained judgments in the English courts against VS which it sought to enforce in Nova Scotia. The Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters, implemented by the Canada and United Kingdom Reciprocal Recognition and Enforcement of Judgments Act 1989, stated that the procedure for the registration of judgments under the Convention was a matter for the law of the registering court. The law of Nova Scotia, however, made no specific provision for that purpose. SL brought ex parte motions to register the English judgments, relying in part on *David & Snape v Sampson* 136319 [2000] I.L.Pr. 474 in which the ex parte procedure had been permitted. However, SL's counsel failed to advise the court in written submissions that the decision in *David and Snape* was under appeal on that very procedural point.

Held, refusing the application, that in the absence of express legislative provision allowing ex parte application, the presumption must be that a respondent was entitled to notice as it was a central aspect of the audi alteram partem principle that a party whose rights or interests were affected had a right to be heard. It was further commented that an advocate, in making without notice applications, must display utmost good faith and present all relevant information to the court, irrespective of whether it was to the advantage or detriment of his case.

**Subject** Civil procedure

**Keywords** Applications without notice, Default judgments, Enforcement, Nova Scotia

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**Solicitors** Not specified

**Cases cited** *David & Snape v Sampson* [2000] I.L.Pr. 474