

# COURT OF APPEAL FOR ONTARIO

CITATION: Great Atlantic & Pacific Company of Canada Limited v. Economical  
Mutual Insurance Co., 2014 ONCA 350

DATE: 20140501

DOCKET: C58087

MacPherson, Blair and Pepall JJ.A.

BETWEEN

The Great Atlantic & Pacific Company of Canada Limited

Applicant (Respondent)

and

Economical Mutual Insurance Co.

Respondent (Appellant)

Alan Rachlin, for the appellant

James C. Simmons, Q.C. and P. Peter Diavolitsis, for the respondent

Heard: April 25, 2014

On appeal from the judgment of Justice Patricia C. Hennessy of the Superior  
Court of Justice, dated November 28, 2013.

## APPEAL BOOK ENDORSEMENT

[1] The appellant appeals from the judgment of Hennessy J. of the Superior  
Court of Justice dated November 28, 2013, ordering that the appellant indemnify  
the respondent for costs incurred in defending a slip and fall suit brought by a  
customer who slipped in one of its stores.

[2] The appellant contends that the application judge erred by finding that issue estoppel did not bar the respondent's claim and erred by concluding that the claims brought by the plaintiffs in the lawsuit did trigger a duty on the part of the appellant to defend the respondent.

[3] On both of these issues, we agree with the application judge's conclusions and, in large part, with her reasons for reaching these conclusions.

[4] The appeal is dismissed.

[5] The respondent is entitled to its costs of the appeal fixed at \$9000, inclusive of disbursements and HST.