

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Halifax Regional Municipality v. Ofume*, 2003 NSCA 110

**Date:** 20031017

**Docket:** CA 195552

**Registry:** Halifax

**Between:**

Halifax Regional Municipality

Appellant

v.

Maureen Ofume

Respondent

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**Judge:** Saunders, J.A.

**Appeal Heard:** September 25, 2003

**Subject:** **Appearing on behalf of another in personal injury litigation. Practicing law. Inherent jurisdiction. The Court's power to control its own procedure. *Barristers' and Solicitors' Act*, R.S.N.S. 1989, c. 30 as amended. *Civil Procedure Rule 9.08. Stare decisis.***

**Summary:** The respondent claims to have been injured when she fell out of a bus owned and operated by the appellant. Her husband, not a lawyer, wished to represent her in litigation commenced against HRM. He filed an amended statement of claim which transformed the original allegation of negligence into a "pleading" that contained sweeping allegations of racism, sabotage, foul play and other nefarious conduct. The respondent applied in Supreme Court Chambers to strike out the amended statement of claim pursuant to **CPR 14.25** and to remove the respondent's husband as her representative pursuant to s. 5(a)(5) of the **Barristers' and Solicitors' Act**, and **CPR 9.08(1)**. The Chambers judge allowed the application in part, striking out practically all of the amended statement of claim, except for appropriate and better identifying changes. However, he declined to remove the respondent's husband as her representative in this ongoing

litigation, upon strict terms. HRM appealed. It argued that the respondent's husband was practising law. The appellant further claimed that Dr. Ofume had demonstrated an inability to properly advance his wife's claim for damages. HRM also argued that the Chambers judge erred in declining to follow precedent, the effect of which would be to bar Dr. Ofume from appearing.

**Result:**

Appeal dismissed. The decision whether to prosecute Dr. Ofume for practicing law and violating the **Barristers' and Solicitors' Act** and its Regulations is a matter for the Nova Scotia Barristers' Society to determine.

The submission that **CPR 9.08(1)** prohibits, in all cases, anyone other than a solicitor or a self-represented litigant from ever appearing in a Nova Scotia court room is wrong for two principal reasons, the first based on the Court's inherent jurisdiction and the second based on rules of interpretation. Extensive discussion of both, together with other remedies available to the appellant.

This case engaged the Court's inherent jurisdiction to control its own process and invited the Chambers judge to exercise his judicial discretion by effectively superintending and enforcing these proceedings. Having regard to the circumstances and the Chambers judge's strict and clear order there was no reason to interfere. No obligation here to follow a colleague's different approach in an earlier case.

Declined to award costs against the appellant, HRM.  
Directed that the costs of \$500.00 fixed at an earlier Appeal Court Chambers hearing be payable by the respondent to the appellant, forthwith.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 23 pages.**