

NOVA SCOTIA COURT OF APPEAL

**Citation: *Nova Scotia (Community Services) v. B.L.C.*,
2007 NSCA 45**

Date: 20070424

Docket: CA 275634

Registry: Halifax

Between:

Minister of Community Services

Appellant

v.

B.L.C.

Respondent

Publication Ban: pursuant to s. 94(1) of the **Children and Family Services Act**

Judge: The Honourable Justice Nancy Bateman

Appeal Heard: March 29, 2007

Subject: Interlocutory appeal by the Minister from the refusal (in part) of a production application.

Summary: Two year old in temporary care. Mother had longstanding mental health and substance abuse issues. The Minister, seeking an order for permanent care, applied for production of all of the mother's medical records as well as those from Adsum House. Some records were produced by agreement, other requests were abandoned. Of the records remaining in dispute, the judge found that privilege did not apply to some and while certain other records might attract privilege, the mother's interest in confidentiality was trumped by the Minister's need for relevant information. The judge declined to order production of certain records because the production would interfere with the mother's right to keep private irrelevant information which may be contained in the otherwise relevant medical records. She indicated a willingness to consider a further request "restricted to the collection of relevant information". In relation to other records she found

production of the full records “unnecessary” because the information could be obtained through reports or interrogatories.

Issues: Did the judge err in declining to order production of the records sought?

Result: Appeal allowed. The judge erred in her interpretation of **Rule** 69.08(5) and (6); in the recognizing a “privacy interest” separate from the privilege claim; in defining a new test for “relevance” at the production stage; and in concluding that Interrogatories are a substitute for document production.

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 19 pages.