

NOVA SCOTIA COURT OF APPEAL

Citation: *Howe v. Nova Scotia Barristers' Society*, 2025 NSCA 28

Date: 20250410

Docket: CA 533958

Registry: Halifax

Between:

Lyle Howe

Appellant

v.

Nova Scotia Barristers' Society
and Attorney General of Nova Scotia

Respondents

Judges: Bryson, Van den Eynden and Gogan, JJ.A.

Motion Heard: April 3, 2025, in Halifax, Nova Scotia in Chambers

Written Decision: April 10, 2025

Held: Motion for the issuance of subpoenas be and is hereby
dismissed with costs in the cause

Counsel: Laura McCarthy, for the appellant
David Hutt and Ashley Hamp-Gonsalves, for the respondent
Nova Scotia Barristers' Society
Edward Gores, KC, for the respondent Attorney General of
Nova Scotia (not participating)

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and

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and Attorney General of Nova Scotia

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ORDER

BEFORE: The Honourable Justice Peter M.S. Bryson
The Honourable Justice Elizabeth Van den Eynden
The Honourable Justice Robin Gogan

WHEREAS:

1. Lyle Howe has appealed the dismissal of his application under s. 45(4) of the *Legal Profession Act*, SNS 2004, c. 28 requesting the Nova Scotia Barristers' Society panel rescind or vary its Resolution Order of October 20, 2017;
2. Mr. Howe has moved for admission of fresh evidence before this Court for his appeal on May 22, 2025;
3. Mr. Howe has also moved for an order from the Court to issue subpoenas to nine individuals who are employees, executive members or committee members of the Barristers' Society;
4. Mr. Howe has not established a material connection between any evidence that the aforesaid nine individuals may give and the issues to be determined at the fresh evidence motion (*Lewis v. Tsavos*, 2013 NSCA 115);
5. In light of paragraph 4, the Court need not address the Barristers' Society's argument that the proposed witnesses are not compellable under s. 77A(2) of the *Legal Profession Act*.

AND UPON REVIEWING Mr. Howe's affidavits, the parties' briefs and other written materials on file;

AND UPON HEARING David Hutt on behalf of the respondent Barristers' Society and Mr. Howe on his own behalf (Laura McCarthy present as solicitor of record on his behalf), with the Attorney General of Nova Scotia not participating;

NOW UPON MOTION:

IT IS HEREBY ORDERED that the motion for the issuance of subpoenas be and is hereby dismissed with costs in the cause.

ISSUED at Halifax, Nova Scotia, this 10th day of April, 2025.

Deputy Registrar