

NOVA SCOTIA COURT OF APPEAL

Citation: *Boulton v. Aviva General Insurance*, 2026 NSCA 33

Date: 20260414

Docket: CA 548227

Registry: Halifax

Between:

Peter Boulton, Dmitry Yuzefovich, Nancy Martin,
Michael Condran, A Star Service Inc., a body corporate,
Wissam (Sam) Fakhreddine, Michelle MacFadgen,
Cassandra Kuzma and Sarah D'Angelo

Appellants

- and -

Aviva General Insurance Company, AXA Insurance (Canada), The Dominion Of
Canada General Insurance Company Compagnie D'Assurance Générale Dominion
du Canada, Desjardins, Services D'Assurances Generales Inc./Desjardins General
Insurance Services Inc., Economical Insurance, Intact Insurance Company, Jevco
Insurance Company, Northbridge General Insurance Corporation, The Personal
Insurance Company/La Personnelle, Compagnie D'Assurances, RBC Insurance
Agency Ltd., Royal & Sun Alliance Insurance Company of Canada, Security
National Insurance Company, Travelers Insurance Company of Canada, and The
Wawanesa Mutual Insurance Company

Respondents

Judges: Bryson, Derrick, Beaton, JJ.A.

Appeal Heard: April 14, 2026, in Halifax, Nova Scotia

Written Release: April 15, 2026

Held: Leave to appeal denied for reasons of the Court

Counsel: Peter C. McVey, K.C., Raymond F. Wagner, K.C., Steve
Rastin, Jordan Assaraf, for the appellants
D. Geoffrey Machum, K.C., Jason Woycheshyn, Danielle
Bailey-Heelan, for the respondents

Reasons for judgment:

By the Court (Orally)

[1] The appellants wish to appeal an interlocutory order granted by Justice John A. Keith of the Nova Scotia Supreme Court.

[2] Justice Keith is the appointed case management judge for the pending class action litigation in the court below. During a case management conference held on October 9, 2025, the judge exercised his discretion to make an interlocutory procedural decision in which he established a process and schedule to hear several pre-certification motions.

[3] The case management judge viewed the process and schedule he established as the most efficient way to proceed. The appellants disagree. They allege the judge breached procedural fairness and made errors in his scheduling decision.

[4] As this is an interlocutory order, leave to appeal is required.¹

[5] To grant leave, we must be satisfied the appellants have raised an arguable issue, which is an issue that could result in the appeal being allowed.

[6] The respondents urge we deny leave to appeal and make the following submissions in their factum:

3. Case management judges have broad discretion to control procedure and scheduling in complex litigation in a manner consistent with the overarching purpose of the *Rules*: to ensure the just, speedy and inexpensive determination of proceedings. In class proceedings, the *Class Proceedings Act* further empowers case management judges to make any order “*respecting the conduct of a class proceeding to ensure its fair and expeditious determination.*” [...]

4. This proposed appeal seeks to undermine that discretion by challenging a routine scheduling decision.

[Emphasis in original]

[7] We agree with the respondents and hold the unanimous view the appellants have not raised an arguable issue. Accordingly leave is denied.

¹ *Judicature Act*, R.S.N.S. 1989, c 240, s. 40.

[8] The respondents did not seek costs. None are ordered.

Bryson, J.A.

Derrick, J.A.

Beaton, J.A.