

NOVA SCOTIA COURT OF APPEAL
Citation: MacKenzie v. Kutcher, 2004 NSCA4

Date: 20040112
Docket: CA 201896
Registry: Halifax

Between:

MacKenzie

Appellant

v.

Kutcher and Samland

Respondent

Judge: Hamilton, J.A.

Appeal Heard: November 21, 2003

Subject: *Civil Procedure Rule 20, Production of documents, Section 60 of the Evidence Act, Relevance*

Summary: The chambers judge dismissed the appellant's application for the production of documents relating to a hospital review on the basis the documents were not relevant, or if "marginally logically relevant" the documents were not needed for a fair and just determination of the issue, and on the basis the documents sought were protected from production both under s.60 of the Evidence Act and at common law in accordance with the "Wigmore Privilege".

Issues:

1. Did the chambers judge err in concluding that the documents were not relevant to any cause or issue raised in the proceeding?
2. Did the chambers judge err in deciding that the documents were protected from production by s. 60 of the **Evidence Act**, R.S.N.S. 1989, c.154?

3. Did the chambers judge err in deciding that the documents were privileged from production by virtue of a common law “confidentiality” or “Wigmore” privilege?

Result:

The appeal was dismissed. The chambers judge did not err in deciding that the documents were protected from production by virtue of s.60 of the Evidence Act. The chambers judge did err in finding the documents were not relevant.

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 20 pages.