

SUPREME COURT OF NOVA SCOTIA

Citation: *Hemeon v. South West Nova District Health Authority*, 2015 NSSC 287

Date: 20151014

Docket: Halifax No. 398067

Registry: Halifax

Between:

Alicia Hemeon and Willa Magee

Plaintiffs

v.

South West Nova District Health Authority, a body corporate

Respondents

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Judge: The Honourable Justice Arthur W.D. Pickup

Heard: July 24, 2015 in Halifax, Nova Scotia

Subject: Disclosure and discovery; class proceedings

Summary: In a certified class proceeding, the plaintiffs claimed damages for the tort of intrusion upon seclusion, in respect of unauthorized accessing of their medical records by an employee of the defendant health authority. In discovery, the defendant sought disclosure of the representative plaintiff's medical records. The plaintiff refused. The defendant brought a motion for production.

Issues: Should the requested records be produced?

Result: The defendant argued, inter alia, that disclosure of the representative plaintiff's medical records was necessary to determine the elements of the tort. There had not been a successful claim for intrusion upon seclusion in Nova Scotia. However, the tort had been recognized implicitly in several decisions, with elements that had been set out by the Ontario courts. There was no apparent basis for requiring production

of an individual plaintiff's medical records in determining the existence or the elements of the tort in Nova Scotia. The court held that the scope of production in a class action was determined by the common issues.

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