

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** Cornwallis Financial Corporation v. Nova Scotia (Attorney General), 2008 NSSC 341

**Date:** 20081119  
**Docket:** SH 274325  
**Registry:** Halifax

**Between:**

Cornwallis Financial Corporation

Applicant/Plaintiff  
and Defendant by Counterclaim

and

The Attorney General of Nova Scotia

Respondent/Defendant  
and Plaintiff by Counterclaim

and

Elizabeth Mills

Defendant

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**Judge:** The Honourable Justice Glen G. McDougall

**Heard:** October 24, 2008, in Halifax, Nova Scotia

**Subject:** Discovery Examination; Solicitor-Client Privilege; “Class” Privilege; Case-by-Case” Privilege; Wigmore “criteria”; Wigmore “test”

**Summary:** The Government lawyer assigned to the file presented for discovery. The witness refused to answer a number of questions claiming solicitor-client privilege.

**Issue:** (i) When does solicitor-client privilege protect the disclosure of confidential information?  
(ii) Have the Wigmore “criteria” been established?

**Result:** The Court offered guidance to counsel to determine when solicitor-client privilege is available to protect the disclosure of confidential information. Therefore Wigmore “criteria” must all be present in order to claim this class privilege. It is also open to a party to claim privilege on a case-by-case basis which requires that the policy reasons for excluding otherwise relevant evidence be weighed. The so-called Wigmore “test” must be applied in these instances.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
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