

**SUPREME COURT OF NOVA SCOTIA**

Citation: Nassar v. Capital Health Authority, 2011 NSSC 464

Date: 20111005  
Docket: Hfx. No. 216958  
Registry: Halifax

**Between:**

**Dr. Bassam A. Nassar**

-and-

**Capital District Health Authority and Dr. Michael Moss**

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**Judge:** The Honourable Justice Robert W. Wright

**Heard:** October 4, 2011 in Halifax, Nova Scotia

**Oral**

**Decision:** October 5, 2011

**Written**

**Decision:** December 20, 2011

**Subject:** Implied undertaking rule

**Summary:** The plaintiff sued CDHA and Dr. Moss, his former department head in the medical faculty at Dalhousie University, for various causes of action, foremost of which is a claim for damages for abuse or wrongful exercise of public authority. The plaintiff alleges that he was wronged by these abuses in connection with Dalhousie's Continued Appointment for Periodic Review process and the Dalhousie Medical Research Foundation grant process (as well as a cancer research project), all dating back several years ago.

Following extensive discovery of documents and witnesses, the plaintiff formed the belief that there were systemic flaws and abuses by a number of senior administrators in the operation of these processes. He therefore sought relief from the implied undertaking rule for the purpose of placing these documents directly before the statutory governing Boards of these two institutions with a request that an investigation be undertaken by them for remedial action as necessary. These impugned processes are also the central issues in this litigation, as well as how the plaintiff was affected by them as an individual.

**Issue:** Should the plaintiff be granted relief from the implied undertaking rule?

**Held:** Motions dismissed. The plaintiff's complaints were regarded by the Court as being first and foremost a private personal matter from his own involvement with the impugned processes. The Court was not persuaded that a superior public interest in the disclosure of the documents sought had been sufficiently demonstrated on the motion materials filed, such that the implied undertaking rule should be overridden.

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DECISION. QUOTES MUST BE FROM THE DECISION, NOT THE COVER  
SHEET.**

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