

**SUPREME COURT OF NOVA SCOTIA**

**Citation:** *College of Paramedics (Nova Scotia) v. McCannel*, 2022 NSSC 109

**Date:** 20220421

**Docket:** Hfx No. 510461

**Registry:** Halifax

**Between:**

The College of Paramedics of Nova Scotia

Applicant

and

Adam Kiril McCannel

Respondent

**DECISION – MOTION TO STRIKE**

**Judge:** The Honourable Justice Jamie Campbell

**Heard:** April 11, 2022, in Halifax, Nova Scotia

**Counsel:** Ryan Baxter and Raylene Langor, for the Applicant  
Adam McCannel, self-represented

**By the Court (orally):**

[1] Social media may have helped to create the environment in which there is belief that everyone is entitled to “have their say”, “speak their truth” or express their opinion on any matter. The more florid and inflamed the language and the more outrageous the accusation made by the aggrieved party, the more authentic it is deemed to be. Courts are not the places for such no holds barred verbal cage match tactics. There are limits and those limits apply to everyone, no matter how angry, upset, or unheard they may feel. Self-represented litigants are entitled to be respected, heard, and assisted wherever possible. That does not extend to allowing them to disregard the basic rules of evidence and file documents that contain an unrestrained barrage of irrelevant accusations.

[2] This matter has been scheduled for two days, starting today. Mr. McCannel is self-represented.

[3] The College of Paramedics has filed an Application in Court for a permanent statutory injunction to prevent Mr. McCannel from breaching the provisions of the *Paramedics Act*, S.N.S. 2017, c. 33. Mr. McCannel filed an affidavit on his own behalf. That was sent by fax and received by the Court Administration office on March 18, 2022. The College is seeking to have substantial portions of that affidavit struck. That motion was made, on notice to Mr. McCannel and under *Nova Scotia Civil Procedure Rule 39.04*.

[4] On April 1, 2022, Mr. McCannel filed with the court a document or documents consisting of about 126 pages of text. The pages are unnumbered. The word “Brief” is handwritten on the cover page. The first page contains an exhibit stamp indicating that it is Exhibit A to the affidavit of Adam McCannel affirmed before a Commissioner of the Supreme Court of Nova Scotia. The stamp is signed but the name of the Commissioner is not legible. And there does not appear to be an affidavit to which it is attached.

[5] The document or documents are addressed to Justices Norton, “Kieth” (sic), Smith, and “Coulaghan” (sic). It begins with the following:

My apologies for the late arrival of my motion, 5.16 for inadmissible evidence contained in the court submissions from Mr Ryan Baxter and his client Mr Karl Kowalsczyk (sic). The irregularities contained inside I believe require examination and should my motion be sustained, the entire applications process is not appropriate for the actual case before the court.

After the 03-22-2022 deposition of Ms Totton, General Counsel of NSCN, that my below supposition is supported in cross examination of witnesses. As my concerns to the Public Inquiries Act applied to both NSCN and CPNS, and both are represented by Mr Baxter, a common denominator in my case, that I have listed HFX 510952 and will be seeking to submit Ms Totton's 03-22-2022 deposition to further support these allegations.

[6] The document continues with the allegation that information was used contrary to the *Public Inquiries Act*, S.N.S. 2015, c. 50, and "Regulated Healthcare Professionals Networking Act" (sic): *Regulated Health Professions Network Act*, S.N.S 2012, c. 48. On the third page of the document Mr. McCannel says that the use of some material constitutes "126(1) Disobeying a Statute" by the NSCN acting CEO, and his lawyer and "all subsequent use of this information to prosecute myself in other Public Inquiries is not only moot, but illegally conducted an (sic) criminal." Mr. McCannel continues with the following:

As such I am seeking this motion to be taken up in the HFX 510461 and HFX 510952 applications on an EX PARTE basis, to determine whether or not indeed many such 126(1) violations have occurred as well as whether or not any fraud was committed when the Regulated Health Care Professionals Networking Act (sic) was deliberately edited.

[7] Mr. McCannel goes on to say that he is requesting an *ex parte* hearing,

to determine the submissions before the court in light of the yet to be applied Public Inquiries Act, and making it self evident that both HFX 510461 and HFX 510952 are proof of 88 against Applicant Mr Baxter and his clients

[8] What the brief filed on April 1, 2022 does not do, is to set out any legal reason to sustain the objections that it makes. It is not clear at all what objections are being made other than that Mr. McCannel vociferously disagrees with the evidence and legal argument put forward by the College of Paramedics. The brief attaches documents that have not been submitted as evidence yet purport to act as evidence. The document includes a Medical Assessment prepared by Dr. Kenneth Cooper. It is not relevant to the issues in the application being heard today and Dr. Cooper has not been properly qualified as an expert in this Application in Court.

[9] The brief attaches a document that Mr. McCannel says is a decision of the Disciplinary Committee. That decision is not relevant to the issues involved in the permanent injunction application. Furthermore section 41(3) of the *Paramedics Act* provides that decisions of the disciplinary committee are confidential and not open

to the public. It is not admissible in evidence in other civil matters that are not appeals or reviews under the *Act* unless a court has determined otherwise.

[10] Mr. McCannel has provided a copy of the *Public Inquiries Act*, S.N.S. 2015, c. 50. He says that the complaints under the *Paramedics Act* are public inquiries. They are not public inquiries.

[11] Mr. McCannel said in court this morning that he was in fact not seeking to strike portions of the affidavits filed by the College but only wanted to draw the court's attention to some issues that should be investigated.

[12] The only motion properly before the court, with respect to the admissibility of affidavits is the motion brought by the College of Paramedics.

[13] The Application in Court is about whether the College of Paramedics of Nova Scotia should get a statutory injunction against Mr. McCannel to prohibit him from doing two things. The first, is disclosing information that must, under the provisions of the *Paramedics Act* be kept in confidence. The second, is holding himself out as a paramedic when he is not licensed to practice paramedicine. The injunction is one that is provided for by the *Act* itself. It is not a common law injunction. The College is entitled to request an injunction when a person is contravening the provisions of the *Act* or is threatening to contravene the provisions of the *Act*. That is what the main motion is about.

[14] Affidavits, even when filed by people who are not represented by lawyers, must comply with rules that govern the form of affidavits and the contents of affidavits. The rules of evidence apply. Affidavits may only contain evidence that is admissible in court. *Nova Scotia Civil Procedure Rule 39.04(2)* provides that a judge must strike part of an affidavit that contains information that is not admissible, or information that may be admissible but for which grounds of admissibility have not been provided in the affidavit.

[15] Justice Davison's decision in *Waverly (Village) v. Nova Scotia (Minister of Municipal Affairs)*, [1993] N.S.J. No. 151, is the case that is often turned to when considering these issues. Justice Davison noted that all too often affidavits were then being submitted that consisted of "rambling narratives". Some were opinions and inadmissible as evidence. Affidavits must be confined to facts. There is no place for speculation or inadmissible material. The affidavit should not take on the flavour of a plea or summation.

[16] The facts, for the most part, should be confined to those that are based on personal knowledge. When affidavits are used, in what were then called applications and now motions, they may refer to facts based on information and belief, but the source of the information should be set out. That information about the source should be enough to allow the court to conclude that the information comes from a sound source and preferably the original one.

[17] The *Waverly* case has been affirmed by the Court of Appeal and has been consistently used in the Supreme Court in dealing with motions to have affidavits or portions of them struck. Legitimate criticism of affidavits include; the presence of inadmissible hearsay, argument, speculation, unsupported conclusions, opinions, impermissible comment on the credibility of others, and reference to irrelevant information: *Islam v. Maritime Muslim Academy*, 2019 NSSC 53.

[18] Filing an affidavit is not just a litigant's chance to "have their say". A person does not get to raise everything that they think the judge should know, make a range of claims about the other side, or offer their opinion. An affidavit must be confined to information that is material and relevant. Material means that the information is about something that is in issue in the proceedings. Relevant means that the information or evidence makes the existence of a fact more or less likely. So, if something does not relate to the issues in dispute, as much as a person wants to get it off their chest, it is not material and the evidence about it is not relevant.

[19] This case is about an injunction. The basis upon which the injunction is sought is that Mr. McCannel was in contravention of the *Paramedics Act* or was threatening to contravene the *Paramedics Act*. The College is seeking an injunction to prohibit him from disclosing confidential information from the professional conduct process and to prevent him from holding himself out as a paramedic. Both of those things would be in contravention of the *Act*. Material facts regarding the injunction motion are those that relate to whether Mr. McCannel was in contravention of the *Act* and whether it is just to grant an injunction. Evidence is relevant only if it helps to establish or to disprove those things.

[20] The reference to whether it is just to grant the injunction does not open the case up for an inquiry into every aspect of the relationship between Mr. McCannel and the College or representatives of the College. It must relate to the granting of the injunction.

[21] Evidence that relates to the College's process that issued an interim suspension of Mr. McCannel's right to apply for a licence to practice is not

relevant. The complaint against Mr. McCannel is not material or relevant. And Mr. McCannel's complaints filed against others whether with the College of Paramedics or the College of Nursing are not material or relevant to the issues involved in the injunction motion.

[22] Filing an affidavit in a court proceeding is not a person's chance to offer opinions about what they think might be the case, even if those opinions are firmly and sincerely held. An accusation against another person or an organization that is not supported by any stated fact, is an opinion and cannot be given in an affidavit.

[23] The affidavit is not the document in which legal arguments should be made. They are, after all, about statements of fact. Sometimes it can be difficult for a person who is not represented by a lawyer to distinguish between fact and argument. Affidavits should contain statements about what the deponent did or observed. When a person draws inferences from those facts, that is a matter for argument.

[24] The rules of evidence apply to affidavits. Hearsay may be admitted in some circumstances. As Justice Rosinski pointed out in *Gibson v. Party Unknown*, 2014 NSSC 220, hearsay may be more likely to be admitted in matters where the result is procedural rather than substantive.

[25] Even if information is material and relevant and not hearsay it may be struck from an affidavit if it is an abuse of process. That may be the case where an affidavit contains allegations that are offensive and made for the purpose of prejudicing the other party. It may be the case when inflammatory rhetoric is directed at the other party. *Annapolis (County) v. E.A. Farren, Ltd.*, 2021 NSSC 304. Sometimes the facts that people put forward in affidavits are shocking and it may be necessary to include in an affidavit information that would cast the other party in a light that is prejudicial. Information in an affidavit is not struck because it offends the sensibilities of the other side. But an affidavit is not a diatribe. It is not an opportunity to engage in a disjointed rant, salted with invective and unsupported allegations. In an affidavit, the facts should be allowed to speak for themselves.

[26] By way of overview, Mr. McCannel's affidavit filed in this matter is a challenging read. It opens with the narrative of Mr. McCannel's first meeting with the Executive Director of the College in 2007, when Mr. McCannel was a primary care student. It continues with information relating to the Mr. McCannel's graduation ceremony. The reader is left to speculate on how this information

relates in any way to the injunction motion. By paragraph 9 the affidavit addresses an incident on October 31, 2020, when the police were called to his home. It was at a time when he was in the midst of an acrimonious divorce. It goes on to speak about his medical condition. Well into the affidavit it is not at all evident why this information is being put forward.

[27] The affidavit presents as a stream of consciousness, punctuated with accusations.

[28] Mr. Baxter, as counsel for the College, told Mr. McCannel that this case was not about a judicial review of the College's decision. On January 4, 2022, Mr. Baxter wrote to Mr. McCannel about his request for documents. He said that the documents provided related to the Application in Court for a permanent injunction. The College would only entertain requests for documents relevant to Mr. McCannel's violations of the *Paramedics Act*. Mr. McCannel had asked for disclosure of documents that related to the College's interim suspension decision.

[29] On January 5, 2022, Mr. McCannel wrote to Mr. Baxter. He addressed the issue of whether this would end up being a "judicial review". He said the following:

Tread carefully Mr. Baxter, as too should any person stuck working along side you, your exposed and if you think that will not come out in court, you are fully mistaken. Not because I am a compelling orator, but because Justices want to make informed decisions and I have been very successful in getting much of what I am seeking, by being in court, Mr. Baxter, I am getting what I asked for and what you want to prevent at all costs, a "Judicial Review".

"Judicial Review" ...let that sink in, and realize you are already speaking to you fears in court and ask yourself why should the colleges fear such a review of you actions and theirs, if your actions can be shown to be transparent and open to the court.

You are failing to do so, even I can see that.

Judicial Review, Mr. Baxter, let that haunt your dreams.

[30] This is not a judicial review. It is not a review of the actions of the College of Paramedics in dealing with the complaint against Mr. McCannel. Large portions of the document filed by Mr. McCannel relate to the complaint. They are not relevant to any material fact in issue.

[31] Paragraphs 3, 4, and 5 describe events that took place in 2009 and 2010 when Mr. McCannel completed a portion of the program at the Maritime School of Paramedicine, where he was a primary care student. They deal with the relationship between Mr. McCannel and the Executive Director of the College. The information is not relevant to whether an injunction should be granted.

[32] Paragraph 6 refers to an incident that is alleged to have happened at the time of Mr. McCannel's graduation. It has nothing whatsoever to do with the subject matter of this injunction application. It is irrelevant and should be struck.

[33] Paragraph 7 describes when Mr. McCannel last had contact with the Executive Director of the College, before he took on that position. Mr. McCannel speaks about being a top student at Holland College when studying for a diploma in Advanced Prehospital Care. He says that he scored 660 in the national exam and the pass mark was 480, on a curve. That does not relate to the application for an injunction.

[34] Paragraph 8 talks about when Mr. McCannel and Mr. Kowalczyk, the Executive Director of the College of Paramedics of Nova Scotia, reconnected. It has nothing to do with this matter.

[35] Paragraph 9 sets out the contents of discussions between a Registered Nurse, Mr. McCannel's former spouse and the RCMP. It does not relate to the issues in the application for an injunction.

[36] Paragraph 10 describes Mr. McCannel's childhood issues before he turned 4 years old and his own medical condition. It goes on to speak about the diagnosis from his doctor and his relationship with his former spouse. Again, it has nothing to do with this application.

[37] Paragraph 11 addresses what Mr. McCannel describes as a "near death Effexor Withdrawal event". It has nothing to do with whether he was acting in contravention of the *Paramedics Act* or threatening to contravene that *Act* or whether it is just that an injunction be granted against him.

[38] Paragraph 13 says that Mr. McCannel received a letter from the Nova Scotia College of Nursing CEO "promising myself a confidential complaint process". Once again, this matter is not about Mr. McCannel's complaint process, much less his complaint process with another professional body.



[39] Paragraph 16 deals with the complaint process against Mr. McCannel. Because this is not a judicial review of that decision the information is not relevant. It does not relate to the issues to be addressed in the application for an injunction.

[40] Paragraph 18 deals with the processing of the complaint against Mr. McCannel. It is not relevant to the application for an injunction.

[41] Paragraph 19 is once again about the complaint process involving Mr. McCannel and not about information that is material or relevant to the injunction application.

[42] Paragraph 20 is about the complaint process and is not relevant to the injunction application.

[43] Paragraph 21 is also about the complaint process and is not material or relevant to the College's application for a statutory injunction.

[44] Paragraph 22 is problematic for several reasons. He describes events as "loathesome" and alleges that there were numerous conflicts of interest. That would be a matter of argument if it were material or relevant to this matter. But it is not. It does not address the issues pertaining to the application for an injunction.

[45] Paragraph 23 relates to the complaints process about Mr. McCannel. It does not relate to the injunction or have anything to do with the issues that would be involved in deciding whether an injunction should be granted.

[46] Paragraph 24 once again deals with the complaints process against Mr. McCannel. It does not relate to the injunction.

[47] Paragraph 25 contains the allegation that the entire process "is under the sole legal oversight and near total control of Ryan Baxter". It does not relate to the issues in the injunction application. It does not deal with whether Mr. McCannel was in breach of the *Paramedics Act* or was threatening to contravene that *Act*. It does not address any issue that would relate to the exercise of judicial discretion in deciding whether to grant an injunction.

[48] Paragraph 26 contains Mr. McCannel's assertion that "the entire process was clearly rigged." That is, at best an argument. Mr. McCannel would seek to have the court draw that inference but does not state the grounds upon which the inference should be drawn. In any event, it is irrelevant to the issues in the application for an injunction.

[49] Paragraph 27 is also about the process involved in the complaint against Mr. McCannel. It does not relate to the issues involved in the injunction application.

[50] The numbered paragraphs in the affidavit skip from Paragraph 27 to Paragraph 30. Paragraph 30 refers to a medical report that may be relevant to the process involved in the complaint process against Mr. McCannel. It does not relate to the application for an injunction and is irrelevant.

[51] Paragraph 32 contains Mr. McCannel's assertion that he was threatened with arrest for attempting to "exercise my Human Right to physically enter my professional college to present written documents, requests and present time sensitive documents by hand that were ignored by all other written methods attempted." That assertion is not relevant to the issues of whether Mr. McCannel was acting in contravention of the *Act* and whether he should be enjoined from doing that.

[52] Paragraph 33 contains Mr. McCannel's statement that he was threatened with arrest when attempting to present the same time sensitive documents to the law firm representing the College. That relates to the process involved in the complaint against him at the College. It does not relate to the issues involved in determining whether an injunction should be granted.

[53] Paragraph 36 refers to factual errors in the submissions made in another proceeding, *Nova Scotia College of Nursing v. McCannel*, Hfx. No. 510952. They do not relate to this matter at all.

[54] Paragraph 37 also addresses the issues in another matter and is not relevant to the issue of whether an injunction should be granted.

[55] Paragraph 38 contains argument and information, but it relates to the investigation of the complaint against Mr. McCannel. It does not relate to the issue involved in the injunction.

[56] Paragraph 39 contains largely argument but in any event relates to the complaints process and not the injunction application. If Mr. McCannel contested the results of the complaints process, that would require a separate proceeding for judicial review. Unless that is completed, the interim decision of the College is evidence of his lack of the authorization to practice paramedicine in Nova Scotia. This process is not a way to have judicial review while avoiding the judicial review process and standards of review.

[57] Paragraph 40 is essentially Mr. McCannel's summation. It is for the most part argument and contains irrelevant material as well.

[58] A person who is self-represented faces a serious challenge when dealing with court processes. The language used is sometimes difficult to understand. The concepts can at times seem convoluted. It can be frustrating. But a self-represented person cannot be permitted to file affidavits that go significantly outside the bounds of what is acceptable. Mr. McCannel was informed by Mr. Baxter that the purpose of the hearing was to determine whether an injunction should be issued. It was not a judicial review. Mr. Baxter's assessment was correct. Mr. McCannel's response was not simply to politely or even just firmly disagree. He said that he was prepared to make it about judicial review and told Mr. Baxter that the prospect of that should haunt him. Mr. McCannel was intent on making this a judicial review. But it is not.

[59] The portions of the affidavit noted as being irrelevant will be struck.

[60] Paragraph 31 of the affidavit contains Mr. McCannel's assertion that he had been denied "any regular communication as one would expect of any applicant and respondent in any proceeding under the rules of civil Procedure." Mr. Baxter on behalf of the College says that this should be struck because it is argument. It is difficult to determine what it is because it is hard to tell what it means. It may mean that Mr. McCannel believes that he has not been able to communicate with the College, in this proceeding related to the injunction. While technically it involves argument it will not be struck.

[61] Paragraphs 34 and 35 refer to the oral decision of Justice Keith on December 23, 2021. There is a disagreement about the implications of Justice Keith's decision and that is a matter for argument. The record of Justice Keith's decision will be determinative of what he said. The paragraphs may remain in the affidavit.

[62] In summary the bulk of the affidavit filed by Mr. McCannel on his own behalf will be struck. While there may be other reasons for striking some portions, such as the presence of hearsay, much the affidavit is irrelevant to the issues in dispute in the application for an injunction. It is not a judicial review of the complaints process against Mr. McCannel, and it cannot be used to circumvent that process.

[63] To summarize, the following paragraphs will remain: 1, 2, 12, 14, 15, 17, 31, 34, and 35. There are no paragraphs numbered 28 and 29. The following paragraphs will be struck: 3 to 11, 13, 16, 18 to 27, 30, 32, 33, and 36 to 40.

[64] Costs on the motion to strike will be granted to the College of Paramedics of Nova Scotia. Given the substantial materials required to be filed to address the matter, costs in the amount of \$500 will be awarded, payable forthwith.

Campbell, J.