SUPREME COURT OF NOVA SCOTIA
Citation: *Tracadie United Baptist Church v. Hartling*, 2025 NSSC 379

Date: 20251201
Docket: Ant. No. 544720
Registry: Antigonish

Between:

Tracadie United Baptist Church

v.

Catherine M. Hartling, Mary G. Desmond, Terry A. Desmond,
Lorraine P. Reddick, Mary R. MacLellan

DECISION ON INJUNCTION MOTION

Judge:	The Honourable Justice Joshua Arnold
Heard:	October 24 and 30, November 7, 2025, in Antigonish, Nova Scotia
Written Decision:	December 1, 2025
Counsel:	Sonja Crawford, self-represented Applicant Daniel MacIsaac, for the Respondents

Overview

[1] Some of the parishioners of the Tracadie United Baptist Church cannot agree on who are its lawful representatives. Sonja Crawford has made application on behalf of the Church for an interim injunction to "restore the duly elected directors to their previous positions. In the alternative, the Church seeks an interim order permitting the Church to access their bank accounts to pay their outstanding invoices, including their legal bills."

[2] The Respondents say they were properly elected as directors, that the Church bills are being paid as necessary, and that there is no basis for an interim injunction.

Facts

[3] The Applicant was represented by Sonja Crawford, who was also the sole affiant providing evidence in support of the injunction application. Richard Norman had provided Ms. Crawford with legal advice, but was not retained for the injunction application, which Ms. Crawford argued skillfully. According to Ms. Crawford's written submissions:

> The Church is a faith-based society and is registered under the *Societies Act* with a registered address of 474 Highway #16, Monastery, Nova Scotia, BOH 1WO. The Society was officially registered on June 7, 2007, and has maintained an active congregation and operations since incorporation. Beyond the Society, the Baptist faith community in Tracadie has existed in the area for over 239 years.
>
> At present, the Church has approximately 12 active members and approximately 12 non-members that occasionally attend. There are also several inactive members that live locally and elsewhere.
>
> The Church contends that the rightful constitution and by-laws are those referenced by Sonja Crawford at **Exhibit "B"** of their affidavit, those dated March 15, 2019, and amended March 29, 2019 (the **"2019 By-laws"** and the **"2019 Constitution"**).
>
> Before the unauthorized changes made to the Society in Spring of 2025, these individuals held the following roles:
>
> > • Sonja Crawford: Chairperson, Executive Director, Moderator and Trustee of the Society. Recognized Agent, Officer and Director of the Society. Chairperson of the Nomination Committee.
> >
> > • Elder Deacon Sonja Reddick: Clerk, Trustee and Treasurer of the Society. Officer and Director of the Society.

> • Elder Deacon George Reddick: Trustee of the Society. Officer and Director of the Society.
>
> • Barry Daye: Trustee of the Society. Officer and Director of the Society.
>
> • Gerald Elms: Trustee of the Society. Officer and Director of the Society.
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> Of note, there are 7 community members that made unauthorized changes to the Society's records. These individuals are:
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> • Catherine Hartling of Monastery, Nova Scotia;
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> • Lorraine Reddick, of Antigonish, Nova Scotia;
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> • Mary Desmond, of Guysborough, Nova Scotia;
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> • Angela T. Desmond, of Antigonish, Nova Scotia;
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> • Mary R. MacLellan, of Lincolnville, Nova Scotia;
>
> • Tara Reddick, of Antigonish, Nova Scotia;
>
> • Jennifer Desmond, of Antigonish, Nova Scotia (together being the **"Unauthorized Directors").**

[4] The Statement of Claim filed by the Applicant requests the following relief:

> **Relief Sought**
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> The Plaintiff claims:
>
> a. A declaration that the Defendants' filings to the Registry of Joint Stocks on or about May 26, 2025, are invalid and unlawful;
>
> b. An emergency injunction restraining the Defendants from holding or purporting to hold any office with the Plaintiff;
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> c. An order directing the Registrar of Joint Stocks to reinstate the Plaintiff's official governance profile as of April 1, 2025;
>
> d. An order permitting the Plaintiff to present this judgment to financial and government institutions and agencies as proof of lawful authority;
>
> e. Damages for operational losses, reputational harm, and costs incurred in response to the unauthorized filings, legal retainer fees and expenses;
>
> f. Costs of this proceeding;
>
> g. Such further and other relief as this Honourable Court deems just.

[5] The Respondents filed a Defence and have contested this application. The matter has not yet been scheduled for trial. In the meantime, the Applicant seeks an interim injunction requesting the following relief:

> **4. Relief Sought**

> - A temporary injunction restraining the Respondents as detailed in the accompanying motion;
>
> - A declaration that the May 27, 2025 filing is null and void;
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> - An order directing the Registrar of Joint Stocks to revoke the May 26, 2025 filing by the Defendants' and to restore the Church's lawful officers;
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> - Authorization for the Applicant to present this Court's order to CRA, CIBC, and any other institutions;
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> - Costs of this application;
>
> - Legal retainer fees and expenses:
>
> - Such further and other relief as this Honourable Court deems just and necessary.
>
> [As appears in original.]

[6] In support of the injunction application the Applicant filed three affidavits sworn by Ms. Crawford. Ms. Crawford was cross-examined briefly by Mr. MacIsaac. The Respondents filed the affidavits of Nancy MacLean, Terry Desmond, and Catherine Hartling. The three Respondent affiants were cross-examined at length by Ms. Crawford.

[7] Credibility and reliability are always in issue when affidavits and *viva voce* testimony are before the court, but I have not found it necessary to make specific findings on those issues. What is clear from the evidence heard on this application is that all of the affiants have very strong views as to who should be making decisions about the Church, there are accusations of impropriety being made by each side, and the resulting acrimony is working to the detriment of the Church.

[8] A good deal of evidence was filed in relation to the issue of who are the duly elected officers of the Church, including a two-hour audio recording attached to the affidavit of Ms. Desmond, detailing a meeting and election of officers on April 12, 2025. Ms. Crawford, who was recognized as the Church’s Chairperson and Moderator prior to April 12, 2025, says the election did not conform with the Church by-laws, and objects to the admission of the recording on grounds that generally relate to a lack of authentication, a lack of permission from the executive to make the recording, and lack of authorization from all of those in attendance to record the meeting. For the purpose of this interim injunction application only, I am satisfied that Ms. Desmond did not require permission to record the meeting and that the audio recording has been sufficiently authenticated. The recording is admissible for my consideration on this motion.

[9] The recording details a vote in which church members elected a new slate of directors, ousting Ms. Crawford from her position. That meeting is referenced in the affidavit of Catherine Hartling:

> 2. I have been a Deacon in the Tracadie United Baptist Church since October, 2020;
>
> 3. That on April 12, 2025 the Tracadie United Baptist Church duly elected me to be both a clerk and to have signing authority at the CIBC in Antigonish;

[10] Ms. Crawford disputes the propriety of the April 12 election.

[11] It is clear from the evidence that there was some confusion in Registry of Joint Stock Companies filings as to the identity of the directors. Due to the conflict within the Church, no one is recognized by the Canada Revenue Agency as the representative of the Church. Ms. Crawford asked the Canadian Imperial Bank of Commerce, where the Church has its bank account, to freeze the account due to the power struggle. As a result, no cheques made out to the Church can be deposited and the Church potentially faces challenges to pay its bills. Ms. Crawford made a complaint to the RCMP in relation to some of the Respondents regarding this conflict.

[12] The Respondents all testified that they will do what they can to make sure the Church meets its financial and filing obligations. During cross-examination of Ms. Hartling it became clear that while she would not personally guarantee payment of the Church bills, she has a plan to use cash obtained during Sunday collections to meet the Church's financial obligations. The long-term efficacy of that plan is unclear, but in the short term it is likely satisfactory. The Respondents did not have detailed knowledge of the Church's obligations, but between Ms. Hartling, Ms. MacLean, and Ms. Desmond, they put forward a unified position of undertaking to ensure that the Church meets its financial obligations.

[13] Ms. Crawford points out that she, and the other pre-April 12 directors, have been competently looking after the Church's finances for years, including the CRA obligations, and says she, and the other pre-April 12 directors, are best suited to act on behalf of the Church in that regard until the issue of the identity of the Church directors is determined.

[14] The identity of the duly elected officers of the Church will be an issue for trial. The injunctive relief sought mainly relates to who should be running the Church's day-to-day operations and paying the Church's bills in the interim.

Test for interlocutory injunctions

[15] It is well settled that there is a three-part test for determining if an interlocutory injunction should be granted, as set out in *RJR-MacDonald v. Canada (Attorney General)*, [1994] 1 SCR 311:

1. Is there a serious issue to be tried?;
2. Will there be irreparable harm to the applicant if the injunction is denied?;
3. Does the balance of convenience favour granting or denying the injunction?

1. Is there a serious issue to be tried?

Serious issue to be tried vs. Strong prima facie case

[16] There are two possible standards that may be applied to the "serious issue" criterion, depending on the nature of the remedy requested: "serious issue to be tried" and "strong *prima facie* case". The Applicant made her written and oral submissions in relation to the first stage of *RJR* based on the "serious issue to be tried" standard, and stated:

> The Statement of Claim and the Affidavit of Sonja Crawford outline the basis for the claim. There is evidence that an election of directors was not scheduled or properly held and no special resolution was introduced, discussed or passed at the Society's 2025 AGM. The evidence indicates that the 2019 By-laws and 2019 Constitution should still be the Society's governing bylaws and constitution and any election that took place on April 12, 2025 was properly nullified. Regardless, the Unauthorized Directors filed documents to the RJSC that altered the Society's directors, recognized agent, constitution and bylaws.
>
> The Church submits that this part of the test is met. The evidence presented by Ms. Crawford is clearly sufficient. The questions of whether the Unauthorized Directors were properly elected and whether the RJSC filings made by the Unauthorized Directors were legitimate are all serious issues to be tried.
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> [Emphasis added]

[17] The Respondents made no comment about the standard of proof applicable to the "serious issue" inquiry, other than counsel's bare statement that the applicant must show a strong *prima facie* case. Counsel provided no authority or reasoning.

[18] It is necessary to determine whether the relief sought by the Applicant is mandatory or restraining/prohibitive. If it is mandatory, then the burden on the Applicant is to prove that there is a "serious *prima facie*" case. Only if the relief sought is prohibitive does the lower burden of a "serious issue to be tried" apply. In *R. v. Canadian Broadcasting Corporation*, 2018 SCC 5, Brown J., for the court, set out when each standard of proof should be applied on an injunction application. After setting out the "general framework" of *RJR – MacDonald*, he considered the standard applied to the "serious question" criterion:

> [13] This general framework is, however, just that — general. (Indeed, in *RJR — MacDonald*, the Court identified two exceptions which may call for "an extensive review of the merits" at the first stage of the analysis.) In this case, the parties have at every level of court agreed that, where a *mandatory* interlocutory injunction is sought, the appropriate inquiry at the first stage of the *RJR — MacDonald* test is into whether the applicants have shown a strong *prima facie* case. I note that this heightened threshold was not applied by this Court in upholding such an injunction in *Google Inc. v. Equustek Solutions Inc*. In *Google*, however, the appellant did not argue that the first stage of the *RJR — MacDonald* test should be modified. Rather, the appellant agreed that only a "serious issue to be tried" needed to be shown and therefore the Court was not asked to consider whether a heightened threshold should apply. By contrast, in this case, the application by the courts below of a heightened threshold raises for the first time the question of just what threshold ought to be applied at the first stage where the applicant seeks a mandatory interlocutory injunction.
>
> [14] Canadian courts have, since *RJR — MacDonald*, been divided on this question. In Alberta, Nova Scotia and Ontario, for example, the applicant must establish a strong *prima facie* case. Conversely, other courts have applied the less searching "serious issue to be tried" threshold.
>
> [15] In my view, on an application for a mandatory interlocutory injunction, the appropriate criterion for assessing the strength of the applicant's case at the first stage of the *RJR — MacDonald* test is *not* whether there is a serious issue to be tried, but rather whether the applicant has shown a strong *prima facie* case. A mandatory injunction directs the defendant to undertake a positive course of action, such as taking steps to restore the *status quo*, or to otherwise "put the situation back to what it should be", which is often costly or burdensome for the defendant and which equity has long been reluctant to compel. Such an order is also (generally speaking) difficult to justify at the interlocutory stage, since restorative relief can usually be obtained at trial. Or, as Justice Sharpe (writing extrajudicially) puts it, "the risk of harm to the defendant will [rarely] be less significant than the risk to the plaintiff resulting from the court staying its hand until trial". The potentially severe consequences for a defendant which can result from a mandatory interlocutory injunction, including the effective final determination of the action

> in favour of the plaintiff, further demand what the Court described in *RJR — MacDonald* as "extensive review of the merits" at the interlocutory stage.
>
> [16] A final consideration that may arise in some cases is that, because mandatory interlocutory injunctions require a defendant to take positive action, they can be more burdensome or costly for the defendant. It must, however, be borne in mind that complying with prohibitive injunctions can also entail costs that are just as burdensome as mandatory injunctions. While holding that applications for mandatory interlocutory injunctions are to be subjected to a modified *RJR — MacDonald* test, I acknowledge that distinguishing between mandatory and prohibitive injunctions can be difficult, since an interlocutory injunction which is framed in prohibitive language may "have the effect of forcing the enjoined party to take . . . positive actions". … Ultimately, the application judge, in characterizing the interlocutory injunction as mandatory or prohibitive, will have to look past the form and the language in which the order sought is framed, in order to identify the substance of what is being sought and, in light of the particular circumstances of the matter, "what the practical consequences of the . . . injunction are likely to be". In short, the application judge should examine whether, in substance, the overall effect of the injunction would be to require the defendant to *do* something, or to *refrain from doing* something.
>
> [17] This brings me to just what is entailed by showing a "strong *prima facie* case". Courts have employed various formulations, requiring the applicant to establish a "strong and clear chance of success"; a "strong and clear" or "unusually strong and clear" case; that he or she is "clearly right" or "clearly in the right"; that he or she enjoys a "high probability" or "great likelihood of success"; a "high degree of assurance" of success; a "significant prospect" of success; or "almost certain" success. Common to all these formulations is a burden on the applicant to show a case of such merit that it is very likely to succeed at trial. Meaning, that upon a preliminary review of the case, the application judge must be satisfied that there is a *strong likelihood* on the law and the evidence presented that, at trial, the applicant will be ultimately successful in proving the allegations set out in the originating notice.
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> [Italics in original. Underlining added.]

[19] As noted by A.E. Smith J. in *Tri-Mac Holdings Inc v. Ostrom*, 2018 NSSC 177, an applicant may be required to satisfy the "serious *prima facie* case" standard, depending on the nature of the remedy sought. *Tri-Mac* involved a dispute over the governance and directorship of a company registered under the *Nova Scotia Companies Act*:

> [33] A number of the claims for relief sought by Brad as a director and Tri-Mac as a shareholder of Public Capital are for interim, mandatory orders:
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> - The setting aside of certain directors' resolutions;

> - The removal of Greenwood as a director of Public Capital;
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> - Amending the Memorandum and Articles of Association of Public Capital;
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> - Requiring Dale personally, or alternatively Public Capital, to pay legal fees and costs relating to directors' meetings, negotiations and preparation of agreements relating to management fees;
>
> - Compelling the interim payment of a distribution by Public Capital to Brad or Tri-Mac.
>
> - Requiring the interim payment of the legal costs of the Applicants.
>
> …
>
> [53] In "Shareholder Remedies in Canada", (2009) 2 ed., at para, 17.192 authors Peterson and Cummings state that "[R]emoving and appointing directors to the board is an extreme form of judicial intervention." The authors further state:
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> > The board of directors is elected by the shareholders, vested with the power to manage the corporation, and appoints the officers of the company who undertake to conduct the day-to-day affairs of the corporation. It is clear that the board of directors has control over policy-making and management of the corporation. By tampering with a board, a court directly affects the management of the corporation. If a reasonable balance between protection of corporate stakeholders and the freedom of management to conduct the affairs of the business in an efficient manner is desired, altering the board of directors should be a measure of last resort….Exceptions should only be made for cases of extreme abuse where it is clear that the incumbent directors cannot be trusted and the only way to protect the complainants is to remove those directors. (17.192]

[20] The Applicant is asking for (1) A declaration that the May 27, 2025, filing is null and void; (2) An order directing the Registrar of Joint Stocks to revoke the May 26, 2025, filing by the Defendants and to restore the previous officers; and (3) Authorization for the Applicant to present this Court's order to CRA, CIBC, and any other institutions. At a minimum, requesting a change to the directors of the Church with the Registry of Joint Stocks would constitute "taking steps to restore the *status quo*", amounting to a request for mandatory relief. As a result, in relation to the second, and most significant aspect of the Applicant's requests, she is held to the higher burden of proving a strong *prima facie* case.

[21] On the evidence presented on this application, it is apparent that both the Applicant and the Respondents believe they are the "duly elected directors" of the Church. Therefore, the issue of who the duly elected directors of the Church are is a serious issue and will be front and center at the trial. It is clear that there is animosity between the parties disputing control of the Church, and that all of the

affiants are strongly committed to their own positions. Additionally, the evidence included unproven allegations, rumour, and innuendo regarding financial impropriety on the part of the Appellant, along with allegations of financial impropriety by certain of the Respondents, and improper use of the Church's address for other organizations on the part of the Respondents. These were well-visited topics on the evidence presented during the hearing. Ms. Crawford's obvious concern with rumours in the Church community caused her to use this court process to attempt to address those topics, which tended to distract her from the relevant legal issues.

[22] The Respondents' evidence was that they had been attempting to have a new slate of directors elected and that Ms. Crawford was preventing or resisting this from happening. Nevertheless, on April 12, 2025, a vote was held, a new slate of directors was installed, Ms. Crawford was removed, and the Respondents took over running the Church. Ms. Crawford says the April 12 vote is not valid, for a variety of reasons, mainly because, in her view, the Church by-laws were not followed in calling the election.

[23] It became clear during the cross-examination of the Respondents that Ms. Crawford suspects that they have misused the Church facilities and its name to establish or support unrelated community organizations, and perhaps to assist in funding those organizations. She also alleged that following the April 12 vote, in an effort to have control shifted to the new group, Ms. Hartling presented her own version of the relevant minutes to the Registry of Joint Stocks, instead of the official version.

[24] Following the cross-examinations, it is clear that there are claims and allegations that neither side has completely "clean hands" in relation to the Church management. That said, the issue of whether the parties have "clean hands", and whether there has been any breach of duty or other wrongdoing by any of the parties, will be in play at trial.

[25] I am satisfied that while Ms. Crawford has proven that there is a serious issue to be tried on the question of the identity of the directors, on the evidence she has not proven that the serious issue to be tried has met the standard of a "strong *prima facie* case".

[26] Having found that the first requirement of the test is not met, this disposes of the motion. In the alternative, however, I will consider the other two steps.

2. Will there be irreparable harm to the applicant if the injunction is denied?

[27] In relation to the second branch of *RJR*, irreparable harm, the Applicant says the Church will suffer irreparable harm if the Respondents are allowed to remain directors pending trial. Ms. Crawford states, in her written submissions:

> The Society will financially fail if it cannot access its bank accounts in the interim. At present, the Society cannot access its Society bank accounts with CIBC due to the actions of the Defendants to change the account owners of the account. The Society also cannot file reports with the CRA. The Church's CRA and CIBC accounts are frozen to protect the accounts and prevent the Defendants from inflicting further harm. As such, the Society currently cannot fulfill its normal business and charitable obligations and will be forced to cease operations entirely if they are not granted relief.
>
> Further, the Society will reputationally fail in the interim. The unauthorized changes to the Society's directors and constating documents have had a significant impact on the Church's membership and wider community. The actions of the Defendants have paralyzed the Church's ability to fulfill the community functions for its membership for at least four months.

[28] In *RJR*, Sopinka and Cory JJ., for the court, defined irreparable harm as harm that is not compensable through monetary damages:

> 64 "Irreparable" refers to the nature of the harm suffered rather than its magnitude. It is harm which either cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other. Examples of the former include instances where one party will be put out of business by the court's decision (*R.L. Crain Inc. v. Hendry* (1988), 48 D.L.R. (4th) 228 (Sask. Q.B.)); where one party will suffer permanent market loss or irrevocable damage to its business reputation (*American Cyanamid, supra*); or where a permanent loss of natural resources will be the result when a challenged activity is not enjoined (*MacMillan Bloedel Ltd. v. Mullin*, [1985] 3 W.W.R. 577 (B.C.C.A.)). The fact that one party may be impecunious does not automatically determine the application in favour of the other party who will not ultimately be able to collect damages, although it may be a relevant consideration (*Hubbard v. Pitt*, [1976] Q.B. 142 (C.A.)).

[29] In his text *Injunctions and Specific Performance* (Toronto: Canada Law Book, 2017), Justice Robert Sharpe states that the test for irreparable harm in the context of preliminary relief is a “relative and flexible one”:

> § 2:12. Irreparable harm to the plaintiff—Conclusion

> It is exceptionally difficult to define irreparable harm precisely. Courts regularly and routinely assess monetary awards for non-pecuniary injuries where it is necessary to do so. On the other hand, the courts have sometimes been prepared to view what otherwise seem readily calculable losses as "irreparable" for the purposes of interlocutory relief.
>
> In the context of preliminary relief, the test is a relative and flexible one which, it is submitted, necessarily involves an evaluation of the other factors. Indeed, it has been held that an interlocutory injunction may be granted even where "irreparable" harm has not been demonstrated. Similarly, attempts to make irreparable harm a condition precedent, and hence a threshold test, have been rejected. **These cases suggest that the "irreparable harm" requirement can only be defined in the context of the risk-balancing exercise. If the plaintiff's case looks very strong, harm may appear to be more "irreparable" than where the plaintiff has only an even chance of success. While judges seldom explicitly acknowledge that there is an "overflow" effect produced by strength or weakness of other factors, it cannot be doubted that, as a practical matter, it exists. The important point is that irreparable harm has not been given a definition of universal application: its meaning takes shape in the context of each particular case. However it is defined, failure to establish irreparable harm is commonly cited as the primary reason for refusing injunctive relief**.
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> [Emphasis added]

[30] The Church's bank account at CIBC has been frozen due to the mayhem created by the in-fighting. Ms. Hartling, along with the other Respondents, presented a plan that they maintain will allow for the Church's bills to be paid in the short-term.

[31] While it is likely that the Church's reputation is being impacted by the ongoing power struggle, that conflict will continue regardless of the outcome of this injunction motion, until this matter is fully resolved. Ms. Crawford's reputation is also being impacted by the situation, but that is not the issue here. The issue is whether the Church is suffering irreparable harm. As Mr. MacIsaac stated in his submissions:

> The parish…has been in existence for 230 years. It was formed shortly after the American Revolution and when these – when this community moved up to Guysborough County and I believe their first, their first foothold was in Tracadie. So, the church got along in hard times before, the church can certainly handle these very, very modest amounts. So, there's no case for irreparable harm…

[32] On the basis of the limited evidence presented on this hearing, the Applicant has not proven that there will be irreparable harm to the Church if the injunction is

denied. Ms. Crawford, who is familiar with the Church's obligations, told the court that she gave instructions to CIBC to freeze the Church's bank accounts – which has created a problem for the Church to smoothly pay its bills. The confusion at the Registry of Joint Stocks, again caused by the power struggle, and exacerbated by Ms. Hartling filing unofficial minutes of the April 12 meeting, will be ongoing until the matter is finally resolved. Nonetheless, the Respondents have testified that they will meet the Church's obligations. Like Ms. Crawford, the Respondents are individuals with a demonstrated interest and involvement with the Church. I am not convinced on the evidence that the Church is in peril of irreparable harm at this time. On this second branch alone, the application fails.

3. Does the balance of convenience favour granting or denying the injunction?

[33] The Applicant says that the balance of convenience favours granting the injunction for the following reasons:

> **C) Balance of Convenience**
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> The evidence establishes that the balance of convenience favours the Plaintiff.
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> As stated in the Statement of Claim and the Affidavit of Sonja Crawford, if the Court does not order this injunction, it is not only likely, it is virtually guaranteed that the Defendants will maintain their positions as unauthorized directors of the Society. The proper procedures were not followed to elect the Defendants. Further, the Defendants did not have the authority to change the constating documents, directors, and recognized agent of the Society. For the time being, the previous slate of directors should be reinstated for the time that it takes to reach a solution.
>
> If the Court does not order that the duly elected directors be restored to their positions, the Society submits in the alternative that the Court grant an order to permit the Society to unfreeze their accounts. The Church will cease to exist if it cannot pay its bills, causing extraordinary prejudice to the Church and its regular churchgoers. Regardless of the eventual outcome of the overarching litigation, both parties have an interest in the continued existence of the Church as it is today. An interim injunction to pay outstanding invoices is necessary to preserve the Church.

[34] In *RJR*, Sopinka and Cory JJ., described the considerations on the third-part of the test:

> 67 The third test to be applied in an application for interlocutory relief was described by Beetz J. in *Metropolitan Stores* at p. 129 as: "a determination of which of the two parties will suffer the greater harm from the granting or refusal of an interlocutory injunction, pending a decision on the merits". In light of the

> relatively low threshold of the first test and the difficulties in applying the test of irreparable harm in *Charter* cases, many interlocutory proceedings will be determined at this stage.
>
> 68 The factors which must be considered in assessing the "balance of inconvenience" are numerous and will vary in each individual case. In *American Cyanamid*, Lord Diplock cautioned, at p. 408, that:
>
> > [i]t would be unwise to attempt even to list all the various matters which may need to be taken into consideration in deciding where the balance lies, let alone to suggest the relative weight to be attached to them. These will vary from case to case.
>
> He added, at p. 409, that "there may be many other special factors to be taken into consideration in the particular circumstances of individual cases."

[35] On the evidence, the Applicant has not met the burden of proving that granting the requested injunctive relief will prevent more harm than it causes. While dysfunctional, the Church is still operating. There is no evidence that the Church's reputation is being tarnished or that its relevance in the community has diminished specifically because of the current slate of directors, although, as noted earlier, there is likely some reputational damage due to the conflict within the Church over its leadership, and the resulting litigation. According to the limited evidence called on this application, the Church's basic obligations, financial or otherwise, are being met, at least in the short-term. As stated by Bryson J.A. in *Schwartz v. HRM*, 2025 NSCA 14:

> [34] *Campbell* puts it this way:
>
> > [18] It sometimes happens that both applicant and respondent can demonstrate that irreparable harm will occur whichever way the court decides. In such cases, the court must go on to consider the balance of convenience. This requires balancing which party will suffer greater harm from the granting or refusal of the injunction (stay) pending a decision on the merits. Again, Lord Diplock in *American Cyanamid*, at 511:
> >
> > > It is where there is doubt as to the adequacy of the respective remedies in damages available to either party or to both, that the question of balance of convenience arises. It would be unwise to attempt even to list all the various matters which may need to be taken into consideration in deciding where the balance lies, let alone to suggest the relative weight to be attached to them. These will vary from case to case.
> >
> > > Where other factors appear to be evenly balanced it is a counsel of prudence to take such measures as are calculated to preserve the *status quo*. ...

[36] While Ms. Crawford, and the previous slate of directors, have more experience in running the Church and meeting its financial and fiduciary obligations than the Respondents, it is not at all clear to me that denying the injunctive relief sought would lead to greater harm than allowing it. Based on the evidence, the "other" factors appear to be evenly balanced. Therefore it is "a counsel of prudence" to take such measures as are calculated to preserve the *status quo* until the matter can be fully litigated at trial. Here, the *status quo* means denying the injunction. A full trial will be required determine the identity of the rightful directors. Nothing was presented on the limited evidence heard on the present application that clearly requires the court's intervention at this stage. The balance of convenience does not favour granting the injunction. The application therefore fails on the third branch of *RJR* as well.

Conclusion

[37] The Applicant's motion fails in relation to all three branches of the *RJR* test. The motion for an interlocutory injunction is denied. Based on the evidence of the circumstances existing at this time, the situation does not justify such intervention. This does not, of course, prejudice the Plaintiff's ability to bring further motions should circumstances change.

[38] The Applicant and the Respondents all said that they have the best interests of the Church in mind. Considering the need for clarity in ensuring the democratic process takes its course, the unstable situation regarding Church finances, and the impact on the Church's reputation because of the in-fighting and resulting litigation, I would urge the parties to make a serious effort to either immediately resolve their differences or move this matter along to a full hearing on the merits at the earliest possible opportunity.

Costs

[39] Based on the evidence heard on this application, in light of the good faith nature of this application on both sides, combined with the fact that the Church is the focal point of the litigation, each party will bear their own costs.

Arnold, J.