

SUPREME COURT OF NOVA SCOTIA

Citation: Tupper v. Nova Scotia Barristers' Society, 2013 NSSC 290

Date: 20131002

Docket: Hfx No. 417636

Registry: Halifax

Between:

Thomas Percy Tupper

Applicant

v.

Nova Scotia Barrister's Society and The Attorney General of Nova Scotia

Respondents

Judge: The Honourable Justice Glen G. McDougall

Heard: August 15, 2013, in Halifax, Nova Scotia

Counsel: Thomas P. Tupper, on his own behalf
Raymond F. Larkin, Q.C., for the Nova Scotia Barristers' Society
Sheldon Choo, for the Attorney General of Nova Scotia

By the Court:

[1] The applicant, Mr. Tupper, has filed a motion for an extension of time to bring an Application for Judicial Review. The respondent, the Nova Scotia Barristers' Society, opposes the motion.

FACTUAL BACKGROUND:

[2] The factual background of this matter is lengthy and complex.

[3] On October 31, 2011, Mr. Tupper filed a complaint with the Nova Scotia Barristers' Society ("NSBS") against seven of its current and former members. The substance of Mr. Tupper's complaint was that these lawyers knowingly conspired to commit insurance fraud against him.

[4] **The Accident:** The alleged conspiracy began on the night of June 4, 1983 when Mr. Tupper struck a pedestrian while driving his motorcycle on the highway in Kentville, Nova Scotia. The pedestrian brought an action in negligence against Mr. Tupper. Mr. Tupper was uninsured and did not defend the claim. The claim against him was defended by Judgment Recovery (N.S.) Ltd. The pedestrian was represented by Paul Walter, Q.C. Judgment Recovery was represented by Harold Jackson, Q.C.

[5] At trial, Justice Grant found that both Mr. Tupper and the pedestrian had been negligent. Liability was apportioned 75 percent to Mr. Tupper for driving his motorcycle without headlights on and 25 percent to the pedestrian whose inebriated state limited his ability to avoid the collision. Damages were awarded to the pedestrian and paid by Judgment Recovery. Judgment Recovery then pursued Mr. Tupper for repayment.

[6] Mr. Tupper sought advice from lawyer Robert Stewart, Q.C. on whether or not to appeal the trial decision. Mr. Stewart recommended against an appeal.

[7] At some point after his discussions with Mr. Stewart, Mr. Tupper became convinced that the pedestrian's claim against him had been fraudulent. In Mr. Tupper's view, the pedestrian had intentionally placed himself in the path of the oncoming motorcycle in order to sue for damages. To support this theory, Mr. Tupper cites several portions of the trial decision including reference by the judge to the pedestrian's statement that "it was not up to him to move" when he heard the motor bike approaching.

[8] In Mr. Tupper's mind, each of the lawyers who participated in his trial and Mr. Stewart were aware, by virtue of their legal training, that damages should be awarded only to victims of genuine accidents. Accordingly, Mr. Tupper asserts that these lawyers became party to the insurance fraud by allowing him to be victimized by the pedestrian.

[9] **The 2007 Action:** As a result of Mr. Tupper's inability to make payments to Judgment Recovery, his driver's licence has been suspended since August of 1985. In 2007, Mr. Tupper filed an action against the Province, Judgment Recovery and Judgment Recovery's lawyers, Mr. Jackson and John Kulik, Q.C., for damages flowing from the suspension of his license. The Nova Scotia Supreme Court

dismissed the action against all parties except the Attorney General. The Nova Scotia Court of Appeal upheld the dismissal. By defending the parties sued by Mr. Tupper in this action, lawyers Catherine Lunn, Michael Brooker, Q.C., and Michael Wood, Q.C. (as he then was) were added by Mr. Tupper to the list of those knowingly involved in the conspiracy against him.

[10] **The Complaint to NSBS:** On October 31, 2011, Mr. Tupper filed a complaint against these 7 lawyers with NSBS. On November 16, 2011, Victoria Rees, Director of Professional Responsibility for NSBS, informed Mr. Tupper that his complaint was being dismissed because it revealed no evidence of misconduct on the part of the lawyers. Ms. Rees advised Mr. Tupper of his right under the regulations of the *Legal Profession Act*, SNS 2004, c 28 to request a review of the dismissal by a Review Subcommittee. Mr. Tupper requested this review on December 16, 2011. In the materials he submitted to the Review Subcommittee, Mr. Tupper accused Ms. Rees of bias and fraud and requested her disbarment.

[11] On February 21, 2012, the Review Subcommittee upheld the dismissal of Mr. Tupper's complaint. Mr. Tupper proceeded to appeal the decision to the Nova Scotia Court of Appeal. On March 27, 2012, Mr. Tupper was informed by Stephen McGrath, counsel for the Attorney General of Nova Scotia that the *Legal Profession Act* does not grant a right of appeal from decisions made by the Review Subcommittee and suggested that he may be able to file an application for judicial review under Rule 7 of the Civil Procedure Rules. Two days later, counsel for the respondent, Raymond Larkin, Q.C., sent Mr. Tupper an e-mail informing him that a complainant has no right of appeal under the Act and that his only option would be an application to this Court for judicial review.

[12] Despite the comments of Mr. McGrath and Mr. Larkin, Mr. Tupper was determined to proceed with the appeal. On April 10, 2012, the respondent filed notice of its intention to participate in the appeal and again noted the absence of a right of appeal under the legislation. When Mr. Tupper came before the Court of Appeal on January 23, 2013, he acknowledged that he had no right of appeal but argued that the absence of such an appeal was unconstitutional. The Court of Appeal concluded that the constitutional argument was entirely without merit and dismissed the appeal for lack of jurisdiction.

[13] Mr. Tupper filed an application for leave to appeal the Court of Appeal's decision to the Supreme Court of Canada. His application was denied on June 27, 2013.

[14] On July 16, 2013, Mr. Tupper filed this motion requesting an extension of time to file an application for judicial review of the February 21, 2012 decision of the Review Subcommittee.

LEGISLATION:

[15] The legal profession is governed by the *Legal Profession Act*. The Nova Scotia Barristers' Society is continued as a body corporate by the *Act*. The purpose of the Society is set out in s. 4 of the *Act* as follows:

- 4 (1) The purpose of the Society is to uphold and protect the public interest in the practice of law.
- (2) In pursuing its purpose, the Society shall
- (a) establish standards for the qualifications of those seeking the privilege of membership in the Society;
 - (b) establish standards for the professional responsibility and competence of members in the Society;
 - (c) regulate the practice of law in the Province; and
 - (d) seek to improve the administration of justice in the Province by
 - (i) regularly consulting with organizations and communities in the Province having an interest in the Society's purpose, including, but not limited to, organizations and communities reflecting the economic, ethnic, racial, sexual and linguistic diversity of the Province, and
 - (ii) engaging in such other relevant activities as approved by the Council.

[16] The professional responsibility process is dealt with in the regulations made pursuant to the *Act*. Regulation 9.1.2 provides:

9.1.2 The objects of the professional responsibility process are to protect the public and preserve the integrity of the legal profession, by

- (a) promoting competent and ethical practice of law by members of the Society;
- (b) addressing complaints of professional misconduct, conduct unbecoming, professional incompetence or incapacity;
- (c) providing for the protection of clients' interests through the appointment of receivers and custodians in appropriate circumstances; and
- (d) providing relief to individual clients of members of the Society and promoting the rehabilitation of members.

[17] Regulation 9.2.2 details the options available to the Executive Director upon receipt of a complaint:

9.2.2. On receipt of a written complaint, the Executive Director must

- (a) dismiss the complaint, and notify the complainant and the member of the reasons for this disposition, if, in the opinion of the Executive Director,
 - (i) the subject matter of the complaint is outside the jurisdiction of the Society,
 - (ii) the complaint is for an extraneous or improper purpose,
 - (iii) the complaint does not allege facts which, if proven, would constitute professional misconduct, conduct unbecoming, or professional incompetence, or would merit counseling, a caution or other;
- (b) attempt to resolve the complaint if, in the opinion of the Executive Director, the complaint may be satisfactorily resolved, consistent with the purposes of the professional responsibility process, and failure to resolve the complaint will result in the complaint being investigated pursuant to this regulation, or;

(c) in accordance with Regulation 9.2A consider referral to the Fitness to Practise Committee; or

(d) subject to Regulation 9.2A, commence an investigation.

[18] Section 9(3) of the *Act* permits the Executive Director to delegate any powers, duties or functions assigned to the Executive Director under the *Act* or regulations.

[19] In the event that the complaint is dismissed by the Executive Director or their delegate, the complainant may request a review of the dismissal. The regulations related to this review were recently amended. At the time of Mr. Tupper's complaint, Regulations 9.3.1 and 9.3.2 provided as follows:

9.3.1 Subject to subregulation 9.4.4., a complaint dismissed pursuant to subregulations 9.2.2, 9.2.10 or 9.2.12 shall be reviewed, if within thirty days of notification of the dismissal being forwarded to the complainant, the complainant presents a written request for review to the Executive Director, who shall forward the request in accordance with subregulation 9.3.2.

9.3.2 A review of a decision under subregulation 9.3.1 shall be made by at least three members of the Complaints Investigation Committee designated by the Committee to conduct such reviews, and following a review of the matter from the beginning the members may, by majority ruling,

- (a) confirm the dismissal of the complaint;
- (b) direct that an investigation be commenced of the complaint, in whole or in part, or
- (c) direct that the investigation be completed.

[20] Pursuant to Regulation 9.3.3, a decision of the Subcommittee is final.

EXTENSION OF TIME:

[21] Nova Scotia **Civil Procedure Rule** 7.05(1) sets the following deadline for the filing of an application for judicial review:

7.05 - Judicial review application

(1) A person may seek judicial review of a decision by filing a notice for judicial review before the earlier of the following:

- (a) twenty-five days after the day the decision is communicated to the person;
- (b) six months after the day the decision is made.

[22] Rule 7.05 contemplates judicial review in an expeditious manner and the time lines prescribed should not be extended without "very significant excuse or reason for the delay": **Eco Awareness Society v. Antigonish (County)**, 2010 NSSC 461 at para. 34.

[23] The decision of the NSBS Review Subcommittee was communicated to Mr. Tupper on or about February 21, 2012. The twenty-five day deadline has long passed.

[24] Mr. Tupper asks that the Court exercise its general discretionary power under Rule 2.03(1)(c) to extend the deadline by a period of approximately sixteen months:

2.03 - General judicial discretions

(1) A judge has the discretions, which are limited by these Rules only as provided in Rules 2.03(2) and (3), to do any of the following:

- (a) give directions for the conduct of a proceeding before the trial or hearing;
- (b) when sitting as the presiding judge, direct the conduct of the trial or hearing;
- (c) excuse compliance with a Rule, including to shorten or lengthen a period provided in a Rule and to dispense with notice to a party.

[25] To determine whether to grant an extension of time to file an application for judicial review, this Court will apply the three-part test used by the Court of Appeal when considering extensions of time to appeal to that Court: **Eco Awareness Society v. Antigonish (County)**, *supra*, and **Rockwood Community Association v. Halifax (Regional Municipality)**, 2011 NSSC 91. The three-part test was set out succinctly

by Bateman, J.A. in Chambers in **Bellevontaine v. Schneiderman**, 2006 NSCA 96 as follows:

[3] A three-part test is generally applied by this Court on an application to extend the time for filing a notice of appeal, requiring that the applicant demonstrate (*Jollymore Estate Re* (2001), 196 N.S.R. (2d) 177 (C.A. in Chambers) at para. 22):

1. the applicant had a bona fide intention to appeal when the right to appeal existed;
2. the applicant had a reasonable excuse for the delay in not having launched the appeal within the prescribed time; and
3. there are compelling or exceptional circumstances present which would warrant an extension of time, not the least of which being that there is a strong case for error at trial and real grounds justifying appellate interference.

[4] Where justice requires that the application be granted, the judge may allow an extension even if the three part test is not strictly met. (*Tibbets v. Tibbets* (1992), 112 N.S.R. (2d) 173 (C.A. in Chambers)).

[26] The three-part test has recently been described as a useful, but not exhaustive guide for the exercise of the court's discretion: **Deveau v. Fawson Estate**, 2013 NSCA 54 at para. 15 and **Farrell v. Casavant**, 2010 NSCA 71 at para. 17. The ultimate objective must be to do justice between the parties: **Jollymore Estate Re**, *supra*, at para. 24.

[27] **Continuing Intention to Seek Judicial Review**: Although he insisted on pursuing an appeal to the Court of Appeal rather than seeking judicial review by this Court, there is no question that Mr. Tupper always intended to exercise any legal right he may have to a review of the Review Subcommittee's decision. I am therefore satisfied that he had a continuing intention to seek judicial review.

[28] **Reasonable Excuse for Delay**: I am not persuaded, however, that Mr. Tupper has a reasonable excuse for the lengthy delay in filing an application with this Court for judicial review. It was not reasonable, in my view, for Mr. Tupper to ignore the helpful comments of both Mr. McGrath and Mr. Larkin that the *Legal Profession Act* provides no right of appeal to a complainant from a decision of the Review

Subcommittee to dismiss his complaint. Even after the Court of Appeal determined that Mr. Tupper's constitutional argument was entirely without merit, he elected to appeal to the Supreme Court of Canada rather than to immediately file a motion with this Court for an extension of time to file an application for judicial review. This was not a reasonable course of action.

[29] **Merits of the Grounds for Judicial Review**: If I am wrong in my conclusion that the delay in this case was unreasonable, I find that Mr. Tupper's motion must fail at the final, and most important, stage of the inquiry. The third part of the test requires the Court to consider whether compelling or exceptional circumstances exist that warrant an extension of time. This part will be met if the applicant has a strong case for error by the administrative decision-maker and real grounds exist to justify judicial interference. It has been said that "the more merit an applicant can demonstrate in the proposed grounds of appeal, the more that weakness of an excuse and/or the absence of a bona fide intention to appeal within the prescribed time period may fade in significance": **Cummings v. Nova Scotia (Minister of Community Services)**, 2011 NSCA 2 at para. 27.

[30] Before evaluating the proposed grounds of review, I must consider whether judicial review is available to Mr. Tupper. Judicial review of a decision is available only to persons who can establish standing. Muise, J. set out the test for standing in **Robichaud v. College of Registered Nurses of Nova Scotia**, 2011 NSSC 379:

10 In establishing standing, the burden is on the Applicants in the case at hand to show that they have "some special interest, private interest or sufficient interest" in the decision or proceeding. [*Pieters v. Ontario College of Teachers*, [2008] O.J. No. 527 (S.C.J.), at para. 4, quoting *Cowan v. Canadian Broadcasting Corp.* [1966] 2 O.R. 309; *Emerman, supra*, at para. 19.]

11 The Applicants can discharge that burden by demonstrating that the College has infringed a legal right of theirs, or that they have a legal right which will "cause or threaten to cause [them] some special damage over and above that suffered by the general public". They must be more than "interested observers". [*Behr v. College of Pharmacists of British Columbia*, 2005 BCSC 879, paras. 15, 18 and 28.] They can discharge the burden by showing the decision affected their "personal or economic rights or obligations". [*Friends of the Old Man River Society v. Ass'n of Professional Engineers, Geologists and Geophysicists of Alberta*, 2001 ABCA 107, at paras. 32 & 41; *Metropolitan Centre Inc. v. Abugov Kaspar Architecture, Engineering, Interior Design*, 2007 ABQB 419, at paras. 25 and 28.

12 It is not sufficient to be interested in the decision. The party applying for judicial review must have a special, private or sufficient interest in the decision or proceeding. That will be satisfied when that party's rights or obligations have been, are or will be affected more than the general public. **(Emphasis in original)**

[31] The issue of whether a complainant in a professional disciplinary matter has standing to apply for judicial review has been considered in a number of cases: **Friends of the Old Man River Society v. Association of Professional Engineers, Geologists and Geophysicists of Alberta**, 2001 ABCA 107, leave to appeal refused [2001] SCCA No 366 [**Old Man River**]; **Berg v. British Columbia (Police Complaint Commissioner)**, [2006] B.C.J. No. 1027 (BCCA), leave to appeal refused [2006] SCCA No 300); **M.H. v. College of Physicians and Surgeons of Alberta**, 2006 ABQB 395; **Pound v. Lunney**, 2007 BCSC 85; **Allen v. College of Dental Surgeons of British Columbia**, 2007 BCCA 75; **Metropolitan Centre Inc. v. Abugov Kaspar Architecture, Engineering, Interior Design**, 2007 ABQB 419; **Emerman v. Assn. of Professional Engineers and Geoscientists of British Columbia**, 2008 BCSC 1186; **Mitten v. College of Alberta Psychologists**, 2010 ABCA 159 [**Mitten**]; **Robichaud v. College of Registered Nurses of Nova Scotia**, 2011 NSSC 379 [**Robichaud**]. These authorities appear to be in agreement that a non-party does not have standing to seek judicial review of the merits of a disciplinary body's decision. Where judicial review has been found to be available, it has been limited to issues relating to procedural fairness.

[32] Several of the authorities cited are factually distinguishable from the case at hand. However, the facts and legislative frameworks considered in **Old Man River Society** and **Mitten** are comparable and instructive.

[33] In **Old Man River Society**, the Friends of the Old Man River Society, an environmental protection society, and Opron, a construction company, filed a complaint with the Association of Professional Engineers, Geologists and Geophysicists of Alberta concerning the conduct of several engineers involved in the construction of a dam on the Old Man River. The Association appointed an investigator to conduct a preliminary inquiry into the engineers' conduct. The investigator reported to the Discipline Committee of the Association as required by the legislation. The Discipline Committee held that there was no evidence of unskilled practice or unprofessional conduct and the Association informed the complainants that it was terminating the investigation. The Association informed the

complainants of their right under the legislation to appeal the decision of the Discipline Committee to Council. The complainants appealed the decision.

[34] Although there was no requirement in the Act that a complainant's appeal to Council be the subject of a hearing, or that the complainant be entitled to participate in the review, Council elected to conduct a hearing. The complainants were permitted to participate in the hearing. They made submissions, gave evidence and were cross-examined by counsel for the Association and for the engineers. Several months after the hearing, Council informed the complainants that it agreed with the decision of the Discipline Committee to dismiss the complaint.

[35] The complainants then applied to the court for judicial review of Council's decision. They alleged that the hearing before Council had been unfair, and that Council failed to take into account relevant considerations or based its decision on irrelevant considerations. The Association brought a motion to dismiss the judicial review proceedings, arguing that the proceeding before Council was not a "hearing" but was part of the investigative process and not subject to judicial review. In the alternative, the Association argued that the complainants lacked standing to seek judicial review. The chambers judge dismissed the motion and the Association appealed to the Court of Appeal.

[36] The Court of Appeal sided with the Association as to the nature of the "hearing" before Council:

36 Although called an "appeal", the right conferred on a complainant by s. 49(3) is no more than a right to have the decision of the Discipline Committee terminating an investigation reviewed by Council. It is, in our view, simply an extension of the investigative process. The Act does not expressly or impliedly require a formal or even an informal hearing. A complainant who elects to seek review of the decision by Council is no doubt permitted to submit additional written or oral material by way of explanation or elaboration of the complaint. A complainant is not, however, entitled at this stage to be represented by counsel or to subject the investigated person to cross-examination in order to substantiate the complaint. Nor is a complainant entitled to reasons for Council's decision to confirm the determination of the Discipline Committee.

37 The decision of Council to uphold the termination of an investigation is a discretionary one. In deciding whether or not to proceed with a disciplinary hearing, Council must consider not only the interests of the complainant but also the rights of

the investigated person and its responsibility as the governing body of a self-governing profession. **(Emphasis added)**

[37] The Court noted that the role assigned by the Act to the complainant in the disciplinary process was a relevant consideration. If a complaint is not dismissed by the Discipline Committee, a hearing must be held. The complainant will be given notice of the hearing and of the decision, but is not entitled to appear and be represented by counsel at the hearing. A decision of the Discipline Committee may be appealed to Council by the member being investigated or the Registrar on behalf of the Association. No such right is given to the complainant. The Act does not require that the complainant be served with notice of the appeal. The member alone is given the right to appeal the decision of Council to the Court of Appeal. The Court concluded:

41 The Act makes it clear that the disciplinary process is a matter between the Association and the individual member whose conduct has been questioned. The Act is directed solely to the Association and its members; the rights, duties and responsibilities contained in the Act relate only to them. Under the investigative process contained in Part 5, a complainant is not made a party either to the investigation or the disciplinary process itself. The only parties are the Association and the member whose conduct is under investigation. Council's decision to terminate the investigation of the Engineers could have no detrimental impact on either FOR or Opron. It did not affect their personal or economic rights or obligations. They have no more interest in the conduct of the Engineers than any other member of the public. There is no *lis inter partes* between FOR and Opron, on the one hand, and the Association or the Engineers, on the other. Judicial review is not available in these circumstances. **(Emphasis added)**

[38] Having concluded that judicial review of Council's discretionary decision to end the investigation was unavailable, the Court of Appeal noted that it did not need to consider the issue of standing. However, I agree with the following statement of Muise, J. in **Robichaud**, *supra*:

31 *Old Man River* stated that it did not decide the issue of standing. However, it based its conclusion that judicial review was not available, in part, on a finding that Council's decision did not affect the complainants' rights or obligations. Those are factors to be considered in determining the issue of standing.

[39] For this reason, the **Old Man River** decision is often cited as authority for the proposition that complainants are not entitled to review of the merits of a decision.

[40] The Alberta Court of Appeal clarified the decision in **Old Man River** in the subsequent case of **Mitten**. In that case, the appellant, Ms. Mitten, filed a complaint against a psychologist with the College of Alberta Psychologists. The complaint was forwarded to an investigator who provided a report to the Acting Registrar of the College. After reviewing the report, the Acting Registrar decided that the complaint lacked sufficient evidence of professional misconduct or unskilled practice and should be dismissed. Ms. Mitten exercised her right under the legislation to appeal the decision of the Acting Registrar to the Discipline Committee of the College. The Discipline Committee agreed with the Acting Registrar and upheld the dismissal. Ms. Mitten filed an originating notice with the Court seeking judicial review of the Discipline's Committee's decision on procedural and substantive grounds. The College brought a motion to strike the originating notice, asserting that judicial review was not available in the circumstances. The chambers judge concluded that disciplinary proceedings are a matter between the individual member and the professional association, and that the complainant was not entitled to judicial review. Ms. Mitten appealed to the Alberta Court of Appeal.

[41] In determining the availability of judicial review, the Court considered the decision in **Old Man River** and said:

17 While the role of the complainant in discipline proceedings at the investigative stage is limited, the statute does afford the complainant some rights. The College and the investigated psychologist may be the only full parties at that stage, but the claimant is clearly a participant in the appeal of the decision not to proceed to hearing. The Act specifically gives that right of appeal to the complainant. What the obiter comments in Friends of the Old Man River signify is that the complainant cannot turn the appeal of the decision not to proceed to a hearing into a surrogate hearing on the merits. Friends of the Old Man River should not be read as suggesting that a complainant who launches an appeal under the statute has no remedies if the appeal process is conducted in a fundamentally unfair manner.

[42] The Court proceeded to strike the paragraphs of the originating notice that challenged the merits of the investigation and left only those grounds related to procedural fairness.

[43] As in **Old Man River** and **Mitten**, the legislation in the case at bar grants the complainant the right to a review of the Executive Director's decision to dismiss a complaint. Mr. Tupper is therefore a participant in the appeal of the decision not to

investigate his complaint further. This does not entitle him to a surrogate hearing on the merits of his complaint, but it does entitle him to judicial review of the fairness of the Review Subcommittee process.

[44] The grounds for review advanced by Mr. Tupper are lengthy and somewhat unintelligible. Most of the allegations attack the merits of the decision of the Review Subcommittee to adopt the reasons of Ms. Rees. Judicial review of the merits is not available to Mr. Tupper. With respect to the fairness of the Review Subcommittee's process, Mr. Tupper alleges bias or a reasonable apprehension of bias and insufficient reasons. I am satisfied that these grounds are baseless. Essentially, Mr. Tupper argues that the dismissal of his complaint is evidence that the Review Subcommittee is biased against him and will protect its members at any cost. His argument with respect to the sufficiency of the reasons given for the dismissal of his complaint is that the Review Subcommittee "ignored all the facts" and did not apply its expertise to the issues raised in the complaint. These allegations are simply untenable.

[45] Having determined that Mr. Tupper should not be granted an extension of time to apply for judicial review on the basis of the three-part test, I must consider whether justice requires a different result. I have no difficulty concluding that the dismissal of Mr. Tupper's motion will best serve the interests of justice. While dismissing his motion, I recognize that Mr. Tupper genuinely believes he has been grievously wronged by the lawyers named in his complaint. He has devoted a great deal of time and effort to this matter over the last six years and has launched multiple court actions. Mr. Tupper's sincerity of belief, however, is incongruent with the evidence he offers to support the serious allegations he levels at the lawyers and the respondent. His case for judicial review has no chance of success and must not be entertained any further.

CONCLUSION:

[46] Mr. Tupper's motion for an extension of time to file an application for judicial review is dismissed. In light of Mr. Tupper's current financial situation, I am not prepared to award costs against him. The respondents will have to be content with their success in having the motion denied.