2014 S.C.BW. Number: 430137

SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Farmer v. Hirtle, 2014 NSSM 82

BETWEEN:

LLOYD GEORGE FARMER
and CHARLOTTE ROSE FARMER

Claimants/Clients
(Respondents on Recusal Motion)

- and -

DAVID R. HIRTLE/HIRTLE LEGAL SERVICES INC.
and ALLEN C. FOWNES/FOWNES LAW OFFICES INC.

Defendants/Solicitors
(Moving Parties on Recusal Motion)

DECISION AND ORDER
PRELIMINARY MOTION TO RECUSE

Date of Hearing: October 31st, 2014

Place of Hearing: Bridgewater, Nova Scotia

Heard Before: ***Gavin Giles, Q.C., Chief Adjudicator***

Counsel: For the Moving Parties:

Allen C. Fownes and David R. Hirtle (personally)

For the Respondents:

Rubin Dexter

Date of Decision: November 3rd, 2014

Gavin Giles, Q.C., Chief Adjudicator

SUMMARY OF FINDINGS:

[1] In very brief compass, the matter in issue is a Taxation. The Respondents are seeking the review and, impliedly, the reduction, of the accounts rendered to them by the respective Moving Parties pursuant to the terms and conditions of certain Contingency Fee Agreements entered into on June 16th, 2010.

[2] Preliminary to the hearing of the Taxation, the Moving Parties have sought my recusal. For the reasons set out in detail below, the Moving Parties' Recusal Motion is declined.

[3] The Moving Parties appear from the materials filed on their Recusal Motion to have acted for the Respondents in related personal injury claims. Unclear is whether the Moving Parties commenced actual formal legal proceedings on behalf of the Respondents or whether the Respondents' personal injury claims were resolved consensually prior to such formal legal proceedings being commenced. That said, an entry in the Fownes Law Offices Inc. account appended to the Respondents' Notice of Taxation makes reference to a Notice to Admit, thus indicating that formal legal proceedings on behalf of the Respondents may have been commenced. There is also an entry in the Hirtle Legal Services Inc. account to a filing fee. Finally, there is a reference in a Mediation Brief filed by the moving Parties on their Recusal Motion to the Respondent, Lloyd George Farmer, being "a Plaintiff in this action."

[4] I will refer in this Decision to the Respondents' personal injury claims as the "underlying proceedings" or the "prior proceedings".

[5] The contingent fee account rendered to the Respondents' in the underlying proceedings by the Moving Party, Hirtle Legal Services Inc. totalled $193,569.56. The contingent fee account rendered to the Respondents in the underlying proceedings by the Moving Party, Fownes Law Offices Inc. totalled $177,291.67. Both accounts were rendered to the Respondents by the respective Moving Parties on December 6th, 2012.

[6] My only knowledge of the Moving Parties' contingent fee accounts rendered to the Respondents is that which is set out in the latters' Notice of Taxation dated July 31st, 2014.

Appended to the Respondents' Notice of Taxation were copies of the Moving Parties' respective contingent fee accounts.

[7] The fee portion of Hirtle Legal Services Inc.'s totalled $154,166.66. The remainder was comprised of Disbursements ($14,401.50) and HST ($25,001.40). The fee portion of Fownes Law Offices Inc.'s totalled $154,166.67. The remainder was comprised of HST ($23,125.00).

[8] Neither of the Moving Parties' respective contingent fee accounts was particularly detailed. The contingent fee account rendered by the Moving Party, Hirtle Legal Services Inc., referred to "all services rendered" and included generic references to "court appearance, attendances, conferences, correspondence and telephone calls". The contingent fee account rendered by the Moving Party, Fownes Law Offices Inc., referred to "all professional services" and included moderately less generic references to clients meetings, legal research into liability and damages, preparation for discovery and a Notice to Admit, negotiations with the Respondent's Section "B" insurer (for which no discrete fees were charged), discovery, work with respect to various experts and their reports, preparation for and attendance on Mediation and the drafting and filing of certain "closing" or "clean-up" documents.

[9] Under the "Unit Price" heading in the Fownes Law Offices Inc. contingent fee account is a reference to "33.33% of Settlement amount of $925,000". I have inferred from that entry that net of fees, disbursements and HST, the Respondents received $554,138.77 of the agreed-upon settlement amount as reflected above. It also thus appears that the Moving Parties each charged the Respondents the maximum allowable compensation set out pursuant to the provisions of Article 4 of their respective Contingency Fee Agreements, or 33.33% (in total) of the $925,000 reflected above.

[10] Put for the purposes of this summary, my Decision to reject the Moving Parties' Motion for my recusal is based on three basic factors.

[11] First, the bases upon which such Motions are granted are objective and not subjective. The Moving Parties' subjective assessment, regarding my bias, likely bias, partiality, or the appearance or apprehension of same, as they, themselves, have ably explained, is not relevant.

[12] What is instead relevant is how the objective observer, fully apprised of all of the circumstances of the subject proceedings, including the relevant high threshold test and the presumption at law regarding a judicial decision-maker's assumed impartiality, would determine the Moving Parties' allegations of my bias, likely bias or partiality, or the appearance or apprehension of same.

[13] These principles were conceded by the Moving Parties, themselves, in their able and comprehensive written and oral arguments, and in their responses to the questions I posed to them on the hearing of the Motion.

[14] Second, the high threshold test referred to above provides that it is incumbent upon the Moving Parties to *demonstrate* the bias, likely bias or partiality, or the appearance or apprehension of same, which is being alleged. The allegation itself is not sufficient. The subjective feelings of the Moving Parties are also not sufficient. The standard is an objective one, which weaves within it some important and overarching principles regarding the assumed impartiality of the judicial process and those engaged in it, be they Judges or Adjudicators, also as referred to above.

[15] Third, the Moving Parties are relying for their allegations of my bias, likely bias or partiality, or the appearance or apprehension of same, on my partnership in the practice of law with Wendy J. Johnston, Q.C. They say that Ms. Johnston, Q.C. acted against the Respondents on their personal injury claims. Though they do concede that that fact is not sufficient, in-and-of-itself, to warrant my recusal, they have further offered the possibility that Ms. Johnston could be called as a witness in this Taxation to support their contentions regarding their professional services levels to the Respondents (and therefore the extent of their contingent fee accounts).

[16] The Moving Parties have also offered the possibility that I could be "embarrassed" by having to assess, in the course of the Taxation, Ms. Johnston, Q.C.'s various e-mail messages, correspondence and her Mediation Brief, from the perspectives of having to gauge the quantity of the professional services in which the Moving Parties were required to engage on behalf of the Respondents. The Moving Parties' seminal point in that regard is that Ms. Johnston, Q.C. might be seen to have adopted an unreasonable position in the underlying proceedings; and one which served to increase the level and extent of the legal services which the Respondents required in them.

[17] After due consideration, I have rejected the Moving Parties' theories as outlined and summarized above.

[18] First, the Moving Parties have offered no conviction, let alone assurance, that Ms. Johnston, Q.C. will in fact be called as a witness in the Taxation. It would in fact be strange for her to be so called. In sum and substance, her evidence could only be that in the underlying proceedings she had either asked every question, raised every issue and advanced every argument, however distasteful, that she reasonably though would assist her client and obtain for it the benefit of any and every right, remedy and defence which is authorized by law; to paraphrase the provisions of Guiding Principle 1 of Chapter 10 of the Nova Scotia Barristers' Society's Code of *Professional Conduct*; or that she undertook her efforts on behalf of her client employing means which were unfair or dishonourable; to paraphrase the provisions of Guiding Principle 2 of Chapter 10 of the Nova Scotia Barristers' Society's Code of *Professional Conduct*.

[19] As there was no evidence before me that the latter form of representation by Ms. Johnston, Q.C. was ever an articulated concern; and as the former form of representation would not assist the Moving Parties in their response positions in the Taxation, Ms. Johnston's precise role could only be viewed as an irrelevant or a neutral factor. And as for the suggestion of some feelings of embarrassment on my part in having to consider Ms. Johnston, Q.C.'s work on the matter underlying the Taxation, the law is clear: it is incumbent about the Moving Parties to justify the accounts they have rendered in response to the Respondents' Taxation. It is their professional services and their explanations of what they did and why they did it which will inform that justification, or not.

[20] Second, and as the credibility of Ms. Johnston, Q.C. will not be in issue in the Taxation, the very fact that she appeared opposite the Moving Parties in the underlying proceedings is of no account. In that regard, one can safely assume that the Respondents, in mustering themselves to personal injury claims which were settled for $925,000, would have faced a comprehensive and concerted, if not a vigorous, defence. In their representation of the Respondents, the Moving Parties would be expected to develop and advance their case theories accordingly. What they did, why they did it and with what effect, should be clear from their own file materials, from their time records and dockets (if any) and from their recollections as set out in their testimony. In the result, though the stated list of factors is not exhaustive, the outcome of the Taxation will boil down to my assessment of the Moving Parties' case: what they did, why they did it and with what effect, their own file materials, their time records and dockets

(if any) and their credibility with respect to the stated factors; all which they will no doubt bolster and which the Respondents will no doubt challenge. Once again, any assessment of Ms. Johnston, Q.C. would be at least, irrelevant, and at best, neutral.

[21] To be clear, the Moving Parties have not alleged anything with respect to Ms. Johnston, Q.C. role in the underlying proceedings which would be in any manner at odds with any counsel's ethical and professional roles as set out in Guiding Principle 1 of Chapter 10 of the Nova Scotia Barristers' Society's Code of *Professional Conduct*. Thus, the moving Parties' bare allegation of bias, likely bias or partiality, or the appearance or apprehension of same, without more, is not a sufficient basis for recusal. The authorities are very clear. And in arriving at that conclusion, I have not ignored the Moving Parties' position, as set out on pages 1 and 2 of their Memorandum of Law, that:

> Solicitor Wendy Johnston, Q.C. on behalf of the Defendants maintained that final hour [sic] that this was not 'limits' case despite being pressed numerous times to disclose the limits. Ms. Johnston also refused to make an interim or any meaningful offer advantages pending a trial or settlement.
>
> This refusal was despite the interim and final Cost of Future Care reports of Larry Clement who described the living conditions of the Farmers in their home as unsafe and among the worst he had seen in his many reports, and who was taking the unusual step of writing an interim report so that some money could be obtained to alleviate the dangerous conditions existing in the Farmers' home.
>
> When pushed to admit liability for the head-on collision, Ms. Johnston required the Farmers to drop their claim for interim relief and abandon the idea of an interim Motion for an interim award of damages. Our notion of the motion was only abandoned when the defendants [via Ms. Johnston] agreed to participate in the Mediation with Craig Garson. [We also know that many of such motions are unsuccessful] [sic]
>
> It was not known until after 1 pm on mediation day that the defendants had a $1 million policy limit and that sum plus some modest costs on discontinuance would be then maximal recovery possible for the Farmers. The claim was calculated by actuary Jesse Shaw Gmeiner approaching $4 million.

[22] Third, as the Moving Parties will be well aware, wishing that Mr. Johnston, Q.C. had conducted herself differently on behalf of the defendants in the underlying proceedings is not the same as contending that she acted unreasonably or served in any manner to increase

the Respondent's exposure to legal costs in those underlying proceedings. In that regard, the point made above about counsel's ethical and professional roles, as set out in Guiding Principle 1 of Chapter 10 of the Nova Scotia Barristers' Society's Code of *Professional Conduct*, has received ample amplification in Lukasiewicz, Peter J., Arndt, Thomas, Bolla, Jessica and Ordon, Martine "*A Lawyer's Duty to Opposing Counsel*", The Advocates' Society, Toronto, 2011:

> Law suits are not tea parties and lawyers are not potted plants, living thing[s] that stand mute. Lawyers are advocates and as such are charged with the duty to advocate strongly for clients. As advocates lawyers must '"raise fearlessly every issue, advance every argument, and ask every question'. ...
>
> A lawyer is 'not obliged (save as required by law or under these rules...) to assist an adversary or advance matters derogatory to the client's case.' The Rules dictate that when advocating on behalf of a client, a lawyer remains bound by his duty to the court, the administration of justice and opposing counsel. Those duties cannot be abandoned for the sake of trial tactics; nor should strong advocacy be tempered by pleasantries. It is a lawyer's duty to advocate passionately while maintaining professional integrity and upholding a multitude of duties.

[23] Fourth, the authorities are also very clear that judicial decision-makers should not withdraw unnecessarily from their proceedings as to do so serves to create institutional pressures and constitute unwarranted delays.

[24] After having considered all of the Moving Parties' comprehensive written and very capable oral submissions, and having considered the applicable authorities, I have come to the conclusion that the Moving Parties have simply fallen short of establishing, on the required objective basis, that I lack the necessary objectivity and impartiality to fairly judge and determine the proceedings in which they and the Respondents are currently involved. It is on that basis that Moving Parties' Recusal Motion is declined.

INTRODUCTION:

[25] This matter was heard before the Small Claims Court of Nova Scotia, at Bridgewater, on the afternoon of Friday, October 31st, 2014.

[26] The Moving Parties are practicing members of the Nova Scotia Barristers' Society in good standing and are representing themselves, at least for the purposes of their Recusal Motion. They were both present and they both argued.

[27] Only one of the Respondents was present. I took from the file documents that he was Lloyd George Farmer. He did not speak in the course of the recusal Motion. Both he and the other Respondent were represented by Rubin Dexter

[28] The Moving Parties also made a Motion seeking Mr. Dexter's disqualification. Their contention was that as a former Adjudicator of the Small-Claims Court of Nova Scotia, Mr. Dexter was required to go through some sort of "cooling off period" before he could resume practice before the Court. It was a contention rejected by the Respondents.

[29] In the course of preliminary discussions regarding the merits of the Moving Parties' Motion as it related to Mr. Dexter, they concluded that they would withdraw it, at least for the time being. Though there was some very basic suggestion by the Moving Parties that their recusal Motion should then await some form of possible ethical ruling on the part of the Nova Scotia Barristers' Society with respect to Mr. Dexter's role, that suggestion was also abandoned. It was on that basis that the Moving Parties' Recusal Motion proceeded on its merits.

BACKGROUND:

[30] It is expected that a sufficient factual matrix has been set out above to establish the background for this Decision. To reiterate, and to perhaps expand, the Moving Parties were vigorous in their assertions that an appearance of bias or impropriety could arise were I to continue to preside over the Taxation. The sum and substance of the Moving Parties' vigorous submissions was hinged to my relationship, as a partner in the practice of law, with Wendy J. Johnston, Q.C.

[31] In order to bring focus to the Moving Parties' submissions, I provided my own assessment of the factual background to that relationship. Though the Moving Parties acknowledge their gratitude for my explanation, they did not see it as altering in any tangible way the basic positions which they were taking.

[32] To be a little clearer, Ms. Johnston, Q.C. and I are both McInnes Cooper partners; I since I joined the firm as a "lateral hire" in 2005; she since she joined the firm on its amalgamation with the old Patterson Palmer firm in 2007.

[33] Both currently and in 2012, McInnes Cooper was comprised of some 230 lawyers, practicing out of seven offices located throughout Atlantic Canada. Ms. Johnston, Q.C.

and I practice out of the same Halifax office. We are both "litigation lawyers" and in fact have our offices on the same floor. That is the end of our commonality.

[34] Ms. Johnston, Q.C. works almost exclusively in the field of insurance defence litigation. I also worked tangentially in that field though rarely over the last decade have I been involved in the defence of claims arising out of motor vehicle collisions. It is on that basis that my practice and the practice maintained by Ms. Johnston, Q.C. almost never intersect. As partners in the McInnes Cooper firm, we have only once worked jointly on the same file; a plaintiff's file, in 2008.

[35] As partners, it is conceded that the law sets out some principled factors which govern the professional relationship which Ms. Johnston, Q.C. and I have. That said, I can go weeks, and even months, without seeing her. Though I would not deny that our relationship is "friendly", it is not collegial and it is not maintained outside of the firm on a social basis.

[36] Perhaps as an additional factual matrix, the Moving Parties filed, in support of their Recusal Motion, a selection of e-mail messages exchanged as between themselves and Ms. Johnston, Q.C.

[37] The first of these e-mail messages was dated May 27th, 2011 and was directed to Ms. Johnston, Q.C. by Mr. Fownes. This e-mail message pegged damages of the Respondent, Charlotte Rose Farmer, at in excess of $1Million and perhaps in excess of $2Million. The e-mail message raised issues of insurance policy limits and the possibility of an interim damages payment.

[38] The last of these e-mail messages was dated May 25, 2012 and was directed to Mr. Fownes by Ms. Johnston, Q.C. This e-mail message served to concede liability in the underlying proceedings and reject, for settlement purposes, a figure which had been set out by the Respondents' Actuary.

[39] Unclear is the purpose for which the Moving Parties put this selection of e-mail messages before me. Perhaps it was to demonstrate (or prove) the role which Mr. Johnston, Q.C. played in the underlying proceedings. That is not denied. But it does not demonstrate any particular level of vigour or determination on the part of Ms. Johnston, Q.C. to defend against the Respondent's claims. I make the point as the selection of e-mail messages serve to "...convey to me no more, nor less than relatively normal, common-place negotiations..."; to

adopt a phrase employed by Goodfellow, J. (as His Lordship was) in *Toronto-Dominion Bank v. Lienaux*, 1997 CanLII 9836 (NSSC).

[40] Also submitted for my consideration on the Recusal Motion was a copy of Ms. Johnston, Q.C.'s Mediation Brief (to Mediator, Craig M. Garson, Q.C.) dated November 7th, 2012. The Brief was in consequence of the Mediation which appears to have proceeded before Mr. Garson, Q.C. on November 13th, 2012. The Mediation was successful.

[41] As with the selection of e-mail messages, Mr. Johnston, Q.C.'s Mediation Brief to Mr. Garson, Q.C. is not determinative of anything. It presented a comprehensive "picture" of the limitations and related losses alleged by the Respondents. It also set out a variety of circumstances which had negatively affected Ms. Farmer's physical circumstances and comfort in the past. It was informative in tone. It was neither benign nor aggressive. It did not even argue a particular outcome to be considered by Mr. Garson, Q.C.

[42] It is against that background that I have assessed the Moving Parties' positions on my recusal only on the narrow technical grounds which they have argued. To be clear, the Moving Parties have not suggested any fear or risk of any overt bias on my part given my professional relationship to Ms. Johnston, Q.C. What they have argued, instead, is that I could be seen as not being impartial; or worse, that I could be "embarrassed", if I was to continue to preside in these proceedings and if I was thus required to attempt an objective assessment of Ms. Johnston's Q.C.'s role in the underlying proceedings.

[43] Put another way, the legal question the Moving Parties have posed is whether a reasonable observer, fully and properly informed, against the backdrop of both my Oath of Office and the presumption that judges and other judicial decision-makers will conduct themselves in manners which are fair and impartial, arrive at the conclusion that my limited contact with Ms. Johnston, Q.C. and her role in the underlying proceedings were or are both such as to found a contention of bias, likely bias or partiality on my part?

<u>ANALYSIS</u>:

(a) Statutory Provisions and Related Inferences

[43] Section 2 of the *Small Claims Court Act* provides that:

> It is the intent and purpose of this Act to constitute a court wherein claims up to but not exceeding the monetary jurisdiction of the court are adjudicated informally and inexpensively but in accordance with established principles of law and natural justice.

[44] Section 6(2) of the *Act* provides that:

> The Governor in Council may appoint on the recommendation of the Attorney General such adjudicators as the Governor in Council deems necessary.

[45] Section 6(3) of the *Act* provides that:

> No person shall be appointed or serve as an adjudicator unless that person is a practising member in good standing of the Nova Scotia Barristers' Society.

[46] Section 6(6) of the *Act* provides that:

> Before taking office, each adjudicator shall take and subscribe the following oath before a judge of the Supreme Court:
>
> > I, ..., of . . . ., in the County of . . . ., make oath and say, that I will well and truly serve our Sovereign Lady the Queen in the office of Adjudicator of the Small Claims Court of Nova Scotia, and I will do right to all manner of people after the laws of the Province without fear, favour, affection or ill will.

[47] It appears from these statutory provisions that what was intended by the Nova Scotia Legislature was a part-time Small Claims Court, designed to function as many other Courts do, but with *practicing* lawyers as the decision-makers. With our relatively small Bar being what it is, it had to have been contemplated by the Legislature that circumstances such as those closely akin to those underpinning this Recusal Motion could arise. It is no doubt on that basis, primarily, that the Legislature exhorts, through its Oath of Office, that individual Adjudicators "will do right to all manner of people after the laws of the Province without fear, favour, affection or ill will." Appreciated, at least by me, is that the exhortation does not diminish the requirement that Adjudicators be both independent and appear to be so.

[48] The words of the Adjudicator's Oath of Office are important ones and they must be taken, especially within the context of a recusal motion, to mean something important. They are thus germane to the resolution of this Recusal Motion. They mean that whatever the tangential connections which the individual Adjudicators have with those who appear before them, the expectation of neutrality "without fear, favour, affection or ill will" must always remain the hallmarks of each Adjudicator's role. And the assessment of whether it will or whether it will not must always be an objective one.

(b) General Principles

[49] There have thus developed over time a series of important common law principles which help to inform the outcome of recusal motions. In that regard, it would appears that all analyses undertaken with respect to recusal motions generally must stem from the Decision of the Supreme Court of Canada (per: de Grandpré, J.) (in dissent)) in *Committee for Justice and Liberty v. Canada (National Energy Board)*, [1978] 1 S.C.R. 369. There, de Grandpré, J. held (at p. 394) with respect to the basis upon which a recusal motion is generally argued that:

> ... the apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information ... [The] test is 'what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude.' Would he think that it is more likely than not that [the decision maker], whether consciously or unconsciously, would not decide fairly.

[50] Though a dissenting one, the Decision by de Grandpré, J. in *Committee for Justice and Liberty* gained prominence as a result of the much later Supreme Court of Canada decision (per: Cory, J.) in *R. v. S. (R.D.),* [1997] 3 S.C.R. 498. There, Corey, J. (commencing at para. 111) held, with respect to de Grandpré, J.'s Decision in *Committee for Justice and Liberty*, that:

> The test has been adopted and applied for the past two decades. It contains a two-fold objective element: the person considering the alleged bias must be reasonable, and the apprehension of bias itself must also be reasonable in the circumstances of the case. ... Further [,] the reasonable person must be an informed person, with knowledge of all the relevant circumstances, including 'the traditions of integrity and impartiality that form a part of the background and

> apprised also of the fact that impartiality is one of the duties that judges swear to uphold' ...

[51] Cory, J. then continued at paras. 112, 113 and 114 that:

> Nonetheless the English and Canadian case law that does properly support the appellant's contention that a real likelihood or probability of bias <u>must be demonstrated and that a mere suspicion is not enough</u> ...
>
> ...
>
> Regardless of the precise words used to describe the test, the object of the different formulations is to emphasize that <u>the threshold for a finding of real or perceived bias is high</u> ...
>
> ...
>
> The onus of demonstrating bias lies with the person who is alleging its existence ... . Further, whether a reasonable apprehension of bias arises will depend entirely on the facts of the case. [Underlining Added]

[52] Taken at its highest, the Moving Parties bring their Recusal Motion in these proceedings in part on the contention of an apprehension of bias on my part, potentially contrary to their interests, based on my partnership in the practice of law with Ms. Johnston, Q.C. and in part on the contention that that partnership could put me in sufficient proximity to Ms. Johnston, Q.C. that my objectivity could at least potentially be negatively affected. But neither that partnership *per se*, nor any influence the underlying proceedings may have on these proceedings meet, in my view, the traditional onus of proof which recusal requires. Some explanation of that reasoning has already been set out above.

[53] With obvious respect to the Moving Parties, their contentions referred to above amount only to personal views and are as such irrelevant to the central question this Recusal Motion poses. As to the former contention, it is a neutral factor, as already stated. As to the latter contention, it could only amount, on the basis of the evidence which the Moving Parties have led on Recusal Motion, to a "mere suspicion" of some mischief should I continue to be seized with these proceedings. And the law is clear: a mere suspicion, regardless of how sincerely it is held in not sufficient on which to ground a recusal. In other words, a mere suspicion cannot displace the presumption of impartiality which judges and other judicial

decision-makers, such as the Adjudicators of this Court, have sworn to uphold. The threshold test thus set for recusal is high. And the test is an objective one; engaging a hypothetical person, fully and properly informed and acting reasonably.

[54] Those tests having been articulated, there has been no demonstration by the Moving Parties of any reasonable apprehension of bias when considered "entirely on the facts of the case". In short, as held by the Supreme Court of Canada (per: Le Dain, J.) in *Valente v. Her Majesty the Queen*, [1985] 2 S.C.R. 673 (at p. 685), "[i]mpartiality refers to a state of mind or attitude of the tribunal in relation to the issues and the parties in a particular case. The word 'impartial' as Howland, C.J.O. noted, notes absence of bias, actual or perceived." That definition focuses the inquiry on the objective assessment of the impact, if any, of my professional relationship to Ms. Johnston, Q.C. on the Taxation and the impact, if any, of her involvement in the Taxation. And the former point only becomes germane in the event of the manifestation of the latter point; upon which there is no current proof.

[55] As a practical matter, the application of the decision-maker's discretion in Recusal Motions is difficult. In some respects, the common practice casts the decision-maker in the roles of witness, advocate and decider. This Recusal Motion is no different as I have already been constrained to set out my professional relationship with Ms. Johnston, Q.C. and explain why it is not a sufficient basis for my recusal.

[56] The conundrum was in fact put as follows by the Supreme Court of Nova Scotia (per: Richard, J.) in *Mitsui & Co. (Point Aconi) Limited v. Jones Power Co. Limited*, 2001 N.S.S.C. 29 (CanLii) (at para. 4):

> It appears to be the practice that such applications are made before the judge to whom the application is directed – see *Cominco Ltd. v. Westinghouse Canada Ltd., et al.* (1979) 108 D.L.R. (3d) 579 (B.C.S.C.) and *Arsenault – Cameron v. Prince Edward Island*, [1999] 3 S.C.R. 851. As *Jones* said in its opening remarks:
>
> > Having looked that the authorities, it's quite clear that the application has to be made before the judge himself which is a difficult position to put a judge in and in effect to try and be an informed observer standing to the side but that's what the authorities seem to say and so that's why we are before you today.
>
> This places the judge at a rather unique but challenging position of having to rule upon his or her own conduct and rule whether or not such conduct raises a real likelihood of probability of bias. <u>Except in the most egregious of circumstances, it is only the presiding judge</u>

> who can properly determine the question of his or her own bias. The judge must be careful to bring the same degree of impartiality and attachment into these deliberations as would be the case in regular court proceedings. The judge must be careful to assume the role of an informed person with a complex and contextualized understanding of the issues. To do otherwise would be to subvert the process and bring into question the whole notion of judicial impartiality and fairness. [Underlining Added]

[57] Richard, J. in *Mitsui* held that a reasonable apprehension of his bias had not been made out. On appeal, the Nova Scotia Court of Appeal (per: Hallett, J.A.) disagreed. In Hallett, J.A.'s analysis in the Court of Appeal, Richard, J. had made findings against Jones Power which were or which at least could be crucial to the assessment of matters which remained outstanding between Jones Power and its opponent. Both the findings made and the matters still pending were held by Hallett, J.A. as reasonably leaving Jones Power with the perception that Richard, J.'s mind with respect to the whole case had effectively been made up. That was, as held by Hallett, J.A., a sufficient apprehension of bias as to warrant Richard, J.'s recusal.

[58] Those are not the types of circumstances which inhere in this Recusal Motion. In this Recusal Motion, the Moving Parties are looking to the past, and then attempting to project it into the future. Ignored is the fact that I have had nothing whatever to do with the underlying proceedings and in fact knew nothing about them until the Moving Parties' Recusal Motion was filed. Even at that, all I know about those underlying proceedings is that which has been filed and argued. I have made no independent form(s) of inquiry; nor could I ethically make any.

[59] Further gloss on the analysis by Richard, J. in *Mitsui* of the applicable principles has been set out by the Court of Appeal (per: Saunders, J.A.) in *Doncaster v. Chignecto-Central Regional School Bo*ard, 2013 NSCA 59.

[60] At issue in *Doncaster* was an appellant's recusal motion brought only orally at the outset of argument on a Motion by the respondents in that case for a stay of then pending appellate proceedings. The appellant's recusal motion was based on his perception that he had been ill-treated by Saunders, J.A. in prior related interlocutory proceedings (in the same pending appeal) and that the alleged ill-treatment smacked of a bias or at least an apparent bias.

[61] An additional feature in *Doncaster* was that the appellant had complained on his allegation of ill-treatment by Saunders, J.A. to the Canadian Judicial Council. According to the

appellant's submissions on his recusal motion, a Judge who is the subject of a complaint as a result of actions or conduct in proceedings involving the complainant cannot remain seized of those proceedings. Saunders, J.A. summarized the appellant's argument (at paragraphs 7 and 8) as follows:

> I reminded Mr. Doncaster that he had not favoured me with a copy of his complaint to the Canadian Judicial Council and so I had no knowledge of the nature of his complaint. In order for me to consider his demand that I recuse myself I would need to have particulars of his complaint. He attempted to find a copy on his computer notebook which he said preserved all of his correspondence and records for 30 days but after two or three minutes of searching he said he couldn't find it and would prefer to summarize the complaint. He undertook to send a copy of the complaint together with any and all attachments or other references that formed part of it, to the Registrar within the next two or three days to complete this Court's record.
>
> Mr. Doncaster then described the incident, and only incident, which sparked his complaint to the Canadian Judicial Council. He said it was about my 'conduct' during an earlier Chambers appearance this term when, in the process of writing down some dates he (Doncaster) had referred to his estranged wife's lawyer by 'she' or 'her' to which I had intervened and said something to him along the lines of 'Mr. Doncaster, counsel in this Chambers has a name and so you are to refer to Ms. Stevenson by her name.' Mr. Doncaster explained that my interjection came after he had already pointed out to me that he has ADHD and Asbergers. He said that it was apparent to him that I knew nothing about Asbergers and instead of understanding his 'disability' and 'accommodating' it, I had 'chastised' him for 'not following some silly, unwritten rules of Court decorum.' He then made reference to the *Charter*, certain United Nations Conventions on Persons with Disability, cases dealing with reasonable apprehension of bias, and a 'welcome message' he had printed off the Internet of remarks made on some occasion by Chief Justice Beverley McLachlin. He said that in filing his complaint with the Canadian Judicial Council he had urged the Council to require me to take 'sensitivity training' to 'accommodate .... someone with a mental disability, like either of the two that I have, ADHD and Asbergers ...' and until such time as I had undertaken (and I assume presumably successfully completed) such training I should be prohibited from presiding over matters which involved him.

[62] Saunders, J.A. then went on to recite and consider the appellants other arguments (at paragraphs 15 and 16) as follows:

> Mr. Doncaster does not assert that I ought to recuse myself because he lost a case at a previous trial or Chambers

appearance over which I presided. It is obvious but perhaps bears repeating that such an assertion would hardly be a basis for recusal in any event. That isn't how things work. Otherwise disgruntled litigants would invariably demand the recusal of any judge who had found against them, eventually whittling the juridical pool down to zero.

The mere fact that a party has lost some motion or suit before a judge (without a jury) does not entitle that litigant to be thereafter free of that judge. That is so both in later suits of a broadly similar nature, and in later motions in the same suit.

Broda v. Broda, 2001 ABCA 151 (CanLII) at 16.

Rather, Mr. Doncaster says that my having "chastised " (his word) him for "not following some silly, unwritten rules of Court decorum" suggests to him that I:

> ... may draw some conclusions based upon my behaviour. So, for instance, perhaps where I don't have any deference to authority you may draw some conclusions that because I don't respect authority therefore I may not, you know, respect the law. And, therefore, my case may be – you may deem it frivolous when, in fact, it's not.

This he says:

> ... may bring into question again your partiality where it is apparent, I think that you do expect people in the court with mental disability or not, you like them to follow the court decorum and I would say even archaic rituals of this Court and that my failure to show you the respect you think that may be acclaimed by judges where, in my personal opinion, a judge is no more – and I said this in another Provincial Court case before Judge Jamie Campbell to kind of explain Asbergers. To me, a judge is no more deserving of respect than a janitor. I judge people – I behave – I interact with people based on how they interact with me. Another way I put it before is respect is not acclaimed; it's earned. And so given the fact that I don't show you the respect that I think it seems you were use to getting from people in this court, I would say even having watched court processes a lot it seems like not just respect but deference in submission that it seems to be, I guess to go back to Medieval times, it seems like it's still where you, people coming to the court are considered to be coming before the King's representative and you know the King gets to sit upon his bench and people kind of see to him. So because of that lack of respect and deference I think again that brings in to question whether or not you will be deciding things on the basis of the actual evidence and facts before you rather than on the basis of your personal

> opinion and perhaps even emotional response to me not showing the respect and having the gall to go and complain to the Judicial Council, things like that. ...

[63] Noteworthy, especially against the backdrop of the Moving Parties' theories as underpinning this Recusal Motion, is the manner in which Saunders, J.A. addressed the arguments by the appellant in *Doncaster*: “an informed person, viewing the matter realistically and practically, and having thought the matter through, would not think it more likely that I consciously or unconsciously, would not decide the matter fairly” (at paragraph 17).

[64] To be recalled is that the allegations directed at Saunders, J.A. in *Doncaster* were that the Justice, himself, had acted discourteously and disrespectfully towards the appellant and had failed to accord consideration to the appellant’s alleged mental handicaps. The result was not only the testy exchange set out above but the appellant's complaint to the Canadian Judicial Council. But Saunders, J.A. was nevertheless capable of arriving at the conclusion that those circumstances indicated neither bias nor an appearance of bias on his part.

[65] The allegations made by the Moving Parties in this Recusal Motion are unquestionably more benign than those made by the appellant against Saunders, J.A. in *Doncaster*. The result thus begs the question of how I could be compelled to recuse myself when Saunders, J.A. has determined that His Lordship was not so compelled in *Doncaster*. And recall in that regard that in *Mitsui*, Richard, J. had made actual credibility findings against the party which later sought His Lordship’s recusal; the point highlighted by Hallett, J.A. when that matter reached the Court of Appeal.

(c) Professional Relationships Between the Decision-Maker and Counsel

[66] I am obliged to the Moving Parties for having cited in their Pre-Hearing Brief the decision of the Ontario Court of Appeal (per: Rosenberg, Armstrong and Juriansz, JJ.A.) in *Rando Drugs Limited v. Scott*, 2007 ONCA 553.

[67] As highlighted by Rosenberg, J.A. (at paragraph 1):

> [The] case concerns allegations of bias against a judge. More than ten years before the trial, the trial judge, Justice Terrence Patterson of the Superior Court of Justice, was a partner of the firm that had once represented one of the defendants by

> counterclaim. Although the judge had never been involved in the case and his former firm no longer acted for the defendant, the plaintiff by counterclaim (the appellant in this court) asked the judge to recuse himself. He refused. The appellant and her counsel then walked out of the court. The judge accordingly dismissed the counterclaim. The appellant appeals against the dismissal of her counterclaim and argues that the trial judge erred in failing to recuse himself.

[68] Though not a straight proxy for these proceedings, *Rando Drugs* does offer a number of parallels. They are largely sufficient in my view to dispense with the Moving Parties' stated concerns regarding any apparent lack of impartiality on my part. I of course recognize the precise factual and temporal distinctions.

[69] At issue in *Rando Drugs* was a recusal motion brought in circumstances wherein the presiding Justice had been a partner some years previously in the firm which had in the past represented one of the parties. According to the Decision (paragraph 8), "[t]he motion was advanced on the basis of reasonable apprehension of bias, which allegedly arose from the fact that during the events leading up to the filing of the claim and counterclaim, [the Justice] was a partner of the firm that represented [one of the parties]."

[70] In support of the position taken by the moving party in *Rando Drugs* on the recusal motion, certain correspondence on the Justice's former firm's letterhead showing the Justice as a partner thereof were put before the Court. The party seeking the Justice's recusal invited the Justice to look at that correspondence but the Justice either refused or otherwise failed to do so.

[71] The party seeking the recusal also noted that it was making allegations of fraud and dishonesty against the Justice's former firm's client. According to the party seeking the Justice's recusal, that would require the Justice to make credibility findings with respect to a client of his former firm.

[72] For his part, the Justice explained that he had no knowledge of the case from his time within his former firm. Nor was there any suggestion that the Justice had personally worked on the matter as a partner in his former firm.

[73] It was on that basis that the Justice declined the recusal motion. When asked to adjourn the pending trial so that the party seeking his recusal could take the related decision on

appeal, the Justice refused. That refusal was on the basis that it would have taken up to a year before the matter could be rescheduled for determination. The party seeking the recusal then peremptorily withdrew from the matter; with the result that the party's counter-claim was dismissed with costs. It was with respect to both decisions that review was sought in the Ontario Court of Appeal.

[74] In upholding the Justice's Decision to decline his recusal, Rosenberg, J.A. commenced the analysis with a reference to *Committee for Justice and Liberty* and underscored that "[t]he grounds for this apprehension [of bias] must, however, be substantial and [not dependent on] the "very sensitive or scrupulous conscience". Rosenberg, J.A. then continued (commencing at paragraph 30):

> That brings me then to consider the particular circumstances of this case and whether there are serious grounds to find a disqualifying conflict of interest in this case. In my view, there are two significant factors that justify the trial judge's decision not to recuse himself. The first is his statement, which all parties accept, that he knew nothing of the case when it was in his former firm and that he had nothing to do with it. The second is the long passage of time. As was said in *Wewaykum [Indian Band v. Canada*, 2003 SCC 45 (CanLii)], at para. 85:
>
>> To us, one significant factor stands out, and must inform the perspective of the reasonable person assessing the impact of this involvement on Binnie J.'s impartiality in the appeals. That factor is the passage of time. Most arguments for disqualification rest on circumstances that are either contemporaneous to the decision-making, or that occurred within a short time prior to the decision-making.
>
> There are other factors that inform the issue. The Wilson Walker firm no longer acted for any of the parties by the time of trial. More importantly, at the time of the motion, Patterson J. had been a judge for six years and thus had not had a relationship with his former firm for a considerable period of time.
>
> In my view, a reasonable person, viewing the matter realistically would conclude that the trial judge could deal fairly and impartially with this case. I take this view principally because of the long passage of time and the trial judge's lack of involvement in or knowledge of the case when the Wilson Walker firm had carriage. In these circumstances it cannot be reasonably contended that the trial judge could not remain impartial in the case. The mere fact that his name appears on the letterhead of some correspondence from over a decade ago would not lead a reasonable person to believe that he would either consciously or unconsciously favour his former firm's former client. It is simply not realistic to think that a judge would throw off his mantle of

> impartiality, ignore his oath of office and favour a client -- about whom he knew nothing – of a firm that he left six years earlier and that no longer acts for the client, in a case involving events from over a decade ago.

[75] The underlying proceedings concluded almost two years ago. I had nothing whatever to do with them. I knew nothing of them until the Moving Parties raised their Recusal Motion. The temporal disconnection, though less than in *Rando Drugs*, is nevertheless substantial. I have already commented on the involvement in the prior proceedings of my partner, Ms. Johnston, Q.C.

(d) The Effect of Disqualification as Counsel

[76] It has been argued by the Moving Parties that if I attempted to appear as counsel to the Respondents in the Taxation I would be subject to disqualification because of the involvement by Ms. Johnston, Q.C. in the underlying proceedings. According to the Moving Parties, the natural extension of that argument is that if I would be disqualified as counsel to the Respondents, I would be equally subject to recusal.

[77] First, I reject the argument by the Moving Parties that if I attempted to appear as counsel to the Respondents I would be subject to disqualification because of the involvement by Ms. Johnston, Q.C. in the underlying proceedings. In fact, given the common use of unrelated counsel in such circumstances for certain limited purposes in any hearing, my representation of the Respondents might potentially be less problematic than my presiding on their Taxation.

[78] Second, it is clear from *Rando Drugs* that the law looks differently at counsel from the perspectives of their disqualification than it does at judicial decision-makers from the perspectives of their recusal.

[79] Reference in that regard is made *Rando Drugs* (at paragraphs 28 and 29):

> The point can rightly be made that had [the Justice] been asked to represent the appellant as counsel before his appointment to the bench, the conflict rules would likely have prevented him from taking the case because his firm had formerly represented one of the defendants in the case. Thus, it is argued how is it that as a trial judge Patterson J. can hear the case? This issue was considered by the Court of Appeal (Civil Division) in *Locabail (U.K.) Ltd. v. Bayfield Properties Ltd.*, [2000] Q.B. 451, [2000] 1 All E.R. 65 (C.A.). The court held, at para. 58, that there is no inflexible rule governing the disqualification of a judge and that, "[e]verything depends on the circumstances."

> It seems to me that what appears at first sight to be an inconsistency in application of rules can be explained by the different contexts and in particular, the strong presumption of judicial impartiality that applies in the context of disqualification of a judge. There is no such presumption in cases of allegations of conflict of interest against a lawyer because of a firm's previous involvement in the case. To the contrary, as explained by Sopinka J. in *MacDonald Estate v. Martin*, 1990 CanLII 32 (CSC), [1990] 3 S.C.R. 1235, [1990] S.C.J. No. 41, 77 D.L.R. (4th) 249, for sound policy reasons there is a presumption of a disqualifying interest that can rarely be overcome. In particular, a conclusory statement from the lawyer that he or she had no confidential information about the case will never be sufficient. The case is the opposite where the allegation of bias is made against a trial judge. His or her statement that he or she knew nothing about the case and had no involvement in it will ordinarily be accepted at face value unless there is good reason to doubt it: see *Locabail*, at para. 19. [Underlining Added]

(e) Policy Reasons Contrary to Recusal

[80] Some of the policy reasons which run contrary to recusal have been outlined above. Others are set out more succinctly by the English Court of Appeal in *Locabail* (referred to above in *Rando Drugs*).

[81] In *Locabail*, the English Court of Appeal underscored the importance to the litigation process of judicial officers such as Adjudicators and Courts like the Small Claims Court of Nova Scotia. The English Court of Appeal also highlighted that the approach to be taken where recusal is being sought is to assess to real likelihood of mischief should the recusal not be granted. Reference in that regard is made to *Locabail* (at paragraph 20):

> When members of the Bar are appointed to sit judicially, whether full-time or part-time, they may ordinarily be expected to know of any past or continuing professional or personal association which might impair or be thought to impair their judicial impartiality. They will know of their own affairs, and the independent, self-employed status of barristers practising in chambers will relieve them of any responsibility for, and (usually) any detailed knowledge of, the affairs of other members of the same chambers. The position of solicitors is somewhat different, for a solicitor who is a partner in a firm of solicitors is legally responsible for the professional acts of his partners and does as a partner owe a duty to clients of the firm for whom he or she personally may never have acted and of whose affairs he or she personally may know nothing. While it is vital to safeguard the integrity of court proceedings, it is also important to ensure that the rules are not applied in such a way as to inhibit the increasingly valuable contribution which solicitors are making to

the discharge of judicial functions. Problems are, we apprehend, very much more likely to arise when a solicitor is sitting in a part-time capacity, and in civil rather than criminal proceedings. But we think that problems can usually be overcome if, before embarking on the trial of any assigned civil case, the solicitor (whether sitting as deputy district judge, assistant recorder, recorder or section 9 judge) conducts a careful conflict search within the firm of which he is a partner. Such a search, however carefully conducted and however sophisticated the firm's internal systems, is unlikely to be omission-proof. While parties for and against whom the firm has acted, and parties closely associated, would (we hope) be identified, the possibility must exist that individuals involved in such parties, and parties more remotely associated, may not be identified. When in the course of a trial properly embarked upon some such association comes to light (as could equally happen with a barrister-judge), the association should be disclosed and addressed, bearing in mind the test laid down in *Reg. v. Gough*. The proper resolution of any such problem will, again, depend on the facts of the case.

In any case giving rise to automatic disqualification on the authority of the *Dimes* case, 3 H.L. Cas. 759 and *Ex parte Pinochet (No. 2*) [2000] 1 A.C. 119, the judge should recuse himself from the case before any objection is raised. The same course should be followed if, for solid reasons, the judge feels personally embarrassed in hearing the case. In either event it is highly desirable, if extra cost, delay and inconvenience are to be avoided, that the judge should stand down at the earliest possible stage, not waiting until the eve or the day of the hearing. Parties should not be confronted with a last-minute choice between adjournment and waiver of an otherwise valid objection. If, in any case not giving rise to automatic disqualification and not causing personal embarrassment to the judge, he or she is or becomes aware of any matter which could arguably be said to give rise to a real danger of bias, it is generally desirable that disclosure should be made to the parties in advance of the hearing. If objection is then made, it will be the duty of the judge to consider the objection and exercise his judgment upon it. He would be as wrong to yield to a tenuous or frivolous objection as he would to ignore an objection of substance.

We find force in observations of the Constitutional Court of South Africa in President of the *Republic of South Africa v. South African Rugby Football Union*, 1999 (4) S.A. 147, 177, even though these observations were directed to the reasonable suspicion test:

> It follows from the foregoing that the correct approach to this application for the recusal of members of this court is objective and the onus of establishing it rests upon the applicant. The question is whether a reasonable, objective and informed person would on the correct facts reasonably apprehend that the judge has not or will not bring an impartial mind to bear on the adjudication of the case, that is a mind open to persuasion by the evidence and the submissions of counsel. The reasonableness of

> the apprehension must be assessed in the light of the oath of office taken by the judges to administer justice without fear or favour; and their ability to carry out that oath by reason of their training and experience. It must be assumed that they can disabuse their minds of any irrelevant personal beliefs or predispositions. They must take into account the fact that they have a duty to sit in any case in which they are not obliged to recuse themselves. At the same time, it must never be forgotten that an impartial judge is a fundamental prerequisite for a fair trial and a judicial officer should not hesitate to recuse herself or himself if there are reasonable grounds on the part of a litigant for apprehending that the judicial officer, for whatever reasons, was not or will not be impartial.

We also find great persuasive force in three extracts from Australian authority. Mason J., sitting in the High Court of Australia, said in *In re J.R.L., Ex parte C.J.L.* (1986) 161 C.L.R. 342, 352:

> Although it is important that justice must be seen to be done, it is equally important that judicial officers discharge their duty to sit and do not, by acceding too readily to suggestions of appearance of bias, encourage parties to believe that by seeking the disqualification of a judge, they will have their case tried by someone thought to be more likely to decide the case in their favour. [Underlining Added]

CONCLUSION:

[82] In arriving at these conclusions, I have not ignored the recent Decision of the Supreme Court of the United Kingdom (per: Lord Reid) in *Healthcare at Home Limited v. The Common Services Agency*, 2014 UKSC 49; nor have I ignored the Decision of the Supreme Court of Nova Scotia (per: Coady, J.) in *Trinity Western University v. Nova Scotia Barristers' Society*, 2014 NSSC 331.

[83] In the latter Decision, Coady, J. wisely and accurately exhorts (at paragraph 12) that: "[t]he impression of impartiality is as important as impartiality." In the former decision, Lord Reed redefined, or at least gave clarity, to the concept of the "reasonable man" and held (at Paragraph 3) that:

> It follows from the nature of the reasonable man, as a means of describing a standard applied by the court, that it would misconceived for a party to seek to lead evidence from actual passengers on the Clapham omnibus as to how they would have

> acted in a given situation or what they would have foreseen, in order to establish how the reasonable man would have acted or what he would have foreseen. Even if the party offered to prove that his witnesses were reasonable men, the evidence would be beside the point. The behaviour of the reasonable man is not established by the evidence of witnesses, but by the application of a legal standard by the court. The court may require to be informed by evidence of circumstances which bear on its application of the standard of the reasonable man in any particular case; but it is then for the court to determine the outcome, in those circumstances, of applying that impersonal standard.

[84] The Moving Parties' argued reticence to my involvement in the Taxation has been fully presented above and is well-understood. But their arguments, alone, cannot permit them to effectively dictate the Adjudicator before whom those proceedings will unfold or the Adjudicator before whom the same proceedings will not unfold. Were it to be otherwise, all of those coming before the courts could potentially raise their subjective concerns over decision-maker bias and, through those means, just as effectively select those Adjudicators (perhaps even *the* Adjudicator) before whom they are prepared to appear. The spectre would amount to the very antithesis of the strong presumption, referred to above, of open and transparent access to impartial civil justice.

[85] Also well understood is the position taken by many adjudicative and judicial decision-makers that in such circumstances, they will simply stand aside in favour of a colleague who is or may be more palatable to the party seeking the recusal then in issue. As easy and inviting as such a prospect might be, it does not accord with the view that adjudicative and judicial decisions ought to be principled and supported with clearly-articulated reasons. Nor does it accord with some of the views expressed above that decision-makers should only recuse themselves upon the clearest of objective indications that they cannot, contextually, determine completely independently and impartially the matter(s) in issue.

[86] Having found that the Moving Parties have fallen short of the objective establishment of a real apprehension of bias, either against them, or more institutionally, on my part, their Recusal Motion is dismissed.

[87] Subject to any appeal, or stay pending appeal, the Taxation will proceed subject to scheduling.

DATED at Halifax, Nova Scotia, this 3rd day of November, 2014.

Gavin Giles, Q.C., Chief Adjudicator,
Small Claims Court of Nova Scotia

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