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### NOVA SCOTIA ANNOTATED RULES OF PRACTICE

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This publication provides a range of materials that will assist a busy Nova Scotia litigator: Annotated *Judicature Act*, Annotated *Rules of Practice (2009)*, Forms, Tariffs, Annotated Related Legislation, Issues in Focus, Rule Cross References Table, Time Limitation Table, Practice Memoranda and Additional Reference Material. It has also retained the Annotated *Nova Scotia Civil Procedure Rules (1972)* as an historical reference.

### What's New in this Update

This release includes updates to Chapter 2 (Nova Scotia Civil Procedure Rules (2009)) and Appendix WP (Words and Phrases).

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## Highlights

- **Nova Scotia Civil Procedure Rules (2009)—Alternative Resolution or Determination—Rule 13—Summary Judgment—Annotations**—The plaintiffs were long-time clients of ScotiaMcLeod investment advisor, DC. The plaintiffs claimed their financial advisor acted improperly, including receiving personal loan from the plaintiffs. The plaintiffs alleged that the wrongdoing of DC caused losses to their investments. The plaintiffs brought an action against ScotiaMcLeod in breach of contract, negligence, and breach of fiduciary duty. ScotiaMcLeod argued that the claims were statute-barred under the Limitation of Actions Act (Act) as DC left in October 2014. The central issue was when the plaintiffs “discovered” their claim based on the discoverability principle under the Act. ScotiaMcLeod argued the two-year limitation expired by October 2016, two years after DC left. The plaintiffs claimed they only discovered the potential claim in 2018 when advised by a financial planner to seek legal counsel, thus invoking the discoverability principle to argue the limitation period had not expired. The motion by ScotiaMcLeod for summary judgment on the evidence to dismiss the action was denied. ScotiaMcLeod appealed, and its appeal was dismissed: *Scotia Capital Inc. v. Thompson*, 2025 CarswellNS 208, 2025 NSCA 17, [2025] N.S.J. No. 105 (N.S. C.A.), affirming *Thompson v. Scotia Capital Inc.* (2023), 2023 CarswellNS 1081, 2023 NSSC 409 (N.S. S.C.).
- **Nova Scotia Civil Procedure Rules (2009)—Part 6 Motions—Rule 26B—Case Management—Annotations**—The plaintiff filed a claim against the defendant for negligent and fraudulent misrepresentation related to a property purchase. The defendant added JL and the realtor as third parties, alleging they breached a duty of care by providing a property disclosure statement without authority. The self-represented plaintiff filed four motions, for judicial directions regarding the third party’s late defence, for case management, for resolution of discovery issues, and for sanctions against the defendant. The defendant opposed all motions except for case management, while the third party opposed the motion regarding their defence. The court needed to address whether the third party’s late defence prejudiced the plaintiff, whether the discovery issues were resolved, and whether sanctions against the defendant were warranted. Additionally, the court considered the need for case management to assist the self-represented plaintiff. Motions by plaintiff for judicial directions regarding third party’s late defense, for case management, for resolution of discovery issues, and for sanctions against defendant. The plaintiff’s motion for sanctions, noting that the plaintiff did not specify the sanctions sought and that the defendant’s conduct did not warrant costs or indicate an abuse of process. The court dismissed the motion for judicial directions regarding the third party’s late defence, finding no prejudice to the plaintiff and no abuse of process. The court also dismissed the motion for sanctions, noting that the plaintiff did not specify the sanctions sought and that the defendant’s conduct did not warrant costs or indicate an abuse of process. The motion for resolution of the discovery issues was partially granted. The court granted the motion for a case management judge pursuant to Rule 26B, recognizing the plaintiff’s challenges as a layperson, and the

potential benefits of a case management judge in ensuring efficient and cost-effective litigation. As was apparent from the other three motions, the plaintiff was trying her best, as a lay person, to understand and manage this proceeding in accordance with the Rules and norms for civil litigation in Nova Scotia. In the court's view, raising these concerns with a case management judge would have allowed the plaintiff to be assured that the defendant and third parties were not offside the Rule and norms without incurring the time and expense of formal motions. In addition, a case management judge could, through scheduled meetings, set deadlines and manage issues that arose in an efficient and cost-effective manner as the proceeding moved through the discovery stage to preparing and setting the matter for trial. The court directed both the defendant and third party to provide signed and sworn affidavits disclosing documents. The plaintiff was ordered to pay the defendant \$500 in costs, as the defendant was substantially successful in opposing three of the motions: *Mazac v. Muise*, 2025 CarswellNS 62, 2025 NSSC 23, [2025] N.S.J. No. 24 (N.S. S.C.).

## **ProView Developments**

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