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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 It has also retained the Annotated *Nova Scotia Civil Procedure Rules (1972)* as an historical reference.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)).

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Highlights

This release includes case law updates, including the following decisions of interest:

- **Nova Scotia Civil Procedure Rules (2009)—Motions—Rule 76—Interpleader—Annotations**—The claim brought by the plaintiffs against the defendant potential purchasers of their residential property was dismissed. The third party was the potential purchasers' real estate agent, and they added her as third party to the action. The parties made submissions regarding the costs. The issues raised in the third party action were closely linked and interrelated with those in the main action. It was reasonable and not over-cautious for the defendants to join the real estate agent as a third party, and the unsuccessful plaintiff was to bear a portion of the third party's costs. The plaintiffs were to pay costs to the third party in the amount of \$10,000, inclusive of HST and disbursements, and the defendants were to pay costs to the third party, on the same basis, in the amount of \$5,000. The plaintiffs were to pay costs to the defendants in the amount of \$18,000: *MacQuarrie v. Birch*, 2025 CarswellNS 940, 2025 NSSC 308 (N.S. S.C.), additional reasons to (2025), 2025 CarswellNS 120, 2025 NSSC 36 (N.S. S.C.).
- **Nova Scotia Civil Procedure Rules (2009)—Rule 90—Civil Appeal—Annotations**—The plaintiff's claim for reimbursement of costs for hip replacement surgery at a private clinic in Ontario was denied by Nova Scotia. The plaintiff brought an action against Nova Scotia and other defendants for misfeasance in public office, breach of trust, and negligence. His action was dismissed. The plaintiff began appeal proceedings. The plaintiff brought a motion for stay of publication of the reasons for judgment, and to make amendments to his pleadings. The motion was granted in part. The motion for a stay was dismissed. On the stay motion, the plaintiff alleged that the judgment of the lower court contained false statements that impugned his character and damaged his reputation. There was no operative part of the order that could be stayed. While Rule 90.41(2)(b) of the Civil Procedure Rules provided authority to grant "such other relief against such a judgment or order, on such terms as may be just", this did not include a stay of the publication of the reasons. Moreover, a fair reading of the decision of the lower court revealed it to have been a typical piece of judicial writing identifying issues, reviewing evidence, making findings and applying the law. Thus, the appellate court found that if the trial judge erred in some way, the plaintiff's appeal was the avenue to have had those errors addressed in a similarly public way. In addition, the plaintiff had not applied for a restriction on publication: *Buxton v. Nova Scotia (Attorney General)*, 2025 CarswellNS 915, 2025 NSCA 67, [2025] N.S.J. No. 437 (N.S. C.A.)

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