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NOVA SCOTIA ANNOTATED RULES OF PRACTICE

David S. Ehrlich

Release No. 8, October 2026

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 It has also retained the Annotated *Nova Scotia Civil Procedure Rules (1972)* as an historical reference.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

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Highlights

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

- **APPENDIX B—XI SMALL CLAIMS COURT ACT—§ B:285—Annotations**—The claimant performed some work for defendant individual and his restaurant. The parties, who were initially friendly, had an oral contract. Some of the work was bartered. The Small Claims Court adjudicator allowed the claimant's claim for a total of \$13,099. The defendants appealed, and their appeal was dismissed. Appeals of Small Claims Court decisions were not trials de novo. The appellate court could not interfere with the adjudicator's fact finding. The adjudicator was in the best position to assess credibility. The adjudicator acted as a gate-keeper in deciding which testimony should be allowed. The adjudicator did not err in his determination that the parties had an intention to enter a contract. The claimant performed substantial work which was not offset by parking privileges and the provision of some food. The adjudicator was satisfied, based on the evidence he heard, that the claimant's claim was reasonable: *New Chinatown Restaurant Inc.v. Keramaris*, 2026 CarswellNS 339, 2026 NSSC 133 (N.S. S.C.)
- **APPENDIX B—PART XV CLASS PROCEEDINGS ACT—§ B:383—Annotations**—The plaintiffs alleged that the Nova Scotia auto insurers systematically deducted certain collateral disability benefits from the weekly indemnity payments under the standard auto policy. The proposed class included insured persons who received reduced weekly payments due to these deductions since April 2007. The action was brought against 12 insurance companies, with claims for breach of contract, unjust enrichment, bad faith, and fraudulent misrepresentation. The plaintiff brought a motion to certify the the action as a class proceeding. The plaintiff's motion was granted in part. The class action was to proceed on narrowed issues regarding the Employment Insurance Disability Benefits (EI Disability Benefits), subject to naming the proper representative plaintiff. The breach of contract claim survived only as it related to the EI Disability Benefits, and the duty of good faith, to a limited extent. The class proceeding was a preferable procedure for resolving common issues about the EI Disability Benefits, primarily due to access to justice concerns and judicial economy. Other means, including individual actions or test cases, were less practical or efficient. There was no evidence that regulatory complaints would have provided substantive access to justice. The proposed representative plaintiff could not serve as representative plaintiff for the narrowed class, as she had not had EI Disability Benefits deducted. The claims regarding the Canada Pension Plan Disability Benefits were struck, as the settled law in Nova Scotia allowed their deduction. The unjust enrichment claim was struck, as the existence of a contract precluded such a claim on the same facts, and the pleadings sought a disgorgement remedy that was not available for unjust enrichment. The claims for bad faith, fraudulent misrepresentation, and fraudulent concealment were struck for lack of material particulars: *Barnard v. The Portage Mutual Insurance Company*, 2026 CarswellNS 156, 2026 NSSC 64 (N.S. S.C.)

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