

Form 90.06

2026

C.A. No.

Nova Scotia Court of Appeal

Between:

Citizens Alliance of Nova Scotia

Appellant

and

Robert Strang acting as Chief Medical Officer of Health and Michelle Thompson acting as Minister of Health and Wellness of Nova Scotia and the Attorney General of Nova Scotia representing his majesty the King in right of the Province of Nova Scotia

Respondent

Notice of Appeal (General)

To: Robert Strang, Chief Medical Officer of Health of Nova Scotia
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And To: Michelle Thompson, Minister of Health and Wellness Nova Scotia
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And To: Attorney General of Nova Scotia
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Appellant appeals

The Appellant appeals from the judgment dated January 20, 2026, Supreme Court of Nova Scotia *In toto* in the proceedings in the Supreme Court showing court number YAR 510031 made by Justice John A. Keith .

Order or decision appealed from

The Decision was made on January 20, 2026. It was made at Yarmouth, Nova Scotia.

Grounds of appeal

In reference to the January 20, 2026 Decision of Justice Keith:

1. The Justice erred in the grievous **Misapprehension of Evidence** before him in this matter. The Decision and Reasons For Decision shows no sign of the proper, or indeed any, appreciation of the evidence before Justice Keith in the form of the October 2021 Public Health Order and associated Protocols, the *Health Protection Act (HPA)*, the government document “*A Guide to the Health Protection Act and Regulations*” and the testimony of Tara Walsh given before him all of which provided Material Evidence of Ultra Vires and Bad Faith action.
2. At Paragraph 47 (1), the Appellant notices and asserts the Justice’s error in failing to admit parts of the Appellant’s affidavit evidence, due to it being in a digital format at the hearing for mootness, which then contributed to his reasoning to find CANS’ claim moot. However, it was agreed by the Respondent to accept the electronic filing and they had accessed it on November 22, 2024. Additionally, Justice Keith was copied in this exchange between the parties and his assistant also accessed the files on November 22, 2024, well before the December 6, 2024 hearing constituting acceptance over the format used by the Appellant only to be used against us in the Justice’s mootness decision.
3. The Justice **Errored in Law** as he showed no evidence of having at any time considered the actual Statute in question, the *Health Protection Act 2004*, the impugned *Regulations*, or any of its sections that are at the heart of the Ultra Vires allegations and thus the moving cause of the Appellant. Respectfully the Appellant submits this shows *Per Incuriam* in the Judgement and associated Order. This also constitutes a complete failure to Engage with the Position of a Party which is itself an **Error in Law**. This is sharply contrasted to a decision rendered January 6, 2026 orally by Justice Keith in a matter with a virtually identical set of base facts in *Coalition of Interested Advocates v. Judicial Council, Honourable Alain Bégin* in which he closely examined the Statute in question as he most properly should have in this case.
4. The Justice made **Errors in Fact** at Paragraphs 1 and 2, and made statements of purported facts not in evidence or that **Misapprehended the Evidence** before him. The Justice asserts, “*new vaccines were developed to quickly and safely generate widespread immunity against the disease*” There is no evidence in the record that would show the experimental mRNA products caused an immune reaction in a human being, because according to their manufacturers, they do not. There is no evidence in this proceeding that the experimental mRNA vaccines were safe. It would appear to the Appellant that the Judge is then expressing an *opinion* that he may hold on these matters which would give the appearance of violating the norm of *nemo iudex in sua causa* and thus the Appellant's right to *procedural fairness*.
5. Most egregiously in Paragraph 2 the Justice states, “*the CMOH began to loosen social distancing restrictions for those who were vaccinated*” This is a whimsical interpretation of what the October order iteration created which went far beyond loosening social distancing

mandates, containing the worst violation of private rights to date in the form of a “vaccine mandate” and constitutes an **Error in Law** as the Justice misinterpreted the *HPA*. Even when properly implemented, the *HPA* in s. 53 provides only for a voluntary Immunization program. The Justice then compounds the **Error in Law** and offends the Appellants rights *audi alteram partem* by improperly asserting, “*Differentiating liberty rights based on vaccination status gave rise to numerous disputes including, for example, disagreements as to when and why individual freedom yields to the common good. This is one such dispute.*” Ultra Vires action by the State is not in any way, “one such dispute” it centers on the Rule of Law to which the Appellant has a continuous and constant right and is the foundation of the “common good”. Without any further factors, the Bad Faith is inseverable from this sort of egregious Ultra Vires action which insults the basic Rule of Law.

6. The Justice here, and throughout the Reasons for Decision, makes reference to “Vaccine” and “Vaccination”. The words “Vaccination” and “Immunization” have different and legally distinct definitions. The *HPA* refers only to Immunization. This constitutes an **Error in Fact** notwithstanding the popular reference to the impugned order as a “vaccine mandate”.
7. The Justice makes an **Error of Law** in Paragraph 3 by failing to ascertain what part of section 32 of the *HPA* would allow for the CMOH to issue medical orders to every healthy Individual in the province; there is no authority for the CMOH to mandate any sort of medical care including immunization in section 32 without applying to the courts via s.38 within the Communicable Disease section. The Justice references no powers in the *Emergency Management Act* that would give the CMOH the power to initiate a provincial State of Emergency or do any other particular thing. The Justice Misinterprets Statute by failing to understand and apply the *HPA* to the instant matter. The Justice highlights this with untethered speculation about notional medical advances Paragraph 22 (2) as reasons for finding CANS’ claim moot. At Para 22 (2) the Justice launches into the realm of untethered hypothesis about future medical advances without any acknowledgement that at any time in the future the CMOH, an Administrator of the Executive branch is required to act within the Law as created by the Legislative branch and instead mistakenly posits that to restrict the Administrator to the Law would interfere with the Legislature whose Statute he failed to follow. The Appellant asserts this is not mere *obiter dictum* but forms the basis of the decision at least in part.
8. The Justice **Errors in Fact** again in Paragraph 3 by stating, “All iterations of the Impugned Order involved, to varying degrees, forms of differentiation based on vaccination status.”
9. The Justice **Errors in Fact** on page 4 in his footnote numbered “2”. The Justice asserts that the Appellant struck our claim for an order of prohibition during the Mootness hearing when in fact the Appellant had struck this claimed relief before the Hearing for Public Standing more than a year before.
10. At Paragraph 17 the Justice **Errors in Fact** when he asserts that the Appellant CANS “reversed their position on *Taylor v NFLD*, the Appellant maintained our position that *Taylor* was a constitutional dispute whereas we claim unlawful action. Compounding this

error the Justice then takes absolutely no notice of the arguments by the majority of Canada's Attorneys General that the Taylor Matter should be heard to promote clarity of permissible action during a pandemic by Public Health Officials.

11. At Paragraph 22 (2) the Justice **Errors in Law** as he misapplies the *Borowski* test when he states, "*The exercise is almost entirely academic and lacks the existing, real-world connections to have any meaningful factual existence or legal utility.*" This Error is, we say, is caused by the Justices lack of appreciation for the factual context of the Amended application and relief sought. This error surfaces in many facets of the Justice's Reasoning including his examination of our capacity under *Borowski* at Paragraphs 47 and 48 where he again asserts that we seek to make voluminous and complex *Charter* arguments and obviously lack capacity to do so. The Appellant seeks simply, and in the amended Application unambiguously, that the Justice examine the *HPA* and compare it to the facts of the impugned Administrators actions and make Judgement as to their **legality** and thus under *Vavilov* Reasonableness of those actions. The Burden on the Appellant is thus well within its ability as the needed facts for fulsome review are already all in evidence.
12. At Paragraphs 32 to 36 the Justice erred in **Mixed Fact and Law** in his analysis of the *CM v Alberta* case ignoring the fact that the Alberta PHOs were found to be null as the CMOH deferred her decisions to a committee of Cabinet an act of which is Ultra Vires the Alberta *Public Health Act* which closely resembles CANS' claim.
13. The Justice made a **Palpable Error in Fact** stating at Paragraph 42 that "CANS dismissed" our council and "elected to self-represent" this error leads to the Justice's untethered analysis of the *Borowski* factor of Adversarial context which is an **Error in Law**.
14. The Justice makes an **Error of Mixed Fact and Law** at Paragraph 48, in asserting The Appellant's amended Application, "still admits of some ambiguity and potential confusion". The Amended Application clearly states that Ultra Vires action is the centre of this matter. At Paragraph 2 the Justice states "differentiating liberty rights based on vaccination status gave rise to numerous disputes including, for example, disagreements as to when and why individual freedom yields to the common good. This is one such dispute". This is again an **Error of Mixed Fact and Law** as our amended Application clearly makes unlawful action, not unconstitutional action/ breach of rights, as the central cause and style of action.
15. The Justice's **Error of Fact** at Paragraph 48 metastasizes and is amplified at Paragraphs 50 and 54 where the Justice wrongly asserts that the Appellant seeks "*an intensive autopsy of all decisions made by the CMOH during the course of the pandemic*" (50) "*Yet, the Applicants seek to embark on a much more ambitious and wide- ranging inquiry into virtually everything the CMOH decided during the pandemic and the alleged damage inflicted on Nova Scotians – without the more proportionate factual and doctrinal focus found in the cases listed above.*" (54) The Amended Application clearly states we seek review of the October iteration creating a mandate for the injection of experimental mRNA products. The Appellant here notes that Justice Keith's administrative assistant asked for a copy of our Amended Application a mere 8 days before the January 20, 2026 Judgement

was delivered and a full 885 days *after* the Amended Application had been filed with the court on August 11, 2023.

16. At Paragraphs 55 and 56 The Justice makes an **Error in Law** in his complete misapplication of the Principle of Judicial economy based on assertion of further legal action against the impugned administrator as an individual that CANS may/may not take.
17. The Justice **Errors in Law** at Paragraph 58 in interpreting Judicial economy as he conflates the Legislative and Executive functions of Government.
18. The Appellant has a **Reasonable Apprehension of Bias** in that the Justice at least seemed to show attention to the CMOH that is beyond the “Deference” owed to the Administrator under *Valvilov*. The Justice at various times improperly ascribes motives for and results emanating from the actions of the impugned administrator that are not in evidence. At various times the Justice’s decision shows alarm at the fact that we intend to hold the Administrator, that we say acted outside the Law, to Account. The Appellant respectfully asserts that this at least *gives the Appearance of Bias* which is improper for the court.
19. The Appellant asserts that the fundamental **Errors of Fact and Law** denied the Appellant our rights to **Natural Justice** and **Procedural Fairness** in that they cause contravention of both the pillars of *audi alteram partem* as no fair hearing of the Appellant’s argument could occur while the Justice fundamentally failed to grasp the actual claim underlying the Applied for Review. The Justice we respectfully say also breaches *nemo iudex in sua causa* . The Justice at least appears to show bias against the Appellant for being self represented while showing far more than deference to the Impugned Administrator and by stating things that are not in evidence and not factual that he used to form his decision.
20. Other Grounds as Necessary.

Authority for appeal

1.	Judicature Act 38(1)
2.	Civil Procedure Rules of Nova Scotia, Rule 90.02 (2)

Order requested

The appellant says that the court should issue a **Substitution of Decision** or failing that **Set Aside the Decision** granting the Respondents Motion to Strike as Moot and have the fulsome **Judicial Review** heard in the **Supreme Court**.

In the event that the Court declines to allow the Judicial Review to proceed, an extension of time to file a Statement of Claim, or confirmation that leave is not necessary.

Motion for date and directions

The appeal will be heard on a time and date to be set by a judge of the Court of Appeal. The appellant must not more than eighty days after the date this notice is filed, make a motion to a judge of the Court of Appeal to set that time and date and give directions. You will be notified of the motion.

Contact information

The appellant designates the following address:

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Documents delivered to this address will be considered received by the appellant on delivery. Further contact information is available to each party through the prothonotary.

Signature

Signed February 23, 2026



Signature of Appellant
William Ray Litigation Agent for
CANS

Registrar's Certificate

I certify that this notice of appeal was filed with the court on _____, 20____.
