

Dr. John Gordon Stackhouse Jr. and Sarah-Jane Britton v. Crandall University – 2025
NBKB 256

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF MONCTON

File: MC-836-2023

BETWEEN:

DR. JOHN GORDON STACKHOUSE JR. and SARAH-JANE BRITTON,

plaintiffs

- and -

CRANDALL UNIVERSITY,

defendant

DECISION

BEFORE: Madam Justice Christa Bourque

AT: Moncton, New Brunswick

DATE OF HEARING: November 7, 2025

DATE OF DECISION: November 17, 2025

APPEARANCES: Jessica Bungay, on behalf of the plaintiffs

Chad Sullivan and Meaghan MacMaster, for the
defendant

BOURQUE, J.

OVERVIEW

[1] This matter involves the motion brought by Crandall University against its former employee, Dr. John Gordon Stackhouse, Jr., and Sarah Jane Britton. The main action centers on Dr. Stackhouse's allegations of wrongful dismissal and defamation following his termination from Crandall. Crandall says it had just cause to terminate, stating that Dr. Stackhouse intentionally withheld key information about his exit from his former employer Regent College, where he was under investigation and on leave. Crandall now asks this Court to order Dr. Stackhouse to provide all relevant documents related to his departure from Regent and to answer questions about this departure during his upcoming Examination for Discovery. Crandall argues that the details surrounding his departure from Regent are crucial to the issues of just cause and defamation.

[2] The plaintiffs oppose the motion, arguing that the requested documents and proposed questions are irrelevant and constitute a fishing expedition. They also contend that ordering Dr. Stackhouse to answer specific questions in advance of his discovery examination is premature.

FACTS

[3] The plaintiffs, Dr. John Gordon Stackhouse, Jr. and Sarah Jane Britton, commenced an action against Crandall University alleging wrongful dismissal and defamation. Dr. Stackhouse's employment with Crandall, which began in 2015

following his tenure at Regent College, was terminated for cause on November 22, 2023. The University's decision followed an external investigation conducted by Joël Michaud, K.C., whose report of November 15, 2023 contained findings that Crandall relied upon, including that Dr. Stackhouse had, among other things, engaged in sexual harassment of a female member of the University community.

- [4] In addition to the finding of sexual harassment, the Michaud report concluded that Dr. Stackhouse had misled Crandall during the hiring process regarding the circumstances of his previous employment at Regent College. Mr. Michaud found it "more likely than not that, directly or by omission," Dr. Stackhouse "deliberately misled the interviewing committee of Crandall." The report stated that, at the time he applied for employment with Crandall, Dr. Stackhouse was on a forced leave of absence from Regent College arising from complaints about his conduct, a fact he knowingly failed to disclose.
- [5] The report further concluded that it was "more likely than not that there were complaints by students, or at least one complaint from a student, at the previous institution alleging misconduct on the part of the faculty member which contributed to the end of his employment there." During the investigation, when asked directly whether he had been the subject of a sexual harassment complaint at Regent, Dr. Stackhouse declined to answer, stating, "I do not see how it's in my interest to answer the question."
- [6] Crandall's defence of just cause relies, in part, on its allegation that Dr. Stackhouse misrepresented the circumstances of his departure from Regent College during

the hiring process. It asserts that at the time of his application, Dr. Stackhouse was on a leave of absence and under investigation at Regent, which he failed to disclose. Crandall maintains that the circumstances of his departure from Regent are directly relevant to the issue of just cause, as well as to the plaintiffs' defamation claim, which includes allegations that Crandall suggested Dr. Stackhouse was a "repeat offender" who had engaged in similar conduct at Regent.

- [7] Crandall filed its initial Notice of Motion on September 27, 2024, requesting an order requiring Dr. Stackhouse to provide a further and better Affidavit of Documents. This initial request specifically included listing documents that were once in Dr. Stackhouse's possession but are no longer (Schedule "C") and identifying individuals who may possess relevant documents (Schedule "D"), related to his departure from Regent College.
- [8] Crandall later filed an Amended Notice of Motion on October 31, 2025, just five days before the hearing. This amended motion introduced a new issue: requesting the Court to order Dr. Stackhouse to answer questions during the examination for discovery about his departure from Regent and the investigation that prompted it. Counsel for Dr. Stackhouse argued that this Amended Notice of Motion was served outside the time for service and was procedurally premature, as the *Rules of Court* specify a process for handling discovery objections that requires questions to be asked and objections made on the record first.

ISSUES

[9] The issues for the Court to decide are as follows:

- Whether the Plaintiffs ought to provide a further and better Affidavit of Documents: and
- Whether Dr. Stackhouse ought to be ordered to answer questions at Discovery pertaining to the circumstances surrounding his cessation of employment at Regent College.

POSITIONS OF THE PARTIES

- The Defendant

[10] Crandall University submits that the documents and questions relating to Dr. Stackhouse's departure from Regent College are centrally relevant because those circumstances underpin its defences to the claims of wrongful dismissal and defamation. It submits that in order to determine what is relevant, the Court must look to the pleadings.

[11] The Amended Statement of Claim alleges that Crandall defamed Dr. Stackhouse by publishing statements suggesting he was a "repeat offender" who had "deliberately misled the interviewing committee." To defend against this claim, Crandall argues that it must be permitted to prove the truth of those statements, which necessarily involves disclosure of information regarding Dr. Stackhouse's conduct and the investigation that led to his termination from Regent.

[12] Crandall also pleads just cause for dismissal, alleging that Dr. Stackhouse misrepresented or failed to disclose material facts about his employment status at

Regent during the hiring process. It maintains that he was on a leave of absence and under investigation at the time he applied to Crandall, and that these facts were withheld. The University contends that such matters are directly relevant to both just cause and its defence in the defamation claim. Given the low discovery threshold of a “semblance of relevancy,” and the plaintiffs’ own pleadings putting these issues in dispute, Crandall argues that the requested documents and discovery questions satisfy the standard for disclosure.

- The Plaintiffs

[13] The plaintiffs argue that Crandall’s motions for additional document production and oral discovery should be dismissed. They maintain that they have already produced the only documents in their possession or control concerning Dr. Stackhouse’s departure from Regent College, namely, the settlement agreement and release. According to the plaintiffs, the further disclosure sought by Crandall is not relevant to the issues in dispute and amounts to a “fishing expedition” aimed at uncovering collateral or disparaging information beyond the scope of the litigation. They contend that the central question, whether Dr. Stackhouse “deliberately misled the interviewing committee”, must be determined solely by reference to the communications between the parties during the hiring process, specifically what questions were asked and how they were answered between November 2014 and January 2015. Counsel for the plaintiffs further asserts that, notwithstanding repeated inquiries, Crandall has provided no particulars regarding the questions asked or the responses given by Dr. Stackhouse during his hiring process.

- [14] The plaintiffs further submit that the law does not impose an affirmative duty on a job applicant to volunteer information about a leave of absence or an investigation if such matters were not the subject of a specific inquiry. In their view, misleading conduct arises only where an individual provides an untruthful or deceptive answer to a direct question.
- [15] With respect to the wrongful dismissal claim, the plaintiffs argue that Crandall cannot now rely on alleged misrepresentation as a basis for just cause because the termination letter cited only sexual harassment as the reason for dismissal. Finally, they submit that the request in the Amended Notice of Motion to compel Dr. Stackhouse to answer discovery questions is both premature and procedurally improper. They submit the *Rules of Court* provide that a refusal to answer a question at discovery must first occur and be recorded on the transcript before a motions judge may rule on the propriety of the question.

Law and Analysis

- Document Disclosure

- [16] Rule 31.02(1) of the *Rules of Court* requires each party to disclose all documents in its possession or control, even where a claim of privilege is asserted.
- [17] Under Rule 31.03 of the *Rules*, a party must make full disclosure of every document relating to a matter in issue, whether or not it assists that party's position. This obligation extends to documents once possessed (Schedule C) and to those believed to be held by non-parties (Schedule D).

- [18] The threshold question, therefore, is whether the documents sought relate to a matter in issue in these proceedings. To determine whether a document relates to a matter in issue in the litigation, the Court must turn to the pleadings, as they define the scope of the dispute and identify the specific issues the parties have placed before the Court.
- [19] The question of what constitutes relevance for the purposes of discovery, including document discovery, has been considered by New Brunswick courts on many occasions. The governing principles have been consistently reaffirmed in both trial and appellate jurisprudence, emphasizing a broad and liberal approach to discovery. Most recently, the Court of Appeal revisited the issue in *Babineau et al. v. Crossman et al.*, 2025 NBCA 71 (CanLII), where it reaffirmed that the determination of relevance must be guided by the pleadings and that the threshold at the discovery stage remains deliberately low, only a semblance of relevancy is required to ensure full and fair pre-trial disclosure.
- [20] In *Babineau*, supra, Richard, C.J.N.B. referred to the analysis of Green, J.A. in *The Wawanesa Mutual Insurance Co v. Wade*, 2015 NBCA 43 at paragraphs 20 and 22 which bears repeating:

[20] The meaning of the term “relating to an issue” was specifically considered by Drapeau, C.J.N.B. in the case of *MRM Technical Group Inc. v. Modern Construction (1983) Limited and Enbridge Gas New Brunswick Inc. and Robinson Construction Company Limited*, 2005 NBCA 93, [2005] N.B.J. No. 432 (QL) (*MRM*). His explanation underscores the fact that the discovery process is intended to be more expansive than restrictive in its scope:

The debate in first instance centred on the material issue, namely whether the documents in question “[relate] to a matter in issue” (Rules 31.02(1)(2) and 31.03(4) of the *Rules of Court*) in the action between the parties. The quoted phrase has been broadly interpreted in jurisprudence. A document may relate to a matter in issue without being either relevant or admissible at

trial (see *New Brunswick Telephone Company Limited v. New Brunswick Minister of Municipal Affairs, Minister of Finance and Minister of Justice and Province of New Brunswick* (1981), 33 N.B.R. (2d) 238 (Q.B.), at para. 21). The phrase embraces not only documents that constitute evidence upon a matter in issue, but, as well, any document which may – not which must – either directly or indirectly enable a party either to advance his or her own case, or to damage that of an opposing party (see *Bank of Montreal v. 3D Properties Inc. et al. (No. 1)* (1993), 1993 CanLII 9111 (SK KB), 111 Sask. R. 53 (Q.B.). For an instructive discussion of other pertinent principles, see *Agnew et al. v. New Brunswick Telephone Co.*, [2002] N.B.R. (2d) (Supp.) No. 53 (Q.B.; Glennie J.). Needless to say, none of the *Rules of Court* at play here authorizes a fishing expedition for documents whose relation to the matters in issue has not been established. [para. 5]

[...]

[22] Finally, and more recently, Drapeau, C.J.N.B. in *Rumble v. Sobeys Incorporated*, 2014 NBCA 72, 429 N.B.R. (2d) 307, states:

As the Court noted in *Kay v. Kay* (1999), 1999 CanLII 32613 (NB CA), 215 N.B.R. (2d) 291, [1999] N.B.J. No. 289 (C.A.) (QL), the chances of achieving the just, least expensive and most expeditious determination of every proceeding on its merits are “enhanced where the risk of surprise is minimized, if not eliminated, by giving the parties an opportunity to know beforehand precisely what they will face at trial” (para. 26). The Court added that one of the beneficial by-products of *Rules*-compliant disclosure and production “is that settlement efforts will not be stymied by what may be misinformed speculation with respect to the strength of the adverse party’s case [...]” (para. 26). That said, just because Ms. Rumble’s relatively successful opposition to production may foreclose an early settlement does not mean this Court should question her litigation strategy; an all-cards-on-the-table approach may be unwise in this case. More pertinently, Ms. Rumble is undeniably entitled to rulings that respect the *Rules of Court*. [para. 12]

[21] A document must be reasonably capable of containing information that could assist the requesting party in advancing its case or damaging that of its opponent. The scope of discovery remains intentionally broad, recognizing that relevance for disclosure is distinct from admissibility at trial. Admissibility is determined later by the trial judge.

[22] However, the broad standard applied by our courts is not without limits. The semblance of relevance test does not authorize limitless discovery or speculative fishing expeditions. In *Agnew et al v. The New Brunswick Telephone Company*,

2002 NBQB 179 (CanLII), Glennie, J. warned at paragraph 56 that “semblance of relevancy is not a blanket license to require production of each and every document that might possibly have a glimmer of relevancy to the plaintiff’s theory of the case”.

- Do the impugned documents have a semblance of relevancy?

[23] As relevance for disclosure is guided by the pleadings, I must refer to them to establish the context against which the requested documents' relevance is to be measured.

a) Wrongful dismissal

[24] First, Dr. Stackhouse has sued Crandall for wrongful dismissal. This claim arises from Crandall’s decision to terminate Dr. Stackhouse’s employment on November 22, 2023, purportedly for cause. The termination letter advised that the decision was based on the findings of an external investigator, who concluded that Dr. Stackhouse had engaged in “behaviour that constitutes sexual harassment of a female member of Crandall University.” The plaintiffs dispute the validity of this alleged cause for dismissal.

[25] Crandall’s Amended Statement of Defence at paragraph 40, maintains that it had just and sufficient cause to terminate Dr. Stackhouse's employment, especially given its mission and values as a Christian-based University. The primary cause stated in the termination letter itself, dated November 22, 2023, relied on the findings of an external investigator, Mr. Michaud, K.C., specifically determining that Dr. Stackhouse "engaged in behavior that constitutes sexual harassment of a

female member of Crandall University". However, Crandall's defense expands this cause to include an allegation concerning the hiring process, accusing Dr. Stackhouse of "Deliberately misleading or withholding information when hired by Crandall about the circumstances of his departure from his former employment with Regent College" (paragraph 40(b) of Amended Statement of Defence).

[26] In its Statement of Particulars at paragraph 1(d), Crandall explicitly states that, during the interview process, Dr. Stackhouse did not disclose that he was on a forced leave of absence from Regent College due to complaints about his behaviour. He also assured the interviewing committee that there were no issues with his former employer. Crandall argues that, at the time he applied for the position, Dr. Stackhouse was on a leave of absence and subject to an investigation at Regent, which he failed to disclose. This omission is claimed to be part of the misconduct justifying cause for termination.

[27] Counsel for the plaintiffs argues that the Regent documents are irrelevant to the wrongful dismissal claim because Crandall University is barred from relying on any allegation of misrepresentation as a defence. Counsel maintains that the written reasons for termination, as set out in the termination letter, referred only to "behaviour that constitutes sexual harassment of a female member of Crandall University,"

[28] The termination letter issued to Dr. Stackhouse stated that his employment was being terminated on the basis of "the findings of Joel Michaud, as set out in the Confidential Report dated November 15, 2023." Although the letter specifically

referred to the finding that he had engaged in behaviour constituting sexual harassment of a female member of the University community, that reference was preceded by the phrase “among other things.” Crandall contends that this phrase incorporates all of the findings contained in the Michaud Report, including the conclusion that Dr. Stackhouse misled the hiring committee about the circumstances of his employment at Regent College.

[29] Because the report is expressly identified as the source of the reasons for dismissal and includes findings concerning Dr. Stackhouse’s prior conduct at Regent, Crandall argues that the phrase “among other things” demonstrates that the termination was not limited to the harassment finding but was based on the full range of misconduct described in the report, including the alleged failure to disclose his employment circumstances at Regent. On this basis, the University maintains that the broader circumstances referenced in the termination letter, particularly the alleged misrepresentations relating to Regent College, fall squarely within the scope of the semblance of relevancy test for discovery.

[30] Whether Crandall University may ultimately rely on grounds for dismissal beyond those expressly stated in the termination letter is a question reserved for the trial judge. It is at trial, not on this interlocutory motion, that the Court will decide the acceptable scope of the University’s just cause defence and whether reliance on any additional grounds will be permitted. At the discovery stage, the inquiry is far more narrow. The Court’s task is to determine only whether the documents sought meet the semblance of relevancy threshold. The pleadings clearly disclose that Crandall relies on multiple grounds for termination, including the allegation that Dr.

Stackhouse failed to disclose his employment status at Regent College and that he was allegedly under investigation at the time of his hiring. Given that these matters are specifically pleaded, any documents that bear on those circumstances are relevant for the purposes of discovery, regardless of whether they may ultimately be admissible or relied upon at trial.

a) Defamation

[31] Dr. Stackhouse and Ms. Britton allege that a statement published on Crandall's website following his termination was false and defamatory. They plead that the words complained of conveyed, and were understood to convey, that Dr. Stackhouse was a "recalcitrant and repeat offender, having been previously terminated for the same misconduct at another school" (paragraph 56(k) of the Amended Statement of Claim), and that he "deliberately misled the interviewing committee of Crandall University when applying for employment" (paragraph 56(l)).

[32] Crandall's defence to the defamation claim is justification, asserting that the statements made were true. In its Amended Statement of Defence (paragraph 50), Crandall states that nothing posted on its website was false. As the plaintiffs allege that the post implied Dr. Stackhouse was a "recalcitrant and repeat offender" and that he "deliberately misled the interviewing committee," Crandall argues it must be entitled to prove the truth of those statements. Accordingly, it asserts whether Dr. Stackhouse was a "repeat offender" based on his conduct at Regent and whether he withheld information about his prior employment are central to the defamation claim.

[33] To defend on that basis, Crandall must be permitted to explore whether there is any factual foundation for those statements, specifically, whether Dr. Stackhouse had previously engaged in similar misconduct at Regent College and whether he failed to disclose relevant information about his employment status there when applying to Crandall. The truth or falsehood of these assertions is central to the defamation claim.

[34] Accordingly, any documents bearing on the nature of the Regent investigation, the circumstances of Dr. Stackhouse's departure, or the representations he made about it are directly relevant under the semblance of relevancy test. These materials may enable Crandall to advance its defence of justification and are therefore properly subject to disclosure at the discovery stage.

[35] Having reviewed the pleadings and the applicable legal principles, the Court is satisfied that the circumstances surrounding Dr. Stackhouse's departure from Regent College are relevant to the issues in dispute and must be disclosed.

[36] Accordingly, the plaintiffs must comply with their disclosure obligations under the *Rules of Court* by producing all documents in their possession relating to the Regent investigation (Schedule A), listing any relevant documents once held but no longer possessed (Schedule C), and identifying any non-parties believed to have such documents (Schedule D).

- Discovery Questions

[37] On the other motion before me, the Court accepts the submissions of counsel for Dr. Stackhouse and concludes that the defendant's motion to compel answers to

specific discovery questions concerning the Regent College matter is premature and cannot properly be determined at this stage.

- [38] The procedure for dealing with refusals to answer questions at an examination for discovery is clearly set out in Rule 33.10 of the *Rules of Court*. That rule requires that, when a question is refused, the court reporter must record the question, the grounds for the refusal, and counsel's statement in support of the question. It is this record that must be placed before a motions judge for adjudication.
- [39] No Examination for Discovery has yet taken place in this proceeding. Accordingly, Dr. Stackhouse has not had an opportunity to answer or object to the specific questions the defendant proposes to ask. Without that record, the Court has no proper evidentiary foundation upon which to rule. Judicial intervention is available only after the questions have been put and refused on the record. The defendant has provided no authority supporting the proposition that a pre-emptive motion of this nature is procedurally appropriate.
- [40] The Court further notes that the Amended Notice of Motion, which first raised the request to compel answers at discovery, was served only five days before the hearing. This contravenes Rule 37.04(5) of the *Rules of Court*, which requires service at least ten days in advance. The failure to comply with this requirement provides an additional and independent ground for dismissing this portion of the motion.

COSTS

[41] Despite partial success by both parties, costs of \$750 are awarded against the plaintiffs for their failure to disclose clearly relevant information, which made this motion necessary. Payment is to be made forthwith.

DISPOSITION

[42] It is ordered that:

- a) The plaintiffs will produce a further and better Affidavit of Documents listing all documents which are or have been in their possession or control, or which they believe to be in the possession, custody or control of some person not a party, relating to Dr. Stackhouse's leave of absence and departure from Regent College and the circumstances leading up to his leave of absence and departure;
- b) The plaintiffs will produce their further and better Affidavit of Documents prior to the Examination for Discovery currently scheduled for November 24 to 26, 2025;
- c) The motion to compel Dr. Stackhouse to respond to questions during discovery about his departure from Regent is dismissed; and
- d) The plaintiffs shall forthwith pay costs to the defendant of \$750.

DATED at Moncton, New Brunswick, this 17th day of November, 2025.

Christa Bourque
Justice of the Court of King's Bench
New Brunswick, Trial Division