Barry Robert Morrison v. The Bank of Nova Scotia – 2025 NBKB 279

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF MONCTON

2025 NBKB 279 (CanLII)

MC/137/2022

BETWEEN: **BARRY ROBERT MORRISON,**

– and –

THE BANK OF NOVA SCOTIA

DECISION

BEFORE: Justice J. Danie Roy

AT: Moncton, New Brunswick

DATE OF HEARING: June 17, 2025

DATE OF DECISION: December 3, 2025

APPEARANCES: Edwin G. Ehrhardt, K.C., for the Plaintiff

Stephen J. Hutchison, K.C., for the Defendant

ROY, J.

OVERVIEW

[1] The plaintiff, an experienced lawyer, having been admitted to the New Brunswick Bar in 1974, was the victim of a fraud, where he handled a counterfeit bank draft and lost $100,000, plus administrative fees. He then filed an action against his own bank, the Bank of Nova Scotia, seeking to recover the money lost, plus damages. By way of summary judgment, the bank is seeking a dismissal of the action.

[2] The plaintiff was contacted by email from someone purporting to be Maria Tochi who indicated she lived in New Brunswick but was in Japan, seeking a lawyer with respect to enforcement of a divorce settlement. There were emails exchanged, and the plaintiff received what was ported to be her passport, although the name on the passport was Maria Micha. He also received communication from Micha Tochi, someone purporting to be the ex-husband.

[3] On December 22, 2021, the plaintiff received a bank draft post-dated December 24, 2021, in the amount of $265,900 from Micha Tochi. The bank draft, purportedly from CIBC, was from Micha Holdings Inc. for partial payment of the divorce settlement.

2025 NBKB 279 (CanLII)

[4] On December 24, 2021, the plaintiff went to the Bank of Nova Scotia, the St. Andrews branch, in New Brunswick. He requested to deposit the bank draft into his Trust Account, with no holds as he also wanted to do an international wire transfer of $100,000 to Maria Tochi, that day. The deposit was approved by the bank manager, the international wire was initiated but only completed on December 29, 2021, because of the holidays.

[5] The bank draft was counterfeit.

[6] Once the bank became aware of the fraud, it proceeded to freeze the plaintiff's accounts until he reimbursed the fraudulent wire for $100,000 plus a bank transfer fee, which he did.

[7] The plaintiff alleges the bank failed to advise him the bank draft was fraudulent, made negligent misrepresentations as to the bank draft's legitimacy and breached its contractual obligations and fiduciary duty to the Plaintiff. The Plaintiff also alleges that the bank acted in bad faith by freezing his accounts and failing to cooperate in his own investigation into the fraud.

[8] I conclude the relationship between the plaintiff and the bank is covered by the Business Banking Services Agreement, which provides a complete answer to the plaintiff's action. While the bank approved the deposit of the bank draft and of the international wire, it did so on the instructions and

2025 NBKB 279 (CanLII)

information provided by the plaintiff. The defendant did not breach its contractual obligations to the plaintiff or any duty of care and acted according to the Agreement.

2025 NBKB 279 (CanLII)

[9] There is no genuine issue for trial. I am satisfied, based on the evidence before me, that I can fairly and justly adjudicate the dispute. Summary judgment is granted, and the plaintiff's action is dismissed.

THE RECORD

[10] The Record on motion contains the following:

i. Affidavit of Service of Cynthia Doucette sworn on January 7, 2025

ii. Notice of motion filed November 29, 2024

iii. Affidavit of Cynthia Doucette sworn on November 25, 2024

iv. Affidavit of Aimee Savoie sworn on November 22, 2024

v. Affidavit of Kathleen Shannon sworn on November 22, 2024

vi. Supplemental Affidavit of Cynthia Doucette sworn on May 30, 2025

vii. Affidavit of Barry Robert Morrison sworn on May 29, 2025

[11] In ***O'Toole v. Peterson***, 2018 NBCA 8, our Court of Appeal noted that Rule *22* allows resort to affidavits and "other evidence," that it opens the door to the admission of an adverse party's discovery evidence but does not

provide further comments as to what conditions might be required to ensure fairness to all parties impacted by the admission of discovery evidence.

[12] Here, both parties have attached portions of the plaintiff's discovery evidence to their own affidavit evidence. In this context, I have reviewed and considered all the evidence submitted, including the discovery evidence submitted by both parties.

2025 NBKB 279 (CanLII)

FACTS

[13] The plaintiff was admitted to the New Brunswick Bar in 1974. Since January 18, 2018, he has worked as a sole practitioner. In this capacity, he has accounts at the Bank of Nova Scotia, the St. Andrews branch, in New Brunswick, including a Trust account. The plaintiff's accounts are covered by a Business Banking Services Agreement, for which the plaintiff signed an acknowledgment, which provides as follows:

> *3.1 You authorise us to act on any instruction (including Payment Instructions) received from you or in your name, or on your behalf, or using your Authentication ID with respect to any Service or this Agreement, even if it differs in any way from any previous instruction sent to us, and to rely on such instruction as being valid, correct, authorized by, and binding on you.*
>
> *4.1 You are responsible for settling payment of your Payment Instructions. Unless you have made specific arrangements with us, you will ensure that your accounts have sufficient Cleared Funds to settle any Payment Instructions at the time that you give us the instruction. The reported balances for your account may include amounts which are not Cleared Funds.*
>
> *6.1 You irrevocably authorize us to charge and debit the following to, and against, any of your accounts with us:*
>
> > *(a) the amount you ask us to pay in any Payment instructions.*

> *(c) the amount of any counterfeit or otherwise invalid currency deposited or transferred to any of your accounts.*
>
> *(d) payment of any amount you owe us, including fees, charges, costs, expenses, and taxes.*
>
> *14.4 We may immediately cancel or suspend any or all Services and terminate any Service Agreement and this Agreement (including freezing or placing a hold on any funds in any account) at any time without notice if :*
>
> *(vi) we have reason to suspect that you are engaged in any improper or unlawful activity in connection with* the Services or are the victim of fraud or identity theft.
>
> *16.2 Notwithstanding the foregoing, Scotiabank will not be liable for, and is hereby released from, any Loss resulting (in whole or in part) from:*
>
> *d) any Instrument or instruction that is forged (in whole or in part), has a material alteration or is otherwise fraudulent or unauthorized.*
>
> *(f) a breach of any applicable laws and rules by you, or any Compliance Action taken by us, in relation to your use of any Services, including resulting from any instruction by you to us.*

[14] On December 10, 2021, the plaintiff was contacted by email from someone purporting to be Maria Tochi indicating she was seeking legal representation with respect to obtaining amounts due under a divorce settlement with her ex-husband.

[15] She indicated she lived in New Brunswick but was in Japan. She forwarded a copy of a document which ported to be her passport, which had the name of Maria Micha.

[16] There were email exchanges between the Plaintiff and Maria Tochi, and they also spoke over the telephone. One call the plaintiff received was from Nigeria.

2025 NBKB 279 (CanLII)

2025 NBKB 279 (CanLII)

[17] The plaintiff did not comply with the mandatory Law Society of New Brunswick Rules on Client Identification. His evidence at the examination for discovery was that he did not follow the rules because "he decided to strike while the iron was hot" to further the interests of his client. He was delaying the compliance of that rule until he would see his client. (Examination for discovery on September 9, 2022, page 63)

[18] He felt he was doing what he should be doing to represent fairly, honestly and professionally his client. (Examination for discovery held on the 16th and 17th day of November 2022, page 85)

[19] On December 16, 2021, the plaintiff received an email from someone who was identified as Micha Tochi, the ex-husband of Maria Tochi, indicating he was going to send a partial payment. Micha Tochi indicated he would send an amount between $200,000 to $300,000 via bank draft.

[20] On December 22, 2021, the plaintiff received what he believed to be a CIBC bank draft, which was post-dated, with a date of December 24, 2021. There was also correspondence from someone at what purported to be a brokerage firm in Calgary, Alberta. The cover letter was signed by Marcy Atwater.

[21] On December 24, 2021, the plaintiff attended the bank and was served by bank teller Kathleen Shannon. He asked to deposit the bank draft into his Trust account with no holds, as he wanted to do a wire transfer that day. The bank draft, purportedly from CIBC, was from Micha Holdings Inc. and made out to Barry R. Morrison Q.C. in Trust in the amount of $265,900.

[22] As the amount of the bank draft was over Kathleen Shannon's authority, it was the bank manager, Aimee Savoie, who approved the deposit with no holds.

[23] The plaintiff requested an international wire be sent to Maria Tochi on Friday, December 24, 2021. What the plaintiff requested was a wire in the amount of $100,000 from his Trust Account to an individual named Xiaoxia Liu, not Maria Tochi, who had a Chinese address, but the funds were to be transferred to a bank in Hong Kong. Kathleen Shannon drew the attention of the plaintiff to the fact that the individual Xiaoxia Liu had a Chinese address, but the funds were to be transferred to a bank in Hong Kong.

[24] At the instructions of the plaintiff, the wire was initiated on December 24, 2021. As wires require approval from two bank employees, and the branch closed early on that day, the branch manager, Aimee Savoie, approved the wire on December 29, 2021, when the branch reopened after the holidays.

2025 NBKB 279 (CanLII)

2025 NBKB 279 (CanLII)

[25] The Plaintiff says he asked Kathleen Shannon to verify the legitimacy of the bank draft. He further said that he asked for confirmation that it was safe to wire the funds from the Trust account. He says he is very careful when he deals with trust money. He wanted to make sure the funds were legitimate, and he told this to Kathleen Shannon. He says he told her his ability to practice law depended upon having a pristine trust account. He says she left her counter, and he believes she had a discussion with the bank manager. When she returned, he says he was assured the draft was legitimate and could safely be deposited in his trust account.

[26] The evidence of Kathleen Shannon and Aime Savoie is contrary. They both say the plaintiff did not request assurances that the bank draft was legitimate or authentic. Ms. Shannon also says she was not asked to confirm that it was safe to wire funds from the Trust Account.

[27] Kathleen Shannon's evidence is also that the plaintiff did not inform her that he had received a post-dated bank draft. If he had informed her, she would have alerted Ms. Savoie the bank manager immediately, as bank drafts cannot be post-dated.

[28] Aimee Savoie's evidence is that she was not told that the bank draft had been received on December 22, 2021, post-dated to December 24, 2021, as she would not have approved its deposit. She explains that when a brank

draft is drawn, those funds are immediately taken out of the sender's account and treated as cash. Bank drafts are, therefore, ineligible to be post-dated.

2025 NBKB 279 (CanLII)

[29] The plaintiff says that Ms. Yoganathan, another bank employee, made representations to him and his wife that if she had been presented with the bank draft, she would have quickly observed that it was fraudulent.

[30] On December 31, 2021, the bank received a fax from Symcor, the bank's payment processor, that the bank draft was counterfeit.

[31] As a result of the fraud, the bank froze the plaintiff's accounts and charged back the $265,900 to his Trust Account. The plaintiff's Trust account had already been debited $100,000 for the wire, as well as a $115 service charge.

[32] Prior to the bank draft deposit, the plaintiff had a balance of $15,342.04 in his Trust Account, which was withdrawn by the bank at the time of charge back. This left the plaintiff's Trust Account with a negative balance in the amount of $84,777.96.

[33] The plaintiff did reimburse his Trust Account and the freeze over his accounts was lifted.

2025 NBKB 279 (CanLII)

POSITION OF THE PARTIES

[34] The plaintiff says there is a genuine issue for trial on the following basis:

i. There is contradictory evidence, and a trial is needed to resolve the credibility, and further oral discovery of the bank manager on undertakings from discovery proceedings is needed.

ii. The assurances he received from the bank teller created a subsequent agreement or a novation of the contract and overrides the Business Banking Services Agreement.

iii. His failure to follow applicable rules of the Law Society of New Brunswick with respect to client identification does not constitute a release of the bank from any liability.

iv. The court needs to turn its mind to the enforcement of the exclusion clauses in the Business Banking Services Agreement as to whether they apply in the circumstances, whether it was unconscionable at the time it was made, and whether it should be enforced for reasons of public policy.

[35] The Defendant seeks summary judgment and a dismissal of the Plaintiff's action on the basis there is no genuine issue for trial. The defendant says the relationship between the plaintiff and the bank is covered by the Business Banking Services Agreement, which provides a complete answer to the plaintiff's action.

ISSUES

[36] The Court is tasked with determining if there is a genuine issue requiring a trial.

2025 NBKB 279 (CanLII)

LAW AND ANALYSIS

Summary Judgment

[37] Summary judgment is governed by Rule *22* of the ***New Brunswick Rules of Court***, which provides that the court shall grant summary judgment if the court is satisfied there is no genuine issue requiring a trial with respect to a claim or defense. In determining whether there is a genuine issue requiring a trial, the court shall consider the evidence submitted by the parties and may exercise any of the following powers for the purpose, unless it is in the interests of justice for those powers to be exercised only at trial; weighing the evidence, evaluating the credibility of a deponent, and drawing a reasonable inference from the evidence.

[38] In ***Girouard Estate v. Girouard***, 2025 NBCA 80, the Court of Appeal reiterated the following principles governing the determination of a motion for summary judgment, at paragraph 7:

> *The Court may grant summary judgment if it is satisfied that there is no genuine issue requiring a trial. There is no issue requiring a trial if, based on the evidence before the motion judge, he or she can fairly and justly adjudicate the dispute.*
>
> *The moving parties bear the burden of showing that there is no genuine issue requiring a trial if they wish that summary judgment be granted to them. Of course, this burden must be met on a balance of probabilities. See: Russell et al. v. Northumberland Co-Operative Limited, 2019 NBCA 70, and O'Toole v. Peterson, 2018 NBCA 8.*
>
> *To this it must be added that the parties must put their best foot forward in adducing evidence in support of their position. It is not enough to claim that evidence on certain issues will be adduced in more detail at trial. The parties must put their best foot forward and submit all admissible evidence on a motion under Rule 22 of the Rules of Court. This represents a culture shift that is very much in effect in our province following the Supreme Court of Canada's decision in Hryniak v. Mauldin, 2014 SCC 7. [paras. 2527]*

[39] The rule provides for a two-step process to determine whether there is a genuine issue requiring a trial. In step one the judge must determine if the evidence presented reveals a genuine issue requiring a trial. If, on the filed evidence alone, the judge can fairly and justly adjudicate the dispute, there will be no genuine issue requiring a trial and the judge must grant summary judgment. If the judge cannot adjudicate the dispute on the filed evidence, he will proceed to step two. A judge only proceeds to step two if the assessment of the filed evidence leads to the conclusion that there may be a genuine issue requiring a trial. The judge will then determine if a trial can be avoided by resorting to the fact-finding powers of Rules 22.04(2) and (3) (the "mini-trial"). The guiding principle is that it will always be in the interest of justice for a judge to make use of the mini-trial where possible. (***Russell et al v Northumberland Co-Operative Ltd.***, 2019 NBCA 70; ***Estephan c. Dykeman***, 2020 NBQB 65, at paragraph 14)

The Business Banking Services Agreement

[40] The plaintiff’s bank accounts are covered by a Business Banking Services Agreement, for which the plaintiff signed an acknowledgment. It is an agreement between the plaintiff and the defendant. The agreement provides the plaintiff has an obligation to ensure that his accounts have sufficient cleared funds to settle any payment instructions at the time the instruction is given. It also provides the bank with a right to freeze the accounts, a right of chargeback and a right to recover the outstanding

2025 NBKB 279 (CanLII)

balance owing. It provides that the bank will not be liable and is released from any loss resulting from an instrument or instruction that is forged or is fraudulent, or breach of applicable laws and rules.

2025 NBKB 279 (CanLII)

[41] In ***Du v. Jameson Bank***, 2017 ONSC 2422, at paragraphs 64 and 65, Justice R. Beaudoin made the following comments. The fact that a customer is a victim of fraud does not result in an automatic transfer of liability to the customer's bank. In the absence of special facts or circumstances, the relationship between a bank and its customer is one of debtor/creditor and does not give rise to a fiduciary duty on the part of the bank.

[42] In ***Bank of Montreal v. Butt***, [2015] N.J. No. 170, Mr. Butt was the victim of a "Nigerian scam". He received a check that was made payable to him from an investment trust with which he had no previous dealings. He deposited the check into his account. He advanced that he received ongoing advice and confirmation that the transaction was free from risk. The Court determined the bank was not negligent and noted that Mr. Butt's most blameworthy conduct related to his silence. He had failed to disclose that he had no dealings with the investment trust, that the bank was being used as a conduit and that he was a mere facilitator for individuals known by him only through the internet.

[43] In the case ***Meridian Credit Union Ltd. v. Grenville-Wood***, 2011 ONCA 512, the Court found no breach of duty of care from the financial institution. It concluded the client was the person best situated to prevent the loss and to make inquiries as to the validity of the check purportedly issued to him. In that case, the bank client had agreed to facilitate a transfer of funds on behalf of a Taiwanese businessman, whom he did not know in return for a five per cent commission on the transfer. The check was doctored and deposited in the account. The Court also referred to the decision of ***Bank of Nova Scotia v. Sharp*** (1975), 57 D.L.R. (3d) 260, where the British Columbia Court of Appeal confirmed that, even absent a provision in the bank's agreement with its customer, the bank retained the right of chargeback, as it was inherent in its role as a collecting bank.

[44] The plaintiff referred this Court to the decision of ***Zheng v. Bank of China (Canada) Vancouver Richmond Branch***, 2023 BCCA 43, where the Court of Appeal allowed an appeal from a summary judgment. Ms. Zheng claimed that the Bank had a duty to warn her that she may be a victim of fraud. That case is distinguishable on the facts. At issue was the bank's prior knowledge of the prevailing fraud and the enforceability of the exclusion clause in a document that was signed subsequently to the transaction.

[45] In ***Foodinvest Ltd. v. Royal Bank of Canada***, 2020 ONCA 665, the Ontario Court of Appeal agreed with the motion judge's duty of care analysis

2025 NBKB 279 (CanLII)

that it depended on the nature of the service and the terms of the contractual relationship governing the service.

[46] I conclude there is no genuine issue for trial. I am confident, based on the evidence before me, that I can fairly and justly adjudicate the dispute.

[47] The crux of the plaintiff's argument rests on his assertion that he was assured by the bank the draft was legitimate, and that it was safe to do an international wire from those funds. And that bank employees should have quickly observed that it was fraudulent.

[48] I reject the plaintiff's argument that there is a live credibility issue which requires a trial.

[49] Firstly, with respect to the credibility of the plaintiff, I find it difficult to reconcile the plaintiff's assertion that he was so concerned with respect to making sure the bank draft was legitimate because his ability to practice law was at stake, but then admittedly failed to take the recommended steps of the Law Society for client identification.

[50] Still, even if I accept the plaintiffs' evidence that he received assurances as to the legitimacy of the bank draft, I am still confident, based on the evidence before me, that I can fairly and justly adjudicate the dispute.

2025 NBKB 279 (CanLII)

2025 NBKB 279 (CanLII)

[51] The assurances the plaintiff says he received are in a context where he failed to provide crucial information to bank employees. Recall that had Kathleen Shannon known the bank draft was post-dated, she would have alerted the bank manager, who would not have authorized the deposit and the international wire, as bank drafts are ineligible to be post-dated. She was unaware as well that the plaintiff did not comply with the Law Society of New Brunswick Rules.

[52] The plaintiff cannot now defer the blame, where he was the victim of fraud, to the bank employees, who have acted according to his instructions, and on the information, he provided to them.

[53] According to Business Banking Services Agreement, the plaintiff bears the responsibility of a fraudulent instrument, and the bank was entitled to freeze the accounts and to recover the outstanding balance owing.

[54] The circumstances of this matter do not impose a duty of care on the defendant. I am also of the view there is also no evidence of negligence or misconduct on behalf of the defendant.

[55] The plaintiff says there was a subsequent agreement or a "novation of the contract." The plaintiff also says the exclusion clauses of the Business

Banking Services Agreement should not apply in the circumstances of this matter, because he requested confirmation the bank draft was legitimate, which could easily have been determined. And he indicated he would be relying on any representation made by the bank and that it was reasonable to do so. Further, it also raises a public policy issue.

2025 NBKB 279 (CanLII)

[56] I reject the plaintiff's argument that there was a subsequent agreement or a "novation of the contract".

[57] Novation has been defined as follows in the decision of ***Great Northern Railway Co v Cole Agencies Ltd (cob Cole Brothers Distributors),*** 1964 SJ No 89:

> ***16*** *(…) "Novation takes place where the two contracting parties agree that a third shall stand in the relation of either of them to the other. It is a new contract and therefore essential that the consent of all parties shall be obtained, and in this necessity for consent lies the essential difference between novation and assignment." (…)*

[58] For a contract to be novated, a formal agreement to do so must be in place. (***Catalyst Paper Corp. v. Companhia de Navegaçao Norsul***, 2008 BCCA 336, at paragraph 30. This is not the case in the circumstances of this matter.

[59] Also, there cannot be a subsequent agreement where bank employees are relying on incomplete information.

[60] The plaintiff relies on the Supreme Court of Canada decision, ***Tercon Contractors Ltd. v. British Columbia*****,** 2010 SCC 4, which dealt with the interpretation of exclusion clauses. The Supreme Court of Canada instructs that the following analysis should be applied when a plaintiff seeks to escape an exclusion clause or other contractual terms to which it had previously agreed, as follows:

> i. Does the exclusion clause apply to the circumstances established in the evidence.
>
> ii. If the exclusion clause applies, was it unconscionable and thus invalid at the time the contact was made.
>
> iii. If the exclusion clause is held to be valid at the time of contract formation and applicable to the facts of the case, should the court nevertheless refuse to enforce the exclusion clause because of an overriding public policy.

[61] The burden of persuasion lies on the party seeking to avoid enforcement of the clause to demonstrate an abuse of the freedom of contract that outweighs the very strong public interest in their enforcement. The plaintiff has not met this burden.

[62] To prove negligent misrepresentation a plaintiff must meet the five part test set out in ***Queen v. Cognos Inc.***, 1993 SCR 87 as follows: (1) there must be a duty of care based on a “special relationship” between the representator and the representee, (2) the representation in question must be untrue, inaccurate or misleading, (3) the representator must have acted negligently in making said representation, (4) the representee must have

2025 NBKB 279 (CanLII)

relied, in a reasonable manner, on said negligent misrepresentation, and (5) the reliance must have been detrimental to the representee in the sense that damages resulted. (***Howard Levitt v. TCT Mortgage Group Inc. and Donald Roper***, 2018 NBQB 194, at paragraph 5)

2025 NBKB 279 (CanLII)

[63] I am satisfied with the evidence that the exclusion clause applies to the circumstances of this matter.

[64] Section 3.1 of the Business Banking Services Agreement provides that the bank is authorized to act on instructions, including payment instructions received, and to rely on such instructions on being valid and correct.

[65] Kathleen Shannon was working with the information that was provided to her by the plaintiff. She did draw the plaintiff's attention that the individual Xiaoxia Liu had a Chinese address, but the funds were to be transferred to a bank in Hong Kong. Further, even if Ms. Yoganathan, another bank employee, made representations to the plaintiff, after the fraud was discovered, that she would have quickly observed that the bank draft was fraudulent, it does not absolve the plaintiff from his contractual obligations with the bank and his obligations as a member of the Law Society of New Brunswick.

[66] Recall as well that the plaintiff did not inform the bank that he had received a post-dated check, which would have caused the bank to reject the deposit or that he did not follow the Law Society's rules for identifying clients. In that context, representations to the plaintiff by bank employees cannot said to be untrue, inaccurate or misleading or to have been done negligently. Further, certainly the plaintiff cannot now say that he has relied on a reasonable manner on what was said to him, when he, himself did not provide an accurate information.

[67] There is no evidence that would convince me that Business Banking Services Agreement was unconscionable at the time the agreement was made or that I should refuse to enforce it because of an overriding public policy.

CONCLUSION

[68] The relationship between the plaintiff and the bank is covered by the Business Banking Services Agreement, which provides a complete answer to the plaintiff's action. The bank did not breach its contractual obligations to the plaintiff and acted according to the Agreement. While the bank approved the deposit of the bank draft and of the international wire, it did so on the instructions and information provided by the plaintiff.

2025 NBKB 279 (CanLII)

[69] There is no genuine issue for trial. I am satisfied, based on the evidence before me, that I can fairly and justly adjudicate the dispute. Summary judgment is granted, and the plaintiff's action is dismissed.

2025 NBKB 279 (CanLII)

[70] Having considered Rule 59 of the ***New Brunswick Rules of Court***, the circumstances of this matter, including that the defendant has been entirely successful, I award costs payable by the plaintiff to the defendant in the amount of $2,500.

DISPOSITION

[71] Summary judgment is granted and the action filed by the plaintiff against the defendant on March 3, 2022 (MC-137-2022) is dismissed.

[72] The plaintiff shall pay costs of $2,500, plus allowable disbursements to the defendant.

DATED at Moncton, New Brunswick this 3rd day of December 2025.

J. Danie Roy,
Judge of the Court of King's Bench
of New Brunswick