

NOVA SCOTIA COURT OF APPEAL

Citation: *Swift v. Wallace*, 2026 NSCA 32

Date: 20260414

Docket: CA 544653

Registry: Halifax

Between:

John Dale Swift (aka Dale John Swift), 3241573 Nova Scotia Limited,
3222742 Nova Scotia Limited

Appellants

v.

David Carmichael Johnathan Wallace

Respondent

Judges: Van den Eynden, Scanlan, Beaton, JJ.A.

Appeal Heard: April 14, 2026, in Halifax, Nova Scotia

Held: Appeal dismissed with costs for reasons of the Court

Counsel: Richard W. Norman and Matthew Kuzak, for the appellants
Robert Mroz and Noah M. Entwisle, for the respondent

Reasons for judgment:

By the Court (Orally)

[1] The appellants seek to overturn a discretionary order granted by Justice C. Richard Coughlan of the Supreme Court of Nova Scotia, which struck the appellants' statement of defence and counterclaim in an action commenced in March 2017. Justice Coughlan entered judgment in favor of the respondent (plaintiff) with damages and remedies to be assessed at a later date. The judge's reasons for granting the impugned order are reported at 2025 NSSC 139.

[2] The judge found the appellants breached court orders and there was a failure in communicating with respondent counsel. He found the problematic conduct was long standing. The judge said:

[21] This conduct by the Defendants and their counsel was deliberate, a pattern of behaviour which has continued over the whole course of this proceeding. Although the previous motion to strike was dismissed, the Defendants' conduct continued, they did not take the opportunity to adjust their behaviour. Given the history of this proceeding, the Defendants' promises of their future conduct has no credibility.

[...]

[23] I find the Defendants' conduct to be contumacious and amounts to a deliberate flouting of the law. The conduct is an abuse of the court's processes. This is a case in which the Defendants' conduct over a long period of time is such that it meets the high bar required to strike the Defendants' pleadings.

[3] The appellants assert the judge erred in striking their defence and counterclaim. They contend the judge's reasons disclose no reasonable basis for finding they bore material responsibility for any deficient conduct. Further, they say this finding was based on the incorrect application of legal principles and resulted in a patently unreasonable finding the appellants engaged in contumacious conduct.

[4] To succeed on appeal the appellants must establish the judge erred. We unanimously agree they have not done so. No error in is apparent on the record. In our view the judge identified and applied the correct law to the matters he had to determine. His factual findings are well grounded in the record before him.

[5] The appeal is dismissed with costs payable by the appellants to the respondent in the amount of \$5,000 (inclusive of disbursements).

Van den Eynden, J.A.

Scanlan, J.A.

Beaton, J.A.