

# KEEPING CURRENT

May 20, 2021

## Nova Scotia court prevents anti-masking protest from happening

By Stephen Thiele

Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada's largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

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This past weekend, despite Ontario's stay-at-home order, there were two major public protests in Toronto. On late Saturday afternoon (May 15<sup>th</sup>) an estimated crowd of 2,500 to 5,000 people gathered at Nathan Phillips Square to voice their concerns about the current Palestinian-Israeli conflict. That same day, an "anti-lockdown" protest was held at Queen's Park, with a large crowd marching through the downtown core.

In Nova Scotia, the story was different because of *quia timet* injunction granted by the Honourable Justice Norton in [Nova Scotia \(Attorney General\) v. Freedom Nova Scotia, 2021 NSSC 170](#).

A *quia timet* injunction is a remedy that is sought by a party to stop potential harm from occurring before it is actually suffered, but is expected to occur in the future. This is different than the usual injunction that parties seek to prevent harm into the future because of a defendant's recent conduct.

In this case, the Nova Scotia government learned that an anti-mask rally was being organized for downtown Halifax

on Saturday, May 15, 2021 at 1:00 pm, with a second rally to be held elsewhere. However, Public Health Orders granted under the province's [Health Protection Act](#) placed restrictions on outside gatherings. An order issued by the Chief Medical Officer of Health contained a definition for an "illegal public gathering", which, among other things, prohibited the organizing of an in-person gathering, promoting an illegal public gathering and attending an illegal public gathering.

The government viewed the rally as being contrary to the Public Health Orders.

On the motion for an injunction, the government filed affidavit evidence that included incidents of previous large gatherings organized by the defendant that contravened the Public Health Orders and that showed the defendant's promotion of the May 15<sup>th</sup> rally. The defendant called the event: "Worldwide Rally for Freedom – Halifax" and the defendant's Facebook page showed 261 comments, with 88 people listed as "interested" and 66 people listed as "going" as of May 12<sup>th</sup>.