

Clarifications to the 2023 Wilson Moot Problem

Daniel Nakashima v. Cape Breton Regional Municipality

1. The facts are as found by Justice Nixon, as stated in the Official Problem. Mooters may conduct any research they see fit in developing their arguments. Mooters are also permitted to refer to any domestic or foreign law in their written and/or oral arguments. However, no reference shall be made, in written and/or oral arguments, to any legislative, social, or adjudicative facts beyond those found by Justice Nixon. Without limiting the generality of that direction, other than as identified in the Official Problem, social facts arising from the COVID-19 pandemic should not be referred to for the purposes of the Wilson Moot.
2. The High Court of the Dominion of Canada will not entertain submissions on any issues other than the three constitutional questions for which the Court granted leave. Mooters may raise any arguments relating to those issues that they see fit, regardless of whether they were referred to in the excerpts of the judgments below in the Official Problem. The only remedies sought by Daniel are declarations regarding the breach of his rights under the *Charter* and an order for damages under section 24(1) of the *Charter*.
3. There is a typographical error in paragraph 3 of the Official Problem. The final sentence should read: “After commencing therapy and taking medication to treat his ADHD, Daniel’s grades improved and he began forming strong friendships on campus.”
4. There are typographical errors in paragraphs 8 and 9 of the Official Problem. The years in both paragraphs should be “2020”.
5. The Cape Breton Regional Municipality has been granted leave to appeal to the High Court of the Dominion of Canada and is the appellant in that court.
6. Daniel is seeing his current therapist virtually.
7. With respect to paragraph 39 of the Official Problem:
 - a. When Daniel began working as a City Planner in September 2021, regular site visits were suspended due to the COVID-19 pandemic (as most non-essential development was also halted). During that time however, occasional site visits took place (primarily to locations where essential construction was taking place). Daniel delegated tasks related to these occasional visits to other employees in his team.
 - b. Site visits resumed on a regular basis in March 2022. In a typical week, there would be two or three site visits scheduled which would usually occur on one to two days of the week. Scheduling of site visits must take into account the availabilities of on-site project staff. They are often scheduled for Wednesdays, as there tend to be more project staff on-site mid-week.
 - c. Daniel was aware that site visits had resumed upon his return from bereavement leave. Daniel attended site visits that took place on Wednesdays when he was in the office, but he delegated tasks related to site visits on other weekdays to other team members. On cross-examination, Gina stated that while Daniel’s delegation of site visits was acceptable during the “lockdown” period when they were infrequent, that they are an important part of Daniel’s job responsibilities and she was concerned about the lack of consistency resulting from this delegation.