

CANADA / JUDGMENT

Gill v. Hain Celestial Canada

2025 BCCA 413

COURT

British Columbia Court of Appeal

DECIDED

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2025 BCCA 413 Gill v. Hain Celestial Canada COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: Gill v. Hain Celestial Canada, 2025 BCCA 413 Date: 20251104 Docket: CA50849 Between: Harjit Singh Gill Appellant (Plaintiff) And Hain Celestial Canada, Hain Celestial Group, Encorp Pacific, Ledcor Industries Inc., Grand Lodge of BC and Yukon (Freemason), and Taylor Swift Respondents (Defendants) Before: The Honourable Madam Justice Fisher (In Chambers) On appeal from: An order of the Supreme Court of British Columbia, dated July 22, 2025 (Gill v. Hain Celestial Canada, 2025 BCSC 1395, Vancouver Docket S246625). Oral Reasons for Judgment The Appellant, appearing in person: H.S. Gill Counsel for the Respondents, Hain Celestial Canada and Hain Celestial Group: J. Sanderson Counsel for the Respondent, Encorp Pacific: L.A. Whittaker Counsel for the Respondent, Ledcor Industries Inc. (via videoconference): L.D. Williams Place and Date of Hearing: Vancouver, British Columbia November 4, 2025 Place and Date of Judgment: Vancouver, British Columbia November 4, 2005 Summary: Application by three respondents for security for costs of the appeal and a stay pending the payment of security is granted. The underlying appeal is from an order striking the appellant's notice of civil claim under Rule 9-5(1) of the Supreme Court Civil Rules. The judge below found the notice of civil claim to be fundamentally flawed in that many of the claims pleaded were not known to law, the pleading was erroneously premised on the court not having jurisdiction, much of it was incoherent and unintelligible, and a fair trial was impossible. Although the appellant has limited financial means, the appeal is meritless. Many of the arguments are indiscernible and are either not reviewable or ungrounded in facts or law. The application was filed in a timely fashion. Recoverability of costs is a serious question because of the appellant's limited financial means. The interests of justice favour an order that security for costs be posted in the amount of \$15,000 by February 27, 2026, and the matter is to be stayed pending payment.

- [1] FISHER J.A.: This is an application by the respondents Hain Celestial Group and Hain Celestial Canada (together, Hain Celestial), Encorp Pacific (Encorp), and Ledcor Industries Inc. (Ledcor), for a payment of security for costs of the appeal by the appellant, Harjit Gill.

- [2] The underlying appeal is from an order striking Mr. Gill's notice of civil claim under Rule 9-5(1) of the Supreme Court Civil Rules, B.C. Reg. 168/2009. The respondents were awarded costs of the application which have not yet been recovered. They seek an order that Mr. Gill be required to post security for costs of the appeal in the amount of \$15,000 (\$5,000 per applicant) and for the appeal to be stayed until this amount is provided to the Court.
- [3] Mr. Gill opposes the application, asserting he cannot pay security, there is no prejudice to the respondents, the application is not timely and there is considerable merit to his appeal. Security for costs
- [4] Section 34(1)(a) of the Court of Appeal Act, S.B.C. 2021, c. 6 gives me discretion to order an appellant to pay into court security for the costs of an appeal.
- [5] In exercising that discretion, the ultimate question is whether the order is in the interests of justice, having regard to four factors: (1) the appellant's financial means, (2) the merits of the appeal, (3) the timeliness of the application, and (4) whether the costs will be readily recoverable. The onus is on the appellant to show that an order for security for the costs of an appeal is not warranted: *Lu v. Mao*, 2006 BCCA 560 at para. 6 (Chambers); *Creative Salmon Company Ltd. v. Staniford*, 2007 BCCA 285 at para. 9 (Chambers); *Nourifard v. Emadzadeh*, 2024 BCCA 49 at paras. 16-19 (Chambers).
- [6] An order for security for costs should not deprive an appellant of the financial ability to pursue a meritorious appeal, but the inability to proceed is not an obstacle where the appeal appears to be without merit: *Musselman v. Vanderstelt*, 2025 BCCA 289 at para. 6 (Chambers).
1. The appellant's financial means
- [7] There is no dispute that Mr. Gill has limited financial means. He apparently earns approximately \$1,000 per month from social assistance and temporary work.
2. The merits of the appeal
- [8] The effect of an appellant's impecuniosity is related to the degree of merit in the appeal: *Freshway Specialty Foods Inc. v. Map Produce LLC*, 2006 BCCA 592 at para. 6 (Chambers). Security for costs may be awarded against an impecunious appellant where the appeal is "bound to fail" or has no "obvious merit": *Freshway* at para. 14; *Maughan v. University of British Columbia*, 2008 BCCA 295 at para. 19 (Chambers).
- [9] Contrary to Mr. Gill's firm belief that his appeal has considerable merit, the respondents submit that it is entirely without merit or at least can be said to be bound to fail. I agree with the respondents.
- [10] In his notice of civil claim, Mr. Gill alleged that the respondents and others, including Taylor Swift, were each involved in aiding a human trafficking scheme against him. He also alleged he had been constructively dismissed from employment by several of the respondents. The chambers judge struck the entire claim without leave to amend; except she granted Mr. Gill

leave to apply to amend one of the constructive dismissal claims on conditions. She found the claim failed on all grounds under Rule 9-5(1): (a) it disclosed no reasonable claim; (b) it was unnecessary, scandalous, frivolous or vexatious; (c) it may prejudice, embarrass or delay a fair trial; and (d) it was otherwise an abuse of the process of the court.

- [11] Briefly, under Rule 9-5(1)(a), the judge found: · the notice of civil claim did not concisely set out the material facts giving rise to the claim, the relief sought or the legal basis for the relief sought; · the claim of human trafficking suffered from a more fundamental issue relating to the problematic underlying theory of the claim, Mr. Gill's fictionalized identity and four personas, the facts pleaded on this issue were confusing and mostly unintelligible, and these claims are not known to law; and · the constructive dismissal claim against Ledcor was past the limitation period and the claim against Hain Celestial would be covered by Mr. Gill's collective agreement with his union. It is important to point out that the judge cannot consider evidence in an application to strike a claim under Rule 9-5(1)(a).
- [12] Under Rule 9-5(1)(b), (c) and (d) the judge found: · the notice of civil claim was confusing, incoherent and erroneously premised on the court not having jurisdiction; · much of the pleading was unintelligible, which made any meaningful response by the defendants impossible; and · Mr. Gill's repeated denials of the court's jurisdiction and assertion that the court must accept any order he seeks violated the integrity of the administration of justice.
- [13] The judge cautioned that her reasons should not be taken as a complete review of the problems with the notice of civil claim because it was not possible to identify all its inadequacies, and she concluded:
- [54] The NOCC discloses no reasonable claim and is unnecessary, scandalous, frivolous, and vexatious. It makes a fair trial impossible. It contains allegations that are an abuse of court process. These problems are so overwhelming that there is no way to save any part of the NOCC. ...
- [14] She therefore struck the whole of the notice of civil claim without leave to amend, with one exception. She gave Mr. Gill leave to file an amended notice of civil claim with respect to his constructive dismissal claim against Encorp, but only with further leave of the court, such application to be made within 30 days. I am advised that this application has since been heard and dismissed.
- [15] It is difficult to discern the arguments Mr. Gill raises in his appeal. He has filed a factum that seeks to overturn the chambers judge's order as well as orders made by Justice Riley of this Court on applications for leave to appeal the order permitting an amendment on conditions, for a stay of that order and for a no fees order. He says the chambers judge erred in law, was negligent, omitted relevant material and considered irrelevant material, and her decision shows "a lack of judicial independence thus leading to evidence showing she has participated or assisted a human trafficking ring". He challenges all her findings under Rules 9-5(1)(a)-(d) and contends those rules are not relevant to dismiss his notice of civil claim. His position is that the chambers judge's order striking his claim is a breach of fundamental

justice and an abuse of process. With respect to the human trafficking claims, he says it is in the interests of justice to bring perpetrators to justice. He reiterated those arguments today in oral submissions.

- [16] The respondents urge me to make the same findings on the lack of merit as Riley J.A. made in dismissing Mr. Gill's application for a no fees order. Those findings are not binding on me in this application, but I do agree with Riley J.A.'s assessment that Mr. Gill's appeal is meritless. Justice Riley saw no prospect that a division of this Court would find any reversible error in the chambers judge's conclusion that the human trafficking claims and the bulk of the constructive dismissal claims had no prospect of success. He considered the human trafficking claims to be not merely unintelligible but nonsensical. He agreed with the judge's analysis of the deficiencies in the pleadings as being "so central and so fundamental that they could not be remedied" and considered Mr. Gill's chances of succeeding in demonstrating error were negligible. I would endorse those findings in this application.
- [17] Many of Mr. Gill's arguments on appeal (relating to the human trafficking operation and otherwise) are either not reviewable or ungrounded in facts or law--such as his assertions that the chambers judge was negligent, lacked judicial independence, and participated in the human trafficking operation; that Rules 9-5(1)(a)-(d) are not relevant to strike his notice of civil claim; and that the chambers judge did not assume the pleadings to be true as she is required to do. More incoherent is his argument that the chambers judge, Riley J.A., and the defendants engaged in a conspiracy to reward Taylor Swift by removing her from the notice of civil claim, leading to an abuse of process.
- [18] In my view, Mr. Gill has not established that the appeal has merit and is not bound to fail.

3. Timeliness of the application

- [19] Mr. Gill filed his notice of appeal on July 29, 2025. At or about the same time, he also filed applications for leave of the judge's order granting leave to amend one constructive dismissal claim, for a stay of that order and for a no fees order. That application was heard and decided by Riley J.A. on August 18, 2025. The respondents filed this application on September 26, 2025. Mr. Gill has since filed his factum and the appeal book. In these circumstances, I consider the application to be timely.

4. Recoverability of costs

- [20] In the absence of a meritorious appeal, there is a presumption in favour of granting security for costs if recovery may be difficult: *Sangha v. Azevedo*, 2005 BCCA 125 at para. 6 (Chambers); *Gardezi v. Positive Living Society of British Columbia*, 2018 BCCA 84 at para. 30 (Chambers).
- [21] The respondents submit that the recoverability of costs is a serious question. They were awarded costs in the court below, which have not yet been assessed or paid. They have also provided draft bills of costs for the appeal, which for each amount to \$21,000. Given Mr. Gill's limited financial means, his denial that the courts have jurisdiction over him (which he

denied here today but, in any event, he has stated that before), and the previous findings that his claim is frivolous, vexatious and an abuse of process, the respondents say there are significant doubts about his willingness to comply with an order for costs.

- [22] I would not put much weight on Mr. Gill's position about jurisdiction, but it is clear that the recovery of costs may be difficult in this case due to his financial means. The interests of justice
- [23] The respondents acknowledge that Mr. Gill will be prejudiced by an order for security due to his inability to pay, which would stay his appeal. However, they submit this prejudice is outweighed by the prejudice they will face in the event the appeal is unsuccessful and they are not able to recover costs and is mitigated by the lack of merit of the appeal.
- [24] Mr. Gill submits that this application is premature because he has brought an application to vary Riley J.A.'s order, which is set to be heard on November 21, 2025. He also submits that if security is ordered, only one respondent should be entitled to security for costs, given that only one party is making submissions on behalf of the rest.
- [25] In my view, the potential variation of Riley J.A.'s order does not bear on this application, and it is in the interests of justice to order security for costs of the appeal. The respondents have reasonably proposed a modest order of \$5,000 for each, \$15,000 in total, which takes into account the competing concerns about Mr. Gill's financial ability and the prejudice to the respondents, despite their resources, being forced into litigation and incurring costs (which they have a right to secure).

Disposition

- [26] I therefore order Mr. Gill to post security for costs in the amount of \$15,000, and the appeal will be stayed until the security is provided to the Court. I am not prepared to make an exception for Mr. Gill to be able to have his review application heard on November 21.
[Discussion re: time limit for payment of security]
- [27] FISHER J.A.: Mr. Gill must post security by February 27, 2026. In the interim, the matter will be stayed. "The Honourable Madam Justice Fisher"

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Prepared on 26 October 2026 · Esheria