

CANADA / JUDGMENT

## Hartin Estate (Re)

2025 BCSC 2092

COURT

Supreme Court of British Columbia

DECIDED

10 September 2025

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2025 BCSC 2092 Hartin Estate (Re)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Hartin Estate (Re),

2025 BCSC 2092

Date: 20250910

Docket: P193552

Registry: Vancouver

In the Matter of the Estate of Robert Llewellyn Hartin, Deceased

Before: The Honourable Justice Whately

Oral Reasons for Judgment

In Chambers

Counsel for the Applicant, Ruth Robertson:

A. Pearl

Counsel for the Respondent Executor, Deana Hartin:

M.S. Kerwin

L.D. Honywill

Counsel for the Respondent Beneficiaries, Deana Hartin, Duane Hartin, and Greg Hartin:

K. Vimalasan

Place and Date of Hearing:

Vancouver, B.C.

June 23-24, 2025

Place and Date of Judgment:

Vancouver, B.C.

### September 10, 2025

- [1] THE COURT: All right. We are here today for my decision on the application of Ruth Robertson that came before me in chambers on June 23 and 24, 2025.
- [2] These are oral reasons. If a transcript is ordered, I will edit for clarity, organization and typographical errors and will add fulsome case cites and quotes that I may not read out loud today in the interest of time. The substantive decision will not change.
- [3] This application involves the administration and distribution of the estate of Robert Llewellyn Hartin, who died on September 3, 2019. Robert Hartin was survived by three children, Duane Hartin, Deana Hartin, and Gregory Hartin, and by his sister, Ruth Robertson. For clarity, I will refer to all parties by their first names. I mean no disrespect in doing so.
- [4] Robert left a will dated November 1, 2018. He named his daughter Deana as his executor and trustee of his estate. The will provides that Robert's chattels are to be divided amongst his three children, and the residue of the estate is to be divided equally between the children and his sister, Ruth, each receiving 25% of the residue.
- [5] Ruth is the applicant in this matter. Ruth is Deana, Duane, and Gregory's aunt. Ruth is currently 85, turning 86 in the fall. She asks that I order an interim distribution from the estate of \$1 million CAD, or alternatively, the value of certain Apple shares that were recently liquidated, or another amount that the court finds just. She also seeks disclosure of information and documents relating to certain of Robert's companies. I note that while the notice of application seeks a \$1 million interim distribution, in her counsel's submissions, the applicant sought a \$2 million interim distribution.
- [6] Deana opposes the application in her capacity as executor. Deana also opposes Ruth's application in her personal capacity as a beneficiary, along with her brothers, Duane and Gregory. I will refer to the executor and the beneficiary respondents collectively as "the respondents." Duane and Gregory support Deana's efforts as executor and stand behind her view that an interim distribution is not necessary or advisable at this time. However, if I order one, they submit that any distribution should be issued to all beneficiaries and not just to Ruth.
- [7] This matter represents the unfortunate breakdown of a formerly close family relationship between an aunt and her niece. The evidence led by the parties illustrates that distrust and rancor has grown between Ruth and Deana over the course of the administration of the

estate. Each assumes the worst motivations of the other, or of acting contrary to the interests of the estate or of the beneficiaries. Each accuse the other of resiling from agreements and commitments during the course of this litigation. All of this is regrettable, and has resulted in costs to the estate that will negatively impact all beneficiaries.

- [8] In this decision, I am not going to spend much time going over who said what to whom over the course of many years, or who resiled from which agreements. The parties can rest assured that I listened to and reviewed all the evidence referred to in the hearing and considered the submissions of all parties.

## The Estate

- [9] The estate is significant. For various reasons, the specific value of the estate has not been precisely articulated in these proceedings or in an updated statement of assets.
- [10] One of the issues that arose during the hearing of this matter is the value of a litigation settlement involving one of Robert's companies. The terms of the settlement are privileged. The settlement terms are also the subject of some form of confidentiality agreement between the parties. Both the extent to which that agreement applies to specific documents and uses of those documents, and the need for such an agreement at all, is disputed by the parties. I am aware of the settlement amount, but will not make reference to any specific numbers in these reasons at the request of counsel.
- [11] I will say that, as a result of the settlement and other existing assets, the estate is likely valued in the millions of dollars, albeit with some not insignificant liabilities that remain unknown or outstanding.
- [12] Robert held shares in various companies, including Western Logistics Inc. ("Western Logistics"), Robert Hartin Inc. ("RHI"), and Urban Wilderness on Rendezvous Island Inc. ("Urban Wilderness"). RHI held shares in an Alberta company called WLI Holdings Inc. which owned properties used in Western Logistics' business.
- [13] Robert's corporate shares contain the bulk of the estate value. A revised statement of assets and liabilities filed on December 9, 2019, listed a gross value of the estate as just over \$1.2 million. This amount, however, did not include the value of Robert's corporate shares, which had not yet been valued at the time.
- [14] Robert held the following at the time of his death:
- 100 class A common shares in RHI. Robert was the sole shareholder and director of RHI;
  - 50 class A common shares, and 50 class B common shares in Urban Wilderness. Urban Wilderness owns a property on a remote island in Bute Inlet;
  - 50% ownership of Western Logistics;
  - 3344 Shares of AAPL (Apple) stock; and

· miscellaneous other direct investing accounts US options, most of which were in a loss position at the time of his death.

[15] RHI held:

- a 50-percent interest in WLI Holdings Inc.;
- a property in La Quinta, California;
- a hanger at Pitt Meadows Regional Airport;
- a 1977 Cessna; and
- a used Cat excavator.

[16] Robert did not own any real property in his own name, and his cash accounts were worth approximately \$50,000.

[17] Between November 2019 and June 2020, the executor, Deana, liquidated certain securities held by the estate. The estate sold shares of Western Logistics in September or October 2020 with the estate receiving about \$2.5 million. The executor liquidated other accounts and stocks to pay certain tax liabilities of the estate, and the estate also received tax refunds totalling \$770,000 in 2022. At the time, Deana chose to retain shares of Apple stock, but these have also since been sold.

[18] In or about September of 2022, Robert's former business partner commenced proceedings in the Court of Queen's Bench in Alberta with respect to RHI's interest in WLI Holdings. This litigation was hard fought and in early 2024 resulted in the settlement referred to above. According to Deana, the settlement involved the purchase of RHI shares in WLI Holdings at a rate that was significantly higher than book value. Funds relating to the settlement were received in February of 2024. It became clear that complex tax planning was required in order to mitigate the tax consequences arising from the settlement for the estate.

[19] Following the settlement of the Alberta litigation, the executor exercised her discretion to make an interim distribution to the beneficiaries in the amount of \$600,000 USD, which was approximately \$814,000 CAD at the time. On February 28, 2024, Ruth received the sum of \$150,000 USD, or slightly more than \$200,000 CAD, as her portion of the distribution.

[20] According to Deana, the tax consequences for both RHI and Robert's estate as a whole remained uncertain at the time of the hearing.

[21] On October 15, 2024, the executor delivered an accounting for the period of September 3, 2019, to May 31, 2024. Much of the information in the third accounting had already been provided in previous accountings provided to the beneficiaries. The first and the second accounting covered the periods of September 3, 2021 to November 30, 2021, and December 1, 2021 to November 30, 2023, respectively.

- [22] In late 2024, the executor decided that it was necessary to submit a voluntary disclosure proposal or "VDP" to the Canada Revenue Agency in relation to both the estate and RHI. The decision to pursue the VDP route was based in part on the significant differential between the value of the estate's RHI shares reported in the estate's 2020 T1 return, which was based on an earlier understanding of the value of the shares, and the settlement value achieved by RHI in the Alberta litigation.
- [23] As part of the VDP process, the executor retained professional advice to prepare a fair market value analysis of the RHI shares and to submit a T1 adjustment request with respect to the value of the RHI shares at the time of the Robert's death. This VDP application was submitted to the CRA on March 11, 2025.

### Estate Administration

- [24] Ruth accuses Deana of seeking to hold onto assets such as Apple shares for sentimental reasons, refusing to liquidate the corporate holdings, or to distribute the residue of the estate in an efficient manner. In my view, this is an oversimplification of Deana's handling of the Apple shares, linked to a comment she made years prior and is also not a fair characterization of Deana's administration of the estate as a whole.
- [25] This is not a case where the executor has sat idle in terms of administering the estate or with respect to providing updates to the beneficiaries.
- [26] There is no dispute that the administration of the estate has been complicated by various factors, including the deceased's complex holdings, the dispute with Robert's former business partner that led to complex and protracted litigation, the fact that Urban Wilderness held a remote and difficult to maintain property, and earlier in the estate administration, delays arising from the COVID-19 pandemic.
- [27] For their part, the respondents also attribute complications and delays in the administration of the estate to Ruth's "aggressive and adversarial approach."
- [28] I recognize that there were some regrettable communications between Ruth's son and Deana early on in the administration of the estate that poisoned the waters between them. However, in terms of interpersonal communications, Deana's responses to Ruth's inquiries about the estate were also often adversarial in tone. Of course, once litigation is threatened or commenced, the relationship is, by definition, rendered adversarial and the estate is subject to additional costs and potential delays.
- [29] Deana has, on occasion, responded to Ruth's inquiries with a measure of impatience and condescension that, while borne of frustration, was arguably counterproductive. Some of this may be attributed to the challenges of email communication when it comes to tone. Some may be attributed to her feeling unjustly bothered, and later attacked with respect to her administration of the estate, in circumstances where she felt she was doing her best and when she knew significantly more about the challenges facing the estate than Ruth did from

her perspective as a beneficiary.

[30] While the evidence and argument presented in this application about the relationships between the parties was extensive, the issues I must decide are relatively limited.

[31] The crux of the position of the parties is this:

## Ruth

[32] Ruth says that Deana is resistant to providing information about the estate holdings and progression of the administration. The accountings she has provided are incomplete and vague and unreasonably withhold specific information about the value of the estate assets and liabilities. Ruth says that she is getting older and despite Deana's unwillingness to be specific, it is clear the estate is worth a significant amount. Ruth says that an interim distribution is justified given the time that has passed and the limited liabilities left to resolve.

[33] In the circumstances of this case, Ruth says that where the administration of the estate has taken a number of years and there appears to be both significant value and liquidity, the executor's assent should be compelled and a distribution ordered.

## Deana

[34] In her capacity as executor, Deana says that she has been diligent in managing Robert's complex estate, including maximizing value of various assets, minimizing liabilities, and successfully shepherding difficult litigation to a successful settlement. Tax liabilities remain to be finalized and resolved, and it is good practice to wait for a clearance certificate from Canada Revenue before distributing more funds.

[35] Further, Deana says that the decision to make an interim distribution is an exercise of discretion by the executor, and Ruth has not met the high threshold required to show that a court should interfere with her decisions as executor.

## The Sibling Beneficiaries

[36] The sibling beneficiaries, including Deana in her personal capacity, oppose Ruth's request. Deana's brothers support her administration of the estate and oppose the application for an interim distribution. They do say that if a distribution is ordered, it should be to all beneficiaries and not just to Ruth.

## Law

[37] The applicant provided a summary of the law pertaining to the court's discretion to order an interim distribution.

[38] The court has the authority to order an interim distribution of estate assets further to its general jurisdiction. The court in *Zanrosso Estate (Re)*, 2021 BCSC 2664, referring to *Reznik v. Matty*, 2013 BCSC 1346 stated at para 14:

That case involved an estate whose distribution was still outstanding 12 years after the death of a testator. Its assets were worth over \$600,000 and there had been just one interim distribution of \$100,000. There was also evidence of need for the funds provided by one of the beneficiaries. Ultimately, the Court ordered a \$40,000 interim distribution from the estate. It did so by reference to the concept of "assent", which was described as "an acknowledgement by a personal representative that an asset is no longer required for the payment of the debt, funeral expenses or general legacies": *Reznik v. Matty*, 2013 BCSC 1346, at para. 37. Mr. Justice Funt wrote at para. 44:

In the circumstances of this case, where the administration of the Estate has taken already over a decade and there is significant value and liquidity, the executor's assent should be compelled.

[39] In *Reznik*, supra, the court held that the outstanding liabilities does not prevent the assent of part of the residue at para 47:

North J. in *Austin* also considered the argument that outstanding liabilities should prevent assent of part of the residue. He stated:

Then, further, it is suggested that it is not reasonable to suppose the executors would have assented here, when there are outstanding liabilities. I do not see anything unreasonable in that. No doubt, if there were shown to be very large outstanding liabilities, and the question was whether assent had been given with respect to the only remaining available asset, there would be something in it. But there is nothing in it. There is no improbability in the inferring an assent because there are outstanding liabilities, unless you see the executor would be prejudiced by giving his assent, and it is impossible to say that, unless the other assets with respect to which he has not assented are clearly insufficient to meet the liabilities.

[Emphasis added]

[40] *Hecht v. Reid*, 1991 CanLII 963 (BC CA), and *Davis v. Burns Estate* 2016 BCSC 1982 at para. 31 set out factors to be applied when deciding whether to exercise the court's discretion to make an interim distribution:

- a. the amount of the benefits sought to be distributed as compared to the value of the estate;
- b. the claim of the beneficiaries on the testator;
- c. the need of beneficiaries for money; and
- d. the consent of the residuary beneficiary to the proposed transfer.

- [41] While these factors are usually considered in the context of leave to make an interim distribution when there is an outstanding wills variation proceeding, the court in *Zanrosso Estate* accepted, at para. 16, that these factors provide guidance on how to exercise discretion to make an interim distribution generally. The *Zanrosso Estate* court clarified that the Hecht factors are not an exhaustive list.
- [42] In *Zanrosso Estate*, the court also considered whether there had been a delay with respect to distributing the estate, although the court found that there had been no such delay in that case.
- [43] In *Antonias Estate (Re)*, 2021 BCSC 2388, the court ordered a distribution of 527,938.64, leaving \$447,000 in the estate for fees. The age and vulnerability of the beneficiaries (their ages ranged from 76- 89) and the large holdback contributed to the courts decision to do so.
- [44] In *Antonias Estate*, the court provided that if the liabilities of the estate were to exceed the remaining reserve account, the beneficiaries would reimburse and indemnify the executor for their share of any such shortfall. The court found this would balance the appropriate prejudice between any delay in distribution and the need for the executor to be fully protected from being personally liable.
- [45] Ruth states that she has no opposition to a similar indemnity order linked to any interim distribution I would order, and points out that she agreed to the same without issue with respect to the 2024 interim distribution.
- [46] In *McGovern Estate v. McGovern*, 2014 ONSC 1785 at para 41, the court considered whether an executor acted with mala fides or if the executor has behaved unreasonably or breached their fiduciary duty, duty of good faith, and fairness to the beneficiaries.
- [47] The respondents say the cases relied on by the applicant can be readily distinguished.
- [48] In *Reznik*, for example, the court relied upon the doctrine of "assent" to compel an interim distribution due to factors such as the length of administration (12 years) and when there was "significant value and liquidity" (para. 43). The court also noted that there were "few remaining outstanding or anticipated costs" (para. 6) .
- [49] The respondents maintain those facts are not present here.
- [50] Robert died in 2019, and so we are now at the six-year mark of the estate administration. However, both COVID-19 and the Alberta litigation took place in the intervening years. Further, the question of value and liquidity is certainly contested in terms of the likely remaining liabilities, even if it appears that some resolution to this issue, in terms of the CRA's determination of the VDP application, may be forthcoming, or at least is in process.

- [51] The respondents point out that the issue in Antonias Estate was whether the executors could hold back the distribution as ransom for a release, and that the executor was seeking a holdback that was significantly higher than any known liabilities of the estate, neither of which is the case here.
- [52] Finally, the respondents point out that in Zanrosso Estate the court dismissed an application by a residuary beneficiary to compel the personal representative to make an interim distribution. Justice Brongers agreed that the court had the jurisdiction to make such an order but stated that "an order compelling a distribution of the estate over the objection of the personal representative should only be made in exceptional circumstances with the burden lying on the applicant to justify the issuance of an order." (at para. 16)
- [53] Here, the personal representative is objecting to the distribution, as are three of the four beneficiaries. Of course, Deana herself, the executor, is one of the three objecting beneficiaries.
- [54] In Zanrosso Estate, Justice Brongers found that the executors had been discharging their responsibilities in a reasonable and prudent manner in the circumstances. Factors he considered to dismiss the application included: (1) there had already been a significant interim distribution to the beneficiaries; (2) a lack of any evidence of need by the applicant beneficiary; (3) the delays in the administration of the estate were caused by pre-emptive litigation against the estate brought by the applicant and his threats of future litigation and (4) the executors were waiting for a clearance certificate from the CRA before making a further distribution.
- [55] On the latter point, the court noted the executors' potential personal liability and "the uncertainty surrounding the capital gain tax treatment of the estate's primary asset." (Zanrosso Estate at para. 18).
- [56] The factors cited in Zanrosso Estate bear many similarities to the present case. While I do not find that Ruth's efforts to obtain information and apply for an interim distribution has been the primary cause of delay in the administration of this case, I find the rest of the factors to be relevant.

### Disposition on Interim Distribution Issue

- [57] After having reviewed the parties' affidavit evidence and the submissions presented by their counsel, I am not satisfied that Ruth has met the burden to demonstrate that there should be a further interim distribution of Robert's estate at this time.
- [58] I say this primarily because it is not my role to second guess the executor's decisions in circumstances where there is no evidence, other than Ruth's opinion, that Deana failed to exercise her duties in a timely manner or that there were extreme delays in providing updates or in managing the estate in light of all the circumstances

- [59] There may well be more than sufficient assets in the estate at this moment to safely provide another interim distribution now. However, that is not the test for me to override the discretion and decision making of the executor.
- [60] It is possible that Deana is being overly cautious in terms of anticipating tax liabilities in light of the current holdings of the estate, and she has, on occasion, not been as forthcoming as she could have been in terms of providing specific valuations or timely responses to Ruth or to her counsel.
- [61] The standard that Deana must live up to as executor is not perfection, and even if I might make different decisions, it is not my role to do so when it has not been established that any honest and fair trustee would have reached different decisions than she did.
- [62] The main factor weighing in favour of compelling a distribution comes down - almost entirely - to a recognition that Ruth is advancing in age and even reasonable delays in the final distribution of the estate are meaningful and worrying for her. I understand the impatience that Ruth must be feeling.
- [63] However, even considering her frustration with Ruth's persistent inquiries and her decision to pursue legal action, I do not believe that Deana would maliciously draw out the proper administration of the estate when doing so would also negatively affect her brothers and herself as equal beneficiaries. In any event, the evidence has not established any such negligence borne of mal intent, even if the tenor of the communications between Ruth and Deana have deteriorated over time.
- [64] Ultimately, the evidence does not demonstrate that Deana has been dilatory with respect to distributing the estate. I find that she has been discharging her responsibilities as executor in a reasonable and prudent manner, albeit cautious, and albeit the fact that her tone and method of communication with one of the three beneficiaries has proven counterproductive in terms of avoiding ancillary and costly delays caused by questions and challenges.
- [65] Deana approved and issued a significant interim distribution to the beneficiaries following the settlement of 2024, and she is now waiting for a clearance certificate from the CRA before making a further distribution. The voluntary submissions pertaining to the potential taxes owing has been made to the CRA as of the spring. This course of action may be considered cautious, given what appears to be the current value of the estate, or of certain of the assets. However, as I have said, I do not find that it is unreasonable, and can be justified given the potential personal liability and the uncertainties surrounding the tax consequences.

- [66] I am sympathetic to the fact that Ruth is 85, and she would like to realize her rightful inheritance from her brother sooner rather than later. Ruth advised that her financial situation is "not fully secure", although to my knowledge, there is no argument or evidence demonstrating that she is in poor health or in desperate need. During the hearing, her counsel candidly admitted that there is no urgency outside the bare fact of Ruth's age and a concern that she will not live to see distribution of her portion of her brother's estate.
- [67] In balancing all of the factors, including Ruth's age, I simply did not find sufficient grounds to make an order over the objection of the executor, thereby substituting my judgment for hers, when it has not been proven to be necessary or justified. Therefore, the application for interim distribution is dismissed.

### Provision of Corporate Documents

- [68] In terms of the provision of corporate documents, the applicant says that the information she seeks is the most basic disclosure a beneficiary could ask for, being supporting information for the value of estate assets, and the disclosure is not onerous.
- [69] Deana previously opposed this disclosure in the October 1st, 2024 application. Evidence and submissions were provided during the hearing regarding a "on the back of a napkin" form of written agreement between the parties that they cobbled together outside the courtroom door, and I was advised that some form of disclosure was made on the eve of the hearing before me.
- [70] Deana says that the agreement reached between the parties was that she would provide the VDP application package submitted to the CRA following the execution of a confidentiality agreement by the applicant. She said that Ruth resiled from the terms of the confidentiality agreement agreed to between counsel. Ruth says that Deana failed to comply with the written agreement based on an interpretation of the terms that she says is unsupported on the face of the agreement.
- [71] In sum, the parties did not agree on the scope or terms of the confidentiality agreement and the Ruth subsequently refused to sign any undertaking or agreement based on that hastily drafted document.
- [72] I am not going to resolve the terms of the agreement reached outside the courtroom door in late 2024. It is clear that the parties did not have a meeting of the minds with respect to the terms, and I am not going to try to parse them out in order to enforce them now.
- [73] I agree with Ruth that the confidentiality of the RHI settlement agreement should not, and cannot extend to all information on the value of RHI or the other estate assets, which will need to be disclosed in any event for accounting and probate purposes.

- [74] There is also no current or compelling evidence that the applicant could cause disruption of commercial interests, and no evidence of what the nature of the corporate sensitivity is apart from privilege that may attach to the terms of the settlement.
- [75] I am choosing to view certain of Deana's inferences and commentary in the emails to the applicant in the evidence as indications of frustration and personal hurt, as opposed an unwillingness to perform her duty to administer the estate as per Robert's wishes, or to provide the information she is obligated to provide . A personal representative has a duty to be ready at all times to account to persons who have a beneficial interest to the estate and to respond to reasonable requests for information on the progress of the administration. That said, a personal representative is not required to update the beneficiaries on every transaction or piece of correspondence, or to explain or justify every decision made in the course of administering the estate as of the moment it is made. See *Carpenter Estate (Re)*, 2024 BCSC 745
- [76] The respondents say that, with respect to the scope of a beneficiary's rights to documents and information about an estate or trust, this court has affirmed the approach in *Schmidt v. Rosewood Trust Ltd.*, [2003] UKPC 26, [2003] 2 A.C. 709, in which no beneficiaries has any entitlement as of right to disclosure of trust documents or information, and there are limits or safeguards on disclosure to take into account issues such as personal or commercial confidentiality and what is in the best interests of the beneficiaries.
- [77] The modern approach is to apply a balance-of-interest approach. Such flexibility allows for a beneficiary's demand for information to be measured against competing corporate interests of confidentiality and the best interests of the estate as a whole.
- [78] Balancing those interests here, I have not been convinced of the competing corporate interests of confidentiality that are at risk as a result of providing the information to Ruth at this time. Further, it appears that on the eve of the hearing on or about June 20, 2025, the executor's counsel provided some form of accounts to the applicant.
- [79] Deana says that if the applicant does not approve the executor's account circulated in June of 2025 and requires a formal passing of accounts, any further issues about the value of the estate shares in RHI or Urban Wilderness can be subject to the directions of the registrar.
- [80] It is not clear to me now whether the information provided immediately before the hearing satisfied the application for information regarding the value of the estate assets and supporting documentation as listed at paragraph 2 of the notice of application. I am also not sure if the parties have had further discussions about this matter since the hearing.

- [81] It appears from the submissions of the parties at the hearing that the demand for additional confidentiality assurances and an order regarding same was still in play regardless of the new disclosure. I note that counsel for the applicant, despite agreements over the scope and necessity for the confidentiality agreement, consented to an order or orders removing references to the settlement amount filed in court materials, which appeared to have been filed inadvertently, regrettably more than once.
- [82] If any information listed in paragraph 2 of the notice of application remains outstanding and was not provided in the June 2025 accounting or disclosure, of which I am not fully apprised, it will be provided to the applicant within 20 days of the date of this order. In exchange for those documents, the applicant will execute a confidentiality agreement pertaining to the terms of the litigation settlement agreement, or to information that in any way reveals information pertaining to the settlement agreement that ought not to be disclosed.
- [83] For clarity, the scope of the confidentiality agreement will not cover all corporate assets held by the estate. If counsel cannot agree on the terms of the agreement, they are at liberty to submit their competing drafts to the court to my attention, via scheduling, and I will decide which version will govern the disclosure.

## Costs

- [84] I will speak briefly about costs. Success has been divided. However, I acknowledge that on the matter that took up the most time in the hearing and seemed to be the primary thrust of the application, that being the interim distribution, the applicant has not been successful.
- [85] In *Conner Estate v. Worthing*, 2021 BCCA 231, the court confirmed that in estate litigation, the modern approach to fixing costs applies. That means that costs generally follow the event and are to be assessed on a party-and-party basis unless there is an applicable exception. In other words, ordinary civil litigation cost principles will apply generally, as opposed to in the past when all litigation costs were generally taken over by the estate. Now parties who participate in estate litigation are not automatically entitled to recover their litigation costs, particularly if their positions are not accepted by the court.
- [86] Given the divided success and the fact that the executor is also a beneficiary, there are issues at work in the present case, including some substantive last-minute disclosure provided by the executor on the eve of the hearing that give me pause, especially considering, as I reviewed my notes, only one of the three parties made any oral submissions on costs or substantive oral submissions on costs during the hearing.
- [87] Barring any agreement between the parties regarding costs, which I would encourage but do not necessarily anticipate under the circumstances, I will allow each party to submit brief additional written submissions on costs of no more than five pages to be forwarded to my attention through scheduling no later than 30 days from the date of this order.

## Orders

[88] To conclude, I dismiss the application of Ruth Robertson with respect to the interim distribution. I grant the application with respect to the disclosure requested, subject to an assessment of what has already been provided prior to the hearing, and subject to a confidentiality agreement pertaining to the terms of the RHI settlement agreement. Costs are to be determined after further submissions by the parties 30 days from the date of this order. Thank you.

"J. Whately, J."

---

## Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

**ORIGINAL SOURCE**      <https://www.bccourts.ca/jdb-txt/sc/25/20/2025BCSC2092.htm>

**CASE PAGE**              <https://chat.esheria.ai/case-law/canada/hartin-estate-re-2025>

Prepared on 27 October 2026 · Esheria