

CANADA / JUDGMENT

Katz v. Kosikar

2025 BCCA 450

COURT

British Columbia Court of Appeal

DECIDED

25 November 2025

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2025 BCCA 450 Katz v. Kosikar

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

Katz v. Kosikar,

2025 BCCA 450

Date: 20251125

Dockets: CA50956; CA51033

Docket: CA50956

Between:

Karen Marie Katz

Appellant

(Plaintiff)

And

Terrance Joseph Kosikar and Camp My Way Society

Respondents

(Defendants)

- and -

Docket: CA51033

Between:

Karen Marie Katz

Appellant

(Plaintiff)

And

Terrance Joseph Kosikar and Camp My Way Society

Respondents

(Defendants)

Before:

The Honourable Justice Griffin

(In Chambers)

On appeal from: Orders of the Supreme Court of British Columbia, dated August 28, 2025 and October 3, 2025 (Katz v. Kosikar, Vancouver Docket S253588).

Oral Reasons for Judgment

The Appellant, appearing in person
(via teleconference):

K.M. Katz

Counsel for the Respondents:

C.A. Peddle

Place and Date of Hearing:

Vancouver, British Columbia

November 25, 2025

Place and Date of Judgment:

Vancouver, British Columbia

November 25, 2025

Summary:

The appellant seeks leave to appeal orders made by two judges in Supreme Court chambers. She alleges that the first judge erred by allowing the respondents to seek an adjournment without filing an application. She alleges that the second judge erred by imposing a time limit on her oral submissions, thereby failing to accommodate her disability and status as a self-represented litigant. Held: Applications dismissed. Not every order or pronouncement made by a judge is

appealable. Court orders in the nature of mid-application procedural rulings or courtroom management directions are not appealable. There is no merit to an appeal of the first judge's order because it was a procedural ruling for the efficient resolution of the matter. There is no merit to an appeal of the second judge's order because judges are entitled to impose time limits on a party's submissions. Judicial directions as to time limits are part of a judge's responsibility to manage scarce judicial resources.

GRIFFIN J.A.:

Nature of the Applications

- [1] The applicant, Ms. Karen Marie Katz, brings two applications seeking leave to appeal two judges' orders made in Supreme Court chambers:
- 1) the order of Justice Loo made August 28, 2025, adjourning her application for a damages assessment pursuant to a default judgment that she had earlier obtained and refusing to award costs of the application in her favour (the "First Order"); and
 - 2) the order of Justice Wilkinson made October 3, 2025, adjourning the respondents' application to set aside default judgment, on terms (the "Second Order").

Background

- [2] In brief summary, on May 12, 2025, Ms. Katz brought an action for defamation, misappropriation of personality, and breach of confidence against the respondents, Mr. Terrance Joseph Kosikar and Camp My Way Society. Mr. Kosikar is the principal of Camp My Way Society. In her pleadings, Ms. Katz alleged that Mr. Kosikar engaged in a defamation campaign against her on social media and harassed her, her family, and acquaintances.
- [3] The notice of civil claim was personally served on Mr. Kosikar on May 24, 2025. He filed but did not serve the respondents' response to civil claim within the 21-day deadline.
- [4] On June 18, 2025, Ms. Katz brought an application for default judgment. She obtained default judgment against the respondents on August 6, 2025.
- [5] The respondents say that Ms. Katz's default judgment was erroneously granted. This is because she failed to comply with the requirement of R. 3-8(2)(c) of the Supreme Court Civil Rules that she first file a requisition endorsed by the registrar with a notation that no response to civil claim had been filed. The reason for this requirement is that one cannot obtain default judgment if a response to civil claim has been filed.
- [6] On August 14, 2025, Ms. Katz filed and served an application for a damages assessment, an injunction, and costs, pursuant to the default judgment. The application was set for hearing on August 28, 2025. The respondents received the materials on August 18, 2025.

- [7] On August 22, 2025, the respondents retained counsel. The same day, the respondents' counsel wrote to Ms. Katz to advise her of the respondents' intention to apply to set aside default judgment and the respondents' position that the set aside application should be heard prior to her application to assess damages. Ms. Katz says she did not receive this letter. She says the letter was addressed to the wrong address. Her address for service is a post office box. She does not give out her telephone number, nor are people permitted into her residence. By the time counsel was retained for the respondents, the deadline to bring their own notice of application and provide materials in order to be heard on August 28, 2025, had passed.
- [8] Ms. Katz's application for a damages assessment came before Loo J. on August 28, 2025. Respondents' counsel appeared and asked for an adjournment to allow the respondents to bring an application to set aside the default judgment.
- [9] Justice Loo granted the adjournment and ordered the respondents to make their best efforts to bring their set aside application by September 15, 2025. He refused Ms. Katz's request for costs of the application and informed her that she could seek costs from the judge on the set aside application. This is the First Order for which Ms. Katz seeks leave to appeal.
- [10] On September 15, 2025, the respondents filed their notice of application to set aside the default judgment.
- [11] On October 3, 2025, the respondents' set aside application came before Wilkinson J. in Supreme Court chambers. This appears to have been a typical busy day in chambers, with several other matters on the list and the possibility that there would not be enough time to hear all of them. The judge canvassed with the parties their time estimates. Counsel for the respondents estimated 20 minutes but acknowledged that she had not been able to discuss this with Ms. Katz in advance (again, Ms. Katz is not reachable by telephone or email). Ms. Katz estimated two hours and said she may be longer because there were eight affidavits in opposition.
- [12] In considering the time required for hearing the matter, the judge then heard from counsel for the respondents about the nature of the issue. Counsel advised the judge that the grounds for setting aside the default judgment were that a response to civil claim had been filed in time but had not been served, and Ms. Katz had not filed a requisition as required by R. 3-8.
- [13] It was in the context of Ms. Katz suggesting she needed two hours to make her submissions, and the respondents' position that the application to set aside the default judgment turned on Ms. Katz not filing a requisition, that the judge explained to Ms. Katz that the matter was relatively straightforward. The judge explained that Ms. Katz would not be permitted two hours, but, rather, the respondents would probably take 15 minutes and she could have 30 minutes to make submissions. Ms. Katz objected, stating she paid her taxes. The judge explained that it was her function to control the courtroom, and Ms. Katz stated she would appeal.

- [14] The matter was stood down while other matters were heard. When the matter was recalled before the judge, it was necessary to canvass available dates for the parties to reappear in chambers. Counsel for the respondents was agreeable to making herself available in the next two weeks. Ms. Katz stated that she was not available and that she would never be available when counsel for the respondents was available. After some further discussion, Ms. Katz then claimed that due to medical appointments, and other court appearances, she would not be available until December.
- [15] Justice Wilkinson adjourned the application to December 1, 2025, which was the first date Ms. Katz claimed to be available. The judge also made the following orders: (1) the hearing of the application will be set for no more than one hour; and (2) Ms. Katz is not permitted to set down any applications, filed after October 2, 2025, in this proceeding, for hearing, until the set aside application has been heard and decided. I note that the judge did not seize herself of the matter.
- [16] This is the Second Order from which Ms. Katz seeks leave to appeal.

Legal Principles

- [17] On an application for leave to appeal, the onus is on the applicant. The factors to be considered include whether:
- 1) the point on appeal is of significance to the practice;
 - 2) the point on appeal is of significance to the action itself;
 - 3) the appeal is *prima facie* meritorious or, on the other hand, whether it is frivolous; and
 - 4) the appeal will unduly hinder the progress of the action.

Goldman, Sachs & Co. v. Sessions, 2000 BCCA 326 at para. 10 (Chambers).

- [18] The criteria for leave are "all considered under the rubric of the interests of justice": Vancouver (City) v. Zhang, 2007 BCCA 280 at para. 10 (Chambers). Even where the four criteria have been met, leave may still be denied where it would not be in the interests of justice to grant leave: Movassaghi v. Aghtai, 2010 BCCA 175 at para. 27 (Chambers).
- [19] Leave to appeal will rarely be granted from discretionary orders: Dehydration Research LLC v. EnWave Corporation, 2022 BCCA 347 at para. 55 (Chambers). Where an application for leave to appeal relates to a discretionary order, the applicable test on the merits is whether there is an arguable case that the chambers judge erred in principle, made an order that is not supported by the evidence, or whether the order appealed will result in an injustice: Hagwilneghl v. Canadian Forest Products Ltd., 2011 BCCA 478 at para. 31 (Chambers).
- [20] Not every order or pronouncement made by a judge is an appealable order. Some court orders are more in the nature of evidentiary or procedural rulings, or case management or courtroom management directions, and these are not considered by this Court to be "orders" subject to appeal. The fact that a document is filed in the Supreme Court and described as an

order does not necessarily make it an order subject to appeal in this Court. Rather, this Court looks at the substance of the event giving rise to the order. Rulings or directions made mid-application or mid-trial are usually only reviewable after the trial decision or the full application decision, unless otherwise provided for in the Court of Appeal Rules. In this regard, see: *Skyllar v. The University of British Columbia*, 2022 BCCA 138 at paras. 17-19, 37; *First Majestic Silver Corp. v. Davila Santos*, 2015 BCCA 452 at para. 34; *Cambie Surgeries Corporation v. British Columbia (Attorney General)*, 2017 BCCA 287 at paras. 70-71; *Flynn v. Woodward*, 2023 BCCA 45 at para. 21 (Chambers).

Analysis

- [21] Ms. Katz's objection to the First Order seems to be with counsel for the respondents appearing and speaking to the matter, without notice, to seek an adjournment. She also submits that Loo J. did not give her written materials any consideration.
- [22] I do not accept Ms. Katz's argument that because the respondents had not filed a formal adjournment application, they could not be heard by the court. She submits, in her written materials, that it would be chaotic if lawyers could just come into court and seek adjournments without notice. This argument is devoid of context and fails to appreciate the circumstances that were before the court. It also does not appreciate the special duties lawyers owe to the court, as professionals, which allows the court to place some weight on what they tell the court.
- [23] The judge had inherent jurisdiction to consider the submissions by counsel for the respondents, who were newly retained, and to conclude that it was in the interests of justice to adjourn Ms. Katz's application. Justice Loo was not required to spend time reviewing Ms. Katz's materials, as these were not relevant to the issue.
- [24] There is no merit to any challenge of the First Order. It is akin to a scheduling order, which is generally not appealable. It is obviously necessary for the trial court to hear an application by the respondents to set aside the default judgment before the assessment of damages takes place. If the respondents succeed in setting aside the default judgment, the assessment of damages will not go ahead. There is good reason to allow the respondents time to have their application heard and determined first.
- [25] I conclude that Ms. Katz does not meet any of the criteria for granting leave to appeal from the First Order. It is not in the interests of justice to grant leave.
- [26] As for the Second Order, Ms. Katz submits that Wilkinson J. erred in law by failing to accommodate her disability and the fact that she was self-represented. Ms. Katz is diagnosed with post-traumatic stress disorder. I do not accept that because she was self-represented and has a disability that the process was unfair to Ms. Katz.

- [27] Ms. Katz appears to accept that she does not have a valid objection to Wilkinson J. having adjourned the respondents' application to set aside default judgment. It appears there was no time to hear it that day, and the subsequent date was chosen after consultation with Ms. Katz.
- [28] Ms. Katz seems to object to the fact that the judge did not accept that she should be allocated two hours to make submissions, and she seems to want to appeal just to make that point. The judge also imposed a time limit on her submissions when the matter comes on for hearing subsequently. I do not see complaints about time limits on submissions as appealable.
- [29] As for the remainder of the terms of Wilkinson J.'s order, given that Ms. Katz said she was unavailable and required such a long delay before the respondents could proceed with their application to set aside default judgment, it only made sense that the respondents not be prejudiced by that delay and that Ms. Katz be limited in setting down other applications in the meantime.
- [30] If Ms. Katz finds that she needs to bring other applications due to some urgency, she has choices. One of those choices would be seek the consent of the respondents to have their application to set aside default judgment heard earlier, if she is available earlier, so that it can be heard in advance of any application she intends to bring.
- [31] None of the directions made in the Second Order that Ms. Katz takes issue with are appealable orders. Even if there were appealable orders, Ms. Katz does not meet any of the criteria for leave to appeal, and her proposed appeal is of no merit.
- [32] Based on the transcript of the hearing and Ms. Katz's materials, I do have concerns that Ms. Katz's application for leave to appeal from the Second Order is possibly improperly motivated by some sort of stubborn animus towards the judge, rather than any proper reason. I will therefore briefly address Ms. Katz's submissions that Wilkinson J. showed favouritism to the respondents and demonstrated a "reasonable apprehension of bias" against her. Ms. Katz argues that Wilkinson J.'s comments that the set aside application was straightforward showed that she had predetermined the outcome of the hearing in the respondents' favour.
- [33] Ms. Katz appears not to recognize a judge's authority to control the courtroom. There is absolutely nothing in the record to suggest that Wilkinson J. was unfair to her; rather, the transcript shows that the judge patiently tried to explain why it was that Ms. Katz would not be permitted two hours to make submissions. Further, nothing flows from the judge's attempt to manage the applications in the courtroom, given that in the end there was no time to hear the matter and it was rescheduled.
- [34] There is no evidence to support Ms. Katz's allegation of reasonable apprehension of bias. Respectfully, Ms. Katz takes out of context Wilkinson J.'s comment about the straightforward nature of the respondents' application to set aside default judgment. It was quite proper and

appropriate for Wilkinson J. to advise Ms. Katz that the matter was straightforward relative to other contested chambers applications and could be heard in one hour. This was clearly not prejudging the outcome of the application, but, rather, it was based on the judge's knowledge and experience in hearing chambers applications.

- [35] I note that when the respondents' application is ultimately heard, the judge hearing it will have discretion to vary the time limit on submissions, either increasing or decreasing it, although I do not currently understand why more time would be needed.
- [36] It is well established that courts have inherent jurisdiction to control their own process, which includes imposing and enforcing time limits on a party's submissions: *Universe v. Fraser Health Authority*, 2022 BCCA 201 at para. 77.
- [37] It is necessary for all litigants to understand that judges in chambers must ensure applications are heard quickly and efficiently. Judicial resources are limited. There are invariably more chambers applications and trials scheduled than there are judges available to hear them. On a daily basis in the Supreme Court of British Columbia, some applications and trials must be rescheduled because of a shortage of judges.
- [38] The court forms for applications and responses to applications are designed to require a party to provide sufficient written information to advise the court and the opposite party of the factual and legal basis for the relief sought by a party. Based on the written application and response forms, usually an experienced judge will be able to quickly assess whether time estimates are realistic or not. Judges in chambers must triage the matters that are on the list and impose time limits on submissions.
- [39] Judicial directions as to time limits on submissions are in accordance with a judge's responsibility to manage scarce judicial resources and provide helpful direction to allow litigants to focus their submissions on what is truly relevant.
- [40] All litigants, including those without legal counsel, must bear in mind that the object of the Supreme Court Civil Rules is to "secure the just, speedy and inexpensive determination of every proceeding on its merits": R. 1-3(1). This includes, so far as can be done, conducting the proceeding in ways that are proportionate to the amount involved, the importance of the issues, and the complexity of the proceeding: R. 1-3(2).
- [41] As stated in *Universe*, at para. 78:

The objective of 'proportionality' is now expressly recognized as an important part of civil litigation. This objective reflects that no one litigant or group has the right to demand that unlimited time and resources be devoted to a particular case, no matter how important it is. The rights and interests of other litigants in other cases waiting to be heard must be balanced in a fair way against litigants who are before the court, and measures designed to increase efficiency must generally be followed, both in the form of court rules and in judges' management of trials.

[42] The hearing of the respondents' application to set aside default judgment has not yet taken place. There is no legal basis for Ms. Katz to complain in advance that she does not have enough time to make oral submissions to supplement her written response to application.

Disposition

[43] Respectfully, both applications for leave to appeal border on frivolous and are entirely without merit.

[44] I therefore dismiss Ms. Katz's applications for leave to appeal.

"The Honourable Justice Griffin"

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