

CANADA / JUDGMENT

# Kideckel v. Kideckel

2025 ONCA 787

## COURT

Court of Appeal for Ontario

## DECIDED

17 November 2025

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Kideckel v. Kideckel Collection Decisions of the Court of Appeal Date 2025-11-17 Neutral citation 2025 ONCA 787 Docket numbers COA-25-CV-1115, COA-25-CV-1156, M56410 Judges Thorburn, Julie Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Kideckel v. Kideckel, 2025 ONCA 787 DATE: 20251117 DOCKET: M56410 (COA-25-CV-1115 & COA-25-CV-1156) Thorburn J.A. (Motion Judge) BETWEEN David Kideckel Plaintiff (Respondent/Responding Party) and Brent Richard Kideckel Defendant (Appellant/Moving Party) Brent Kideckel, acting in person Aram Simovonian, for the responding party Ian Sinke, for the non-party, Aram Simovonian Heard: November 12, 2025 REASONS FOR DECISION A. OVERVIEW [1] The moving party, Brent Kideckel, has two appeals pending before this court[1]. He seeks an extension of time to perfect both appeals and an order to consolidate his appeals. B. FACTS [2] The moving party, Brent Kideckel, and the responding party, David Kideckel, are brothers. They are estranged.

- [3] Brent resides in California. He has been listed as a vexatious litigant in both California and Nevada. David's Action against Brent
- [4] On February 1, 2024, David commenced an action against Brent for, among other things, defamation. Brent did not defend this action and was noted in default on August 1, 2024. Brent brought, but eventually abandoned, a motion to set aside the noting in default. Instead, he sought a "prohibition" motion.
- [5] David's default judgment motion was returnable on June 19, 2025. On May 20, 2025, David's lawyer informed Brent of the return of motion details by e-mail, and Brent stated that he would not attend and was formally withdrawing his motion to set aside the noting in default.
- [6] On July 25, 2025, David obtained a judgment against Brent, following a hearing in which Brent participated, as noted on the judgment (despite Brent withdrawing his motion, and previously advising that he would not attend). The motion judge found that Brent's "prohibition" motion did not provide grounds to relieve him of his withdrawal of the motion to set aside the noting in default.

- [7] As a result, the motion judge found that Brent defamed David, and that David was entitled to \$50,000 in general damages, \$20,000 in aggravated damages, and \$20,000 in punitive damages. The motion judge also granted a permanent injunction restraining Brent from making any false or defamatory statements about David. This motion is referred to as the “defamation judgment.” Brent’s Action against David and Others
- [8] Separately, on May 10, 2024, Brent commenced an action against various parties including David, David’s wife Dahlia, other family members, the Toronto Police Service and several individual police officers, David’s counsel Aram Simovonian, Scalzi Caplan LLP and partners at Scalzi Caplan LLP (a firm where Simovonian previously practiced law), the Province of Ontario, Canada, and Doug Downey in his capacity as Attorney General. I will refer to this as “Brent’s action.”
- [9] On January 27, 2025, Brent’s action was struck against some of the defendants for failing to disclose a reasonable cause of action. He was ordered to pay costs in the amount of \$10,000. These costs remain unpaid.
- [10] Brent subsequently discontinued the action against the other defendants, except for David and Dahlia. David and Dahlia then brought a motion to strike against Brent, which was scheduled for August 6, 2025.
- [11] On July 31, 2025, Brent was provided with the details of the motion, but advised David and Dahlia’s lawyer that he would not attend.
- [12] On August 6, Brent’s action against David and Dahlia was struck as frivolous, vexatious and an abuse of process. Brent was ordered to pay full indemnity costs in the amount of \$4,000, and was prohibited from bringing any further proceedings against David and Dahlia without leave of the court. Brent’s First Motion to this Court
- [13] On October 3, 2025, this court heard Brent’s motion seeking an order for production from two non-parties; a stay of enforcement of the July 25, 2025 judgment under appeal; and an order disqualifying two counsel from participating in the appeal. The motion was dismissed.
- [14] In his decision, Monahan J.A. held that: With respect to the merits of the appeal, Brent has failed to identify any reversible error in the motion judge’s finding that he was properly served with David’s statement of claim. Brent’s notice of appeal consists of bald assertions that the statement of claim was never served, that the motion judge relied on “fabricated or unserved evidence,” and that the judgment was obtained “through material misrepresentations to the Court.” But Brent does not provide any support for these bare allegations in the record, nor does he identify any errors in the motion judge’s factual finding that he was, in fact, served with David’s statement of claim. While Brent disagrees with this factual finding, mere disagreement with a motion judge’s finding of fact does not constitute a basis for appellate intervention. [Emphasis added] C. Brent’s Request for Relief
- [15] Brent now appeals both the July 25, 2025 defamation judgment against him, and the August 6, 2025 order striking his action against David and Dahlia. He seeks an extension of

time to perfect both appeals. D. ANALYSIS [16] On a motion seeking an extension of time, the overarching principle is whether the “the justice of the case” requires that an extension be granted: *Enbridge Gas Distribution Inc. v. Froese*, 2013 ONCA 131, 114 O.R. (3d) 636, at para. 15.

[17] Each case depends on its own circumstances, but the court is to consider all relevant considerations, including:

- (a) whether the moving party formed a good faith intention to appeal within the relevant time;
- (b) the length of, and explanation for, the delay in filing;
- (c) any prejudice to the responding parties caused, perpetuated, or exacerbated by the delay; and
- (d) the merits of the proposed appeal.

[18] The above factors have been considered on motions to extend the time to perfect an appeal: see e.g., *Issasi v. Rosenzweig*, 2011 ONCA 112, 277 O.A.C. 391.

[19] The merits of a proposed appeal have been described as the most important factor: *Robson v. Law Society of Ontario*, 2023 ONCA 709, at para. 5. Therefore, lack of merit alone may be a sufficient basis for denying an extension request: *Enbridge Gas*, at para. 16; *Laski v. Laski*, 2016 ONCA 337 at para. 37; *Wardlaw v. Wardlaw*, 2020 ONCA 286, at para. 4.

[20] When assessing the merits of the appeal, it is not with a view to determining whether the appeal will succeed, but to determine whether it has so little merit that the court could reasonably deny the important right to appeal: *Issasi*, at para. 10. There is no merit to an appeal where there is no error of law or palpable and overriding error of fact that would allow this court to interfere with the decision of the motion judge: *Sutherland Lofts Inc. v. Peck*, 2017 ONCA 803, 68 M.P.L.R. (5th) 1, at para. 12.

[21] The grounds of appeal Brent advances in both appeals are similar. Among other claims, Brent argues that he was denied natural justice in respect of both of his actions. He claims he was not served, he was not consulted regarding the scheduling of the two matters, and he was excluded from each of the two proceedings so he was not heard. He also claims that Mr. Simovonian should not have been representing David and Dahlia.

[22] These arguments are some of the same arguments made before Monahan J.A., who considered and rejected the merits of the appeal of the defamation judgment, as noted above.

[23] Contrary to his assertion, Brent was served with material, was aware of, and attended the June 19, 2025, motion resulting in the defamation judgment. Therefore, as Monahan J.A. held, there is no merit to the appeal of the defamation judgment. Nor do the Google records included in the motion record on this motion (which were not before Justice Monahan) alter the assessment of the merits.

- [24] There is also no merit with respect to the grounds of appeal advanced for the August 6 order. Although Brent argued that he was not consulted with respect to the scheduling of the August 6, 2025, matter, given the nature of the inflammatory allegations Brent made against David and Dahlia and the overall context of the litigation, it was appropriate for the motion judge to schedule the motion in the manner directed.
- [25] Moreover, contrary to his assertion, Brent was served with David and Dahlia's motion record and factum for the August 6, 2025, hearing by e-mail (which follows the Ontario Rules of Civil Procedure, R.R.O. 1990, Reg. 194), and Brent confirmed on July 31, 2025, that he would not be in attendance. Brent was also provided with the Zoom details of the hearing but chose to not attend.
- [26] The issue of costs is within the discretion of the court. Neither cost order has been paid.
- [27] Brent's submission that the Court erred in permitting David and Dahlia's counsel, Aram Simovonian, to act as counsel, as he had no valid retainer and is therefore unable to provide legal services, is not a proper ground of appeal.
- [28] In short, there is no valid basis to extend the time to perfect these appeals as Brent has identified no errors in the decisions below and his appeals are therefore without merit.
- [29] The motion to extend the time to perfect both appeals is therefore denied. As such, there is no need to address the consolidation of those appeals. E. DISPOSITION [30] The motion is therefore denied with costs to the respondents in the amount of \$4,000 all inclusive. "Thorburn J.A"
- [1] COA-25-CV-1115 & COA-25-CV-1156.

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