

CANADA / JUDGMENT

Maryoush v. Ibrahim

2021 BCCA 223

COURT

British Columbia Court of Appeal

DECIDED

25 May 2021

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

2021 BCCA 223 Maryoush v. Ibrahim

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

Maryoush v. Ibrahim,

2021 BCCA 223

Date: 20210525

Docket: CA47247

Between:

Marwa Amir Maryoush

Respondent

(Claimant)

And

Khedor Ibrahim, also known as Khodre Ibrahim,

also known as Khadar Ibrahim, also known as Khodor Ibrahim,

also known as Kodor Ibrahim, also known as Kador Ibrahim,

also known as Hidir Ibrahim

Appellant

(Respondent)

And

Highrise Pro Holdings Inc., Spider Holding Ltd., Spider Solutions Ltd.,

Fevzi Taha Cetinkaya, Van Pro Solutions Ltd., and

Extreme Power Wash Ltd.

Respondents

(Respondents)

And

Lloyd's Sky Contractors Inc., also known as Van Pacific Solutions Ltd., and

Kador Contracting Group Ltd.

Respondents

(Respondents by Counterclaim)

Before:

The Honourable Mr. Justice Grauer

(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated

August 27, 2020 (Maryoush v. Ibrahim, 2020 BCSC 1993, Vancouver Docket E181717).

Oral Reasons for Judgment

Counsel for the Appellant

(via teleconference):

A. Grewal

Counsel for the Respondent, Marwa Amir Maryoush

(via teleconference):

L. Nambiar

Counsel for the Respondents, Spider Holding Ltd., Extreme Power Wash Ltd. and Van Pro Solutions Ltd.

(via teleconference):

T. Brayer

Place and Date of Hearing:

Vancouver, British Columbia

May 25, 2021

Place and Date of Judgment:

Vancouver, British Columbia

May 25, 2021

Summary:

The corporate respondents applied for an order quashing the appeal as premature; or, alternatively, for an order dismissing the appeal as abandoned for failing to comply with filing timelines; or, in the further alternative, for an order that the appellant pay security for costs of the appeal, security for costs of special costs in the proceedings below, and security for costs of the judgment below. The individual respondent applied for like relief; or, in the alternative, a stay pending the payment of arrears in child and spousal support, security for costs of the child and spousal support, and security for costs of special costs in the proceedings below. The appellant opposed those applications, and applied for an extension of time for the filing of an appeal record, factums and appeal books. Held: The application to quash the appeal as premature is dismissed. Where leave is as of right, a single justice sitting in chambers does not have the jurisdiction to make an order dismissing the appeal as premature where the grounds for dismissal do not pertain to the Court of Appeal Act or the Court of Appeal Rules. The application to dismiss the appeal as abandoned for failing to comply with filing timelines is dismissed. Given the limited nature of the appeal, the circumstances under which the deadline was missed, and an inability to conclude that the appeal is bound to fail, this is not an appropriate circumstance to deny an extension of time. The application for security for costs of the appeal in the amount of \$10,000 is granted for each the corporate respondent and the individual respondent. The appellant failed to establish that it would not be in the interests of justice to make this order. The applications for security for special costs of the proceedings below in the amount is granted in part, in the amount of \$50,000 for each the corporate respondent and the individual respondent. Though the proceedings are ongoing, the respondents have sufficiently demonstrated potential prejudice in the history of the litigation as a whole, the appellant's general failure to abide by orders of the court, his vexatious conduct, and his failure to make disclosure. The applications for security for costs of the judgment below in the range of \$500,000-\$700,000 are granted in part, in the amount of \$200,000. The corporate respondents have demonstrated prejudice in seeking to secure their judgment. The individual respondent's applications relating to judgment for arrears in child and spousal support are dismissed. The orders in question are not the subject of this appeal, and there is no basis for concluding that the claimant will suffer prejudice if security is not ordered.

- [1] GRAUER J.A.: Before me are cross-applications on this appeal from the order of Mr. Justice Groves pronounced August 27, 2020.
- [2] The first set of applications is brought by the respondents (applicants below), whom I will refer to as the "corporate applicants". They seek:

- a) an order quashing the appeal as premature, as discussed in the case of *Chinese Social Development Society v The Vancouver Chinese Public School*, 2021 BCCA 100;
 - b) alternatively, an order dismissing the appeal as abandoned, on the ground that the appellant has failed to comply with the time requirements in this Court for the filing of an appeal record, factums, and appeal books; and
 - c) in the further alternative, ordering the appellant to pay security for the costs of the appeal in the amount of \$10,000, the special costs of the proceedings below in the amount of \$70,000, and the judgment order below, which the corporate applicants value in the amount of \$700,000.
- [3] The respondent, Marwa Maryoush, the claimant below, whom I will refer to as the claimant, applies for like relief, seeking, in the alternative, a stay pending payment of arrears in child and spousal support in the amount of \$447,540.43, security for child and spousal support for one year in the amount of \$155,268, security for the costs of the appeal in the amount of \$300,000, and security for the special costs order in the amount of \$250,000.
- [4] The appellant opposes those applications, and applies for an extension of time for the filing of an appeal record, factums and appeal books.
- [5] In his oral reasons for judgment, indexed at 2020 BCSC 1993, Justice Groves noted that this matter has a "long and tortured history", and aptly summarized the background to this matter as follows:
- [1] It begins with the order of Madam Justice Baker of October 31, 2019. In that order Madam Justice Baker required Mr. Ibrahim to do a number of things, most notably of which was to comply with information requests, set out in the schedule A which is attached to that order. That order was granted at a time when Mr. Ibrahim was represented by counsel.
- [2] I became involved with this file on December 5, 2019, at which time Mr. Ibrahim appeared on his own behalf. As a result of an application that day, I required Mr. Brayer on behalf of Spider Holdings, who is the applicant in this application, as well as Ms. Nambiar, who is counsel for the claimant, to provide letters by December 20, 2019 to Mr. Ibrahim related to documents that they required him to disclose. I set a mechanism for Mr. Ibrahim to reply to those requests in the letters of December 20, 2019 by January 10, 2020, and he was to provide an affidavit in which he answered those requests. Additionally, I required him to:
- 1. provide a sixth financial statement with all attachments by January 10;
 - 2. provide a list of documents by January 10;
 - 3. pay costs; and
 - 4. pay a fine under the Family Law Act.

[3] The matter came before me on March 5, 2020, at which time I was satisfied that Mr. Ibrahim had not complied with my order of December 5, 2019 or the order of Madam Justice Baker of October 31, 2019.

[4] On March 5, 2020, I ordered as follows:

Mr. Ibrahim is given a last chance to comply with the orders of this court made October 31st, 2019, and December 5th, 2019. He shall do so no later than April 9th, 2020, failing which the applicant may apply before Mr. Justice Groves for an order that Mr. Ibrahim's pleadings be struck. The application is to be reset before me in the final week of April 2020 at a date arranged with trial scheduling.

[5] Mr. Ibrahim's approval of the order was dispensed with and there was an order for costs.

[6] The April 20, 2020 date did not happen because of the COVID-19 pandemic, but we are here today - August 27, 2020.

[7] Turning to the notice of application. I am granting request 1 in the order that Mr. Ibrahim be served by way of delivery to his email address, which is mespider@gmail.com. I am satisfied that he has communicated with the registry in that matter. He has communicated with counsel at that email address, and it seems to me an efficient and appropriate way in which he can be served. He has in the past purported to draw an address for delivery document with this email address. As indicated, he has regularly responded to emails sent to this address, so that order is granted.

[8] Turning to the substance of the application, I am satisfied after hearing from Mr. Brayer that in fact Mr. Ibrahim has failed to comply with the order of October 31, 2019, December 5, 2019, and my order of March 5, 2020.

[9] His failure to comply includes failure to provide a list of documents, failure to provide a rational or complete Form 8 financial statement in that any of the six Form 8s that he has provided have never had any of the required attachments.

[10] He has failed to respond with an affidavit by January 20, 2020 in the form that I have set out in my order of December 5, 2019, which is quite clear. He has failed to provide an affidavit confirming his list of documents. In regards to the order of Madam Justice Baker, he has failed to comply with the request made out in schedule A attached to that order.

[6] At paras 13-14, Justice Groves confirmed his finding that the appellant had failed on numerous occasions to abide by court orders for disclosure, and went on to explain why it was appropriate to proceed in the appellant's absence:

- [15] I should add that Mr. Ibrahim was very much aware of the necessity of his attendance at this application today. He has chosen not to. He simply had to phone in to a telephone conference. He was contacted by the clerk this morning and indicated that he was not planning on attending because he had a doctor's appointment. He had earlier advised the registry that he was unwell.
- [16] At the end of the day, the evidence before me also is that Mr. Ibrahim, on one occasion, had said that he sees his doctors three times a week. Mr. Ibrahim has known about this application and this proposed date for some time. If he was unwell, it is hard to know how he could have predicted his level of unwellness several days in advance, and secondly, if he had a doctor's appointment knowing that this matter was before the court and if he goes to the doctor three times a week, he certainly could have rescheduled that appointment.
- [17] I have proceeded in his absence because I believe the pattern of behaviour of Mr. Ibrahim in this litigation is one of obfuscation, dishonesty and failure to comply by any court rules or any obligations in litigation. He is making a mockery of the Rules and of the litigation process by his conduct, and he should not be rewarded with adjournments based on allegations of being unwell or being required to attend a doctor.
- [18] In regards to alleged medical ailments, Mr. Brayer requested of Mr. Ibrahim some confirmation of that by way of a doctor's letter or something similar. This was done, no doubt, so that Mr. Brayer could consider his position and advise his client as to a position, but that request for information about his level of illness was met with the usual response of Mr. Ibrahim, which is to not provide anything requested.
- [7] At para 21, Justice Groves concluded that what happened, on the facts, was that:
- [21] Mr. Ibrahim has purported to be the owner of the applicant, Spider Holdings Ltd., Van Pro Solutions Ltd. and Extreme Power Wash Ltd. He has purported to direct trade creditors to send money to similarly named companies, and that has caused loss to the applicants herein.
- [8] In these circumstances, Justice Groves declared that the appellant has no ownership interest of any kind in the corporate applicants, and made the following relevant orders:
- a) the appellant's pleadings in the action were struck out, with default judgment granted against him on the amended counterclaim filed by the corporate applicants, with damages to be assessed;
 - b) the corporate applicants' claim for aggravated and punitive damages was adjourned, to be assessed in a subsequent hearing;
 - c) the corporate applicants' claim for tracing remedy was adjourned generally;

- d) the appellant was permanently enjoined from purporting to be in any way associated with the corporate applicants, from disparaging or threatening them or their directors, officers, principals, employees, owners or associates, and from contacting any client, employee, partner, contractor or business associate of the corporate applicants;
 - e) the appellant was ordered to return all equipment owned by the corporate applicants in his possession or control forthwith;
 - f) the appellant was ordered to pay a penalty of \$5,000 to the corporate applicants pursuant to the Family Law Act, SBC 2011, c 25 for his failure to comply with orders for disclosure;
 - g) the appellant was ordered to pay special costs of the action to the corporate applicants to be assessed;
 - h) all pleadings filed by the appellant relating to the claimant were struck;
 - i) the appellant was imputed to have a guideline income in the amount of \$375,000 per annum retroactive to 2018, and ongoing until further order of the court;
 - j) the appellant was to pay the claimant child support of \$3,000 per month retroactive to June 1, 2018 and ongoing;
 - k) the appellant was to pay the claimant section 7 expenses in the amount of \$1,000 per month retroactive to June 1, 2018 and ongoing;
 - l) arrears in child support were declared to be \$88,546;
 - m) the appellant was at liberty to apply to vary the child support order on notice to the claimant subject to attending a full-day of examination for discovery; and
 - n) the appellant was to pay the claimant her special costs of the action, to be assessed.
- [9] As indicated in the notice of appeal, and is confirmed by appellant's counsel, the appellant appeals only from the orders striking his pleadings, as set out in (a) and (h) above, and the order granting default judgment to the corporate applicants, as set out in (a). The appellant says that these orders were drastic, and the judge gave insufficient reasons for making them.
- [10] Counsel was very clear that the appellant is not appealing the orders made in favour of the claimant imputing his income, and setting support payments and section 7 payments.
- [11] The "elephant in the room" that the appellant does not address is his failure to attend the hearing. His counsel did not assert that the judge's proceeding in the appellant's absence was an error, but nevertheless challenged the basis on which the judge made the orders in question.
- [12] In this context, I now turn to deal with the applications.

- [13] The application to quash the appeal as premature, as discussed in the Chinese Social Development Society case is dismissed. I am satisfied that I do not have the jurisdiction to make that order as a single justice sitting in chambers.
- [14] In the Chinese Social Development Society case, Madam Justice Fenlon was dealing with an application for leave to appeal, which is a very different matter. Justice Fenlon denied the application on the ground that the proposed appeal was premature given the ability of the proposed appellant to go before the Supreme Court chambers judge to seek a rehearing of the order made in the appellant's absence. Here, we are not dealing with an application for leave to appeal, but with a properly filed appeal taken as of right.
- [15] In the case of *First Majestic Silver Corp v Santos*, 2014 BCCA 115, this Court made it clear that the jurisdiction of a single justice to dismiss an appeal is limited to, and based on, cases of non-compliance with the Court of Appeal Act, RSBC 1996, c 77, or Court of Appeal Rules. Accordingly, in that case, it was not open to a single justice to dismiss an appeal for failure to post security for a trial judgment, as opposed to costs.
- [16] The question of whether the appeal is premature because the appellant did not return before the Supreme Court to seek to set aside the orders of which he complains that were made in his absence may well be raised before the division hearing this appeal, should it get that far. But as I read the authorities, I do not have jurisdiction to dismiss the appeal as premature. As I indicated, the situation is distinguishable from that where leave to appeal is required.
- [17] I turn next to the question of what to do about the delay in filing an appeal record, factums and appeal books. The respondents maintain that I should dismiss the appeal as abandoned. The appellant seeks an extension of time.
- [18] The criteria governing whether an extension of time ought to be granted are set out in many cases, but I quote from *Salfinger v Salfinger*, 2013 BCCA 217, where Madam Justice Kirkpatrick said this:
- [16] The criteria in an application to extend time to appeal are set out in *Davies v. C.I.B.C.* (1987), 15 B.C.L.R. (2d) 256 at 259-260 (C.A.). The Davies test is also applied when an application is made to extend the time for taking a step necessary in the prosecution of an appeal: see *Sekhon v. Armstrong*, 2003 BCCA 318 at para. 17, 183 B.C.A.C. 137; and *Dadashzadeh v. B.C. (Motor Carrier Commission)*, 2003 BCCA 463 at para. 7, 188 B.C.A.C. 203 (Chambers).

The criteria may be summarized as follows:

- 1) Was there a bona fide intention to appeal?
- 2) When were the respondents informed of the intention?
- 3) Would the respondents be unduly prejudiced by an extension of time?
- 4) Is there merit in the appeal?

5) Is it in the interest of justice that an extension be granted?

The fifth question "encompasses the other four questions and states the decisive question" (Davies at 260). Further, "The first four rules cannot be used to defeat the interests of justice but are themselves guides to the application of the interests of justice": *Haldorson v. Coquitlam (City)*, 2000 BCCA 672 at para. 9, 149 B.C.A.C. 197. As well, the interests of justice factor is not to be applied independently of the other factors set out in Davies: *Perren v. Lalari*, 2009 BCCA 564 at para. 33, 280 B.C.A.C. 197.

[17] An examination of the merits should be limited to an examination of whether the appeal is bound to fail (Davies at 262, Lambert J.A. in concurring reasons).

[18] Where the appeal has been brought in time, and the application is for an extension of time to take a subsequent step in the prosecution of the appeal, a single justice in chambers may lack the jurisdiction to refuse the application solely on the basis that the appeal is without merit (see *Dadashzadeh* at para. 10; see also *Sekhon*).

[19] However, where it is in the interests of justice to refuse an extension to take steps to prosecute an appeal, a single justice may refuse to grant such an extension: *Rotzetter v. Rotzetter*, 2003 BCCA 12, at paras. 6-7, 119 A.C.W.S. (3d) 6 (Chambers); *Greither v. Greither*, 2005 BCCA 234 at paras. 9-10 (Chambers) (rev'd on other grounds, 2005 BCCA 339, 141 A.C.W.S. (3d) 351).

[20] The application to extend time will generally be granted where there has been a short delay and that delay is due to counsel's error (Davies at 259), or where the delay was caused by counsel and there is a demonstrable intention to pursue the appeal (*Rowan v. Dunwoody & Co.*, 1999 BCCA 755 at para. 21, 131 B.C.A.C. 311 (Chambers)).

[19] In this case, the question comes down to the final two criteria, whether there is merit in this appeal, and whether it is in the interests of justice that an extension be granted. The notice of appeal itself was filed within time, and of the appellant sought to file the appeal record only two days past the time permitted due to an error on the part of his counsel.

[20] The corporate applicants submit that an extension of time should be denied as it would not be in the interests of justice, given all of the findings made against the appellant, his history of vexatious behaviour in litigation (including commencing actions against counsel for the corporate applicants, and experts both retained by the parties and appointed by the court), his habitual failure to abide by court orders and to make appropriate disclosure, the many inconsistent positions he has taken, and the aspect of prematurity.

- [21] Given, however, the limited nature of the appeal, the circumstances under which that deadline was missed, and the difficulty in concluding that the appeal is bound to fail, though its merit is not obvious, I am not satisfied that it would be appropriate to exercise my discretion to deny an extension of time in the circumstances, and I decline to do so. I do, however, agree with all of the respondents that this is an appropriate case in which to order the appellant to post security. The question is, for what?
- [22] I turn first to the costs of the appeal. The relevant considerations have been discussed in many cases. I will quote from one, the reasons of Madam Justice D. Smith in *Arbutus Bay Estates Ltd v Canada (Attorney General)*, 2017 BCCA 133:
- [17] The appellant against whom security is sought bears the onus of showing why security should not be required: *Creative Salmon Company Ltd. v. Staniford*, 2007 BCCA 285 at para. 9. The ultimate question is whether the order would be in the interests of justice: *Lu v. Mao*, 2006 BCCA 560 at para. 6. The following relevant considerations were set out in *Lu* at para. 6:
- (a) the appellant's financial means;
 - (b) the merits of the appeal;
 - (c) the timeliness of the application; and
 - (d) whether the costs will be readily recoverable.
- [18] The appellant's financial position is the principal basis on which an order for some, all, or none of the security for appeal costs is made. See *Zen v. M.R.S. Trust Company* (1997), 88 B.C.A.C. 198 at para. 18. It is a discretionary order. Courts have also distinguished between corporate and individual plaintiffs, generally treating corporate plaintiffs with less flexibility.
- [23] As Justice Smith observed, the onus is on the appellant to establish that the interests of justice require that security not be ordered.
- [24] There is no doubt that the respondents have brought their application for security in a timely manner. Accordingly, the question really comes down to the appellant's financial position and the merits of its appeal. These need to be balanced in order to ensure that the interests of justice are not frustrated by an order for security of costs inhibiting a meritorious appeal.
- [25] Here, the appellant has not filed any meaningful or consistent information that would permit the Court to make a rational assessment of its financial position, nor has he filed any probative evidence to establish that his appeal would be frustrated by an order for security for the costs of the appeal. Moreover, although the appellant has yet to articulate the issues he raises on his appeal beyond the basic two orders he contests, the question of merit remains very much in issue.

- [26] In my view, the appellant has failed to meet the onus on him of establishing that it would not be in the interests of justice to make the order.
- [27] The corporate applicants' draft bill of costs appears reasonable, and comes to a total of \$11,709.10, exceeding the amount of security requested of \$10,000. In my view, security in the amount of \$10,000 would be appropriate.
- [28] The claimant seeks security before her costs of the appeal of \$300,000, without any rational basis to support that figure. Nevertheless, the claimant is obliged to participate in this appeal because of the orders striking the pleadings, notwithstanding that no appeal is taken from the orders relating to support. In the circumstances, I am prepared to order the appellant to post to the further sum of \$10,000 to secure her costs of the appeal.
- [29] I turn next to the question of security for the special costs ordered by Justice Groves. The respondents have not proceeded to have their claims in this regard assessed, which is not surprising given that the matter is under appeal.
- [30] As Justice Smith observed in the *Arbutus Bay Estates* case at para 16, the principles relating to an application for security for the costs of trial differ from those relating to security for the costs of the appeal. Most importantly, the onus flips from the appellant to the respondent. At para 19, Justice Smith said this:
- [19] The principles governing the exercise of discretion in awarding security for trial costs are set out in *Fat Mel's Restaurant Ltd. v. Canadian Northern Shield Insurance Company* (1993), 76 B.C.L.R. (2d) 231 (C.A.); and *Kropp v. Swanaset Bay Golf Course Ltd.* (1997), 29 B.C.L.R. (3d) 252 (C.A). They include:
- (a) The onus is on the applicant to show that it is in the interest of justice to order posting for security of trial costs;
 - (b) The applicant must show prejudice if the order is not made; and
 - (c) In determining the interests of justice the chambers judge should consider the merits of the appeal and the effect of such an order on the ability of the appellant to continue the appeal. See *Bronson v. Hewitt*, 2012 BCCA 268 at para. 13.
- [31] A relevant consideration is the fact that, generally, in relation to collecting its trial costs, the respondent will be in no worse a position by reason of the appeal than it was before the appeal. It follows that an important question is whether the appellant's pursuit of the appeal negatively alters the respondents' ability to recover sums found by the trial court to be owing to it (for instance, by the appellant obtaining a stay pending appeal): see, for instance, *D Bacon Holdings Ltd v Naramata Vines Inc*, 2010 BCCA 427 at paras 25-26; *Agent E v Canada (Attorney General)*, 2018 BCCA 492 at para 17; and *EB v British Columbia (Child, Family and Community Services)*, 2020 BCCA 263 at para 29.

- [32] This case is a little different because the trial is not something that is complete. The proceedings are ongoing.
- [33] I consider that the respondents have sufficiently demonstrated potential prejudice in the history of the litigation as a whole, the appellant's general failure to abide by orders of the court, his vexatious conduct leading to frequent unnecessary court appearances and likely requiring more, and his failure to make disclosure. This potential prejudice becomes amplified by a drawn out appeal, particularly where the respondents are not in a position to have their costs assessed while the appeal is ongoing due to the privileged nature of much of the information required to support the assessment of a claim for special costs. It would not, however, be appropriate to order the appellant to post the full potential claim of the respondents to special costs, given the absence of an assessment. It is open to me to order full security as requested, partial security or no security at all (see, for instance, *Kaban Resources Inc v Goldcorp Inc*, 2021 BCCA 6 at para 27).
- [34] In the circumstances, I consider that it is in the interests of justice to require the appellant to post an additional amount as partial security for the costs ordered by Justice Groves. The evidence before me indicates that the corporate applicants have expended some \$100,000 in the proceedings, and I do not doubt that the claimant has expended a similar amount given all the steps she has been obliged to take. Given that these costs have yet to be assessed, and balancing matters as best I can in the interests of justice, I order the appellant to post a further sum of \$50,000 as security for the costs of the corporate applicants, and an additional \$50,000 as security for the costs of the claimant.
- [35] I now turn to the application for security for the judgments pronounced. In the case of the corporate applicants, the appellant points out that the damages have not been assessed, and it is neither appropriate nor feasible for this Court to attempt to do so on the basis of contested affidavit evidence. There is nothing, the appellant submits, to prevent the corporate applicants from proceeding to that assessment. While that is technically correct, the appellant has indicated an intention to seek a stay if an assessment is sought, and the sheer volume of proceedings below suggests that the corporate applicants are indeed likely to suffer prejudice due to the time taken for this appeal.
- [36] In all of the circumstances, I would refuse to order security as requested by the corporate applicants in an amount in the range from \$500,000-\$700,000, but I would order that the appellant to post partial security in the amount of \$200,000 in relation to the judgment pronounced in favour of the corporate applicants. I bear in mind as well the evidence concerning the appellant's moving of monies to different accounts and offshore, and the prejudice to the corporate applicants in seeking, ultimately, to secure any of their judgment.

- [37] With respect to the claimant's judgment for arrears in child and spousal support, I understand that the claimant has taken steps to collect on the outstanding arrears. The appellant's obligation to pay support, of course, continues. Nevertheless, as the orders in question are not the subject of this appeal, there is no basis for concluding that the claimant will suffer prejudice if security is not ordered. I therefore decline to order the appellant to post any further security in relation to the claimant.
- [38] In summary, I dismiss the applications to dismiss the appeal as premature or as abandoned, and make the following orders:
- [39] Within 30 days of today, the appellant shall post:
- \$10,000 as security for the appeal costs of the respondents, Spider Holding Ltd., Van Pro Solutions Ltd., and Extreme Power Wash Ltd.;
 - \$10,000 as security for the appeal costs of the respondent Marwa Maryoush;
 - \$50,000 as security for the special costs of the respondents Spider Holding Ltd., Van Pro Solutions Ltd., and Extreme Power Wash Ltd. in the Supreme Court proceedings;
 - \$50,000 as security for the special costs of the respondent Marwa Maryoush in the Supreme Court proceedings; and
 - \$200,000 as security for the judgment in favour of the respondents, Spider Holding Ltd., Van Pro Solutions Ltd., and Extreme Power Wash Ltd.
- [40] This appeal is stayed pending the posting of security as ordered.
- [41] If the appellant posts security as ordered, then the time for the filing of the appeal record, factums and appeal books will all be extended, with the appeal record to be filed within 14 days of the record being settled, assuming that is accomplished within 30 days of the security being posted. The factums and appeal books will then be filed 30 days thereafter.
- [42] My orders requiring the appellant to post security for the costs of the respondents both of the appeal and of the proceedings below is made pursuant to section 24(1) of the Court of Appeal Act. Accordingly, if the appellant fails to post that security as ordered, the respondents will be at liberty to apply to a single justice to have the appeal dismissed as abandoned.
- [43] In accordance with this Court's 2014 decision in the First Majestic Silver case, it will require an order of a division to dismiss the appeal for failure to post security for the judgment of the respondents Spider Holding Ltd., Van Pro Solutions Ltd., and Extreme Power Wash Ltd.
- [44] The respondents are entitled to their costs of this application.

"The Honourable Mr. Justice Grauer"

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/ca/21/02/2021BCCA0223.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/maryoush-v-ibrahim-2021>

Prepared on 29 October 2026 · Esheria