

CANADA / JUDGMENT

McCoppen v. Stewart

2025 BCSC 908

COURT

Supreme Court of British Columbia

DECIDED

29 April 2025

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

2025 BCSC 908 McCoppen v. Stewart

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

McCoppen v. Stewart,

2025 BCSC 908

Date: 20250429

Docket: E61764

Registry: Kamloops

Between:

Julie Kathleen McCoppen

Claimant

And

Jamie John Paton Stewart

Respondent

Before the Honourable Madam Justice Lyster

Oral Reasons for Judgment

Counsel for the Claimant:

R. Lammers

Appearing in person:

J. Stewart

Place and Date of Hearing:

Kamloops, B.C.

April 29, 2025

Place and Date of Judgment:

Kamloops, B.C.

April 29, 2025

- [1] THE COURT: These are my oral reasons for decision. Should a transcript be ordered for any reason, I will review it to ensure accuracy and clarity. The reasoning and the result will not change.
- [2] There are two applications currently before the court, both filed by the claimant in this matter, Julie McCoppen. In the first application, which was filed February 25, 2025, Ms. McCoppen applies for a number of orders against the respondent, Jamie Stewart. I will not read out all of the orders sought, but in general, she seeks sole conduct of the sale of the townhouse located at Sun Peaks, a number of disclosure orders, a non-disposition order, and a fine.
- [3] In the second application, filed March 18, 2025, Ms. McCoppen applies for orders both against Mr. Stewart and against Kam-Mic Investment Corp. ("Kam-Mic"), a company in which Mr. Stewart is a shareholder and a director. In that second application, she seeks orders requiring Mr. Stewart and Kam-Mic to provide documents and information to Mr. Derek Sanders, who is the business valuator that was appointed pursuant to a previous order of this court.
- [4] In general terms, Mr. Stewart opposes all orders sought. In its application response, which was signed by Mr. Stewart and which is unsupported by any affidavit evidence, Kam-Mic opposes the orders sought against it.
- [5] Ms. McCoppen filed the notice of family claim in this matter on January 10, 2023. In the over two years that have passed since that date, the claim has not progressed significantly, which Ms. McCoppen submits is due to Mr. Stewart's on-going failure to comply with the Supreme Court Family Rules, B.C. Reg. 169/2009 [Family Rules] and with various orders of this court, in particular with respect to the sale of the Sun Peaks townhouse and the disclosure of financial information.
- [6] Briefly, a judicial case conference was conducted on May 31, 2023. At the time, Mr. Stewart had not filed his financial statement form F8. He was ordered to do so with all required attachments by June 16, 2023. Mr. Stewart filed an F8 on June 15, 2023, but it did not include all required attachments. It did not provide a complete list of his bank accounts, nor were any credit card accounts listed. No tax returns were provided for the years 2021 through 2023, although a return for 2020 was provided, nor were there any Notices of Assessment

provided, nor were any financial statements related to his corporate interests provided.

- [7] I will pause to note that there are two corporations in issue here - Stewart Mortgage Corp., is wholly owned by Mr. Stewart; and Mr. Stewart is, as I have said, a shareholder in the second corporation, Kam-Mic. He is also a director of that company and, according to his submissions in court today, he is its managing director.
- [8] On June 19, 2024, Justice Branch heard an earlier application filed by Ms. McCoppen, in which she sought a wide variety of orders including child support and spousal support, financial disclosure, the retention of a business valuator, the sale on a joint basis of the Sun Peaks townhouse, and a fine against Mr. Stewart.
- [9] On August 22, 2024, Justice Branch rendered a written judgment in which he granted the vast majority of the orders sought at that time by Ms. McCoppen. Of particular importance to the applications now before the court are the following terms of the Branch order:
- At term 6, he ordered the sale of the Sun Peaks property on a joint conduct basis;
 - At term 8, he ordered that each party would be entitled to access \$150,000 of the net proceeds of sale of the Sun Peaks property, to finance litigation expenses pursuant to s. 89 of the Family Law Act, S.B.C. 2011, c. 25 [FLA];
 - At term 10, and by consent, he ordered that the parties would retain Mr. Sanders to conduct a valuation of both parties' corporate interests;
 - At term 13, he ordered, among other things, that Mr. Stewart disclose documents from Stewart Mortgage Corp., that he file an updated form F8 with all required attachments, and that he request a number of documents from Kam-Mic; and
 - At term 15, Justice Branch ordered a fine of \$2,500 payable by Mr. Stewart for Ms. McCoppen's benefit.
- [10] Mr. Stewart has failed to provide the vast majority of the documents he has been ordered to disclose. No tax returns have been provided, and from his submissions, I understand that none have been filed with the Canada Revenue Agency since his 2020 tax return. No financial statements, other than some draft ones, have been provided for Stewart Mortgage Corp. No updated form F8 has been filed.
- [11] Mr. Sanders was engaged by the parties. The letter of engagement signed by Ms. McCoppen's counsel and by Mr. Stewart's then counsel is dated October 23, 2024. By its express terms, Mr. Sanders is engaged to value both Stewart Mortgage Corp. and Kam-Mic. Mr. Stewart delayed in paying his share of Mr. Sanders' retainer, but it was eventually paid in February 2025.

- [12] On March 10, 2025, Mr. Sanders requested documents and information that he requires to value Stewart Mortgage Corp. and Kam-Mic. Mr. Stewart has failed to provide the documents and information requested by Mr. Sanders. According to an email from Brett Mirtle to Mr. Stewart dated October 22, 2024, Kam-Mic refused to provide the documents that Mr. Stewart was ordered to request from Kam-Mic.
- [13] On February 7, 2025, counsel for Ms. McCoppen wrote Kam-Mic via their registered and records office to request the disclosure of documents pursuant to Rule 5-17(19) of the Family Rules. Kam-Mic did not respond within 21 days as required under Rule 5-1(20), nor has it indicated that it intends to seek any exception under Rule 5-1(26).
- [14] Counsel for Ms. McCoppen was under the impression that Kam-Mic had not filed a response to the present application, but it turned out, in fact, it had. There is an application response from Kam-Mic signed by Mr. Stewart that was filed on April 22, 2025. Mr. Stewart advised the court that he was authorized to sign that application response and, I take it, to appear on Kam-Mic's behalf, but that he was not authorized to disclose the Kam-Mic documents that had been requested by Ms. McCoppen and, indeed, by Mr. Sanders despite his apparent authority to act on Kam-Mic's behalf and despite being, in his words, its managing director.
- [15] In any event, the application response filed by Kam-Mic does not provide any legal basis for objecting to the orders sought against Kam-Mic. It makes some factual assertions about Kam-Mic's finances and the value of the shares that Mr. Stewart holds in Kam-Mic. Those factual assertions are unsupported by any affidavit evidence.
- [16] At paragraph 5 of the legal basis, although this is a factual assertion and not a legal basis, but at that paragraph, Kam-Mic's application response states:
- Our corporate accountants, MNP, are currently reviewing the company and will be providing clarification from their valuation department that there would be no further value in the company to Mr. Stewart outside of his shares owned.
- [17] I agree with counsel for Ms. McCoppen that that is a determination for ultimately the court to make, and to do so on the basis of the opinion provided by the court-appointed valuator, not Kam-Mic's accountants.
- [18] So far as the Sun Peaks property is concerned, it has not sold to date. It was, after some delay from the August 2024 order, listed jointly in late December 2024. The parties' realtors have disagreed throughout with respect to the appropriate listing price. Melissa Vike is Ms. McCoppen's realtor, and she recommended a listing price of approximately \$1,650,000 in December 2024. Connor Shelton is Mr. Stewart's realtor, and he recommended a listing pricing of \$1,950,000.

- [19] The property was ultimately listed in December 2024 at \$1,890,000. There have been two minor downward adjustments of the listing price since that time, and I believe that the current list price is \$1,824,900. Ms. Vike continues to recommend that the listing price be reduced to something in the range of \$1,600,000 to \$1,650,000. Mr. Stewart and his realtor have resisted those recommendations to further reduce the listing price, which they say are simply too low for what the property should be able to command.
- [20] In the approximately four months that the property has been listed, there has been only one offer received - that was on April 4, 2025, for \$1,580,000. At that time, Ms. Vike recommended to counter at \$1,799,900 while Mr. Stewart decided to counter at \$1,825,000. Those potential buyers walked away.
- [21] As set out in part of Ms. Vike's affidavits, during the period the property has been listed, 29 sales have occurred at Sun Peaks, and none were above \$1,765,000. There is evidence contained in a late-filed affidavit from Mr. Shelton of a more recent sale at a higher price, specifically a sale at \$1,900,000.
- [22] I will pause to note that Ms. McCoppen objected to the court considering Mr. Shelton's affidavit. It was filed late, and there had been a specific order made previously by Justice Power with respect to the documents to be filed and the deadlines for doing so in this matter, and this affidavit was filed late.
- [23] I have nonetheless considered it. However, in my view, it does not materially assist Mr. Stewart's position with respect to the orders sought with respect to the sale of the Sun Peaks property. In my view, in fact, it tends to support the order sought, because it reflects the degree of disagreement and the deep discord between the parties' realtors and their respective principals with respect to the manner in which to conduct the sale of this property.
- [24] With that, I turn to a consideration of the orders sought, dealing first with the orders sought at paragraphs 1 through 5 of the notice of application for Ms. McCoppen to have sole conduct of sale, and I consider all of those orders sought to be appropriate in the circumstances of this case.
- [25] In *DeThomas v. DeThomas*, 2023 BCSC 901, Justice Schultes reviewed the applicable legal principles with respect to when the court will order sole as opposed to joint conduct of sale starting at para. 34, and the application of those principles favour Ms. McCoppen being granted sole conduct of sale in this case.
- [26] This property has been listed for over four months. In that period of time, a period of time which one would have thought would have been the preferable period to try and sell a ski condominium, there has been only one offer received, and it was at considerably lower than the listed price. Mr. Stewart does not appear to be motivated to sell the Sun Peaks property, or at least is not motivated to do so in any kind of timely fashion.

- [27] In my view, the market has spoken, and the price that the Sun Peaks property has been listed at is inflated. In the circumstances of this case, the sale of the Sun Peaks property is urgent because the net proceeds of sale are intended to provide the parties with the funds necessary to finance this litigation.
- [28] That order was made as long ago as August 2024, and it is now nearly May 2025. As reflected in their affidavits to which I have referred, the parties' realtors are unable to agree on the correct approach to market this property. A review of their affidavits indicate that their professional relationship is poor and that they and their respective principals are unlikely to be able to agree on aspects of the sale of this property. For those reasons, I grant the order sought at paragraphs 1 through 5 of the orders sought in the February 25 notice of application.
- [29] I turn to paragraphs 6 and 7 of the orders sought, which are orders that Mr. Stewart provide an updated financial statement as earlier ordered by Justice Branch within 14 days of this order and that he provide a copy of his filed 2024 T1 General tax return no later than May 15, 2025, and a copy of his Notice of Assessment upon receipt.
- [30] I am going to grant those orders. This will be the third time that Mr. Stewart has been ordered by this court to produce a complete F8 and all required attachments. In his submissions, Mr. Stewart indicated that he had recently been in touch with his accountant. I believe he said that he had given his accountant the documents necessary to file his current taxes last week.
- [31] I asked Mr. Stewart how long he thought it would take for his accountant to produce the various documents required. Mr. Stewart thought it would take about a month for the financials for Stewart Mortgage Corp. and his tax returns to be produced. I would say that Mr. Stewart was notably vague about that timeline, and no reason was given as to why he would only have given his accountant the necessary source documents as recently as last week, particularly in light of the fact that the present application that I am dealing with was filed on February 25, 2025.
- [32] Mr. Stewart says that he has been unable to afford to pay his lawyer and to pay his accountants to produce these necessary documents. In my view, that rings entirely hollow in light of the spending summary that was provided in Ms. Burke's April 23, 2025 affidavit in which she reviews Mr. Stewart's credit card statements for the past number of years, those statements having been disclosed in January 2025.
- [33] For example, in 2024, according to Ms. Burke's summary, Mr. Stewart made charges on his various credit cards of \$280,731.78. He made payments on them of \$266,234.19. I do not accept that Mr. Stewart could not have paid his accountants far sooner to do things like prepare his personal income taxes and Stewart Mortgage Corp.'s financial statements if he were motivated to do so.

- [34] In my view, 14 days is more than a fair amount of time to give Mr. Stewart to comply with the order sought at paragraph 6, that is that he file an updated financial statement with all attachments. Further, I find that May 15, 2025, is, as set out in paragraph 7 of the orders sought, more than a fair period of time for him to provide his 2024 tax return and his Notice of Assessment when he receives it. Those orders are granted.
- [35] Paragraphs 8 and 9 of the notice of application address documents to be provided to the business valuator. Paragraph 8 would require Mr. Stewart to provide any requested document within seven days of the request having been made and, if the document requested is not available, to provide a written response within that same time period as to the reason for its non-availability. Paragraph 9 would provide that either party is at liberty to apply for directions concerning the instructions for the business valuator. I make those orders. Those orders are made pursuant to Rule 13-4(9) which requires the parties' full co-operation with the joint expert, including making full and timely disclosure of all relevant information and documents to the joint expert.
- [36] I would note here that Mr. Stewart submitted that Justice Branch did not order that Mr. Sanders value Kam-Mic. I do not agree. Term 10 of the Branch Order provides that, by consent, the parties will engage Mr. Sanders to conduct a valuation of both parties' corporate interests. Mr. Stewart is a shareholder in Kam-Mic - that is one of Mr. Stewart's corporate interests.
- [37] Further, Mr. Stewart's then counsel signed the October 2024 engagement letter which specifically lists Kam-Mic as one of the companies to be valued, and provided to Mr. Sanders some of Kam-Mic's financial statements. Mr. Sanders is clearly retained to value not only Stewart Mortgage Corp., but also Kam-Mic.
- [38] The tenth order sought was an order pursuant to s. 91 of the FLA, s. 39 of the Law and Equity Act, R.S.B.C. 1996, c. 253 and Rules 12-1 and 12-4 of the Family Rules that:
- the respondent is prohibited from disposing of, transferring, converting, or exchanging into another form, property in which the applicant may have an interest, without the written consent of the claimant, or further Order of the Court.
- [39] Given the almost complete opacity at this stage of Mr. Stewart's financial circumstances, in my view, a s. 91 order is appropriate, and I make it.
- [40] The eleventh order sought has already been addressed in the previous hearings. I will not address it.
- [41] In the twelfth order sought, Ms. McCoppen sought an order pursuant to s. 213(2)(d)(2) of the FLA for a fine payable by Mr. Stewart to the benefit of Ms. McCoppen for his failure to comply with his obligations to disclose information both under the Family Rules and the order of Justice Branch.

- [42] I consider a fine appropriate in this case. Justice Branch already ordered a fine of \$2,500, and to his credit, Mr. Stewart has paid that fine. The imposition of that fine however has clearly not had the intended effect of bringing home to him the necessity of complying with court orders. I, therefore, order a fine of \$5,000, payable by Mr. Stewart within 30 days, to Ms. McCoppen's counsel in trust.
- [43] The last order sought in the February 25 notice of application is an order for costs, either special costs or regular costs payable in any event of the cause. In my view, Mr. Stewart's conduct, while well below that which we would expect of parties in a family law dispute, has not risen to the level necessary to justify an award of special costs.
- [44] I am going to make an order for regular costs of this application. However, they are payable forthwith and in any event of the cause. Making that order payable forthwith is intended to try to bring home to Mr. Stewart, as one hopes, the fine law that henceforth it is necessary that he comply with the court's orders and Family Rules.
- [45] I turn to the orders sought in the second notice of application filed March 18, 2025. The first order sought was essentially that the two applications be heard together - they were, and I will leave it at that.
- [46] In the remainder of this notice of application, Ms. McCoppen seeks an order, or orders, that Kam-Mic and Mr. Stewart personally provide documents and information to Mr. Sanders, with a copy to counsel for the claimant, within 14 days of the date of this order. I will deal separately with the disclosure orders sought against Mr. Stewart and against Kam-Mic.
- [47] All of the documents and the information is sought to be provided to Mr. Sanders, and there can be no question that all of the documents and information sought are relevant and appropriate to be provided to Mr. Sanders. So far as Mr. Stewart personally is concerned, he is clearly able to provide the documents and information sought with respect to Stewart Mortgage Corp., and I order that he do so within 14 days of this order.
- [48] Mr. Stewart says, relying on the email from Mr. Mirtle that I mentioned earlier in these reasons, that he cannot provide the documents and information sought regarding Kam-Mic. Given his status as a director and, indeed, the managing director of Kam-Mic, I do not accept that he is unable to provide the documents and information sought. Something more than an unsigned email from another director would be required to establish to my satisfaction that Mr. Stewart cannot produce the Kam-Mic documents and information sought. I order him to provide them, again, within 14 days of the date of this order.
- [49] The documents and information referred to at paragraph 3 of the March 18 notice of application are also sought directly from Kam-Mic. As discussed during the course of this hearing, I do not believe that Rule 5-1(19)-(27) of the Family Rules grants the court the authority to require a third party such as Kam-Mic to provide information. These provisions deal exclusively with documents, not information.

- [50] I order Kam-Mic to disclose the documents sought at paragraph 3 within 14 days of today's date. Again, I consider it appropriate to order regular costs against Mr. Stewart in this application, again, forthwith and in any event of the cause.
- [51] Subject to any clarification that might be sought, that concludes my reasons.
- [52] CNSL R. LAMMERS: Your order for costs was regular costs payable forthwith and in any event of the cause? Yes?
- [53] THE COURT: That's right. On both applications.
- [54] CNSL R. LAMMERS: Okay. I thought I would just point out for the record, Justice, that there is not, in fact, an order number 3 on the first application, that there is just sort of a typo there.
- [55] THE COURT: Oh, thank you. Oh, right. Fair enough. So I granted 1, 2, 4, and 5, not 3. Thank you for pointing that out. Anything further?
- [56] CNSL R. LAMMERS: May the signature of Mr. Stewart be dispensed with as to approval of the form of the order?
- [57] THE COURT: Yes.
- [58] CNSL R. LAMMERS: I have nothing further.
- [59] THE COURT: All right. Mr. Stewart?
- [60] J. STEWART: No. I have nothing further
- [61] THE COURT: Thank you.

"L.M. Lyster J."

LYSTER 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/25/09/2025BCSC0908.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/mccoppen-v-stewart-2025>

Prepared on 26 October 2026 · Esheria