

CANADA / JUDGMENT

Pelling Estate v. Pelling

2026 ONCA 62

COURT

Court of Appeal for Ontario

DECIDED

2 February 2026

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Pelling Estate v. Pelling Collection Decisions of the Court of Appeal Date 2026-02-02 Neutral citation 2026 ONCA 62 Docket numbers COA-24-CV-1271 Judges Miller, Bradley; Monahan, Patrick J.; Dawe, Jonathan Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Pelling Estate v. Pelling, 2026 ONCA 62 DATE: 20260202 DOCKET: COA-24-CV-1271 Miller, Monahan and Dawe JJ.A. IN THE MATTER of the Estate of Evah Nadine Pelling, deceased BETWEEN Bernadette Morin-Strom in her capacity as named Estate Trustee of the Estate of Evah Nadine Pelling Applicant (Respondent) and Robert Albert Pelling*, Ryan Leigh Slute, Robert James Pelling, Amanda Lee Pelling, Audrey Moore, Shannon Moore, Coral Mason, Daniel Mumford, Derek Mumford, Allen Mason, Stephen Mason and The Children's Lawyer on behalf of the Minors Brett Albert Pelling, Alison Evah Pelling, Tessa Irene Pelling, and Natasha Michelle Pelling and the unborn and unascertained issue of Evah Nadine Pelling Respondents (Appellant*/Respondents**) Darren Frank, for the appellant Robert Albert Pelling Alexandra V. Mayeski and Alice E. Colquhoun, for the respondent Robert James Pelling Stuart Clark, for the respondent Bernadette Morin-Strom, Estate Trustee of the Estate of Evah Nadine Pelling, deceased Justin de Vries and Rebecca Studin, for the respondent The Children's Lawyer on behalf of the minors Brett Albert Pelling, Alison Evah Pelling, Tessa Irene Pelling, and Natasha Michelle Pelling Heard and rendered orally: January 29, 2026 On appeal from the judgment of Justice Mario D. Faieta of the Superior Court of Justice, dated October 18, 2024, and the costs order dated February 5, 2025. REASONS FOR DECISION

- [1] The appellant appeals an October 18, 2024 judgment, specifically the application judge's finding that a 2006 Transfer/Deed and Direction did not have testamentary effect. He also seeks leave to appeal the application judge's costs order dated February 5, 2025 (the "Cost Order") in which he was granted his costs on a partial indemnity basis.
- [2] This is the first of two appeals from the October 18, 2024 judgment and related Cost Order that were heard together (COA-24-CV-1271 and COA-24-CV-1390).
- [3] The appellant argues that the Transfer/Deed and Direction should be given effect as a statement of the testator's intention to transfer the Three Mile Lake property after her death. The appellant acknowledges that the Deed/Transfer and Direction do not comply with the requirements of a valid will under the Succession Law Reform Act, R.S.O. 1990, c. S.26,

particularly given that s. 21.1 of the Act did not come into effect until after the testator's death. He is unable to identify any legal basis upon which the court could find that the Deed/Transfer and Direction are valid testamentary documents. His appeal with respect to the Deed/Transfer and Direction is therefore dismissed.

- [4] With respect to costs, the application judge exercised his discretion and awarded the appellant his costs on a partial indemnity basis, having regard to his mixed success on the application. The appellant has not identified any reviewable error in the application's judge exercise of discretion. Accordingly leave to appeal the Cost Order is denied.
- [5] The costs disposition in (COA-24-CV-1390) applies to both appeals. "B.W. Miller J.A." "P.J. Monahan J.A." "J. Dawe J.A."

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