

CANADA / JUDGMENT

Standerwick v. Standerwick

2025 BCCA 415

COURT

British Columbia Court of Appeal

DECIDED

6 November 2025

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2025 BCCA 415 Standerwick v. Standerwick COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: Standerwick v. Standerwick, 2025 BCCA 415 Date: 20251106 Docket: CA50973 Between: Richard Grant Standerwick Appellant (Respondent) And Julie Patricia Standerwick also known as Julie Patricia Klassen Respondent (Claimant) Before: The Honourable Madam Justice Fisher (In Chambers) On appeal from: An order of the Supreme Court of British Columbia, dated August 27, 2025 (Standerwick v. Standerwick, Vancouver Docket E182299). Oral Reasons for Judgment Counsel for the Appellant: P. Cote Counsel for the Respondent: E.M. Vandergrift Place and Date of Hearing: Vancouver, British Columbia November 6, 2025 Place and Date of Judgment: Vancouver, British Columbia November 6, 2025 Summary: The applicant and respondent are involved in family law proceedings with a trial scheduled to commence on March 23, 2026. This is an application for leave to appeal the terms of an order granting an adjournment of an application brought by the respondent, which seeks the confirmation of arrears of child and spousal support and the imposition of a fine against the applicant, among other orders. The conditions of the adjournment order made the presence of the applicant's lawyer (or his firm) peremptory on a date chosen by the respondent and imposed a payment by the applicant of \$50,000 to the B.C. Family Maintenance Enforcement program. The applicant says there was no basis that justified the financial condition or making the applicant's lawyer's attendance peremptory. The application for leave to appeal is dismissed. The judge's exercise of discretion regarding an adjournment and its terms is highly fact and case specific and not significant to the practice. Further, the issue is likely moot since counsel have succeeded in setting a mutually convenient date for the hearing of the application, at which the applicant will have full opportunity to be heard. An appeal of this order would require further time and resources from both parties that would be better put towards resolving the substance of their family law dispute. It is not in the interests of justice to grant leave to appeal.

- [1] FISHER J.A.: The applicant, Dr. Richard Standerwick, applies for leave to appeal an order granting an adjournment of an application brought by the respondent on conditions that he contends were not well founded in law.

- [2] The parties are involved in family law proceedings, with a trial scheduled to commence on March 23, 2026. On August 5, 2025, the respondent filed an application seeking confirmation of arrears of child and spousal support, a fine against the applicant, a declaration that the adult children of the marriage continued to qualify for child support, and an order requiring the applicant to cooperate for the purpose of maintaining and preserving family property. The respondent alleged that the applicant was in arrears of child and spousal support in the amount of \$164,205.16. This calculation was based upon a consent order made March 14, 2019 that set spousal support of \$3,500 per month and child support of \$2,813 per month and an additional \$469 if the oldest daughter lived with the respondent full time.
- [3] In May and June 2025, prior to filing the application, Ms. Janzen, counsel for the respondent, contacted Mr. Cote, counsel for the applicant, seeking his available dates in July for the hearing. It was to be a long chambers matter. Mr. Cote advised he was not available in July but provided dates in September. There were several letters passing back and forth between counsel about this. On June 11, Ms. Janzen set the matter down for hearing on August 27, 2025, as she viewed the matter as urgent because the applicant had paid no support for a very long time. On June 12, Mr. Heller, Ms. Janzen's co-counsel, filed a case plan proposal with the BC Supreme Court, proposing that the matter be set down on the reserved date of August 27, 2025. They served this proposal on Mr. Cote. On June 13, 2025, Ms. Janzen, Mr. Heller, and Mr. Cote attended a case planning conference in the BC Supreme Court, where the scheduling issue was raised but no direction as to the date was given.
- [4] On August 5, 2025, Ms. Janzen served Mr. Cote with the application materials. Mr. Cote wrote again, advising Ms. Janzen he was not available on the August 27 date, and provided further dates in September. Ms. Janzen was not prepared to adjourn the application. Ms. Janzen's assistant made numerous calls to Vancouver and New Westminster scheduling but was not able to secure a date in September or October 2025. Mr. Cote wrote again to advise that he would send an articulated student to the hearing to seek an adjournment. Ms. Janzen's position was that if the court was inclined to grant an adjournment, she would seek terms that would include a peremptory appearance on a fixed date as well as financial terms. She did not specify what those financial terms would be.
- [5] On August 22, 2025, Mr. Cote sent some application materials to Ms. Janzen's office. Mr. Cote filed a response to the application on August 25, 2025.
- [6] When the application came on for hearing, the chambers judge granted the adjournment on the following terms: (a) the applicant was to make a payment of \$50,000 to the B.C. Family Maintenance Enforcement program by September 12, 2025; and (b) Ms. Janzen was entitled to book another day in long chambers on a date convenient to her regardless of Mr. Cote's availability, and the date was to be peremptory on Mr. Cote or his firm.
- [7] The applicant seeks leave to appeal the terms of this order. He says there was no basis that justified the financial condition or making Mr. Cote's attendance peremptory. Leave to appeal

- [8] The applicant suggests this appeal does not fit into any of the limited appeal orders defined in R. 11 of the Court of Appeal Rules, B.C. Reg. 120/2022 and may not require leave. My view is that the appeal is of an order granting an adjournment, which is a limited appeal order under R. 11(e). The fact that the applicant seeks to appeal only the terms or conditions on which the order was made does not change the nature of the order sought to be appealed. Leave is therefore required.
- [9] On an application for leave to appeal, the applicant must satisfy the Court on the following four criteria, which are well known and all considered under the rubric of the interests of justice:
- a) whether the point on appeal is of significance to the practice;
 - b) whether the point on appeal is of significance to the action itself;
 - c) whether the appeal is *prima facie* meritorious or, on the other hand, whether it is frivolous; and
 - d) whether the appeal will unduly hinder the progress of the action. *Goldman, Sachs & Co. v. Sessions*, 2000 BCCA 326 at para. 10 (Chambers); *Vancouver (City) v. Zhang*, 2007 BCCA 280 at para. 10 (Chambers). Significance to practice
- [10] The applicant submits this appeal is significant to the practice because the condition permitting opposing counsel to set the matter for hearing regardless of his counsel's availability interferes with his right to counsel of choice. He says there was no basis in fact for the judge to impose this condition since Mr. Cote had provided several alternative dates for the hearing that would have resulted in only a short delay.
- [11] The respondent submits that the highly fact-specific nature of this adjournment decision is not significant to the practice. She also submits this argument is premature, as a peremptory hearing is not a mandatory hearing and the court retains the discretion to grant a further adjournment having regard to all the circumstances at that time: see, for example, *J.A.T.P. v. H.M.*, 2024 BCSC 143. She says all the arguments the applicant seeks to make can be made at the hearing that has been scheduled. In any event, the issue will likely be moot by then as Mr. Cote is available to attend on the scheduled date.
- [12] Whether or not there was a proper basis for the judge to impose this condition in this case, I do not see the condition imposed to be an affront to a party's right to counsel of choice. I agree with the respondent that the judge's exercise of discretion regarding an adjournment and its terms is highly fact and case specific and not significant to the practice. I appreciate Mr. Cote's concern here, but the record does show that counsel for the respondent had difficulty securing a date for the application. Judges have considerable discretion in granting adjournments and crafting conditions for the purpose of moving a matter along. I also agree with the respondent that this issue is likely moot since counsel have succeeded in setting a mutually convenient date for this hearing on November 19, 2025. In my view, if there is any further delay, the circumstances would have to be assessed anew. Significance to the action

- [13] The applicant submits this appeal is significant to the action because the condition requiring him to pay \$50,000 for support arrears went to the merits of the application, and, in the circumstances, he was effectively deprived of the right to be heard on the merits.
- [14] He also says that the judge failed to take into account his ability to pay.
- [15] The respondent submits this appeal is not significant to the action because the judge has considerable discretion under the Supreme Court Family Rules, B.C. Reg. 169/2009 (Rules) to impose terms and conditions on orders that will further the object of the Rules. One of those objects is to conduct family law proceedings in ways that are proportionate to the interests of the child affected: R. 1-3(2). She equates this to the authority under the Supreme Court Civil Rules, B.C. Reg. 168/2009 to order an advance on a tort award, which requires that there is no possibility that the final assessment of damages would be less than the amount of the advance, citing *Barrie v British Columbia*, 2020 BCSC 2272 at para. 35. Given the amount of the applicant's current arrears, the respondent says there is no risk that the final assessment of arrears would be less than the \$50,000 ordered.
- [16] In the context of this case, where the calculation of the arrears is based upon a consent order, dated March 14, 2019, and there is no dispute that the applicant has paid only a very small amount of what would be owing under that order, it seems to me that the judge had ample information before him on which he could make that order.
- [17] I do not see this as significant to the action, in any event, mainly because this matter is set to be heard on its merits imminently and the applicant will have full opportunity to be heard either with respect to his ability to comply with the order or with respect to whether the order should be varied. In addition, there is no entered order in the materials. If there are relevant facts that were not brought to the attention of the judge, it remains open to the judge to reconsider the condition or for the applicant to apply to vary it. I cannot deal with the problems of scheduling in the court below and I certainly have sympathy with the parties about how that may be. But that is the proper way to address this kind of problem. These are all very fact-specific issues that, in my view, should be addressed within the litigation process in the trial court. Merits
- [18] An order adjourning an application is one of the most discretionary orders a judge can make. This Court is reluctant to grant leave to appeal discretionary orders. Although the merits threshold on a leave application is "relatively low", the applicant must show "an arguable case that the order is clearly wrong, a serious injustice will occur, or the discretion was exercised on a wrong principle or not exercised judicially". More generally, the applicant must identify "an arguable case of sufficient merit to warrant scrutiny by a division of the Court": *Dehydration Research LLC v. EnWave Corporation*, 2022 BCCA 347 at paras. 35-36, 54 (Chambers).
- [19] The applicant submits the judge made a palpable and overriding error in making the order because he failed to canvass the fact that Ms. Janzen had unilaterally set the matter down for hearing despite Mr. Cote's unavailability and Mr. Cote had cooperated and provided

alternative dates within a reasonable time. The applicant says the judge did not consider whether he had the capacity to make a \$50,000 payment, nor did the judge weigh the impact of his right to counsel of choice with the prejudice to the respondent of a short adjournment. The applicant submits this is a reviewable error. I do note that there is nothing before me from the applicant that says he cannot pay the \$50,000.

- [20] The respondent submits there is no merit to this appeal. She refers to the wide powers of a judge in making discretionary orders and the reluctance of this Court to interfere with such decisions. She submits the judge made no reviewable error as he considered the fairness of proceeding without counsel of choice and at least implicitly considered the scheduling discussions between counsel. Although the judge did not explicitly consider the applicant's ability to make the \$50,000 payment, the respondent points out that he did note that no application to reduce the support payments contained in the extant order had been made.
- [21] I do not see these issues raised by the applicant to present an arguable case with sufficient merit to warrant scrutiny by a division of this Court, in the context of the circumstances known to the judge. The application is now set to be heard on November 19, 2025. The applicant will have his counsel of choice. Any inequities arising from the conditions of the adjournment order can be addressed in the court below if necessary. Hindrance to the progress of the action
- [22] An appeal of this order may not hinder the progress of this action, but it would require further time and resources from both parties that would be better put towards resolving the substance of their family law dispute. The respondent characterizes this as a hopeless distraction draining her limited resources in the months before trial. Although I appreciate the applicant's concerns about the orders that were made, I do accept this as a fair description of what this appeal would entail. I see little point in this Court assessing a trial judge's exercise of discretion to adjourn an application of this nature and to impose terms specific to the parties.
- [23] Therefore, I conclude it is not in the interests of justice to grant leave to appeal.
- [24] The application is dismissed. [Discussion re: costs]
- [25] FISHER J.A.: I am not satisfied there is any information before me to consider reprehensible conduct. Costs will be in the ordinary course. "The Honourable Madam Justice Fisher"

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Prepared on 29 October 2026 · Esheria