

CANADA / JUDGMENT

Tafti v. Davis

2025 BCCA 317

COURT

British Columbia Court of Appeal

DECIDED

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2025 BCCA 317 Tafti v. Davis

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

Tafti v. Davis,

2025 BCCA 317

Date: 20250826

Docket: CA49705

Between:

Mehdi Alaei Tafti

Appellant

(Plaintiff)

And

Alan Davis, John Davies, and the Owners, Strata Plan LMS 1866

Respondents

(Defendants)

Before:

The Honourable Justice Iyer

(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated February 2, 2024 (Tafti v. Davis, 2024 BCSC 176, Vancouver Docket S175641).

Oral Reasons for Judgment

The Appellant, appearing in person:

M.A. Tafti

Counsel for the Respondents:

D.A. Farber

M. Li

Place and Date of Hearing:

Vancouver, British Columbia

August 26, 2025

Place and Date of Judgment:

Vancouver, British Columbia

August 26, 2025

Summary:

The appellant's appeal from a trial judgment dismissing his civil action against the respondents was placed on the inactive list, and his application to have it removed was dismissed. He filed an application to vary or cancel this order but did not file supporting material within the time limit. He now applies for an extension of time to file that material. The respondents oppose this application, and apply for an order under s. 22 declaring the proceedings vexatious and limiting the appellant's ability to bring further proceedings.

Held: Application for an extension of time dismissed; application under s. 22 allowed. The appellant has consistently shown an inability or unwillingness to comply with the Rules of the Court, including time limits. It is not in the interests of justice that he be granted an extension of time to pursue his application to vary. His conduct in the proceedings below and in this Court has caused significant prejudice and expense to the respondents. An order limiting his ability to continue or bring further proceedings against them or others in relation to this matter in this Court is appropriate.

IYER J.A.:

Introduction

[1] There are two applications before me. First, Mr. Tafti applies for an extension of time to file materials in support of his application to vary Justice Groberman's March 25, 2025 order refusing to remove his appeal from the inactive list. Second, the respondents, Alan Davis, John Davies and the Owners, Strata Plan LMS 1866, apply for a vexatious proceedings order under s. 22 of the Court of Appeal Act, S.B.C. 2021, c. 6.

Background

- [2] The underlying appeal is from Justice Crossin's order ("Crossin Order"), dismissing Mr. Tafti's civil action against the respondents with reasons indexed at 2024 BCSC 176 ("Trial Judgment").
- [3] The action originated as a Small Claims proceeding filed by Mr. Tafti against the respondents in 2015. At the time, Mr. Tafti owned a residential unit in the building referenced by Strata Plan LMS 1866, known as the Electra and located at 989 Nelson Street in Vancouver. Mr. Davis was the property manager and Mr. Davies was the owner of a commercial unit who held various governance positions with the Strata over the relevant time period. In his original claim, Mr. Tafti alleged Mr. Davis injured him during an altercation in May 2013 at Mr. Davis's office by closing a door on his foot. He sought damages for personal injury.
- [4] The claim was transferred to the Supreme Court in 2017. Mr. Tafti expanded his pleadings to allege widespread wrongdoing by the respondents and non-parties, including oppressive or unfair treatment under s. 164 of the Strata Property Act, S.B.C. 1998, c. 43 ("SPA").
- [5] The parties appeared before the court on numerous interlocutory applications, mostly related to Mr. Tafti's pleadings. The respondents succeeded in several applications to strike Mr. Tafti's pleadings. As described by Justice Newbury in reasons indexed at 2020 BCCA 363 at para. 16 (Chambers), Mr. Tafti filed "an avalanche of chambers applications directed at expanding [his] causes of actions to include every complaint that he has about the building in which he lives and its management by the defendant strata corporation."
- [6] Mr. Tafti sought leave to appeal these interlocutory orders on three occasions (CA45845, CA46901 and CA47104). He was unsuccessful each time, mostly for failing to comply with the Rules, including time limits.
- [7] The trial started in February 2022 and continued for 42 days, ending in September 2023. The trial judge commented that throughout the trial, Mr. Tafti sought to introduce evidence that was "marginally relevant at its highest" and "continued to have little regard for the many orders of the court that determined the parameters of the issues as defined by the pleadings": Trial Judgment para. 20.
- [8] In his lengthy reasons for judgment, issued on February 2, 2024, the trial judge described Mr. Tafti's claims as "a litany of grievances raised by the plaintiff over the course of many years, relating to his life" at the Electra: Trial Judgment para. 1. However, the two main issues were Mr. Tafti's claim in battery for the May 2013 altercation and his claim under s. 164 of the SPA.
- [9] With respect to battery, the trial judge found Mr. Tafti's evidence was "inconsistent, self-serving and steeped in a palpable bias directed toward Mr. Davis, Mr. Boulaine, and many others": Trial Judgment para. 114. The judge found that it was another employee, Mr. Boulaine, and not Mr. Davis, who had attempted to close the door when Mr. Tafti put his foot

in a position to prevent it from closing: Trial Judgment para. 113. He was not convinced Mr. Boulaine acted intentionally or deliberately, much less inflicted harm on Mr. Tafti: Trial Judgment para. 115.

- [10] With respect to s. 164 of the SPA, the trial judge found it hard to understand what Mr. Tafti's claims were or how his evidence supported them:
- [172] One of the challenges in addressing the claims of the plaintiff is that often it was unclear what aspects of his claims were being addressed by the plaintiff, at any given moment, in the course of providing his evidence. In addition, in the event the evidence could be linked to a particular complaint, it was often difficult to appreciate the connection between the complaint and a theory of liability connected to the defendants; as opposed to the residential section, or other individuals.
- [173] As well, the plaintiff had a most difficult time articulating his complaints in a way that was comprehensible. The testimony was often rambling and disjointed, interspersed with vitriol, notwithstanding attempts by the court to focus the plaintiff in order to understand how his evidence related to a particular complaint he had made against the defendants.
- [174] The final submissions of the plaintiff did not bring any clarity.
- [11] Mr. Tafti's complaints included the hiring of Mr. Davis as property manager, the respondents' and others' treatment of Mr. Tafti at Strata Council meetings and on other occasions, and the replacement of his air conditioning unit. The trial judge found the complaints could not give rise to a cause of action under s. 164 and were not supported by the evidence.
- [12] The trial judge concluded the following:
- [376] In addition [Mr. Tafti] revealed himself to be an unreliable historian of the events in issue. I also conclude in many respects the plaintiff was not credible. He views any slight, no matter how objectively trivial, as evidencing an unjustified intrusion into the operation of his free will; that in turn is perceived by him as a series of grave injustices perpetrated by the persons that interact with him in the building.
- [13] The Crossin Order dismissed all of Mr. Tafti's claims. Subsequently, Justice Weatherill ordered Mr. Tafti to pay double costs from March 12, 2020 onwards: 2025 BCSC 1101. Justice Weatherill also dismissed Mr. Tafti's application to reopen the trial: 2025 BCSC 1102.
- [14] Mr. Tafti filed a notice of appeal of the Crossin Order on March 4, 2024, within the time limit. He did not file any further materials and, on February 26, 2025, the respondents applied to have the appeal dismissed on that basis. Before that hearing could occur, the appeal was automatically placed on the inactive list because a year had passed since the notice of appeal was filed.

- [15] The respondent's dismissal application was scheduled for March 6, 2025. Justice Edelmann granted Mr. Tafti's adjournment request, and reset it for March 25, 2025.
- [16] On March 17, 2025, Mr. Tafti applied to have his appeal removed from the inactive list.
- [17] Justice Groberman heard both applications on March 25, 2025. He dismissed the appeal for failure to comply with the Rules ("Groberman Order"). In his reasons, he commented on the conduct of the litigation:
- [12] The respondents point out that the proceedings below have been exceedingly complicated. There has been a tendency to file prolix material, to relitigate matters that have already been determined, and generally to pursue this matter in a manner that is neither efficient, nor practical. The length of the hearing, the period it took to bring the matter to hearing, and the multiple interlocutory appeals, all indicate a fixation on a matter that is not likely to be dealt with in an efficient appeal process.
- [13] I am left with the distinct impression that all we have here is Mr. Tafti's fixation on the matter, and no reasonable prospect of the appeal proceeding in a timely manner. Added to that is the fact that he is seeking an indulgence of the Court to have the matter reinstated despite the lengthy delay, but he has not complied with the procedures in the past, and his ability to focus and bring reasonable materials to Court has not been evident.
- [18] Mr. Tafti applied to vary the Groberman Order on April 1, 2025. He did not comply with the time limits to file his materials. On August 7, 2025, he filed the present application seeking an extension of time to file those materials.
- [19] The respondents oppose his application and seek a vexatious proceedings declaration against Mr. Tafti based on his conduct of the litigation

Should the Extension of Time be Granted?

- [20] The factors governing an application for an extension of time to begin an appeal or apply for leave to appeal were set out in *Davies v. C.I.B.C.* (1987), 15 B.C.L.R. (2d) 256 at 259-260 (C.A.). They are:
- 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?
- [21] The same criteria apply with appropriate modifications to other time extension applications: *Barnes v. Letkeman*, 2016 BCCA 455 at para. 10 (Chambers).

- [22] The interests of justice is the overriding question. It includes the first four factors and other considerations, such as the interests of the parties and compliance with the Rules: *Clock Holdings Ltd. v. Braich*, 2009 BCCA 437 at paras. 23-24.
- [23] The materials Mr. Tafti has filed in the extension application before me are voluminous: the record is over 7,000 pages. It includes discovery transcripts from the matter below, correspondence between him and respondents' counsel about various interlocutory orders, documents that appear to be reports from the Vancouver police department, emails from non-parties, and his own transcription of portions of the trial and applications before this Court. Very little of it relates directly to his application for an extension of time to apply to vary the Groberman Order.
- [24] Mr. Tafti also filed an argument of over 100 pages. In it, he reargues his claims at trial and adds further claims of wrongdoing. He accuses the respondents of fraud and their witnesses of perjury.
- [25] As I have mentioned, Mr. Tafti's conduct of the appeal of the Crossin Order has been fraught with delay.
- [26] It is apparent from Mr. Tafti's oral submissions that he finds it difficult to distinguish between the issues in the present time extension application and the injustices for which he perceives the respondents are responsible, including their conduct in all court proceedings arising from the original dispute.
- [27] In the context of the time extension application, I understand Mr. Tafti to be saying the respondents' conduct has caused him significant health problems and financial hardship that prevented him from moving his appeal forward. I do not accept this submission. The conduct of the litigation demonstrates it is Mr. Tafti who has consistently had difficulty articulating his complaints as legal claims and complying with procedural requirements.
- [28] In any case, the personal hardship of an appellant justifies an extension of time if it adequately explains the delay, and if there is a realistic possibility they will be able to pursue the appeal: see *Mead v. Mead*, 2021 BCCA 66 at para. 9 (Chambers); *Boe v. Murphy*, 2013 BCCA 498 at para. 43 (Chambers).
- [29] The prejudice to the respondents in this case is very high. The litigation relates to an event that occurred over 12 years ago. Mr. Tafti's difficulties in formulating his claims meant it took more than six years to get to trial. Since the conclusion of the trial, Mr. Tafti has repeatedly sought to reopen it. The respondents' interest in certainty and finality is compelling.

- [30] With respect to the merits, I asked Mr. Tafti to identify what reviewable errors he considers Justice Groberman made. He referred to paras. 5, 8, and 10 of the reasons, as well as paras. 11 and 13. However, Mr. Tafti did not identify reviewable errors in most of these paragraphs. To the extent he said they contain errors, those errors are premised on acceptance of Mr. Tafti's position at trial.
- [31] For example, he took issue with Justice Groberman's connection of fraud to credibility assessment at para. 5: "By 'fraud', he seems to mean that credibility was found against him, and he wishes to show that it should not have been." Mr. Tafti submitted that what he admitted was his position that there had been a fraud on the court had nothing to do with the court's assessment of his credibility.
- [32] The merits threshold is low: the applicant need only demonstrate the appeal -- in this case, the application to vary -- is not devoid of all merit. The Court considers the standard of review in this assessment. Justice Groberman accepted that Mr. Tafti's appeal satisfies the merits threshold. Mr. Tafti was unable to identify any errors that would give his variation application any prospect of success. Nor do I see any.
- [33] With respect to the interests of justice, I understand Mr. Tafti to be saying that his failure to meet multiple filing deadlines will not recur because most of his material is ready, and the fault for the delays to date lies with the respondents. He says that he and other members of the residential strata section are owed money and that a division of this Court has never adjudicated on the substance of his arguments.
- [34] I accept Mr. Tafti genuinely believes that he can progress with the underlying appeal and that his underlying claim has merit. I agree that adjudication of the merits of an appeal is an important consideration in the interests of justice analysis, including in an application such as this.
- [35] However, despite Mr. Tafti's intentions, the record demonstrates that he is unable to conduct the present appeal in compliance with the Rules. That creates unfairness to the respondents and it consumes excessive court resources. Considering all of the Davies criteria, I conclude that it is not in the interests of justice to grant Mr. Tafti's application to extend the time to file material in support of his application to vary the Groberman Order.
- [36] Accordingly, Mr. Tafti's appeal of the Crossin Order remains dismissed as abandoned.

Should a Vexatious Proceedings Order be Granted?

[37] Section 22 of the Court of Appeal Act provides:

22 (1) If the court or a justice is satisfied that a person has habitually, persistently and without reasonable cause commenced or continued vexatious proceedings in any of the courts of British Columbia, the court or justice may order that the person must not bring or continue an appeal or application for leave to appeal in the court without leave of the court or a justice.

- (2) The court or a justice may make an order under subsection (1)
 - (a) on application by any person or on the court or justice's own initiative, and
 - (b) only if the person referred to in subsection (1) has been given an opportunity to make written submissions or otherwise be heard.
 - (3) In making an order under subsection (1), the court may dismiss an appeal or application for leave to appeal previously brought to the court by the person.
 - (4) If a justice makes an order under subsection (1),
 - (a) the justice may refer the matter to the court, and
 - (b) the court may, without receiving further written submissions or holding a further hearing, dismiss an appeal or application for leave to appeal previously brought to the court by the person.
 - (5) In dismissing an appeal or application for leave to appeal under subsection (3) or (4), the court may impose terms and conditions, including the payment of costs.
- [38] The purpose of this section is to prevent abuses of the Court's process "by repetitive unmeritorious proceedings that needlessly expend judicial resources and cause unnecessary expense to other parties": *Arvanitis v. Slater Vecchio LLP*, 2022 BCCA 326 at para. 43. An order under this section should not be made lightly, as "the power to limit access to the courts is one to be used sparingly and only in the clearest of cases": *Houweling Nurseries Ltd. v. Houweling*, 2010 BCCA 315 at para. 44.
- [39] While commonly called a "vexatious litigant order", the order is not about the person, it is about the nature of the proceedings: As stated by Justice Dickson in *Cinnabar Brown Holdings Ltd. v. Sherwood* (24 November 2022), Vancouver CA48560 (B.C.C.A.) (Chambers) at para. 52:

The term "vexatious" does not describe the litigant's personality. Rather, it speaks to the nature and quality of a case the courts should no longer be burdened with, including cases in which an issue has already been determined by a court of competent jurisdiction.

See also *Parihar v. Royal Bank of Canada*, 2024 BCCA 368 at para. 62.

- [40] Such an order is not confined to situations where a litigant has commenced multiple actions; it may also be made where a litigant has made multiple applications and appeals in relation to one original proceeding: *Parihar*.
- [41] In *Lindsay v. Canada (Attorney General)*, 2005 BCCA 594 at para. 25, this Court set out a non-exhaustive list of factors governing applications under s. 22(1):
- (a) the bringing of one or more actions to determine an issue which has already been determined by a court of competent jurisdiction constitutes a vexatious proceeding;

- (b) where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief, the action is vexatious;
 - (c) vexatious actions include those brought for an improper purpose, including the harassment and oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;
 - (d) it is a general characteristic of vexatious proceedings that grounds and issues raised tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;
 - (e) in determining whether proceedings are vexatious, the court must look at the whole history of the matter and not just whether there was originally a good cause of action;
 - (f) the failure of the person instituting the proceedings to pay the costs of unsuccessful proceedings is one factor to be considered in determining whether proceedings are vexatious;
 - (g) the respondent's conduct in persistently taking unsuccessful appeals from judicial decisions can be considered vexatious conduct of legal proceedings.
- [42] The ultimate question is whether the litigant has taken themselves over the line: *Lindsay* at para. 26.
- [43] The respondents submit Mr. Tafti's conduct of the litigation bears all the hallmarks of vexatious proceedings. I agree.
- [44] After the trial judgment was issued, Mr. Tafti applied for 10 orders in the Supreme Court, seeking to reopen the trial. His notice of application was 28 pages long with 204 footnotes. It did not comply with the Supreme Court Civil Rules, and the trial judge declined to hear it. Mr. Tafti filed another application seeking the same relief, and more, to which he attached all 35 affidavits he had filed in previous Supreme Court applications. This application was also dismissed. Mr. Tafti has not paid many of the costs orders made against him.
- [45] In this Court, Mr. Tafti has repeatedly failed to comply with the Rules and has filed voluminous materials seeking to introduce new claims despite multiple warnings to focus on the issue before the Court: see, for example, 2020 BCCA 363 at paras. 1, 16; 2021 BCCA 146 at paras. 30-33. He continues to file voluminous and incomprehensible materials, costing the defendants significant legal expense to respond to his many applications and appeals. He has, on multiple occasions, made unsubstantiated allegations of fraud, abusive conduct, and bad faith against the respondents, and their counsel, including in the hearing today.

- [46] In his response to the respondents' application, Mr. Tafti reiterates and adds to his claims of wrongdoing by the respondents. He says they are engaged in fraud and have misrepresented the facts and the law to this Court. These are very serious allegations. Consistent with his position throughout the litigation, Mr. Tafti says the respondents' blameworthy conduct necessitated his many applications.
- [47] Mr. Tafti has persisted in seeking adjudication of claims that were not before the trial court because they had been stuck from his notice of civil claim. The respondents pointed to one example: the AEGBC claim. I do not agree with Mr. Tafti's response that this claim was not struck. My review of the material he has filed in his time extension application shows it is replete with extraneous, irrelevant and improper material. I agree with the respondents that Mr. Tafti appears to be expanding his claims on appeal, not narrowing them.
- [48] Notably, in his response submission to the present application, Mr. Tafti seeks new orders beyond the scope of the present application. Those orders include: a stay of execution of the two decisions of Justice Weatherill to which I have referred, leave to appeal other orders, leave to have the appeals of the Crossin Order and his recently commenced appeal of Justice Weatherill's orders (CA50747) heard together. He seeks an exception to the Rules regarding filing of digital material and leave to extend the time to file an appeal record, as well as costs.
- [49] Mr. Tafti's conduct of the litigation takes him well over the line described in Lindsay. Not only has it caused considerable hardship for the respondents, it has also consumed an unwarranted amount of court time in this Court as well as in the Supreme Court. Bearing in mind the extraordinary nature of such orders, I am satisfied a vexatious proceedings order is warranted in this case.
- [50] An appropriate order must be tailored to the circumstances. Such orders are often approached in a staged manner, with the hope that initial restrictions will modify the conduct of the litigant, and greater restrictions imposed only if the earlier restrictions have not been successful: *Parihar* at para. 81.
- [51] Here, the vexatious proceedings relate to one action and subject matter. I am hopeful that in imposing the following restrictions, further restrictions on Mr. Tafti's access to the courts will be unnecessary.

Disposition

- [52] I dismiss Mr. Tafti's application for an extension of time.
- [53] Pursuant to section 22(1) of the Court of Appeal Act, I declare that Mr. Mehdi Alaei Tafti has habitually, persistently and without reasonable cause commenced and continued vexatious proceedings, and impose on him the following terms and conditions respecting his access to this Court:

- a) It is ordered that Mr. Mehdi Alaei Tafti, or any person acting on his behalf, is barred from commencing any proceedings in this Court without leave of the Court or a justice that are in any way connected to the operation of the condominium building at 989 Nelson Street.
- b) As an exception to the above term, Mr. Tafti may commence a proceeding in this Court without leave of the Court or a justice if his document commencing the proceeding is signed by a member in good standing of the Law Society of British Columbia and is otherwise in accord with the Court of Appeal Rules for commencing a proceeding in this Court;
- c) Any application pursuant to (a) above seeking leave to commence legal proceedings in this Court:
 - i) must be accompanied by a written argument that is no longer than five pages and that identifies the order sought to be appealed and the grounds of appeal;
 - ii) must be accompanied by the entered court order from which he seeks to appeal, or if no order has been entered, Mr. Tafti must, in his written argument, describe the steps taken to obtain an entered order; and
 - iii) must be served on counsel for the respondent.

"The Honourable Justice Iyer"

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