

**IN THE COURT OF APPEAL OF MANITOBA**

**BETWEEN:**

<b>5448124 MANITOBA LTD.</b>	)	<b>R. Knight</b>
	)	<i>on behalf of the Applicant</i>
	)	
	)	<b>M. Ayoub</b>
<i>(Plaintiff) (Appellant) Applicant</i>	)	<i>for the Respondent</i>
	)	<i>Cameron Stephens</i>
	)	<i>Financial Corporation</i>
<i>- and -</i>	)	
	)	<b>T. K. Reimer</b>
	)	<i>for the Respondent</i>
<b>CAMERON STEPHENS FINANCIAL CORPORATION and PETER GINAKES</b>	)	<i>Peter Ginakes</i>
	)	
	)	<i>Chambers motion heard:</i>
<i>(Defendants) (Respondents) Respondents</i>	)	<b>May 29, 2025</b>
	)	
	)	<i>Decision pronounced:</i>
	)	<b>June 10, 2025</b>

**TURNER JA**

**Introduction**

[1] The plaintiff (544) applies for an extension of time to file a notice of appeal of a decision that Russell Knight (Mr. Knight) cannot represent 544 in the appeal in File No. AI24-30-10145 (see *5448124 Manitoba Ltd v Cameron Stephens Financial Corporation*, 2025 MBCA 32 [the *representation decision*]).

## Background

[2] The background facts were thoroughly reviewed in the *representation decision*; therefore, I will not repeat them here except to say that Mr. Knight is a director and shareholder of 544.

[3] The chambers judge, after considering the evidence and weighing all of the factors, was not satisfied that Mr. Knight could properly advise 544 or conduct the appeal on its behalf. The order that resulted from the *representation decision* provided, among other things, that:

- the motion by 544 seeking leave for Mr. Knight to represent 544 was dismissed;
- no further court document could be filed on behalf of 544 until it retained counsel; and
- 544 would have until May 8, 2025, to retain a lawyer and that lawyer would immediately advise the Court of Appeal Registry that they are acting, failing which the appeal would be deemed abandoned.

[4] I note that 544 never applied to have the *representation decision* stayed.

## The Parties' Positions

[5] Mr. Knight submits that he should be allowed to proceed with 544's application for an extension of time to appeal, despite the fact that he is not a lawyer and 544 has not retained a lawyer to represent it.

[6] The defendants submit that the issue is moot since the appeal in File No. AI24-30-10145 was deemed abandoned as a result of 544 not retaining counsel by May 8, 2025.

### Analysis

[7] Mootness is part of a general policy that a court may decline to decide a case or an issue that raises merely a hypothetical or abstract question and where the decision would have no practical effect on the rights of the parties (see *Borowski v Canada (Attorney General)*, [1989] 1 SCR 342 at 353, 1989 CanLII 123 (SCC)).

[8] I understand Mr. Knight's position that he is in a Catch-22. He asks, why should 544 have to retain a lawyer when the issue he is trying to appeal is the *representation decision* that requires 544 to retain a lawyer?

[9] A similar situation arose in *7602678 Manitoba Ltd v 6399500 Manitoba Ltd*, 2025 MBCA 24, where a suspended lawyer sought to represent the plaintiff corporation (760). When the Chief Justice denied that request, the suspended lawyer sought to appeal. Justice Spivak wrote at para 21:

[F]or 760 to take any further steps in . . . appealing the Chief Justice's order that prohibited Mr. Jhanji from representing 760 in this Court, it requires a lawyer to do so on its behalf. 760 did not retain a lawyer to seek a stay, extend the time to appeal or file an appeal of the Chief Justice's order. Therefore, it remains that the issue of the representation of 760 concerns an action that has been extinguished and is accordingly moot.

[10] In the case at bar, 544 did not retain a lawyer to (a) seek a stay of the *representation decision*, (b) seek an extension of time to appeal the

*representation decision*, or (c) appeal the *representation decision*. It did not retain a lawyer by May 8, 2025, as required by the *representation decision*, or even by the time this matter was argued before me. As a result, the appeal in File No. AI24-30-10145 was deemed abandoned. Therefore, since there is no longer an active appeal for which 544 needs representation, the issue is moot.

[11] Mr. Knight also raised issues regarding the timing of when he had to file his appeal of the *representation decision* and the criteria to be met to be granted an extension of time to appeal. Given my decision regarding the mootness of the issue, there is no need to comment on those issues.

### Conclusion

[12] For the foregoing reasons, the application for an extension of time to appeal is denied. To be clear, no court documents shall be filed on behalf of 544 on this or any other Court of Appeal file, unless 544 retains a lawyer to do so and that lawyer undertakes to appear at further hearings before the Court of Appeal.

[13] The defendants are entitled to tariff costs.

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JA