

In the Court of Appeal of Alberta

Citation: Wang v Alberta Health Services, 2025 ABCA 288

Date: 20250819
Docket: 2501-0180AC
Registry: Calgary

Between:

Xiaoli Lily Wang and Daiming Robert Li

Applicants

- and -

Alberta Health Services

Respondent

**Reasons for Decision of
The Honourable Justice Alice Woolley**

Application for Permission to Appeal

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[1] The applicants Xiaoli Lily Wang and Daiming Robert Li seek permission to appeal the decision granting their appeal of an assessment officer’s decision certifying the bill of costs submitted by the respondent Alberta Health Services: *Wang et al v Alberta Health Services*, 2025 ABKB 328 [*Wang*].

[2] In June 2016, costs were awarded on an indemnity basis against the applicants in favour of the respondent. In June 2019, an assessment officer certified the costs payable by the applicants to be as set out in a bill of costs prepared by the respondent. In July 2019, the applicants filed an appeal of the assessment officer’s decision pursuant to Rule 10.44 of the *Alberta Rules of Court*, Alta Reg 124/2010. The hearing of that appeal was delayed for various reasons.

[3] On May 29, 2024, a case conference judge issued a procedural order directing the appeal to proceed with respect to two issues: a) whether the applicants should have been provided with names of the people performing the legal work identified in the bill of costs; and b) whether they should have been provided details of the work performed.

[4] By reasons issued May 28, 2025, the chambers judge found largely in favour of the applicants on both issues, directing the respondent to provide: a) for each person whose time was included on the bill of costs, their initials, working title and position, year of call or years in the profession, role and expertise, and billing rate; and b) a description of the work done in “sufficient detail to enable the [applicants] to make an informed assessment of their potential obligation and to ensure procedural fairness”: *Wang* at paras 65, 68. Subject to these directions, the bill of costs was remitted to a different assessment officer for review with the disclosure to be provided “no later than 60 days prior to the rescheduled assessment hearing”: *Wang* at para 69.

[5] The applicants seek permission to appeal the decision of the chambers judge, asserting that the chambers judge made speculative and unsupported statements in his reasons, failed to address allegations that former counsel for the respondent had conducted himself improperly, and should have directed the disclosure to be provided sooner.

[6] Permission to appeal is required because the decision at issue is a decision “of the Court of King’s Bench sitting as an appeal court under rule... 10.44”: *Alberta Rules of Court*, Rule 14.5(1) (i). The test for permission to appeal considers, in part, the merits of the appeal, in this case, whether there “is a reasonable chance of success on appeal”: *Bertram Family Trust v Felesky Flynn LLP*, 2025 ABCA 54 at para 41.

[7] The applicants’ appeal has no reasonable chance of success.

[8] The chambers judge substantially found in the applicants' favour on each of the two issues the procedural order had directed him to consider. Leave was neither sought nor granted to raise additional issues. Specifically, the chambers judge directed the respondent to provide the applicants with additional information regarding the lawyers who worked on the file, their billing rates and the work for which they billed. The chambers judge then granted the applicants a new hearing before an assessment officer. He said that the conduct of former counsel for the respondent as it relates to the bill of costs fell within the jurisdiction of the assessment officer in that proceeding: *Wang* at para 60.

[9] As a result, the substantive relief sought by the applicants on appeal is largely relief they have already been granted, or depends on the future decision of the assessment officer, which has yet to be made. A party cannot appeal to obtain that which the court below already ordered, or with respect to a determination which has not yet been made.

[10] A party also cannot appeal to have this Court edit or correct specific comments made by the judge in his reasons. An appeal is from the order, not the reasons for the order: *Weidenfeld v Alberta (Minister for Seniors and Housing)*, 2023 ABCA 14 at para 4; *PricewaterhouseCoopers Inc v Perpetual Energy Inc*, 2020 ABCA 254 at para 19; *Elizabeth Metis Settlement v Metis Settlements General Council*, 2004 ABCA 39 at para 1; *Kerk-Courtney v Security National Insurance Company (TD General Insurance Company)*, 2024 ONCA 676 at para 24; *Chippewas of Saugeen First Nation v South Bruce Peninsula (Town)*, 2024 ONCA 884 at para 167. Moreover, there is no arguable case that the comments identified give rise to a reasonable apprehension of bias.

[11] The applicants explained in oral argument that they sought permission to appeal the chambers judge's comments because they did not want anyone to be able to suggest that, by not doing so, they had acceded to the chambers judge's characterization of their conduct. This concern was not well founded and is not a basis for permission to appeal to be granted.

[12] Finally, although the applicants might prefer to receive the directed disclosure sooner than "60 days prior to the rescheduled assessment hearing", there is no basis for this Court to interfere with that scheduling direction. Counsel for the respondent advised the Court that he would work with the applicants to schedule the assessment hearing, and that the respondent was preparing the required disclosure.

[13] The application for permission to appeal is dismissed. The respondent did not request costs, and no costs are ordered.

[14] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order.

Application heard on August 14, 2025

Reasons filed at Calgary, Alberta
this 19th day of August, 2025

Woolley J.A.

Appearances:

Applicant X. L. Wang
Applicant D. R. Li

S.M. Torscher
for the Respondent