COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Laliberté v. Québec Revenue Agency,* 2025 BCCA 406

Date: 20251117
Docket: CA50836

Between:

Benoit Laliberté

Appellant
(Petitioner)

And

Québec Revenue Agency

Respondent
(Respondent)

Before: The Honourable Mr. Justice Groberman
The Honourable Justice Edelmann
The Honourable Justice Warren

On application to vary: An order of the Court of Appeal for British Columbia, dated October 7, 2025 (*Laliberté v. Québec Revenue Agency*, 2025 BCCA 372, Vancouver Docket CA50836).

Oral Reasons for Judgment

The Appellant, appearing in person (via videoconference):	B. Laliberté
Counsel for the Respondent (via videoconference):	S.D. Pinsonnault É. Labbé
Place and Date of Hearing:	Vancouver, British Columbia November 13, 2025
Place and Date of Judgment:	Vancouver, British Columbia November 17, 2025

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Summary:

The applicant's application for leave to appeal was denied by a chambers judge. He seeks to vary the order under s. 29 of the Court of Appeal Act.

Held: Application to vary dismissed. The judge made no error in her approach to the leave application and exercised her discretion judicially.

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[1] **GROBERMAN J.A.**: This is an application under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, to vary an order of a judge in chambers denying leave to appeal a matter. The underlying matter arose out of proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "*CCAA*").

[2] The chambers judge set out the considerations that apply to a leave application, citing from para. 10 of *Goldman, Sachs & Co. v. Sessions*, 2000 BCCA 326 (chambers). With the interests of justice being an overriding consideration, the four factors to be taken into account are as follows:

a) whether the point on appeal is of significance to the practice;

b) whether the point raised 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.

[3] The judge considered that the proposed appeal lacked *prima facie* merit and based her decision primarily on that factor. She also considered the significance of the proposed appeal to *CCAA* practice, finding that the facts of the proposed appeal were unique, and that it was unlikely, in the circumstances to have broad public importance or precedential value. She also noted that the *CCAA* proceedings had long since concluded. The issues on appeal, therefore, while undoubtedly of significance to Mr. Laliberté, could have no importance to the underlying proceedings. By the same token, of course, granting leave to appeal could not hinder the progress of the action.

[4] Mr. Laliberté's arguments on this variation application are broad-ranging, effectively repeating arguments made in the Supreme Court and in chambers. The linchpin of his argument, however, is the contention that the chambers judge erred in finding the appeal to be meritless.

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History of the Proceedings

[5] Mr. Laliberté was the operating mind of several companies that sold telephone and telecommunications services in Canada. Together, the companies are referred to as the "TNW group". Four companies in the TNW group were subject to proceedings under the *CCAA*, and between November 25, 2016 and February 1, 2021, British Columbia Supreme Court orders in the proceedings stayed actions against those companies and prohibited the bringing of new actions against them.

[6] The stay provisions also prevented proceedings from being commenced or continued against directors or officers of the four companies "with respect to any claim against [them] … that relates to any obligations of the [companies] whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations."

[7] On May 8, 2018, the Agence du revenu du Québec (the respondent in this proceeding) commenced quasi-criminal proceedings against Mr. Laliberté under the *Tax Administration Act*, CQLR, c. A-6.002, in respect of his activities with four other companies affiliated with the TNW group. The proceedings were protracted, with delays attributable to the COVID-19 pandemic. The trial did not commence until 2024.

[8] In reasons pronounced December 3, 2024, the Cour du Québec found Mr. Laliberté guilty on all eight counts against him. Among the contentions advanced to the court by Mr. Laliberté was the argument that he now wishes to raise in this Court—that the proceedings against him were improperly commenced because they violated the terms of the British Columbia Supreme Court order in the *CCAA* proceedings.

[9] In comprehensive reasons, the Cour du Québec dismissed the argument (*Agence du revenu du Québec c. Laliberté*, 2024 QCCQ 7102 at paras. 221–241). It held that the *CCAA* order did not apply to quasi-criminal proceedings.

[10] Mr. Laliberté has appealed the decision to the Cour supérieure du Québec, but advises that he does not intend to raise the issue of the *CCAA* stay on that appeal.

[11] The current British Columbia proceedings are a collateral attack on the Québec proceedings. They seek a number of declarations that would rule that the quasi-criminal proceedings have proceeded in contravention of the *CCAA* order. The judge who heard that matter described the application as one seeking to set aside the judgment of the Cour du Québec; while the judge's description was not technically correct, he did not misapprehend the ultimate goal of the application, which was to attack the quasi-criminal proceedings.

[12] The issuance of declaratory judgments is discretionary. In light of the considered decision of the Cour du Québec and the availability of an appeal route from it through the Québec appellate courts, it seems to me inconceivable that the British Columbia Supreme Court would exercise discretion to grant the declarations sought. Nonetheless, as that was not the basis upon which the British Columbia Supreme Court dismissed Mr. Laliberté's application, I will say no more about the discretionary aspects of declaratory relief.

[13] In oral reasons reported as *8640025 Canada Inc. (Re)*, 2025 BCSC 1268, Justice Coval agreed with the conclusion of the Cour du Québec that the *CCAA* order did not apply to penal proceedings, and so never could have precluded the bringing of quasi-criminal charges against Mr. Laliberté. He also gave two other reasons for rejecting Mr. Laliberté's application:

1. The stay order had long expired before the commencement of Mr. Laliberté's trial;

2. The stay never applied to Mr. Laliberté in respect of his actions as a guiding mind of the four companies named in the penal proceedings, which were not companies affected by the *CCAA* stay order. Further,

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> the *CCAA* proceedings "drew a clear line" between the parties to that petition and the other members of the TNW group.

[14] Mr. Laliberté's application for leave to appeal was dismissed by Justice Dickson, in chambers (*Laliberté v. Québec Revenue Agency*, 2025 BCCA 372). This is an application by Mr. Laliberté to vary that decision. He asks the Court to grant leave to appeal.

Disposition

[15] Mr. Laliberté has not persuaded me that there is any merit whatsoever to his argument that the *CCAA* order precluded the laying of quasi-criminal charges under the *Tax Administration Act*. Essentially for the reasons given by the Cour du Québec, the British Columbia Supreme Court, and the chambers judge, I agree that the case is devoid of merit.

[16] The *CCAA* stay order was made under the authority of s. 11.02 of that *Act*. Section 11.03 of the statute allows a court to prohibit the commencement or continuation of actions against a director of a company "that relates to the obligations of the company", and the order made by the British Columbia Supreme Court includes language imposing such a restriction. The Québec Revenue Agency says that Mr. Laliberté was not prosecuted as a director of any of the companies. Mr. Laliberté responds that though he may not have been pursued as a director he was characterized as the "operating mind" of the companies and he can, as a result, take advantage of the s. 11.03 restriction.

[17] Section 11.1 of the *CCAA* is, in my opinion, a complete answer to Mr. Laliberté's argument that the *CCAA* stay order precluded the bringing of quasi-criminal charges against him:

> 11.1 (1) In this section, *regulatory body* means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province and includes a person or body that is prescribed to be a regulatory body for the purpose of this Act.
>
> (2) … [N]o order made under section 11.02 affects a regulatory body's investigation in respect of the debtor company or an action, suit or

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> proceeding that is taken in respect of the company by or before the regulatory body, other than the enforcement of a payment ordered by the regulatory body or the court.

[18] To the extent that the quasi-criminal proceeding against Mr. Laliberté could be said to fall within the *CCAA* stay order's ambit at all, it was clearly a "proceeding … taken in respect of [a] company by … the regulatory body". Accordingly, the stay order could not affect the proceeding, except insofar as the enforcement of payment is concerned. As the stay expired long before the issue of enforcement of payment could arise, it simply could not affect the proceedings in Québec.

[19] I therefore see no merit in the proposed appeal even if, contrary to some of the other findings in the case, the *CCAA* stay order was relevant to the proceedings against Mr. Laliberté.

[20] I also see no basis for interfering with Justice Dickson's exercise of discretion in denying leave. The case is of very limited importance, particularly as the *CCAA* proceedings terminated long ago.

[21] There is no basis upon which this Court could properly vary the order of the chambers judge. Accordingly, I would dismiss the application and confirm the denial of leave to appeal.

[22] **EDELMANN J.A.**: I agree.

[23] **WARREN J.A.**: I agree.

[24] **GROBERMAN J.A.**: The application is dismissed and this Court confirms the denial of leave to appeal.

"The Honourable Mr. Justice Groberman"

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