IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Taylor v. British Columbia,* 2026 BCSC 87

Date: 20260119
Docket: S192747
Registry: Victoria

Between:

Wendy-Lou Taylor

Plaintiff

And:

His Majesty the King in Right of British Columbia

Defendant

Before: The Honourable Justice LeBlanc

Reasons for Judgment re: Disqualification

Counsel for the Plaintiff:	J. M. Hutchison, K.C.
Counsel for the Defendant:	L. J. Zivot J. C. Fu
Place and Date of Hearing:	Victoria, B.C. January 12, 2026
Place and Date of Judgment:	Victoria, B.C. January 19, 2026

Introduction

[1] Upon learning that I had been assigned as the trial judge, the plaintiff made an informal request delivered through the Supreme Court Scheduling office that I consider recusing myself. At a trial management conference, I declined the plaintiff's request and advised her that she could file a formal notice of application that could be heard at the commencement of the trial. The plaintiff filed a notice of application seeking that I withdraw as the hearing judge, and I heard the application on the first day scheduled for the trial.

[2] An application for disqualification is to be decided by the judge to whom the application is directed.

[3] After receiving submissions from the parties, I dismissed the plaintiff's application and advised that my reasons would follow. These are my reasons.

Background

[4] In this action, the plaintiff seeks damages for wrongful dismissal, aggravated damages, breach of good faith damages, indemnification for legal expenses, punitive damages, and costs. The plaintiff's claim arises out of her June 29, 2017, without cause termination from her employment as a civil servant with the defendant, His Majesty the King in Right of British Columbia ("HMTK"). Prior to her termination, the plaintiff was an investigator tasked with investigating management and use of private information records within the Ministry of Health. That investigation received wide public attention and resulted in the British Columbia Ombudsperson releasing a report entitled "Misfire: The 2012 Ministry of Health Employment Terminations and Related Matters".

[5] On January 8, 2026, the plaintiff was informed that I was the assigned trial judge.

[6] On January 9, 2026, I received email correspondence from Mr. Hutchison, K.C., on the plaintiff's behalf, delivered through the Supreme Court Scheduling office

asking that I consider recusing myself. I have reproduced below the reasons provided by Mr. Hutchison for seeking my recusal:

> The circumstances that have caused my client's concern are as follows:
>
> 1. When Justice LeBlanc was elevated to the bench in November 2024, she was senior counsel representing the Provincial Government agency, B.C. Housing, as plaintiff in a case that has been the subject of a fair degree of media attention before the Court.
> 2. The matter is case no. 222380, British Columbia Housing Management Corporation v. Yu.
> 3. That case has not concluded, remains active before the Court, and the firm in which Justice LeBlanc had been a principal at the time of her judicial appointment a single year ago continues to represent the Provincial Government agency as it proceeds.
> 4. I was at all times and remain opposing counsel for the defendant in that matter, which has been strongly defended, including making successful application to strike out portion of the Justice's pleadings.
> 5. The relatively short period since the appointment of Justice LeBlanc, in these unusual circumstances, has raised considerable concern on the part of my client, which I cannot simply dismiss, so she has instructed me to raise it now.
> 6. My client clearly understands and accepts that this could well and probably does mean that her case cannot proceed as scheduled on Monday, but her concern outweighs that.

[7] I invited the parties to attend a trial management conference at 1:30 p.m. on January 9, 2026, to hear the concerns raised by the plaintiff. After hearing from counsel, I declined to recuse myself and advised the plaintiff that a formal notice of application for disqualification could be made at the commencement of the trial. I stood down the trial management conference until 4:00 p.m., at which time, the plaintiff advised that she would bring an application. I made orders for the delivery of application materials over the weekend.

[8] Application materials were exchanged over the weekend. New and expanded concerns were raised by the plaintiff, including my past involvement with the University of Victoria (the "University") and my former law practice.

[9] When the trial commenced on January 12, 2026, I made the following disclosures to the parties before hearing the plaintiff's disqualification application:

a) I served as a Governor of the University between 2012 and 2017, and while serving in that role, the matters that are the substance of this claim were not brought to my attention, and I had no knowledge of them prior to reading the pleadings over the weekend.

b) The memorial scholarship referenced in the affidavit materials was not a matter of which I had direct knowledge while serving as a Governor, although I accepted that it may have been referenced in the financial statements that were approved by the University board; however, having no current knowledge, I do not know.

c) At the time of my appointment to this Court:

i) I was a director of UVic Properties and UVic Heritage Properties, two companies incorporated pursuant to the *Business Corporations Act* that are legally distinct from the University;

ii) I was serving as a director of the BC Scholarship Society, a society that approves scholarships for university and graduate students;

iii) I was serving as second vice president of the Law Society of British Columbia; and

iv) I was one of the four representatives of the Law Society of British Columbia on the Legal Professions Act Transitional Board and had attended one meeting; and

I resigned from these roles at the time of my appointment.

[10] During the hearing, I also disclosed to the parties that I did not act for HMTK, and I was unaware of my former firm having acted for HMTK for at least five years prior to my appointment to this Court.

Position of the Plaintiff

[11] The plaintiff submits that she does not seek my disqualification based on actual bias. The plaintiff seeks my disqualification based on a reasonable apprehension of bias and directs my attention to:

a) my role as legal counsel for British Columbia Housing Management Commission ("BCHMC") prior to appointment to this Court;

b) an alleged strong connection with HMTK through my work as a lawyer; and

c) my prior relationship with the University.

[12] With respect to BCHMC, the plaintiff recognizes that it is a separate Crown corporation, distinct from HMTK. However, the plaintiff argues the reasonable person would not perceive BCHMC as being distinct from HMTK, and that an appropriate cooling off period is required before I can preside over cases involving HMTK, Crown corporations, and the Crown counsel's office.

[13] The plaintiff submits that bad faith allegations arise in the BCHMC litigation and in this litigation, which suggests that I would be unconsciously biased to HMTK's position in this litigation. It was also suggested that I may have a financial reason for preferring HMTK, as my former law partner continues to represent BCHMC.

[14] The plaintiff submits that, because of my work as a lawyer, I personally, and through my former firm, have a strong connection to HMTK that would be perceived by the reasonable onlooker as unconsciously favouring HMTK.

[15] Finally, while the plaintiff acknowledges that the University is not a party to this proceeding and it is not anticipated that any witnesses will be called from the University, she submits that I will be required to make credibility assessments throughout this trial that will be influenced by my prior relationship with the University. The plaintiff argues that evidence concerning the University may be raised as the University's data access was denied for a period, some of the

individuals impacted had connections to the University, and a memorial scholarship was endowed at the University. The plaintiff submits that where the University is involved, I may unconsciously favour a narrative that aligns with or favours the University due to my previous involvement.

[16] The plaintiff urges me to proceed with caution and recuse myself.

Legal Framework

[17] At paras. 10 and 11 of *Pereira v. Dexterra Group Inc.*, 2023 BCCA 201, the Court set out the principles relating to impartiality as follows:

> [10] Judges are held to the highest standards of impartiality. The protection of the interests of the parties to a case and the administration of justice requires judges to be disqualified if they are biased or if there is a reasonable apprehension that they are biased: [citations omitted].
>
> [11] There is a strong presumption of judicial impartiality that is not easily displaced: *Yukon Francophone School Board* at para. 25. Judicial impartiality requires judges to approach each case with an open mind, free from inappropriate or undue assumptions: at para. 22.

[18] As the Court noted at para. 12 of *Pereira*: "[t]he strong presumption that judges act impartially means that a party must meet a high burden to prove that a reasonable apprehension of bias exists".

[19] The well-established test for reasonable apprehension of bias is set out in *Yukon Francophone School Board, Education Area No. 23 v. Yukon (Attorney General)*, 2015 SCC 25:

> [20] The test for a reasonable apprehension of bias is undisputed and was first articulated by this Court as follows:
>
> > ... what would an informed person, viewing the matter realistically and practically — and having thought the matter through — conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly. [Citation omitted.]

[20] As noted above, a party must meet a high burden to prove that a reasonable apprehension of bias exists. The test is not one based on a very sensitive or scrupulous conscience: *Wewaykum Indian Band v. Canada*, 2003 SCC 45 at

para. 76. In *De Cotiis et al. v. De Cotiis et al.*, 2004 BCSC 117, it was summarized as follows:

> [15] ... the court must concern itself with what a “reasonable" person might apprehend rather than satisfying “the cynical, the capricious, the excessively suspicious, the paranoid or the perfectionist.”

[21] In *Taylor Ventures Ltd. (Trustee of) v. Taylor*, 2005 BCCA 350, the above principles were summarized at para. 7 as follows:

> (i) a judge’s impartiality is presumed;
>
> (ii) a party arguing for disqualification must establish that the circumstances justify a finding that the judge must be disqualified;
>
> (iii) the criterion of disqualification is the reasonable apprehension of bias;
>
> (iv) the question is what would an informed, reasonable and right-minded person, viewing the matter realistically and practically, and having thought the matter through, conclude;
>
> (v) the test for disqualification is not satisfied unless it is proved that the informed, reasonable and right-minded person would think that it is more likely than not that the judge, whether consciously or unconsciously, would not decide fairly;
>
> (vi) the test requires demonstration of serious grounds on which to base the apprehension; and
>
> (vii) each case must be examined contextually and the inquiry is fact-specific.
>
> [Emphasis in original.]

[22] With those legal principles in mind, I now turn to the issues raised by the plaintiff on this application.

Discussion

[23] The threshold that the plaintiff must meet to establish a reasonable apprehension of bias is high and judges should only recuse themselves when that test has been met. Judges are to hear the cases assigned to them. A cautionary approach to recusal, when the test has not been met, is not an appropriate course of action, even though the natural tendency may be to step aside and let another judge handle the matter. As Griffin, J.A., explained in *Pereira*:

> [17] The strictness of the criteria required to show a reasonable apprehension of bias reveals that judges must necessarily not habitually yield

> to parties who want them to step down. Doing so would erode the administration of justice and damage the reputation of the judiciary. Judges have a duty to hear the cases assigned to them, which cannot be displaced by a party selecting one judge over another preferentially and without good reason. An additional danger of frequent recusals is that parties could use such motions strategically, which includes attempting to judge-shop or delay the proceedings: *De Cotiis v. De Cotiis*, 2004 BCSC 114 at paras. 10–11; *Anderson* at para. 16; *Liszkay v. Robinson*, 2003 BCCA 506 at para. 53.

[24] In order to meet the threshold for recusal, the plaintiff must establish that an informed person, viewing the matter realistically and practically, and having thought through the matter, would conclude that it is more likely than not that I would be unable to decide this case fairly. I will consider each of the plaintiff's three arguments in turn.

[25] First, the plaintiff submits my acting as legal counsel for BCHMC creates an apprehension of bias as no reasonable person would consider BCHMC to be distinct from the HMTK.

[26] The plaintiff does not suggest that there was an exchange of information from HMTK to BCHMC or vice versa related to this case, so as to give rise to actual knowledge that would create a conflict. Instead, the plaintiff is concerned with the optics or deemed connectivity between HMTK and BCHMC and argues that suggests a possibility for bias.

[27] BCHMC was constituted as corporate body, pursuant to the *Housing Act* (as it was then), by an order in council approved in 1967. BCHMC and HMTK are legally distinct entities. I do not find that a reasonably informed person with an understanding of the strong presumption of judicial impartiality would conclude that there is a reasonable apprehension of bias based on my prior representation of BCHMC on a matter that is unrelated to this action.

[28] The plaintiff also suggests there is a reasonable apprehension that I may have a financial incentive to ensure that BCHMC is successful in the other matter. As I understand the submission, the plaintiff suggests that because of an ongoing financial connection to the BCHMC file, I may make certain findings on the breach of

good faith allegation in this case that will subsequently assist BCHMC with their litigation. There is no cogent evidence to support this submission. Upon my appointment to this Court, I formally resigned as a partner with my former firm severing my financial connection. Impartiality is the fundamental qualification of a judge and the suggestion that I may decide cases in a manner that perverts the law or has a disregard for the evidence as it is presented erodes the presumption that judges are impartial.

[29] Second, the plaintiff suggests that I have a strong connection to HMTK. This is based on an assertion that I and members of my former firm have represented HMTK in the past. As disclosed to the parties, I have not and I was not aware of the members of my former firm having acted for HMTK for at least five years prior to my appointment. The plaintiff has not put cogent evidence before me to support the assertion that I have a strong connection to HMTK. A review of the type of cases I was involved in prior to my appointment to this Court discloses that I routinely acted on matters where HMTK was a party adverse in interest. That example is not provided to suggest that such prior legal advocacy would mean that I have any bias against HMTK. Instead, it demonstrates that I have, as judges do, come to this role having been active members of the legal profession representing many clients with varied interests, none of whom I act for any longer.

[30] Finally, the plaintiff suggests my prior involvement with the University gives rise to a reasonable apprehension of bias. The University is not a party to this action, and there are no witnesses from the University that are on the witness lists. As disclosed to the parties, I did not have prior knowledge of the matters related to this action and my role at the University would not lead an informed person to conclude that I would not decide the matters at issue in this case fairly.

[31] Far from satisfying the high threshold to demonstrate a reasonable apprehension of bias, the connections raised by the plaintiff are inconsequential and indirect, rather than substantive.

Conclusion

[32] I do not find that my prior representation of BCHMC, my prior work as a lawyer or the work of my prior firm, or my prior affiliations with the University, would lead an informed, reasonable and right-minded person, viewing the matter realistically and practically, and having thought the matter through, to conclude that I would not be able to adjudicate this matter fairly.

[33] For these reasons, I decline to disqualify myself and I dismiss the plaintiff's application.

"L. R. LeBlanc, J."
The Honourable Justice LeBlanc