

In the Court of Appeal of Alberta

Citation: Ouellette v McCann Estate, 2026 ABCA 61

Date: 20260303
Docket: 2501-0195AC
Registry: Calgary

Between:

Christian Sylva Ouellette

Applicant
(Respondent/Cross-Appellant)

- and -

Christian Joffre Ouellette

Applicant
(Not Party to the Appeal)

- and -

Estate of Edward McCann

Respondent
(Appellant/Cross-Respondent)

- and -

The Law Society of Alberta

Respondent
(Intervenor)

**Reasons for Decision of
The Honourable Justice Karan M. Shaner**

Application to Review a Decision of a Case Management Officer

**Reasons for Decision of
The Honourable Justice Karan M. Shaner**

Introduction

[1] Christian Sylva Ouellette (“Ouellette Sr”) and Christian Joffre Ouellette (“Ouellette Jr”) apply to have Ouellette Jr added as a respondent and cross-appellant to Ouellette Sr’s appeal.

[2] After an applications judge summarily dismissed an action brought by the Ouellettes, Ouellette Sr appealed the dismissal to the Court of King’s Bench. The chambers judge allowed the appeal, prompting the Estate of Edward McCann to appeal to this Court. Ouellette Jr was not a party to the appeal that proceeded before the chambers judge, and he did not take steps to be added as a party to that appeal. The Ouellettes applied to this Court’s Case Management Officer (CMO) to add Ouellette Jr to the appeal as a respondent and cross-appellant. The CMO dismissed that application. The Ouellettes now apply to review the CMO’s decision.

[3] The application is dismissed for the reasons following.

Background

[4] This application arises from an action brought by Ouellette Sr and his son, Ouellette Jr, against Edward McCann. The Ouellettes alleged they suffered damages from a complaint Mr. McCann made to the Law Society of Alberta about Ouellette Sr.

[5] On August 30, 2023, an applications judge summarily dismissed the entire action. *Ouellette v McCann*, 2023 ABKB 497 at para 23. Prior to that decision and the resulting order being made, Ouellette Sr filed a notice of appeal in the Court of King’s Bench on July 28, 2023, purporting to appeal a judgment made on “June 29, 2023”. It named Ouellette Sr and Ouellette Jr as the appellants. That notice of appeal was invalid because the order had not yet been pronounced. On September 5, 2023, Ouellette Sr filed a second notice of appeal, this time citing the August 30, 2023 judgment as the subject of the appeal. Ouellette Jr was not included as a party on that second notice of appeal.

[6] For unknown reasons, the appeal to the Court of King’s Bench was not heard until March 27, 2025, almost two years later. Early in the hearing the chambers judge sought clarification on Ouellette Jr’s role, as he was represented by counsel and was attending the hearing virtually, despite not being named as a party. Counsel identified himself as being there for the “co-plaintiff”. The following exchange ensued between counsel and the chambers judge (Transcript at 65, ll 1-21):

THE COURT: Okay. But that's where I'm a bit puzzled at, because only Mr. Ouellette appealed, not --

MR. LLEWELLYN: Strictly speaking, yes, but I'm part of his case. And so I'm here on that -- on that basis.

THE COURT: I don't know. Do you have anything to say about that? You're not party to the appeal, right? You didn't appeal --

MR. LLEWELLYN: I did not.

THE COURT: -- the decision.

MR. LLEWELLYN: I did not.

THE COURT: So you're not a party to this appeal. Certainly you're an interested party and I suppose if Mr. Ouellette is successful, so, in essence, (INDISCERNIBLE) you and your client, but you haven't provided anything and you didn't appeal. I mean, that's sort of where I am.

[7] No further submissions were made on Ouellette Jr's standing as a party, nor was there any application to add him.

[8] Ouellette Sr's appeal was allowed in part. *Ouellette v McCann*, 2025 ABKB 362 [*Ouellette #2*]. In her reasons for decision, the chambers judge confirmed that because Ouellette Jr did not appeal, his claims against Mr. McCann remained summarily dismissed. *Ouellette #2* at paras 91, 109. As Ouellette Jr was not a party to that appeal, there was no adjudication of the applications judge's dismissal of his claims.

[9] On July 8, 2025, Mr. McCann appealed the chambers judge's order to this Court and named Ouellette Sr as the only respondent. On July 14, 2025, Ouellette Sr and counsel on behalf of Ouellette Jr filed a notice of cross appeal, naming Ouellette Sr and Ouellette Jr as respondents and cross-appellants. The CMO advised that parties cannot normally be added to an appeal through a notice of cross appeal.

[10] On October 17, 2025, Ouellette Sr and counsel for Ouellette Jr applied to the CMO for an order that Ouellette Jr be restored as a party or listed as a cross-appellant. The CMO denied the application, holding it was procedurally irregular and improper. Ouellette Jr should have taken steps to correct this before the chambers judge heard the appeal and he had a significant period of time in which to do so after the notice of appeal was filed. The application to add Ouellette Jr as a party was an attempt to circumvent the proper procedure. The CMO also noted that allowing Ouellette Jr to be added as party would, in effect, allow him to appeal an order of an applications

judge directly to this Court, contrary to r 14.4(4) of the *Rules of Court*, Alta Reg 124/2010 [*Rules*], which expressly prohibits the same.

Discussion

[11] Rule 14.36(3) allows any person affected by a decision of a CMO to apply to a single judge of this Court to have it rescinded, confirmed, amended or enforced. A single judge hearing an application under r 14.36(3) considers the question afresh. The resulting decision may wholly or partially align with, or depart from, the CMO's direction. *Kainaiwa/Blood Tribe v Alberta (Minister of Energy)*, 2020 ABCA 387 at para 21.

[12] In general, only a named party in the lower court can appeal; however, this Court has authority to add parties under r 14.57, in accordance with r 3.74, where it is satisfied the order should be made. As well, this Court may exercise its inherent jurisdiction to add a party where it is in the interests of justice to do so. In either case, the applicant must demonstrate it has a legal interest in the outcome of the appeal; that it is just and convenient to add the applicant as a party; and that the applicant's interests can be adequately protected only if party status is granted. *Benga Mining Limited v Alberta Energy Regulator*, 2021 ABCA 363 at paras 16-17.

[13] Ouellette Jr has not demonstrated he has a legal interest in the outcome of the appeal. He did not appeal the applications judge's decision, something his counsel confirmed before the chambers judge. Consequently, and as noted, the chambers judge did not adjudicate on aspects of the applications judge's order relating to Ouellette Jr. This, in turn, means there is nothing in the chambers judge's order from which Ouellette Jr can appeal. The order concerns only the interests of Ouellette Sr. Further, and relatedly, granting Ouellette Jr the relief he seeks would in effect allow him to appeal the applications judge's order directly to this Court, which, as noted, r 14.4(4) prohibits.

[14] The Ouellettes argue Ouellette Jr should be granted party status as a matter of fairness. They suggest the failure to name Ouellette Jr as a party to the appeal from the applications judge's order was a "slip", owing in part to Ouellette Sr's sleep deprivation. They point to the first – and invalid – notice of appeal, which named both Ouellettes as parties as evidence that failing to name Ouellette Jr in extant notice of appeal was unintentional. This argument does not address the substantive problem, ie., the absence of a legal interest, there being no adjudication of Ouellette Jr's interests in *Ouellette #2* because he was not a party to the appeal. Nor does it address the fact that allowing Ouellette Jr to be a party would be tantamount to permitting an appeal directly from the applications judge's order, which is prohibited by the *Rules*.

[15] Notably, Ouellette Jr did not seek to add Ouellette Jr as party in the nearly two years between the applications judge's order and when the subsequent appeal was heard. In fact, Ouellette Jr's counsel confirmed to the chambers judge that he had not appealed the applications judge's order, and he did not indicate this was the result of an error. This is at odds with the

argument presented here, that the failure to name Ouellette Jr as a party to the appeal below was a result of a “slip”.

Disposition

[16] The CMO’s decision is confirmed and, accordingly, the application to have Ouellette Jr added as a respondent and cross-appellant to Ouellette Sr’s appeal is dismissed.

[17] The Court will prepare the resulting order and rule 9.4(2)(c) is invoked.

Application heard on February 19, 2026

Reasons filed at Calgary, Alberta
this 3rd day of March, 2026

Shaner J.A.

Appearances:

Applicant C.S. Ouellette

C.O. Llewellyn
for the Non-Party Christian Joffre Ouellette

J.T. Kondro (no appearance)
L. Feehan
for the Respondent Estate of Edward McCann

K.R. Seidenz
for the Respondent Law Society of Alberta