# COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Perry v. General Motors of Canada,* 2026 BCCA 148

Date: 20260312
Docket: CA51218

Between:

**Richard Perry**

Appellant
(Plaintiff)

And

**General Motors of Canada and**
**Dueck Richmond Chevrolet Buick Cadillac GMC Ltd.**

Respondents
(Defendants)

Before: The Honourable Madam Justice Fenlon
(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated November 18, 2025 (*Perry v. General Motors of Canada*, 2025 BCSC 2264, Vancouver Docket S218173).

## Oral Reasons for Judgment

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| The Appellant, appearing in person: | R. Perry |
| Counsel for the Respondent, General Motors of Canada: | A.K. Foord<br>E. Pitre |
| Counsel for the Respondent, Dueck Richmond Chevrolet Buick Cadillac GMC Ltd.: | N.P.R. Bond |
| Place and Date of Hearing: | Vancouver, British Columbia<br>March 12, 2026 |
| Place and Date of Judgment: | Vancouver, British Columbia<br>March 12, 2026 |

***Summary:***

*This is an application for leave to appeal an order requiring that the applicant post security for costs in the court below. If leave is granted, the applicant also seeks a stay of the order pending the hearing of the appeal, and the respondent seeks to have the applicant post security for costs in this Court. Held: Leave to appeal denied. It is not in the interests of justice to grant leave, particularly as the proposed grounds of appeal have very little merit. The two other related applications are accordingly also dismissed.*

**FENLON J.A.**:

## Overview

[1] There are four applications before me: two brought by the proposed appellant, Mr. Perry; and two brought by one of the respondents, General Motors of Canada ("GM").

[2] First, Mr. Perry seeks leave to appeal the order of Justice Milman pronounced November 18, 2025, requiring that Mr. Perry post security for costs in the court below. Second, if leave is granted, Mr. Perry seeks an interim stay of Milman J.'s order pending the hearing of the appeal.

[3] If leave is granted, GM seeks to have Mr. Perry post security for costs of the appeal in this Court in the amount of $10,000. GM also applies for an order declaring Mr. Perry to be a vexatious litigant, regardless of the outcome of the leave application.

[4] Mr. Perry indicated through a letter to the registry that he wanted to adjourn the respondent's applications. He acknowledges that he was served in accordance with the *Court of Appeal Rules*, B.C. Reg. 120/2022, but says he has not looked at the materials because he has not had time to do so. I gave Mr. Perry an opportunity at the commencement of the applications this morning to apply to adjourn GM's applications but he declined to do so, saying that he is prepared to proceed with all of the applications today. Mr. Perry accordingly proceeded first with his application for leave to appeal. I am prepared to give my decision on that application first as it is foundational to the others before me.

**Background**

[5] Mr. Perry commenced the underlying action in September 2021. He alleges that the defendants, GM and Dueck Richmond Chevrolet Buick Cadillac GMC Ltd. ("Dueck"), are liable to him for breach of contract, breach of warranty, deceit, fraudulent misrepresentation, and conspiracy.

[6] Mr. Perry's claims relate to a used 2013 GMC Terrain he purchased in 2019 and which he says burned oil at a problematic rate. After being informed that GM would replace the piston rings in the engine if the vehicle's oil consumption was found to be excessive, Mr. Perry brought the vehicle to Dueck for servicing. He alleges that Dueck falsified records, required him to bring the vehicle in for monitoring more frequently than was necessary, and overfilled the engine with oil to conceal the vehicle's true level of oil consumption. GM offered to repair the piston rings in the engine in accordance with one of its special coverage warranties, but Mr. Perry refused, stating that the entire engine needed to be replaced.

[7] In his initial notice of civil claim, Mr. Perry sought an order that the defendants replace his vehicle's engine or, alternatively, pay him damages of about $40,000. Mr. Perry also commenced a second action against the seller of the vehicle in which he sought damages of approximately $35,000. In late 2023, he amended his notices of civil claim. He is now seeking damages in excess of $250 million in each action.

[8] Despite being filed in September 2021, the claim has not advanced very far. Examinations for discovery have yet to be scheduled. There have been numerous interlocutory applications, some of which Mr. Perry has used to compel the production of documents he says he needs before he can conduct discoveries. Mr. Perry has also brought applications seeking leave to make further amendments to his notice of civil claim and seeking to punish the respondents and their counsel for alleged misconduct. Mr. Perry has sought leave to appeal three orders to date, including the one that is the subject of these applications.

[9] On August 12, 2024, Mr. Perry unilaterally scheduled a 34-day trial set to commence on January 5, 2026. The trial was adjourned generally following Milman J.'s order requiring Mr. Perry to post security for costs.

**Decision below**

[10] The applications before me, as I have said, concern the decision of Milman J. pronounced on November 18, 2025. The order requires Mr. Perry to post security for costs in the court below in the amount of $50,000—$25,000 for each respondent, payable in four equal monthly installments of $6,250.

[11] In deciding to order security for costs, Milman J. noted that a more stringent test applies where the plaintiff is an individual as opposed to a corporation—in such cases, security for costs should only be ordered under special or egregious circumstances: *Ocean Pastures Corporation v. Old Masset Economic Development Corporation*, 2016 BCCA 12 at paras. 19–20.

[12] Justice Milman found that the circumstances of this case warranted ordering security. The factors weighing in favour of the order included: (a) the evident weakness of the claim, especially given the lack of expert evidence; (b) the gross disproportionality between the scale of the litigation, including the numerous interlocutory applications and the 34-day trial Mr. Perry wishes to conduct, and the amount that is realistically at stake; and (c) the unlikelihood that the defendants would recover their costs if they were to succeed at trial, given that Mr. Perry owns no substantial assets in this province.

[13] On December 16, 2025, Mr. Perry filed his notice of appeal seeking to challenge Milman J.'s order. Pursuant to the order, the first installment of $6,250 was due on December 18. No payments have been made.

[14] On January 27, 2026, Mr. Perry applied in the Supreme Court to set aside Milman J.'s order. He argued that the order was improperly sought because Justice Loo had previously ordered that no further applications were to be made without leave first being granted at a case planning conference. That is something Mr. Perry

says today he had simply forgotten about in the application for security for costs before Milman J. Justice Milman considered this argument and concluded that Loo J.'s prior order did not justify setting aside the order for security for costs that he had made. He noted that no case management judge had ever been appointed, the parties had continued to bring interlocutory applications after Loo J.'s order, and no party had raised Loo J.'s order at the hearing for security for costs.

**Mr. Perry's application for leave to appeal**

[15] The application for leave to appeal relates to the order requiring the posting of the security for costs. The following criteria must be considered on an application for leave:

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.

See *Goldman, Sachs & Co. v. Sessions*, 2000 BCCA 326 at para. 10 (Chambers).

[16] The criteria for leave have to be considered ultimately under the rubric of the interests of justice: *Vancouver (City) v. Zhang*, 2007 BCCA 280 at para. 10 (Chambers). Even where the four criteria have been met, leave may be denied where it would not be in the interests of justice to grant it: *Movassaghi v. Aghtai*, 2010 BCCA 175 at para. 27 (Chambers).

[17] This Court has held that "[l]eave to appeal a discretionary order, such as an order for security for costs, will rarely be granted and only 'where the order is clearly wrong or serious injustice will occur, or, where discretion was not exercised judicially or was exercised on a wrong principle'": *Gichuru v. Pallai*, 2015 BCCA 81 at para. 19 (Chambers), citing *Procon Mining & Tunnelling Ltd. v. McNeil*, 2009 BCCA 162 at para. 19 (Chambers).

[18] In short, a division of this Court, if leave to appeal were granted, would apply a deferential standard of review and would not likely interfere with the judge's decision.

**a. Significance to the practice**

[19] Mr. Perry submits that the appeal will assist the practice by giving this Court an opportunity to develop the law on security for costs in cases involving "David and Goliath parties"—cases in which a plaintiff with little means, like Mr. Perry, is bringing a meritorious claim in the public interest against a much wealthier defendant.

[20] In my view, however, the existing law is well-developed on this point. The Court has made it very clear, in many cases, that where there is a meritorious claim and an impecunious plaintiff, costs which would prevent a claim from proceeding should not be ordered. That law is very well-settled.

**b. Significance to the action**

[21] Mr. Perry argues that the proposed appeal is of significance to the action because the order under appeal effectively prevents him from proceeding in the court below with what he says is a meritorious claim.

[22] However, again, Milman J. carefully reviewed the governing law at paras. 50–56 of his reasons for judgment. He considered, in particular, the general principle that costs that would stifle a meritorious claim should usually not be ordered against an individual. Justice Milman considered the effect the order would have on Mr. Perry, recognizing that it would make it difficult for him to pursue the claim. Nonetheless, Milman J. found that this was one of those rare cases that are sufficiently "special" and "egregious" to justify making the order sought. In this regard, he said:

> [65] Nevertheless, there are also several important factors weighing in favour of the defendants. Foremost among these is the evident weakness of the claim that could be stifled. The central issue in dispute in this action is whether Mr. Perry was entitled, as he alleges, to insist on a complete engine replacement, rather than accept the more limited replacement of the pistons

> and rings that was on offer. Although Mr. Perry argues that the piston and ring replacement would not have solved the problem (and perhaps even made matters worse), he has made no apparent effort to garner the expert opinion evidence he will need to demonstrate that fact. After more than four years of litigation, this is a gaping hole in his case that shows no sign of being filled. His ongoing effort to obtain further document production and to sanction the defendants for alleged misconduct, which has been the focus of the litigation for most of its life, appears to have little, if any, bearing on that or any other central issue in the case.
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> [66] Even if Mr. Perry were able to demonstrate that he is advancing a meritorious claim, the scale of the litigation has become grossly disproportionate to the amount that is actually at stake, as reflected in the more realistic prayer for relief set out in the original version of Mr. Perry's notice of civil claim. I agree with the defendants that the road ahead promises an even greater misapplication of resources, including more wasteful interlocutory applications, to say nothing of the cost of the 34-day trial that Mr. Perry wishes to conduct.

### c. Merits of the appeal

[23] First, Mr. Perry says that Milman J. erred by disregarding Loo J.'s order made on August 9, 2024, ordering that no further interlocutory applications be brought without leave being granted by a case management judge at a case planning conference. In my respectful view, it is not fair to say that Milman J. did not address that issue. He squarely addressed it.

[24] Justice Milman found that it was not appropriate to vary his order requiring that Mr. Perry post security for costs, even though leave had not been granted to bring the application for that order. Justice Milman emphasized that no one had raised the issue of Loo J.'s order during the application for security for costs and that the hearing proceeded with all parties participating. He also noted that multiple other applications had proceeded without leave since Loo J.'s order, effectively making the order a dead letter—something that the parties on either side had failed to comply with. Further, he found that it was unclear whether the order even remained in effect, given that it was contemplated to apply in the context of a case management judge being appointed—something which never occurred.

[25] Second, Mr. Perry says that Milman J. erred by not giving sufficient weight to the defendants causing delay in the litigation below and the number of applications

that were required to obtain documents from them. Third, he says that Milman J. failed to recognize the complexity of the litigation, given that the two defendants are blaming each other and not taking responsibility for the problems with the vehicle. Again, Mr. Perry says that this necessitated multiple applications and lengthened the proceedings.

[26] I note, however, that the Milman J. did address both of these issues thoroughly, saying:

> [67] Both sides blame the other for the delays that have occurred in this litigation. The truth is that both sides share a measure of responsibility.
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> [68] Mr. Perry was initially successful, at least in part, in his applications seeking further production of documents. In the decisions summarised above, several judges of this court concluded that the defendants should have been more forthcoming in meeting their discovery obligations.
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> [69] More recently, however, that dynamic has shifted. The decision of Fitzpatrick J. of July 9, 2024 can be seen as a turning point. On January 13, 2025, Iyer J.A. dismissed Mr. Perry's application for leave to appeal from that decision. As a result, there is no longer any basis for Mr. Perry to be pursuing further document production on the grounds rejected by Fitzpatrick J. Instead, he should have followed her advice by setting examinations for discovery and preparing the case for trial.
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> [70] Despite that advice, Mr. Perry has not changed course. He has applied for leave to amend his claim, so that he can, if successful in doing so, revisit the order of Hoffman J. and seek production of one or more of the contracts governing the business relationship between the defendants. His proposed further amended notice of civil claim is attached as Exhibit "1" to his 25th Affidavit made January 24, 2025. In it, he reiterates the same allegations of fraudulent conspiracy that have animated almost all of his previous applications as well as his response to these applications currently before me.
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> [71] Mr. Perry's response to these applications is itself emblematic of the problem. Rather than comply with the order of Masuhara J. limiting the length of that response to 10 pages, he opted instead to try to circumvent that restriction by attaching a much lengthier argument as an exhibit to his supporting affidavit and incorporating it by reference into the (shorter) formal response.
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> [72] Moreover, in that response, both the long and the short version, he has reiterated the same allegations of spoliation, perjury, forgery and other falsification of evidence that he has been making all through this litigation. He attributes the glacial pace of this litigation entirely to the defendants' "delay tactics". He also advances the groundless allegation that his lack of success in the more recent interlocutory applications is attributable to the defendants' "bribing and corrupting members of the Judiciary and local government."

> [73] I agree with the defendants that all of this has needlessly complicated and protracted the litigation, which shows no sign of shifting its focus to the real issues in dispute.

[27] Fourth, Mr. Perry says Milman J. erred in considering his failure to pay litigation costs in unrelated patent infringement litigation in the United Kingdom as a factor supporting a security for costs order. He says those proceedings are subject to an ongoing investigation by the London Economic Crime Unit. Justice Milman referred to the UK proceedings in assessing whether the defendants had any prospect of recovering their costs if they are ultimately successful, saying:

> [75] In arguing that Mr. Perry has a history of failing or refusing to pay litigation costs, the defendants do not rely on the unpaid costs awards that are outstanding against him in this action. They emphasize instead the outcome of unrelated patent infringement litigation in the United Kingdom, in which Mr. Perry:
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> a) was ordered to pay £50,000 in costs to the opposing party after his claim was summarily dismissed as devoid of merit;
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> b) having been unable to do so, became the subject of a bankruptcy order; and
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> c) was found to be serially advancing unmeritorious claims (including by repeatedly attempting to relitigate matters already decided against him), and on that basis eventually prohibited from commencing further proceedings without leave of the court.
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> [76] In that litigation, the presiding judge, Hacon J., described some of the arguments that Mr. Perry had been advancing as "intemperate and eccentric" (*979*, para. 14). He noted "Mr. Perry's tendency towards an unrestrained response to anything he does not agree with, whether coming from the court or his competitors" (*979*, para 19).
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> [77] In a subsequent decision (*2737*), Hacon J. observed that Mr. Perry's behaviour "can become unrestrained and frequently abusive" (at para. 33). The "intemperate" arguments advanced by Mr. Perry in that litigation resemble those he has been advancing in this one. They included an unfounded allegation that the opposing parties, together with their counsel, were engaged in a fraudulent conspiracy to suppress his claim and that the earlier judgments of the court in their favour were procured by fraudulent means.
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> [78] I agree with the defendants that none of this bodes well for their prospects of keeping the costs of this litigation under control and then recovering those costs if they are ultimately successful in defeating Mr. Perry's claim.

[28] In my view, Milman J.'s reliance on Mr. Perry's conduct in the UK proceedings as described by the UK judge, as opposed to the ultimate outcome of those proceedings, is not undermined by a continued investigation by the London Economic Crime Unit into matters that may be related to the case.

[29] In summary, the grounds of appeal that Mr. Perry has identified in his written and oral submissions have very little merit.

**d. Progress of the action**

[30] Mr. Perry did not respond directly to this factor. It is evident that the appeal would further prolong the dispute, which has already been ongoing for more than four years. There have been numerous interlocutory applications, and the trial has already been adjourned following Milman J.'s order. An appeal would add to this delay.

**e. Interests of justice**

[31] I conclude, ultimately, having considered all of the submissions and the full reasons for judgment of Milman J., that it would not be in the interests of justice to grant leave. I would accordingly dismiss the application for leave to appeal.

**Remaining applications**

[32] Because the application for leave to appeal is dismissed, there is no appeal within which to seek a stay. That application is therefore also dismissed.

[33] Finaly, I turn to the defendant's applications. The application for security for costs of the appeal is now moot. The only application remaining is the application for an order relating to vexatious litigation.

"The Honourable Madam Justice Fenlon"