

**In the Court of Appeal of Alberta**

**Citation: Walczak v Hendrix Law, 2026 ABCA 137**

**Date: 20260428**  
**Docket: 2501-0205AC**  
**Registry: Calgary**

**Between:**

**Sylwester Walczak**

Applicant

- and -

**Hendrix Law Barristers & Solicitors  
and Home Trust Company**

Respondents

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**Reasons for Decision of  
The Honourable Justice April Grosse**

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Application to Restore an Appeal

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**Reasons for Decision of  
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[1] The applicant's appeal was deemed abandoned when he failed to post security for costs ordered by a justice of this Court in chambers. His application for permission to appeal the security for costs order to a panel of this Court was also dismissed: *Walczak v Hendrix Law*, 2025 ABCA 398. The applicant now applies to restore his appeal pursuant to rules 14.47 and 14.65 of the *Alberta Rules of Court*, Alta Reg 124/2010.

[2] In *Parker v Parker*, 2019 ABCA 300, Chief Justice Khullar reviewed the factors that the Court usually considers when deciding whether to restore an appeal, and how they apply, or do not apply, when the appeal was struck or deemed abandoned due to a failure to comply with a security for costs order. She concluded:

In my view, it will rarely be in the interests of justice to restore an appeal struck for failure to post security for costs in accordance with an order. At a minimum, the applicant must have posted – or have tried to post – the security by the time the restoration application is heard. If the law were any different, an order for security for costs would become toothless.

*Parker* at para 16.

[3] The reasoning in *Parker* applies to the applicant's application to restore his appeal. The applicant has not posted security for costs. While he argues that he is unable to post security due to financial circumstances created by the respondents, the applicant has not adduced evidence to establish that proposition on a balance of probabilities.

[4] Most of the applicant's submissions in support of his application to restore the appeal focus on his underlying position that several years ago, the respondent Home Trust Company unlawfully foreclosed on his property with the assistance of its counsel, the respondent Hendrix Law Barristers & Solicitors, and that an applications judge erred in dismissing the litigation he subsequently brought against the respondents. However, neither the foreclosure action nor the decision of the applications judge is directly before this Court. The applicant appealed the application judge's decision to dismiss his claim to a justice of the Court of King's Bench, but the applicant missed the deadlines for serving the appeal on the respondents and for filing a transcript. A chambers justice dismissed the applicant's application for an extension of time, in large part on the basis that the appeal did not have a reasonable prospect of success.

[5] It is the dismissal of the application to extend time that is the subject of the applicant's appeal. The chambers justice heard submissions for approximately 45 minutes, much longer than

the usual time permitted for an application in morning chambers. He specifically questioned the parties relating to the likely merits of the appeal from the decision of the applications judge and he gave reasons for his decision. I understand that the applicant is frustrated by what he perceives to be a pursuit of justice thwarted by procedural barriers or legal doctrines that do not focus on the merits of his underlying complaints. However, viewed objectively, this is not the rare case where the interests of justice require restoration of the appeal, notwithstanding the failure to comply with the security for costs order.

[6] The application to restore the appeal is dismissed.

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

Application heard on April 22, 2026

Reasons filed at Calgary, Alberta  
this 28th day of April, 2026

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Grosse J.A.

**Appearances:**

Applicant S. Walczak

F.R. Fenwick, KC

R.E. Badiola (no appearance)

for the Respondent Hendrix Law Barristers & Solicitors

T. Bond (no submissions)

for the Respondent Home Trust Company