

# In the Court of Appeal of Alberta

**Citation:** Dixon v Mac, 2026 ABCA 145

**Date:** 20260504  
**Docket:** 2501-0192AC  
**Registry:** Calgary

**Between:**

**James L. Dixon and James L. Dixon Professional Corporation**

Respondents  
(Plaintiffs/Appellants)

- and -

**Thanh Quy Mac**

Appellant  
(Defendant/Respondent)

- and -

**John Doe and Jane Doe**

Not Parties to the Appeal  
(Defendants/Respondents)

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**The Court:**

**The Honourable Justice Michelle Crighton  
The Honourable Justice April Grosse  
The Honourable Justice Joshua B. Hawkes**

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## Memorandum of Judgment

Appeal from the Order by  
The Honourable Justice G.D. Marriott  
Dated the 17th day of June, 2025  
Filed on the 16th day of July, 2025  
(Docket: 2110 01327)

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## Memorandum of Judgment

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### The Court:

#### I. Introduction

[1] The appellant was a defendant in a defamation action, along with two unnamed defendants. The action was dismissed against him but allowed to continue against the unnamed defendants. He seeks to appeal that decision and have the action dismissed in its entirety. For the reasons that follow, his appeal is dismissed.

#### II. Background

[2] Two related actions, a personal injury action brought by the appellant, and a separate suit launched to collect a legal bill in relation to that action by the respondents (a lawyer and his professional corporation, hereafter referred to in the singular) provide context for the issue in this appeal.

[3] In the legal bill action, the respondent delivered interrogatories to the appellant, asking the appellant among other things about the nature of their interactions and whether the appellant doubted that the respondent and his firm had done the work it billed him for. The appellant provided an affidavit responding to the interrogatories. The respondent viewed some of the statements made by the appellant in his affidavit as defamatory and commenced the present action. In brief, the pleadings in the present action allege that the appellant defamed the respondent in his affidavit in the legal bill action, and that two unnamed parties (the Doe Defendants) also defamed the respondent to the appellant. That is what is at issue here.

[4] The appellant brought an application to have the present action dismissed in its entirety. The application was granted at first instance. The respondent appealed and was partially successful. The dismissal was upheld against the appellant, but the action was allowed to continue against the Doe Defendants only.

[5] The appellant appeals to this court from that aspect of the decision. He argues that the action should be dismissed in its entirety.

#### III. Grounds of Appeal

[6] The appellant advances several grounds of appeal, including that the chambers judge erred in failing to recognize that the claims against the Doe Defendants in the present action should be dismissed by operation of law, that she failed to engage in a truly *de novo* analysis of the initial decision, and that she applied an improper standard with respect to what constitutes an

“extinguished” claim. The parties have made submissions about what the standards of review on these issues are and how they should be determined on the merits.

[7] It is not necessary to address these issues. In the circumstances at present, we find that the appellant does not have standing to bring this appeal.

#### IV. Analysis

[8] An appeal is a statutory right. A party must have statutory authorization to appeal. The Alberta *Rules of Court* do not expressly stipulate who is a party for the purpose of filing an appeal. This Court has held that the *Rules* imply that the parties to the proceeding which is at issue on appeal have a right to appeal.<sup>1</sup> As a general rule, a non-party cannot appeal a decision, although permission to appeal may be granted in some exceptional circumstances.<sup>2</sup>

[9] Even if the appellant were in some sense still a party to the proceeding, notwithstanding the dismissal, he would still be unable to bring this appeal on the existing record. A party to the proceeding below can only appeal a decision against their interests and cannot appeal a decision in their favour.<sup>3</sup> Although the appellant did not obtain all the relief he sought in the proceeding below, he unequivocally was successful. He sought to have the action against him dismissed, and it was. He has no right of appeal from that.

[10] Different approaches to the question lead to a similar result. Generally, a party cannot appeal a decision made against another party, and must have some direct “personal, legal interest” in the decision they are challenging in order to have standing.<sup>4</sup> The appellant claims to have such a personal interest because the continuation of the litigation against the Doe Defendants may involve him as a witness. However, this possibility is not a sufficient connection.

[11] This Court may in its discretion grant status to a non-party applicant to appeal a decision. A number of factors, some of which mirror issues discussed above, may be considered in the exercise of this discretion:

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<sup>1</sup> *Peavine Metis Settlement v Whitehead*, 2015 ABCA 366 at para 14-17, 50-52.

<sup>2</sup> *Peavine* at para 56; *Aubin v Quantiam Technologies Inc*, 2018 ABCA 440 at para 6

<sup>3</sup> *Trost v Western Irrigation District*, 1991 ABCA 72 at para 6; *DL Pollock Professional Corporation v Blicharz*, 2019 ABCA 41 at para 7.

<sup>4</sup> *Bell v Tinnmouth*, 1987 CanLII 2449 (BC CA) at para 19; *Oliver v Ellison*, 1995 CanLII 1024 (BC CA) at para 17.

- i. The applicant's interests were not represented at the proceeding below;
- ii. The applicant has an interest that will be adversely affected by the decision;
- iii. The applicant is or could be bound by the decision;
- iv. The applicant has a reasonably arguable case; and
- v. The interests of justice in avoiding a multiplicity of proceedings would be served.<sup>5</sup>

This list is not exhaustive, and some of these factors may not be relevant in a given case.

[12] *Société des Acadiens* considered an application to be added to an appeal by a person who was not a party in the proceeding below but was affected by a ruling made in that proceeding. It is not on all fours with the present case but is instructive. Applying the factors to the present case:

- i. The appellant's interests here were represented in the court below, and successfully, as the action against him was dismissed.
- ii. The appellant does not have an interest in the litigation against the Doe Defendants that merits protection in the circumstances now before the Court.
- iii. To say that the appellant is "bound" by the decision is no more than to recognize that, by virtue of the decision, he is no longer a party to the action; it does not require anything further of him.
- iv. The Court refrains from commenting on the strengths of the appellant's argument that the action should have been dismissed against all parties so as not to prejudice what remains of this litigation after the order below.
- v. The interests of justice in avoiding a multiplicity of proceedings would not be served by granting the appellant status in this Court to challenge the decision in respect of the Doe Defendants. The multiplicity of proceedings sought to be avoided in *Société des Acadiens* was the initiation of legal challenges to the impugned order in the court below. No such challenges are contemplated here.

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<sup>5</sup> *Société des Acadiens du Nouveau-Brunswick Inc v Association of Parents*, 1986 CanLII 66 (SCC) at para. 101.

**V. Conclusion**

[13] The action was dismissed against the appellant, and without any ongoing direct personal interest affected by the order after its pronouncement, he has no standing to bring this appeal.

[14] The appeal is dismissed.

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

By written submissions only filed on July 28, August 8 and 11,  
November 3 and 24, and December 15, 2025.

Memorandum filed at Calgary, Alberta  
this 4th day of May, 2026

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Authorized to sign for: Crighton J.A.

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Grosse J.A.

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Hawkes J.A.

**Appearances:**

Respondents J.L. Dixon, KC

Appellant T.Q. Mac