

# COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Speckling v. Local 76 of the Communications, Energy and Paperworkers' Union of Canada*,  
2024 BCCA 340

Date: 20241003  
Docket: CA49341

Between:

**Walter L.M. Speckling**

Appellant  
(Plaintiff)

And

**Local 76 of the Communications, Energy and Paperworkers' Union of Canada,  
Communications, Energy and Paperworkers' Union of Canada,  
and others yet unknown**

Respondents  
(Defendants)

Before: The Honourable Justice Griffin  
(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated August 18, 2023 (*Speckling v. Local 76 of the Communications, Energy and Paperworkers' Union of Canada*, 2023 BCSC 1446, Vancouver Docket S022782).

## Oral Reasons for Judgment

The Appellant, appearing in person  
(via videoconference):

W.L.M. Speckling

B. Speckling  
(seeking to appear as agent on  
behalf of the Appellant)

Counsel for the Respondent, Local 76 of the  
Communications, Energy and  
Paperworkers' Union of Canada:

C. Meggs

Place and Date of Hearing:

Vancouver, British Columbia  
October 3, 2024

Place and Date of Judgment:

Vancouver, British Columbia  
October 3, 2024

**Summary:**

*The respondent Local 76 met the deadline for service of its factum but for certain reasons was unable to file it in the Registry on time. The appellant opposes the respondent's application for an extension of time to file the factum in the Registry. Held: Application for an extension of time to file the factum granted. There is no prejudice to granting the extension of time.*

[1] **GRIFFIN J.A.:** The respondent, Union Local 76, seeks an extension of time to file its factum.

[2] There have been delays caused by the appellant in prosecuting the appeal. These delays have in part been caused by the appellant originally providing an incomprehensible factum, which needed to be amended: see earlier reasons for judgment of Justice Hunter indexed at 2024 BCCA 43 (Chambers). On February 1, 2024, at a case management conference, Justice Hunter ordered the appellant to file an amended factum and the respondents were given an extension of time to file respondents' factums 30 days after the filing of the appellant's factum.

[3] The appellant's amended factum was not filed until May 30, 2024. The respondents sought an extension of time to file their factums. When the appellant would not agree, they brought an application and on July 31, 2024, Justice Fenlon granted an extension until August 30, 2024.

[4] Counsel for Local 76 served its factum on the other parties on August 30, 2024, but missed the deadline for filing it in the Registry that day. An affidavit of its counsel explains this was due to the illness of respondent's counsel and some technical difficulties in trying to complete the process.

[5] The appellant would not agree to an extension of time for the respondent to file the factum on September 3, 2024, the next business day. The respondent thus was required to bring this application for an extension of time to file its factum. The respondent seeks an extension to allow it to file the factum within two business days. The respondent seeks two business days simply to ensure that no technical error occurs in the attempted filing. However, the intention is to file it immediately.

[6] The appellant opposes the extension of time. Bernardus Speckling, the brother of the appellant who had his own previous dispute with the Union, has, as agent on behalf of the appellant, filed a written submission that advances outrageous allegations of corruption and unethical behaviour on the part of respondent's counsel in the underlying case. I find these allegations to be scandalous and deserving of rebuke. Bernardus Speckling appeared in person today, attempting again to appear as agent for the appellant, who is appearing by videoconference. I adopt the reasons of Justice Hunter at paras. 20–26 as follows:

[20] The Court has the discretion to grant a right of audience to someone who is neither a party nor a member of the bar, but that discretion "should be exercised rarely and with caution": *Venrose Holdings Ltd. v. Pacific Press Ltd.* (1978), 7 B.C.L.R. 298 (C.A.).

[21] It is relatively commonplace in this Court for judges to permit self-represented litigants who are not fluent in English or for some other reason require assistance on a discrete matter to have the assistance of a disinterested friend or family member in making submissions to the Court, but that is a different circumstance than permitting someone who is neither a party nor a member of the bar to act consistently in the role of counsel prosecuting a proceeding, a role which on its face appears contrary to s. 15 of the *Legal Profession Act*, S.B.C. 1998, c. 9.

[22] Bernardus is not in any respect disinterested in this appeal. In the chronology in the factum that Walter has filed, events directly concerning Bernardus are expressly referred to no fewer than ten times. He is not simply an agent for his brother; he is an active participant in the matters the appellant has put at issue in this appeal.

[23] In her Security for Costs Judgment, Justice Fenlon flagged the issue of right of audience in the following terms:

Bernardus has acted as his brother's agent throughout the course of this litigation (RFJ at para. 12). As I noted at the outset of the hearing, there is no right of audience for a non-party and Walter should, at a minimum, attend applications in this Court hereafter by videoconference which can be arranged through the Registry: Security for Costs Judgment, para. 15.

[24] Contrary to Justice Fenlon's direction, Walter did not attend this application, nor did he attend the case management conference, contrary to Rule 47(3) of the *Court of Appeal Rules*. I reiterate Justice Fenlon's direction that the appellant is to attend future applications, either in person or by videoconference.

[25] My concern about granting Bernardus right of audience is heightened by the position he has taken on behalf of his brother on this application, which I consider to be unreasonable. In the absence of prejudice to the appellant arising from the relatively short delay in filing, this is an application that

should have been consented to, and would I believe have been consented to by any competent lawyer practising in this province.

[26] Had this been an application by the appellant, I would have declined to hear Bernardus. However, doing so on the respondents' application would likely have led to an adjournment and additional unnecessary cost to deal with a straightforward matter, so I permitted him to address the Court on this application. My doing so should not be regarded as a precedent for future matters in this Court

[7] Given the warnings this Court has previously given Bernardus Speckling and the appellant, there is good reason to deny Bernardus Speckling a right of audience today. He has filed written submissions and I have read those. Mr. Walter Speckling has agreed that he has nothing to add to those written submissions. Therefore, I have denied Bernardus Speckling an opportunity to make oral submissions.

[8] There is absolutely no prejudice to the appellant in allowing the application for an extension of time. The test in *Davies v. C.I.B.C.* (1987), 15 B.C.L.R. (2d) 256, 1987 CanLII 2608 (B.C.C.A.) is clearly met.

[9] I will grant the application. The respondent Local 76 has an extension of time to file its factum until 4:00 p.m. on October 7, 2024.

“The Honourable Justice Griffin”