

Court of King's Bench of Alberta

Citation: Canadian Imperial Bank of Commerce v Hayden, 2024 ABKB 139

Date: 20240312
Docket: 2101 08260
Registry: Calgary

Between:

Canadian Imperial Bank of Commerce

Proposed Respondent / Plaintiff

- and -

Ingrid Hayden

Proposed Appellant / Defendant

**Memorandum of Decision
of Associate Chief Justice
D.B. Nixon**

[1] Circa December 2023 to January 2024 Ingrid Hayden [Ms. Hayden] deposited with the Calgary Alberta Court of King's Bench Court two documents she each titled "Application Requesting Permission To File" [*Leave Applications*]. Subsequently, Ms. Hayden on March 11 2024 emailed my office a request to file an "Objection" to distribution of funds by the Accounting Section of the Alberta Court of King's Bench [*Objection Application*].

[2] Ms. Hayden is subject to both prospective court access gatekeeping (*Hayden v Hayden*, 2020 ABQB 700, leave to appeal denied 2021 ABCA 202) and strict communications restrictions with the Court (*Canadian Imperial Bank of Commerce v Hayden*, 2022 ABQB 593 [*CIBC v Hayden #5*]) in response to Ms. Hayden's long-standing pattern of abusive litigation and ignoring court orders. Ms. Hayden is required to obtain permission - "leave" - prior to

initiating court litigation steps. Ms. Hayden has repeatedly made unsuccessful leave applications to this Court. In the interests of judicial economy, this decision is a summary response to Ms. Hayden's *Leave Applications*, rather than an exhaustive review of Ms. Hayden's litigation history that leads to this decision.

[3] Some background is, however, necessary. Starting in the late 2000s, Ms. Hayden entered into disputes with her then employer, Alberta Health Services [AHS]. That led to unsuccessful labour grievances, then Ms. Hayden in multiple lawsuits sued AHS, her union, lawyers involved in this litigation, and others. Ms. Hayden was uniformly unsuccessful, and she was the subject of many unfavourable cost awards. She paid none of them. AHS registered writs of enforcement for those cost awards against Ms. Hayden's residence. With interest in December 2023, that costs total was now \$44,759.37.

[4] Ms. Hayden has made very plain she does not accept any unfavourable litigation outcomes. Instead, she has challenged negative outcomes via legitimate but unsuccessful appeals, and improper litigation that abused this Court's processes. Ms. Hayden is a highly active and persistent litigator, for example she has on six occasions unsuccessfully sought leave to appeal to the Supreme Court of Canada.

[5] In 2021, the Canadian Imperial Bank of Commerce [CIBC] commenced foreclosure proceedings on Ms. Hayden's home [*Foreclosure Action*]. Ms. Hayden intends to file her *Leave Applications* in that proceeding. The *Foreclosure Action* is now nearly complete. Ms. Hayden's house is sold, and distribution of the proceeds of that sale is the only legitimate step that remains.

[6] Ms. Hayden's conduct during the *Foreclosure Action* has been reprehensible. She has repeatedly engaged in abusive litigation, continually re-argued issues, rejected her debt obligations, engaged unrelated parties, and persistently submitted repeated leave requests that challenge and re-challenge this Court's findings. Cautions and instructions have made no difference. Instead, Ms. Hayden is essentially beyond this Court's control. Associate Chief Justice Rooke concluded:

There is no point in further reviewing and recapturing Ms. Hayden's dismal litigation record. That is detailed in prior decisions of this Court and the Alberta Court of Appeal. I will simply conclude that Ms. Hayden is utterly uncompliant with this Court's attempts to manage her litigation. She has repeatedly and relentlessly abused this Court and opposing parties. Ms. Hayden now does not even simulate compliance with this Court's attempts to manage her litigation, with the aim that the foreclosure of her residence is conducted in a procedurally fair and legally correct manner. Instead, Ms. Hayden has made a mockery of this Court, its processes, and the Alberta Rules of Court. Ms. Hayden has brought the administration of justice into disrepute.

(*CIBC v Hayden #5* at para 5.)

I have exhausted the Court's mechanisms to manage Ms. Hayden, as they were defined and limited by the Alberta Court of Appeal in *Jonsson v Lymer*, 2020 ABCA 167. I simply cannot take any useful steps to achieve the policy objective set by Chief Justice Wagner in *British Columbia (Attorney General) v Council of Canadians with Disabilities* [2022 SCC 27 at para 1]. Instead, predictably, Ms. Hayden will take additional future steps to achieve her intended objectives: to do

whatever she wants, however she wants it. This ridiculous farcical festival will now continue to cycle over and over, around and around, with no end in sight. ...

(*Hayden v Hayden*, 2022 ABKB 648 at para 13.)

[7] Subsequently, Acting Chief Justice Nielsen in *Hayden v Canadian Imperial Bank of Commerce*, 2023 ABKB 100 at para 29 concluded there is not even any point in attempting to discipline or control Ms. Hayden. She simply does whatever she wants:

Ms. Hayden has been repeatedly instructed and cautioned concerning her abusive litigation. Ms. Hayden has been warned and then penalized for her abuse of the Court's leave process. Ms. Hayden's leave to appeal Application should warrant a further r 10.49(1) of the Alberta Rules of Court penalty since she is making baseless claims and re-litigating long settled issues. However, I will not impose a further such penalty because to do so is pointless. Ms. Hayden cannot be deterred in that way. Ms. Hayden will not comply with this Court's Orders. The result is Ms. Hayden is effectively unmanageable, and will, in all likelihood, make yet further hopeless and abusive leave applications.

This statement proved prophetic. Two days after the Court issued this decision, Ms. Hayden submitted to the Court another futile and abusive leave request that was rejected in *Canadian Imperial Bank of Commerce v Hayden*, 2023 ABKB 152, leave to appeal to SCC refused, 40486 (March 30, 2023) [*CIBC v Hayden #8*].

[8] Ms. Hayden is familiar with the principles applied by this Court to evaluate candidate litigation for which Ms. Hayden seeks leave, see e.g., *CIBC v Hayden #8* at paras 5-11. There is no need to conduct a detailed review of Ms. Hayden's two *Leave Applications*. Ms. Hayden's first current *Leave Applications* seeks:

... An Order declaring that CBC Counsel, Stuart Whealtherill did not fulfil the Order confirming sale of Judge Prowse, dated November 18, 2022. An Order that CIBC Counsel did not fulfill Master Mason redemption Order, dated November 18, 2022. (Sic.)

[9] I reject this leave to file and/or appeal application because Ms. Hayden is seeking to challenge and/or disturb now completed litigation. Her house is sold. To the degree this request for leave can be evaluated, the proposed litigation steps are pointless.

[10] The second of the *Leave Applications* seeks: "... An Order declaring that Alberta Health Services Order, filed November 27, 2023 be voided. ...". My review of the *Foreclosure Action* filings shows that Ms. Hayden has rejected that the AHS costs debts imposed by this Court and then registered against Ms. Hayden's residence should be collectable from the proceeds of the *Foreclosure Action*. Ms. Hayden rejects the procedures and outcomes of her now long concluded litigation with AHS, see Affidavit of Ingrid Hayden, sworn November 8, 2023, where Ms. Hayden explicitly rejects "... [AHS] being awarded any cost from the proceeds that was paid into Court, as a result of the sale of my property ...". Ms. Hayden then proceeds to dispute events, reject evidence, and challenge litigation outcomes that are now over a decade old. The second of the *Leave Applications* is therefore a collateral attack on settled issues, and an abuse of the Court.

[11] The *Objection Application* also illustrates how Ms. Hayden ignores this Court's attempts to manage her activities. Her cover email indicates that she attempted to file certain materials with the Clerk of the Court, but that was rejected. Ms. Hayden appears to question that.

However, *CIBC v Hayden #5* at para 7 imposed these explicit restrictions on Ms. Hayden communicating with the Court:

1. Ms. Hayden is prohibited from filing any document with the Alberta Court of Queen's Bench, except with leave of the Court.
2. If Ms. Hayden seeks leave to file any document with the Alberta Court of Queen's Bench, Ms. Hayden must submit that document to my office, along with a supporting affidavit as specified in *Hayden v Hayden*, at para 47(2).
3. Any document or attempted filing that does not meet these criteria will be discarded without any response, except that the Court may impose further penalties, as appropriate.
4. **The Clerks of the Court shall refuse any document, candidate filing, or other item from Ms. Hayden, except if that document, candidate filing, or other item is accompanied by a letter or Order of myself, or my designate, that permits filing.**

[Emphasis in original.]

Ms. Hayden, by her own statement, shows she ignored the Court's Order and acted in *prima facie* contempt of the Court.

[12] As for the substance of Ms. Hayden's *Objection Application*, Ms. Hayden's complaint follows her usual pattern of attempting to re-argue long settled litigation and she collaterally attacks decisions of the Applications Judges on bases I have reviewed and rejected in my analysis above of the *Leave Applications*. I, therefore, also reject filing of Ms. Hayden's *Objection Application* materials.

[13] Ms. Hayden has continued her practice that no court outcome, even when appealed to the Supreme Court of Canada, is ever binding on her. Ms. Hayden will and does take every step possible to frustrate and harm opposing litigants, and, in the process, wastes this Court's resources. Though unfortunate, I agree with Associate Chief Justice Rooke and Acting Chief Justice Nielsen that there is no meaningful way to stop or deter Ms. Hayden from abusing the Alberta Court of King's Bench. I, therefore, impose no penalty on Ms. Hayden. Doing so is simply pointless. Ms. Hayden will never pay, or even acknowledge that step is legitimate and binding upon her.

[14] Ms. Hayden shall be served this decision by email. I direct a copy of this Memorandum of Decision is provided to Counsel for CIBC and AHS. If Ms. Hayden disagrees with the outcome of this decision, she should seek leave from the Supreme Court of Canada.

Dated at the City of Calgary, Alberta this 12th day of March 2024.

D.B. Nixon
A.C.J.C.K.B.A.

Appearances by Written Submissions:

Ingrid Hayden
Self-represented Litigant

Stuart Weatherill
Emery Jamieson LLP
for Canadian Imperial Bank of Commerce (no appearance)

Lauren A. Barteluk & Anita V. Nowinka
Carbert Waite LLP
for Alberta Health Services (no appearance)