

In the Court of Appeal of Alberta

Citation: Reddy v Saroya, 2026 ABCA 318

Date: 20261006
Docket: 2601-0199AC
Registry: Calgary

Between:

Neville Reddy

Respondent

- and -

Parminder Saroya

Applicant

- and -

**Jyoti Saroya, John Doe, Joseph B Amantea, Warren Tettensor Amantea LLP,
a limited liability partnership, carrying on the practice of law under the partnership, firm,
name and style of Warren Tettensor Amantea LLP**

Not Parties to the Application

**Reasons for Decision of
The Honourable Justice Kevin Feehan**

Application for a Stay Pending Appeal

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I. Overview

[1] Parminder Saroya seeks a stay pending appeal of a decision of Associate Chief Justice Nixon dated June 18, 2026. In that order, Nixon ACJ required Mr Saroya to pay a fine of \$8,000 and costs of \$120,457.48 in sanctions for contempt of court.

[2] For the reasons below, the application is dismissed.

II. Background

[3] The current litigation, commenced in 2012, involves a business venture between the parties to develop real estate projects in Alberta and the United States. There has been considerable litigation and over more than 400 undertakings requested of Mr Saroya during questioning. See eg: 2019 ABQB 441, para 3.

[4] On an application for contempt of court, Mr Saroya was found in contempt regarding 32 undertakings, although four of those undertakings were subsequently resolved between the parties; 2024 ABKB 478, para 280.

[5] That contempt decision was appealed to this Court, reported at 2025 ABCA 322, with costs consequences addressed at 2026 ABCA 20. This Court determined that for 10 of the undertakings that were the subject of the contempt order, the test for contempt had not been established and the contempt citation was reversed. That left for determination sanctions to be imposed for contempt of court on the remaining 18 undertakings, which Nixon ACJ had found were not appropriately answered by Mr Saroya.

[6] At the sanctions application on the remaining 18 undertakings, 2026 ABKB 457, para 41, Nixon ACJ ordered, as indicated, the payment of a fine in the amount of \$8,000 and costs inclusive of solicitor and client costs, disbursements, other charges, and GST, of \$120,457.48.

[7] On July 15, 2026, Mr Saroya appealed that sanction. He now seeks a stay of the payment of those costs pending fast-track appeal. He does not seek a stay of the imposition of the \$8,000 penalty, which amount has now been paid into trust.

III. Law on Stays Pending Appeal

[8] The familiar tripartite test for a stay pending appeal is set out in *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311, 334, 111 DLR (4th) 385, citing *Manitoba (AG)*

v Metropolitan Stores Ltd, [1987] 1 SCR 110, 38 DLR (4th) 321. The applicant has the burden of showing that:

- (a) there is a serious question to be tried, an arguable issue that is not frivolous or vexatious;
- (b) there will be irreparable harm if the stay is not granted; and
- (c) the balance of convenience favours granting the stay.

[9] The threshold for meeting the serious question criterion is low, requiring only that the appeal be neither frivolous nor vexatious: *Polansky Electronics Ltd v AGT Limited*, 2000 ABCA 46, para 11, 80 Alta LR (3d) 57; *Midland Resources Holding Limited v Shtaiif*, 2021 ABCA 286, paras 19, 20; *Aubin v Quantiam Technologies Inc*, 2022 ABCA 125, paras 7, 8; *Banovich v Banovic*, 2025 ABCA 281, paras 3, 4; *Dow Chemical Canada ULC v NOVA Chemicals Corporation*, 2026 ABCA 50, para 8; *Patel v Parikh*, 2026 ABCA 144, paras 14, 15; *Stephenson v Stephenson*, 2026 ABCA 146, paras 27, 28. A prolonged merits review is generally neither necessary nor desirable: *RJR-McDonald*, 337-339; *Athabasca Chipewyan First Nation v Alberta (Chief Electoral Officer)*, 2026 ABCA 216, paras 18-20.

[10] Irreparable harm concerns the nature of the harm caused rather than its magnitude and includes harm that cannot be cured if the appeal succeeds: *RJR-McDonald*, 341; *Athabasca Chipewyan*, para 46. Evidence of irreparable harm must be clear, it must be more than inconvenience and requires actual evidence, not speculation: *O'Kane v Lillqvist-O'Kane*, 2023 ABCA 251, para 6.

[11] Harm is irreparable if it cannot be quantified in monetary terms or it cannot be cured, and courts are reluctant to grant stays of monetary judgments as the possible resulting harm can generally be repaired by another judgment or order: *Dow Chemical*, paras 9, 10. However, monetary harm may be irreparable where there is a reasonable prospect that the respondent will not, or will not be able to, repay an amount ordered following the appeal: *Anand v Anand*, 2024 ABCA 70, paras 6, 10; *1921645 Alberta Ltd v FCT Insurance Company Ltd*, 2022 ABCA 45, para 11. The burden of proof lies with the applicant, the respondent does not need to prove he is able to repay the funds: *MacFarlane v MacFarlane*, 2016 ABCA 92, para 3.

[12] On balance of convenience, the Court must compare the harm arising from granting or refusing the stay, which requires a wider analytical lens that includes the effect on the respondent: *Athabasca Chipewyan*, para 69. A court may grant a partial stay where broader relief is unnecessary and may confine relief to the amount genuinely in dispute: *Athabasca Chipewyan*, para 14, *Anand*, para 11.

[13] The fundamental question is whether a stay of proceedings is just and equitable in all the circumstances. This will necessarily be context-specific: *Piikani Nation v McMullen*, 2020 ABCA 183, para 15.

IV. Analysis

a) Serious question to be determined

[14] Mr Saroya says his appeal raises serious questions to be determined. His notice of appeal says that the chambers judge erred by:

- (a) declining to consider a sworn expert report and Affidavit of Sarah Hawco, CPA, CA, LLM, CIRP, CFE, Q. Arb, in which she reviewed financial records for Mr Saroya and his answers to undertakings;
- (b) the extent to which Mr Saroya's contempt had been purged or substantially remedied, and that the remaining deficiencies demonstrated material prejudice to Mr Reddy;
- (c) finding that 11 of the remaining 18 undertakings were “critically important” to Mr Reddy’s case;
- (d) fixing solicitor-and-client costs without an assessment;
- (e) imposing a disproportionate sanction and failing to consider material mitigating factors;
- (f) failing to determine whether some costs had been previously awarded in earlier orders of July 11, 2022 and January 6, 2023, resulting in duplication of costs ordered; and
- (g) failing to confine the decision to the issue of sanction, by expressing in paragraph 40 of his reasons that “this would be an appropriate situation for the trial judge hearing the matter to draw an adverse inference. This, however, will ultimately depend on the discretion of the trial judge”.

[15] Mr Saroya says “these issues comfortably meet the low threshold” expected on a stay application pending appeal. This criterion for the grant of a stay is not challenged by Mr Reddy. This criterion is met.

b) Irreparable harm

[16] The requested stay in this matter turns largely on the issue of irreparable harm. Mr Saroya concedes that courts generally will not stay awards which are purely monetary in nature, but that monetary harm may be irreparable where there is a “reasonable prospect that the respondent will not, or will not be able to, repay the amount ordered following the appeal”.

[17] Mr Saroya says that in his May 14, 2026 submissions to the court, Mr Reddy said that a lengthy trial would involve substantial legal expenses which “he may no longer be able to afford”, particularly after spending a “small fortune” seeking records to date. He says those statements evidence a real risk that if he pays the costs award before the appeal is determined, and the appeal succeeds in whole or in part, he may be unable to recover all or part of the amount paid. Additionally, Mr Saroya says that immediate payment of the costs would require that he divert resources needed to advance his appeal, fund the defence and counterclaim, obtain necessary expert evidence, and complete trial preparation.

[18] However, in cross-examination, Mr Saroya confirmed that he was not aware of Mr Reddy's financial circumstances. He said if he was required to pay the costs award pending appeal, it would be “hard for [him] to get money from banks and to do [his] transactions” affecting his “credibility”. When it was put to him, he agreed that “if [he had] to pay the cost award now, [he would] ... have to reach out and seek some sort of financing”. Finally, he said he was currently “rearranging [his] financing”. He agreed that he “would have the money to pay both the costs award and the costs of the appeal”, if he was unsuccessful on appeal.

[19] Mr Reddy says Mr Saroya has not provided evidence of his net worth and assets so that a court could clearly conclude he would be unable to repay Mr Saroya if unsuccessful on appeal. He says Mr Saroya has provided “no evidence whatsoever to support his belief that [Mr Reddy] would be unable to repay a cost award if he was successful on appeal”.

[20] As to whether Mr Saroya would suffer irreparable harm if he had to pay the costs award at the present time, Mr Reddy says this was only vague evidence of some inconvenience to Mr Saroya, which does not meet the evidentiary burden: *O’Kane*, para 6.

[21] Finally, whether or not requirement for Mr Saroya to pay costs pending appeal would compromise his ability to fund the appeal and continue preparation for trial, is not, on its own, sufficient to demonstrate irreparable harm: *Gatt v Gatt*, 2026 ABCA 31, para 15.

[22] Mr Reddy says Mr Saroya is a sophisticated, high net-worth individual, a builder who owns multiple corporations, a multimillion-dollar home, with over two million dollars in equity, and is the full or part owner of two corporations.

[23] Mr Saroya has not established that requiring he pay a cost award at the present time, pending appeal, would cause him irreparable harm. That is dispositive of his application.

c) Balance of convenience

[24] It has been more than two years since Mr Saroya was found in contempt. This appeal is scheduled as a fast-track appeal, which will likely be decided within the next six months. The final step in appeal preparation is the filing of Mr Reddy’s factum and extracts of key evidence, due October 14, 2026 and fast-track dates are available before year end. Mr Reddy is concerned that

even if he is successful on appeal, it will be difficult to enforce this costs award and future costs awards against Mr Saroya. Any collection process would not be complete in any event pre-appeal. The balance of convenience does not favour granting a stay.

d) Just and equitable

[25] Mr Saroya emphasized that even if he fails to meet the above tests, a stay could be granted if it were just and equitable in the circumstances. He said that justice and equity should prevail because his ground of appeal that solicitor and client costs had been awarded in a gross amount, without requirement of an assessment, is very strong. He said it is inequitable to have to pay the full amount awarded, when it was probable, he says, that the costs would be reduced by some amount on proper assessment. However, this argument returns to the issue of irreparable harm and Mr Reddy's ability to repay any amount paid that would be in excess of any future assessment. The reasons above as to Mr Reddy's ability to pay are determinative on this submission.

V. Conclusion

[26] The application for stay pending appeal is dismissed.

Application heard on September 23, 2026

Reasons filed at Calgary, Alberta
this 6th day of October, 2026

Feehan J.A.

Appearances:

R.C. Gibbs (no appearance)

I. Ioudine
for the Respondent

C.M.A. Souster
for the Applicant