

In the Court of Appeal of Alberta

Citation: Luo v Chen, 2026 ABCA 233

Date: 20260706
Docket: 2503-0279AC
Registry: Edmonton

Between:

Shaohua Luo

Applicant

- and -

Yuping Chen

Respondent

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

Application for a Stay Pending Appeal

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I. Overview

[1] Shaohua Luo applies for a stay of the decision of a chambers judge dated November 27, 2025, pending appeal.

[2] The chambers judge struck Mr Luo's statement of claim for divorce and division of matrimonial property and noted him in default on Yuping Chen's counterclaim. He filed an appeal on December 23, 2025, and his appeal has been set for November 2, 2026. However, Ms Chen has secured a streamlined trial date to determine issues of division of matrimonial property, imputation of his income, status of the parties' adult child as a child of the marriage, child support, both retroactive and ongoing spousal support, enhanced costs and divorce, set for September 17, 2026. In his current situation, Mr Luo says he will not be entitled to provide evidence at that streamlined trial.

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

II. Background

[4] Mr Luo and Ms Chen were married on April 28, 1995, and had two sons, the youngest of which is arguably a child of the marriage. They were separated on September 30, 2017. Mr Luo filed for divorce and division of matrimonial property on August 12, 2019. Ms Chen filed a statement of defence and counterclaim on May 24, 2023.

[5] Mr Luo is a former Edmonton Police Services officer, who has now left the jurisdiction. There was until recently a warrant for his arrest, and his present location is unknown. Ms Chen has also left the jurisdiction and is a corrections officer in British Columbia.

[6] Mr Luo has been delinquent in his obligations to disclose and obey court orders, resulting in multiple applications and delays. As set out below, he has been declared to be in contempt of court twice, and there was an outstanding warrant for his arrest for failure to appear in chambers to show why he should not be noted in contempt.

[7] On September 10, 2019, Mr Luo was ordered to produce his work schedule, pay specified child support, not dispose of any assets nor incur debt of more than \$500, make the payments on the matrimonial home and line of credit, and produce his income tax returns and notices of assessment. He failed to comply.

[8] On November 2, 2022, Mr Luo was ordered to produce bank statements directly from his banks. However, it was later found that he intentionally substituted falsified bank statements.

[9] On March 7, 2023, a chambers judge ordered that Mr Luo to take all necessary steps to maintain and sell the home in Victoria.

[10] On March 23, 2023, Mr Luo was ordered to comply with the March 7, 2023 order failing which he was to pay \$100 per day, and show cause why he should not be noted in contempt. He failed to comply with that order.

[11] On April 17, 2023, Ms Chen was permitted to bring an application in family law chambers for a monetary judgment arising from Mr Luo's failure to comply with previous court orders, and for a declaration that he be held in civil contempt. Mr Luo was required to deposit with his counsel \$7,900, being the amount equivalent to the penalty to be levied for non-compliance with the order of March 23, 2023. He failed to comply with that order as well.

[12] Mr Luo appealed the order of March 23, 2023, but it was struck by the Registrar on July 5, 2023 for failure to comply with the *Alberta Rules of Court*, AR 124/2010.

[13] On July 14, 2023, the Court of King's Bench issued a warrant for Mr Luo's arrest to show why he should not be declared to be in civil contempt, and ordered him to pay \$10,700, being the then amount of penalty calculated from the order of March 23, 2023. Funds held in trust with his counsel were to be paid to counsel for Ms Chen to partially satisfy the amount owed for the accrued penalty to date.

[14] On June 15, 2023, the Court of King's Bench found Mr Luo liable to Ms Chen for \$462,644.30, found him in civil contempt of the orders of December 1, 2021, March 15 and April 17, 2023, awarded costs of \$15,000, directed payment of funds currently held in trust, and ordered a further contempt hearing adjourned to July 14, 2023.

[15] On November 27, 2025, a chambers judge issued two orders. Mr Luo was again found in civil contempt for having produced and proffered falsified bank statements, which purported to comply with the order of November 2, 2022. As a result, his statement of claim for divorce and division of matrimonial property was struck, he was noted in default on Ms Chen's counterclaim, and Ms Chen was entitled to proceed on her counterclaim to a streamlined trial. Additionally, Mr Luo was ordered to pay costs of \$10,000.

[16] The second order of November 27, 2025, set the one-day streamlined trial and specific issues to be determined at that streamlined trial. The order provided that the determination of those issues would be "a final judgment, not an interim judgment, with respect to those issues".

[17] As indicated, the streamlined trial has now been set for September 17, 2026, and Mr Luo's appeal from the orders of November 27, 2025, has been set for November 2, 2026.

[18] On June 9, 2026, Mr Luo attended in court on his contempt of court orders. He was held in custody for one day and ordered to pay costs.

III. Test for a Stay Pending Appeal

[19] 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.

[20] 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. The test for determining whether an appeal is arguable has a low threshold: *Polansky Electronics Ltd v AGT Limited*, 2000 ABCA 46, para 11, 80 Alta LR (3d) 57; *Midland Resources Holding Limited v Shtaif*, 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; *Patel v Parikh*, 2026 ABCA 144, paras 14, 15; *Stephenson v Stephenson*, 2026 ABCA 146, paras 27, 28.

IV. Analysis

[21] Mr Luo's application fails on all three criteria for the grant of a stay.

[22] He does not raise an arguable issue on appeal. Mr Luo entered into a consent order on June 6, 2025, in which he agreed “that he would not be filing any responding Affidavit ..., nor would he be contesting [the Respondent’s] application for a declaration that [the Applicant] is in civil contempt of court”. He cannot now resile from his position that he will not contest the determination that he is in civil contempt of court. Additionally, r 10.53(1) of the *Alberta Rules of Court*, provides a wide range of penalties that may be imposed for civil contempt, including:

- (i) all or a part of a commencement document, affidavit or pleading be struck out,
- (ii) an action or an application be stayed,

- (iii) a claim, action, defence, application or proceeding be dismissed or judgment be entered or an order be made, or
- (iv) a record or evidence be prohibited from being used or entered in an application, proceeding or at trial.

[23] The Court of King's Bench is in charge of its own procedure, and it was well within the discretion of the chambers judge to strike out Mr Luo's statement of claim and note him in default. It is very unlikely this Court would interfere with that exercise of discretion in light of the facts set out above.

[24] As to irreparable harm, the fact that Mr Luo cannot participate in the streamlined trial does not mean the Court cannot make, or will not make, a fair and reasonable decision on the merits of the evidence presented by Ms Chen. Additionally, any judgment to come out of the streamlined trial will be a monetary judgment. No irreparable harm will be done to Mr Luo if he is ultimately successful in his appeal of the November 27, 2025 order, as he would then be in a position not to have to pay that money judgment, in whole or in part, or he would be entitled to have any amount paid returned to him in full. There is no evidence before this Court that if Ms Chen received a money judgment and collected upon it, that she would return to China, as alleged by Mr Luo.

[25] Finally, the balance of convenience favours Ms Chen. She has been continually delayed, sidetracked, and put to significant expense for the past seven years. The streamlined trial scheduled for September 17, 2026, has already effectively acted as a 10-month stay of the practical outcome of the order under appeal.

[26] If a stay was granted, it would effectively delay the conclusion of this matter for Ms Chen well into 2027, as there are no available trial dates left this year, and she would then be denied access to the funds held in trust by Mr Luo's counsel. A seven-year delay in payment of any retroactive or ongoing child support, retroactive spousal support, and division of matrimonial property, is a serious prejudice to Ms Chen, and that prejudice cannot be allowed to continue.

V. Conclusion

[27] The application is dismissed.

Application heard on June 17, 2026

Reasons filed at Edmonton, Alberta
this 6th day of July, 2026

Appearances:

C. Ready
for the Applicant

G. Chan
for the Respondent