

# **In the Court of Appeal of Alberta**

**Citation: Patel v Parikh, 2026 ABCA 299**

**Date:** 20260916  
**Docket:** 2501-0320AC  
**Registry:** Calgary

**Between:**

**Kajal Patel**

Appellant

- and -

**Arpit Parikh**

Respondent

**The Court:**

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**The Honourable Justice Kevin Feehan  
The Honourable Justice Anne Kirker  
The Honourable Justice April Grosse**

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## **Memorandum of Judgment**

Appeal from the Order by  
The Honourable Justice C.A. Rickards  
Dated the 23rd day of October, 2025  
Filed on the 31st day of October, 2025  
(Docket: 2301-12255)

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## Memorandum of Judgment

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### The Court:

### Overview

[1] The appellant filed an appeal of a family law arbitration award in the Court of King's Bench. Her appeal to the Court of King's Bench was struck for failure to comply with a filing deadline. In this Court, the appellant challenges the Court of King's Bench chambers order striking her arbitration appeal. For the reasons set out below, the appeal is dismissed.

### Context

[2] The appellant and the respondent went to arbitration to resolve issues including spousal support, retroactive child support and the division of family property. On September 18, 2023, the appellant filed an originating application/notice of appeal in the Court of King's Bench in relation to the arbitration award pursuant to the *Arbitration Act*, RSA 2000, c A-43. Ultimately, the arbitration appeal was set for a two-day hearing in the Court of King's Bench, and the appellant's filing deadline for appeal materials was in mid-October 2025.

[3] Several days before the October 2025 filing deadline, the appellant applied to the Court of King's Bench for an extension of time. The application was contested, with the respondent pointing to past delays and claiming the delay was to his prejudice. On October 9, 2025, a chambers judge granted the appellant an extension to file her appeal materials to October 17, 2025, but he made the deadline peremptory. The October 9, 2025 order also precluded the appellant from filing further extension applications without leave of the court and stated that if the appeal materials were not filed and served by the close of business on October 17, 2025, the appeal of the arbitration award to the Court of King's Bench was struck.

[4] For the purpose of the appeal to this Court, it is uncontested that counsel retained by the appellant attempted to e-file the arbitration appeal materials between 4:00 and 4:30 p.m. on October 17, 2025, and that the respondent received an unfiled copy of the materials that afternoon. However, due to a procedural irregularity, the materials were not filed on October 17.

[5] The respondent took the position that the appellant's arbitration appeal was automatically struck by operation of the October 9, 2025 order. The respondent obtained leave to bring an application for confirmation, and on October 23, 2025, the chambers judge struck the appellant's arbitration appeal. The chambers judge noted the matter had been ongoing for a while, and that the extension granted on October 9, 2025 was not the first extension. The October 9, 2025 order was very clear and was peremptory on the appellant. The chambers judge confirmed the appellant was in court when the October 9, 2025 order was granted and understood it. The chambers judge agreed with the submissions of the respondent's then counsel that in the face of the October 9, 2025 order,

the appellant and her counsel should not have taken a chance by leaving it to October 17 to submit the documents for filing. The appeal before us is from the October 23, 2025 chambers order striking the arbitration appeal.

### **Analysis**

[6] A chambers judge's decision to strike an appeal for non-compliance with a procedural order is discretionary in nature. This Court may only intervene if there is a legal error, a palpable and overriding factual error, or a failure to exercise discretion judicially: *Resler v Anglin*, 2026 SCC 23 at para 24.

[7] The appellant acknowledges the discretionary nature of the decision under appeal, but she argues that appellate intervention is warranted in this case. There is significant overlap amongst the appellant's 23 grounds of appeal, and they can be distilled to three:

- (a) The chambers judge did not adequately consider, or gave insufficient weight to, factors that would weigh against striking the arbitration appeal, such as the lack of prejudice to the respondent; the nature of the non-compliance; the appellant's efforts to comply and her demonstrated intention to advance the appeal; the nature and importance of the underlying family law issues; the severe impact of striking the arbitration appeal; the impact of current and past allegations by the respondent that lawyers retained by the appellant were in a conflict of interest; the availability of a less drastic remedy for non-compliance; and the prejudice suffered by the appellant as a self-represented litigant for portions of the proceedings;
- (b) The chambers judge did not exercise discretion judicially because he treated the failure to strictly comply with the October 9 order as determinative without balancing fairness, proportionality, access to justice, the importance of adjudication on the merits, and the interests of justice; and
- (c) Striking the arbitration appeal was unjust and inconsistent with proportionality, fairness, and the proper administration of justice; it undermines confidence in the justice system.

[8] Reading the decision of the chambers judge as a whole and in context, we are not convinced that he treated non-compliance with the October 9 order as determinative or otherwise failed to exercise his discretion judicially. Contrary to the appellant's assertion, the chambers judge considered the surrounding circumstances. The chambers judge listened to counsel who had submitted the appellant's materials for filing and to the appellant herself. He considered the information they provided, not only about the circumstances of the attempt to file on October 17, but also about matters such as the lack of prejudice to the respondent, the way that the October 17 filing deadline came about and the controversies regarding counsel conflicts. Notwithstanding these points, it remained open to the chambers judge to strike the arbitration appeal in the circumstances and the result is not "so clearly wrong as to amount to an injustice": *Resler* at para 24. By October 2025, the arbitration appeal had been outstanding for over two years. On October 9, the appellant assured the presiding judge that she already had counsel reviewing the file and that there would not be a further extension request. She expressly confirmed her understanding that October 17 was the last date to file, that the court would not entertain any further requests for additional time, that the appeal would be struck if the materials were not filed by the deadline, and that she was "taking that responsibility". As noted by the chambers judge, the October 9, 2025 order itself was unmistakably clear.

[9] The appellant cites rule 1.2 of the *Alberta Rules of Court*, Alta Reg 124/2010, noting that claims are to be fairly and justly resolved and that courts are to grant or impose remedies and sanctions proportional to the reason for granting or imposing them. These principles are important, but they did not fetter the discretion of the chambers judge or preclude the striking of the claim in the circumstances.

[10] During oral argument, the appellant suggested the chambers judge made a factual error when he noted the October 9 extension of time was not the first. The appellant argues that any past extensions or delays were not in the context of the appeal to the Court of King's Bench. The record before this Court is insufficient to demonstrate that the chambers judge made a palpable and overriding error of fact relating to past deadlines, extensions or delays.

[11] The appellant's appeal otherwise amounts to a request for this Court to re-weigh the relevant factors and exercise its discretion in a different manner than did the chambers judge. That is not our role.

[12] The appeal is dismissed. Both parties are self-represented in this Court, and each shall bear their own costs of the appeal.

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

Appeal heard on September 9, 2026

Memorandum filed at Calgary, Alberta  
this 16th day of September, 2026

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Feehan J.A.

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Kirker J.A.

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Grosse J.A.

**Appearances:**

Appellant K. Patel

Respondent A. Parikh