COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Bains v. O'Rourke,* 2026 BCCA 214

Date: 20260520
Docket: CA51188

Between:

Jessie Bains

Appellant
(Plaintiff)

And

Jennifer O'Rourke

Respondent
(Defendant)

Before: The Honourable Justice Griffin
The Honourable Madam Justice DeWitt-Van Oosten
The Honourable Justice Iyer

On appeal from: An order of the Supreme Court of British Columbia, dated November 10, 2025 (*Bains v. O'Rourke*, 2025 BCSC 2534, Vancouver Docket S255447).

The Appellant, on his own behalf, by written submissions:	J. Bains
Counsel for the Respondent, by written submissions:	M. Cooperwilliams
Written Submissions Received:	March 13 and April 1, 2026
Place and Date of Judgment:	Vancouver, British Columbia May 20, 2026

Written Reasons of the Court

2026 BCCA 214 (CanLII)

Summary:

Referral to a division pursuant to s. 21 of the Court of Appeal Act. Held: Appeal dismissed as frivolous, vexatious, and without merit.

Reasons for Judgment of the Court:

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[1] Mr. Bains has filed an appeal from an order made November 10, 2025, striking out his notice of civil claim and amended notice of civil claim and dismissing his action (the "Order"). The judge who made the order gave oral reasons for judgment, indexed as 2025 BCSC 2534 ("SC Reasons").

[2] In summary, the claim was struck because it disclosed no reasonable cause of action and had no reasonable prospect of success; and further, it was frivolous, scandalous, and an abuse of process.

[3] This appeal proceeding was referred to this division pursuant to s. 21 of the *Court of Appeal Act*, and the parties were given the opportunity to provide written submissions, which they did and which we have considered.

[4] Section 21 provides:

> 21 (1) A justice or the registrar may refer an appeal to the court for summary determination if the justice or registrar considers that the appeal
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> (a) is frivolous or vexatious, or
>
> (b) can otherwise be dismissed on a summary basis.
>
> (2) On a referral under subsection (1), the court may dismiss all or part of the appeal if the court considers that the appeal meets the criteria set out in subsection (1) (a) or (b).
>
> (3) Before dismissing all or part of an appeal under subsection (2), the court must give the appellant an opportunity to make written submissions or otherwise be heard.

[5] Mr. Bains' underlying claim is brought against the respondent, a lawyer, Ms. O'Rourke, who acted for the British Columbia Labour Relations Board ("BCLRB") and also acted for its Vice-Chair, Mr. Barker in Mr. Bains' action against him (the "Barker Action").

[6] Mr. Bains brought two successive applications in the Barker Action seeking an order that the respondent lacked standing to represent Mr. Barker. Mr. Bains seems to believe, without any legal basis, that the same lawyer cannot represent both the BCLRB and Mr. Barker, and that it is necessary for the respondent to declare whether she represents Mr. Barker in a personal capacity or in his official capacity. Mr. Bains' applications were both dismissed. This Court dismissed his appeals on January 29, 2026, with reasons indexed as 2026 BCCA 65 ("CA Reasons").

[7] The Order under appeal struck Mr. Bains' claim in which he sought to relitigate the same underlying complaint against the respondent, based on her representation of Mr. Barker at the same time as she was representing the BCLRB.

[8] For substantially the same reasons as the SC Reasons and the CA Reasons, we dismiss the appeal without an oral hearing as it is frivolous, vexatious, and it is obvious that it is entirely without merit.

"The Honourable Justice Griffin"

"The Honourable Justice DeWitt-Van Oosten"

"The Honourable Justice Iyer"

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