

NOVA SCOTIA COURT OF APPEAL
Citation: *Kovacevic v. Pye*, 2025 NSCA 68

Date: 20250923
Docket: CA 532788
Registry: Halifax

Between:

Larry Kovacevic

Appellant

v.

Maxine Pye

Respondent

Judges:	Farrar, Bourgeois and Derrick, JJ.A.
Appeal Heard:	September 15, 2025, in Halifax, Nova Scotia
Facts:	The appellant initiated a civil action against the respondent, alleging defamation, damage to business interests, loss of property, and general damages for pain and suffering. The litigation was characterized as complex and potentially costly. The appellant was required to post security for costs, which he failed to do, leading to the dismissal of his action (paras 6-7 , 9 , and 17).
Procedural History:	• Justice Jeffrey R. Hunt, February 20, 2024: Dismissed the appellant's action for failure to post security for costs (paras 1 and 17).
Parties' Submissions:	• Appellant: Argued that the requirement to post security for costs was unfair and sought to have it set

aside to proceed with the trial without a security deposit (paras [3-4](#)).

Legal Issues:

- Can this Court set aside the October 27, 2022 security for costs order? (para [19](#))
- Did the motions judge err in granting the respondent's motion for dismissal? (para [19](#))

Disposition:

- The appeal was dismissed with costs of \$500 awarded to the respondent.

Reasons:

Per Farrar J.A. (Bourgeois and Derrick JJ.A. concurring):

The Court found that the appellant did not appeal the October 27, 2022 security for costs order within the required timeframe, and thus, it could not be set aside in this appeal (paras [25-26](#)). The motions judge did not err in dismissing the appellant's action, as the appellant failed to comply with the security for costs order despite multiple extensions and warnings. The judge had exhausted all other remedies to ensure compliance, and dismissal was deemed the only appropriate course of action (paras [27-30](#)).

<i>This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 31 paragraphs.</i>

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Appeal Heard: September 15, 2025, in Halifax, Nova Scotia

Held: Appeal dismissed with costs in the amount of \$500, per reasons for judgment of Farrar, J.A.; Bourgeois and Derrick, JJ.A. concurring

Counsel: Larry Kovacevic, appellant in person
Joseph Tracey, for the respondent

Reasons for judgment:

Introduction

[1] On April 24, 2024, the appellant Larry Kovacevic filed a Notice of Appeal, appealing the oral decision of Justice Jeffrey R. Hunt dated February 20, 2024. The decision dismissed his action against the respondent, Maxine Pye. The Order was issued on March 21, 2024.

[2] In his Notice of Appeal Mr. Kovacevic raises fourteen grounds of appeal. All of his grounds of appeal address a security for costs order dated October 22, 2022, which required him to post security in the amount of \$18,000.00.

[3] In his factum he raised four issues again all addressing the security of costs order. The relief sought in his factum is to set aside the requirement to post security. He asks this Court for the following:

1. An Order allowing my evidence to be seen.
2. Also allowing this case to be heard with an opportunity for a trial without a security deposit.

[4] In his submissions before us, Mr. Kovacevic focused on the requirement to post security for costs and its unfairness in precluding him from proceeding with his action against Ms. Pye.

[5] At the conclusion of oral submissions, the decision was reserved. For the reasons that follow, I would dismiss the appeal with costs to the respondent in the amount of \$500 inclusive of disbursements.

Background

[6] On February 10, 2022, the appellant filed a Notice of Action and Statement of Claim against Ms. Pye. The issues he raised in the Statement of Claim were summarized by Hunt, J. in his February 20, 2024 decision:

[2] ...

[2] The subject of this motion is a civil action launched in Amherst Supreme Court by Mr. Kovacevic against Ms. Pye. The scope of the issues raised in his pleading is expansive. In summary, it includes claims for defamation, damage to business interests, loss of property, future loss

claims, past loss claims and general damages for pain and suffering. It is a sprawling pleading covering many alleged grievances and claims.

[3] Mr. Kovacevic is self represented. Everything about the litigation has the look and feel of a matter that is going to be long, difficult, very personal and unnecessarily costly. ...

[7] On March 18, 2022, the respondent entered a Defence.

[8] On August 30, 2022, the respondent filed a motion seeking an Order for security for costs from the appellant.

[9] By oral decision and order dated October 27, 2022, Justice Hunt required the Appellant to provide security for costs in the amount of \$18,000.00 by January 31, 2023. The October 27, 2022 Order has never been appealed.

[10] On January 31, 2023, the appellant filed a Notice of Motion seeking to be permitted to make payments of \$400.00 monthly towards the security for costs. This motion appears to have been subsumed into the motion to dismiss described below.

[11] On February 15, 2023, the Respondent filed a Notice of Motion seeking the dismissal of the appellant's claim on the basis that he had not provided security for costs by the January 31, 2023 deadline.

[12] On April 21, 2023, Justice Hunt extended the deadline for the appellant to provide security for costs until September 29, 2023 and adjourned the Respondent's Motion for Dismissal until October 19, 2023.

[13] On September 29, 2023, the appellant filed a Notice of Motion seeking:

I move to have the Order of Justice Jeffrey R. Hunt dated October 27, 2022, to provide security for costs to be removed allowing me to set this matter down for trial.

[14] By oral decision dated October 26, 2023 and order dated October 31, 2023, Justice Hunt dismissed the appellant's motion for reconsideration and extended the deadline to provide security for costs to February 15, 2024. He adjourned the respondent's motion for dismissal until February 20, 2024.

[15] In the October 26, 2023 decision, the motion judge made it clear the extension was going to be the appellant's final chance to post security for costs:

[52] I have after much reflection determined that the discretionary and extraordinary nature of the remedy requires that the Plaintiff be provided with a further opportunity comply with the Order of the Court for the posting of security. He will have until February 15, 2024 to do so. This is his final chance.

[16] The motions judge hammered the point home at the conclusion of his decision:

[55] I need Mr. Kovacevic to know that he is in grave danger of the Court having no effective alternatives to dismissal unless he takes seriously his obligation to bring himself into compliance with the prior Order of the Court.

[56] It would be a grave mistake for him to the leave this appearance today without a clear appreciation of this very real risk. He must appreciate the position he is in and not fail to act accordingly.

[17] On February 20, 2024, after receiving submissions from the parties, Hunt, J. gave an oral decision allowing the respondent's motion and dismissing the appellant's action on the basis of his failure to post security for costs as ordered.

[18] As noted earlier, on March 21, 2024, the Court issued the Order dismissing the appellant's claim. It is from that order the appellant appeals.

Issues

[19] I would identify the following issues on this appeal:

1. Can this Court set aside the October 27, 2022 security for costs order?
2. Did the motions judge err in granting the respondent's motion for dismissal?

Standard of Review

[20] Both of the issues I have identified are questions of law subject to a correctness standard of review.

Analysis

Issue 1: Can this Court set aside the October 27, 2022 security for costs order?

[21] An appeal to this Court is governed by the *Judicature Act*, R.S.N.S.1989, c.240. Section 38 provides:

Appeal to Court of Appeal

38 (1) Except where it is otherwise provided by any enactment, an appeal lies to the Court of Appeal from any decision, verdict, judgment or order of the Supreme Court or a judge thereof, whether in court or in chambers.

[22] Section 46 of the *Judicature Act*, provides the Court of Appeal with the power to make rules “generally for regulating any matter relating to the practice and procedure of the Court” (see 46(j)).

[23] This Court has enacted rules setting forth the timelines for an appeal. Civil Procedure Rule 90.13 provides that if the appellant wished to appeal the October 27, 2022 Order, he would have to have done so within twenty-five (25) days of the order as calculated in Rule 94. Rule 94 provides that the period to appeal is calculated excluding Sunday and any weekday the Court is closed.

[24] By my calculation, the appeal period expired on December 2, 2022.

[25] The appellant never sought to appeal that order, nor did he seek an extension of time to file on appeal. This, despite the fact that he took other steps to attempt to deal with the security for costs order including bringing a motion to have Hunt, J. reconsider his decision. Simply stated, the October 27, 2022 Order has never been appealed and is not before us.

[26] This Court cannot set aside the security for costs order in an appeal of the March 21, 2024 Dismissal Order.

Issue 2: Did the motions judge err in granting the Respondent’s motion for dismissal?

[27] In his February 24, 2024 decision, after citing the correct legal principles, the motions judge turned his mind to whether he should dismiss the appellant’s action:

[31] Any survey of principles reminds us the Civil Procedure Rule 45.04(3) provides for a powerful exceptional remedy. It permits the claim to be dismissed without a hearing on the merits if a party ordered to provide security for costs has failed to do so. Because a litigant may be denied a hearing of his/her claim on its merits, it is, in my view, very important that the court consider the overall circumstances of the case when deciding whether to dismiss an action.

[32] There may be circumstances where a continued stay is warranted for a period of time rather than the more draconian remedy of dismissal. It was this exact consideration which led me in the application last year to defer consideration in hopes the Plaintiff would act. My hope has been that Mr. Kovacevic would comply or at least meaningfully begin to comply. There are zero signs of this ever happening. He has left the Court with few if any options that do not make a mockery of the system.

[33] At the present time the Plaintiff is in breach of his security for costs order but also the forthwith costs order of October 31, 2023. ...

[28] The motions judge considered whether there were other avenues available to him to ensure compliance with the security for costs order. As he noted, he had exhausted less severe remedies. He then set forth the factors he considered in arriving at his conclusion that the only appropriate remedy was a dismissal:

[35] In her filings on her dismissal motion, Ms. Pye does touch on these considerations when she points to a number of factors, beyond the failure to post security, which she says point to the dismissal as the only just remedy. Chief among these points appear to be the following:

1. The Plaintiff has conducted this litigation so far in a fashion that increases costs and promotes unnecessary use of court time. She provides what she submits are specific examples.
2. He has repeatedly filed materials with a lack of relevance and/or a lack of focus. Once again examples are provided.
3. As an overall submission, the Defendant, Ms. Pye, argues that the Plaintiff has framed and conducted the litigation up to this point in such a way that it would be clear to any reasonable observer that Mr. Kovacevic intends to make the proceeding as expansive and costly as possible.

[36] It is very difficult to disagree with these points. Mr. Kovacevic has repeatedly filed disjointed and mostly irrelevant material. Now it has to be recognized that he is a self represented individual. And there is a chance that if matters were to progress, he could become more focused and directed. How

substantial that chance might be is a matter of question.

[37] More important for the Court's present task is the question of what relevance such matters are to the decision to be made at this stage. While it may be true that scandalous or irrelevant material is finding its way into Mr. Kovacevic's filings, there are separate remedies for that. Affidavits that offend Rule 39.05 for being irrelevant or scandalous may be dealt with under that provision coupled with Rule 88 dealing with abuse of process. A deficient pleading generally can be attacked under the Summary Judgment provisions among others.

. . .

[39] The relief requested by the Defendant is extreme in the sense that it will put an end to the Plaintiffs claim against this Defendant. While recognizing the seriousness of the requested remedy I have been left with the inescapable conclusion that Mr. Kovacevic has left the Court with no other options that do not make a mockery of the court process.

[29] In light of all of the circumstances identified by the motions judge, he had no alternative but to dismiss the plaintiff's claim. He had exhausted all other avenues available to him to attempt to have the Appellant comply with the court order.

[30] If the appellant disagreed with the order for security for costs, he should have appealed it. The motions judge did not err in dismissing his action for failure to comply with it.

Decision

[31] The appeal is dismissed with costs of \$500, inclusive of disbursements, payable to the Respondent.

Farrar, J.A.

Concurred in:

Bourgeois, J.A.
Derrick, J.A.