Court of Appeal for Saskatchewan
Docket: CACV4680

Citation: *Law Society of Saskatchewan v Soldan*, 2026 SKCA 46
Date: 2026-04-02

Between:

Law Society of Saskatchewan

Applicant/Respondent (Respondent)

And

Birgit Soldan

Respondent/Appellant (Applicant)

Before:	Jackson, Caldwell and Kalmakoff JJ.A.
Disposition:	Application granted, appeal quashed
Written reasons by:	The Court
On application from:	2025 SKKB 191, Regina
Application heard:	March 12, 2026
Counsel:	Randall Sandbeck, K.C., for the Applicant Birgit Soldan on her own behalf

The Court

I. Introduction

[1] This is an application brought by the Law Society of Saskatchewan to quash an appeal brought by Birgit Soldan from a decision made in the Court of King's Bench Chambers: *Soldan v Law Society of Saskatchewan*, 2025 SKKB 191 [*Chambers Decision*]. In that decision, the Chambers judge made a series of determinations contrary to the position of Ms. Soldan. The underlying dispute between Ms. Soldan and the Law Society is an action commenced by originating notice against a decision of the Law Society with respect to the discipline of a lawyer: KBG-RG-00728-2025 (SKKB) [Judicial Review Application].

[2] As reflected in the *Chambers Decision*, the Chambers judge held against Ms. Soldan as follows:

(a) there was no basis for him to recuse himself;

(b) her application to reconsider an adjournment request was dismissed;

(c) her application to have the judge reject a brief of law filed by the Law Society was dismissed;

(d) an application to change the venue for the hearing of the Judicial Review Application from Regina to Melfort was dismissed;

(e) a schedule for the hearing of the Judicial Review Application was established; and

(f) she was ordered to pay costs of $300 to the Law Society, payable forthwith.

[3] Ms. Soldan appealed the whole of the *Chambers Decision*, but in oral and written argument, she withdrew her appeal from the Chambers judge's decision refusing to recuse himself on the basis of a reasonable apprehension of bias. She advised the Court that she accepted the Chambers judge's decision in that regard. She continues to argue, however, that the Chambers judge ought to have recused himself from hearing her application for a reconsideration of the adjournment request under the doctrine of *nemo judex in causa sua*. After the appeal hearing, she confirmed her position on this point in written correspondence with the Court, dated March 16, 2026.

[4] In this application, the Law Society applies for an order pursuant to Rule 46.1 of *The Court of Appeal Rules* quashing Ms. Soldan's notice of appeal on the grounds that she failed to seek leave to appeal or her appeal is frivolous, vexatious, or manifestly without merit or otherwise an abuse of process. According to s. 7 and s. 8(1) of *The Court of Appeal Act, 2000*, SS 2000, c C-42.1, a litigant has the right to appeal from final orders of the Court of King's Bench, but leave to appeal is required for interlocutory decisions of that Court.

[5] Relying on a series of decisions from this Court, Ms. Soldan submits that each of the discrete determinations made in the *Chambers Decision* is a final order from which leave to appeal is not required. Failing that, she asks for an order granting leave to appeal *nunc pro tunc*.

[6] As to what constitutes a final order, Ms. Soldan relies on *Alexander Hamilton Institutes v Chambers*, 1921 CanLII 94, 65 DLR 226 (SKCA); *Beaver Lumber Co. Ltd v Cain*, 1924 CanLII 154, 4 DLR 438 (SKCA); *Silcorp Ltd. v KJK Holdings Inc.*, 1992 CanLII 8231, 90 DLR (4th) 488 (SKCA); *Saskatoon (City) v Walmart Canada Corp.*, 2016 SKCA 123; *Saskatchewan Medical Association v Anstead*, 2016 SKCA 143; *Yashcheshen v Saskatchewan Government Insurance*, 2024 SKCA 47; *Miller v Miller Estate*, 2024 SKCA 70 [*Miller*]; and *Standing Buffalo Dakota First Nation v Maurice Law Barristers and Solicitors (Ron S. Maurice Professional Corporation)* 2026 SKCA 11 [*Standing Buffalo*].

[7] In her submissions, she contends that a decision is final on the sole basis that it will not be revisited in the course of the litigation. The above-cited decisions represent a consistent line of authority intended to provide guidance to litigants in deciding when leave to appeal is required, but, with respect, they do not support Ms. Soldan's position.

[8] To illustrate the point, it is convenient to refer to the most recent decision of this Court, *Standing Buffalo*. In that decision, Tholl J.A. quoted extensively from *Poffenroth Agri Ltd. v Brown*, 2020 SKCA 68 [*Poffenroth*], which is relevant for the present appeal (*Standing Buffalo*):

> [16] Arising out of these provisions, a determination of whether leave to appeal is required in any particular matter turns on whether the challenged decision is final or interlocutory. The resolution of that question is often far less straightforward than its simple formulation would suggest, although the classification is not as difficult as it was in the not-too-distant past: see *Lombard v Ron S. Maurice Professional Corporation (Maurice Law Barristers & Solicitors)*, 2025 SKCA 35 at para 39 [*Lombard*]. In *Poffenroth Agri Ltd. v Brown*, 2020 SKCA 68, Kalmakoff J.A. describes the challenge and approach to be taken by an appellate court in determining whether a decision is interlocutory or final:

[15] At a very general level, an interlocutory decision is one made during the progress of an action or other proceeding that relates to some intermediate matter at issue in the case, not to the ultimate matter in issue …

…

[18] This does not mean that an order must bring the litigation to a conclusion in order to be final in nature; not all final orders do so. Nor does the fact that an order is a mere step in the litigation process, or leaves other issues outstanding for determination, necessarily classify it as interlocutory … A particular order may be final if granted and interlocutory if refused and vice versa, depending on the nature of the order and its effect on the status of the litigation between the parties [reference omitted]. The determination of whether an order is final or interlocutory in nature turns on whether the order effectively disposes of the rights of the parties, in a final and binding way, with respect to a substantive issue. If it does, the order is a final order [references omitted].

[19] But how does one determine whether an order disposes of the rights of the parties, on a substantive issue, in a final and binding way? In *Van de Wiel v Blaikie*, 2005 NSCA 14, 230 NSR (2d) 186 [*Van de Wiel*], Cromwell J.A. (as he then was) had this to say:

> [12] In general, an order is interlocutory which does not dispose of the rights of the parties in the litigation but relates to matters taken for the purpose of advancing the matter towards resolution or for the purpose of enabling the conclusion of the proceedings to be enforced: [reference omitted].
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> [13] In *Irving Oil Ltd. v. Sydney Engineering Inc*. (1996), 150 N.S.R. (2d) 29 (C.A. Chambers), Bateman, J.A. considered the distinction between interlocutory and final orders. Although finding it unnecessary to conclusively determine the nature of the order in the case before her, she cited with approval the first edition of *The Conduct of an Appeal* by Sopinka and Gelowitz (1993) at p. 15 which described the distinction as follows:
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> > Where such orders have a terminating effect on an issue or on the exposure of a party, they plainly "dispose of the rights of the parties" and are appropriately treated as final. Where such orders set the stage for determination on the merits, they do not "dispose of the rights of the parties" and are appropriately treated as interlocutory.

> [20] The approach set out in *Van de Wiel* is, in my view, consistent with the line of analysis that runs through this Court's decisions … . That is to say, an order need not bring the entire dispute between the parties to an end to constitute a final order; an order can be final if it finally determines the particular proceeding before the court, notwithstanding that there may be some other issues left to be determined in some other proceeding or by some other process.
>
> [21] However, one must be careful not to expand this proposition beyond its limits as, in one sense, <u>any decision could be seen as constituting a final decision, in that it finally resolves the particular application that was made in the broader proceedings</u>. The determination as to whether an order is final or interlocutory must take into account the context of the action as a whole. It is not the loss of every potential "right" that gives rise to a final decision. …
>
> [22] Without putting too fine a point on things, an order that does not finally resolve the action may constitute a final decision when it impacts on the substantive merits of a cause of action or a substantive defence … . An order is interlocutory where it constitutes merely a step in the action that does not bring the matter to an end.
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> (Original emphasis omitted, underline emphasis added)

[9] Further reference might usefully be made to *Miller*, where Kalmakoff J.A. provided additional guidance on this topic:

> [13] At a very general level, an interlocutory decision is one made during the progress of an action or other proceeding that relates to some intermediate matter in issue in the case, not to the ultimate matter in issue (see: Stuart J. Cameron, *Civil Appeals in Saskatchewan: The Court of Appeal Act & Rules Annotated*, (Regina: Law Society of Saskatchewan Library, 2015) at 118). Identifying the character of a decision is not always easy, particularly where there is no reported jurisprudence pertaining to the type of decision in question. However, in short form, the distinction between interlocutory and final decisions may be stated in this way: an interlocutory decision is one made during the course of a proceeding that does not decide the central issue in the proceeding or determine the substantive merits of a cause of action or substantive defence, whereas a final decision is one that disposes of the rights of the parties in a final and binding way with respect to an issue of that sort (*Aecon Mining Construction Services, a division of Aecon Construction Group Inc. v K+S Potash Canada GP*, 2023 SKCA 102 at para 26, 485 DLR (4th) 685; *Poffenroth Agri Ltd. v Brown*, 2020 SKCA 68 at para 18, [2021] 2 WWR 302 [*Poffenroth*]; *Agri Resource Mgt. 2001 Ltd. v Saskatchewan Crop Insurance Corporation*, 2017 SKCA 35 at para 26, [2017] 8 WWR 215; *Saskatchewan Medical Association v Anstead*, 2016 SKCA 143 at para 56).

[10] We understand Ms. Soldan's submissions. She contends that the determinations made in the *Chambers Decision* constitute final orders. Relying on the authorities cited above, she submits that this Court should treat those rulings as final orders because, in her view, they have finally and bindingly determined her rights on substantive issues and cannot be revisited. The difficulty with

that argument is that, if taken to its logical end, and to repeat *Poffenroth*, every decision rendered by the Court of King's Bench "could be seen as constituting a final decision, in that it finally resolves the particular application that was made in the broader proceedings" (at para 21).

[11] It bears noting that Ms. Soldan's submissions do not address the other aspects of the guidance provided in *Standing Buffalo* and *Poffenroth*. The decisions made in the *Chambers Decision* are not substantive. They were made during the *progress* of an action, i.e., the Judicial Review Application, and relate to some intermediate matter at issue in that action. As mentioned, none of the decisions are substantive, as that word is used in the above authorities. They set the stage for the resolution of the Judicial Review Application on its merits, but they do not dispose of Ms. Soldan's rights in a final and binding way with respect to what is at stake in the litigation. That is to say, they do not bring the Judicial Review Application proceedings to an end or decide any aspect of its merits in a final way. Rather, they move the litigation along for the purpose of advancing it towards a final determination.

[12] In conclusion on this point, the *Chambers Decision* is interlocutory and leave to appeal was required before Ms. Soldan filed her notice of appeal. That does not end the matter, however, as Ms. Soldan requested that the Court grant her leave to appeal *nunc pro tunc*.

[13] It is sufficient again to quote from *Miller*, where Kalmakoff J.A. set forth the guiding principles for when leave can be granted *nunc pro tunc*:

> [18] In determining whether to grant leave *nunc pro tunc*, the first consideration is whether the proposed appeal meets the criteria for granting leave set out in *Rothmans, Benson & Hedges Inc. v Saskatchewan*, 2002 SKCA 119, 227 Sask R 121 [*Rothmans*]. If the *Rothmans* criteria are not met, then that ends the matter and there is no need to consider if the Court should exercise the extraordinary power of granting leave *nunc pro tunc* (*Grant* [2003 SKCA 17] at para 5; *KKS* [2017 SKCA 105] at paras 11–13). If the appeal meets the test for a grant of leave under *Rothmans*, then the Court looks to such considerations as whether the appellant acted reasonably in not seeking leave, and whether there has been undue delay occasioned by the failure to seek leave, as well as any other circumstances that are relevant in the facts of the particular case (*Cowessess* at paras 33–34; *Poffenroth* at para 44; *Saskatoon (City) v The Canadian Nationalist Party Inc.*, 2021 SKCA 22 at para 26, 456 DLR (4th) 654).

[14] As the above quotation indicates, the first consideration is whether the proposed appeal meets the criteria for granting leave set out in *Rothmans, Benson & Hedges Inc. v Saskatchewan*, 2002 SKCA 119 [*Rothmans*]. If it does not, the Court need go no further.

[15] Again, with respect, the Court concludes that the proposed appeal does not meet the *Rothmans* criteria. None of Ms. Soldan's proposed grounds of appeal can survive the merit test or the importance test.

[16] Briefly speaking, an appeal from an adjournment that has already been granted is, at best, moot, notwithstanding Ms. Soldan's claim that her objection to it had not been heard, thereby breaching the *audi alteram partem* rule. While he need not have done so, the Chambers judge went out of his way to explain why that was not the case: see paragraphs 32 to 41 of the *Chambers Decision*. Ms. Soldan also asked this Court to consider the doctrine of *nemo judex in causa sua* and hold that the Chambers judge erred by reconsidering the matter because he was the judge who had originally granted the adjournment. This is a misunderstanding of the law. In so far as a judge is permitted to *reconsider* a decision, which is questionable outside of Rule 10-10 of *The King's Bench Rules*, reconsideration applications are heard by the original judge. If that were not so, one Court of King's Bench judge would be sitting on appeal of another: a proposition which is not countenanced at law.

[17] With respect to the balance of the decisions made by the *Chambers Decision*, they are considered to be discretionary and governed by a restrictive standard of review. Such decisions are, as a general rule, left to King's Bench judges to resolve in the course of litigation. As an example only, specific mention is made here of the decision to change the venue for the hearing of the Judicial Review Application.

[18] Ms. Soldan commenced the Judicial Review Application in Melfort. On a preliminary basis, that application was transferred to the judicial centre of Saskatoon. Having regard for Part 5 of *The King's Bench Act*, SS 2023, c 28, and Rule 3-3 of *The King's Bench Rules*, the Chambers judge concluded that the proper venue was Regina. There would be no basis for this Court to intervene with respect to that determination.

[19] In short, Ms. Soldan's notice of appeal is quashed as leave was not obtained. Her application for leave to appeal *nunc pro tunc* is dismissed.

[20] Finally, there is the question of costs, which the Court fixes at $1,000.

"Jackson J.A."

Jackson J.A.

"Caldwell J.A."

Caldwell J.A.

"Kalmakoff J.A."

Kalmakoff J.A.