
Court of Appeal for Saskatchewan

Citation: *Waisman v Egger*, 2026 SKCA 45

Docket: CACV4387

Date: 2026-04-01

Between:

Robert Waisman, Martin Hector, Arlaina Waisman, Arlaina Waisman Family Trust, Gloria Waisman, H & H Holdings Ltd., Howard Waisman, Joanna Hector, Robert Hector, Waisman Investments Ltd., Ron Waldman, 628656 Saskatchewan Ltd., 101046655 Saskatchewan Ltd., 101048495 Saskatchewan Ltd. (General Partner for 101085399 Saskatchewan Ltd.) (General Partner for 101085299 Saskatchewan Limited Partnership), Prospect Properties Inc. (General Partner For “Moose Jaw Days Inn Limited Partnership”) and Victoria Park Motor Inn Ltd.

*Appellants
(Respondents)*

And

Pamela Egger, Cheryl Egger, Dean Egger, Kyle Egger, R. Todd Egger, Egger Holdings Ltd., Roger Egger and Chuan Ng

*Respondents
(Applicants)*

Before: Kalmakoff, McCreary and Drennan JJ.A.

Disposition: Appeal dismissed

Written reasons by: The Honourable Justice Meghan R. McCreary
In concurrence: The Honourable Justice Jeffery D. Kalmakoff
The Honourable Justice Jillyne M. Drennan

On appeal from: 2024 SKKB 121, Saskatoon
Appeal heard: March 11, 2026

Counsel: Kevin C. Mellor for the Appellants
Douglas C. Hodson, K.C., for the Respondents

McCreary J.A.

I. OVERVIEW

[1] After many years of protracted litigation, a judge of the Court of King's Bench [judge] divided eight operating companies owned equally by the appellants and the respondents, following the respondents' successful application for such division pursuant to ss. 207 and 234 of *The Business Corporations Act*, RSS 1978, c B-10 (*Egger v Waisman*, 2022 SKKB 249 [*Division Decision*]). Thereafter, in a separate decision (*Egger v Waisman*, 2024 SKKB 121 [*Costs Award*]), the judge made a discretionary award of costs to the respondents following their success in the *Division Decision*. The costs award was significant, totalling \$229,028.81, and the appellants immediately sought to appeal it, arguing that the judge erred in principle in several ways by ordering costs as he did. The appellants did not appeal from the *Division Decision*.

[2] The right of appeal is derived from statute, and there is no right of appeal from certain judgments without leave. Relevant to this appeal, s. 6-14(b) of *The King's Bench Act*, SS 2023, c 28 [Act], requires that judgments or orders as to costs only that are left to the discretion of the judge are not subject to appeal, except with leave of the judge making the order.

[3] Nevertheless, the appellants appealed the *Costs Award* to this Court without first obtaining leave. They take the position that leave is not necessary pursuant to the so-called "principled exception" referenced in historical cases of this Court, which have held that when a judge's order for costs is based on a wrong principle, it is not necessary to obtain leave to appeal.

[4] It follows that this Court must determine first whether it has jurisdiction to hear the appeal and, if it does, whether the judge erred in principle in his award of costs. However, another wrinkle has arisen.

[5] When the appellants appealed to this Court without leave, they also applied for leave to appeal from the Court of King's Bench under s. 6-14 of the Act. They say they applied for that relief out of an abundance of caution.

[6] Each of the appeal and the application for leave made with the Court of King's Bench was filed on July 5, 2024. However, the judge who rendered the *Costs Award* retired on July 6, 2024.

As a result, the application was subsequently heard by another judge of the Court of King's Bench on August 29, 2024. That judge issued a fiat on March 9, 2026, ruling that he did not have jurisdiction to hear the leave application because that authority could only be exercised by the very judge who made the costs order (*Egger v Waisman* (9 March 2026), Saskatoon QBG-SA-00235-2022 [*KB Leave Decision*]).

[7] The hearing of this appeal proceeded on March 11, 2026. The appellants continue to maintain that this Court has jurisdiction to hear the appeal without leave by way of the principled exception. However, they argue, in the alternative, that if leave is required, the result of the *KB Leave Decision* renders them with no avenue to seek leave to appeal because the judge has retired. As such, to provide access to justice, they ask this Court to grant leave and assume jurisdiction to hear the appeal.

[8] While I acknowledge the difficulties that arise following the *KB Leave Decision*, this Court cannot assume jurisdiction where it does not exist. As I will explain, the cases that the appellant relies upon to advance the so-called "principled exception" have been overtaken by more recent decisions of this Court and for that reason, and several others, do not bind this Court in this appeal. A modern interpretation of s. 6-14 of the *Act* reveals that it does not permit an appeal from a discretionary costs order without leave. Further, that provision of the *Act* cannot be amended by the common law because the Supreme Court of Canada has ruled that there is no common law right of appeal: see *R v Meltzer*, 1989 CanLII 68, [1989] 1 SCR 1764 (SCC) [*Meltzer*], and *Kourtessis v M.N.R.*, 1993 CanLII 137, [1993] 2 SCR 53 at pp 69-70 (SCC) [*Kourtessis*]. These Supreme Court decisions upend the historical case law from this Court that recognized a principled exception to the governing statute. The result is that the Court simply does not have jurisdiction to hear an appeal from a discretionary costs award without leave as directed by s. 6-14 of the *Act*.

[9] I would therefore dismiss the appeal.

II. ANALYSIS

A. A modern interpretation of the Act does not permit an exception to the leave requirement

[10] As I noted, the governing legislation in this case is s. 6-14 of the *Act*. It states that consent judgments and discretionary judgments and/or orders as to costs may not be appealed without leave, as follows:

No appeal of certain judgments without leave

6-14 Except with leave of the judge giving the judgment or making the order, the following judgments and orders are not subject to appeal:

- (a) judgments given or orders made by a judge with the consent of the parties;
- (b) subject to the rules of court, judgments given or orders made by a judge as to costs only that, by law, are left to the discretion of the judge.

[11] The Supreme Court of Canada has affirmed that the text of a statute is the anchor of the interpretive exercise (see *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Directrice de la protection de la jeunesse du CISSS A*, 2024 SCC 43 at para 24 [CISSS A]; *Piekut v Canada (National Revenue)*, 2025 SCC 13 at paras 43-45; and see also M. Mancini, “The Purpose Error in the Modern Approach to Statutory Interpretation” (2022) 59:4 *Alberta Law Review* at p 919). The text discloses how the Legislature chose to accomplish its goals, and the text’s plain meaning prevails where there is no equivocality (CISSS A at para 24). To put it simply, a court is not at liberty to interpret its way toward a version of the legislation it might prefer. Where the statutory language admits of no ambiguity, it prevails: *Korvemaker v Whitley*, 2026 SKCA 15 at para 24 [Korvemaker].

[12] Where there is ambiguity, and multiple different interpretations are available, the Court must select the interpretation that best attains the legislative purposes (*Korvemaker* at para 25). Interpretations that “defeat or undermine legislative purpose” should be discarded, no matter the substantive quality of that interpretation, however that is defined (*Korvemaker* at para 25, citing *Regina Bypass Design Builders v Supreme Steel LP*, 2021 SKCA 82 at para 27 and R. Sullivan, *The Construction of Statutes*, 7th ed (LexisNexis, 2022) at s 9.03 [Sullivan]). All of this should be done in the pursuit of giving a statute a “fair, large and liberal interpretation that best ensures the attainment of its objects” (*The Legislation Act*, SS 2019, c L-10.2, s 2-10(2)).

[13] Here, the text of s. 6-14 of the *Act* is not ambiguous. The Legislature’s intention with s. 6-14(b) is to prevent appeals from decisions on costs alone, except with the permission of the judge who has made that award. This is self-evident on a plain reading of the statute. The respondents rightly point out that the principled exception advanced by the appellants would require the Court to fully inquire into the merits of the appeal and, if an error in principle is identified, to then justify hearing the appeal *ex post facto*. Put differently, the principled exception, if a live concept under this province’s law, would permit the Court to allow an appeal if it identifies an error in principle, notwithstanding that, if it does not identify such an error, it would not have jurisdiction to hear the appeal. This plainly contradicts the intention of the Legislature as expressed in the *Act*.

[14] Additionally, interpreting the *Act* to allow for a principled exception would violate a well-known canon of interpretation: the Legislature is presumed not to act in a superfluous way (*R v Proulx*, 2000 SCC 5 at para 28). Every word of a statute is “presumed to make sense and to have a specific role to play in advancing the legislative purpose” (Sullivan at p 211). Finding a principled exception reads the statute in a way that renders the requirement for leave otiose. The statute has functionally been amended to state instead:

No Appel of certain judgments without leave

6-14 Except with leave of the judge giving the judgment or making the order, the following judgments and orders are not subject to appeal:

- (a) judgments given or orders made by a judge with the consent of the parties; and
- (b) subject to the rules of court, judgments given or orders made by a judge as to costs only that, by law, are left to the discretion of the judge, unless the judge made an error in principle.

[15] Again, courts cannot amend the express language of a statute “under the guise of interpreting it”: *R v Hinchey*, 1996 CanLII 157, [1996] 3 SCR 1128 (SCC) at para 36; see also *Reference re Impact Assessment Act*, 2023 SCC 23 at para 193 [*Re IAA*]; *Grand Trunk Pacific Railway Co. and Bithulitic and Contracting Ltd. v Dearborn*, 1919 CanLII 47, 58 SCR 315 at pp 320-321 (SCC) per Louis Davies C.J.C.; *Wilson v British Columbia (Superintendent of Motor Vehicles)*, 2015 SCC 47. If the Legislature had intended on providing an appeal without leave on a question of law in the *Act*, it could have said that. It has provided for such rights of appeal in several statutes, including *The Family Property Act*, SS 1997, c F-6.3 at s 55; *The Cities Act*, SS 2002, c C-11.1 at s 329(4); and *The Land Titles Act, 2000*, SS 2000, c L-5.1 at s 111. Alternatively, the Legislature could have provided for an appeal on a question of law with leave

from a judge of *this* Court, as it has in *The Automobile Accident Insurance Act*, RSS 1978, c A-35 at s 194(1); *The Municipal Board Act*, SS 1988-89, c M-23.2 at s 33(1); *The Public Health Act*, 1994, SS 1994, c P-37.1 at s 43(1); and *The Small Claims Act*, 2016, SS 2016, c S-50.12 at s 51. It did neither of these things in the *Act*. As such, “[t]his Court must respect [the Legislature]’s drafting choices and cannot amend the [Act] as it sees fit” (*Re IAA* at para 193).

[16] In summary on this point, properly interpreted, s. 6-14 does not allow for any exception to the requirement to obtain leave to appeal from a discretionary costs award.

B. There is no common law right of appeal

[17] When considering how this Court should treat its historical jurisprudence, which has recognized a principled exception to the statutory requirement to obtain leave to appeal from a discretionary costs award, I note that for at least the last 25 years the Supreme Court of Canada has held that appeals are derived only from statute; there are no common law rights of appeal: see *Meltzer* and *Kourtessis*. There are good policy reasons for this, as the Supreme Court noted (*Kourtessis* at p 70):

There are various policy reasons for enacting a procedure that limits rights of appeal. Sometimes the opportunity for more opinions does not serve the ends of justice. A trial court, for example, is in a better position to assess the factual record. Thus most criminal appeals are restricted to questions of law or mixed questions of law and fact. **A further policy rationale, and one that is important to the case before this Court, is that there should not be unnecessary delay in the final disposition of proceedings**, particularly proceedings of a criminal character. This is especially applicable to interlocutory matters which can ultimately be decided at trial; see *Mills v. The Queen*, [1986] 1 S.C.R. 863. On this point, McLachlin J., speaking for the majority in *R. v. Seaboyer*, [1991] 2 S.C.R. 577, noted that there was a valid policy concern to control the “plethora of interlocutory appeals and the delays which inevitably flow from them” (at p. 641). Such review should, in the Court’s view, normally take place at trial. This McLachlin J. added, “will also permit a fuller view of the issue by the reviewing courts, which will have the benefit of a more complete picture of the evidence and the case” (at p. 641). Especially in the context of criminal procedure, there is value in not constantly interrupting the process, if the issues are all going to be heard eventually at trial in any event. **As well, there is the simple value of a final decision to resolve a dispute without the costs, in time, effort and money, of further hearings.**

(Emphasis added)

[18] This is not a unique statement by the Supreme Court. In *Kourtessis*, the Court cites its earlier decision of *Meltzer* as authority for the proposition that the right of appeal can only be

statutory, and since *Kourtessis* the Court has consistently affirmed this proposition: see, e.g., *R v W. (G.)*, 1999 CanLII 668, [1999] 3 SCR 597 (SCC); *R v Smith*, 2004 SCC 14; and *Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9.

[19] In contrast, the principled exception exists as a common law exemption to a statutory requirement to obtain leave. However – and it is worth repeating – an appellate court cannot hear an appeal unless there is a statutory basis for it. If there is no basis in the governing statute for the right of appeal and because s. 7(3) of *The Court of Appeal Act, 2000*, SS 2000, c C-42.1, sets out that the general right of appeal does not apply if a limited one is provided elsewhere, I can see no basis for an appeal from a judgment on costs only, without leave. After *Kourtessis*, it is simply an impossibility. Accordingly, to the extent that the principled exception provides a common law right of appeal without leave, this Court can no longer apply it.

C. Historical cases applying the principled exception are not good law

[20] Of course, this Court’s view as to the meaning of s. 6-14 would not matter if applicable precedent dictated that the *Act* be given a different interpretation. I will explain why the cases that contemplate a “principled exception” do not compel this Court to assign a meaning to s. 6-14 which is at odds with an obvious proper interpretation of it and why the historical cases of this Court that recognized and applied the principled exception – many of which are over 100 years old – are no longer good law.

[21] This line of cases appears to have emerged from a decision of the Court of Appeal for England and Wales, *The City of Manchester* (1880), 5 PD 221 (UKCA) [*City of Manchester*]. In that case, the trial judge awarded damages to the plaintiffs and, in a subsequent decision, awarded them costs. The defendants appealed the judgment and the costs order. The Court of Appeal decided that it only had jurisdiction over the costs award if the order as to costs was considered part of the judgment and, thus, was not interlocutory. It further decided that the trial judge had fettered his discretion and proceeded on the basis of a “universal rule”, and therefore the Court had jurisdiction to overturn the costs award, which it did (*City of Manchester* at 223).

[22] In Saskatchewan, this Court followed the *City of Manchester*’s “principled exception” in *Union Bank v Meloff*, 1923 CanLII 154, [1924] 1 WWR 298 (SKCA) [*Union Bank*]. Here, the

parties put the leave question squarely in issue. Chief Justice Haultain adopted the same logic as did the Court in *City of Manchester* and held that the trial judge had no good reason to deprive the plaintiff of its costs (*Union Bank* at p 300), thereby committing an error in principle into which the Court could intervene without leave being obtained. Justice Lamont's concurring judgment cited the case *Western Trust Co. v Canadian Northern Railway Company*, 1919 CanLII 170, [1919] 3 WWR 815 (SKCA), as authority for the proposition that "[n]otwithstanding the language used in sec. 62 of *The King's Bench Act*, R.S.S., 1920, ch. 39, the rule appears to be that, where the Judge below awards or refuses costs upon a wrong principle, it is not necessary to obtain leave to appeal" (*Union Bank* at p 301). In further concurring reasons, Martin J.A. cited *The King's Bench Act* provision in question, and he adopted explicitly the *City of Manchester* line of cases, stating (*Union Bank* at pp 301-302):

The appeal is confined to a question, of costs only, and the defendant contends that, inasmuch as no leave to appeal has been granted, no appeal lies. In support of this contention, he refers to sec. 62 of *The King's Bench Act*, R.S.S., 1920, ch. 39, which is as follows: [See *ante*, p. 299].

A similar provision occurs in the English *Judicature Act*, and under it it has been held that to exclude the right of appeal a Judge must exercise his discretion; if he simply applies some rule which he considers as excluding it, and awards the costs accordingly, an appeal will lie (*The "City of Manchester,"* 5 P.D. 221, 49 L.J.P. 81; *Bew v. Bew* [1899] 2 Ch. 467, 68 L.J. Ch. 657); and if he exercises his discretion on a stated ground which is untenable, an appeal will lie (*King & Co. v. Gillard & Co.* [1905] 2 Ch. 7, 74 L.J. Ch. 421; *Civil Service Co-Op. Soc. v. Gen. Steam Nav. Co.* [1903] 2 K.B. 756, 72 L.J.K.B. 933; *Western Trust Co. v. C.N.R.*, 12 Sask. L.R. 468, [1919] 3 W.W.R. 815).

[23] Justice Martin concluded that the trial judge engaged in an improper exercise of discretion, and therefore the appeal should be heard without requiring leave and allowed.

[24] *Union Bank* was followed, as establishing a principled exception, in a line of cases that includes *Edmanson v Chelie*, 1914 CanLII 131, 7 WWR 96 (SKSC EnBanc); *Boychuk v Korzenowski*, 1924 CanLII 205, [1924] 3 DLR 496 (SKCA) (which approves of Martin J.A.'s judgment in *Union Bank*); *Sun Printing & Publishing Company Limited v Toronto Type Foundry Company*, 1932 CanLII 230, [1932] 1 WWR 396 (SKCA); *Leier (Plaintiff) Appellant v Shumiatcher (Defendant) and Luboff (Defendant) Respondent (No. 2)*, 1962 CanLII 330, 39 WWR (NS) 446 (SKCA); and *Ridder v Frey*, 1963 CanLII 399, 42 WWR (NS) 627 (SKCA).

[25] There are two important features of all these cases. First, all were decided before the Supreme Court rendered its decisions in *Meltzer* and *Kourtessis*. Second, in none of these cases

did the Court undertake an analysis of the statutory provision in question. Rather, it functionally amended the statute to provide appeals on questions of law without leave, without grappling with the statute's text.

[26] After the early 2000s, this Court's jurisprudence began to sour on the *Union Bank* line of cases. Several Chambers decisions from the early 2000s raise concerns about the correctness of the principled exception, as noted by Ottenbreit J.A. in *Holmes v Jastek Master Builder 2004 Inc.*, 2017 SKCA 50 at paras 12-15 [*Holmes*]. Similarly, in *Patel v Saskatchewan Health Authority*, 2020 SKCA 100 at paras 3-4 [*Patel (Chambers)*], Caldwell J.A., applying *Holmes*, commented that a litigant can only appeal a costs order without leave if it also appeals something in the substantive decision.

[27] Nevertheless, the appellants rely on three cases of this Court that were decided after *Meltzer* and *Kourtessis* as examples of where this Court determined that it did have jurisdiction to hear an appeal from a costs decision when leave had not been obtained. These cases are *University of Saskatchewan v Fireman's Fund Insurance Co. of Canada*, 1998 CanLII 12404, 172 Sask R 305 (SKCA) [*Fireman's Fund*]; *Semchyshen v Semchyshen*, 2016 SKCA 108 [*Semchyshen*]; and *Maharaj v Rosetown (Town)*, 2025 SKCA 19 [*Maharaj*]. I would also add *Patel v Saskatchewan Health Authority*, 2021 SKCA 115 [*Patel 2021*].

[28] These cases do not dictate the result in this appeal. I say this for several reasons.

[29] First, in *Fireman's Fund*, the Court was asked to consider the interpretation of a (then) Queen's Bench Rule respecting how a formal offer to settle affects a costs award. As Wakeling J.A. noted, the appeal was from an award that was not purely discretionary (see *Fireman's Fund* at para 5). Second, in *Maharaj*, the appeal concerned, among other things, whether the appellant was entitled to be indemnified for his costs pursuant to *The Legislation Act* and/or *The Municipalities Act*, SS 2005, c M-36.1, and the Court determined leave was not required to appeal the costs award on those bases, which were not discretionary (*Maharaj* at para 23). Thus, these two decisions are distinguishable because they do not deal solely with a discretionary costs award.

[30] Next, in *Semchyshen*, Ryan-Froslic J.A. expressed concerns with the historical approach that had been adopted by the Court but concluded she was bound by it: *Semchyshen* at para 75. Similarly, in *Patel 2021*, the Court acknowledged that in recent cases concerns had been expressed by the Court about the historical approach but determined that in keeping with the principle of judicial comity it would hear an appeal from a costs award without leave: *Patel 2021* at para 150.

[31] As I will explain, I do not consider the Court to be bound through judicial comity by *Semchyshen* or *Patel 2021*.

[32] In *R v Sullivan*, 2022 SCC 19 at paras 73-79, the Supreme Court confirmed that a judge need not follow a prior decision of their court where the authority of the prior decision has been undermined by subsequent decisions. In particular, this may arise in a situation where a decision has been overruled by or is necessarily inconsistent with a decision of a higher court (at para 76). In addition, a judge can depart from following a decision where it was reached without considering a relevant statute or binding authority that, had it been considered, would have caused the Court to have come to a different decision “because the inadvertence ... struck at the essence of the decision” (at para 77).

[33] With respect, in *Semchyshen*, the Court did not undertake a statutory interpretation of the governing statutory provision – then s. 38 of *The Queen’s Bench Act, 1998*, SS 1998, c Q-1.01, nor did it consider the effect of *Meltzer* and *Kourtessis* on the precedential nature of the historical cases that had applied the principled exception. Similarly, in *Patel 2021*, the Court did not undertake a statutory interpretation of the governing legislation or consider *Meltzer* or *Kourtessis*. In these circumstances, we are not bound by those two decisions because they were reached by inadvertence.

[34] Further, most recently, this Court rejected the principled exception in *RAC (HK) Ltd. v Farmer’s Business Network Canada, Inc., Farmer’s Business Network, Inc.* (2 April 2025), Regina CACV4455 and CACV4456 (SKCA). In that case, this Court dismissed the appeal because the panel was “unanimously of the view that we do not have the jurisdiction to consider these appeals” (at para 3). Writing for the Court, Schwann J.A. was clear that leave to appeal is required when only a discretionary costs award is being appealed:

[4] To explain the reasons for our determination: first, paraphrasing what my colleague Caldwell J.A. observed in Chambers in *Patel v Saskatchewan Health Authority*, 2020 SKCA 100, although litigants have a general right to appeal from decisions of the Court of King's Bench under s. 7(2) of *The Court of Appeal Act, 2000*, SS 2000, c C-42.1, that right is limited by s. 7(3) of that Act. **More to the point, s. 6-14 of *The King's Bench Act*, SS 2023, c 28, limits the right of appeal in circumstances where the litigant seeks to appeal against an order of costs alone. Stated plainly, where no one has appealed or cross-appealed against the substantive parts of a Court of King's Bench decision, a litigant's right to appeal against only the costs order made by the judge is subject to that judge granting leave to appeal.**

[5] Leave was not sought or granted by the Chambers judge. Placed in context, the absence of leave raises an issue of whether this Court has jurisdiction to even hear the appeals in these matters because the wording in s. 6-14 is quite clear: no appeal lies to this Court from a costs order alone if leave to appeal has not been granted by the King's Bench judge who made the order. Furthermore, we are not persuaded that we can grant leave in the stead of a King's Bench judge because the Legislature has plainly given that authority only to the Court of King's Bench in question.

[6] **While we recognize that there is a line of authority which holds that, where a judge's order for costs is based on a wrong legal principle, leave to appeal from that order alone is not required. That said, it also bears mention that the case law from this Court has expressed concern about the soundness of that approach.**

[35] This was the current state of the law respecting the requirement to obtain leave to appeal from a discretionary costs award prior to this appeal.

[36] Now, having explained why this Court is not bound to recognize the existence of a so-called principled exception, and having interpreted the governing legislation using the modern approach, as well as having considered the Supreme Court's clear statement that rights of appeal are only derived from statute, it is manifest that s. 6-14 of the *Act* does not allow for a common law principled exception to the statutory requirement for leave. On the contrary, the *Act* unambiguously states that a discretionary costs award cannot be appealed without leave: there are no exceptions to this statutory rule.

D. This Court does not have jurisdiction to grant leave to appeal

[37] While the appellants seek the alternative relief of having this Court grant leave under s. 6-14 of the *Act*, the Court does not have jurisdiction to do so.

[38] Justice Caldwell canvassed this issue in *Patel (Chambers)* when the appellant argued that because the Queen's Bench judge who had granted a costs award had recused himself from case managing the litigation, he had lost jurisdiction and, therefore, a judge of the Court of Appeal

should assume jurisdiction and grant leave to appeal. Justice Caldwell determined that, as a single judge sitting in Chambers, he did not have the authority to step into the shoes of the Queen’s Bench judge (at para 10). However, he also held that s. 20(2) of *The Court of Appeal Act, 2000*, which allows a single judge in Chambers to “hear and dispose of an application for leave to appeal” did not apply to an application for leave to appeal from a costs award made by a (then) Queen’s Bench judge because no appeal lies to the Court of Appeal from a costs award until the leave requirement pursuant to what is now s. 6-14 of the *Act* has been satisfied (at para 11). I adopt his reasoning, here.

[39] Without rendering any conclusion respecting the correctness of the *KB Leave Decision*, it is apparent that s. 6-14 of the *Act* requires that leave to appeal be granted at the King’s Bench level of court. This being so, this Court cannot grant leave to the appellants.

III. CONCLUSION

[40] As there is no jurisdiction to hear the appeal, I would dismiss it, with costs to the respondents in the usual manner.

“McCreary J.A.”

 McCreary J.A.

I concur.

“Kalmakoff J.A.”

 Kalmakoff J.A.

I concur.

“Drennan J.A.”

 Drennan J.A.