

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Moore v. Cheung*,
2026 BCCA 258

Date: 20260612
Dockets: CA50328; CA51220

Docket: CA50328

Between:

Wayne Moore

Applicant/Appellant
(Petitioner)

And

Kevin Cheung

Respondent
(Respondent)

- and -

Docket: CA51220

Between:

Wayne Moore

Appellant
(Petitioner)

And

Kevin Cheung

Applicant/Respondent
(Respondent)

Before: The Honourable Mr. Justice Abrioux

On an application to vary: An order of the Court of Appeal for British Columbia,
dated April 7, 2026 (*Moore v. Cheung*, Vancouver Dockets CA50328 and CA51220)

- and -

On appeal from: An order of the Supreme Court of British Columbia, dated
December 15, 2025 (*Moore v. Cheung*, Vancouver Docket S235747).

The Appellant (Applicant in CA50328),
appearing in person:

W. Moore

Counsel for the Respondent
(Applicant in CA51220):

T. Boyd
C.L. Formosa

Place and Date of Hearing:

Vancouver, British Columbia
June 4, 2026

Place and Date of Judgment:

Vancouver, British Columbia
June 12, 2026

Summary:

The appellant applied to have the justice recuse himself from the hearing of two applications before the Court, which are described in reasons for judgment indexed as Moore v. Cheung, 2026 BCCA 259. The application is denied.

Reasons for Judgment of the Honourable Mr. Justice Abrioux:

[1] The background to the applications which are before this Court are set out in the reasons for judgment of Justice DeWitt-Van Oosten, indexed at 2026 BCCA 259. At the commencement of the proceedings on June 4, 2026, the appellant, Mr. Moore, submitted that I was in a conflict of interest and could not participate in the hearing of the applications because he had named me as a defendant in a notice of civil claim that had recently been filed in the Supreme Court of British Columbia. I viewed Mr. Moore's submission as an application for me to recuse myself. Judgment was reserved on the applications, in part so that I could consider whether I should do so.

[2] It is well established that a recusal application is to be decided by the judge to whom the application is directed.

[3] The notice of civil claim bears a Supreme Court of British Columbia Vancouver docket number S263765 and a filing date of May 20, 2026 (the "NOCC"). I had no knowledge of the NOCC until Mr. Moore brought it to this Court's attention at the appeal hearing on June 4, 2026.

[4] I have now reviewed the NOCC. It names over 50 defendants, including "Quinlan Abrioux Grant Richley Harvey Grewal and the Firm". The allegations relate in part to:

- Mr. Moore allegedly attempting to attend the Union Pension Health and Welfare Meeting in Delta, B.C. on May 4, 2024, and alleging that the actions of those who denied him entry, "constituted criminal mischief, criminal obstruction of justice, defamation, slander, election and pension fraud" and a number of other alleged acts;

- the review of certain decisions of the Workers' Compensation Appeal Tribunal; and
- the matters before this Court on these applications.

[5] Although my former firm Quinlan Abrioux ("QA") is named as a defendant, there are no references to QA in the lengthy NOCC.

[6] Mr. Moore has not identified whether he seeks my recusal on the basis of an actual or a reasonable apprehension of bias.

[7] The relevant legal framework was considered in *Walker v. Kierans*, 2024 BCCA 119, in which Justice Voith explained:

[5] ... The narrow issue Ms. Walker raises was recently addressed in *Pereira v. Dexterra Group Inc.*, 2023 BCCA 201:

[12] The strong presumption that judges act impartially means that a party must meet a high burden to prove that a reasonable apprehension of bias exists. The longstanding test as repeated in *Yukon Francophone School Board* is:

[20] The test for a reasonable apprehension of bias is undisputed and was first articulated by this Court as follows:

... what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly. [Citation omitted.]

(*Committee for Justice and Liberty v. National Energy Board*, 1976 CanLII 2 (SCC), [1978] 1 S.C.R. 369, at p. 394, per de Grandpré J. (dissenting))

...

[15] As summarized in *Taylor Ventures Ltd. (Trustee of) v. Taylor*, 2005 BCCA 350 [Taylor], the question of whether there is a reasonable apprehension of bias should be considered with the following principles in mind:

- a) a judge's impartiality is presumed;
- b) a party arguing for disqualification must establish that the circumstances justify a finding that the judge must be disqualified;

- c) the criterion of disqualification is the reasonable apprehension of bias;
- d) the question to be determined is what would an informed reasonable and right-minded person, viewing the matter realistically and practically, and having thought the matter through, conclude;
- e) the test for disqualification is not satisfied unless it is proved that the informed, reasonable and right-minded person would think it more likely than not that the judge, whether consciously or unconsciously, not decide fairly;
- f) the test requires demonstration of serious grounds on which to base the apprehension; and
- g) each case must be examined contextually and the inquiry is fact-specific.

Taylor at para. 7, referencing *S.(R.D.)*.

[8] I have no knowledge of any of the matters referred to in the NOCC, with the exception of those relating to these applications, and that knowledge is limited to the record on appeal.

[9] I left QA approximately 14 and a half years ago upon my appointment to the Supreme Court of British Columbia. There is nothing in the NOCC that raises either an actual or a reasonable apprehension of bias on my part. When I consider the NOCC in the context of the legal framework to which I have referred, I conclude that Mr. Moore has not met the burden of establishing that a reasonably informed person would be of the view that I am unable to decide the applications fairly and objectively.

[10] Accordingly, I decline to recuse myself. The application is dismissed.

“The Honourable Mr. Justice Abrioux”