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Re: Catherine Twinn (A) v. Roland Twinn (R) and others
Appeal No. 2503-0193AC

The appellant, Ms. Twinn, has applied for (1) an extension of time to file her factum and (2) an extension of page limits for that factum. This letter is my decision.

Extension of time to file factum

Rule 14.36 gives the case management officer broad powers to assist the Court with respect to the management of matters before it. The Information Note following that rule and section 14 of the *Court of Appeal Act* expressly authorize the case management officer to extend deadlines.

The well-known test on applications to extend time to file appeal materials requires consideration of the following factors: reason for delay, prospects of moving ahead with the appeal, prejudice to the other party and merits of the appeal. See, e.g., *Bowles v Beamish*, 2009 ABCA 243 at para 6; *Keef v Peters*, 2015 ABCA 16 at para 6.

The current deadline for the appellant's factum is today, November 20. Ms. Twinn says that she has been working diligently on the factum but given the complexity of the record and the law, she does not believe that she can meet the November 20th deadline with a "concise, simplified, cogent" factum. She asks for an extension until December 4.

While the respondents, the Sawridge Trustees, submit that Ms. Twinn has not met the test in *Keef v Peters*, they consent to an extension of time until December 4, 2025, but they ask that the respondents (and any intervenors) be required to file their factums on December 22, 2025.

The respondent, Office of the Public Guardian and Trustee, does not take a position on the request for an extension of time, but they ask that they be given leave to file their factum on January 8, 2026.

Ms. Twinn has provided a satisfactory reason for the delay. There is nothing on the record to suggest that she will not diligently pursue the appeal if an extension is granted. Prejudice in this context is related to any delay caused to the scheduling of the appeal as a result of any extension given. The first available hearing date for this appeal is not until March 2026, so extending the appellant's deadline by two weeks will not create any delay or prejudice. While the Sawridge Trustees question the merit of the appeal, the threshold is low.

I grant Ms. Twinn's request for a filing extension for her factum. The new deadline is December 4, 2025.

The respondents' deadline is calculated from the date of service of the appellant's factum. Assuming the appellant's factum is served on December 4, the respondents' deadline will be January 5, 2026. The OPGT has asked for an extension until January 8 given the holiday closure. That is a reasonable request, and I grant it. The Sawridge Trustees can also have until January 8 to file their factum, but they are free to file it earlier if they want to. I will not impose a deadline on the proposed intervenor. If the application to intervene is granted, the Court may provide directions about the intervenor factum at that time.

Application to increase page limits

Rule 14.25(4) authorizes the case management officer to vary the format of a factum.

This is a fast track appeal. Rule 14.26(2)(e) says that a factum in a fast track appeal must not exceed 12 pages. Ms. Twinn asks that she be allowed to file a factum of 30 pages. That means that Ms. Twinn wants an additional 18 pages which amounts to a factum that is 150% longer than what the rules allow.

This Court has not prescribed a specific test for applications to increase page limits, but I am guided by, and I adopt, the key principles set out by the Ontario Court of Appeal in *OZ Merchandising Inc v Canadian Professional Soccer League Inc*, 2020 ONCA 532. While that case dealt with a factum that was subject to a 30-page limit, the principles are applicable regardless of the page limit involved. They are as follows:

- a) The maximum length for appellate facta is “not a suggestion or a starting point”; rather, it has “been set with a view to reasonably complex cases – simpler cases can often be dealt with adequately in much shorter factums”.
- b) Leave to file a factum exceeding the page limit is an exceptional request, to be “granted sparingly in special circumstances” only.
- c) “While a party must be permitted to present its whole case effectively, this does not take away from the requirement of conciseness and the duty of efficiency to the court”.
- d) “The overarching question is whether the extension is required in the interests of procedural fairness and justice to advise the other side of the issues in dispute so it can prepare properly for the appeal and to assist the division of the Court that hears the appeal to deal effectively with the issues”.
- e) “The fact that the appeal raises important and complicated questions of fact or law, there are numerous grounds of appeal, the underlying proceedings have been ongoing for many years, or the trial was lengthy, does not automatically justify an extension of the page limit. These circumstances inform many appeals that are nevertheless contained within the 30-page factum limit”.

While Ms. Twinn’s submissions focused on the test for an extension of time to file her factum, it seems that her reason for the increase in page limits is due to the complexity of the matter. She says that for the Court to have “a full picture, consideration of an extensive Court record is required, not just this Action but 3 other related Actions”. She also says that the law and facts are “complex, dense and enmeshed”.

The respondents, the Sawridge Trustees, oppose the request to increase the page limit of the appellant’s factum. They say that such an increase is not in keeping with the spirit of the rules governing fast track appeals and that Ms. Twinn’s reasons for the request are vague and not supported. They argue that this appeal is a straightforward appeal from a threshold issue involving a question of law with very limited case law jurisprudence. They submit that Ms. Twinn has not demonstrated why the 12-page limit should not be respected.

The respondent, Office of the Public Guardian and Trustee, does not take a position on the request for an increase in page limits, but they ask that they be granted the same page limit increase as may be granted to Ms. Twinn.

While Ms. Twinn has alleged complexity, appellate courts have found that complexity alone does not justify a relaxation of page limits. See, for example, *Forestethics Advocacy Association v Canada (Attorney General)*, 2014 FCA 182; *OZ Merchandising Inc v Canadian Professional Soccer League Inc*, 2020 ONCA 532; *Sagkeeng v Government of Manitoba et al*, 2020 MBCA 100.

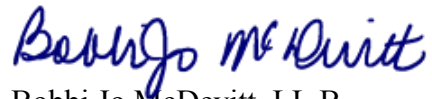
The application before Justice Little was heard in less than a day, and the reasons for decision are just over 7 pages. Even if lengthy written submissions were filed in the court below, an appeal is from the reasons for decision and is not a re-hearing. The appellant's factum must focus on the alleged reviewable errors in the decision and not on the arguments made. (That is why written briefs from the court below are not allowed on the Court of Appeal record: rule 14.27(1)(c) and Part F.6 of the Consolidated Practice Directions.)

Parties are expected to comply with the page limits set out in the rules. Requests to increase those limits are granted sparingly and in exceptional circumstances only. The Court expects the parties to clearly isolate the relevant issues, to sift through the evidence and the record, and to distill the appeal and the argument down to its essential features.

Ms. Twinn has not specifically addressed how she is prevented from writing a factum within the 12-page limit nor why or how an additional 18 pages would assist. To the contrary, one of the reasons given for the extension of time was to enable Ms. Twinn to file a "concise, simplified, cogent factum".

A broad assertion that the factual and legal issues are complex is not an exceptional circumstance to warrant a deviation from the 12-page limit. The request to file a 30-page factum is denied.

Thank you,



Bobbi Jo McDevitt, LL.B.
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/bjm