

SUPREME COURT OF YUKON

Citation: *Wood v Yukon (Government of)*
2026 YKSC 70

Date: 20260814
S.C. No. 17-AP019
Registry: Whitehorse

BETWEEN:

JUANITA WOOD

APPLICANT

AND

GOVERNMENT OF YUKON
as represented by the Public Service Commission and Yukon Human Rights
Commission, Members Chabot, Knutson, Moir and Bouvier

RESPONDENT

Before Chief Justice S.M. Duncan

Appearing on her own behalf

Juanita Wood

Counsel for the Attorney General of
Yukon

I.H. Fraser

REASONS FOR DECISION

Overview

[1] Juanita Wood, a self-represented litigant, has been found by the Supreme Court of Yukon, affirmed by the Court of Appeal of Yukon, to have persistently instituted vexatious proceedings and conducted proceedings in a vexatious manner. She brings an application for my recusal from hearing her applications for leave to institute new proceedings, under s. 7.1(2)(b) of the *Supreme Court Act*, RSY 2002, c 211 (the *Act*). The basis of her recusal application is a reasonable apprehension of bias, arising principally from my conduct of a Case Management Conference (CMC) on March 31,

2026, the ensuing order, and her interactions with the Court Registry the following week. Specifically, she says procedural unfairness resulted from: my alignment with the Yukon government's proposals for a CMC order and prejudgment; my conduct of the CMC on short notice and issuance of an order imposing structural changes to the proceeding in the absence of an application by either party; my failure to assist her, a self-represented litigant, by not explaining the consequences of the order to her and my failure to provide reasons for the CMC order; and my improper provision of the Attorney General of Yukon (AGY) with full party status. Ms. Wood also argues that my "*ex parte*" intervention with the decisions of the Court Registry staff about her new filings after the CMC order; my receipt of a one-sided narrative from Court Services Director that included comments about her behaviour at the Court Registry; and my receipt of informal requests and other submissions about her file from counsel for the AGY through the trial coordinator were evidence of a reasonable apprehension of bias. Finally, she argues that my decision not to publish an Endorsement written in December 28, 2022, denying her leave to file an application for *certiorari* under s. 774 of the *Criminal Code*, RSC 1985, c C-46 (the *Criminal Code*) is part of the relevant context of bias. Ms. Wood says the cumulative effect of these actions gives rise to the reasonable apprehension of bias.

[2] The AGY states that none of the grounds advanced by Ms. Wood is sufficient to support a finding of reasonable apprehension of bias. Her concerns about pre-hearing alignment and procedural unfairness stem from her misunderstanding of her legal position, and a disagreement with and possible misunderstanding about the effects of the CMC order. The ability of the AGY to participate in the hearing through opposing

written and oral submissions is within the statutory scope and permitted by common law. The AGY made no submissions on the issues about the interactions of Ms. Wood and the Court Registry, or on the non-publication of the December 2022 Endorsement.

[3] After a review of the affidavits and attached exhibits filed by Ms. Wood, the authorities she and the AGY provided, and the written representations/outlines of both parties, I find there is no basis for me to recuse myself from hearing Ms. Wood's applications for leave. The scheduling of the CMC in an expedited manner, and the effect of the CMC order was to preserve Ms. Wood's right to advance her claim against the Workers Compensation Health and Safety Board (WCSB) while her continuing status as a vexatious litigant was determined. The terms of the order conferred no advantage on the AGY. Ms. Wood's interaction with the Court Registry after the CMC reflected her successful attempts to circumvent the terms of the CMC order, and her choice to select a new procedure from the one she presented before and at the CMC.

[4] Nothing in the conduct of the CMC and its outcome, nor the actions of the Court Registry in accepting her filings, nor the processes occurring throughout, would cause an informed person, viewing the matter realistically and practically, to conclude there is a real possibility that I cannot bring an impartial mind to the decision-making process of Ms. Wood's applications for leave.

[5] In the following I will set out the issues and address the preliminary matters. I will then review the law on recusal for reasonable apprehension of bias and judicial impartiality. I will review the factual background to this request, including a summary of the procedural history. I will then address the arguments of Ms. Wood and my conclusions.

Issues

- i) Does Ms. Wood require leave to argue the recusal application?
- ii) Does the AGY have standing to make oral and written submissions in opposition to this application?
- iii) Do the concerns of Ms. Wood about the conduct and outcome of the March 31, 2026, CMC, her subsequent interactions with the Court Registry, and my decision not to publish a December 28, 2022 Endorsement, meet the test of reasonable apprehension of bias sufficient to require my recusal from hearing her applications for leave to institute new proceedings?

Preliminary Matters**i) Requirement for leave to bring recusal application**

[6] In her written materials, Ms. Wood argued that despite the vexatious litigant declaration she did not need leave to bring this recusal application. The AGY agreed that in the context of applications for leave to institute a proceeding under s. 7.1(2)(b) of the *Act*, leave to bring a recusal application is not required.

[7] I agree. Ms. Wood is not required to seek leave to bring this recusal application.

ii) Standing of AGY to file written materials and make submissions opposing this application

[8] Ms. Wood argues that the AGY's right to receive notice and appear at a hearing under s. 7.1(2)(b) of the *Act* does not give them the right to file written argument or make oral argument in opposition to her recusal application. She notes that the CMC order granting the AGY respondent status was for the petition in the new proceeding and she withdrew that petition on April 7, 2026. The Government of Yukon is one of the

respondents in the SC – 17-AP019 file under which her applications for leave were accepted by the Court Registry for filing. As a result, she is not opposed to the respondent status of the Government of Yukon in her application. However, as the AGY is not a named respondent in that file, she remains opposed to their ability to oppose her application.

[9] I will address the AGY's ability to make full submissions in this recusal application without analysing the distinction, if any, between counsel for the Government of Yukon and the AGY as this was not addressed by counsel for AGY. I will also leave for another day any argument about the status of the AGY in Ms Wood's underlying applications for leave to institute new proceedings. The following deals only with the extent of the AGY's participation in this recusal application.

[10] The *Act* recognizes the interest of the AGY in an application under s. 7.1(a) or (b) by requiring them to be given notice and the right to appear at the hearing. This applies equally to the recusal application. It follows from the right to notice and to appear that they have the right to be heard. A right to be heard is derived from the Latin phrase *audi alteram parte* – literally translated as “hear the other side”. Whatever relevant arguments the interested party has may be made at the hearing; the expression ‘other side’ suggests opposing arguments may be made. An interested party's right to be heard is not constrained to agreement with the applicant's position.

[11] The right of appearance has been interpreted at common law and in statutes to include making submissions to the Court. In *Garipey v Shell Oil Co.* [2002], 21 CLR (3d) 98 (Ont Sup Ct) the Ontario Superior Court of Justice was asked to approve the partial settlement of a class action. One of the non-settling defendants sought to make

submissions at the settlement approval hearing. The Court held that the test for their ability to make submissions was whether they were affected by the relief being sought (at para. 37). In that case there was no interpretation of any statutory right to notice or to appear as the applicants were already defendants. Nonetheless, the common law principle of determining participation on the basis of affected interest is instructive.

[12] The word appearance is defined in Black's Law Dictionary as "a coming into court as a party or interested person, or as a lawyer on behalf of a party or interested person" (Bryan A. Garner, *Black's Law Dictionary*, 9th edition, (Thomson Reuters, (2009))).

[13] The Supreme Court of Yukon *Rules of Court* (the *Rules*) include participation, not just observation, in a court hearing, including opposing an application, where notice and/or appearance is referenced in the *Rules*. For example, Rule 1(9) provides parties are required to appear and explain the delay. Rule 47 requires a party to serve a notice of application on every party as well as on each person who may be affected by the order sought (5). That person is entitled to respond to the notice of application, by setting out a concise statement of facts and reasons for opposing the application (6 and 6.1). That person may appear at a hearing in person, by telephone or by videoconference (10).

[14] The AGY has an interest in and is affected by issues related to the administration of justice given the territorial responsibility under the *Yukon Act*, SC 2002, c 7, for the administration of justice (s. 18(k))¹; and the specific powers, duties and functions in that regard of the Minister of Justice and AGY set out in ss. 6 and 7 of the *Department of*

¹ the administration of justice, including the constitution, maintenance and organization of territorial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts;

Justice Act, RSY 2002, c 55. As the legal advisor of the Government of Yukon, the Minister of Justice among other things is to superintend all matters connected with the administration of justice in the Yukon within the authority or jurisdiction of the legislature or Government of Yukon (s. 6(b)). The context of the vexatious litigant declaration raises issues related to court resources and access to justice. The recusal application based on reasonable apprehension of bias of the judge is also an administration of justice issue due to the consideration of the principle of judicial impartiality, fundamental to the justice system.

[15] The common law, the *Department of Justice Act*, and the *Act* confirm the AGY's interest in these proceedings, and a consequent right to be given notice, appear and to be heard. In the context of this recusal application, there is no one else to provide the Court with a response to Ms. Wood's application for recusal. The AGY can make written and oral submissions, whether or not they oppose the application.

Legal Principles

[16] The test for reasonable apprehension of bias requires an informed, reasonable and right-minded person, viewing the matter realistically and practically, and having thought it through, to conclude that it is more likely than not that the decision-maker, whether consciously or unconsciously would not decide fairly. The test is objective. The reasonable person must be informed not only of the circumstances of the case, but also of the tradition of integrity and impartiality in our judicial system as reflected in the judicial oath (*Angerer v Cuthbert*, 2018 YKCA 8 at para. 29). A judge's impartiality is presumed. Each case must be examined contextually and the inquiry is fact-specific (*Wewaykum Indian Band v Canada*, 2003 SCC 45 at 5). There is a high burden on the

party alleging bias to prove it (*Yukon Francophone School Board v Yukon (AG)*, 2015 SCC 25 (*Francophone*) at para. 26). The test requires demonstration of serious grounds on which to base the apprehension of bias.

[17] This issue of bias is closely connected to the requirement of judicial impartiality.

As the Supreme Court of Canada wrote in *Wewaykum*:

[57] ... [P]ublic confidence in our legal system is rooted in the fundamental belief that those who adjudicate in law must always do so without bias or prejudice and must be perceived to do so....

[58] The essence of impartiality lies in the requirement of the judge to approach the case to be adjudicated with an open mind...

[18] Recent Yukon decisions on recusal have identified several aspects of judicial decision-making that do not on their own raise a reasonable apprehension of bias, such as: judge's errors in findings of fact (*KS v JF*, 2025 YKSC 68 (*KS*) at para. 24); judge's error in procedural decisions (*JDT v JLE*, 2026 YKSC 35 (*JDT*) at paras. 27-29); judge making an adverse credibility finding of a party or witness (at para. 25); and prior involvement of the judge in a previous proceeding with the same party (at para. 28). A litigant's disagreement with the judge's procedural decisions (*KS v JF*, 2025 YKSC 68 (*KS*) at para. 24) and the fact that a litigant personally feels hard done by (*JDT* at para. 7) are also not enough to constitute a reasonable apprehension of bias on the part of a judge.

Background

Previous proceedings and outcomes

[19] In July 2018, Ms. Wood was declared a vexatious litigant in response to an application by the Yukon government who was the respondent in a judicial review

brought by Ms. Wood of a decision made by the Yukon Human Rights Commission (file number S.C. No. 17-AP019, *Wood v Yukon (Government of)*, 2018 YKSC 34). As of that date, Ms. Wood had initiated four other legal proceedings. All of them were related to her release during her probationary period from her employment with the Department of Highway and Public Works (HPW), Government of Yukon on February 5, 2015. She initially appealed her release from employment to the Deputy Minister, who upheld the decision on March 5, 2015.

[20] The other legal proceedings instituted before the July 2018 vexatious litigant order were:

- a. A complaint to the Yukon WCSB on March 15, 2015: WCSB decided the prosecution of employer was not warranted and on appeal, the Appeal Panel refused to interfere with that decision; Ms. Wood filed a reconsideration request and then withdrew it; Ms. Wood later requested to restart the appeal, and then withdrew that request.
- b. A civil action against HPW: the Supreme Court of Yukon (Justice Gower) dismissed her claim on the basis there was no reasonable cause of action; it was vexatious; and it was an abuse of process; Court of Appeal quashed Ms. Wood's appeal because it was devoid of merit and would be an abuse of the court process to allow it to proceed.
- c. A judicial review of the termination of her employment: dismissed on consent.
- d. A complaint to the Yukon Human Rights Commission alleging discrimination and seeking reinstatement to her position at HPW: Director

stopped investigation in part due to the vexatiousness of the aspect related to her release from employment, and the rest of her complaint was out of time; Commission confirmed Director's decision; Ms. Wood initiated a judicial review of the Commission's decision (SC 17-AP019, *Wood v Yukon (Government of)*, 2018 YKSC 34) and the Supreme Court of Yukon (Justice Miller) dismissed the judicial review on finding Ms. Wood was a vexatious litigant; the Court of Appeal upheld this finding.

- e. A judicial review of the WCSB's decision in 2015 not to prosecute employer: the Supreme Court of Yukon (Justice Bielby) dismissed on finding the underlying claim was vexatious.

[21] The courts found the underlying issue in all of these proceedings was her release from her employment at HPW during her probationary period.

[22] After 2018, Ms. Wood continued to be involved in legal proceedings. The Yukon government brought a successful application to the Court of Appeal, and obtained an order in 2019 prohibiting her under s. 12.1 of the *Court of Appeal Act*, RSY 2002, c 47 from instituting a proceeding in the Court of Appeal of Yukon on behalf of herself or another person without leave of the Court. This application was brought after the Court of Appeal heard the two appeals referred to above – *Wood v Yukon (Occupational Health and Safety Branch)*, 2018 YKCA 16 and the appeal of the finding of vexatious litigant in 2018 (SC 17-AP019, *Wood v Yukon (Government of)*, 2018 YKSC 34).

[23] Ms. Wood brought an application to rescind the 2019 Court of Appeal Order under s. 12.1 of the *Court of Appeal Act* in 2023. In 2023 the Court of Appeal dismissed her application because she was still seeking to re-litigate matters already determined,

and her arguments that the WCSB and the government were deceitful on multiple occasions and misled the courts, contributing to the lack of success of her applications supported the continuing declaration of vexatious litigant.

[24] On December 28, 2022, I denied Ms. Wood leave to file an application for *certiorari* challenging the outcome of a s. 507.1 process hearing under the *Criminal Code* held in the Territorial Court of Yukon. That Court refused to allow Ms. Wood to have process issued for 11 separately sworn Informations containing 59 counts against the Government of Yukon, the Yukon WCSB, and 11 of its employees and/or directors. After my decision, Ms. Wood sought leave at the Court of Appeal to file an appeal of my further denial of leave. A full division of the Court of Appeal dismissed her leave application in October 2023, noting at para. 32 "...the proceedings that Ms. Wood has brought in all three levels of court in Yukon have all ultimately sought to re-examine the termination of her employment with the Government of Yukon..." and at para. 33...To allow Ms. Wood to continue this matter, under the guise of a criminal proceeding, would be an abuse of the Court's process and it cannot be sanctioned" (*Wood (Re)*, 2023 YKCA 9).

Current Proceeding

[25] The current proceeding began on March 13, 2026, when Ms. Wood sought to file a notice of application, supporting affidavit, memorandum of argument, and book of authorities, seeking rescission of the vexatious litigant order made by the Supreme Court of Yukon in 2018 (see para. 20 (d) above, SC – 17-AP019), affirmed by the Court of Appeal. That 2018 Court Order included an order discontinuing the proceeding brought under SC-17-AP019. The Court Registry staff sought judicial direction in March

2026 because Ms. Wood sought to file new material on a discontinued proceeding.

Direction was given to allow the filing, and it was completed on March 26, 2026.

[26] Immediately after the filing was accepted, on March 26, 2026, Ms. Wood requested by email to the Trial Coordinator the earliest possible date for a hearing of the rescission application. She copied counsel for the AGY, Mr. Fraser, on her email “as rep for the government and the Attorney General of Yukon so time is not wasted on booking a day in which he is not available.”

[27] Mr. Fraser suggested by responding email that same day that a CMC was the appropriate first step and a hearing date could be set there. He further set out the AGY’s view that the appropriate procedure for Ms. Wood to obtain relief was to commence a fresh proceeding by a petition. The rescission of the vexatious litigant Order is not related to the discontinued proceeding but is general in nature. He suggested the Court order that her filed notice of application be treated as a petition and be assigned a current new court file number.

[28] Ms. Wood responded by email that she did not believe there was a need for a CMC, and that she wanted to proceed directly to a hearing. She confirmed the Court had already accepted her application for filing on the discontinued proceeding.

[29] On Sunday, March 29, 2026, at 4:17 p.m., Ms. Wood sent an email to the Trial Coordinator, with a copy to Mr. Fraser, and Andrea Bailey, Director of Court Services, entitled “URGENT – File 17-AP019 – Limitation Period Expiring April 8, 2026 – Request for Hearing Date and Judge’s Direction.” This was the first time the Court was made aware of a limitation period concern. Ms. Wood requested her letter be placed before a judge for directions as soon as possible. She wrote that she intended to commence a

civil claim against the WCSB and the limitation period applicable to the claim was to expire on April 8, 2026. She stated, “the rescission of the vexatious litigant order is a precondition to my ability to file that claim without risk of it being struck as an unauthorized proceeding.” She requested a hearing date of April 2, 2026, for the rescission application, sought directions from the Court about a notice of hearing including possible abridgment of time and “any further direction the court considers appropriate regarding the AGY’s procedural objection.” She further advised she was travelling for medical appointments on March 30 and 31, 2026, but was available by email throughout and could be reached by telephone at certain hours on both days. She noted that April 3, 2026, was Good Friday and April 6, 2026, was Easter Monday, days on which the courts were closed.

[30] On Monday, March 30, 2026, at 9:03 a.m., Mr. Fraser responded by email that the AGY was willing to attend a hearing on short notice, but he was scheduled to appear on another court matter on April 2, 2026.

[31] Mr. Fraser suggested the following approach to Ms. Wood’s limitation issue:

...Ms. Wood’s limitation issue could be addressed if the [C]ourt were to issue an order, on its own motion, permitting Ms. Wood to file her statement of claim on a provisional basis, subject to the [C]ourt’s decision on her application in relation to the vexatious litigant order. The hearing on whether to provide relief from that order to permit her action to go forward can then be argued on a regular schedule. Having a copy of the intended pleading for the court to review would also assist the court in determining if the vexatious litigant order should be lifted, either generally or in relation to the intended proceeding.

[32] Mr. Fraser also suggested that the WCSB be given notice of Ms. Wood’s application for rescission of the vexatious litigant order.

[33] Ms. Wood replied by email at 9:51 a.m. disagreeing with the suggestion to share her documents with WSCB “at this time” as they had not been involved in the vexatious litigant order proceeding. She went on to say that Mr. Fraser was free to share the documents and legal arguments with the WCSB if he chooses, as he had done in earlier hearings in matters involving the WCSB.

[34] Ms. Wood concluded her March 30 email: “Otherwise, I am in agreement with the process suggested by Mr. Fraser.”

[35] Upon review of these emails, I directed a CMC be held on the record in Court the following day, March 31, 2026, at noon, one of the times Ms. Wood advised she would be available by telephone. The court calendar was full for all judges that week and I scheduled this during a small window of available time, given the urgent nature of Ms. Wood’s request.

[36] At the outset of the CMC, I advised I had a half an hour due to other work commitments. I explained I accepted Mr. Fraser’s suggestions of converting the application to a petition in a way that did not require Ms. Wood to refile, and of issuing an order allowing her to file provisionally her new statement of claim until the rescission application could be argued. Ms. Wood indicated she felt prejudiced by this approach, and she wanted another judge to hear her rescission application, based in part on my December 2022 decision to deny her leave to challenge the Territorial Court order refusing to allow her to proceed with 11 sworn informations. I indicated her concerns were noted. I then issued the order dated March 31, as described at the CMC, after reviewing the draft prepared by Mr. Fraser and sent to Ms. Wood for comments.

[37] On April 7, 2026, Ms. Wood attended at the Court Registry at 9:00 a.m. with materials for filing. She filed a notice of discontinuance of her rescission application that was converted into a petition pursuant to the CMC order of March 31. She filed this recusal application. She then sought to file seven new applications and seven new affidavits on file SC 17-AP019, seeking leave under s. 7.1(2)(b) of the *Act* to institute a proceeding. Several of the affidavits in support attached a draft statement of claim.

[38] After discussion with the Court Registry clerk and the Director of Court Services, Ms. Wood was successful in filing all seven of her applications and affidavits. As is the usual practice when material that does not comply with the Rules or a court order is accepted for filing or requested to be accepted for filing, a filing deficiency form was completed and placed on the file.

[39] No further activity occurred in this file until the application for recusal was heard on May 26, 2026.

iii) Do the concerns about the conduct and outcome of the March 31, 2026 CMC, the subsequent interactions with the Court Registry, and the decision not to publish the December 28, 2022 Endorsement, meet the test of reasonable apprehension of bias?

Analysis

Introduction

[40] For the hearing of this recusal application, Ms. Wood has filed the following documents: a notice of application, an amended notice of application containing written argument, two affidavits with exhibits, written argument in support of application for leave to bring recusal application containing argument on the merits of the recusal application, written representations with authorities attached, supplementary written argument, and argument in reply to the outline of the AGY. She also filed a separate

book of authorities on May 25, 2026, containing the same authorities filed on April 10, 2026, and additional authorities.

[41] There is repetition amongst the filed documents. I have divided Ms. Wood's arguments into three categories: procedural unfairness related to the CMC Order; inappropriate judicial intervention and communication with the Court Registry staff; and the contextual argument about the failure to publish the December 2022 Endorsement.

Procedural unfairness related to the CMC Order of March 31, 2026

[42] The CMC scheduled on short notice on March 31, 2026 was a response to Ms. Wood's urgent request for a hearing date for her rescission application. It resulted in an order which preserved her litigation rights, and her ability to argue the rescission application within a reasonable time frame, without pressure. The order made no substantive changes to Ms. Wood's position or procedural rights. My agreement with counsel for the AGY's procedural suggestions and the other elements of the CMC order, as well as the process of holding the CMC, do not amount to a reasonable apprehension of bias. A reasonable and informed person, looking at the matter objectively, would not conclude that the process of scheduling a CMC and the issuance of the CMC order would make it more likely than not that I would decide the matter unfairly.

(a) Purpose and process of CMCs

[43] Case Management Conferences are a well-used tool in the court system. They are mandatory in any originating proceeding (with specific exceptions which do not apply here) where there is a self-represented litigant. Their purpose includes setting deadlines, including trial or hearing dates, and addressing procedural matters. The

Court's powers in CMCs are broad, necessarily, so to achieve the purpose of the *Rules*: to ensure a just, speedy and inexpensive determination of the merits of the proceeding, and to ensure the amount of time spent, the process and the expenditures on a matter are proportionate to the dollar amount claimed, the complexity of the proceeding, and the importance of the issues raised by the litigation (Rule 1(6)). Rules 1(8) and 36 set out the process surrounding CMCs and the scope of the Court's powers.

[44] Specifically, Rule 36(2) permits any party to request a CMC by email or letter at any time after an originating process has been filed. The requesting party is to identify in advance to the Court and opposing party the issues to be discussed and directions or orders sought. Rule 36(3) allows a judge to order a CMC be held in response to a request or on their own initiative.

[45] Rule 36(4) provides among other things that at CMC a Court can consider:

- (a) the simplification of the issues;
- (b) the necessity or desirability of amendments to pleadings;
- (e) directions for the conduct of the proceeding, and
- (j) any other matters that may aid in the disposition of the action or the attainment of justice.

[46] Rule 36(6) provides that directions given in case management are orders of the court.

[47] Rule 1(8) also provides guidance to the Court and parties about case management, stating the Court must further the objects of the *Rules* by actively case managing proceedings. Rule 1(8) specifically provides the Court may:

- (d) decide the order in which issues are to be resolved;

- (g) set realistic timetables or otherwise control the progress of the proceeding;
- (h) consider whether the likely benefits of taking a particular step justify the cost of taking it;
- (i) deal with as many aspects of the proceeding on the same occasion as is reasonably practicable;
- (k) give directions to ensure that the proceeding proceeds quickly and efficiently; and
- (l) make any other orders and give any other directions the court considers appropriate.

(b) *Prejudgment and alignment with AGY*

[48] Ms. Wood correctly states that at the outset of the CMC I indicated my agreement with Mr. Fraser that Ms. Wood's application to rescind the vexatious litigant order should not have been filed on a discontinued proceeding but rather should have its own proceeding. I further agreed that her application could be converted by the Court Registry staff into a petition via a Court Order, and given a new file number, making it unnecessary for Ms. Wood to refile.

[49] I also agreed with Mr. Fraser's suggested approach to allow Ms. Wood to file her new Statement of Claim against the WCSB before the expiry of the limitation period, the existence of which I accepted at face value, by ordering it be accepted for filing provisionally before the stated deadline. Given that a hearing on April 2, 2026 was not possible, this approach would give time for her rescission of vexatious litigant order application to be heard and decided.

[50] The Court regularly issues orders as proposed by one counsel or party or the other at a CMC, whether or not there is agreement from the other party or counsel. In this case, Ms. Wood had agreed by email on March 30, 2026 with the process

Mr. Fraser suggested and that the Court ordered, except for the filing of her application under a separate new court file as a petition, not under SC 17-P019. The CMC order allowed her to proceed with her rescission application, without prejudicing her ability to commence her new proceeding if her rescission application were successful, by accepting the pleading for filing before the expiry of the limitation period.

[51] Agreeing with one party's submissions and even incorporating their submissions into a decision does not, without more, lead to a conclusion that a court is not impartial (*R v Perez*, 2024 YKSC 4 at para. 30 citing *Cojocar v British Columbia Women's Hospital and Health Centre*, 2013 SCC 30 at para. 1). My agreement with Mr. Fraser's proposal, most of which was agreed to in advance of the CMC by Ms. Wood, does not show reasonable apprehension of bias and was in accordance with the usual practice at CMCs. In fact, it was to Ms. Wood's advantage, and of no benefit to the AGY.

(c) *Short notice CMC*

[52] The CMC was scheduled on short notice in response to Ms. Wood's request on March 29, 2026 that the rescission application be heard urgently on April 2, 2026, due to the expiry of her limitation period. It was not possible to hold a hearing on April 2, 2026. There was no time in the Court calendar before any of the judges and Mr. Fraser was in Court on another matter. The CMC was scheduled at a time that Ms. Wood said she would be available by telephone from Vancouver, British Columbia. The purpose was to facilitate the setting of a hearing date for her application while preserving her right to commence an action.

[53] The short notice CMC was to accommodate Ms. Wood's limitation period concerns and to confirm a realistic hearing date for her application.

(d) *Conversion of application to petition*

[54] The conversion of Ms. Wood's rescission application to a petition accords with the Court's role to simplify the issues and to give directions to ensure the matter proceeds quickly and efficiently. While the Court Registry had earlier received judicial direction to file her application on a discontinued proceeding, a further consideration of this approach revealed unnecessary complexities and inefficiencies. Technically, it is not possible for a Court to hear a matter on a proceeding that has been discontinued by court order. Further, the respondents in the discontinued proceeding, including individuals, had nothing to do with the vexatious litigant order, as that application was brought by the Government of Yukon, but would have to be notified, a complex and inefficient step. The relief requested in the application to rescind the vexatious litigant order was not leave to reinstitute the discontinued proceeding; instead, it was to allow Ms. Wood to file a new claim against the WCSB.

[55] The general nature of this application and its effects meant that it was its own proceeding. Rule 10(1)(a) of the *Rules* permits a petition to be brought where an application is authorized by statute. In this case s. 7.1(2) of the *Act* authorizes an application to the Supreme Court of Yukon for a rescission of vexatious litigant order. A petition is the proper mechanism to hear and decide this matter.

[56] Ms. Wood identified in oral submissions the prejudice to her by the new obligation to attend at CMCs imposed by a petition that did not exist with an application. She did not elaborate on how or why attendance at a CMC is prejudicial. In any event, Rule 36(2) and (3) provide that a party may request or the Court may direct a CMC at any time in the course of a proceeding, which includes an application.

[57] The order that the filed rescission application be converted to a petition and given a new file number meant no additional steps for Ms. Wood. The substance of her application was untouched. Her exposure to costs, which are always in the Court's discretion, was the same whether the matter was heard by way of application or petition.

(e) *Condition of hearing rescission application before filing new proceeding*

[58] The CMC order did not impose any additional conditions upon the application process. As Ms. Wood wrote in her email of March 29, 2026, "the rescission of the vexatious litigant order is a precondition to my ability to file that claim [i.e. the new proceeding against WCSB] without risk of it being struck as an unauthorized proceeding." This is a correct statement of the procedure and is what the CMC order provided. At that time Ms. Wood had filed no applications for leave to institute new proceedings under s. 7.1(2)(b). She had chosen the alternative approach under s. 7.1(2)(a) of an application for a rescission of the vexatious litigant order. The CMC order was consistent with her choice to follow this process set out in the *Act*.

iv) *Absence of any application from anyone before order made*

[59] The Court's broad powers in case management to make orders in procedural matters mean that no applications are required to resolve most matters. Mr. Fraser outlined in his emails in advance of the CMC the orders he was seeking and the reasons for them. Ms. Wood responded to his proposals and set out her position by email, also in advance of the CMC. Applications for these procedural matters were not expected or necessary.

(f) *No written reasons for CMC order*

[60] Ms. Wood says the absence of written reasons for the CMC order does not allow her to assess the legal basis for the structural changes imposed or to challenge them on appeal.

[61] This CMC was held in Court on the record. It dealt with procedural matters of the appropriate document for filing the application for rescission, the file number, the provisional acceptance of the claim for filing to protect the limitation period, and the timing of the hearing of the application. The recording and transcript (which was requested by Ms. Wood and filed on this application) provides accountability. The email exchanges before the CMC between the parties are available to them and the Court and they provide additional explanation of the context.

[62] Written reasons are rarely provided after CMCs. This is because the orders granted are generally procedural and routine. Legal analysis is generally not required. Very occasionally an endorsement may be written, in an unusual situation, but normally the orders speak for themselves. Not only are reasons unnecessary in the vast majority of cases, in addition the Court does not have the resources to issue reasons after each CMC. CMCs are frequently held; in general there is at least one held every day. Access to justice would be negatively affected if judges were required to issue reasons after each CMC.

(g) *AGY status as respondent*

[63] The AGY's status as a respondent was ordered in the context of the petition which Ms. Wood has withdrawn. As a result it is not necessary to consider this issue at

this time. The scope and extent of the AGY's participation in the underlying leave applications may be addressed at that time.

(h) Failure to advise of downstream consequences to self-represented litigant

[64] Ms. Wood asserts my failure to advise her of "downstream consequences" of the CMC order was a failure to comply with my duty to assist self-represented litigants.

She names these downstream consequences as exposure to costs as a result of the petition and management of the increased role of the AGY as full respondent.

[65] Possible costs consequences for Ms. Wood were the same whether the matter was an application or a petition.

[66] The AGY's right to notice and to appear includes their ability to be heard and make written and oral submissions on this application, as determined above.

Inappropriate intervention with and communication from the Court Registry

[67] Ms. Wood asserts my involvement in directing Court Registry staff on April 7, 2026, when she sought to file her materials, contributes to the reasonable apprehension of bias. She says that direction to the Court Registry staff was given without notice, without an adversarial process and in the context of a filing dispute over limitation sensitive proceedings. She also argues the forwarding by the Trial Coordinator of procedural requests by email from the AGY was inappropriate. Finally, she says my receipt of the filing deficiency memorandum prepared by the Director of Court Services which contained adverse characterizations of Ms. Wood's behaviour at the Court Registry front counter, without notice to her and without an opportunity to respond, contributed to a reasonable apprehension of bias.

[68] Ms. Wood was permitted to file all the materials she brought to the Court Registry on April 7, 2026. She was permitted to withdraw her application for rescission of the vexatious litigant order, which had been converted to a petition by court order. She filed her recusal application. She filed seven applications for leave to institute a court proceeding, and seven accompanying affidavits, all under SC–17-AP019, the discontinued proceeding. In effect, these filings circumvented all aspects of the CMC order I made on March 31, 2026.

[69] Ms. Wood has made incorrect assumptions without evidence about my involvement with the Court Registry on April 7, 2026. Even if I had intervened as she assumed, she achieved her goal of filing all the materials she brought with her, in spite of the court order. The incorrectly assumed intervention and the outcome she achieved cannot contribute to a reasonable and well-informed person concluding that I would be unlikely to decide the leave applications unfairly.

[70] There is no “back room” in the Court Registry for me or any judge to sit. Our offices are on a different floor of the Law Centre. We do not sit with Court Registry staff. Ms. Wood’s assumption that I was physically present in a back room at the Court Registry and speaking with the Director as she was attempting to file her materials is incorrect.

[71] Generally, consultation by Court Registry staff with the judiciary about unusual filings or filings they are unsure about accepting is encouraged. Interpretation and application of the *Rules* can be difficult and complex. There is nothing improper about Court Registry staff receiving judicial direction about the interpretation or application of the *Rules*. A party in disagreement with a decision about document filing can challenge

it in an application or at the hearing on the merits as a preliminary matter or can bring a filing deficiency memorandum for the judge to determine whether the filings can be accepted or not.

[72] Similarly, the Trial Coordinator's forwarding of both Mr. Fraser's and Ms. Wood's requests by email to me for direction was appropriate and necessary. The Trial Coordinator does not make procedural determinations. She forwarded the emails to me once both Mr. Fraser and Ms. Wood's correspondence was received. In this case, I decided after reading all the emails that a CMC on the record in Court would be useful, before a CMC order was made. I did not receive any email from either party that the other party had not received. There was no one-sided communication.

[73] The Director of Court Services appropriately prepared a Filing Deficiency Memorandum because the Court Registry accepted materials for filing in a manner that was inconsistent with the CMC order made on March 31, 2026. Specifically, I had ordered that the application under the *Act* for rescission of the vexatious litigant order not be filed in the discontinued proceeding. Ms. Wood's new applications for leave and accompanying affidavits under the *Act* were filed in the discontinued proceeding. The Filing Deficiency Memorandum explained why this was done. Part of the reason was due to Ms. Wood's persistence and insistence, including her refusal to leave the courthouse until the filings occurred in the manner she requested, and her refusal to accept the direction of the Court Registry front counter clerk and the Director of Court Services. This was relevant information to explain the filing deficiency. Ms. Wood also assumes that the Filing Deficiency Memorandum was sent to me. While it became part

of the file, it was not brought to my attention separately, and the first time I saw it was when I reviewed Ms. Wood's affidavit before the hearing in this proceeding.

No published reasons of the December 28, 2022 Endorsement

[74] Ms. Wood argues that my decision not to publish this Endorsement did not allow the legal community to assess the constitutional validity of what I decided in not granting Ms. Wood leave to challenge the decision of the Territorial Court judge under the *Criminal Code*. She states that this suggests on an objective basis that I will not decide her current application impartially.

[75] The decision to publish is made by the judge who authored the decision/endorsement. Publication of decisions/endorsements contributes to the accountability of the work of the judiciary, because the reasons may be reviewed and analysed. There are various reasons why a decision/endorsement may not be published, such as where it does not contain legal reasoning that is of any assistance to other lawyers, litigants and judges, or where it is a sensitive family litigation matter and even with redaction the child may be identified. There are also statutory prohibitions on publication.

[76] In this case, as the endorsement dealt with a specific and unusual factual circumstance that I believed was unlikely to be of assistance to others, I decided not to publish it. I note that the two Court of Appeal decisions resulting from Ms. Wood's seeking of leave review my reasons extensively in their published decisions.

[77] In order to avoid future concerns of Ms. Wood, however, I have published the December 2022 Endorsement.

Conclusion

[78] I have reviewed each of Ms. Wood's concerns individually and have also considered their cumulative effect. In some circumstances, the cumulative effect of a judge's actions can raise a reasonable apprehension of bias (*KS* at para. 54). In this case, considering the full context of this proceeding, including the process and the outcome, I find my actions would not cause a reasonable, informed and right-minded person to think it was more likely than not that I would not decide the matter fairly, whether consciously or unconsciously. I understand that Ms. Wood continues to disagree with the procedural approach suggested by Mr. Fraser in this matter that I adopted, without explaining to her the consequences or giving written reasons; that she incorrectly believes I intervened in the Court Registry's decision to accept her materials for filing, and will be improperly influenced by a memorandum about her, and that the Trial Coordinator should not have forwarded emails to me; and that my decision not to publish the December 2022 Endorsement showed my lack of partiality toward her. Considered altogether, they do not amount to a reasonable apprehension of bias.

[79] Ms. Wood's application for my recusal is dismissed.

DUNCAN C.J.