

Chief Justice Rules B.C. Court Hearing Fees unconstitutional

The Supreme Court [ruled](#) today that British Columbia's hearing fee schedule is unconstitutional. It was found to be outside of the province's jurisdiction and to violate the Constitutional principle of the Rule of Law. While the hearing fees allowed for exemptions for those who are impoverished, the fees were so high as to be unaffordable for those with even moderate incomes. The Court found that this has the effect of preventing many people from accessing the courts. This does not mean that charging hearing fees in any capacity is unconstitutional. Rather the Court concluded that fee schemes which "[subject] litigants to undue hardship, thereby effectively preventing access to the courts" are unconstitutional.

The case emerged from a family action regarding a custody dispute. In order to get a trial date, the claimant was required to pay a court hearing fee in advance. Many individuals and families whose incomes do not meet the threshold for an exemption still find such fees to be a substantial chunk of their income. The court fee for a ten-day trial was \$3,500 – the net monthly income for the claimant in the this case. It is important to remember that this fee is on top of the already high costs of retaining a lawyer. Faced with a litigant who could not afford the fee, [the trial judge](#) took into account a [Nova Scotia case](#) as authority for the proposition that hearing fees are unconstitutional and invited relevant intervenors to present submissions on this issue.

Intervenors in the case included the B.C. branch of the Canadian Bar Association, the Trial Lawyers Association of British Columbia, West Coast LEAF and the Attorney General of the province. Kasari Govender of LEAF [has noted](#) that this decision will have a particular impact on improving access to the courts for women involved in family law cases, who may have limited access to resources.

Source: <http://www.ccla.org/rightswatch/2014/10/02/chief-justice-rules-b-c-court-hearing-fees-unconstitutional/>