



**IN THE COURT OF APPEAL
OF NEWFOUNDLAND AND LABRADOR**

Citation: *Abbott v. Musgrave Harbour (Town)*, 2026 NLCA 16

Date: May 1, 2026

Docket Number: 202501H0034

BETWEEN:

GRANT ABBOTT and KARLA ABBOTT

APPELLANTS

AND:

THE TOWN OF MUSGRAVE HARBOUR

RESPONDENT

Coram: F.P. O'Brien, D.M. Boone and K.J. O'Brien JJ.A.

Court Appealed From: Supreme Court of Newfoundland and Labrador,
General Division 202405G0133

Appeal Heard: April 15, 2026

Judgment Rendered: May 1, 2026

Reasons for Judgment by: K.J. O'Brien J.A.

Concurred in by: F.P. O'Brien and D.M. Boone JJ.A.

Counsel for the Appellant: Self-Represented

Counsel for the Respondent: Sean M. Pittman and Robert D. Bradley

Authorities Cited:

CASES CITED: *M. B.-W. v. R.Q.*, 2015 NLCA 28; *Canada (Transportation Safety Board) v. Carroll-Byrne*, 2022 SCC 48, [2022] 3 S.C.R. 515; *Cabana v. Wells*, 2024 NLCA 4; *Unifor Local 2002 v. Exploits Valley Air Services Ltd.*, 2023 NLCA 3; *World Energy GH2 Inc. v. Benoit Ryan*, 2023 NLSC 109; *Szeto v. Dwyer*, 2010 NLCA 36; *Vokey v. Newfoundland and Labrador*, 2017 NLCA 18.

RULES CONSIDERED: *Court of Appeal Civil Rules, 2025*, NLR 44/25, rule 37.

K.J. O’Brien J.A.:

OVERVIEW

[1] This is an appeal of a decision made by a judge of the Supreme Court of Newfoundland and Labrador at an informal case management meeting during which the judge was ensuring that the parties were ready to proceed with the hearing of two interlocutory applications scheduled to be heard together about seven weeks later.

[2] The interlocutory applications in question were filed by Grant and Karla Abbott (the “Appellants”). In the interlocutory applications, they seek to have someone who is not a licenced lawyer represent them in two other matters that are currently before the Supreme Court (the interlocutory applications are referred to collectively as the “Representation Application”).

[3] The issue at the case management meeting was whether the Appellants could have the proposed non-lawyer representative make submissions for them at the hearing of the Representation Application, or whether they would have to make the submissions themselves.

[4] In a brief oral decision, the judge decided that the Appellants would have to make the submissions themselves (the “Decision”).

[5] The Appellants appeal the Decision. The Representation Application has not yet been heard because it has been postponed pending the result of this appeal.

[6] For the following reasons, I would dismiss the appeal.

THE PURPOSE OF CASE MANAGEMENT

[7] In *M. B.-W. v. R.Q.*, 2015 NLCA 28, this Court set out the purpose of case management:

[22] The function of case management is to manage and direct the procedural and other preliminary matters that are necessary to be dealt with prior to trial, exploring as well whether the matter can be settled or at least simplified along the way and, even if not, to ensure the parties are ready for trial. It culminates in discussions about trial readiness. It usually involves a number of court appearances of the parties and their counsel in the court.

[8] The Court also clarified that at case management and trial readiness hearings, judges exercise the court's inherent jurisdiction to control its own processes, but must do so fairly:

[23] The case management and trial readiness hearings are means whereby the court's inherent power to control its own process find tangible expression. But they are not the only ways. The inherent jurisdiction to control the process of necessity remains with the judge at all stages of the court process. The exercise of that inherent power, of course, is constrained at all times by considerations of trial fairness.

STANDARD OF REVIEW

[9] Judges have discretion as to how to best manage the cases before them. As such, procedural decisions made at case management meetings are discretionary decisions.

[10] For discretionary decisions, an appellate court can only intervene if there is a legal error (considered to be an error in principle), a palpable and overriding factual error (viewed as a material misapprehension of the evidence) or a failure to exercise discretion judicially (which includes acting arbitrarily or being "so clearly wrong as to amount to an injustice") (*Canada (Transportation Safety Board) v. Carroll-Byrne*, 2022 SCC 48, [2022] 3 S.C.R. 515, at para. 41; *Cabana v. Wells*, 2024 NLCA 4, at para. 10; *Unifor Local 2002 v. Exploits Valley Air Services Ltd.*, 2023 NLCA 3, at para. 9).

THE CASE MANAGEMENT MEETING AND THE DECISION

[11] At the start of the informal case management meeting, the judge stated her understanding that the Appellants wanted to have a non-lawyer representative make their submissions at the Representation Application hearing. She then heard from the Appellants as to why that was so.

[12] Mr. Abbott made submissions, some of which he read from a written statement that had been prepared in advance. Not all of his submissions were relevant to the issue that the judge had to decide. His principal relevant submission was that he wanted the assistance of the non-lawyer representative because he has a learning disability and difficulty processing language. He stated that he was “good” when he was prepared but that he needed more words to explain himself than the average person. Although he stated that if required to do so by the court, he and Ms. Abbott would argue the Representation Application themselves, they preferred to have Glenn Bogue (also known as Spirit Warrior) and/or a person known as White Eagle represent them. Neither of these individuals is a licensed lawyer.

[13] Following Mr. Abbott’s submissions, the judge heard from counsel for the Town of Musgrave Harbour (the “Respondent”). The Respondent opposed the Appellants’ request. The judge asked the Respondent’s counsel about *World Energy GH2 Inc. v. Benoit Ryan*, 2023 NLSC 109, a case referenced by Mr. Abbott. The judge in *World Energy* had heard an application similar to the Representation Application. Although that judge ultimately denied the application, he had permitted the non-lawyer representative to argue it. Counsel for the Respondent briefly addressed the case, highlighting that the judge in *World Energy* ultimately did not allow Spirit Warrior to represent the applicants.

[14] The judge then heard Mr. Abbott in reply. Mr. Abbott reiterated that he and Ms. Abbott were prepared to represent themselves at the hearing of the Representation Application if necessary. He also made further submissions that were not relevant to the issue under consideration.

[15] The judge took a recess. When she returned, she delivered the Decision orally.

[16] In the Decision, the judge recognized Mr. Abbott’s statement that he had some limitations in relation to making submissions but noted that he had acknowledged that he was able and capable of doing so when prepared with the materials organized in advance and when provided with time to make his submissions. The judge noted

that Ms. Abbott had not made any submissions at the case management meeting with respect to her requirements to make submissions at the Representation Application hearing.

[17] The judge distinguished *World Energy* because in that case it appeared that the request to have a non-lawyer argue the application was made at the hearing, not in advance. The judge noted that in the present case, the Appellants had time to prepare in advance to make their submissions. To assist Mr. Abbott, she allowed the Appellants to make joint submissions and to supplement each other's submissions. She also allowed Ms. Abbott to submit on behalf of Mr. Abbott, if required.

[18] The judge noted that the Appellants had already filed written materials for the Representation Application, including a very detailed Memorandum of Authorities. Because there were two underlying applications for which the Appellants sought non-lawyer representation, the judge ordered that they could use the materials filed in one of those matters for both.

ANALYSIS

[19] I find no reversible error in the judge's exercise of her discretion. She was properly attuned to fairness between the parties and, in particular, on Mr. Abbott's ability to make submissions on his own behalf. She was satisfied that with time to prepare, the benefit of detailed written materials which had already been filed, and the assistance of Ms. Abbott, if required, he would be able to do so. Indeed, Mr. Abbott had acknowledged that he could do so with time to prepare and time to speak.

[20] When she made the Decision, the judge had just witnessed Mr. Abbott making submissions on his own behalf. He had made his concerns known to her. He had presented both by reading a statement and by spontaneous oral submissions. As such, the judge was well placed to evaluate Mr. Abbott's capacity to represent himself on the Representation Application. She decided that he was able to do so. There is nothing unfair in how she exercised her discretion and she made no legal or factual error.

[21] The judge's choosing to give brief oral reasons for the Decision was also within her discretion. Given that this was an informal case management meeting to ensure that everyone was ready for the Representation Application hearing, her choice was reasonable and proportional to the importance of the issue before her. She was deciding who would argue the Representation Application, not the

Representation Application itself. Litigants have the right to have their claims dealt with fairly and resolved according to law in a manner that is appropriate to the nature and circumstances of the particular case (*Szeto v. Dwyer*, 2010 NLCA 36, at para. 58).

ADDITIONAL FILINGS AT THE COURT OF APPEAL

[22] Although they did not apply under Rule 37 of the *Court of Appeal Civil Rules, 2025*, NLR 44/25, to file additional evidence on appeal, the Appellants included additional evidence in their filings. While some of that material might be relevant to the Representation Application, it is not relevant to the present appeal.

[23] The Representation Application has not yet been heard and so the judge in the court below has not yet considered the issues to which this material may be relevant. As such, it would be premature and beyond this Court's role as a reviewing court to consider the material at this stage (*Vokey v. Newfoundland and Labrador*, 2017 NLCA 18, at para. 6). I have therefore not considered it.

DISPOSITION AND COSTS

[24] As the judge made no reversible error in her decision to have the Appellants argue the Representation Application, I would dismiss the appeal.

[25] I would order that the Appellants pay costs on this appeal to the Respondent on column 3 of the scale of costs.

K.J. O'Brien J.A.

I concur : _____
F.P. O'Brien J.A.

I concur : _____
D.M. Boone J.A.