Court of Appeal for Saskatchewan
Docket: CACV4419 **Date: 2026-08-17**

Judy Sjogren Appellant

and

3sHealth Shared Services Saskatchewan (formerly Saskatchewan Association of Health Organizations) Respondent

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Before: Kamara Willett, Registrar (on July 15, 2026)

Fiat

I. Introduction

[1] Judy Sjogren commenced an action against 3sHealth Shared Services Saskatchewan [3sHealth] in relation to her claim for damages resulting from the decision to deny her disability benefits coverage. After a trial in the Court of King's Bench, Ms. Sjogren's claim was dismissed (*Sjogren-Zuck v 3sHealth Shared Services Saskatchewan,* 2024 SKKB 151 [*Decision*]).

[2] Ms. Sjogren appealed the *Decision*. The matter proceeded to a hearing before a panel of judges on November 13, 2025, at which Ms. Sjogren sought to adduce fresh evidence in support of her appeal and made submissions regarding the merits of the appeal proper. The panel dismissed the application to adduce fresh evidence on the day of the hearing, and on November 28, 2025 issued a decision in which it dismissed the appeal. The panel's reasons for its decision are indexed at 2025 SKCA 121 [*Appeal Decision*]. Costs of both the fresh evidence application and the appeal itself were awarded to 3sHealth in the usual manner.

[3] 3sHealth has taken out a Notice of Appointment for Taxation of Costs and has filed a proposed bill of costs based on Column 3 of the Court of Appeal Tariff of Costs [Tariff]. In response, Ms. Sjogren filed a document entitled "Response to the Notice of Appointment for Taxation of Costs" [Response], accompanied by an affidavit of service sworn July 8, 2026. The Response was served on 3sHealth on July 7, 2026, along with the following documents:

(a) A copy of 3sHealth's factum signed September 16, 2025; and

(b) A copy of Ms. Sjogren's application for leave to appeal to the Supreme Court of Canada in respect of the Court's decision to dismiss her appeal.

[4] A hearing was conducted before me on July 15, 2026 at which Ms. Sjogren and counsel for 3sHealth each made submissions.

II. Request for adjournment

[5] As a preliminary matter, Ms. Sjogren asked for the taxation hearing to be adjourned until her pending application for leave to appeal to the Supreme Court of Canada has been determined. She suggested that proceeding with the taxation when her application for leave to appeal remains outstanding would be a waste of the parties' and my own time and resources.

[6] It is an error in principle for an assessment officer to adjourn a taxation hearing to await the outcome of another proceeding (*Kelly Affleck Greene v. Triller Cove Homes Ltd.,* 1996 CanLII 8249 (ON CTGD) at para 16, see also *Orkin on the Law of Costs, 2nd Edition* (Aurora; Ont.: Canada Law Book Inc., 2001)[*Orkin*], at 6-24). Accordingly, I declined to adjourn the taxation hearing for the reasons suggested by Ms. Sjogren. I informed the parties of my decision on this point on the day of the hearing, and both parties confirmed that they were otherwise prepared to proceed. Ms. Sjogren, in particular, confirmed that she did not require any additional time to prepare for the taxation hearing.

III. Proposed Bill of Costs

[7] The Tariff items claimed by 3sHealth are set out below, along with the corresponding Tariff amount:

		Column 3
3.	Fee to Respondent on receipt of Notice of Appeal	$150.00
4.	Simple application (3 motions * 500.00/motion) - Application to settle appeal book - Rehearing application - Extension of time to file factum	$1,500.00
5.	Complex application (a) opposed - Fresh evidence	$2,000.00
8.	Preparation of factum	$3,500.00
9.	All other preparation for hearing	$1,000.00

10.	Appearance to present argument on appeal before Court of Appeal (for each ½ day)	$ 500.00
11.	Preparing formal Judgment or Order	$ 300.00
13.	Preparation of Bill of Costs	$ 200.00

[8] The total amount 3sHealth claims is $9,150.00 if costs are assessed using Column 3 of the Tariff.

IV. Issues

[9] Before me, 3sHealth argued that it was entitled to costs. 3sHealth prepared a draft bill of costs prepared under Column 3, however in argument 3sHealth claimed that Ms. Sjogren's appeal concerned monetary relief in excess of $300,000.00, a figure which corresponds with an entitlement to costs pursuant to Column 4 of the Tariff.

[10] Ms. Sjogren argued that no costs should be awarded whatsoever. She considers the *Appeal Decision* to be the product of error and submits that the costs award made by the panel is without foundation.

[11] Accordingly, the issues for me to determine are as follows:

(a) Is 3sHealth entitled to its costs?

(b) If so, which Column of the Tariff applies?

(c) Is 3sHealth entitled to the Tariff items claimed?

V. Analysis

(a) Is 3sHealth entitled to its costs?

[12] There is no question that 3sHealth is entitled to costs. The *Appeal Decision* clearly states that 3sHealth is entitled to its costs of the appeal and the fresh evidence application. Rule 54(1) of the *Court of Appeal Rules* requires me to assess costs as between the parties unless the Court orders otherwise. That Rule states:

> 54(1) Unless otherwise ordered:
>
> (a) the costs of an appeal or application shall be taxed as between party and party by the registrar in accordance with the fees set out in the appropriate column of the "TARIFF OF COSTS IN THE COURT OF APPEAL" which is attached as Schedule 1 to these Rules; and
>
> (b) Column 2 of Schedule 1 applies to the taxation of costs where non-monetary relief is involved.

[13] The Court has not ordered otherwise; to the contrary, it has explicitly ordered that 3sHealth is entitled to costs in the usual way. The language of the above rule is clear: I **<u>shall</u>** tax costs as between party and party. While I have the authority to determine the quantum of costs to which 3sHealth is entitled, I do not have any discretion to depart from the direction given by the Court in the *Appeal Decision* and decline to assess costs at all.

(b) Which Column of the Tariff applies?

[14] 3sHealth takes the position that costs should be assessed on Column 3. In support of this position, 3sHealth sought to rely on certain portions of a fiat rendered by Brown J. on July 14, 2026 [the Brown Fiat]. I asked Ms. Sjogren whether she had a copy of the Brown Fiat, and she stated that she did not. I have concluded that the portions of the Brown Fiat referred to by 3sHealth are not required for me to determine the appropriate Column on which costs should be assessed. As Ms. Sjogren did not have notice of the Brown Fiat or its contents, I have not considered the Brown Fiat or 3sHealth's submissions related to it in reaching my decision on the Tariff Column applicable in these circumstances.

[15] It is not necessary for me to consider the contents of the Brown Fiat because the well-established approach in determining the appropriate Column is to examine the relief sought in the appellant's notice of appeal and factum: see, for example, *Lloyd Hanna v Nancy Beckman*, CACV3053, April 8, 2019 (Baldwin), *Janet Milburn v Jason Sansom*, CACV4025, May 12, 2023 (Groothuis), and *Hoedel v Westjet et al*, CACV3864, February 21, 2024 (Groothuis).

[16] The first question I must address is the nature of the relief sought by Ms. Sjogren in her appeal. If she sought non-monetary relief, Rule 54(1)(b) requires me to assess costs on Column 2. If, however, Ms. Sjogren sought monetary relief, I must apply the Column in the Tariff associated with the amount of money in issue.

[17] I have determined that Ms. Sjogren sought monetary relief in her appeal. My conclusion in this respect is based on the contents of Ms. Sjogren's Notice of Appeal filed August 28, 2024. Under the heading "Relief Sought" Ms. Sjogren asks for the Court of Appeal to allow her claim and award her damages for "unpaid income replacement, loss of future income replacement benefits, [and] mental, physical and financial suffering". An award of damages is monetary relief, so the applicable Column of the Tariff will be determined by the quantum of damages sought by Ms. Sjogren.

[18] Ms. Sjogren's Notice of Appeal does not state the quantum of damages she seeks. Her written argument does, however, assign a value to her claims. On page 15 of Ms. Sjogren's written argument, under the heading "Damages", she writes:

> Therefore damages should be actual wage loss for 15 years, T4's $52,334.56 per year with interest, court costs and legal fees of $200,000.00 as the respondents have claimed in King's Bench against Ms. Sjogren.

[19] Later, on page 17 and under the headings "Conclusions", Ms. Sjogren reiterates the amount she seeks in damages, and states that the total figure she claims is $785,018.40:

> For these reasons, damages should be actual wage replacement losses of 52,334.56 per year be applied from, as this claim is Expedited due to Ms. Sjogren's health issues, regardless

> of the statement of claim, or the misinformation from the employer and the respondents. August 20, 2010 to August 1,2025 date of retirement, times full wage replacement (15 years x 52,334.56 per year total **785,018.40**), Appeal Book (P-1 Tab E) interest and , 200,000.00 in court costs…
>
> [Emphasis added]

[20] Taken together, Ms. Sjogren's Notice of Appeal and factum indicate that the relief she sought in her appeal was monetary in nature, and that the amount of money in issue was at least $785,018.40. This figure calls for costs to be assessed under Column 4 of the Tariff. In light of the explicit direction in Rule 54(1)(b) for me to assess costs in accordance with the appropriate Column of the Tariff, I will assess costs in accordance with Column 4.

(c) Is 3sHealth entitled to the Tariff items claimed?

[21] I have reviewed the *Appeal Decision,* the court file, and the draft bill of costs prepared by 3sHealth. There are several Tariff items included in the draft bill of costs that I consider uncontroversial and to be properly claimed. Those are:

3.	Fee to Respondent on receipt of Notice of Appeal
5.(a)	Complex opposed application (Fresh Evidence)
8.	Preparation of factum
9.	All other preparation for hearing
10.	Appearance to present argument on ppeal before Court of Appeal (one counsel for ½ day)
11.	Preparing formal Judgment or Order
13.	Preparation of Bill of Costs

[22] 3sHealth also claims costs associated with three simple applications as per Tariff item 4. I will address each of those applications in turn below.

[23] The first simple application took place on June 12, 2025 before Registrar Groothuis, and was an application to settle the contents of the appeal book [*Appeal Book Application*]. Registrar Groothuis's decision was silent as to costs. In the hearing before me, counsel for 3sHealth argued that it was entitled to claim the costs of that application as the successful party, notwithstanding that Registrar Groothuis did not explicitly address the issue of costs.

[24] I do not accept 3sHealth's submissions on this point, as they are contrary to the reasoned approach taken in prior taxation decisions. In *Taylor Dalyce Furneaux v James Christopher Furneaux*, CACV3995, August 3, 2022, (Groothuis)[*Furneaux*], Registrar Groothuis was faced with a situation in which a party claimed the costs of an application when the relevant fiat was

silent on costs. Her analysis included reference to the following passage from *Orkin*, which at 1-15 provides:

> A statement by the court or endorsement on the record to the effect of "no order as to costs" is, of course, an order as to costs, and means that neither party shall pay any costs to the other. Similarly, if judgment is given for a party without any order being made as to costs, no costs can be assessed by either party; so that when a matter is disposed of on a motion or at trial with no mention of costs, it is as though the judge had said that he "saw fit to make no order as to costs".
>
> (Footnotes omitted)

[25] Registrar Groothuis found the approach endorsed by Orkin to be persuasive and concluded that no party was entitled to costs of the application in issue. I am similarly persuaded and agree that when a decision is silent as to costs, the implication is that no costs have been awarded. I do not allow 3sHealth's claim for costs in relation to the *Appeal Book Application*.

[26] The second simple application for which 3sHealth claims costs is its application for an order extending the time to file its factum [*Extension Application*]. The *Extension Application* was heard by Drennan J.A. on September 24, 2025, and on that same date she granted 3sHealth leave to file its factum forthwith. Her typed reasons for decision indicate that neither party to the application sought costs.

[27] In argument before me 3sHealth suggested that the fact that it did not seek costs before Drennan J.A. should not be determinative of its entitlement to costs at the conclusion of the appeal. Counsel for 3sHealth argues that when the Court awards a party the costs of the appeal, that party is entitled to claim costs for any interlocutory application regardless of any direction on costs provided by the chamber judge hearing that interlocutory application.

[28] I do not agree with 3sHealth on this point. Drennan J.A. made clear that neither party to the *Extension Application* sought costs, with the clear implication being that none were awarded. Rule 52 is clear that a judge in chambers has the authority to order costs in a proceeding before a judge, and adopting the position taken by 3sHealth has the potential to render costs orders made in chambers to be meaningless. I do not allow the costs claimed in relation to the *Extension Application*.

[29] The third simple application for which 3sHealth claims costs is Ms. Sjogren's application made pursuant to s. 20(3) of *The Court of Appeal Act, 2000*, in which she asked the Court to set aside Drennan J.A.'s decision in the *Extension Application* [*Rehearing Application*]. The *Rehearing Application* was heard on November 13, 2025 by McCreary, Bardai and Kilback JJ.A. The record of proceedings documenting the result of that hearing states:

> It follows that Ms. Sjogren-Zuck's application for a review of Justice Drennan's September 24, 2025 order is dismissed. <u>**In the circumstances, there will be no order for costs**</u>.
>
> [Emphasis added]

[30] Again, 3sHealth submits that the Court's award of costs in the *Appeal Decision* supersedes its decision not to order costs in the *Rehearing Application*. This cannot be so, both for the reasons discussed in the context of the *Extension Application* above, and because the *Rehearing*

Application was heard and decided on the same day that the appeal proper. The same panel heard and decided the appeal as decided the *Rehearing Application*. I cannot accept that a panel of the Court would hear the *Rehearing Application* and determine that no costs should be awarded, only to go on to hear the appeal proper and render a decision that effectively undoes the costs decision it only just made.

[31] I do not allow 3sHealth's claim for the costs of the *Rehearing Application.*

VI. Decision

[33] As a result of the foregoing, I assess 3sHealth's costs on Column 4 of the Tariff as below:

		Column 4
3.	Fee to Respondent on receipt of Notice of Appeal	$ 200.00
5.	Complex Application (a) opposed - Fresh evidence	$ 2,500.00
8.	Preparation of Factum	$ 5,000.00
9.	All other preparation for hearing	$ 1,250.00
10.	Appearance to present argument on Appeal before Court of Appeal (for each ½ day)	$ 600.00
11.	Preparing Formal Judgment or Order	$ 400.00
13.	Preparation of Bill of Costs	$ 250.00

The proposed bill of costs is therefore taxed and allowed at $10,200.00. For enforcement purposes, 3sHealth may prepare and file a certificate of taxation of costs in Form 11d in the amount of $10,200.00 to be issued.

KWillett

Kamara Willett
Registrar, Court of Appeal for Saskatchewan

Counsel: Judy Sjogren on her own behalf
Reginald Watson, K.C., and Craig Savoie, for Saskatchewan Government Insurance