

# COURT OF APPEAL FOR ONTARIO

CITATION: Newton v. Grillo, 2026 ONCA 396

DATE: 20260605

DOCKET: M56847 (COA-25-CV-0736)

Roberts, Dawe and Wilson JJ.A.

BETWEEN

Edwin Adam Lawrence Newton

Applicant (Respondent/Moving Party)

and

Melanie Lynn Grillo

Respondent (Appellant/Responding Party)

Edwin Adam Lawrence Newton, acting in person

Melanie Lynn Grillo, acting in person

Heard: June 2, 2026

## REASONS FOR DECISION

[1] Mr. Newton moves to quash Ms. Grillo's appeal<sup>1</sup>, arguing that this court has no jurisdiction to hear this appeal. We agree.

[2] Ms. Grillo's appeal is from the trial judge's June 16, 2025 order made in the Hamilton Family Court which, as the order indicates on its face, was made only

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<sup>1</sup> The motion to quash is in relation only to the appeal from the June 16, 2025 order. Ms. Grillo has commenced a second appeal from the trial judge's February 20, 2026 order, which is not before us. Mr. Newton advised that he has brought a separate motion to quash that appeal.

under provincial family law legislation. As such, Ms. Grillo's appeal lies to the Divisional Court pursuant to s. 19(1)(a.1) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the "CJA"). Pursuant to s. 6(1)(b)(i) of the CJA, this court has no jurisdiction to hear her appeal.

[3] Ms. Grillo argues that Mr. Newton's trial submissions referred to principles under federal legislation, namely, the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.), and that his delay in raising the jurisdictional issue before this court until after the appeal was perfected should defeat his motion to quash. Neither argument confers jurisdiction on this court to hear the appeal.

[4] First, the appeal is from the June 16, 2025 order and no part of that order is made under the *Divorce Act*; submissions made by way of analogy to principles underlying the *Divorce Act* do not form part of the order under appeal. In any event, the parties were not married, so the *Divorce Act* has no application. Second, any delay in raising the jurisdictional issue does not affect the question of jurisdiction – either this court has jurisdiction, or it does not, regardless of when the issue is raised.

[5] The motion to quash is therefore allowed.

[6] We decline to exercise our discretion under s. 110(1) of the CJA to transfer this appeal to the Divisional Court because it is not in the interests of justice to do so: *Bernard v. Fuhgeh*, 2020 ONCA 529, 61 C.P.C. (8th) 231, at para. 16;

*Whaling v. Whaling*, 2025 ONCA 173, at para. 14. The appeal has little chance of success; Mr. Newton and the parties' child have suffered prejudice and will continue to suffer prejudice by further delay. Ms. Grillo has had notice of the jurisdictional issue since the March 11, 2026 letter from this court, but has not taken steps to transfer the appeal to the Divisional Court: *Dunnington v. 656956 Ontario Inc.* (1992), 9 O.R. (3d) 124 (Div. Ct.); *Bernard*, at para. 15; *Whaling*, at paras. 8 to 14.

[7] Mr. Newton is entitled to the costs of this motion in the amount of \$1,000.

"L.B. Roberts J.A."  
"J. Dawe J.A."  
"D.A. Wilson J.A."