

Court of King's Bench of Alberta

Citation: Dynaflex Pipe Ltd v Hove, 2026 ABKB 602

Date: 20260828
Docket: 2503 25724
Registry: Edmonton

Between:

Dynaflex Pipe Ltd

Plaintiff

- and -

Shawn Hove, 2184837 Alberta Ltd, Alexander First Nation, Alexander Business Corporation, Alexander Business Centre Limited Partnership, Alexander Business Centre (GP) Inc, Alexander Tubular limited partnership, Alexander Tubular (GP) Inc, Tony Quinlan, Gateway Tubulars ltd, Fred Moore, Pillarfour Capital Inc, Pillarfour Capital Partners Inc, ABC Corporation, XYZ Corporation, and John Doe

Defendants

**Endorsement
of
Applications Judge B.W. Summers**

[1] The Defendant Alexander First Nation (“AFN”) applies for an order striking the action against it, without the Plaintiff being able to amend, on the basis that the Statement of Claim discloses no reasonable claim against it. The application is made under r 3.68(2)(b) of the *Alberta Rules of Court*. The application was made in a Special Chambers hearing and briefs were provided.

[2] Pursuant to r 3.68(3) of the *Alberta Rules of Court* no evidence may be submitted on an application under r 3.68(2)(b).

[3] The governing test is whether it is plain and obvious, assuming the pleaded facts to be true, that the pleading fails to disclose a reasonable cause of action: *Al-Ghamdi v Alberta*, 2017 ABQB

684. In applying the test, the Court must accept the pleaded facts to be true, except where the allegations are speculative, patently ridiculous, or incapable of proof: **PR Construction Ltd v Colony Management Inc**, 2017 ABQB 600.

[4] In this action the Plaintiff asserts that its former general manager, Shawn Hove (“Hove”), took the Plaintiff’s proprietary and confidential information about the Plaintiff’s pipe business for the benefit of AFN and related corporate entities of AFN and they opened a competing pipe business to the Plaintiff. The causes of action alleged against AFN are: inducing Hove to breach his contract with the Plaintiff, unlawful interference with economic relations, breach of contract (a non-disclosure agreement), breach of confidence, conspiracy, vicarious liability with respect to Hove and unjust enrichment.

[5] AFN’s argument rests upon the following two parts: firstly, that there are absolutely no facts pled with respect to an involvement of AFN in the alleged claims; and secondly, that the Plaintiff’s Statement of Claim wrongfully lumps AFN with other entities.

[6] In its Statement of Claim, the Plaintiff defines the Defendants AFN, Alexander Business Corporation, Alexander Business Centre Limited Partnership, Alexander Business Centre (GP) Inc, Alexander Tubular Limited Partnership and Alexander Tubular (GP) Inc collectively as “Alexander” (paragraph 11). The Statement of Claim alleges that the Alexander entities other than AFN carry on business for AFN, are owned or operated by AFN or provide executive management over businesses, enterprises and partnerships owned by AFN (paragraphs 6-10 of the Statement of Claim).

[7] The Statement of Claim defines Alexander, Hove, Hove’s company and certain other of the Defendants as “Collaborators”.

[8] The causes of action alleged against AFN are made through AFN being included in these definitions of “Alexander” and “Collaborators”.

[9] The Plaintiff gives three reasons why it has framed the allegations in the Statement of Claim as it has:

firstly, the nature of the allegations are of the type that particulars may not be known at the time of issuance of the Statement of Claim. Here, there are causes of action that may involve participation of several defendants in unknown or unclear fashions. Conspiracy and breach of confidence are examples;

secondly, the Plaintiff has not been able to fully particularize claims because Hove has lied to the Plaintiff, did many things in secret and even destroyed documentation to hide the full extent of his wrongdoing; and

thirdly, two of the key Alexander entities involved in this matter had an incorrect name or was not registered at the time of its involvement.

[10] Counsel for AFN has put forward several cases to support the proposition that a pleading may be inadequate if defendants are “lumped together” without particulars with respect to each of the defendants. Those cases include **Dowd et al v Skip the Dishes Restaurant Services Inc et al** 2019 MBQB 63 (“**Dowd**”), **Healthcare of Ontario Pension Plan Trust Fund v Neuro Discovery**

II Limited Partnership, 2017 BCSC 1743, ***TSA Corporation et al v Reynolds Mirth Richards & Farmer LLP et al***, 2025 NWTSC 16 (“***TSA***”), ***Gebien v Apotex Inc***, 2023 ONSC 6792 and ***Holliday v Saskatchewan (Education)***, 2023 SKKB 273.

[11] With one exception (“***TSA***”), none of these cases allege the tort of conspiracy.¹ Furthermore, all of these cases are distinguishable from this case. One principle that does come from a number of these cases is that before striking an action because a pleading is deficient for a lack of particulars, the court invariably allows the plaintiff an opportunity to cure the defect through amendment.

[12] AFN put great reliance on ***Dowd***. In that case the Court did not allow the plaintiffs an opportunity to amend to cure a defect of a lack of particulars since the plaintiffs had previously been served with a demand for particulars, had responded and the particulars were still lacking. I will be commenting on ***Dowd*** further in this Endorsement.

[13] In the case of ***Exchange-A-Blade Ltd v Ber-Zel Building Materials Ltd***, 2017 ABQB 648 (“***Ber-Zel***”) a group of defendants applied for particulars with respect to the plaintiff’s claim. That case was not dissimilar to the case before me as the plaintiff claimed for breach of noncompetition agreements and wrongful solicitation of business opportunities with respect to the plaintiff’s business. In that case, Master Robertson observed:

[15] As to the application for particulars, the nature of the claim is, in part, one of conspiracy and breach of confidentiality obligations. The question as to how much information must be specifically set out in the statement of claim addresses the balancing act that is involved in many claims. Counsel for the plaintiff notes that rules 13.6(3) and 13.7 set out various kinds of claims that require specifics, although the list in rule 13.6(3) is inclusive, not exclusive. Conspiracy is not one of them. Neither is breach of confidence. As a rule, conspiracy claims involve a complaint that the defendants have secretly been working together. It is inherent in the nature of the claim that the plaintiff likely does not know all of the specifics. The plaintiff does not know what conversations or written communications were had, and when. A claim for breach of confidence also usually has the same hobble. With that in mind, the plaintiff cannot provide too many specifics at the outset. There is some level of “fishing” that is necessary to fully prosecute claims of this kind.

...

[20] But if the approach of requiring details early in the process is followed too strictly, few people could properly advance a claim of conspiracy or breach of confidence. Plaintiffs can often show little more than the consequences of what appears to have been a wrong committed in secret by the defendants, just as a victim of a motor vehicle/pedestrian accident can initially show little more than the fact of the accident. Details of the driver’s inattention and negligence are not known to that plaintiff.

¹ However, ***TSA*** does not deal with a lumping of defendants together.

[14] In this case the Statement of Claim asserts that the Plaintiff did not learn until after Hove's resignation that Hove had been working with Alexander. It also states that as a result of Hove's steps to delete incriminating emails, only limited communications could be recovered. These allegations of fact underscore why the Plaintiff may not have particulars of its claims as to who benefitted from use of the Plaintiff's confidential information.

[15] The Plaintiff's Statement of Claim also states that when the Plaintiff and Alexander Business Centre Inc signed a nondisclosure agreement ("NDA") with respect to the Plaintiff's confidential and proprietary information, Alexander Business Centre Inc was not the correct name of that corporation. The correct name was "Alexander Business Corporation" and that in any event, the NDA's obligations extended to any affiliated entities of Alexander Business Centre Inc. That of course would include AFN.

[16] Furthermore, the Statement of Claim alleges that the Defendant Alexander Tubular Limited Partnership ("Tubular LP") was not registered until June 20, 2023. Many of the allegations of fact against Alexander, which would include Tubular LP, predate that date.

[17] I agree with the Plaintiff that these issues as to the status of Alexander legal entities only compound why AFN needs to be added as a defendant in a claim of conspiracy and breach of confidence.

[18] As stated earlier in this Endorsement, AFN places great reliance on the **Dowd** decision. In that decision, the defendants applied to strike the action, without leave to amend, or alternatively strike parts of the statement of claim and order that certain particulars be provided with respect to parts not struck.

[19] In that case the plaintiffs' claims were made against all of the defendants, even though they apparently had very different roles. In his decision, Master Clearwater said that it was improper to lump all of the defendants together where they clearly had different roles (paragraphs 65-67). The statement of claim was struck on the basis of lacking particulars.

[20] A further case from the same jurisdiction, Manitoba, distinguished the **Dowd** case. In **Winnipeg (City) v Caspian Projects Inc**, 2020 MBQB 129 the plaintiff city sued a number of contractors, consultants and other parties alleging a conspiracy to defraud the city through a fraudulent invoicing scheme. A number of defendants applied to strike the action, in whole or in part, on a number of grounds, including that the statement of claim improperly lumped a number of defendants together with respect to claims of fraud, conspiracy, misrepresentation and conversion.

[21] Chief Justice Joyal (as he then was) stated, in part:

[27] When considering motions similar to those brought by the defendants in this case, courts have been appreciative of what are the unique challenges that attach to a party/plaintiff when setting out in a claim, allegations such as conspiracy and/or fraud. In **Multi Formulations Ltd. v. Allmax Nutrition Inc.**, 2009 FC 375 (CanLII) ("**Allmax**"), the Federal Court considered a motion to strike respecting, amongst other things, a claim of conspiracy. In its reasons, it noted the unique challenges involved in such a pleading (at paras 11-12):

As is often the case in alleging a conspiracy, the particulars of a conspiracy are not broadcast widely and Plaintiffs at the outset of proceedings frequently do not possess the precise details of the alleged conspiracy. As noted by Justice Cumming of the Ontario Superior Court of Justice in *North York Branson Hospital v. Praxair Canada Inc.* (1998), 1998 CanLII 14799 (ON SC), 84 C.P. IK

In truth, the very nature of a claim of conspiracy is that the tort resists detailed particularization at early stages. The relevant evidence will likely be in the hands and minds of the alleged conspirators. Part of the character of conspiracy is its secrecy and the withholding of information from alleged victims. The existence of an underlined agreement bringing the conspiracy together, proof of which is a requirement born by a Plaintiff often must proven by an indirect or circumstantial evidence. A conspiracy is more likely to be proven by evidence of covert acts and statements by the conspirators from which the prior agreement can be logically inferred. Such details were not usually being available to a Plaintiff until discoveries. These considerations and the general theme of hunt, instructing Courts not to shy away from difficult litigation, also militate against holding pleadings in a civil conspiracy cases to an extraordinary standard.

It is through the prism of these principles that this Pleading must be considered.

[emphasis added by CJ Joyal]

[28] I do not read the above comments as suggesting that the fact that a party has alleged a conspiracy can by itself immunize a pleading which is otherwise seriously defective. That said, the complicated and circumstantial nature of the evidentiary or factual foundation of such a tort should nonetheless serve as a reminder to a reviewing court that when dealing with a motion to strike, the sort of objections raised by the defendants in this case should not cause a party like the City to be held, in effect, to an extraordinary standard. In the circumstances of the present case, where the City's pleading cannot be properly characterized as deficient, it is reasonable for the City to request that parts of its claim be scrutinized at this stage mindful of the practical realities discussed in *Allmax*. Those practical realities and the connected principles attaching to the nature of its claim, provide a "prism" through which many of the defendants' respective arguments on this motion must be assessed.

[22] Chief Justice Joyal found that *Dowd* was distinguishable, stating in part:

[32] To the extent that some of the defendants rely on the recent decision of Master Clearwater in *Dowd et al. v. Skip the Dishes Restaurant Services Inc. et al.*, 2019 MBQB 63 (CanLII) (“*Dowd*”) they are suggesting that the present case is analogous to what Master Clearwater found was the justifiably impugned manner in which the plaintiff had “chosen to lump all the defendants together with very little clarification of which defendant is alleged to have done what” (at para. 66). The defendants’ reliance upon *Dowd* in the present case, however, is misplaced in that the deficiency identified in *Dowd* cannot be similarly discerned in the City’s statement of claim. The City’s statement of claim, while grouping more than 25 defendants into categories, nonetheless identifies what each defendant is alleged to have done. I agree with the City’s characterization of its claim when it asserts, for example, that there is a clear contention that the contractors and the contractor principals are alleged to have fraudulently altered or created fraudulent invoices, quotes and change orders while the consultants and the consultant principals are alleged to have knowingly approved these fraudulently-altered or fraudulently-created documents. The City is correct to suggest that its approach recognizes and distinguishes the different roles that the various defendants had in perpetrating the Scheme.

[33] Despite the City’s rejection of the defendants’ contention that its claim “indiscriminately” collectivizes or lumps together the defendants and the allegations, the City does point to what I think is an obvious and important fact in respect of its claim and the theory of its case. When one considers the alleged Scheme identified in the statement of claim, it is hard to ignore the fact that the City is alleging that the defendants acted together to perpetrate a fraud on the City. To that extent, as noted in *Dowd* at para. 59, “the defendants are all in an identical relationship vis-à-vis the plaintiffs.” I agree with the City’s submission that, on the facts pleaded by the City, the relationship of the various defendants is more or less the same vis-à-vis the City and, as such, any blanket allegations made against them (the defendants) are in the circumstances of the present case, appropriate. See *Dowd* at para. 60.

[34] When I consider the defendants’ arguments under this category of objection, I have noted that, pursuant to the City’s theory, the Caspian Defendants, for example, are alleged to have acted, for all intents and purposes, as a single entity in altering invoices and quotes, creating false invoices and quotes and submitting them to the City as legitimate. In the context of that allegation, the City contends, in the present case, that the corporate veil ought to be pierced. While the City acknowledges that as a general rule, a corporation is a distinct legal entity, they accurately note that courts have recognized that the separate identities (either of the parent company or its subsidiary or of a corporation and its officers, directors or shareholders) can be disregarded in some circumstances.

[23] During the course of oral argument, I observed or asked counsel for AFN whether the “lumping” of “Alexander” Defendants also meant that there could be lack of particulars against Alexander entities other than AFN. That was acknowledged or conceded by counsel for AFN. But there is no application to strike the action against those other Alexander Defendants.

[24] In conclusion, I find that the lumping of the Alexander entities together is not inappropriate. I also find that the lumping of “Alexander” with other defendants as “Collaborators” is not inappropriate.

[25] It may very well be that as evidence is elicited in this action that the Plaintiff voluntarily discontinues the action against a Defendant where appropriate or that Defendant applies for summary dismissal. However, we are clearly not there at this point in time.

[26] AFN’s application to dismiss the Plaintiff’s action, without leave to amend, is dismissed. If necessary, costs may be spoken to in morning chambers within 30 days of the date of this Endorsement.

Heard on the 27th day of July, 2026.

Dated at the City of Edmonton, Alberta this 28th day of August, 2026.

B.W. Summers
A.J.C.K.B.A.

Appearances:

Alyssa Cloutier and Megan Young
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for the Defendant Applicant, Alexander First Nation

Ken W Fitz
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for the Plaintiff, Respondent

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