Court of King's Bench of Alberta

Citation: McKinnon Family Trust v Royal Bank of Canada, 2026 ABKB 782

Date: 20261104
Docket: 2601 07489
Registry: Calgary

2026 ABKB 782 (CanLII)

Between:

McKinnon Family Trust (2024), Lance L McKinnon, and Holly D McKinnon

Plaintiffs

– and –

Royal Bank of Canada

Defendant

Apparent Vexatious Application or Proceeding (AVAP) Notice of the Honourable Associate Chief Justice D.B. Nixon

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[1] On April 24, 2026, the Plaintiffs filed a Statement of Claim in Action No. 2601 07489 naming the Defendant.

[2] On May 19, 2026, Counsel for the Defendant wrote the Court requesting a review of the Statement of Claim under Civil Practice Note 7 ("**CPN7**").

[3] CPN7 sets out summary procedures, using rule 3.68 of the *Alberta Rules of Court,* Alta Reg 124/2010, for review and assessment of a "claim, defence, action, application, or proceeding that appears on its face to be frivolous, vexatious, or otherwise an abuse of process". The process allows the Court to assess, manage, and dismiss meritless claims where there is no prospect of success without the need for a full, time-consuming trial, thus saving Court resources.

[4] Counsel for the Defendant asserts that the CPN7 review process is appropriate in the circumstances because the Plaintiffs appear to be collaterally attacking or relitigating issues that have been or are in the process of being adjudicated before the Court in the following Actions:

a. No. 2501 15789, in which Justice Feasby pronounced a Receivership Order appointing GlassRatner Restructuring Inc as Receiver and Manager of Pathfinder Energy Ltd ("**Pathfinder**") and MCK Energy Inc ("**MCK**");

b. No. 2501 16695, in which the Defendant commenced proceedings against one of the Plaintiffs, Mr. McKinnon, to enforce a personal guarantee; and

c. No. 2501 03066, in which Justice Kuntz pronounced an Order (the "**Personal Bankruptcy Order**") declaring that Mr. McKinnon be adjudged personally bankrupt.

[5] Counsel for the Defendant notes that the Plaintiffs did not appeal the Receivership Order and the period to appeal has expired. Counsel further argues that section 69 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 has the effect of staying Mr. McKinnon from bringing any action in his personal name and he is not in a position to advance a claim on behalf of the McKinnon Family Trust (2024). Counsel for the Defendant also advances that two of the Plaintiffs, Ms. McKinnon and McKinnon Family Trust (2024), are not parties to contractual relationships with the Defendant and therefore, they lack standing to bring the claim.

[6] I reviewed the Statement of Claim issued by the Plaintiffs. Based on my review of the facts and analysis of the law, I find the Statement of Claim appears on its face to be frivolous, vexatious, or an abuse of process. I make this determination because of three primary concerns.

[7] First, the Statement of Claim does not disclose a cause of action. The Plaintiffs identify various relationships amongst the parties and business partners, including several which may or may not be involved in the ongoing litigation. They particularize circumstances which led to the three Actions identified above and claim they have suffered damages as a "result of the Defendant's actions, unlawful conduct". However, the Plaintiffs do not provide any specifics of the supposedly unlawful actions or conduct.

[8] Second, the Statement of Claim particularizes general grievances with the receivership proceedings. The Plaintiffs point to an indemnity clause in an agreement between Rustad Energy Ltd and Pathfinder in which they are "heirs" to Pathfinder and "Protected Persons". It is unclear how this is relevant to the claim.

[9] Third, the Plaintiffs seek extraordinary damages, namely $3,333,000,000 in favour of the McKinnon Family Trust (2024) and $111,000,000 in favour of Mr. and Ms. McKinnon.

[10] Given the above context, I direct the following as the next steps.

d. The Clerk will file and serve this Apparent Vexatious Application or Proceeding Notice ("**AVAP Notice**") on the Plaintiffs and the Defendant.

e. If the Plaintiffs wish to respond to this AVAP Notice, they must prepare a Written Submission of no more than 10 pages. In their submissions, the Plaintiffs may wish to address the following questions:

i. The Plaintiffs may wish to clarify the cause of action against the Defendant. For example, the Plaintiffs may wish to identify whether they are seeking damages on the basis of a breach of contract or are alleging a tort.

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ii. The Plaintiffs may wish to clarify how the Statement of Claim is not an attempt to challenge the Court's adjudication in the three Actions above.

iii. The Plaintiffs may wish to clarify the relevancy of the various corporate entities because these entities are not named as parties to the claim. For example, it is unclear whether the Plaintiffs are seeking relief from these corporate entities or are attempting to recover damages on their behalf.

iv. The Plaintiff may wish to provide an explanation for the extraordinary monetary relief sought.

The Plaintiffs must file a Written Submission within 14 days after receiving this AVAP Notice. The Written Submission must be emailed or delivered to the attention of Associate Chief Justice D.B. Nixon, located at the Calgary Court Centre, 601 – 5th Street SW, Calgary, Alberta T2P 5P7. It must also be served on the Defendant.

f. If the Plaintiffs do not file a Written Submission by the deadline, the Court will decide whether the Statement of Claim should be struck out in whole or in part under rule 3.68.

g. If the Plaintiffs do file a Written Submission, the Defendant has 7 days to provide a Written Reply of up to 10 pages. The Written Reply should be sent to the address set out in paragraph "b" above and must be served on the Plaintiffs.

h. Once the Court receives the Plaintiffs' Written Submission (if any) and the Defendant's Written Reply (if any), the Court will make a final decision on whether the Statement of Claim should be struck out in whole or in part under rule 3.68.

[11] Counsel for the Defendant may prepare and serve an Interim Order staying this Action until the CPN7 process is complete. Per rule 9.4(2)(c), the Plaintiffs' approval is not required.

Dated at Calgary, Alberta this 4th day of November 2026.

D.B. Nixon
A.C.J.C.K.B.A.

Appearances:

Kevin Barr, KC – Written Submissions
Borden Ladner Gervais LLP
for the Defendant

Plaintiffs – None

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