# Court of King's Bench of Alberta

**Citation: Canam Group Inc v Bellevue Village Properties GP Inc, 2026 ABKB 817**

**Date:** 20261120
**Dockets:** 1901 07314
**Registry:** Calgary

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Between:

**Canam Group Inc**

Plaintiff/Defendant by Counterclaim

– and –

**Bellevue Village Properties GP Inc and Cape Construction (2001) Ltd**

Defendants/Plaintiffs by Counterclaim/Applicants

– and –

**Metro Testing & Engineering Ltd, Metro Testing & Engineering – Western Geotechnical Consultants Ltd and Midland Geotechnical Ltd**

Proposed Third Party Defendants

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**Endorsement**
**of the**
**Honourable Associate Chief Justice**
**D.B. Nixon**

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[1] On May 8, 2026, the Defendants, as Applicants, filed an Application (the "**Application**") in Action No. 1901 07314 for an Order allowing them to file and serve a Third Party Claim. The

Third Party Claim names Metro Testing & Engineering Ltd, Metro Testing & Engineering – Western Geotechnical Consultants Ltd and Midland Geotechnical Ltd as third-party defendants (collectively, the "**Proposed Third Party Defendants**") into the Action.

[2] Counsel for the Proposed Third Party Defendants wrote to the Court requesting a review of the Application under Civil Practice Note 7 ("**CPN7**").

[3] The CPN7 framework sets out summary procedures, using rule 3.68 of the *Alberta Rules of Court*, Alta Reg 124/2010, for 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 at an early stage, thus preserving Court resources.

[4] Counsel for the Proposed Third Party Defendants asserts that the Application should be stayed or dismissed on the basis that it is frivolous, vexatious or an abuse of process pursuant to CPN7 and rule 3.68. They argue that that this is because the Application is a collateral attack and an abuse of process on a judgment and resulting Order of the Court proclaimed in a related ongoing matter, namely Action No. 1801 15952 (the "**Gen3 Action**").

[5] By way of background, the present Action is a damages claim for alleged delays and deficiencies in engineering and design services provided pursuant to a design contract for a construction project located in the City of St. Albert. The Defendants have counterclaimed and are seeking damages for alleged negligence and set-off. That same construction project is also the subject of the dispute in the Gen3 Action.

[6] The Gen3 Action involves some of the same parties as the present Action. I understand that pursuant to an Order of Applications Judge Mattis pronounced March 4, 2026, the Gen3 Action is currently stayed as against certain defendants and third party defendants. The Order is the subject of an appeal and a cross-appeal, scheduled for a hearing in September 2027.

[7] Counsel for the Proposed Third Party Defendants asserts that the Application improperly attempts to circumvent the stay imposed in the Gen3 Action and to conduct multiple proceedings with the same litigation objective.

[8] I reviewed the pleadings in the present Action No. 1901 07314 and the Gen3 Action. It does appear that there are several overlapping parties and issues. In addition, the parties rely on the same factual foundation involving contracts and reports that were prepared with respect to the construction project and alleged breaches and delays.

[9] Nevertheless, based on my review of the facts and analysis of the law, I am not convinced that the Application is a suitable candidate for review under the CPN7 process. I make this determination because it is not obvious that the Application meets the threshold of frivolous or vexatious litigation or abuse of process such that it is plain and obvious that the Application cannot succeed. While the Application does indeed state that until the Order was granted, there was no need to commence a third party claim against the Proposed Third Party Defendants because the two actions could have been consolidated, it is not clear on the face of the Application that this constitutes a frivolous or vexatious proceeding, let alone an abuse of process.

[10] I make this determination because of the procedural background in both the present Action and the Gen3 Action. In the latter action, I understand that certain of the parties entered into Pierringer Agreements to settle their dispute. It is unclear whether those settlement

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arrangements have any bearing on the Application. To adequately assess the issue, the Court would benefit from a complete record and argument pursuant to an application to strike under rule 3.68, as opposed to the truncated procedure under CPN7.

[11] Similarly, given there are overlapping issues and parties, a more fulsome analysis of available tools and remedies under the *Rules*, such as potential amendment or consolidation, is more appropriate. At this juncture, there is no obvious reason to prefer the CPN7 process to these other mechanisms.

[12] To be clear, this Endorsement does not prevent the Proposed Third Party Defendants and any of the other parties from seeking further relief under the *Rules* for remedies for alleged issues or deficiencies in any of the pleadings in the present Action or the Gen 3 Action.

**Dated** at the City of Calgary, Alberta this 20th day of November 2026.

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

**Appearances:**

Erin Cutts – Written Submission
Borden Ladner Gervais
for the Proposed Third Party Defendants

Kevin Chapotelle – None
Bryan & Company
For the Defendants/ Plaintiffs by Counterclaim/Applicants

Ward Mather – None
Miles Davison LLP
For the Plaintiff/Defendant by Counterclaim

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