Court of King's Bench of Alberta

Citation: CNOOC Petroleum North America ULC v 801 Seventh Inc, 2026 ABKB 816

Date: 20261120
Docket: 1901 06261
Registry: Calgary

2026 ABKB 816 (CanLII)

Between:

CNOOC Petroleum North America ULC

Plaintiff

- and -

801 Seventh Inc, Op Trust Office Inc, Centurion Holdings Ltd, Quantico Capital Corp, Westhills Development Corporation, Canadian Income Fund Group Inc, and Tokay Capital Corp

Defendants

- and -

CNOOC Limited

Third Party

Ruling on Costs
of the
Associate Chief Justice
D.B. Nixon

I. Introduction

[1] The underlying litigation involves a dispute over a commercial lease (the "Lease"). The trial was bifurcated. The first segment of the case addressed the liability issue (the "Liability Trial"), and a decision has been issued on that matter: see ***CNOOC Petroleum North America ULC v 801 Seventh Inc***, 2025 ABKB 145.

[2] The decision in the Liability Trial has been appealed. The appeal was argued on February 12, 2026, but no decision has yet been issued by the Alberta Court of Appeal concerning the decision in the Liability Trial.

[3] The application underlying this hearing arises between the conclusion of the Liability Trial and before resumption of trial concerning the second segment. The second segment of the trial will address damages. I am case managing this litigation in preparation for the second segment of this trial.

[4] For ease of readability, I shall refer to the plaintiff CNOOC Petroleum North America ULC ("CPNA") and the defendant by counterclaim CNOOC Limited collectively as the "CNOOC Parties". I will refer to the defendant 801 Seventh Inc as the "Landlord". The other defendants are OPTrust Office Inc, Centurion Holdings Ltd, Quantico Capital Corp, Westhills Development Corporation, Canadian Income Fund Group Inc, and Tokay Capital Corp, and I will refer to these other defendants collectively as the "Beneficial Owners".

II. Background

[5] The parties entered into a costs agreement through negotiation between August 31 and September 23, 2020 (the "Costs Agreement"). The Costs Agreement stipulated the following points so as to streamline the process leading into the Liability Trial and setting the costs for interlocutory applications as follows:

- costs on Schedule C Column 5 with a x4 multiple;
- reasonable disbursements;
- no adjustment for inflation;
- no second counsel fee;
- no preparation for questioning; and
- payable forthwith.

[6] After the Liability Trial decision was released, and the appeal had been argued, there was further communication between counsel wherein they agreed to keep the Costs Agreement in place. This communication occurred between May 13 and 14, 2026.

[7] I also note that three previous applications were dealt with after the decision of the Liability Trial. Those applications were:

- CNOOC's Stay Application – Argued November 27, 2025 before Justice Dilts. She released an endorsement on December 2, 2025.
- The Landlord's second Particulars Application – Argued November 27, 2025 before Justice Dilts. She released an endorsement on December 2, 2025.

2026 ABKB 816 (CanLII)

- The Landlord's CCLP and Trial Dates Application – Filed in Oct 2025 and argued over several appearances before both Justice Dilts and me. An order was released on April 9, 2026.

[8] On August 14, 2026, the Landlord sent the bill of costs for the above three applications to the CNOOC Parties. The CNOOC Parties responded that it wanted confirmation that the Beneficial Owners will cover the costs in the event that the Court of Appeal reverses the decision in the Liability Trial. Further, the CNOOC Parties requested confirmation that the Beneficial Owners would be liable for any costs awarded against the Landlord, or costs which the Landlord is liable to repay to the CNOOC Parties, including if the CNOOC Parties are successful in the appeal. The Landlord applied for a ruling on whether the Costs Agreement applied.

III. Position of the parties

[9] The Landlord argues that the Costs Agreement remains in place for these applications and there is no justification to put the costs awards in trust.

[10] CPNA argues that the Court should follow Justice Jeffrey's approach in the two post-Liability Trial costs decisions reported at 2026 ABKB 357 and 2026 ABKB 427, wherein he placed the costs award for the trial itself in trust pending a decision of the Alberta Court of Appeal: 2026 ABKB 357 at paras 60-61. When dealing with the question of costs in a related application following trial, Justice Jeffrey cited the Costs Agreement but declined to follow it because this was to "finalize the sole issue left outstanding from the Liability Trial": 2026 ABKB 427 at para 2. Further, there remained the discretion of the judge to override the scale of costs in the Costs Agreement and Justice Jeffrey indicated that he would implement that in this case: 2026 ABKB 427 at para 4.

[11] CPNA further argues that this should be the case because the Court of Appeal decision is likely imminent and it might overturn most or all the Liability Trial decision. Without confirmation from the Landlord that the Beneficial Owners will cover any costs award against the Landlord, CPNA fears that the costs would not be paid since the building has been sold and there is no other ongoing interest for the Landlord. CPNA further cites the delay by the Landlord in applying for costs and notes that the wait for the appeal decision will likely be short.

[12] CNOOC Limited confirmed during the application that it was standing behind these arguments from CPNA.

IV. Analysis

[13] Based on my review of the facts and analysis of the law, I find that the CNOOC Parties must pay the costs to the Landlord forthwith. The parties came to an agreement. Such agreements are to be encouraged in complex commercial litigation that is being case managed, such as in this case.

[14] I also noted that I come to the above determination because the fears expressed by the CNOOC Parties are speculative. In any case, this is not an application for security for costs.

[15] Unlike the situation in the cases cited by Justice Jeffrey, this current debate is not within the damages trial itself. Instead, these debates are more accurately described as being in the

2026 ABKB 816 (CanLII)

context of a “pre-trial application amid case management” or as a “post-trial application”: 2026 ABKB 427.

[16] Further, my decision concerning costs is bolstered by the fact that counsel discussed the Costs Agreement after they had argued the appeal and, as such, none of these concerns would have been new. They chose to maintain the Costs Agreement as it was, without any additions regarding the placing of monies in trust or questions regarding the Beneficial Owners. Although the parties are expected to make their costs requests within reasonable time frames, the delay in this case is not enough to vitiate the Costs Agreement.

[17] In any case, I would not exercise my discretion to override the Costs Agreement. Justice Jeffrey appropriately outlined the reasoning for exercising his discretion in paragraph 4 of 2026 ABKB 427. In the present case, that reasoning would support enforcing the Costs Agreement because notably we are facing the similar time pressure of the start of the damages trial.

2026 ABKB 816 (CanLII)

V. Conclusion

[18] The CNOOC Parties are to pay the costs awards for the three applications to the Landlord forthwith as per the bill of costs furnished and the Costs Agreement.

VI. Costs

[19] The parties may apply to the court for costs of this application if they cannot otherwise agree.

Heard on the 29th day of September 2026.
Dated at the City of Calgary, Alberta this 20th day of November 2026.

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

Appearances:

Matthew C. Kuhl
Burnet, Duckworth & Palmer LLP
for the Plaintiff CNOOC Petroleum North America ULC

Blair C. Yorke-Slader, K.C., David R. McKinnon and Tyler D. McDonough
for the Defendants 801 Seventh Inc.

Daniel Dickey
Dentons Canada LLP
for the Third Party CNOOC Limited