

In the Court of Appeal of Alberta

Citation: Crown Capital Partner Funding LP v RBee Aggregate Consulting Ltd, 2025 ABCA 206

Date: 20250612
Docket: 2401-0003AC
Registry: Calgary

Between:

RMC Construction Materials Ltd.

Appellant

- and -

FTI Consulting Canada Inc.

Respondent

- and -

**Crown Capital Partner Funding LP, by its manager Crown Private Credit Partners Inc.,
and RBee Aggregate Consulting Ltd.**

Not Party to the Appeal

The Court:

**The Honourable Justice Kevin Feehan
The Honourable Justice William T. de Wit
The Honourable Justice Kevin Feth**

Memorandum of Judgment Regarding Costs

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The Court:

Introduction

[1] The appellant, RMC Construction Materials Ltd. (RMC), successfully appealed the order of the Court of King’s Bench declaring that certain invoices issued by the insolvent company, RBee Aggregate Consulting Ltd (RBee) were due and payable, and directing RMC pay the respondent Receiver, FTI Consulting Canada Inc. A new hearing was ordered: *Crown Capital Partner Funding LP v RBee Aggregate Consulting Ltd*, 2025 ABCA 117. RMC now seeks costs on an enhanced basis.

Costs on Appeal

[2] Pursuant to Rule 14.88(1) of the *Rules of Court*, unless otherwise ordered, the default is “the successful party in an appeal . . . is entitled to a costs award against the unsuccessful party”. Rule 14.88(3) further provides “Unless otherwise ordered, the scale of costs in an appeal shall be the same as the scale that applied to the order or judgment appealed from”.

[3] The Court of King’s Bench did not determine the costs. The parties agreed to defer the costs issue until after this appeal.

Parties’ Positions

[4] RMC seeks enhanced costs because of the complexity of the issues, the public interest in and broader importance of the issues, and the amount in issue, as well as an inflationary adjustment. No litigation misconduct is alleged and no formal offer of settlement was made.

[5] The respondent submits each party should bear their own costs of the appeal because this is an ongoing insolvency matter where there are stakeholders beyond the parties to the litigation and not an instance where costs are sought from a receiver personally but from the bankrupt estate.

Costs for this Appeal

[6] In this case, whether RMC owes money to the bankrupt estate has not been finally determined. Further, given the substantial shortfall in RBee’s estate, an award of enhanced costs, or any award of costs, at this stage, might deplete the estate before the Receiver has completed the claims process.

[7] We conclude the costs of this appeal shall follow the ultimate outcome of the respondent Receiver’s application in the court below. The costs award in the court below should be determined

by the chambers judge conducting the new hearing. The costs in this Court shall follow the cause and be on the same scale as granted in the court below after the new hearing.

Written submissions filed June 3, 2025

Memorandum filed at Calgary, Alberta
this 12th day of June, 2025

Authorized to sign for: Feehan J.A.

de Wit J.A.

Authorized to sign for: Feth J.A.

Appearances:

C.B. Zelyas
for the Appellant

J. Willis
for the Respondent