Court of King's Bench of Alberta

Citation: Connect First and Servus Credit Union Ltd. v Elite Storage North Edmonton LP, 2026 ABKB 132

Date: 20260224
Docket: 2503 06143
Registry: Edmonton

Between:

Connect First and Servus Credit Union Ltd.

Plaintiff

- and -

Elite Storage North Edmonton LP, Elite Storage North Edmonton GP Ltd, BCCQ Global Holdings Ltd., Bodnar Capital Corp., Cameron Colby Quilliam, Robert Cramers and Conrad Bodnar

Defendants

Costs Decision
of the
Honourable Justice M.A. Marion

I. Introduction

[1] On December 5, 2025, I issued reasons (**Reasons**) in this matter: ***Connect First v Elite Storage North Edmonton LP***, 2025 ABKB 718. Unless otherwise indicated I adopt the definitions used in the Reasons.

[2] At para 93 of the Reasons, I directed that if the parties could not agree on costs of the Application within 30 days, they could contact my office and I would set a process for determination of costs. The parties could not agree and I set a process for costs. I have since received written costs and reply submissions.

[3] Cramers provided the information requested in my January 12, 2026 direction. However, AFMC did not provide a "summary of the party's proposed reasonable and proper costs incurred in respect of the Hearing" as directed.

II. Issue

[4] The issue is an appropriate cost award for the Application.

III. Positions of the Parties

A. Cramers

[5] Cramers seeks $27,625.83, representing 50% indemnification of his costs incurred to date. This includes his costs relating to the Application as well as his costs incurred (to a certain point) in the post-Application costs process. He relies on ***Uhuegbulem v Balbi***, 2025 ABKB 318 and ***McAllister v Calgary (City)***, 2021 ABCA 25, and cases cited therein, and the factors under rules 10.29, 10.30, 10.31 and 10.33 of the *Alberta Rules of Court*, Alta Reg 124/2010 (*Rules*).

[6] Cramers points to his success in the Application; the amount at issue; the critical importance of the Application to BCCQ's continuation as a going concern with its current management; the importance of the Application to Cramers as guarantor (to an amount $1,875,000), as a director, as a 50% shareholder of BCCQ, and as a signatory to the Forbearance Agreement and the Consent Receivership Order; the complex nature of the Application; the conduct of AFMC in obtaining the Order *ex parte*; and the conduct of AFMC in including BCCQ as a debtor in the Consent Receivership Order.

[7] In the event Schedule C of the *Rules* is used, Cramers argues that column 5 is applicable because the amounts claimed in the underlying action exceed $5,000,000.

B. AFMC

[8] AFMC acknowledges Cramers was substantially successful and is entitled to costs. AFMC argues that the 40-50% indemnity discussed in ***McAllister*** is not a new default for awarding costs, and that success is not a justification for claiming a percentage of fees for disproportionate litigation (relying on ***Barkwell v McDonald***, 2023 ABCA 87 at para 57).

[9] AFMC argues that Schedule C should be used and that column 1 of Schedule C of the *Rules* should apply because the relief sought was declaratory. It argues that the appropriate amount is $675 for item 7(1) (contested application) or possibly $1,350 for item 8(1) (contested application where a brief is required). Alternatively, it argues the Schedule C column should be based on $1,875,000 (the amount of Cramers' guarantee). It points out that, even using column 5 of Schedule C, the costs would only be $3,138.06.

[10] AFMC argues enhanced costs are not appropriate. With respect to rule 10.33 factors, AFMC argues that there is no evidence as to why removing BCCQ from the Consent Receivership Order was important; that the matter was not complex; that neither party's conduct shortened the action; and that Cramers delayed in bringing the Application (which caused the Receiver to incur costs in the BCCQ receivership unnecessarily, and which costs may now not be recoverable). AFMC argues that granting Cramers' claimed costs would unjustifiably penalize AFMC.

IV. Analysis

A. Legal Framework

[11] I have recently summarized general costs principles in ***Uhuegbulem*** at paras 58-77. I incorporate those principles by reference and do not produce them here.

B. Assessment of Costs of the Application

[12] I have considered the general costs principles summarized in ***Uhuegbulem*** and the *Rules*. Without limitation, I point specifically to the following considerations:

(a) Success: As acknowledged by AFMC, Cramers was successful in the Application and is *prima facie* entitled to costs. Cramers is entitled to a costs award;

(b) Amount Claimed and Received. The receivership involved over $5 million. Cramers' guarantee was only $1,875,000. However, the claim in the Application was to have BCCQ removed from the Consent Receivership Order, without any specific monetary amount involved. In the complex context of the impact of a receivership order on the company's stakeholders, it is difficult on the record before me to quantify the real amount claimed or at issue, which makes using Schedule C more difficult and less appropriate. Further, the Court has discretion to move beyond Column 1, even where only declaratory relief is sought, including based on "the value of the assets sought to be controlled or interfered with": ***R&R Consilium Inc v Talbot***, 2019 ABQB 275 at para 63. In my view, it is not appropriate to treat the Application solely as a matter of declaratory relief. It was about BCCQ's future operations and control over its assets;

(c) Importance of the Issues. Cramer has a 50% interest in BCCQ and is a director. A key issue between the parties (or their directing minds) is the ongoing control and management of BCCQ which is the subject ongoing arbitral or other disputes between them. The Consent Receivership Order was a decisive *ex parte* blow in that context. In this way, the importance of the Consent Receivership Order was significant to the parties;

(d) Complexity of the Application. The Application was a moderately complex commercial matter involving a later application to vary an *ex parte* order. It was akin to a special application. Further, the parties provided supplemental briefs on the law relating to the contractual exercise of discretion, as set out in ***Wastech Services Ltd v Greater Vancouver Sewerage and Drainage District***, 2021 SCC 7, as potentially applied in the context of a forbearance agreement with a consent receivership order. That added complex nuances to the Application;

(e) Conduct of Cramers. Cramers' delay was only partially explained by retaining new counsel and the Court's schedule. One would have expected him to move immediately upon learning of the Consent Receivership Order. As per the Reasons, at para 88, his delay was "unexplained and of concern"; and

(f) Conduct of AFMC. Breach of the duty of full and frank disclosure which leads to an unwarranted and overreaching order is serious and will often engage enhanced

> costs. The Court of Appeal has awarded solicitor-client costs in those circumstances: ***Secure 2013 Group Inc v Tiger Calcium Services Inc***, 2018 ABCA 110 at para 16, citing ***Secure 2013 Group Inc v Tiger Calcium Services Inc***, 2017 ABCA 316 at para 177. In this case, I found that AFMC breached the default notice requirement under the Forbearance Agreement, appeared to unnecessarily and superfluously add BCCQ to the Consent Receivership Order in the exercise of its contractual discretion (all in the context of a hotly contested dispute between the parties about BCCQ). Then, at the *ex parte* hearing, AFMC failed to properly and fully explain the situation to the Court or fully answer the Court's questions. I found that, had AFMC properly explained matters, "it would have materially affected" the Court's decision and may very well have caused the Court to require notice to be given to Cramers. In my view, had notice been given, it is unlikely there would have been a receivership order against BCCQ under the Consent Receivership Order. In this way, AFMC irregularly and unnecessary lengthened the underlying action against BCCQ and interfered with BCCQ's management and operation and Cramers' role therein. Costs beyond the ordinary Schedule C are appropriate.

[13] Schedule C does not adequately address the complexity, party conduct and reasonable or expected costs of the Application. In these circumstances, it is appropriate to consider a percentage of fees as contemplated by ***McAllister***, or a lump sum, to ensure that a proportionate and appropriate costs award is achieved.

[14] Cramers' proposed costs melds together his costs incurred up to the date of the Application, but also his post-Application costs, including costs incurred reviewing the Reasons, settling the order, and responding to the costs process. In my view, it is important to distinguish between pre-Application and post-Application costs in this context, because the relevant factors and considerations may very well be different.

[15] Based on Cramers' submitted bill of costs, the fees incurred related to the Application ended on December 2, 2025. His costs incurred after that date totalled $14,472 before GST, leaving $37,860 before GST in legal costs incurred in respect of the Application. I find this latter amount to be a reasonable amount of costs incurred in the unique circumstances of the Application. As noted above, despite my direction, AFMC did not provide me *its* reasonably incurred costs for me to use as a comparison.

[16] Using Cramers' position that 50% indemnity of its reasonably incurred actual costs is appropriate, that amount would be $18,930 (50% of $37,860). Considering the totality of the circumstances, including Cramers' delay in bringing the Application which I find must be accounted for, I find a lump sum amount of $15,000 (plus GST) to be a reasonable and appropriate cost award for the Application, together with the claimed disbursements and other charges (which were not separately disputed by AFMC). This is a quantum that I find "represents an amount that the losing party in the litigation should reasonably be expected to pay to the winning party", for the Application: ***Uhuegbulem*** at para 76 (and cases cited therein).

C. Assessment of Costs of Determining Costs

[17] Entitlement to costs of the Application was acknowledged and the only issue was quantum. Neither party obtained the costs quantum they sought. The final number was near the middle between their positions, albeit more in favour of Cramers. AFMC's position was extremely low

and unrealistic. I find Cramers to have had substantial success overall. I find he is entitled to some costs for the process to determine costs.

[18] The costs determination was not overly complex. The written submissions were directed to be, and were, short and concise. The law is well-known. Cramers' costs incurred for the costs process (likely in excess of $15,000) were disproportionate to the amount at issue. I find Schedule C provides reasonable and appropriate guidance for determining costs of the costs process, with some adjustment.

[19] I have considered Schedule C and item 8(1) (application requiring brief), which I find to an appropriate rough gauge for the costs process. Schedule C would indicate a range from $1,350 for Column 1 to $2,700 for Column 5. I have also considered the complexity of the cost determination and the proportionality of the costs incurred compared to the claimed costs amount.

[20] Subject to any settlement offers that were made, I find that a lump sum cost award of $2,000 (plus GST) in favour of Cramers is appropriate for the determination of costs. If offers were made to settle costs that either party wants me to consider, they may provide them to my office for my consideration within one week of these reasons, failing which this will be my costs order for the costs process.

V. Conclusion

[21] Cramers is entitled to $15,000 (plus GST), plus claimed disbursements and other costs (plus GST as applicable) for the Application, and $2,000 (plus GST) for the costs of the costs process (subject to any settlement offers). Both costs awards are payable by AFMC to Cramers forthwith.

Heard by written submissions.
Dated at the City of Calgary, Alberta, this 24th day of February, 2026.

M.A. Marion
J.C.K.B.A.

Appearances:

Dean A. Hutchison
for Robert Cramers

Kevin P. Chapotelle
for Alberta Finance & Mortgage Corporation and Cameron Colby Quilliam