

Court of King's Bench of Alberta

Citation: Smith v. Waters, 2026 ABKB 183

Date: 20260311
Docket: 2403 23496
Registry: Edmonton

2026 ABKB 183 (CanLII)

Between:

Ron Smith, Cindy Schmidt, 1424672 Alberta Ltd.

Appellants

- and -

Laura Waters, Waters and Associates, 1345413 Alberta Inc.

Respondents

Corrected judgment: A corrigendum was issued on March 13, 2026; the corrections have been made to the text and the corrigendum is appended to this judgment.

**Reasons for Decision
of the
Honourable Justice L.M. Angotti**

Introduction

[1] The Appellants sought accounting and bookkeeping services from the Respondents. Those services were not provided to the satisfaction of the Appellants. The Appellants commenced a civil claim in the Alberta Court of Justice and, at trial, sought \$32,350 in damages. On October 25, 2024, the trial judge granted \$521.33 in damages to 1424672 Alberta Ltd. (“142AB”) as against

1345413 Alberta Inc. (“134AB”) for negligence and dismissed all other claims and counterclaims. The Appellants ask this Court to overturn that decision and grant them all of the damages they sought, as well as costs.

Issues on Appeal

[2] The Appellants’ written and oral submissions refer to several issues, but the various arguments and grounds of appeal can be fairly summarized as:

- a. The trial judge acted in a procedurally unfair manner, by requiring the trial to proceed despite the Respondents failing to provide their trial documents to the Appellants in advance of the trial;
- b. The trial judge acted in a procedurally unfair manner when he refused to allow the introduction at trial of transcripts and evidence from the Appellants’ application before the Court of King’s Bench in the Fall of 2019 (the “King’s Bench Proceeding);
- c. The trial judge misapprehended the evidence or failed to consider certain evidence in his assessment of credibility and in making his decision;
- d. The trial judge came to conclusions that were not tenable or supported by the evidence before him, as evidenced by his insufficient reasons;
- e. The trial judge acted outside of his jurisdiction and unfairly by hearing the Respondents’ counterclaims, which were filed outside of the applicable limitations period, were vexatious and an abuse of process, and were collateral attacks on the Registrar of Corporations’ decision to strike 134AB from the Corporate Registry;
- f. The final judgment should apply to all three Respondents, as Laura Waters pierced the corporate veil by entering personal bankruptcy and testifying that this shielded 134AB from liability to the Appellants;
- g. The trial judge should have strongly rebuked the Respondents for their litigation misconduct in the King’s Bench Proceeding and the Alberta Court of Justice trial, including by an award of costs to the Appellants;
- h. The trial judge’s refusal to award costs in favour of the Appellants is unreasonable, given the Appellants’ success at trial; and
- i. The trial judge was closed minded and biased towards the Appellants.

[3] The Appellants also made an application to introduce additional evidence at the appeal.

Decisions of Pre-trial Conference Justice

[4] In addition to the above grounds of appeal, the Appellants also set out in their brief issues with the decisions of the pre-trial conference justice. The Notice of Appeal only names the trial judge and only refers to the trial judge’s decision. An appeal of the pre-trial conference decisions has never been filed and the deadline to do so is long past. Therefore, an appeal of the pre-trial

conference justice's decision is not properly before the Court. At the appeal hearing, I advised the parties that I would not be considering any appeal of the pre-trial conference decisions.

Standard of Review

[5] Some of the Appellant's grounds of appeal and arguments are founded on the incorrect standard of review, which the Appellants submitted is the reasonableness standard of review applicable to administrative tribunals.

[6] The Alberta Court of Justice is not an administrative tribunal. Therefore, *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, which sets out the standard of review for administrative tribunal decisions, does not apply.

[7] It is well-established that appeals of civil matters from the Alberta Court of Justice to the Court of King's Bench are decided on the appellate standard: *RW v Alberta (Child, Youth and Family Enhancement Act, Director)*, 2011 ABCA 139 at para 14.

[8] The appellate standard depends on the type of question or error before the Court. Errors of law are reviewable on the standard of correctness. Decisions involving fact finding, inferences of fact, or mixed law and fact are entitled to deference, unless the trial judge made a palpable and overriding error: *Housen v Nikolaisen*, 2002 SCC 33 at para 8, 25, 36.

[9] Much of this case at trial depended upon findings of credibility and reliability. Such findings fall within the category of fact finding. They are owed deference upon appeal, subject to palpable and overriding error.

New Evidence Application

[10] The Appellants advised that they had an email that would provide proof that Ms. Waters provided inconsistent evidence under oath, which email was not introduced at the trial. The Appellants must demonstrate the following to introduce additional evidence on an appeal (*Barendregt v Grebliunas*, 2022 SCC 22, para 29):

- a. the evidence could not, by the exercise of due diligence, have been available for the trial;
- b. the evidence is relevant in that it bears upon a decisive or potentially decisive issue;
- c. the evidence is credible in the sense that it is reasonably capable of belief; and
- d. the evidence is such that, if believed, it could have affected the result at trial.

[11] The Appellants confirmed that they had the email prior to trial but submitted that it was not relevant during the trial. Rather, in their view, it only became relevant once the decision was issued, as because the email contradicts the trial judge's conclusion not to grant full judgment in their favour. The Appellants also submitted that the email, in which Ms. Waters states that she never opened up a payroll account, is directly contradictory to her testimony at trial. In addition, the Appellants point to Ms. Waters' statements in the email about how the Corporate Registrar will take steps to notify shareholders that the corporation may be struck for failure to file annual

returns and will send any applicable certificate of dissolution to the shareholders' registered address. They submit this is relevant to the Respondents providing accounting services after 134AB was struck.

[12] The Respondents submitted that, while the evidence met the second and third parts of the test, it did not meet the first part of the test, as the Appellants were clearly aware of the email and responded to it months in advance of trial.

[13] More importantly, the Respondents argued that the email would not have affected the result at trial. The email simply states that Ms. Waters did not take any steps to open an account for the Appellants, as she only had Ron Smith sign off on documents that she then forwarded to Canada Revenue Agency (CRA). The Respondents submitted that the email, read in its entirety, is not inconsistent with Ms. Waters' evidence at trial that she had instructions to proceed with tax filings that showed Mr. Smith having employment income. Therefore, they argue that the email does not impact upon her credibility and would not have affected the result at trial.

[14] I have reviewed the email and the Appellants' explanation for not raising this email at trial. The test for fresh evidence requires a party to exercise appropriate due diligence to bring forward all available and relevant evidence to trial. Trials are an adversarial process. Trial courts hear and assess evidence; appeal courts do not. Parties are expected to put their best foot forward at trial. An appeal is not a second chance for them to present evidence. A party cannot make the strategic decision to not enter evidence at trial and then seek to put that evidence forward on appeal, as such evidence has not been introduced under oath and the opposing party does not have an appropriate opportunity to give evidence, again under oath, in response. As the trial judge advised the parties, the parties were to put before him, everything they believed was needed to prove their claim. The Appellants made the strategic decision to not introduce the email at trial, despite knowing it was available. They have not met the first element of the test.

[15] I agree with the Respondents that this email would not have affected the result at trial. The email is similar to the evidence given by Ms. Waters. She testified that she prepared tax documents for both 142AB and Mr. Smith, in accordance with discussions she had with Mr. Smith about avoiding tax penalties for 142AB. She gave evidence that she had Mr. Smith sign tax documents and then sent those tax documents to CRA. She did not testify that she opened the payroll account; she testified that she never spoke with CRA and that she simply filed his documents. Despite this evidence, the trial judge found, on a balance of probabilities, that 134AB opened a payroll account with CRA on behalf of 142AB, based on instructions from the Appellants to split Mr. Smith's income between salary and dividends. The opening of the account was a fundamental fact for the Appellants' claim. The email would not have affected this critical finding.

[16] In the email, Ms. Waters recites the process followed by the Corporate Registry to notify directors and shareholders that a corporation is in danger of being struck, but she does not state that a corporation cannot conduct business when it is struck or that dissolution of a corporation is done retroactively. Even if it did, the trial judge had already determined that Ms. Waters' evidence at trial about the Corporate Registrar retroactively dissolving corporations was wrong and affected her credibility. Therefore, the email would not have impacted upon the findings with respect to her credibility.

[17] As a result, I conclude that the email is not admissible as fresh evidence, as it does not meet the test for introduction of fresh evidence.

Procedural issue of trial binder

[18] In these reasons, a “trial binder” is the binder from either the Appellants or the Respondents, containing the documents that the respective party intended to rely upon during the trial.

[19] At the pre-trial conference, the parties were given deadlines to provide their trial binders for document disclosure. The trial judge had received copies of the trial binders for both parties prior to the trial.

[20] At the beginning of the trial, the trial judge provided a clear explanation of how evidence would be introduced at the trial, including documentary evidence either by agreement or through witnesses. The trial judge also explained that, even if a document was entered by agreement, he would be unable to consider it as evidence if a witness did not explain what the document was and why the document would be important for the justice to consider in making his decision.

[21] He asked the Appellants if they would be prepared to agree to none, some or all of the Respondents’ trial binder being admitted into evidence. The Appellants advised that they had not received a copy of the Respondents’ trial binder and, therefore, had not reviewed the Respondents’ documents. This was disputed by the Respondents, who advised that they had sent the documents by email to the Appellants. The Respondents acknowledged that they had received the Appellants’ documents by email.

[22] The trial judge directed an adjournment, to allow each party a sufficient opportunity to look through the opposing party’s trial binder and determine if there were any documents they would object to being introduced into evidence. He provided each party with his trial binder containing the opposing party’s documents, so the parties could engage in the document review. Once the review was completed, the trial commenced and agreed upon documents were entered, with objectionable documents to be dealt with through witnesses. During witness testimony, if the Appellants required a document entered by the Respondents, the trial judge provided them with his copy.

[23] The Appellants argued that the trial judge acted unfairly, by proceeding with the trial even though the Respondents did not provide their document disclosure to the Appellants in accordance with the pre-trial conference judge’s direction and thus, the Appellants did not have their own copy of the Respondents’ documents. They further submitted that the trial judge’s solution was inadequate, as the Court should have provided the Appellants with a copy for their own use or adjourned the trial to another day.

[24] The Appellants at one point stated the adjournment for document review was five minutes; at another point that it was fifteen minutes, suggesting that they did not have a sufficient time to review the documents. I reject this suggestion. The transcript does not indicate how long the adjournment was, but at no time did the justice direct the length of time for the adjournment. Rather, he explained that the parties would be given the necessary time to go through the documents during the break and the parties were to advise the court clerk once they were done. After the adjournment was completed, the Appellants confirmed that they had gone through the documents and raised objections about some of the documents, showing they had sufficient time to review the documents.

[25] Throughout the trial, the Appellants raised issues and objections. At no time did the Appellants request an adjournment so that a full trial binder of the Respondents’ documents

could be provided to them by either the Court or the Respondent, or an adjournment of the trial to another day. Aside from their initial objection that they had not been provided with the binder, they did not raise objections arising from the disclosure issue or the trial judge's process.

[26] The trial judge took a practical approach that allowed the Appellants to view the Respondents' documents, express any objections to the documents, and permit the Appellants access to the documents when they needed them. On appeal, the Appellants have not established that the trial judge's process failed to address any prejudice they may have suffered by a late disclosure of documents.

[27] I conclude that the trial was conducted in a fair manner. The trial judge did not err in the procedure he adopted.

Consideration of King's Bench Proceeding

[28] Two years prior to filing their civil claim and five years prior to the trial, 142AB commenced an application in the Court of Queen's Bench (as it then was) against Ms. Waters and Waters and Associates for the return of the corporation's documents. On October 2, 2019, Applications Judge Birkett (then referred to as a Master) granted an order to 142AB, requiring Ms. Waters and Waters and Associates to return 142AB's documents and to reimburse 142AB for its \$250 filing fee. This was the King's Bench Proceeding.

[29] Both parties attempted to rely upon evidence and argument presented before Applications Judge Birkett. The Appellants also attempted to rely upon the behaviour of the Respondents in the King's Bench Proceeding and sought enforcement of the Application Judge's order. The trial judge refused to consider any materials from, hear any references to, or address in any manner, the King's Bench Proceeding.

[30] The Appellants submit the trial judge, by his refusal, acted in a procedurally unfair manner that put the administration of justice into disrepute and that the trial judge should have considered the facts found by the Applications Judge and the failure of the Respondents to comply with the Court of King's Bench order.

[31] For a judge to provide a remedy in a matter, they must have jurisdiction over the matter. The Appellants argued that the Respondents were "openly and brazenly in contempt" by failing to pay the ordered costs. Even if the Respondents were (I am not making any finding as to whether there was contempt), the trial judge did not have the jurisdiction to deal with the issue of contempt or enforcement of costs for the reasons stated by the trial judge.

[32] The Alberta Court of Justice is an inferior court; its judges do not have any jurisdiction to deal with matters that are before the Court of King's Bench, the superior court. This includes issues of enforcement or contempt. An application for contempt in respect of the King's Bench Proceeding, or for enforcement of the order granted in the proceeding, could only be made before a King's Bench justice. Further, AJ Birkett had already granted an order for Ms. Waters and Waters and Associates to pay costs of \$250 to 142AB. It is not an appropriate enforcement measure to ask a justice of any court to issue another order for the same thing.

[33] The alleged behaviour by the Respondents in respect of the King's Bench Proceeding, such as evasion of service or provision of dishonest evidence (again, no finding is being made as to

whether such behaviour occurred), is an issue that was properly before AJ Birkett. If the Appellants believed this behaviour needed to be denounced by a costs award, they needed to make that argument before AJ Birkett. As they did not raise those issues before AJ Birkett, they have lost their opportunity to do so. They cannot now do so in a separate proceeding.

[34] Finally, fact findings made in a chambers application before an Applications Judge are never binding upon a trial judge. A chambers application inevitably has an incomplete evidentiary record. It does not involve oral evidence so there is no assessment of reliability and credibility.

[35] Therefore, what happened in the King's Bench Proceeding was irrelevant to the trial. The trial judge correctly and properly refused to consider the material from that proceeding.

Misapprehension of the Evidence

[36] The Appellants argue that, in concluding that the Appellants received some benefit from work done by the Respondents and agreed to the Respondents opening a payroll account for 142AB, the trial judge misapprehended the facts. In particular, they say the trial judge failed to consider 1) a lack of evidence that such a benefit was received; 2) the impact of 134AB being struck from the registry; and 3) an email directly contradictory to the finding that the Appellants agreed to the course of action taken by 134AB with their taxes. In addition, they say the trial judge misjudged the credibility or reliability of the Appellants. They further argue that the trial judge was wilfully blind to 1) the untenable evidence of Ms. Waters that papers were destroyed in a fire; and 2) the ramifications of the Respondents' actions, being audits of the Appellants and CRA's refusal to return monies paid by the Appellants in respect of the payroll account.

[37] The standard to establish a misapprehension of evidence is a stringent one, requiring something more than an apparent error. The error must be readily obvious, real rather than speculative, and play an essential part not only in the context of the decision, but the reasoning that led to the decision: *R v Lohrer*, 2004 SCC 80 at para 2; *R v Sinclair*, 2011 SCC 40 at para 53.

[38] The trial judge explained that Mr. Smith would not admit to signing documents, because Mr. Smith believed the Respondents to be dishonest and thus did not trust the documents to be authentic. He noted that Mr. Smith did not testify that this was not his signature; he simply refused to admit his signatures because the Respondents were dishonest. As the Appellants firmly believed that the Respondents were dishonest, they saw all the Respondents' actions through the lens that the Respondents must be and always were acting dishonestly. This was amply reflected in Mr. Smith's evidence, especially his description of Ms. Waters' conduct. This same perspective is further reflected in the Appellants' submissions on appeal, as they use the strongest language to describe Ms. Waters as dishonest. There was ample evidence to support the trial judge's conclusion that the Appellants' evidence was impacted by their view of the Respondents' lack of honesty and integrity, which impacted the reliability and credibility of the Appellants' evidence.

[39] There was evidence to support the trial judge's finding that the Appellants accepted the work and received some benefit, even though they fired the Respondents prior to having the corporate taxes completed. The Appellants testified that they hired the Respondents to do the 2018 personal and corporate taxes, the personal taxes were completed, and the Respondents provided evidence of the work they had completed prior to the termination of their services. The

Appellants relied upon a technical argument that a corporation should not provide services, if it is struck from the Corporate Registry. The trial judge recognized that 134AB was struck as of February 2, 2019, but also noted that, practically, this did not negate that services had been provided and did not mean a corporation was dead for all purposes under the *Business Corporations Act*, RSA 2000, c B-9. He would also have been aware of sections of the *Business Corporations Act*, such as s 208, that reinstatement of a corporation to the Corporate Registry means that the corporation exists as if it had not been dissolved (i.e., struck from the registry).

[40] Trial judges are entitled to rely on reason and common sense, life experience and logic in assessing the credibility and reliability of witnesses. The trial judge saw and heard the witnesses and considered all the evidence in reaching his conclusions on credibility and reliability, which conclusions were reasonable. A disagreement as to the interpretation or weight of evidence does not demonstrate a misapprehension of the evidence. No misapprehension of the evidence has been established, much less one that affected the result at trial.

[41] The Appellants' submission that the trial judge failed to consider an email on the issue of approval to open the payroll account also does not succeed. The email, from Mr. Smith, stated "Can the dividend be lowered?" Mr. Smith interprets this as being directly contradictory to an agreement that he was to be paid some level of salary, because all he referenced is lowering the dividend. Another interpretation is that this was the beginning of a conversation between Mr. Smith and Ms. Waters about the options available to Mr. Smith and 142AB. The trial judge referred to notations by Ms. Waters of such a conversation, in documents that the Appellants agreed should be entered as evidence. Again, it is not sufficient for an appellant to suggest a different interpretation of the evidence; differences in interpretation are not misapprehensions on the part of a trial judge.

[42] The Court was not wilfully blind to the Respondents' evidence that relevant papers were destroyed in a fire. At the trial, the only evidence was Ms. Waters' explanation that some documents were lost in the fire and the fire department's report. The Appellants did not provide any evidence to the contrary and did not argue at trial that the explanation of a fire loss should be rejected.

[43] While the Appellants provided uncontradicted evidence that they were subjected to audits because of the fallout from the payroll account and that CRA had not refunded the money they paid, such ramifications are irrelevant to whether the Respondents were negligent or in breach of contract for opening the payroll account. They would only be relevant to damages, if the Respondents were found negligent or in breach of contract. The trial judge concluded that the Appellants had not met their burden of proof on that issue.

[44] I see no reviewable error in the trial judge's assessment of the evidence, including his conclusions on credibility and reliability. The trial judge's findings and conclusion are well supported on the record.

Sufficiency of reasons

[45] Reasons of a trial judge function to inform the losing party why they lost, allow for meaningful appellate review, and satisfy the public that justice has been done. Reasons do not need to set out the entire process of a trial judge's decision: *R v Sheppard*, 2002 SCC 26. It is an error of law when deficiencies in a trial judge's reasons prevent meaningful appellate review to determine the correctness of the decision: *Sheppard*, at para 28; *R v SLB*, 2024 ABCA 412 at

para 37. However, a trial judge's reasons are not deficient simply because a party does not agree with the justice's conclusions and believes that their findings of fact or conclusions on legal issues are wrong.

[46] An appeal is not a new trial with fresh consideration of the evidence in the trial below; it is a review of the decision of the lower court based on the trial record and subject to the appropriate standard of review. As stated in *AF v DS*, 2023 ABCA 332, at para 16-17:

As is sometimes the case, even when counsel are involved, the appellant confuses the deferential standard of review with the idea that this Court will re-try the case to determine what the evidence establishes on the balance of probabilities. That is not what appellate review for palpable and overriding error means: see, *Housen* at paras 1-3; *Van De Perre* at para 16...

The appellant is asking us to examine all the evidence and determine whether the trial judge weighed it properly. This includes the weight given by the trial judge to the evidence of the experts. It is not our role to do so...

[47] In this case, the trial judge set out each issue to be decided, spoke to the evidence he relied upon in making his decision, addressed conflicts in the evidence as well as the credibility or reliability of each witness, and provided his reasoning on how he came to his conclusions. The trial judge's reasons are abundantly sufficient to meet their purposes of informing the parties as to why the decision was made and to permit appellate review.

Consideration of the Counterclaims

[48] Ms. Waters brought a counterclaim for her travel costs of attending various court dates. The trial judge dismissed this claim as improper, as travel costs are appropriately dealt with in a costs award. Waters & Associates and 134AB also brought a counterclaim, for outstanding accounting fees owed by the Appellants. The trial judge dismissed this claim as being outside the limitation period, which was the very defence raised by the Appellants during trial.

[49] At trial, the Appellants did not argue that the counterclaims were vexatious, an abuse of process, and an improper collateral attack on a tribunal's ruling. Courts frown upon a party raising new arguments on appeal, as such a practice undermines the finality of litigation, may cause prejudice to the other side, and the trial record is usually insufficient to make necessary findings of fact: *R v Hoefman*, 2023 ABCA 207 at para 32. I decline to consider these arguments.

[50] It is unclear why the Appellants raise concerns with how the trial judge dealt with the counterclaims, or his jurisdiction to deal with them. The counterclaims were properly before the trial judge, and he was required to address them. He did not make any errors in his reasons for dismissing them. The arguments by the Appellants on appeal in respect of the counterclaims are illogical, as they obtained the remedy sought based on the arguments they made at trial. The trial judge dealt with the counterclaims correctly.

Application of Judgment to all Respondents

[51] The Appellants seek to have any monetary judgment in their favour applied to all three Respondents, on the basis that Ms. Waters pierced the corporate veil when she took the position that her personal bankruptcy shielded 134AB from liability. This was another argument that was not made at trial and this remedy is denied.

Failure to Award Costs

[52] The trial judge did not award any costs to either party in his reasons. The Appellants take issue with this for two reasons. First, they argue that the litigation misconduct of the Respondents in both the King's Bench Proceeding and at the trial deserved sanction by the Court. Second, they argue that they should have received costs, based on their success at trial.

[53] Costs are always in the discretion of the trial judge: *Court of Justice Act*, RSA 2000, c C-30.5, s 37.1; *Court of Justice Civil Procedure Regulation*, Alta Reg 176/2018, Part 11. Cost decisions are therefore entitled to deference: *Neufeld v Neufeld*, 2019 ABCA 33 at para 2.

[54] As already stated, the trial judge did not have jurisdiction to award costs for conduct in the King's Bench Proceeding; the opportunity to seek such sanction was in the King's Bench Proceeding itself.

[55] Further, while the trial judge found that Ms. Waters' evidence suffered from credibility and reliability issues, so did the evidence of the Appellants. These issues did not constitute litigation misconduct by either party and did not deserve a costs sanction.

[56] Finally, while the successful party generally receives costs, a trial judge may decide to not award costs if the success is minor in comparison to the claim made. Although I was not provided with any reasons by the trial judge regarding costs, the lack of an award of costs to the Appellants is not unreasonable in the circumstances of this case.

[57] I find no error in the trial judge's decision on costs.

Reasonable Apprehension of Bias

[58] The Appellants submitted that the trial judge was close minded and biased by:

- a. being prepared to grant the counterclaim, if binding authority had not required its dismissal based on the limitations defence;
- b. not finding a reason for the Respondents to gain from their actions of operating while 134AB was struck and failing to report Ms. Waters' personal bankruptcy;
- c. entering the fray and arguing several points that were of assistance to the Respondents; and
- d. refusing to grant costs to the Appellants.

[59] There is a strong presumption in Canada of judicial impartiality. Anyone alleging bias by a trial judge faces a high burden of proof in accordance with the following test:

...what would an informed person, viewing the matter realistically and practically — and having thought the matter through — conclude. Would he think that it is

more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly.

[60] As explained in *Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General)*, 2015 SCC 25 at para 20-37, this test is founded on the principle of judicial impartiality. Judges must approach the case before them with impartiality and an open mind and must not be influenced by irrelevant considerations or undue assumptions to favour one side or the other. To find a reasonable apprehension of bias, there must be a sound basis, in the entire context of the whole proceeding, to conclude that a particular determination was made based on either prejudice or generalizations.

[61] The Appellants have not met their burden of proof. The transcripts show that the trial judge explained the trial process and conducted the trial in a manner that was fair and equal to both parties.

[62] There is no evidence that the trial judge would have granted the second counterclaim, if not for binding authority from the Supreme Court of Canada on limitation periods. His only consideration on the counterclaim was the limitation period, and his reasons contained sound legal principles, including the decision relied upon by the Appellants, for dismissing the limitation period. Nothing in the reasons suggest that the trial judge wanted to decide in the Respondents' favour. To the contrary, he permitted the Appellants to raise the issue during the trial, even though they had not expressed the limitations defence in a formal pleading, as is generally required.

[63] The Appellants disagreed with the trial judge's decision. They argued that full damages should have been ordered because fees are not payable for services provided by a business that has been struck from the Corporate Registry and that the trial judge should have ordered costs.

[64] A finding unfavourable to a party is not, on its own, sufficient to establish a reasonable apprehension of bias: *McMunn v Hok*, 2021 ABCA 292 at para 10. Bias does not arise when a court makes a ruling against a party based on an assessment of evidence; it arises when a ruling is influenced by irrelevant considerations or undue assumptions, such as prejudices or improper generalizations. There is no evidence of such inappropriate influences.

[65] The final ground relied upon by the Appellants to establish a reasonable apprehension of bias relates to the trial judge's interventions during the trial. While a trial judge's interventions can rebut the presumption of impartiality, they are not by themselves necessarily reflective of bias as justices are permitted and sometimes required to ask witnesses questions or engage in the adversarial debate: *Yukon*, at para 27-28. The trial judge asked some questions of the witnesses but did not unduly engage in the adversarial process between the parties. His interventions are reflective of his need to ensure he properly understood both the evidence and the arguments before him.

[66] There is no basis upon which to find a reasonable apprehension of bias by the trial judge.

Conclusion

[67] I have carefully considered the arguments and evidence advanced by the Appellants. For the reasons provided, I conclude that they do not demonstrate that the trial judge committed any reviewable error in making his decision. The appeal is dismissed. The Respondents are

collectively entitled to one set of lump sum costs in the amount of \$1,000, for which the Appellants are jointly liable.

Heard on the 03rd day of September, 2025.

Dated at the City of Edmonton, Alberta this 11th day of March, 2026.

L.M. Angotti
J.C.K.B.A.

Appearances:

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for the Respondents

**Corrigendum of the Reasons for Decision
of
The Honourable Justice L.M. Angotti**

A corrigendum was issued to correct the citation and to correct counsel's name.