

In the Court of Appeal of Alberta

Citation: Kostic v Raymond James Ltd, 2026 ABCA 135

Date: 20260427
Docket: 2501-0262AC
Registry: Calgary

Between:

Liliana Kostic

Appellant

- and -

**Raymond James Ltd., Janet Potts, CIBC World Markets Inc.,
CIBC Trust Corporation and Piikani Nation**

Respondents

The Court:

**The Honourable Justice Frans Slatter
The Honourable Justice Jolaine Antonio
The Honourable Justice Joshua B. Hawkes**

Memorandum of Judgment

Appeal from the Orders by
The Honourable Justice M.A. Marion
Dated the 26th day of August, 2025
Filed on the 8th day of October, 2025
(2025 ABKB 493, Docket: 0601 13081; 1601 01693)

Memorandum of Judgment

The Court:

[1] This is an appeal from a case management decision reported at *Piikani Nation v Raymond James Ltd*, 2025 ABKB 493, relating to four separate actions with abbreviated case numbers 0601, 0801, 1601, and 1701. These are a subset of the proliferation of actions relating to a dispute between the Piikani Nation and several others concerning a trust established pursuant to an agreement between the Nation and the Provincial and Federal Governments to allow land to be used for the Oldman River Dam in 2002. Litigation regarding the trust began in 2006. Details regarding the initial action 0601 and much that followed have been repeatedly summarized in other decisions of this Court, including *Piikani Nation v Kostic*, 2018 ABCA 234 at paras 1-9, and will not be repeated here.

[2] Ms. Kostic appeals portions of the case management decision that did not permit her to apply to strike parts of an amended statement of claim, apply for summary dismissal of claims against her, or amend her pleadings to claim what she described as “immediate save harmless relief”, and to schedule a hearing for that relief prior to the trial.

[3] For the following reasons, the appeal is dismissed.

Background

[4] In the case management decision under appeal, Ms. Kostic had applied for the following orders:

- a) Permission to file an application to strike portions of an amended statement of claim in action 0601;
- b) Permission to file a notice to co-defendant against Raymond James in action 0601;
- c) Permission to file an application for summary dismissal of action 0601 against her;
- d) Permission to amend originating application in action 1601 to seek “immediate save harmless relief” against CIBC and to advance a claim for aggravated and punitive damages against CIBC (for allegedly misleading this Court in the appeal reported at

Kostic v CIBC Trust, 2019 ABCA 29, in which the Court held that any indemnity and defence costs to which the appellant may be entitled would be determined at trial);

- e) Permission to apply to amend an action known as Kostic-CIBC Trust Action #2; and
- f) Permission to apply for further particulars and discovery.

[5] Items (a) and (c) were dismissed, and (d) was partially dismissed. Items (b), (e), and (f) were granted, with some caveats and directions from the Case Management Justice. The appellant challenges items (a), (c), and (d) as further described below. Other aspects of the order have not been challenged in this appeal.

Standard of Review

[6] Absent an error on an extricable question of law, discretionary decisions of case management justices are entitled to a high degree of deference and will not be overruled unless they reflect an error of principle or are clearly unreasonable. This includes decisions respecting the amendment of pleadings. Case management justices have intimate knowledge of the litigation, and their decisions are given considerable deference on appeal.¹

Analysis

[7] We address the following issues advanced by the appellant:

- a) Application to strike portions of the amended statement of claim,
- b) Application for summary dismissal,
- c) Application to amend and for a hearing on indemnity or save harmless relief.

Application to strike portions of an amended statement of claim

[8] The CMJ found that the impugned paragraphs were authorized by earlier orders, and the proposed application to strike them now was both a collateral attack on the order permitting them and would be barred by issue estoppel. The CMJ compared the impugned paragraphs with the prior orders and found that the amended statement of claim was precisely in the form approved. There is no reviewable error in these findings by the CMJ.

¹ *Attila Dogan Construction and Installation Co. Inc. v AMEC Americas Limited*, 2014 ABCA 74 at para 17.

Application for summary dismissal

[9] The CMJ found that this application was not barred by *res judicata* or issue estoppel. However, he found that the application, if successful, would only end the 0601 action against the appellant, not the other defendants. In addition, he concluded that the appellant had not met the test for dismissal since her proposed affidavit did not show that many of the claims against her had no merit, and that the determination of those claims gave rise to issues requiring trial.

[10] The CMJ further noted that some of the arguments advanced by the appellant could not be reasonably or fairly resolved summarily. He reasonably anticipated a “mammoth” amount of documentation to be filed in support of a summary dismissal action, as well as further pre-application disputes, and concluded it would be easier and more expedient to have the matter set for trial. There is no reviewable error in these conclusions.

Application to amend her originating application to claim, “immediate save harmless relief” and aggravated and punitive damages

[11] The CMJ permitted the appellant to apply to amend her claim for aggravated and punitive damages, but not for “immediate save harmless” relief.

[12] This Court has repeatedly addressed the issue of the appellant’s claim for defence costs and indemnity from Raymond James and/or CIBC entities, confirming that this is a matter that must be determined at the trial of the 0601 action rather than in advance. The CMJ properly concluded that he was bound by those decisions.

[13] We have carefully considered the substance of the appellants’ arguments that effectively amount to an application to re-hear those decisions notwithstanding her non-compliance with *Rule* 14.38(2)(c). We acknowledge that new information has arisen since that initial decision. However, the core concern articulated in our prior decisions relating to this issue, including those reported at *Kostic v CIBC Trust Corporation*, 2018 ABCA 355, leave to the Supreme Court of Canada denied at 2019 CanLII 37469, and subsequently affirmed in related decisions at *Kostic v CIBC Trust*, 2019 ABCA 29 and *Raymond James Ltd v Kostic*, 2025 ABCA 296, remain. There are significant factual issues that can only be determined in the context of a full evidentiary record. The fact that evidence continues to emerge through questioning does not change that fundamental proposition. Allegations arising regarding the conduct of CIBC in a prior appeal on this issue remain disputed and cannot be resolved on the limited record available at this time.

[14] The threshold required to re-open or reargue an appeal is a high one. It has been described in prior decisions of this Court involving the appellant on this same issue (2019 ABCA 29 at paras 12-15, *Kostic v CIBC Trust*, 2019 ABCA 173 at paras 17-18), and in other decisions including *Strichen v Stewart*, 2005 ABCA 201 at paras 5-6, *Hill v Hill*, 2016 ABCA 49 at paras 26-41 and 75-78, and the decision of the Supreme Court in *Toronto (City) v CUPE, Local 79*, 2003 SCC 63 at para 52. It has not been met in this case.

[15] This ground of appeal is dismissed.

Conclusion

[16] We do not find any reviewable error in the CMJ’s decision. The appellant raises alleged “misrepresentations” and other errors in submissions to this Court and the case management judges. This is an appeal from 2025 ABKB 493. None of these other matters are the subject of this appeal and they were not expressly dealt with by the CMJ. These issues can, if necessary, be dealt with at the trial in 2027.

[17] Rule 9.4(2)(c) is invoked and the Court will prepare the resulting order.

Appeal heard on April 10, 2026

Memorandum filed at Calgary, Alberta
this 27th day of April, 2026

Authorized to sign for: Slatter J.A.

Antonio J.A.

Hawkes J.A.

Appearances:

Appellant L. Kostic

S.B. King
for the Respondent Raymond James Ltd.

Respondent J. Potts (no appearance)

D.V. Tupper, KC (no appearance)
G.H. Adair
for the Respondents CIBC World Markets Inc. and CIBC Trust Corporation

R.J. Hawkes, KC
M.E. McCartney-Cameron
for the Respondent Piikani Nation