

# In the Court of Appeal of Alberta

**Citation: Questor Technology Inc v Stagg, 2024 ABCA 353**

**Date:** 20241104  
**Docket:** 2401-0249AC  
**Registry:** Calgary

**Between:**

**Questor Technology Inc.**

Applicant

- and -

**Richard Stagg, also known as Ritchie Stagg,  
Jeffrey Nelson, also known as Jeff Nelson,  
Justin Bouchard and Emission RX Ltd.**

Respondents

---

**Reasons for Decision of  
The Honourable Justice Joshua B. Hawkes**

---

Application to Extend Time to Appeal

---

**Reasons for Decision of  
The Honourable Justice Joshua B. Hawkes**

---

[1] The applicant, Questor Technology Inc., seeks an extension of time to appeal a decision finding Richard Stagg, Jeffrey Nelson, and Justin Bouchard (collectively, the “individual respondents”), but not their company, Emission RX Ltd. (“Emission Rx”), to be in contempt of court: *Questor Technology Inc v Stagg*, 2024 ABKB 377 (the “Contempt Decision”).

[2] In the unusual circumstances of this case, the application is granted.

**Test for extension of time**

[3] Applications to extend time to appeal are governed by the principles set out in *Cairns v Cairns*, 1931 CanLII 471 (ABCA), [1931] 4 DLR 819 at 826-827:

- a) a *bona fide* intention to appeal while that right existed;
- b) a sufficient explanation for the failure to appeal in time;
- c) the absence of serious prejudice;
- d) whether the applicant has taken the benefits of the judgment under appeal; and
- e) a reasonably arguable appeal on the merits.

[4] The factors do not set rigid requirements and do not override the court’s general discretion to extend time in appropriate cases: *Lofstrom v Radke*, 2017 ABCA 211 at para 3; *Cairns* at p 829; *Stoddard v Montague*, 2006 ABCA 109 at para 8. The application of the test is fact specific and context sensitive.

**Intent to appeal and explanation for the delay**

[5] The applicant is engaged in a lawsuit against the respondents. The applicant brought a contempt application alleging that the respondents knowingly provided false evidence, withheld evidence, and misled the applicant and the court.

[6] On June 28, 2024, the chambers justice held each of the individual respondents in contempt of court. Although the applicant had applied to hold all of the respondents in contempt, the reasons for decision do not address the alleged contempt of Emission Rx.

[7] The respondents appealed the Contempt Decision on July 25, 2024. The applicant did not file an appeal prior to the expiry of the one month period following June 28, 2024, nor did it file a

cross-appeal. The applicant acknowledges it had no intention to appeal at that time. Its intention to appeal arose only after a later appearance, on August 22, 2024, when the applicant sought and received a clarification of the ruling from the chambers justice. The chambers justice noted that “typically a written decision exhausts the court’s opportunity to explain itself”. However, he went on to state that “to the extent any party reached the conclusion that I did not find Emission Rx in contempt, they would be correct. I did not”.

[8] The applicant then filed a notice of appeal (on September 20, 2024), but was informed that its appeal was out of time and it must seek an extension.

[9] I am satisfied that these unusual circumstances demonstrate a reasonable explanation for the delay in filing the appeal.

### **Arguable merit**

[10] The threshold to meet this criterion is low. It is satisfied if the proposed grounds of appeal are not frivolous or vexatious and it is arguable they have some merit: *Andres v Andres*, 2023 ABCA 42 at paras 29-30.

[11] The applicant submits that the Contempt Decision does not address the actions of Emissions Rx, nor provide any reasons why Emissions Rx was not also found in contempt. The provision of reasons is fundamental, and in the unique circumstances of this case the omission provides a sufficient basis for an arguable ground of appeal.

### **No serious prejudice**

[12] No serious prejudice has been caused to the respondents by the brief delay in filing the notice of appeal. The respondents have their own outstanding appeal of the Contempt Decision and the appeals can proceed jointly. Nor has the applicant taken any benefit of the decision below.

### **Conclusion**

[13] The application to extend time is granted. The parties should take steps to ensure that this matter and the related appeal by the respondents are heard together.

Application heard on October 17, 2024

Reasons filed at Calgary, Alberta  
this 4th day of November, 2024

---

Hawkes J.A.

**Appearances:**

M.P. Theroux, KC (no appearance)

K.J. Meyer (no appearance)

D. Brunsdon (no appearance)

P. Romaniuk

for the Applicant

F. Tosto (no appearance)

M. Schneider

for the Respondents