

In the Court of Appeal of Alberta

Citation: Great North Equipment Inc v Penney, 2025 ABCA 44

Date: 20250210

Docket: 2401-0220AC/
2401-0238AC

Registry: Calgary

Between:

**Great North Equipment Inc and
1185641 BC Ltd**

Appellants

- and -

**Bradley Penney, Neil MacDonald, Dustin Monilaws,
Paloma Pressure Control LLC, Paloma PC Holdings LLC,
Paloma Pressure Control Canada Ltd**

Respondents

- and -

Indeed Oil Field Supply LLC and Indeed Alberta Corp

Non-Parties to the Appeal

The Court:

**The Honourable Justice Jack Watson
The Honourable Justice Kevin Feehan
The Honourable Justice William T. de Wit**

Memorandum of Judgment Regarding Costs

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The Court:

[1] Each party to these appeals has asked this Court by written submissions of January 31, 2025, to settle costs of the appeals, each proposing a different result.

[2] The panel has reflected on the extensive materials filed by the parties, considering also the facts of counsel and the reasons given on the merits of the appeals, reported at 2025 ABCA 16.

[3] The panel has concluded that for the costs of appeal 2401-0220AC, on the interlocutory ruling of Justice Dilts, each party should bear their own costs.

[4] The panel has also concluded that for costs of appeal 2401-0238AC, including preliminary motions in this Court, as to the order of Justice Lema, the matter of costs between the appellants Great North Equipment Inc and 1185641 BC Ltd, and the respondents Paloma Pressure Control LLC, Paloma PC Holdings LLC, and Paloma Pressure Control Canada Ltd, should be in the cause in the Court of King's Bench at the conclusion of this litigation: see r 14.88(3), *Alberta Rules of Court*, AR 124/2010. That Court will have full discretion as to calculation of costs in the usual manner, except that the putative *Calderbank* offers (*Calderbank v Calderbank*, [1975] 3 WLR 586, [1975] 3 All ER 333 (CA)) in these appeals shall not have any effect on the following costs in this Court.

[5] The panel has also concluded that for the respondents Bradley Penney as one party, and for Neil MacDonald and Dustin Monilaws jointly, treated as one party, as to the order of Justice Lema, the election should be left to them to either (a) accept to join the Great North and Paloma parties and seek a 'costs in the cause' determination in the Court of King's Bench in due course, or (b) accept an award of costs in any event in these appeals to a total of \$15,000, all inclusive, for Bradley Penney, and to a total of \$15,000, all inclusive, for both Neil MacDonald and Dustin Monilaws, jointly, payable by Great North Equipment Inc and 1185641 BC Ltd, jointly. For clarity, the total costs owing to these individual respondents, taken together, on option (b) above would be \$30,000.

[6] The respondents Bradley Penney as one party, and Neil MacDonald and Dustin Monilaws jointly, treated as one party, shall have until the end of the business day on February 27, 2025, to inform Great North Equipment Inc and 1185641 BC Ltd, as to their election respecting costs as set out in paragraph 5 above. If either Bradley Penney, or Neil MacDonald and Dustin Monilaws jointly, do not advise counsel for Great North Equipment Inc and 1185641 BC Ltd of their election by that date and time, the option (b) costs described in paragraph 5 above will apply.

[7] The panel does not award any costs on these costs submissions, and, of course, leaves the question of any accumulated costs in the Court of King's Bench up to this point in time to the Court of King's Bench.

Written Submissions filed on January 31, 2025

Memorandum filed at Calgary, Alberta
this 10th day of February, 2025

Watson J.A.

Feehan J.A.

de Wit J.A.

Appearances:

K.R. Noonan
M.C.C.L. Lemmens
D. Price
C. Penn
for the Appellants

M.C. Dransfeld
M.E. Andresen
D.C. McAllister
T. Green
for the Respondents, Bradley Penney, Dustin Monilaws and Neil Macdonald

G.N. Stapon, KC
K.R. Cameron
N. Kaur
for the Respondents, Paloma Pressure Control LLC, Paloma PC Holdings LLC and Paloma Pressure Control Canada Ltd