

# Court of Appeal of Alberta

Appellate Cases Argued by Active McCarthy Tétrault Lawyers

NO.	COURT	CASE	DATE	CITATIONS	LAWYER	ACTED FOR	REGION	TYPE OF APPEAL	FURTHER HISTORY	LEGAL AND INDUSTRY FOCUS
1.	ABCA	<i>Henderson v. Peerani</i>	11/20/24	[2024] A.J. No. 1330, 2024 ABCA 370	Wallace, J.T. Ward, Emily	Respondent	AB	Appeal		Civil litigation – appeal of chambers decision dismissing application to terminate the stay of proceedings shielding the bankrupt respondents from fraudulent misrepresentation claim.
2.	ABCA	<i>Enmax Corp. v. Independent System Operator (c.o.b. Alberta Electric System Operator)</i>	03/13/24	[2024] A.J. No. 269, 2024 ABCA 83	Smyth, K.L. Wallace, J.T.	Respondent	AB	Appeal		Civil litigation – appeal of chambers decision dismissing appellants' originating application that respondent pay the appellants a credit otherwise owing to two partnerships which had since been dissolved.
3.	ABCA	<i>Setoguchi v. Uber B.C.</i>	02/07/23	[2023] A.J. No. 115, 2023 ABCA 45, 477 D.L.R. (4 <sup>th</sup> ) 434, 2023 A.C.W.S. 67, [2023] 3 W.W.R 373, 89 C.C.L.T. (4 <sup>th</sup> ) 1, 52 Alta. L.R. (7 <sup>th</sup> ) 264, 2023 CarswellAlta 309	Peebles, Dana Smyth, K.L.	Respondents	AB	Appeal	Leave to SCC dismissed 2023 CanLII 62020	Civil litigation — Civil procedure — Parties — Class or representative actions — Certification — Appeals — Grounds for review — Standard of review — Appeal by Appellant from certification judge's decision dismissing her motion to certify a class proceeding against Uber on grounds that certification judge erred in his approach to damages and over-stepped his gatekeeping

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										role dismissed.
4.	ABCA	<i>Bacanora Minerals Ltd. v. Orr-Ewing Estate</i>	04/26/23	[2023] A.J. No. 428, 2023 ABCA 139, 480 D.L.R. (4th) 321, [2023] 9 W.W.R. 465, 2023 A.C.W.S. 1672, 2023 CarswellAlta 1033	Smyth, S.S.	Respondent	AB	Appeal		Civil litigation – summary trial – statute-barred under the <i>Limitations Act</i>
5.	ABCA	<i>Wood's Homes Society v. Selock Estate</i>	12/22/21	[2021] A.J. No. 1722, 2021 ABCA 431	Smyth, Sean Bishop, Cassidy	Respondent	AB	Appeal		Estate law – appeal of order removing executor with respect to real property and order granting administration of the Estate with respect to subject lands
6.	ABCA	<i>0678786 B.C. Ltd. v. Bennett Jones LLP</i>	02/17/21	[2021] A.J. No. 218, 2021 ABCA 62	Steep, R. Paul Chesney, Erin	Interested Party	AB	Appeal	Leave to SCC dismissed 2021 CanLII 94827	Civil litigation – Civil procedure – waiver of privilege – documents inadvertently produced
7.	ABCA	<i>Allergan Inc. v. Alberta (Minister of Justice and Solicitor General)</i>	01/29/21	[2021] A.J. No. 128, 2021 ABCA 32	Smyth, Kara Tanner, Steve Goldenberg, Adam	Appellant	AB	Appeal		Administrative law – appeal from order dismissing application for judicial review
8.	ABCA	<i>1777453 Alberta Ltd. v. Got Mold Disaster Recovery Services Inc.</i>	01/15/21	[2021] A.J. No. 40, 2021 ABCA 9	West, Bryan	Respondent	AB	Appeal		Remedy for breach - Franchisor
9.	ABCA	<i>Strategic Acquisition Corp. v. Multus Investment Corp.</i>	08/03/17	[2017] A.J. No. 800, 2017 ABCA 250, 282 A.C.W.S. (3d) 439, 82 R.P.R. (5 <sup>th</sup> ) 198, 2017 CarswellAlta 1356	Smyth, Sean	Appellant	AB	Appeal		Damages – In contract – type of contract – sale of land – assessment of damages – real property law – agreement of purchase and sale

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10.	ABCA	<i>Starratt v. Mamdani</i>	03/20/17	[2017] A.J. No. 259, 2017 ABCA 92, 100 C.P.C. (7 <sup>th</sup> ) 197, 277 A.C.W.S. (3d) 24, 2017 CarswellAlta 436	Smyth, Sean	Appellants	AB	Appeal		Civil litigation – Civil procedure – class or representative actions – Certification – Common interests and issues
11.	ABCA	<i>IBM Canada Ltd. v. Almond</i>	12/07/15	[2015] A.J. No. 1329, 2015 ABCA 379, 2015 CarswellAlta 2229, 162 A.C.W.S. (3d) 881, 26 Alta. L.R. (6 <sup>th</sup> ) 6	Smyth, Sean	Respondent	AB	Appeal		Civil litigation – civil procedure – appeals – moot issues – Appeal by IBM from a decision dismissing its application for an interim injunction against the respondents dismissed
12.	ABCA	<i>Young v. National Money Mart Co.</i>	07/25/13	[2013] A.J. No. 784, 2013 ABCA 264	Smyth, Sean	Appellant	AB	Appeal		Alternative dispute resolution – binding arbitration – voluntary binding arbitration – agreement to arbitrate – validity and enforceability
13.	ABCA	<i>Balm v. Aikins MacAuley &amp; Thorvaldson LLP</i>	03/27/12	[2012] A.J. No. 287, 2012 ABCA 96	Smyth, Kara L	Respondent	AB	Appeal		Civil litigation – limitation of actions – time – when time begins to run – discoverability - summary dismissal of action
14.	ABCA	<i>Desoto Resources Ltd. v. Encana Corp.</i>	04/01/11	[2011] A.J. No. 355, 2011 ABCA 100	Ellam, T.S. Rosenberg, M.	Appellant	AB	Appeal		Bankruptcy and insolvency law — proceedings— civil litigation — summary judgment
15.	ABCA	<i>Leon's Furniture Ltd. v. Alberta (Information and Privacy Commissioner)</i>	03/28/11	[2011] A.J. No. 338, 2011 ABCA 94	Hall, Geoff R. Smyth, Kara	Appellant	AB	Appeal		Administrative law — standard of review — privacy law
16.	ABCA	<i>Canpar Holdings Ltd. et al v. Petrobank Energy</i>	02/22/11	[2001] A.J. No. 777, 2011 ABCA 62, 331 D.L.R. (4th) 588, 199 A.C.W.S. (3d) 1326	Smyth, Sean S.	Appellant	AB	Appeal		Natural resources law — oil and gas — lease or licence for production

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17.	ABCA	<i>783783 Alberta Ltd. v. Canada (Attorney General)</i>	07/14/10	[2010] A.J. No. 783, 2010 ABCA 226, 322 D.L.R. (4th) 56, [2010] 12 W.W.R. 472 482 A.R. 136, 89 C.P.C. (6th) 21 [2010] 6 C.T.C. 194, 2010 CarswellAlta 1379, 29 Alta. L.R. (5th) 37	Yoshida, Douglas T.	Respondent	AB	Appeal		Taxation — federal income tax — deductions from income — corporations — duties and powers of minister and officials
18.	ABCA	<i>Heritage Wind Farm Development Inc. v. Pincher Creek (Municipal District No. 9)</i>	06/08/10	[2010] A.J. No. 633, 2010 ABCA 181	Smyth, Kara L.	Respondent	AB	Appeal		Municipal law — planning and development — planning variances — quashing or dismissal of Pincher Creek subdivision and development appeal board decision
19.	ABCA	<i>Investit Financial Inc. v. Shire International Real Estate Investments Ltd.</i>	11/16/09	[2009] A.J. No. 1237, 2009 ABCA 380 60 C.B.R. (5th) 82, 2009 CarswellAlta 1832	Collins, Sean F.	Monitor	AB	Appeal		Insolvency law — proceedings under the <i>Companies' Creditors Arrangement Act</i> — creditors and debtors — debtor-in-possession (DIP) financing and receivers
20.	ABCA	<i>Aram Systems Ltd. v. NovAtel Inc</i>	07/31/09	[2009] A.J. No. 805, 2009 ABCA 262, [2009] 10 W.W.R. 262, 457 A.R. 341, 76 C.P.R. (4th) 175 179 A.C.W.S. (3d) 1173, 2009 CarswellAlta 1130, 8 Alta. L.R. (5th) 199	Ellam, Timothy St. J. Smyth, Kara L.	Respondent	AB	Appeal	Leave to SCC dismissed, [2009] S.C.C.A. No. 382	Intellectual property and patent law — trade secrets and confidential information — nature of confidential information — unauthorized use
21.	ABCA	<i>550 Capital Corp. v. David S. Cheetham Architect Ltd.</i>	06/12/09	[2009] A.J. No. 622, 2009 ABCA 219, 457 A.R. 83 81 R.P.R. (4th) 1 178 A.C.W.S. (3d) 245,	Smyth, Sean S.	Appellant	AB	Appeal		Commercial tenancies — landlord's remedies — termination of lease (forfeiture) — deemed assignment of tenancy

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				2009 CarswellAlta 837 8 Alta L.R. (5th) 1						
22.	ABCA	<i>BG International Limited v. Canadian Superior Energy Inc.</i>	04/07/09	[2009] A.J. No. 358, 2009 ABCA 127, 457 A.R. 38 53 C.B.R. (5th) 161, 71 C.P.C. (6th) 156, 2009 CarswellAlta 469	Ellam, Timothy St. J.	Intervenor	AB	Appeal		Natural resources law — oil and gas — offshore — court appointed receivers — interim receiver
23.	ABCA	<i>Matco Capital Ltd. v. Interex Oilfield Services Ltd.</i>	12/04/08	[2008] A.J. No. 1416, 2008 ABCA 428, 48 C.B.R. (5th) 213 2008, CarswellAlta 2013	Collins, Sean F.	Respondent	AB	Appeal		Corporations, partnerships and associations law — derivative actions — powers of court and conduct of action — intervenor
24.	ABCA	<i>Kensington Energy Ltd. v. B &amp; G Energy Ltd.</i>	04/24/08	[2008] A.J. No. 440, 2008 ABCA 151, 89 Alta. L.R. (4th) 207, 432 A.R. 141, 167 A.C.W.S. (3d) 682, 2008 CarswellAlta 528	Smyth, Sean S.	Respondent	AB	Appeal		Natural resources law — oil and gas — termination of leases — deemed production
25.	ABCA	<i>Wilde v. Archean Energy Ltd.</i>	12/04/07	[2007] A.J. No. 1335, 2007 ABCA 385 82 Alta. L.R. (4th) 203, 422 A.R. 41 62 C.C.E.L. (3d) 1, 167 A.C.W.S. (3d) 540, 2007 CarswellAlta 1633	Smyth, Sean S.	Appellant	AB	Appeal	Leave to SCC dismissed, [2008] S.C.C.A. No. 53	Employment law — termination of employment — wrongful dismissal — constructive dismissal
26.	ABCA	<i>Aram Systems Ltd. v. Novatel Inc</i>	03/21/07	[2007] A.J. No. 312, 2007 ABCA 100, 74 Alta. L.R. (4th) 37, 404 A.R. 288, 156 A.C.W.S. (3d) 794, 2007 CarswellAlta 358	Ellam, Timothy St. J. Smyth, Kara L.	Respondent	AB	Appeal		Intellectual property law — civil procedure — appeal of summary dismissal on basis of The Limitations Act (Alberta)

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27.	ABCA	<i>Proprietary Industries Inc. v. Workum</i>	07/28/06	[2006] A.J. No. 930, 2006 ABCA 225, 271 D.L.R. (4th) 24, 63 Alta. L.R. (4th) 209, 397 A.R. 243, 30 C.P.C. (6th) 290, 151 A.C.W.S. (3d) 54, 2006 CarswellAlta 974	Smyth, Kara L.	Appellants	AB	Appeal		Creditors and debtors law — seizure or attachment of property — prohibitive injunctions — preservation of property
28.	ABCA	<i>Apotex Inc. v. Alberta (Minister of Health and Wellness)</i>	04/26/06	[2006] A.J. No. 435, 2006 ABCA 133, 58 Alta. L.R. (4th) 1, 384 A.R. 88, 40 Admin. L.R. (4th) 311, 31 C.P.C. (6th) 21, 149 A.C.W.S. (3d) 389, 2006 CarswellAlta 478	Smyth, Kara L.	Respondent	AB	Appeal	Leave to SCC dismissed: [2006] S.C.C.A. No. 250	Health law — examination for discovery — appeal from chambers of judge's decision allowing examination of expert advisory committee member
29.	ABCA	<i>Eagle Resources Ltd. v. MacDonald</i>	08/31/05	[2005] A.J. No. 1079, 2005 ABCA 277, 142 A.C.W.S. (3d) 75	Smyth, Kara L.	Appellant	AB	Appeal	Leave to SCC dismissed: [2005] S.C.C.A. No. 473	Commercial law — share purchase agreement — appeal of assessment of damages awarded for breach of disclosure warranty
30.	ABCA	<i>Bains Engineering Corp. v. 734560 Alberta Ltd.</i>	05/31/05	[2005] A.J. No. 630, 2005 ABCA 187, 46 Alta. L.R. (4th) 218, 367 A.R. 125, 43 C.L.R. (3d) 303, 140 A.C.W.S. (3d) 43, 2005 CarswellAlta 731	Smyth, Sean S.	Appellant	AB	Appeal		Civil procedure — contempt — civil contempt — judgments and order
31.	ABCA	<i>921250 Alberta Ltd. v. 762910 Alberta Inc.</i>	03/29/05	[2004] A.J. No. 1617, 2005 ABCA 127, 10 C.B.R. (5th) 321, 138 A.C.W.S. (3d) 286, 2004 CarswellAlta 1902	Smyth, Sean S.	Respondent	AB	Appeal		Creditors and debtors law — execution — sale of land of judgment debtor

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32.	ABCA	<i>Vrana v. Procor Ltd.</i>	05/15/04	[2004] A.J. No. 439, 2004 ABCA 126, 25 Alta. L.R. (4th) 201, 346 A.R. 389, 35 C.C.E.L. (3d) 68, 130 A.C.W.S. (3d) 306	Smyth, Sean S. Smyth, Kara	Respondent	AB	Appeal		Employment law — wrongful dismissal — constructive dismissal
33.	ABCA	<i>Kent v. May</i>	10/31/02	[2002] A.J. No. 1327, 2002 ABCA 252, 317 A.R. 381	Ellam, Timothy St. J. Yoshida, Douglas T.	Respondent	AB	Appeal		Civil procedure — appeals — duty of appellate court regarding findings of fact by trial judge
34.	ABCA	<i>H.(B.) v. Alberta (Director of Child Welfare)</i>	05/01/02	[2002] A.J. No. 568, 2002 ABCA 109, [2002] 7 W.W.R. 643, 3 Alta. L.R. (4th) 44, 303 A.R. 115, 95 C.R.R. (2d) 362, 28 R.F.L. (5th) 362, 113 A.C.W.S. (3d) 1008	Yoshida, Douglas T.	Respondent	AB	Appeal	Additional reasons, [2003] 3 W.W.R. 267 (ABCA). Application for reconsideration refused, [2003] 4 W.W.R. 52 (ABCA). Leave to SCC refused, SCC July 11, 2002	Health law — informed refusal of medical treatment — <i>Child Welfare Act</i>
35.	ABCA	<i>Eagle Resources Ltd. v. MacDonald</i>	10/26/01	[2001] A.J. No. 1339, 2001 ABCA 264, [2002] 1 W.W.R. 241, 96 Alta. L.R. (3d) 3, 20 B.L.R. (3d) 273, 109 A.C.W.S. (3d) 242, 2001 CarswellAlta 1438	Smyth, Sean S.	Appellant	AB	Appeal	Leave to SCC dismissed: [2001] S.C.C.A. No. 589	Oil and gas law — contracts — share purchase agreement — appeal of breach of disclosure warranty — breach of warranty
36.	ABCA	<i>Hawk Investments International Inc. v. Critical Mass Inc.</i>	06/26/01	[2001] A.J. No. 814 , 2001 ABCA 167	Ellam, Timothy St. J.	Appellant	AB	Appeal		Corporations, partnerships and associations law — summary judgment appeal — introduction of fresh evidence

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37.	ABCA	<i>Blue Range Resources Corp. (Re)</i>	10/24/00	[2000] A.J. No. 1232, 2000 ABCA 285, 193 D.L.R. (4th) 314, [2001] 2 W.W.R. 477, 87 Alta. L.R. (3d) 352, 271 A.R. 138, 100 A.C.W.S. (3d) 956	Collins, Sean F.	Respondent	AB	Appeal	Leave to SCC dismissed: [2000] S.C.C.A. No. 648	Bankruptcy, insolvency and restructuring — proceeding under the <i>Companies' Creditors Arrangement Act</i> — criteria for allowing late claimants to file claims
38.	ABCA	<i>International Datashare Corporation v. QC Data Petroleum Services Ltd.</i>	02/18/00	[2000] A.J. No. 166, 2000 ABCA 55, 261 A.R. 155 95 A.C.W.S. (3d) 152	Ellam, Timothy St. J.	Respondent	AB	Appeal		Civil procedure — <i>Civil Enforcement Act</i> — interlocutory injunctions
39.	ABCA	<i>Zurich Canadian Holdings Ltd. v. Questar Exploration Inc.</i>	03/02/99	[1999] A.J. No. 192, 1999 ABCA 75, 171 D.L.R. (4th) 457, [1999] 10 W.W.R. 273, 70 Alta. L.R. (3d) 211, 232 A.R. 160, 26 R.P.R. (3d) 282, 86 A.C.W.S. (3d) 790	Smyth, Sean S.	Appellant	AB	Appeal		Commercial tenancies — head leases and subleases — landlord's right to terminate — assignment and subletting
40.	ABCA	<i>Westfair Foods Ltd. v. Watt</i>	10/26/98	[1998] A.J. No. 1145, 1998 ABCA 337, 166 D.L.R. (4th) 448 [1999] 4 W.W.R. 659, 67 Alta. L.R. (3d) 148, 223 A.R. 322, 41 B.L.R. (2d) 83, 83 A.C.W.S. (3d) 392	Smyth, Sean S.	Intervenor	AB	Appeal		Company law — actions against corporations and directors — shareholders' rights and compulsory sale of shares — fundamental changes and shareholders' rights
41.	ABCA	<i>Kawai Canada Music Ltd. v. Encore Music Ltd. (c.o.b. Electronic Keyboard Centre)</i>	04/28/93	[1993] A.J. No. 310, 101 D.L.R. (4th) 1, [1993] 6 W.W.R. 173, 10 Alta. L.R. (3d) 105, 5 P.P.S.A.C. (2d) 24, 39 A.C.W.S. (3d) 1215	Ellam, Timothy St. J.	Appellant	AB	Appeal	Application for rehearing at Court of Appeal Dismissed, 103 D.L.R. (4th) 126; Leave to SCC dismissed, [1993] S.C.C.A. No.	Commercial law — banks and banking law — personal property security — assignment of goods as security — <i>Bank Act (Canada)</i>



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42.	ABCA	<i>Allied Signal Inc. v. Dome Petroleum Limited</i>	06/23/92	[1992] A.J. No. 565, [1992] 5 W.W.R. 377, 3 Alta. L.R. (3d) 155, 131 A.R. 134, 34 A.C.W.S. (3d) 226	Ellam, Timothy St. J.	Respondent	AB	Appeal		Mining — assignment of rights — striking out counterclaims and third party notices
43.	ABCA	<i>Caslavsky v. Just</i>	04/13/92	[1992] A.J. No. 366	Ellam, Timothy St. J.	Appellant	AB	Appeal		Civil procedure — registration of foreign judgments — vacating order for delay through substitutional service
ABCA Total Appeals: 43										