Standstill agreement: Alberta decision finds advance in coverage action constitutes advance in main action

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In *Center Street Limited Partnership v. Nuera Platinum Construction Ltd*, 2025 ABCA 290, the Alberta Court of Appeal was asked to consider the impacts of a standstill agreement and coverage action on the "main" action.

Facts

On March 7, 2015, a fire broke out on the roof of a commercial building owned by Center Street Partnership (Center Street).

Construction was underway at the time, with Neura Platinum (Neura) managing the project, and Over & Above Reno and Contracting in charge of roofing and waterproofing. Center Street commenced both an action against the construction companies for negligence and breach of contract (trades action), and a claim against the insurer after a denial of coverage (coverage action).

On April 20, 2017, Center Street and the construction companies agreed in writing that the coverage action would be pursued first, and certain evidence from this action would not be used against the construction companies. Furthermore, it was agreed that if Center Street's losses were covered by insurance, the trade action would be dropped.

On July 14, 2021, Nuera put Center Street on notice that it intended to seek dismissal on the trades action for long delay under rule 4.33(2) of the Alberta Rules of Court, AR 124/2010, as no steps had been taken to advance the matter in over three years. An applications judge determined that although the written agreement was not a "standstill agreement," it did link the two actions such that rule 4.33 (2) did not apply. This finding was appealed.

Analysis

The Alberta Court of Appeal addressed two issues.

First, was the April 20, 2017, written agreement a standstill agreement? The Court of Appeal determined that the written agreement was not a valid standstill agreement and relied on *Flock v. Flock Estate*, 2017 ABCA 67, to determine that there was nothing in the written agreement that clearly indicated an intention to avoid dismissal for delay. The Court of Appeal further cited *Brian W Conway Professional Corporation v. Perera*, 2015 ABCA 404, noting that if parties wish to rely on an agreement that litigation be put on hold, the agreement must state this with clarity and precision.

Second, did the steps taken in the coverage action significantly advance the trades action? The Court of Appeal clarified that the test for such decisions used to ask if there was an "inextricable link" between the actions; however, the Court in *Round Hill Consulting Ltd v. Parkview Consulting*, 2025 ABCA 195 (*Round Hill*) provided new guidance, and required a functional approach to such questions rather than identifying an inextricable link. **The Respondent emphasized that resolving the coverage action would put an end to the trades action and should be a sufficient basis to dismiss the Rule 4.33(2) application. The Court of Appeal agreed with this approach and found that an advancement of the coverage action constituted a significant advance in the trades action**. In coming to this decision, the Court of Appeal focused on the shared expectations of the parties demonstrated by the written agreement.

The Court of Appeal upheld the decision by the Chambers Judge and dismissed the appeal.

Key takeaways

If parties wish to enter into a standstill agreement, they must be clear and precise in the terms of their written agreement: ambiguity in the agreement can result in a finding that there was no intention to avoid dismissal for delay.

Of interest to insurers and insureds, the Court found that a step in a related coverage action may be inextricably linked with the main action; however, such an outcome remains exceptional. Absent clear (and written expectations) that the two actions are linked and one would be dispositive of the other, parties should continue to advance each action on its own merits or secure a clear standstill agreement.

Contact us

If you have questions about this decision or similar insurance-related issues, make sure to reach out to any of the authors or contacts below, or any lawyer from BLG's Insurance Claim Defence Group.

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