

# **In the Court of Appeal of Alberta**

**Citation: Droog v Hamilton, 2025 ABCA 302**

**Date:** 20250908

**Docket:** 2401-0140AC

**Registry:** Calgary

**Between:**

**Thomas Droog, T & E Ventures Inc., and 1554670 Alberta Ltd.**

Appellants

- and -

**Myles Hamilton and 1437183 Alberta Ltd.**

Respondents

**The Court:**

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**The Honourable Justice Michelle Crighton  
The Honourable Justice Anne Kirker  
The Honourable Justice William T. de Wit**

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**Memorandum of Judgment Regarding Costs**

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## Memorandum of Judgment Regarding Costs

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### The Court:

[1] The appeal brought by Thomas Droog, T&E Ventures Inc., and 1554670 Alberta Ltd. was dismissed: *Droog v Hamilton*, 2025 ABCA 228. Rules 14.88(1) and (3) of the *Alberta Rules of Court*, Alta Reg 124/2010, provide that the successful party in an appeal is generally entitled to a costs award against the unsuccessful party and that “[u]nless otherwise ordered, the scale of costs in an appeal shall be the same as the scale that applies to the order or judgment appealed from.” In this case, by agreement of the parties, the scale applied to the order of the chambers judge appealed from was 1.5 x column 4 of Schedule C. This was the same scale of costs applied following the hearing before the applications judge, which was the subject of the first appeal before the chambers judge.

[2] The parties have been unable to agree on costs for the appeal heard by this Court. The respondents ask for a second counsel fee under item 20(b) of Schedule C and seek double costs pursuant to the formal offer rules (4.29 and 14.59), to be calculated on the same scale applied by the chambers judge.

[3] The appellants accept that costs are payable to the respondents but argue that: 1) a second counsel fee is not appropriate because the issues were not complex; and 2) the respondents should not be entitled to double costs because their formal offer was a “nothing offer.” The appellants also resist the multiplier of 1.5 on column 4 of Schedule C on the basis that the appeal to this Court was more straightforward than the application and appeal in the Court of King’s Bench.

[4] Contrary to the appellants’ submission, by the time of the appeal to this Court the matter had a long and convoluted history. The substantive issues may have been straightforward, but the procedural history was not. The Court requested that second counsel walk it through the full sequence of events to ensure it understood all the relevant facts. In these circumstances, the respondents’ request for a second counsel fee is reasonable.

[5] The respondents’ formal offer to settle the appeal contained an “identifiable and sufficient compromise”: *Mostafa Altalibi Professional Corporation v Lorne S Kamelchuk Professional Corporation*, 2022 ABCA 364 at para 12, citing *H2S Solutions Ltd v Tourmaline Oil Corp*, 2020 ABCA 201 at para 21. The respondents offered to forego the costs they would accumulate during the currency of the formal offer. They reasonably timed their offer in the hopes of avoiding those costs, but that timing does not detract from the offer being a genuine offer of compromise: *H2S Solutions* at para 30; *Mostafa* at para 13. There is no principled basis to refuse to grant double costs to the respondents in this case.

[6] We are not persuaded to depart from the scale of costs agreed to by the parties and applied by the chambers judge.

[7] The respondents are entitled to a second counsel fee and double costs for all steps taken after the formal offer. The amounts payable shall be calculated on a scale of 1.5 x column 4 of Schedule C.

Written submissions filed on July 25 and August 5, 2025

Memorandum filed at Calgary, Alberta  
this 8th day of September, 2025

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Authorized to sign for: Crighton J.A.

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Kirker J.A.

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de Wit J.A.

**Appearances:**

J.W. Moroz  
for the Appellants

D.R. McKinnon  
A. Steele  
for the Respondents