

In the Court of Appeal of Alberta

Citation: Xue v Nexen Energy ULC, 2026 ABCA 321

Date: 20261009

Docket: 2601-0065AC

Registry: Calgary

Between:

Xiufeng Xue

Applicant

- and -

**Nexen Energy ULC also known as CNOOC Petroleum North America ULC,
ClearStream Energy also known as FLINT Corp.,
FT Services also known as COSSD and Suncor Energy Inc.**

Respondents

**Reasons for Decision of
The Honourable Justice Jo'Anne Strekaf**

Application to Extend Time to File Notice of Appeal

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[1] The applicant seeks an extension of time to file a notice of appeal of an order of the Court of King's Bench issued on January 13, 2026 (January 2026 Order). The January 2026 Order dismissed the applicant's appeal of an application judge's decision that summarily dismissed the applicant's statement of claim.

[2] On October 11, 2024, the applicant filed a statement of claim in which he alleges he was wrongfully dismissed by Nexen Energy, now known as CNOOC Petroleum North America ULC (CNOOC), on August 5, 2017. The statement of claim also names ClearStream Energy, now known as FLINT Corp (FLINT Corp), FT Services, and Suncor Energy Inc (Suncor) as defendants on similar employment-related claims.

[3] On November 13, 2025, an applications judge dismissed the applicant's claim as limitations barred (Applications Judge's Decision). The applicant filed a notice of appeal on December 9, 2025 with the Court of King's Bench, which was rejected as the appeal period had expired. The applicant sought a fiat to file a notice of appeal notwithstanding the expired appeal period. The Court of King's Bench issued the January 2026 Order dismissing the application.

[4] On March 3, 2026, the applicant filed a notice of appeal of the January 2026 Order. On March 4, 2026, the Case Management Officer notified the applicant that an application to extend time to appeal was required. The applicant filed the application to extend time to appeal on July 2, 2026.

[5] In advance of hearing the application, I directed the parties to address whether the applicant requires permission to appeal pursuant to rule 14.5(1)(b) of the *Alberta Rules of Court*, Alta Reg 124/2010 [Rules].

[6] For the following reasons, the applicant has failed to meet the test for an extension of time. Further, permission to appeal is required under rule 14.5(1)(b) and the applicant has failed to meet the applicable test. The application is therefore dismissed.

Application to Extend Time to Appeal

[7] A single appeal judge may extend time to appeal or seek permission to appeal under the Rules: r 14.37(2)(c). As first set out in *Cairns v Cairns*, [1931] 4 DLR 819 at 826-827, 1931 CanLII 471 (AB SCAD), the relevant factors in determining whether to grant an extension to file an appeal include whether:

- (a) a *bona fide* intention to appeal was held while the right existed and whether there is some special circumstance that would excuse or justify the failure to appeal;

- (b) the applicant provided an explanation for the delay that serves to excuse or justify the delay;
- (c) there is an absence of serious prejudice such that it would not be unjust to disturb the judgment;
- (d) the applicant has taken the benefits of the judgment under appeal; and
- (e) the appeal would have a reasonable chance of success if allowed to proceed.

[8] The same factors apply to an application to extend time to apply for permission to appeal: *Prosser v Woodhouse*, 2025 ABCA 159 at para 11. No single factor is determinative, and the Court retains a general discretion to extend time to appeal where justice requires it: *1199096 Alberta Inc v Imperial Oil Limited*, 2024 ABCA 166 at para 6; *Farm Credit Canada v Wiebe*, 2026 ABCA 235 at para 32.

[9] There is no special circumstance that excuses the applicant's failure to appeal in time. In oral argument, the applicant attributed his filing delays to what he says was incorrect information provided by courthouse staff. However, beyond that assertion, he provides no evidence or explanation for the delay.

[10] The appeal has no reasonable chance of success. As the January 2026 Order noted, the applicant's notice of appeal of the Applications Judge's Decision was filed out of time: *Rules*, r 6.14(2). Moreover, the underlying claim concerns events that allegedly occurred in 2017. The applicant's materials include evidence that he sought legal advice on the issue in 2017. The statement of claim was filed in 2024 outside of the applicable limitations period: *Limitations Act*, RSA 2000, c L-12, s 3(1).

[11] Further, as the respondents point out, this action duplicates a previous one launched by the applicant. On January 20, 2022, the applicant filed a statement of claim alleging wrongful dismissal that named Suncor, CNOOC, and FLINT Corp as defendants. On April 14, 2022, a chambers judge struck the action as limitations barred. The applicant filed a notice of appeal but failed to file an appeal record. As a result, this Court deemed the appeal abandoned on February 2, 2023. The applicant's application for leave to appeal to the Supreme Court of Canada was dismissed: *Xiufeng Xue v Suncor Energy Inc, et al*, 2023 CanLII 100616 (SCC).

[12] The application to extend time to appeal is dismissed.

Permission to Appeal

[13] Although the dismissal of the application to extend time is dispositive, permission to appeal is required and would not have been granted in any event. In the January 2026 Order, the chambers judge refused to extend time to appeal. This was a pre-trial decision respecting a time limit that

requires permission to appeal under rule 14.5(1)(b): *Rules*, r 14.5(1)(b); *Farm Credit Canada v Wiebe* at para 31.

[14] An applicant seeking permission to appeal under rule 14.5(1)(b) must show that:

- (a) there is a serious question of general importance;
- (b) there is a reasonable chance of success on appeal; and
- (c) the delay will not unduly hinder the progress of the action or cause undue prejudice to the parties, without any proportionate benefit: *Kenneth John Braithwaite Professional Corporation v 1006868 Alberta Ltd*, 2021 ABCA 425 at para 8.

[15] Disagreement with an exercise of discretion does not constitute a question of general importance: *Ozark Resources Ltd v TERIC Power Ltd*, 2020 ABCA 51 at para 35.

[16] The applicant has not demonstrated that a serious question of general importance exists. The January 2026 Order involved a discretionary decision on whether an extension to file a notice of appeal should be granted. The applicant has not explained why a serious question exists and argues only that he was misled by courthouse staff on limitations periods. The applicant's challenge of the January 2026 Order, a narrow and discretionary decision, does not rise to the level of a serious question of general importance.

[17] For the same reasons as above, the appeal has no reasonable chance of success.

[18] The application is dismissed.

[19] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order.

Application heard on September 9, 2026

Reasons filed at Calgary, Alberta
this 9th day of October, 2026

Strekaf J.A.

Appearances:

Applicant X. Xue

S. Parker (no appearance)

H. Maxted

for the Respondent Nexen Energy ULC also known as CNOOC Petroleum North America
ULC

T. Wagner

for the Respondent ClearStream Energy Services Inc. also known as FLINT Corp.

A. Kosten

for the Respondent Suncor Energy Inc.