

February 27, 2017

SENT BY FAX

**Honourable Justice D. Blair Nixon**

Court of Queen's Bench of Alberta

24<sup>th</sup> Floor, 601 -5<sup>th</sup> Street SW

Calgary, AB T2P 5P7

Fax: (403) 297-7536

Dear Mr. Justice D. Blair Nixon,

**Re: Ernst v EnCana Corporation et al.**

I am writing in response to Ms. Killoran's letter dated February 23, 2017 regarding case management in the above matter.

First, I should note that the first notice that Plaintiff's counsel received regarding Encana's proposed motion regarding case management was Ms. Killoran's letter of February 23, 2017. Specifically, Ms. Killoran did not contact plaintiff's counsel prior to sending this letter, to ascertain the plaintiff's position on this proposed application.

In any event, my client would prefer that the action not be case managed as it is her view that case management has to date been harmful to her lawsuit. Nonetheless, in the circumstances, the plaintiff will not be opposing the defendants' request. If the court does determine that case management is appropriate, my client respectfully requests that the court appoint a case management judge without input from any of the parties regarding who that judge should be. In the interests of saving the time of the court and all parties, my client also requests that Your Honour's decision regarding case management be made without requiring the appearance of the parties. I would note that Chief Justice Wittmann stated specifically in His Honour's letter of February 1, 2017 (attached) that the procedure to be followed is "in the discretion of Mr. Justice Nixon", and accordingly we suggest neither a case conference nor formal application is required.

As a final point, my client wishes to stress the importance of the location of the lawsuit in the context of any order regarding case management. Ms. Ernst started the lawsuit in the appropriate judicial district of Drumheller/Hanna. This is, we suggest, clearly the district where

the lawsuit belongs according to the *Rules*. The district of Drumheller/Hanna is where all events relevant to the lawsuit occurred, where the harm was alleged to have happened, where the defendants allegedly committed torts, and where Ms. Ernst's home is. As a result, it is Ms. Ernst's strong view that all applications related to the lawsuit must be heard in the district of Drumheller/Hanna regardless of any order made regarding case management.

Sincerely,



Murray Klippenstein

cc: Maureen Killoran, QC, *Oslers*, by fax (403) 260-7024  
Doreen Mueller / Nancy McCurdy, *Alberta Justice*, by fax (403) 662-3824

THE HONOURABLE NEIL C. WITTMANN  
CHIEF JUSTICE



CALGARY COURTS CENTRE  
SUITE 2401 - N  
601 - 5<sup>TH</sup> STREET S.W.  
CALGARY, AB T2P 5P7

COURT OF QUEEN'S BENCH OF ALBERTA

February 1, 2017

Murray Klippenstein / W. Cory Wanless  
160 John Street, Suite 300  
Toronto ON M5V 2E5  
FAX: (416) 598-9520

Dear Counsel:

**Re: Ernst v. EnCana Corporation and Her Majesty the Queen  
Action 0702 00120**

I have your letters with respect to the above captioned matter in response to my letter of January 17<sup>th</sup>, 2017. It appears that not all parties consent to the continuation of case management in this matter. Accordingly, if case management is desired, an application will have to be made before Mr. Justice Blair Nixon. In light of the fact that this matter has been in case management previously, the procedure to be followed for the application will be in the discretion of Mr. Justice Nixon, who is copied with this letter, as well as my previous correspondence to you. Mr. Justice Nixon may be contacted through his assistant, Laura Cho at (403) 297-2184 to arrange for an appearance or further communication as he may direct.

Yours truly,

A handwritten signature in black ink, appearing to read 'Neil C. Wittmann', written over a horizontal line.

Neil C. Wittmann

/cmu

cc: Maureen Killoran, QC/ Olivia Dixon, FAX: (403) 260-7024  
Nancy McCurdy, FAX: (403) 662-3824  
Mr. Justice Blair Nixon  
Laura Cho  
Sheila O'Brien