

CANADA / JUDGMENT

1016847 B.C. Ltd. v. 1145426 B.C. Ltd.

2025 BCSC 2273

COURT

Supreme Court of British Columbia

DECIDED

2 September 2025

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2025 BCSC 2273 1016847 B.C. Ltd. v. 1145426 B.C. Ltd.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

1016847 B.C. Ltd. v. 1145426 B.C. Ltd.,

2025 BCSC 2273

Date: 20250902

Docket: S136365

Registry: Kelowna

Between:

1016847 B.C. Ltd. and Michael Hansen

Plaintiffs

And

1145426 B.C. Ltd. and Troika Developments Inc.

Defendants

Before: The Honourable Justice Hewson

Oral Reasons for Judgment

In Chambers

Counsel for Plaintiffs:

A. Spraggs

E. Bowen

Counsel for Defendants:

M. Swanson

S. Gallagher

Place and Date of Trial/Hearing:

Kelowna, B.C.

September 2, 2025

Place and Date of Judgment:

Kelowna, B.C.

September 2, 2025

- [1] THE COURT: This is a ruling with respect to an application to adjourn a trial.
- [2] The application was brought by the defendants, Troika Developments Inc. and 1145429 B.C. Ltd. The plaintiffs, who are the respondents on this application, are 1016847 B.C. Ltd. and Michael Hansen. The application to adjourn concerns a trial that was scheduled to commence today and continue for the next eight days.
- [3] The application stands on two grounds. The first ground raised by the defendants is that the plaintiffs, in the defendants' view, have not complied with their document disclosure obligations. The defendants submit that the plaintiffs originally claimed relief including compensation for the costs of engaging a certified professional accountant. More recently, in their amended response to notice of civil claim filed on August 8, 2025, the defendants raised the issue of the plaintiffs' state of mind through the addition of issues of waiver, estoppel and acquiescence. In the defendants' view that triggered further disclosure obligations.
- [4] On August 27, 2025, the plaintiffs delivered to the defendants their fourth amended list of documents. That list included documents relating to an accountant Ms. Gidda as well as invoices. Defence counsel requested copies of those documents the same day and they were delivered the following afternoon. The defendants say that the plaintiffs have improperly redacted the documents, leaving disclosure incomplete.
- [5] They further submit that the newly listed documents reveal that the accountant had a greater role and more authority than was previously ascertainable from the record. Among other things Ms. Gidda was described as the quarterback of all communications with professional advisors on this project and was shown to have made notes. There is also a reference to a second accountant, Ms. Eva Jutras. Overall, the defendants say disclosure is incomplete and they are not prepared to proceed to trial without further disclosure and additional examination for discovery.

- [6] The second ground for the defendants' application is their submission that there is insufficient trial time. Defence counsel says that this matter requires 13 days of trial, not the eight days available if trial begins tomorrow morning. He submits that the matter will not conclude within the time set which will result in a lengthy adjournment and scheduling difficulties for the remainder of the trial.
- [7] The plaintiffs are firmly opposed to an adjournment. They say that both parties have disclosed documents at the 11th hour. They characterize this application as a tactic step by the defendants arguing that nothing in the 15 recently disclosed documents raises any new issues. There is no need for further oral discovery.
- [8] The plaintiffs note that the parties have listed and produced over 6,000 documents in the course of the litigation and that disclosure regarding Ms. Gidda has already been extensive. They point out that 1,421 of the documents already produced were emails sent, received or copied to Ms. Gidda including their attachments.
- [9] Given Ms. Gidda's extensive and well-known participation in at least phase two of the project the plaintiffs submit that the defendants should reasonably have been expected to know that she communicated with other advisors, conducted reviews of the project, sent emails to Michael Hansen, and took notes.
- [10] The law with respect to adjournment applications is not in dispute. It is clear that the most important consideration on an application like this is to ensure that there will be a fair trial on the merits of the action and in accordance with the interests of justice.
- [11] Other relevant factors include the expeditious and speedy resolution of matters on their merits, the reasonableness of the request, the grounds or explanation for the adjournment, the timeliness of the request, the potential prejudice to each party, the right to a fair trial, the proper administration of justice, the history of the matter including any deliberate delay or misuse of court process, and the fact of self-representation, although that is not applicable here. I refer to the decisions of *Waibel Estate*, 2022 BCSC 2242 at paragraphs 47, 49, 50 and 51 and to the case of *Navarro v. Doig River First Nation*, 2015 BCSC 2173 at paragraphs 19 and 20.
- [12] Dealing with the second of the two grounds for the adjournment application, first, I am not in a position to speculate about how the court schedule is going to unfold over the next few days. I know that court services will do their best to provide the litigants with the court time and a judge to hear their dispute and that court services will certainly do what they can to have this matter disposed of as soon as possible.
- [13] The analysis of the ground for the application as based on disclosure is more difficult. Considering, first, the grounds for the adjournment application, I find that the nature of the issue which includes whether steps taken in preparation for trial were reasonable and whether the disclosure involved evidence that is really immaterial to the issues at trial is difficult to assess on a short application in the materials that have been provided to me.

- [14] Plaintiffs' counsel says that the defendant already had or should have known that Ms. Gidda would have created emails and notes. The defendants' counsel says that the plaintiff had the obligation to give them that information.
- [15] The plaintiffs' counsel says that the defendants' counsel might have flagged the possibility of further disclosure being necessary after delivering the amended response to the notice of civil claim one month ago. All that is true.
- [16] When I turn next to the issue to the question of potential prejudice it seems to me that if the defendant is forced on to trial there is a potential prejudice to the defendants' rights to a fair trial. If the trial is adjourned the plaintiff will suffer an increased expense in preparing for a second trial but that the prejudice associated with an increased expense in preparing for the second trial is less of a weighty matter than the potential for prejudice to the defendants' fair trial interest.
- [17] I note that the history of the matter includes one prior adjournment. That adjournment was for the benefit of the defendant with the consent of the plaintiff.
- [18] With respect to the history of the matter, I would say that there is no way that I could make any finding on the material before me, that there has been any neglect or misconduct by either counsel.
- [19] So, in conclusion, on this application I am left in this position. It seems to me that the interest of justice required in this case that I pay close attention to the balance of prejudice. If proceeding to trial poses a significant risk to the fair trial interest of the defendant then that factor is going to be given greater weight than the prejudice to the plaintiff.
- [20] I am reminded as well of the words in the authorities that have been provided to me by counsel about the court approaching adjournment applications on a generous basis. Those factors compel me in this case to order that the application be granted and the trial be adjourned. Counsel can contact scheduling in order to secure a new trial date.
- [21] The costs on this application will be in the cause.

"Hewson J."

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