

CANADA / JUDGMENT

Blizzard Uranium Corp. v. Nathanson, Schachter & Thompson LLP

2025 BCSC 310

COURT

Supreme Court of British Columbia

DECIDED

20 January 2025

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2025 BCSC 310 Blizzard Uranium Corp. v. Nathanson, Schachter & Thompson LLP IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Blizzard Uranium Corp. v. Nathanson, Schachter & Thompson LLP, 2025 BCSC 310 Date: 20250120 Docket: S186535 Registry: Vancouver Between: Blizzard Uranium Corp., Eros Resources Corp. and Blizzard Finance Corp. Plaintiffs And Nathanson, Schachter & Thompson LLP and Murray Clemens Defendants

- and - Docket: E082273 Registry: Vancouver Between: A.J.B. Claimant And J.M. Respondent Before: The Honourable Justice Branch Supplemental Ruling re the Use of the Beruschi Family Court Affidavits Counsel for the Plaintiffs: H. Poulus, K.C. J. Ensom T. Latowsky K. Graham N. Hasegawa, Articled Student Counsel for the Defendants: C. Dennis, K.C. E. Aitken M. Ferreira Counsel for A.J.B.: K. Santerre Place and Date of Trial: Vancouver, B.C. January 20, 2025 Place and Date of Judgment: Vancouver, B.C. January 20, 2025

- [1] On November 8th, 2024, I issued a ruling arising from the fact that the defendants sought to cross-examine Mr. Beruschi on affidavits that were part of his earlier family law trial. My reasons are reported at 2024 BCSC 2170.
- [2] The underlying foundation for that application, and my reasons, was the understanding that there was a sealing order in place protecting against the use of the affidavit material. My reasons were designed to allow the use of those affidavits in this proceeding, but under various strictures and controls.
- [3] After the completion of Mr. Beruschi's cross-examination, it came to light when the order flowing from my reasons was sought to be entered that the sealing order that underpinned my judgment had, in fact, been set aside on the first day of the earlier family law trial. This undermined the foundation for my judgment.
- [4] In my view, the only proper way to address this issue is to vacate my order of November 8, 2024. All parties agree that this was appropriate.

- [5] The only point of dissension is whether certain of the terms from my judgment should be reinstated as fresh orders, and whether additional documents should be marked as exhibits for identification so that any subsequent court will have a better understanding of what occurred. Specifically, the plaintiff and Mr. Beruschi proposed that items 2 through 6 from paragraph 35 of my reasons should be reimposed.
- [6] In my view:
- a) Number 2 is unnecessary as Mr. Beruschi already has the protection of Rule 22-8 of the Supreme Court Family Rules.
 - b) I find that reimposing number 3 is appropriate as I do not see any basis for which expanded use of the materials would be appropriate, but I would add the words "subject to further order of the court" at the outset of the term to account for the possibility that something may change in the future.
 - c) I would also reimpose number 4, but would add the word "numbered" before the word "affidavits".
 - d) I would reimpose number 5, as, again, this was the basis upon which the examination occurred, and there has been no submission that the material could be used for the truth.
 - e) I would not reimpose number 6 because it refers to redactions that are no longer appropriate given the vacation of the order.
- [7] The defence also seeks orders that the unredacted affidavits be marked as lettered exhibits. I find that this is appropriate, given that the basis for the redactions to the affidavits has been undercut by the vacation of the order generally.
- [8] The defendant also asks that Mr. Beruschi's affidavit of November 5, 2024, be a lettered exhibit. I agree this is appropriate given that the context of (1) the original hearing, and (2) the reconsideration today, was largely based upon the existence of evidence set out in that affidavit.
- [9] Neither party has yet suggested that further examination or cross-examination may be required as a result of my decision to allow this affidavit to be treated as a lettered exhibit but, at the conclusion of these reasons, I will allow each party time to seek instructions on this point.
- [10] The defendant suggested that a fresh application should have been made by Mr. Beruschi or the plaintiff in order to support the residual relief I have issued in these supplementary reasons. However, in my view, the Court itself is in a position where it must vacate its earlier order given the new information and, in vacating the order, the Court is entitled on its own motion to impose terms that most fairly address the implications of such a decision to vacate. "The Honourable Mr. Justice Branch"

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Prepared on 28 October 2026 · Esheria