

CANADA / JUDGMENT

Fernandez v. The Barrel Public House Ltd.

2020 BCSC 980

COURT

Supreme Court of British Columbia

DECIDED

2 July 2020

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2020 BCSC 980 Fernandez v. The Barrel Public House Ltd. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Fernandez v. The Barrel Public House Ltd., 2020 BCSC 980 Date: 20200702 Docket: M193079 Registry: New Westminster Between: Augusto Ricardo Arbulu Fernandez Plaintiff And: The Barrel Public House Ltd., doing business as The Barrel Public House, and the said The Barrel Public House Ltd., and JRG Cloverdale Ventures Ltd. Defendants And: Alvaro Arbulu Fernandez and JRG Cloverdale Ventures Ltd. Third Parties Before: The Honourable Mr. Justice Riley Reasons for Judgment Counsel for the Applicant JRG Cloverdale Ventures Ltd.: M. Jhaj Application Respondent Augusto Ricardo Arbulu Fernandez (Plaintiff): No Submission Application Respondent The Barrel Public House Ltd. (Defendant): No Submission Application Respondent Alvaro Arbulu Fernandez (Third Party): No Submission Written Submissions Received: June 23, 2020 Place and Date of Judgment: New Westminster, B.C. July 2, 2020

- [1] This is an application by the defendant JRG Cloverdale Ventures Ltd. ("JRG") for leave to file third party notices against The Barrel Public House Ltd. (full name omitted here, hereinafter "The Barrel") and Mr. Alvaro Arbulu Fernandez, and to amend the style of cause accordingly. [1] Two of the three application respondents take no position, and the third, Mr. Alvaro Arbulu Fernandez, has not communicated his position after being duly served with the materials.
- [2] By way of background, the proceedings in this case arise out of a single vehicle collision in Surrey, British Columbia, on 2 August 2015. The plaintiff was a passenger in the car, allegedly driven by a relative, Mr. Alvaro Arbulu Fernandez. The Barrel and JRG are operators of two separate pubs, both of which are alleged by the plaintiff to have negligently served alcohol to the driver in the hours preceding the collision. In this context, The Barrel previously filed third party claims against the driver Mr. Alvaro Arbulu Fernandez and JRG, alleging contributory negligence. The applicant JRG now seeks leave to pursue comparable third party claims against Mr. Alvaro Arbulu Fernandez and The Barrel.

- [3] Because more than 42 days have passed since service of the notice of claim, JRG requires leave of the court under Rule 3-5(4)(a) to file its third party notices. In deciding whether leave should be granted, I take into account the overall purpose of the third party notice process as described in *McNaughton v. Baker* (1988), 25 B.C.L.R. (2d) 17 (C.A.) at para. 14, and the factors relevant to determining whether it is "just and convenient" to grant leave as set out in *Clayton Systems 2001 Ltd. v. Quizno's Canada Corp.*, 2003 BCSC 1573 at para. 9.
- [4] On the basis of the pleadings, the procedural history and facts in the supporting affidavit, and the unopposed written submission of the applicant, I am satisfied that it is just and convenient to grant the application. There was some unexplained delay in pursuing the third party notices, but that concern is overcome by the weight of the other relevant factors, all of which point in the applicant's favour.
- [5] I hereby grant leave for JRG to file third party notices against The Barrel and Mr. Alvaro Arbulo Fernandez. The style of cause shall be amended accordingly.
- [6] Given the position taken by the opposing parties, counsel for JRG agreed in correspondence placed before the court that no costs would be sought. That position is entirely appropriate. There will therefore be no order as to costs. "Riley J."
- [1] The application is brought by written submissions pursuant to a Practice Directive entitled COVID-19: Expansion of Civil and Family Matters - Applications by Written Submission dated 27 April 2020 (COVID-19 Notice #14).

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/20/09/2020BCSC0980.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/fernandez-v-the-barrel-public-house-ltd-2020>

Prepared on 28 October 2026 · Esheria