

CANADA / JUDGMENT

Nouhi v. Pourtaghi

2025 BCSC 2652

COURT

Supreme Court of British Columbia

DECIDED

16 December 2025

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2025 BCSC 2652 Nouhi v. Pourtaghi

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Nouhi v. Pourtaghi,

2025 BCSC 2652

Date: 20251216

Docket: S-184410

Registry: Vancouver

Between:

Massimo Aki Nouhi

Plaintiff/

Defendant by Counterclaim

And

Nahid Pourtaghi and Naki Enterprises Inc.

Defendants/

Plaintiffs by Counterclaim

Before: The Honourable Madam Justice Tucker

Oral Reasons for Judgment

re adjournment application

In Chambers

Counsel for the Plaintiff:

C. Dennis, KC

G. Rincon

The Defendant, appearing on her own behalf and on behalf of Naki Enterprises Inc.:

N. Pourtaghi

Place and Date of Trial/Hearing:

Vancouver, B.C.

November 25 and 27, 2025

Place and Date of Judgment:

Vancouver, B.C.

December 16, 2025

- [1] THE COURT: These are oral reasons on Mr. Nouhi's application to adjourn. There is a long history to this litigation and, perhaps unsurprisingly in light of that, even a considerable history to this attempt to conduct an examination in aid of execution.
- [2] There is a judgment amount owing to the defendants under their successful counterclaim in the litigation.
- [3] On August 21, 2025, the defendants set an examination in aid of execution to be conducted on September 22, 2025. Mr. Nouhi's counsel responded that Mr. Nouhi was unavailable on September 22nd, but the examination was not adjourned by agreement.
- [4] Mr. Nouhi applied to adjourn the September 22nd examination. On September 19, 2025, Justice Tindale granted the adjournment, ordering the examination to be rescheduled within a period of 30 days. No issues relating to Mr. Nouhi's health were raised before Tindale J. Mr. Nouhi's counsel says that Mr. Nouhi's recent hospitalization only occurred after that hearing.
- [5] On October 1, 2025, the defendants reset the examination for October 20, 2025. This was apparently done without canvassing Mr. Nouhi's counsel about dates.
- [6] On Monday, October 13, 2025, Mr. Nouhi's counsel provided Dr. Pourtaghi (who is now representing both herself and the corporate defendant) with a letter from Mr. Nouhi's family physician in Switzerland, Dr. Balmelli, ("Balmelli Letter"). The Balmelli Letter explained that Mr. Nouhi had "recently" been hospitalized. Mr. Nouhi's counsel sought to adjourn the October 20th examination based on Mr. Nouhi's medical condition. The defendants did not consent to the adjournment sought.

- [7] Mr. Nouhi applied to adjourn the October 20th examination. On October 16, 2025, Justice Ramsay made an order adjourning the October 20th examination to be reset at a date on or before November 28, 2025. Justice Ramsay's order made the reset examination date peremptory on Mr. Nouhi, subject to his bringing an adjournment application supported by further and better medical evidence regarding his claimed health condition. It is apparent from both parties' submissions that the Balmelli Letter was the only medical "evidence" before Ramsay J. (presumably as an attachment to an office affidavit).
- [8] The defendants reset the examination for November 19, 2025.
- [9] Mr. Nouhi applied on November 18, 2025, for an order adjourning the November 19th examination and prohibiting it from being reset for a number of months. The application came before Justice Walker on November 18, 2025. Justice Walker did not hear the adjournment application on the merits, but rather made an interim order adjourning the November 19th examination to November 28th, and resetting the adjournment application to be heard on November 28, 2025.
- [10] On November 24, 2025, the defendants filed their response to application in response to Mr. Nouhi's November 18, 2025, notice of application.
- [11] By this means, Mr. Nouhi's application filed on November 18, 2025, came on for hearing before me in general chambers on November 25, 2025. There was insufficient time available on November 25th to complete the hearing. At the end of the day, I made an order adjourning the November 28th examination, but setting the hearing to continue before me on November 27, 2025. I specifically asked the parties to make further submissions as to what additional orders might be made, given the state of the medical evidence and given Mr. Nouhi's proposal that, as a term of adjournment of the examination, the defendants be permitted to submit written questions for Mr. Nouhi's response.
- [12] I pause to note that at the continuation on November 27, 2025, the defendants adopted the position that I had neither the jurisdiction to adjourn the November 28th examination (which I had already done) nor to hear Mr. Nouhi's November 18, 2025, notice of application on the basis that the November 18th application, on its face, sought to adjourn the November 18, 2025 examination, which date had already come and gone. I dismissed that objection. The clear intent of Walker J.'s orders of November 18, 2025, was to adjourn the November 18th notice of application for hearing on November 25, 2025, at which time it would be heard as an inquiry into whether the substitute date set by Walker J. (i.e., November 28th) should be adjourned and, if so, under what terms and for what period of time.
- [13] The orders made by Walker J. essentially pushed the live issue back a week in time and gave the defendants an opportunity to file a response to the application. Justice Walker also imposed a deadline by which Mr. Nouhi was to provide any affidavit evidence in support of his medical claims.

- [14] Thus, turning back to the November 18 notice of application, as the matter came on before me, Mr. Nouhi was effectively seeking the following:
- a) to adjourn the examination generally, under the condition that it not be reset prior to May 2026, on the basis of Mr. Nouhi's alleged health issues;
 - b) an order that the examination be reset by mutual agreement of the parties; and
 - c) for the parties to bear their own costs.
- [15] As alluded to above, counsel for Mr. Nouhi also proposed that the adjournment might be granted on the condition that the defendants could make inquiries in writing in furtherance of their examination of aid, with Mr. Nouhi being required to provide written responses. The gist of this proposal, as I understood it, was to create terms that would allow the defendants to begin their examination in aid in written form during the period of adjournment sought.
- [16] Regarding the medical basis for adjournment sought under the November 18 notice of application, Dr. Pourtaghi says that the medical evidence before me is no improvement on that before Ramsay J. I disagree. The materials before me are an improvement over the Balmelli Letter, in terms of evidence, in two significant respects.
- [17] First, Dr. Balmelli (who is, like Mr. Nouhi himself, located in Switzerland), has sworn an affidavit ("Balmelli Affidavit"). Dr. Pourtaghi notes that the Balmelli Affidavit is not filed as such in this proceeding. She is quite correct. The Balmelli Affidavit is presently before me only as an attachment to an office affidavit. Counsel for Mr. Nouhi advises me that this was done only because the original had not yet arrived from Switzerland, and the delivery deadline set by Walker J. would expire before it did.
- [18] Second, Dr. Pourtaghi says the Balmelli Affidavit provides little, if any, additional information than the Balmelli Letter did. She notes that the affidavit provides no details as to when and why of what it refers to as Mr. Nouhi's "recent hospitalization", and attaches no supporting documents. She submits that more is required, especially given that there is already more than one decision of this court commenting on Mr. Nouhi's determination to avoid paying the judgment.
- [19] Notwithstanding Dr. Pourtaghi's submission, I consider the Balmelli Affidavit an evidentiary improvement over the Balmelli Letter. Dr. Balmelli has now given his opinion under oath. It is a sworn affidavit, and it was sworn specifically for this proceeding and for this application. While the original copy is yet to be filed, a sworn affidavit is itself a significant improvement. Further, the Balmelli Affidavit does provide some more detailed medical information and, in particular, identifies a connection between stress and hypertension as it relates to Mr. Nouhi's current condition and his participation in the examination process.

- [20] That said, I agree with Dr. Pourtaghi that the medical evidence remains insufficient for the type of adjournment relief sought here. I frankly share Dr. Pourtaghi's skepticism that answering factual questions about the location and nature of his assets and properties by videoconference will create any serious or undue peril to Mr. Nouhi's health. Although now under oath, what has been provided thus far is a relatively general and vague statement from Mr. Nouhi's family doctor, with no specifics and no supporting documentation.
- [21] If Mr. Nouhi does, in fact, have a compelling medical basis for an adjournment, he should be prepared to provide the court with meaningful medical information in support of that. The defendants have a right to proceed with an examination in aid of execution, absent satisfactory evidence that there is a real and credible risk of some sort.
- [22] On the evidence that is presently before the court, I am prepared to grant a brief adjournment. The adjournment is provided on the following terms:
- a) The adjourned examination is not to be reset for a date prior to January 31, 2026.
 - b) Before the examination is reset, the defendants will provide counsel for Mr. Nouhi with four alternative proposed dates to select from.
 - c) The defendants will be entitled to begin the examination in aid of execution process with respect to funds and property in Canada and/or the United States in written form as follows:
 - i. The defendants may elect to deliver written requests (the "Requests") to Mr. Nouhi in aid of execution.
 - ii. The defendants may deliver their Requests to Mr. Nouhi by delivering the same to Mr. Nouhi's legal counsel (i.e., Mr. Dennis' office), and may deliver them to Mr. Dennis' office by email.
 - iii. The Requests shall consist of:
 - (1) questions on the issues relating to matters referred to in R. 13-4(2) of the Supreme Court Civil Rules; and
 - (2) requests for documents relating to matters referred to in R. 13-4(2) of the Supreme Court Civil Rules.
 - iv. Mr. Nouhi shall deliver responses ("Responses") to the Requests no less than 40 days following delivery of the Requests.
 - v. The Responses provided by Mr. Nouhi:
 - (1) must be provided in an affidavit;

- (2) must be responsive and forthcoming by reference to the goals and objectives of an examination in aid of execution. For example, they should not provide minimal information but rather provide meaningful information, such as identifying a bank account via the bank account number, providing the branch and branch location, and attaching a bank statement printout displaying current balances;
 - (3) any documents requested under the Requests shall be provided in a list of documents and be subject to the implied undertaking;
 - (4) should Mr. Nouhi object that any questions contained in the Requests are outside the scope of R. 13-4(2), those specific questions may be identified as unanswered, subject to objection, and the objections may be made the subject of a notice of application under R. 8-1 of the Supreme Court Civil Rules.
- d) The Request and Response provisions of this order are in addition to, and without prejudice to, the defendants' rights to examine Mr. Nouhi in aid of execution.
- [23] Finally, should Mr. Nouhi seek an adjournment of examination beyond January 31, 2026, his application for adjournment must be supported by, in affidavit form, a detailed medical opinion. Any opinion provided must indicate that the maker is aware that an examination in aid of execution is restricted to questions relating to assets and property and can be conducted by videoconference, and the opinion must identify arrangements that would mitigate any adverse impact identified in the opinion (e.g., the maximum amount of time for one sitting).
- [24] I will be seized of any matters or applications relating to the implementation of this order and/or the enforcement of the terms of this order.
- [25] I am making an order for the transcript of these reasons to be produced. Mr. Dennis, I am asking that the order be drafted and signed off as soon as possible. And finally --
- [26] CNSL C. DENNIS: Yes, Justice, we will do that. Will we dispense with Dr. Pourtaghi's signature on the form? I'm in your hands.
- [27] THE COURT: I think you can send it to Dr. Pourtaghi for comment. If she has no response or fails to respond, then you may just send it in, but --
- [28] CNSL C. DENNIS: Thank you, we will do that, and that has worked before. I may suggest that we will wait for the transcript probably, so that we can get all the terms accurate, if that is okay, just as to timing.
- [29] THE COURT: All right. Well, then we will order that the transcript be produced on a -- I cannot remember what the term is, but the most expedited of the bases that are available.

[30] And finally, I want to note that in making the order above, I am aware that Canada and the United States is a broad area, but Mr. Nouhi should keep in mind that any evaluation of whether a less than complete response is or is not contemptuous of the court will be done with an eye to Mr. Nouhi's significant resources, as demonstrated by the litigation record and as was conceded in the course of this application.

"Tucker J."

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