

CANADA / JUDGMENT

Sirois v. Richer

2025 BCSC 2577

COURT

Supreme Court of British Columbia

DECIDED

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2025 BCSC 2577 Sirois v. Richer

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Sirois v. Richer,

2025 BCSC 2577

Date: 20251212

Docket: S258271

Registry: Vancouver

Between:

Sebastien Sirois and Mayuree Sirois

Plaintiffs

And

Kevin Richer and Genevieve Lecompte

Defendants

Before: The Honourable Mr. Justice Brongers

Oral Reasons for Judgment

In Chambers

The Plaintiff, appearing in person:

S. Sirois

Counsel for the Defendants:

S. Wu

Place and Date of Hearing:

Vancouver, B.C.

December 11, 2025

Place and Date of Judgment:

Vancouver, B.C.

December 12, 2025

Introduction

- [1] This is an application brought by Mr. Sebastien Sirois and Ms. Mayuree Sirois. They are spouses. They reside in Vancouver, British Columbia. They do not have counsel. Mr. Sirois represents himself and he is not a lawyer. Ms. Sirois did not appear at the hearing, but Mr. Sirois says that he acts on her behalf as well.
- [2] The respondents are Mr. Kevin Richer and Ms. Genevieve Lecompte. They are spouses. They reside in Saint-Donat, Quebec. They are represented by counsel. I will refer to them collectively as "the Defendants" going forward.
- [3] The apparent link between the Sirois and the Defendants is that Mr. Richer is an unpaid creditor of Mr. Sirois. There is evidence that Mr. Richer obtained a sizeable judgment against Mr. Sirois in Quebec, after which Mr. Sirois assigned himself into bankruptcy under the Bankruptcy and Insolvency Act. Mr. Sirois and Mr. Richer also appear to be entangled in various other litigation matters, both here in Canada and overseas in France.
- [4] The underlying proceeding that gave rise to the present application in this court is a tort action that was recently commenced by the Sirois. They are claiming that the Defendants have committed the statutory tort of violation of privacy as set out in the British Columbia Privacy Act, RSBC 1996, c. 373. The Sirois also claim that the Defendants have committed the torts of intimidation, abuse of process, civil conspiracy, and intentional infliction of mental suffering. The Sirois seek declaratory relief, damages, and injunctive relief.
- [5] In the specific notice of application that is before me, the Sirois seek an "interim preservation order" against the Defendants in respect of certain documentation described as "the confidential Thailand immigration records of Sebastien Sirois." It is an interim order because Mr. Sirois is only asking for it to be in effect until he can present a full interlocutory injunction application in respect of this documentation and other information. That injunction application has yet to be scheduled, but it is anticipated that the parties will set it down for a full day hearing in the new year.

- [6] Mr. Sirois says that his interim preservation application is urgent because he believes that his Thailand immigration records are going to be used against him in a legal proceeding that is scheduled to take place today, December 12, 2025, before the Tribunal judiciaire de Fort-de-France, which is a French court located in Martinique, an overseas department of the Republic of France that is in the Caribbean. The Sirois' primary objective in bringing the interim application is to prevent this from happening.
- [7] The Sirois' application was presented before me in chambers as a referral yesterday afternoon on December 11, 2025. At the conclusion of the parties' oral submissions, there was not enough time for me to properly prepare and deliver an oral judgment before the end of the hearing day. Accordingly, I reserved judgment until this morning at 9:00 a.m.
- [8] Mr. Sirois indicated that this may be too late given the time difference between British Columbia and Martinique, and the likelihood that the proceeding before the French court will already have started by now. While this is unfortunate, it ultimately is of no import given how I intend to decide this matter.
- [9] Having carefully reviewed the application record and considered the parties' submissions, I am not persuaded that the Court should issue the interim relief the Sirois are seeking in any event. My detailed reasons for reaching this conclusion are as follows.

Procedural Background

- [10] The Sirois' claim against the Defendants was filed on November 3, 2025, at the same time as their application for an interlocutory injunction. On November 24, 2025, Justice Basran ordered that the injunction application be set down for a one-day hearing on a date mutually agreed upon by the parties. They have yet to do so, but, as I have noted, the parties expect to be able to find such a mutually agreeable date in early 2026.
- [11] The present interim application was filed on November 27, 2025. As the Sirois' notice of application describes the relief they are seeking as an "interim preservation order", I was initially under the impression that this was an application brought pursuant to Rule 10-1 of the Supreme Court Civil Rules. However, it became apparent at the hearing that the Sirois are, in fact, seeking an interim injunction pursuant to Rule 10-4.
- [12] The specific wording of the relief sought by the Sirois is set out in their draft order as follows:
- (1) **Definition.** In this Order "Thai Immigration Records" means the confidential Thailand immigration records of Sebastien Sirois (as exhibited in Affidavit #1, Tab 4, Exhibit "C" of S. Sirois), together with any translations (certified or uncertified), excerpts, summaries, screenshots, photographs of, or other derivative copies of those records, in any format.

- (2) Interim preservation/restraining order (in personam). Until the determination of the Plaintiffs' main interlocutory injunction application at a one-day hearing, or further order of this Court, the Defendants, and each of their agents, counsel, or anyone acting on their instruction or behalf, are restrained from using, relying on, filing, re-filing, disseminating, or referring to the Thai Immigration Records in any proceeding, including the hearing scheduled for December 12, 2025 in the Tribunal judiciaire de Fort-de-France (Martinique).
- (3) For clarity (comity). This order is directed in personam to the Defendants and those acting on their instructions, and does not purport to bind any foreign court, tribunal, registry, or public authority.
- [13] The Defendants have not filed a response to civil claim. Instead, on November 28, 2025, the Defendants filed a jurisdictional response indicating that they are: (1) disputing this court's jurisdiction over the Defendants; and (2) submitting that the Court ought not to exercise its jurisdiction over them. Furthermore, on December 2, 2025, the Defendants filed an application response opposing the Sirois' present application for interim relief.
- [14] Finally, it should be noted that Mr. Sirois attempted to present this application in general chambers on December 5 and 8, 2025, but, for various reasons, it could not be heard until yesterday, December 11, 2025.
- [15] When the parties appeared on December 8, 2025, the chambers judge raised the question of whether the Sirois' application can proceed given that Mr. Sirois is an undischarged bankrupt. At the hearing before me, a letter from Mr. Sirois' trustee in bankruptcy was presented which indicates that it has no concerns in this regard. I am of the same view. It is my understanding that an undischarged bankrupt is not precluded by the Bankruptcy and Insolvency Act, or otherwise, from pursuing a personal tort action in their own right: *Wallace v. United Grain Growers Ltd.*, [1997] 3 S.C.R. 701, at para. 38.

The Parties' Positions

The Sirois' Position on the Interim Injunction Application

- [16] The Sirois' position is that the Court has the jurisdiction to issue an interim injunction against the Defendants in accordance with the Supreme Court of Canada's decision in *Google Inc. v. Equustek Solutions Inc.*, 2017 SCC 34. Furthermore, the Sirois say that they meet the three-part test for an interlocutory injunction set out in *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311 [RJR-MacDonald].
- [17] In particular, they argue that there is a serious issue to be tried in that the Defendants have willfully and without claim or right violated the Sirois' privacy by acquiring and using highly sensitive personal information, including the Thai Immigration Records, and by engaging in a broader campaign of harassment and surveillance, and by abusing the bankruptcy process for improper collateral purposes.

- [18] The Sirois also say that they have established irreparable harm since if the Thai Immigration Records are used, filed, or relied upon in the hearing before the French court on December 12, 2025, their loss of privacy, dignity, and control over that information cannot be undone or repaired through a damages award or otherwise. In addition, it is alleged that the Defendants' conduct and threatened use of these materials negatively impacts the Sirois' mental and physical health.
- [19] Furthermore, the Sirois argue that the balance of convenience favours them since denying the Defendants the ability to use the Thai Immigration Records will not impede the Defendants from pursuing their legal claims in France, in the bankruptcy proceeding, or in this action. As such, the Defendants will only lose the ability to lead one category of evidence, while the Sirois face irreparable harm to their privacy and dignity.

The Defendants' Position on the Interim Injunction Application

- [20] The Defendants' primary position is that the Sirois' application should be dismissed as this court does not have in personam jurisdiction over the Defendants. This is because the Defendants reside in Quebec, have no real and substantial connection to British Columbia, and because the alleged torts did not occur here in this province.
- [21] The Defendants' secondary position is that the Sirois have not met the RJR-MacDonald test for an interlocutory injunction in any event. The Defendants say that since what is being sought amounts to a mandatory injunction, the Sirois have to show a strong prima facie case, which they have not done. In addition, the Defendants submit that the Sirois have not established irreparable harm either.

Analysis

Jurisdiction

- [22] As I indicated to the parties at the hearing, I am not prepared to decide this interim application on the basis of jurisdiction. It is by no means clear that the Court lacks in personam jurisdiction over the Defendants on the facts as pleaded in the notice of civil claim, or by reference to the evidence contained in the affidavits filed by the parties on this application. I will therefore assume, without deciding the matter conclusively, that the Court has the requisite jurisdiction to grant the relief sought by the Sirois against the Defendants if they satisfy the applicable legal test on the evidence filed. This, of course, is without prejudice to the Defendants' right to contest the Court's jurisdiction over this proceeding in the future.

The Applicable Test for an Interlocutory Injunction

- [23] The general test that must be satisfied by an applicant to obtain an interlocutory injunction is well established. Originally formulated by the House of Lords in *American Cyanamid Co. v. Ethicon Ltd.*, 1975 AC 396 (HL), it was first approved and adopted by the Supreme Court of Canada in *Manitoba (A.G.) v. Metropolitan Stores Ltd.*, [1987] 1 SCR 110, and later in *RJR-MacDonald*. Briefly put, an applicant must demonstrate: (1) that there is a serious issue to be tried; (2) that the applicant is likely to suffer irreparable harm; and (3) that the balance of convenience favours the applicant. I will reference this as the "RJR-MacDonald Test."
- [24] That said, in *R. v. Canadian Broadcasting Corp.*, 2018 1 SCR 196 [CBC], the Supreme Court of Canada prescribed that a modification to the RJR- MacDonald Test is to be employed in cases where the interlocutory injunction being sought is a "mandatory" injunction as opposed to a "prohibitive" injunction. The modification is to the first part of the RJR-MacDonald Test. Instead of simply having to demonstrate that the underlying proceeding raises a "serious issue to be tried" - a relatively low standard - an applicant who seeks a mandatory injunction must demonstrate a strong *prima facie* case that it will succeed at trial. This is a higher burden in that the applicant must show a strong likelihood of success based on the law and evidence presented. However, in CBC, the Supreme Court of Canada also noted that the second and third parts of the RJR-MacDonald Test remain the same.

Nature of the Interlocutory Injunction being Sought

- [25] I agree with the Defendants that the Sirois are seeking a mandatory injunction. While the proposed wording of the injunction order may appear at first blush to direct the Defendants to simply refrain from using the Thai Immigration Records in legal proceedings, chambers judges must look past the form and the language of the application, and identify the substance of what is being sought and what the practical consequences of the injunction are going to be: CBC, at para. 16.
- [26] In the case at bar, the affidavit of Mr. Richer states that the Thai Immigration Records were already filed with the French court and are already before the French judge. As such, if this court were to grant the proposed injunction, the Defendants would have to take positive steps to withdraw this evidence from the French court in order to comply with this court's order. The injunction being sought is therefore mandatory in nature.
- [27] Accordingly, the Sirois will have to demonstrate a strong *prima facie* case that their claim will succeed at trial in order to obtain the injunction they seek.

The First Element: Existence of a Strong Prima Facie Case

- [28] On my review of the evidence, the Sirois have not made out a strong *prima facie* case that their claim against the Defendants will succeed. This is especially so with respect to the Sirois' allegation that the Defendants committed various torts by accessing and using Mr. Sirois' Thai Immigration Records. Given that the interim injunction is being sought only in

respect of the Thai Immigration Records, it is up to the Sirois to demonstrate, with evidence, that there is a strong prima facie case that the Court will eventually allow this aspect of their claim.

[29] There are three affidavits in the application record that set out some facts that arguably relate to whether the Defendants have committed a tort in relation to Mr. Sirois' Thai Immigration Records.

[30] The first is Mr. Sirois' affidavit made November 3, 2025. It states the following:

15. On or around September 11, 2025, Richer filed my confidential Thailand immigration records in the French proceedings.
16. Attached and marked as Exhibit "C" to this affidavit is a true copy and official translation of these "immigration reports".
17. I did not authorize Richer or any third party to access or use these records.

[31] The second is Mr. Richer's affidavit made December 2, 2025. It states the following:

32. The Immigration Records were properly obtained and already filed with the French court in the Criminal Complaints and are before the French judge.
33. I did not obtain the Immigration Records.
34. I do not have control over the Immigration Records.

[32] The third is Ms. Lecompte's affidavit made December 2, 2025. It states the following:

13. I am not a party in the Criminal Complaints.
14. I did not obtain the Immigration Records.
15. I do not have control over the Immigration Records.

[33] In my view, this evidence falls far short of establishing a strong prima facie case that either of the Defendants wrongly violated the privacy of Mr. Sirois. I say this for several reasons.

[34] First, while there is no dispute that the Thai Immigration Records were filed with the French court, there is no evidence before this court to establish that these government documents are, in fact or in law, confidential or private such that their use in foreign litigation without Mr. Sirois' consent amounts to a violation of Mr. Sirois' right to privacy. In particular, these are documents that appear to belong to the Government of Thailand. In order to accept Mr. Sirois' apparent argument that he has a privacy interest in these documents, it would seem that the Court would at a minimum require expert evidence about how Thai law treats information collected by Thai authorities. Otherwise, it is unclear on what basis a Canadian who voluntarily provides information to a foreign government can have a reasonable expectation of privacy in relation to that information. There is a similar lack of expert evidence with respect to the extent to which allegedly private and confidential information

can be lawfully used before the courts in France.

- [35] Second, the translated "immigration reports" attached as Exhibit "C" to Mr. Sirois' affidavit do not contain any information that could reasonably be considered to be confidential or private. There are no names, no dates or places of birth, no addresses, no identification numbers, nor any other clearly personal information of any sort. In fact, almost all of the information set out in the exhibit is simply translated as "unreadable."
- [36] Third, the Defendants have sworn affidavits in which they deny having obtained the Thai Immigration Records themselves. In the face of this denial, Mr. Sirois' bald statement that Mr. Richer filed certain documents with the French court without Mr. Sirois' permission does not demonstrate a strong *prima facie* case that the Defendants' behaviour was tortious either.
- [37] Finally, Mr. Sirois did not explain to the Court how any of his tort claims are well founded in law. In particular, he did not identify the elements of any of his alleged causes of action, the material facts pleaded that would establish these elements, or any evidence that could demonstrate these material facts. As the Sirois bear the burden to persuade the Court to grant them the relief they are seeking, it was incumbent upon them to do so. However, at the hearing before me, the Sirois did not show that their claim has a strong likelihood of success based on the law and evidence set out in the application record.
- [38] In sum, I find that the first part of the modified RJR-MacDonald Test is not met.

The Second Element: Irreparable Harm

- [39] As the RJR-MacDonald Test is conjunctive, it is not strictly necessary for me to consider the other two elements after having found that the first element has not been established. I will nevertheless do so for the sake of completeness.
- [40] With respect to the second element, I do not find that the Sirois have shown that they would suffer irreparable harm should the Thai Immigration Records be used in the French court.
- [41] In Mr. Sirois' first affidavit made November 3, 2025, his only evidence presented under the rubric "Irreparable Harm" is the following:
48. As a direct result of the Defendants' ongoing campaign of harassment, intimidation, and privacy violations, I have suffered severe stress.
 49. Attached and marked as Exhibit "M" to this affidavit is a true copy of a medical note from my physician, Dr. Gordon Yip, dated February 12, 2025.
 50. Based on the professional opinion contained in that note, which I verily believe to be true, Dr. Yip confirms I reported several episodes of syncope (fainting) and determines that these "fainting episodes may be associated with high stress that Sebastien experiences".

- [42] In Mr. Sirois' second affidavit made November 27, 2025, the only evidence he provides that arguably addresses irreparable harm is the following:
10. If the 1-day hearing in this Court cannot be held until February 2026, the Defendants will have already used and published this private information on December 12, 2025. I verily believe that once these documents are used in open court in France, my privacy rights in them will be permanently lost and the harm cannot be undone by a later order of this Court.
- [43] In Ms. Sirois' first affidavit made November 3, 2025, her only evidence presented under the rubric "Irreparable Harm" is the following:
11. The Defendants' actions have caused me severe mental distress and persistent fear for my family's safety.
 12. I say that monetary damages cannot adequately compensate for this ongoing harm.
- [44] In Ms. Sirois' second affidavit made November 27, 2025, the only evidence she provides that arguably addresses irreparable harm is the following:
6. I share my husband's concerns regarding the privacy of our family's government records. The threat that these records will be used in a foreign court on December 12, 2025, before our application here can be heard, is causing significant stress to our family.
- [45] In other words, the only tangible harm identified by the Sirois that they allegedly will suffer should the injunction not be granted and the Thai Immigration Records are used in the French court proceedings is the infliction of stress from the knowledge that the information contained therein could become publicly accessible. There is no mention of any financial, reputational, or legal harm that would ensue to Mr. Sirois or Ms. Sirois unless the Court orders that the documents cannot be used in litigation proceedings or otherwise.
- [46] In considering this evidence, I note first that Dr. Yip's brief report says nothing about the cause of Mr. Sirois' stress or fainting episodes. More significantly, however, the Sirois' affidavits do not explain why they fear public disclosure of the specific information contained within the Thai Immigration Records. In my view, it is incumbent upon the Sirois to provide such an explanation when, as mentioned previously, there is no information in the translated "immigration reports" attached as Exhibit "C" to Mr. Sirois' affidavit that appears to be personal, sensitive, intimate, embarrassing, or otherwise private and confidential.
- [47] In sum, I am not persuaded that either Mr. Sirois or Ms. Sirois will suffer irreparable harm if the interim injunction is not granted. The second part of the RJR- MacDonald Test is not met.

The Third Element: Balance of Convenience

- [48] With respect to the final element of the test, I note that the Defendants have not tendered any evidence to show harm that they would experience in the event the injunction were to be granted. In particular, the record contains no explanation of why the Thai Immigration Records have been filed in the French proceedings, or how their exclusion from these proceedings would somehow be prejudicial to the Defendants.
- [49] However, this does not mean that the Sirois have met the third part of the RJR-MacDonald Test. In the absence of persuasive evidence from the Sirois that a denial of the interim injunction sought will cause them any tangible harm, it cannot be said that the balance of convenience favours the Sirois either.
- [50] In sum, I find that the third part of the RJR-MacDonald Test is also not met.

Conclusion

- [51] The Sirois have not met their burden to establish any of the three elements of the RJR-MacDonald Test. As such, I will not exercise my discretion to issue the interim injunction styled as an "interim preservation order" that they are seeking.

Disposition

- [52] For all of these reasons, the Sirois' notice of application filed November 27, 2025 is dismissed.

(SUBMISSIONS ON COSTS)

- [53] THE COURT: Thank you for your submissions. In my view, this is an appropriate case for costs to be awarded to the Defendants in the cause. I do not agree with counsel for the Defendants that this is such an exceptional case that costs should be made payable forthwith and in any event of the cause.
- [54] What this means is that the costs of this application are to be paid by the Sirois to the Defendants, but only in the event that the Defendants are ultimately successful in having the Sirois' claim dismissed.
- [55] Are there any other questions? Mr. Sirois.
- [56] THE PLAINTIFF S. SIROIS: No. I'm clear.
- [57] THE COURT: Mr. Wu.
- [58] CNSL S. WU: Nothing further, Justice.
- [59] THE COURT: Thank you both. We are adjourned.
- [60] THE CLERK: Order in court.

"Brongers J."

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