

CANADA / JUDGMENT

Xu v. W.Y. (Eric) Lee

2025 BCSC 1911

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Supreme Court of British Columbia

DECIDED

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2025 BCSC 1911 Xu v. W.Y. (Eric) Lee

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Xu v. W.Y. (Eric) Lee,

2025 BCSC 1911

Date: 20250925

Docket: S236965

Registry: Vancouver

Between:

Hui Xu

Plaintiff

And

W.Y. (Eric) Lee, Brandy Hood, Royal Bank of Canada (RBC)

and Anna Lee

Defendants

Before: The Honourable Justice Layton

Oral Reasons for Judgment

The Plaintiff, appearing in person:

H. Xu

Counsel for the Defendants:

B.J. Greenberg, KC

Lucy Sun

Place and Date of Hearing:

Vancouver, B.C.

September 23-25, 2025

Place and Date of Judgment:

Vancouver, B.C.

September 25, 2025

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Introduction

- [1] The plaintiff has brought an application for twelve orders against the defendants W.Y. (Eric) Lee, Brandy Hood and the Royal Bank of Canada (RBC), who I will refer to as the RBC defendants because Mr. Lee and Ms. Hood are RBC employees who dealt with the plaintiff as an RBC client.
- [2] The RBC defendants oppose all of the requested orders.
- [3] Many of the requested orders relate in one way or another to the plaintiff's attempt to obtain further document production from the RBC defendants, who as at the hearing of the application had provided the plaintiff with four lists of documents under Rule 7-1(1). Document production therefore lies at the heart of the plaintiff's application.
- [4] I will begin my reasons by providing some procedural background, after which I will review the evidence of the RBC defendants regarding their process in locating documents for the purpose of providing the plaintiff with their lists of documents. I will then turn to consider the plaintiff's twelve requests for orders.

Procedural Background

- [5] The plaintiff filed her notice of civil claim ("NCC") on October 12, 2023, and an amended NCC on April 22, 2024. For reasons I will discuss shortly, the plaintiff filed a further amended NCC on October 1, 2024.
- [6] The further amended NCC asserts that between 2011 and 2022 the RBC defendants engaged in unauthorized transactions involving the plaintiff's accounts and the business account of 0886683 BC Ltd., a non-party company said to be wholly owned by her. These unauthorized transactions are said to have included withdrawing significant sums belonging to her and opening multiple accounts in her name. The defendants are also alleged to have made misrepresentations to the plaintiff, and committed fraud against and breached their fiduciary duties to her.
- [7] In their response to civil claim ("RCC"), filed May 15, 2024, the RBC defendants admit none and deny all of the facts in Part 1 of the NCC, and more specifically deny that they stole funds from the plaintiff or 0886683 BC Ltd., doctored account statements, or participated in any of the alleged fraudulent activity. The RCC also advances a defence under the Limitation Act, S.B.C. 2012, c.13 for all transactions occurring prior to October 12, 2021, and asserts that the plaintiff's claims were discoverable prior to that date. The RCC further asserts that, given RBC's document retention policy, the RBC defendants are prejudiced by plaintiff's claims because not all of the documents necessary for their defence remain available.

- [8] Because the plaintiff's further amended NCC had not yet been filed, the RCC also pleaded that the amended NCC should be struck out and the claims be dismissed under Rule 9-5(1)(a) to (d) of the Supreme Court Civil Rules, B.C. Reg. 168/2009 including because it impermissibly pleaded evidence, argument, speculation and opinion, and was confusing, prolix and incomprehensible.
- [9] On June 7, 2024, the plaintiff filed a notice of application seeking, among other things, to compel the RBC defendants to provide full documentary disclosure. The RBC defendants took the position that her allegedly deficient pleadings needed to be addressed prior to document disclosure commencing.
- [10] The plaintiff sent two demands for documents to the RBC defendants in mid-June, 2024, but I accept the evidence of the RBC defendants that their counsel was not aware of the demands until June 26, 2025, including because one of the demands was screened out by the law firm's security systems.
- [11] On June 20, 2024, the plaintiff's application for document disclosure and the RBC defendants' application to strike the amended NCC were both adjourned by Associate Judge Robinson, to be addressed at a case plan conference ("CPC") on July 15, 2024.
- [12] The plaintiff obtained leave to and did file a further amended NCC on October 1, 2024, making it unnecessary to hear the RBC defendants' application.
- [13] In accordance with an order made by Associate Judge Robinson at the CPC, the RBC defendants provided the plaintiff with their list of documents on November 12, 2024.
- [14] On April 30, 2025, the plaintiff advised the RBC defendants that she had unilaterally secured July 2-4, 2025 for an application for document disclosure. The plaintiff's application was rescheduled to July 16-18, 2025 to accommodate the availability of counsel for the RBC defendants.
- [15] On May 5, 2025, counsel for the RBC defendants advised the plaintiff that if she brought the application for further document disclosure, they would raise a preliminary objection that she had not satisfied the requirements of Rule 7-1(13).
- [16] Rule 7-1(13) provides that if a party who receives a demand under subrule (10) or (11) does not, within 35 days after receipt, comply with the demand in relation to the demanded documents, the demanding party may apply for an order requiring the listing party to comply with the demand.
- [17] On June 16, 2025, the plaintiff delivered to counsel for the RBC defendants a so-called "Form 35 Order Made After Application", which I will hereafter call the "Form 35". The Form 35 demands document production and information from the RBC defendants, and contains 108 paragraphs, many of which are broken into multiple subparagraphs.

[18] On June 19, 2025, counsel for the RBC defendants wrote to the plaintiff with respect to the Form 35 she had delivered, stating among other things that:

It appears that you wish to seek further document disclosure. While we cannot provide you with legal advice, and you have a legal advisor available to you, the proper process for demanding further document disclosure is governed by rules 7-1(10), (11), and (13).

Please note, we will object, on a preliminary basis, if you attempt to bring an application for document disclosure without first satisfying rule 7-1(13).

[]

We again strongly urge you to utilize the legal counsel available to you in making demands, in seeking further disclosure, and in conducting this action generally.

[19] On June 25, 2025, counsel for the RBC defendants wrote to the plaintiff in response to a June 21 email in which she stated that she had satisfied Rule 7-1(11) and (13). He indicated that he did not agree that she had satisfied Rule 7-1(11), noting that it required that she identify the additional documents or classes of documents with reasonable specificity and provide the reason why such additional documents should be disclosed. He further stated that there must be a link between the documents sought and the issues raised in the pleadings. Counsel for the RBC defendants indicated that the plaintiff's Form 35 did not meet these and other requirements, and provided examples of purported deficiencies in her requests. He repeated that if she proceeded with her document production application the RBC defendants would maintain their preliminary objection that she had not met the preconditions in Rule 7-1(13). Finally, counsel urged the plaintiff to have any document demand she wished to make reviewed by legal counsel.

[20] On June 30, 2025, counsel for the RBC defendants wrote to the plaintiff, in response to an email she had sent four days earlier, reiterating his clients' position that her Form 35 did not meet the requirements in Rule 7-1(11). He again urged her to consult a lawyer with respect to the proper process for seeking additional document disclosure.

[21] The plaintiff filed her notice for the document disclosure application on June 30, 2025, and an amended notice on July 2, 2025. As no judge was available to hear the application on July 16-18, it was adjourned to September 23-25.

[22] On July 7 and August 20, 2025, counsel for the RBC defendants sent letters to the plaintiff, in response to communications received from her repeating that her Form 35 did not comply with Rule 7-1(13). Counsel also urged the plaintiff to obtain legal advice so that the parties could engage in a constructive process of determining what documents she was seeking and on what basis, thus enabling the RBC defendants to consider whether any further disclosure was warranted.

RBC Defendants' Search for Material Documents and Their Document Lists

- [23] Krista Carle is a senior law clerk employed by RBC, whose usual employment duties include assisting in locating and providing documents to legal counsel for the purposes of litigation.
- [24] In her affidavit #1, affirmed July 9, 2025, Ms. Carle states that she had reviewed the plaintiff's Form 35, made inquiries with the RBC defendants, and conducted a diligent search of RBC's records for all material documents in RBC's possession, power or control. That search included conducting searches of RBC's electronic document management systems, and of RBC's email management system. At the time the affidavit was affirmed, the search of the email management system was ongoing, and Ms. Carle indicated that any material emails located would be produced in a further amended list of documents on behalf of the RBC defendants.
- [25] Ms. Carle's affidavit #1 set out three limitations regarding RBC's document retention practice, each of which impacted the documents available in this case:
- (a) First, documents related to client accounts are generally retained for only seven years, after which they are removed from RBC's systems. Accordingly, RBC no longer had possession of any account statements belonging to the plaintiff that were prior to 2017, but for some limited exceptions such as scanned copies of account opening documents and account statements that were provided to the plaintiff in response to a complaint she made in 2022.
 - (b) Second, RBC does not retain originals of documents in a client's account, including original agreements signed by account holders. Rather, originals are imaged and uploaded into the electronic document management system, after which they are destroyed. As a result, RBC did not have any hard copies of documents with the plaintiff's original signature.
 - (c) Third, online banking records are not available for closed accounts. Because all of the plaintiff's accounts were by that point closed, this meant that RBC could not access the plaintiff's online banking records, including transaction histories performed through online banking.
- [26] The RBC defendants have provided the plaintiff with four lists of documents under Rule 7-1, starting with the already-mentioned list of documents on November 12, 2024.
- [27] An amended list of documents was provided on July 9, 2025, to add further material documents located by RBC in response to requests made by the plaintiff.
- [28] A second amended list of documents was provided on July 14, 2025, for the same purpose.

- [29] A third amended lists of documents was provided on September 15, 2025, adding documents located as a result of Ms. Carle's ongoing searches of RBC's email management system. These additional documents included some account statements from the plaintiff's accounts pre-dating 2017, which is the cut-off otherwise arising due to RBC's seven-year retention period, because they had been appended to emails preserved in RBC's email management system.
- [30] As explained in Ms. Carle's affidavit #1, on their lists of documents the RBC defendants have provided a number of categories of documents with respect to the plaintiff's accounts. These are:
- (a) Her client profile relating to three investment accounts, all of which are closed. One account is for an RSP, another for a TFSA and a third for a GIC.
 - (b) Documents relating to the RSP and TFSA accounts, including investment statements between October 1, 2017 and June 30, 2022, as well as account opening information.
 - (c) Documents relating to the GIC account, which was opened in 2021, including investment statements for 2021 and 2022.
 - (d) A client profile for the plaintiff's non-party company, 0886683 BC Ltd., which shows two GIC investment accounts belonging to this company.
 - (e) Investment statements and financial histories for one of the GIC accounts referable to 0886683 BC Ltd., and financial histories for the other of the company's GIC accounts.
 - (f) The account history for a personal deposit account previously held by the plaintiff.
 - (g) Documents referable to other financial products previously held by the plaintiff at RBC, such as two mortgage loan accounts, a credit line account, an investment account for 0886683 BC Ltd., and a homeline plan consisting of a different credit line and two other mortgage accounts.
- [31] In her affidavit #1, Ms. Carle states that to the best of her knowledge the documents in the RBC defendants' lists have not been altered or forged. Rather, she obtained them in the form in which they were stored within RBC's systems, and they had been listed and produced in that same form.

Orders Requested by the Plaintiff

- [32] I will now consider each of the orders that the plaintiff seeks on her application.

Use of Form 22

- [33] The plaintiff seeks an order that the defendants provide a document list in Form 22. In making this request, she relies on Rule 7-1(1), which among other things states that each party must, within 35 after the end of the pleading period, "prepare a list of documents in Form 22".
- [34] The RBC defendants have provided their four lists of documents using a Form 22, but in Part 1 of that Form 22 have indicated that the documents are set out in an attached Schedule A. It is this use of an appended schedule that the plaintiff says constitutes a failure to use a Form 22 as required by Rule 7-1(1).
- [35] However, in my view the schedules used by the RBC defendants are incorporated into their Form 22s by reference, which has organizational benefits and does not render the list of documents noncompliant with the rules. I am therefore not prepared to make the order sought by the plaintiff.

Document Production Under Rule 7-1(14)

- [36] Although the plaintiff seeks many orders on her application, her central focus appears to be obtaining the disclosure of documents under Rules 7-1(10) and (11).
- [37] I will begin my discussion of this issue by setting out the relevant legal principles, starting with the text of Rules 7-1(1), (10) and (11):

List of documents

7-1(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

- (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party of record at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.

Party may demand documents required under this rule

- (10) If a party who has received a list of documents believes that the list omits documents or a class of documents that should have been disclosed under subrule (1) (a) or (9), the party may, by written demand, require the party who prepared the list to
- (a) amend the list of documents,
 - (b) serve on the demanding party the amended list of documents, and

- (c) make the originals of the newly listed documents available for inspection and copying in accordance with subrules (15) and (16).

Party may demand additional documents

- (11) If a party who has received a list of documents believes that the list should include documents or classes of documents that
 - (a) are within the listing party's possession, power or control,
 - (b) relate to any or all matters in question in the action, and
 - (c) are additional to the documents or classes of documents required under subrule (1) (a) or (9),

the party, by written demand that identifies the additional documents or classes of documents with reasonable specificity and that indicates the reason why such additional documents or classes of documents should be disclosed, may require the listing party to

- (d) amend the list of documents,
- (e) serve on the demanding party the amended list of documents, and
- (f) make the originals of the newly listed documents available for inspection and copying in accordance with subrules (15) and (16).

[38] Rule 7-1(1) deals with what is sometimes called first tier document production. It requires that the parties prepare and serve a list of all documents in their possession or control that could be used by a party to prove or disprove a material fact, or which that party intends to refer to at trial.

[39] Rule 7-1(10) permits a recipient party who believes that a document meeting the requirements in Rule 7-1(1) has been omitted from the list, to demand in writing that the party serving the list include the document in an amended list of documents. A "material fact" as that term is used in Rule 7-1(1) refers to an issue that is in dispute, the resolution of which will have legal consequences between the parties to the dispute. It is a fact put in issue by the pleadings, and is an "ultimate fact", to the proof of which evidence is directed, the last in a series or progression of facts. Accordingly, an application that relies on Rules 7-1(1) and (10) is governed by the pleadings. See *Canada Life Assurance Company v Siddoo A.K. Investments Ltd.*, 2024 BCSC 1057 at paras. 59-63; *Jang v. Jang*, 2019 BCSC 1325 at para. 18.

[40] The second tier of document production is engaged by the broader ambit of Rule 7-1(11), which goes beyond documents probative of a material fact or upon which a party intends to rely, and permits disclosure of a document that "relates to a matter at issue in the action". There is thus an important difference between Rules 7-1(10) and (11): *Nelson v. British Columbia*, 2019 BCSC 1774 at para. 14.

- [41] Rule 7-1(11) requires that the written demand identify the additional documents with reasonable specificity and indicate the reason why such additional documents should be disclosed, thus imposing a higher duty on the party making the request. That party must demonstrate a connection between the documents sought and the issues in the action beyond a mere possibility. There must be some air of reality between the documents and those issues. The idea is to inform the other party of the basis for the broader disclosure request with sufficient particularity so that a reasoned answer can be provided. See *Ackert v. At Nature's Door Owner's Association*, 2021 BCSC 778 at paras. 19-20; *Canada Life Assurance Company* at paras. 64-65.
- [42] To be successful, an application for broader disclosure under Rule 7-1(13) must be supported by some evidence of the existence and potential relevance of the additional documents, the most likely source of which is examination for discovery: *Przbysz v. Crowe*, 2011 BCSC 731 at para. 32.
- [43] The purpose of the demand and response process, prior to an application being brought under Rule 7-1(13), is to allow the parties to understand and refine what is in issue in respect of demands for additional document disclosure, and to avoid unnecessary and inefficient use of court time. Compliance with the requirement of making a written demand under Rules 7-1(10) and (11) is not optional, and filing the application itself is not a substitute for compliance: *7779615 Canada Inc. v. British Columbia Hydro and Power Authority*, 2025 BCSC 1008 at paras. 19 and 69.
- [44] This requirement, and its purpose, is aptly described by Justice Giaschi in *Mann v. Jagal*, 2020 BCSC 1919 at paras. 37-39:
- [39] The rules have a clearly defined procedure to obtain additional documentary discovery from a party. The procedure is for the party demanding additional discovery to make a demand in writing under Rule 7-1(10) if the party believes first tier documents have not been produced or Rule 7-1 (11) if the party wishes production of documents relating to a question in the action (the broader Peruvian Guano test). The party from whom the additional disclosure is requested then has 35 days to comply with the demand. Pursuant to Rule 7-1(13), an application may only be brought if the demand is not complied with.
- [40] I note that Rule 7-1(14) gives the court discretion to waive the requirement for a prior written demand under Rules 7-1(10) and (11), however, no such application was made by *Manreet* and, in any event, the court should be cautious and reluctant to waive the demand requirement.
- [41] The requirement for a prior written demand in Rules 7-1(10) and (11) is not optional and failure to comply will not be readily forgiven. (See *Lit v Hare*, 2012 BCSC 1918, at para. 65) As was noted by Master Keighley, a purpose of the prior demand is to prevent unnecessary applications to the court relating to document production. A prior demand allows the parties to address the document disclosure issues, hopefully, without the expense and delay of an application. This process furthers the object of the Rules, as described in Rule 1-3, to

secure the just, speedy and inexpensive determination of the proceeding on the merits.

[emphasis added]

[45] Justice Fitch elaborated on the purpose of written demands in Rule 7-1 in *Lit v. Hare*, 2012 BCSC 1918 at para. 67:

[67] The Rule is designed to promote dialogue between the parties, informal resolution of document production disagreements where that is possible and, where it is not, targeted litigation that focuses on those well-defined issues that remain contentious. The Rule operates to restrain the impulse to litigate document production issues as a course of first resort where those issues might be resolved through discussion, including by requiring the parties to articulate and defend their respective positions. In my view, the Rule is also designed to facilitate the adjudicative process by narrowing the issues and argument and particularizing, to the extent possible, the documents or categories of documents sought before an application is made. As Master Bouck observed in *Balderston*, at para. 29, in the context of the SCCR:

The intent of Rule 7-1(11) is to inform the opposing party of the basis for the broader disclosure request in sufficient particularity so that there can be a reasoned answer to the request. The Rule allows the parties to engage in debate or discussion and possibly resolve the issue before embarking on an expensive chambers application.

[46] In *Lit*, Justice Fitch dismissed the document production applications, finding the overbroad and vague nature of the demands for production to be fatal to their success:

[68] In my view, the applications are premature and framed in overly broad and vague terms. The lack of specificity which characterizes this application is fatal to its success. In addition to the challenges faced by the respondents as a consequence of the manner in which the applications have been framed, it is difficult for the court to adjudicate on a document production application where what is sought are "all documents not yet produced" in broadly defined categories. That the application lacks sufficient particularity is very likely a function of the failure to observe the procedure contemplated by the Rules. That failure cannot, in this case, be attributed to mere oversight. Had the written demand process mandated by the Rules been followed, I think it reasonable to suppose that many of the difficulties associated with this application would not have arisen. Moreover, had the procedure mandated by the Rules been observed, I think it is unlikely that it would have been necessary to file the volume of material that accompanied these applications.

[47] Applying the legal principles to this application, I similarly conclude that the application is premature and framed in overly broad and vague terms.

- [48] The plaintiff's Form 35 provided to the RBC defendants contains a litany of demands, many of which are overly broad, vague, and duplicative or overlapping. The plaintiff has also filed multiple affidavits containing hundreds of pages, which makes it very difficult to ascertain the focus of her demands. Nor has she distinguished which of the many demands in her Form 35 relate to Rule 7-1(10) as opposed to Rule 7-1(11), which is problematic given that the test for production under each rule is different.
- [49] But to the extent that the plaintiff seeks documents under Rule 7-1(11), her demand neither identifies the additional documents or classes of document sought with reasonable specificity nor indicates the reason why such additional documents should be disclosed. This failure not only prevents the RBC defendants from understanding, and thus meaningfully responding to, the plaintiff's request for additional documents. It also makes it difficult if not impossible for the court to adjudicate on her document production application.
- [50] The court's difficulty is increased by the significant volume of materials (five large binders) and very substantial number of documents filed by the plaintiff on this application, as illustrated by my exchange with the plaintiff in oral submissions regarding her demand for production of documents pertaining to a US dollar account.
- [51] A further difficulty with the plaintiff's document application is that she has failed to provide some evidence to support the conclusion that most of the sought-after documents exist. Indeed, the RBC defendants have provided what I view to be reliable evidence, in the form of Ms. Carle's affidavits, establishing that they have conducted a diligent search of their records for any material documents relating to the plaintiff or 0886683 BC Ltd., and that many documents that would have previously existed are no longer available due to RBC's document retention policy. I have considered but do not accept the plaintiff's evidence and arguments as to why I should find Ms. Carle's affidavits to be unreliable.
- [52] I am not discounting the possibility that the plaintiff could establish a proper basis upon which to receive documents under Rule 7-1(10) or (11) in the future, for example by relying on information elicited through examination for discovery. But a proper basis has not been established by her Form 35 or her other application materials.

Provision of Original Documents

- [53] The plaintiff seeks an order compelling the RBC defendants to provide all original documents bearing her signature. She seeks this order because she says that many of the documents with which she has been provided are forgeries, and being able to access the originals will permit her to establish that this is the case.

[54] In my view, this order cannot be granted because the evidence establishes that RBC does not retain original documents, but rather scans them and saves only the electronic version. The originals are thus destroyed. It follows that the plaintiff has failed to establish the existence of the documents that she says should be covered by this order.

Privileged Documents

[55] The plaintiff seeks an order that the defendants provide a detailed and complete list of all documents withheld on the basis of legal privilege, including the nature of each document, the basis for the claim of privilege, and any other information necessary to allow the plaintiff to challenge the privilege claim.

[56] Rules 7-1(6) and (7) deal with privileged documents and state:

Claim for privilege

(6) If it is claimed that a document is privileged from production, the claim must be made in the list of documents with a statement of the grounds of the privilege.

Nature of privileged documents to be described

(7) The nature of any document for which privilege from production is claimed must be described in a manner that, without revealing information that is privileged, will enable other parties to assess the validity of the claim of privilege.

[57] Here, the initial list of documents provided by the RBC defendants claimed litigation privilege and solicitor-client privilege with respect to documents referable to "various" dates, and described the documents using generic language that tracks the definition of these two types of privileges. The RBC defendants' amended and second amended lists of documents do not claim either privilege over any documents. Their third amended list of documents sets out about 45 documents over which solicitor-client, litigation, or settlement privilege is claimed, in each case providing the date and type of document. These documents were in most instances created in 2023, but a few of them bear dates from 2022.

[58] Based on the evidence, I conclude that the defendants' initial list of documents made a generic claim of litigation and solicitor-client privilege, using boilerplate language and not identifying any particular document, when in fact the defendants had not at that point located any material documents over which privilege might attach so as to justify nonproduction. This state of affairs is confirmed by the first and second amended lists of documents, which make no privilege claims whatsoever. The third amended list of documents then makes claims of privilege regarding specific documents, in a manner that in my view complies with Rules 7-1(6) and (7).

[59] For this reason, I reject the plaintiff's assertion that the privilege claims are unfounded or that further particulars need be given so that she can adequately assess the privilege claims.

- [60] Furthermore, in oral submissions it appeared to me that one of the plaintiff's main concerns with the claim of privilege arose from the language in the RBC defendants' initial list of documents, in which the privilege was claimed over "the original or copies" of documents meeting the provided definition of solicitor-client or litigation privilege. The plaintiff appeared to believe that this claim of privilege over "original" documents was being used to bar her from accessing the originals of documents containing her signature, the copies of which had already been provided to her by the defendants.
- [61] However, this belief does not accurately reflect the language used in the RBC defendants' initial list of documents. There is no question that the originals the plaintiff wishes to see are not covered by privilege, but rather are documents that the RBC defendants contend she signed in conducting business with the bank. In short, the RBC defendants are not misusing privilege to avoid listing or disclosing the originals of documents that they allege contain the plaintiff's signature.
- [62] Finally, the dates of the documents over which privilege is claimed are from 2022 forward, consistent with the documents having been created on an occasion of privilege in the context of the plaintiff asking the RBC for information in the lead up to filing her NCC, as opposed their having been created as part of a transaction involving one of her accounts.

Documentary Evidence Supporting Internal Notes

- [63] The plaintiff seeks an order compelling the RBC defendants to provide all documentary evidence supporting each and every internal note recorded in her personal and business accounts.
- [64] I am not prepared to grant this order for two reasons.
- [65] First, Ms. Carle's affidavit evidence, which I find to be reliable, indicates that the RBC defendants have exercised due diligence in attempting to locate all material documents. The plaintiff has therefore not provided some evidence that the documents in question exist.
- [66] Second, for the reasons already provided the plaintiff has not made a proper written demand pursuant to Rule 7-1(11).
- [67] I would nonetheless add that in her oral submissions the plaintiff alleged that many or all of the internal notes were forged or fraudulently created, and suggested that the absence of documentary evidence supporting these notes confirmed her allegation. The plaintiff's position therefore appears to implicitly accept that the documents she is seeking do not exist.

Affidavit Affirming Authenticity and Completeness of Documents

- [68] The plaintiff asks that the RBC defendants be required to provide an affidavit affirming the authenticity, completeness and accuracy of all documents disclosed, and ensuring that no documents have been altered, forged or tampered with in any way.
- [69] To justify an order for an affidavit of documents under Rule 7-1(8), the applying party must point to evidence showing that relevant documents have been omitted or that disclosure has been inadequate, without satisfactory explanation, or that a party has shown a dilatory and casual attitude to the production of documents leading to an inference that they have either deliberately or by wilful indifference hidden relevant documents. A mere suspicion is not enough. Rule 7-1(8) ought not to be rigidly applied, particularly where a complex and extensive level of disclosure has been made. See *Yen v. Ghahramani*, 2024 BCSC 1053 at paras. 35-36; *Eastern Platinum Limited v. Cameron*, 2020 BCSC 1490 at paras. 62-63.
- [70] Given the affidavit evidence of Ms. Carle, I am unable to conclude that the RBC defendants have conducted themselves in a manner that would justify making an order for an affidavit of documents under Rule 7-1(8). They have neither omitted material documents without satisfactory explanation nor shown a dilatory and casual attitude to the production of documents.
- [71] Given the number of RBC accounts in question, the length of time covered by the allegations in the further amended NCC, and RBC's different document databases and various retention policies, it is reasonably possible that, no matter how diligent the search to this point in time, some documents may be overlooked and come to light later in the process, perhaps because issues have developed or clarified so as to alter the parties' views about what is or is not relevant: *Eastern Platinum Limited*, at para. 63. That said, Ms. Carle's affidavits confirm that if the RBC defendants locate other material documents in their power, possession or control, those documents will be listed and produced unless privileged.
- [72] Finally, and in any event, Ms. Carle's affidavit #1 states that she obtained all of the RBC defendants' documents from within RBC's systems and that she did not alter any of them. Her affidavit therefore goes a considerable way towards affirming the authenticity and accuracy of the RBC defendants' documents, although I recognize that it leaves open the theoretical possibility that one or more of the documents were improperly created or altered before being accessed and retrieved by Ms. Carle.

Certificate Signed Under Penalty of Perjury

- [73] The plaintiff seeks an order compelling the RBC defendants to provide a certificate, signed under penalty of perjury, affirming that none of the documents disclosed to her have been altered, forged or tampered with in any way, and verifying that no relevant documents have been omitted or withheld.

- [74] The plaintiff has not provided any legal authority under which the court could compel the RBC defendants to provide such a certificate. Regardless, this request must be denied, for the same reason that I have denied the plaintiff's request for an order requiring the RBC defendants to provide an affidavit under Rule 7-1(8).
- [75] I would only add that the plaintiff has made many allegations of fraud, forgery and dishonesty against the RBC defendants with respect to their documents and production of documents. She can pursue these allegations at trial, but on the evidence before me I cannot find that the alleged misconduct has occurred.

Amended RCC

- [76] The plaintiff seeks an order that the RBC defendants amend their RCC to comply with Rule 3-3(2) by stating clearly which allegations they admit, which they deny, and which they cannot admit or deny, along with their reasons. She seeks this order on the basis that the RBC defendants have simply provided a blanket denial, which is insufficient, citing *Newton Crypto Ltd. v. Lebon*, 2023 ONSC 5536 at para. 9. The plaintiff argues that granting the requested order is only fair, given that it was at the RBC defendants' insistence that she filed her further amended NCC.
- [77] Yet *Newton Crypto Ltd.* is distinguishable, because in that case the defendants' bare defences amounted to no more than a denial of the entire claim, without putting forward their own version of the facts or any affirmative defences. The court held that more was required because the pleadings are the foundation for discovery rights and the touchstone for determining what is relevant.
- [78] The case at bar presents a very different scenario. It is true that the RBC defendants denied all of the facts alleged in Part 1 of the amended NCC. But they also pleaded their own version of the facts, comprising 52 paragraphs in the RCC. Plus, they pleaded affirmative defences, for example that they owed only contractual duties to the plaintiff, none of which they had breached, and that the plaintiff's claim was largely barred by a limitations defence. The RCC therefore complies with Rule 3-3(2).
- [79] As for the plaintiff's submission that the RBC defendants are required to file an amended RCC in response to the plaintiff's further amended NCC, this is not supported by the rules.
- [80] Under Rule 6-1(5), following service of an amended NCC on a defendant, that defendant "may amend" any RCC previously filed in response to the NCC. The language is permissive, not mandatory.
- [81] And under Rule 6-1(6), where a defendant on whom an amended NCC is served does not file an amended RCC, the pleading filed in response to the NCC is deemed to be the pleading the defendant filed in response to the amended NCC, and any new facts set out in the amended NCC are deemed to be outside the knowledge of the defendant.

[82] In sum, Rule 6-1 does not provide a mechanism by which a defendant can be forced to file an amended RCC after being served with an amended NCC. The failure to file an amended RCC may in some circumstances leave the defendant vulnerable to an application to strike, but the plaintiff has not brought an application to strike in this case, and without purporting to decide the issue it is not self-evident that an application to strike would succeed.

Response to Notices to Admit

[83] The plaintiff seeks an order pursuant to Rule 7-7 compelling the RBC defendants to respond fully and properly to her three notices to admit by stating, for each request, whether it is admitted, denied (with reasons for the denial and supporting evidence) or cannot be admitted or denied (with explanation).

[84] By way of background, on November 28, 2024, December 10, 2024, and May 26, 2025, the plaintiff delivered three notices to admit to the RBC defendants, totalling over 1,100 requests.

[85] The RBC defendants provided responses to each of the three notices to admit.

[86] Their response to the first notice to admit addressed each of the 253 requests separately, in a 53-page document.

[87] In a letter dated December 19, 2024, the RBC defendants' counsel objected to the second notice to admit, which contained 450 requests, but in a single sentence also denied each fact sought to be admitted.

[88] In a letter dated June 6, 2025, the RBC defendants' counsel objected to the third notice to admit, which contained 500 requests, but again in a single sentence denied each fact sought to be admitted.

[89] The RBC defendants submit that the requests to admit in each of the three notices were duplicative, irrelevant, and sought legal conclusions, not facts. It is not, however, necessary to address this submission in order to decide whether the plaintiff should obtain the order she seeks.

[90] Rule 7-7(2) governs the requirements for responding to a notice to admit. The responding party can:

- (a) specifically deny the truth of the fact or the authenticity of the document;
- (b) set out in detail the reasons why the party cannot make the admission; or
- (c) state that the refusal to admit the truth of the fact or the authenticity of the document is made on the grounds of privilege or irrelevancy or that the request is otherwise improper, and set out in detail the reasons for the refusal.

- [91] Rule 7-7(2) draws a distinction between a denial of a fact on the one hand, and a refusal or inability to admit a fact on the other. Where a fact is denied, that is all that is required - no justification for the denial is needed, and if the denial is unreasonable the recourse is an award of costs under Rule 7-7(4): *Bene (Oval) Development Ltd. v. 1148538 B.C. Ltd.*, 2020 BCSC 1608 at para. 16.
- [92] Accordingly, the RBC defendants were not required to provide an explanation for each of the 253 denials in their response to the plaintiff's first notice to admit.
- [93] As for the RBC defendants' responses to the plaintiff's second and third notices to admit, the blanket denial in a single sentence of all requests to admit was sufficient to comply with Rule 7-7(2), because it is not necessary for a party to set out a separate denial for each specific request to admit: *Luu v. Wang*, 2009 BCSC 860 at paras. 91-94.

Bearing Serious Consequences of Acts

- [94] The plaintiff seeks an order, "compelling the RBC defendants to bear the serious consequences of their repeated refusal to provide the documents and evidence to prove the plaintiff's claims".
- [95] This proposed order is not one available to the court, because the terms are vague and imprecise. In her written argument, the plaintiff refers to some more specific remedies that she says might be appropriate, but she has not sought any such remedies on this application. I am therefore not prepared to grant the plaintiff the requested order.

Audio Recording

- [96] The plaintiff sought an order permitting her to play, on the application before me, an audio recording of the hearing held before Associate Judge Robinson on June 20, 2024. She argued that the audio recording should be played because she has identified 30 or more errors, some significant and others minor, in the transcript of that appearance, which she says was secretly ordered by counsel for the RBC defendants and then deliberately altered by them to her detriment.
- [97] The plaintiff ultimately did not push hard for this order, and I did not grant her leave to play the audio recording.
- [98] As set out in the affidavit of legal assistant Irene Lee made July 8, 2025, counsel for the RBC defendants ordered this transcript from Charest Legal Solutions Inc. ("Charest"), a certified reporter, using Charest's online order form on May 8, 2025. Counsel's purpose in ordering the transcript was to ensure that the proceedings in question were accurately characterized in their response materials. Charest provided the transcript directly to the Supreme Court registry on completion. There is thus no viable basis to suggest that counsel for the RBC defendants acted improperly in ordering the transcript or that they altered it in any way.

[99] Regardless, there appears to be no basis upon which I could conclude that the contents of the audio recording, even if inconsistent with the transcript in material respects, could have any bearing on the issues to be determined on this application. Indeed, I have not relied on the transcript in deciding the application, which is consistent with the alternative submission advanced by the plaintiff in her oral submissions.

Punitive Damages

[100] The plaintiff seeks an order compelling the RBC defendants to pay punitive damages or sanctions for their creation and use of dozens of forged documents and over 94 false internal notes.

[101] Based on the evidence provided, I am not in a position to make a finding as to whether the documents provided by the RBC defendants are forged or false. Furthermore, the issue of whether punitive damages are warranted is a matter to be decided at trial. I am therefore not prepared to make the requested order.

Costs

[102] The RBC defendants seek costs payable by the plaintiff in any event of the cause, including because many if not most of the orders she has sought were not grounded in the rules and she filed a very large volume of materials, and also because she has made baseless allegations of dishonesty against their lawyers. I appreciate that the plaintiff feels passionately about the merits of her case, as do many litigants, but her status as a self-represented litigant is not a license to conduct herself without regard to the rules or to make unfounded allegations of misconduct against the opposing parties' counsel: *Leger v. Metro Vancouver YWCA*, 2013 BCSC 2021 at paras. 76-77.

[103] I need not consider whether the RBC defendants are entitled to special costs, because they have not sought them. But I will make the costs order that they do seek.

Conclusion

[104] The plaintiff's application is dismissed with costs payable by her to the RBC defendants in any event of the cause.

"D. Layton J."

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