

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *CIBC Wood Gundy v. Bockhold*,
2025 BCSC 896

Date: 20250507
Docket: S241997
Registry: Vancouver

Between:

**CIBC Wood Gundy, a Division of CIBC World Markets Inc./
Marché Mondiaux CIBC Inc.**

Plaintiff

And

Murray Bockhold

Defendant

And

**TD Bank, Royal Bank, Bank of Montreal, Scotiabank, National Bank,
Canadian Investment Regulatory Organization (“CIRO”), British Columbia
Securities Commission (“BCSC”), Ontario Securities Commission (“OSC”),
Canadian Securities Administrators (“CSA”), Office of the Superintendent
Of Financial Institutions (“OSFI”), The Province of BC, The Government of
Canada, Ernst & Young LLP (“EY”), PricewaterhouseCoopers LLP (“PwC”),
KPMG, Deloitte, Blakes LLP, Torys LLP, Colson Winterstein LLP, Richardson
Wealth Limited, James Richardson & Sons, Limited, Ein Presswire, Cision PR
Newswire, Postmedia Network Canada Corp, The Globe and Mail,
Arthur West, Victor Dodig, Ed Dodig, Bill Lyons, Jean-Marc Freeman,
Peter Lee, Elisa Renzella, Dan McVicker, Peter Brady, Doug Muir,
Jim Kershaw, Warren Funt, Katrina Gustafson, Lauren Shneer,
Bridget Simard, Stan Magidson, Tolga Yalkin, David Eby, Justin Trudeau,
Chrystia Freeland, Patrick Weiler, Patrick Sackville, Kevin Brennan,
Kate Furber, Carol Chaing, Peter Dent, Jameel Madhany, Malcolm Woodside,
Sandy Riley, Hartley Richardson, Carolyn Hursch and Jolie Tong**

Defendants by way of Counterclaim

Before: The Honourable Justice S. Ramsay

Oral Reasons for Judgment

Counsel for Plaintiffs:

M. Howcroft
T. Barker

The Defendant, appearing in person:

M. Bockhold

Place and Date of Hearing:

Vancouver, B.C.
April 22-24, 2025

Place and Date of Judgment:

Vancouver, B.C.
May 7, 2025

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Introduction

[1] In this action, the plaintiff, CIBC Wood Gundy, a division of CIBC World Markets Inc./Marché Mondiaux CIBC Inc. (“Wood Gundy”), seeks payment of the outstanding amount owing under a settlement agreement it reached with the defendant, Murray Bockhold, in 2023. Mr. Bockhold does not dispute that he agreed to the settlement, but asserts that the agreement is not enforceable because it was obtained through fraud.

[2] There are two applications before me: (1) Wood Gundy seeks summary judgment pursuant to Rule 9-6, or, in the alternative, judgment in its favour after summary trial pursuant to Rule 9-7; and (2) Mr. Bockhold seeks production of documents he says are material and necessary to prove the alleged fraud. Each party opposes the application of the other.

Background

Previous litigation and settlement

[3] Mr. Bockhold commenced employment with Wood Gundy in 2013. As one of the terms under which he accepted employment, Wood Gundy provided Mr. Bockhold with an interest-free loan of \$1,000,000.

[4] Wood Gundy terminated Mr. Bockhold for cause in April 2018. At the time, the loan had an outstanding balance of just over \$600,000.

[5] In January 2019, Wood Gundy filed BC Supreme Court Action No. S190711 against Mr. Bockhold seeking, among other relief, repayment of the outstanding loan balance and accrued interest. Mr. Bockhold, who was at that time represented by legal counsel, counterclaimed, alleging wrongful dismissal and asserting that he was terminated for whistleblowing activity.

[6] The trial of Action No. S190711 commenced on June 19, 2023. Shortly before the start of trial, Wood Gundy delivered an offer to settle pursuant to Rule 9-1, wherein it offered to settle the litigation for \$500,000 paid by Mr. Bockhold to Wood Gundy. On June 30, 2023, at the end of week two of the trial, Mr. Bockhold, through

his counsel, accepted the offer to settle. The trial was adjourned by consent, pending the parties' completion of settlement documentation.

[7] The parties took several months to negotiate and finalize minutes of settlement, which were executed by Mr. Bockhold and Wood Gundy on October 27 and 30, 2023, respectively. In summary, the parties' settlement agreement, as set out in the minutes of settlement, provides that:

- a) Mr. Bockhold will pay Wood Gundy a total sum of \$500,000, split into two payments consisting of an initial payment of \$250,000 by September 15, 2023, and the remaining \$250,000, plus accrued interest as set out in the minutes of settlement, by November 30, 2023.
- b) Wood Gundy will take no enforcement actions against Mr. Bockhold prior to November 30, 2023, provided that those payments are made.
- c) The parties will bear their own costs.
- d) The parties will file consent dismissal orders dismissing the Response to Civil Claim and Counterclaim (as amended) on a without costs basis as if heard on their merits; and
- e) The parties will each enter into a full and final release of claims in favour of the other.

[8] Mr. Bockhold made the first payment contemplated by the settlement agreement. The day before the second payment was due, Mr. Bockhold's counsel delivered a Notice of Intention to Withdraw. At Mr. Bockhold's request, Wood Gundy agreed to an extension of the deadline for the second payment, to February 28, 2024. Mr. Bockhold did not make the second payment by the extended deadline.

[9] There is no question that the second payment owing under the settlement agreement has not been paid. The outstanding payment is \$250,000, plus interest calculated in accordance with the settlement agreement. The uncontroverted evidence is that the total amount of interest as of March 31, 2025, is \$42,587.16.

This proceeding

[10] On March 27, 2024, Wood Gundy commenced this proceeding, seeking payment of the outstanding amount owing, including interest.

[11] In his Amended Response to Civil Claim in this proceeding, Mr. Bockhold pleads two legal defences to Wood Gundy’s claim: (1) he denies entering into the settlement agreement, and (2) he says that if he did enter into the settlement agreement, it was based on misrepresentations made by Wood Gundy.

[12] Wood Gundy filed this application in July 2024. In his application response, Mr. Bockhold makes various allegations of fraud or otherwise improper circumstances related to the previous litigation and the settlement. In Part 5 (Legal Basis), Mr. Bockhold says that the settlement was based on fraudulent representations made by Wood Gundy.

[13] In January 2025, Mr. Bockhold filed an application seeking production of documents in this proceeding. The hearing of that application was adjourned, to be heard together with Wood Gundy’s application. I heard both applications over two and a half days, with most of the hearing time focused on the summary judgment application.

[14] In the afternoon of the first hearing day, Mr. Bockhold advised that he had just filed a Counterclaim that day. In the Counterclaim, Mr. Bockhold seeks “rescission of the minutes of settlement obtained through fraud” and damages for wrongful dismissal, emotional distress, reputational harm, loss of income, and punitive damages. He also seeks various document production, and injunctive and monetary relief, related to what can generally be described as concerns he has about certain practices in the banking industry. In that regard, the Counterclaim adds over 50 new defendants by way of counterclaim. I directed that Mr. Bockhold take no steps to serve the Counterclaim before receiving my decision on these applications.

Application for document production

[15] I will first address Mr. Bockhold's application for document production. He is seeking four categories of discovery:

- a) trading data;
- b) Wood Gundy's response to discovery requests made in Action No. S190711;
- c) communications on a wide variety of topics; and
- d) examination for discovery of a CIBC employee.

[16] It is apparent that the purpose for which Mr. Bockhold seeks this discovery relates to his allegations of widespread fraud in the banking industry, which he advances both in his Response to Civil Claim and in his Counterclaim. Mr. Bockhold believes that the evidence he is seeking will help prove these allegations.

[17] I have concluded that there is no possibility that the discovery sought by Mr. Bockhold could be used to prove or disprove a material fact in relation to Wood Gundy's claim for enforcement of the settlement agreement, or to Mr. Bockhold's defence in that regard. This includes the documents that Mr. Bockhold says will prove that Wood Gundy's alleged representations were false. I reach this conclusion because, for reasons I will explain in my summary judgment analysis, the fraud alleged by Mr. Bockhold is not relevant to those issues.

[18] While the discovery sought by Mr. Bockhold might be material to issues raised in his Counterclaim that are unrelated to the settlement agreement—something I express no opinion on—it is not necessary for the purpose of deciding Wood Gundy's application for summary judgment. I therefore adjourn Mr. Bockhold's application generally.

Summary judgment

Suitability

[19] Turning to Wood Gundy’s application for summary judgment, I have considered whether it is appropriate to proceed with deciding that application given Mr. Bockhold’s newly filed Counterclaim.

[20] In *Pavlov v. Edwards*, 2024 BCCA 155 at para. 69, the Court of Appeal confirmed that “the mere existence of a counterclaim is not a bar to summary determination”—the question is whether the issues raised for determination by summary judgment are “inextricably interwoven with the issues to be determined” in the counterclaim.

[21] In my view, the issues raised for determination on summary judgment are not “inextricably interwoven” with the various issues raised by the counterclaim.

[22] Part 2, paragraph 1 of the Counterclaim seeks rescission of the settlement agreement. In that respect, the issues on summary judgment and the issues raised by the counterclaim are not “inextricably interwoven”—they are in fact identical. This counterclaim is effectively Mr. Bockhold’s defence to Wood Gundy’s claim. It raises the same factual and legal issues as that defence. In my view, this is not the type of situation contemplated by the Court of Appeal in *Pavlov*, where it would be unjust to decide the claim summarily given the counterclaim. To the contrary; it would be unjust and inconsistent with the object of the Rules to permit Mr. Bockhold to avoid summary judgment simply by filing a counterclaim that effectively duplicates his defence.

[23] Turning to the remaining relief sought in the counterclaim, summary judgment on the enforceability of the settlement agreement will certainly have implications for Mr. Bockhold’s counterclaim for damages, at least to the extent the claimed damages relate to the termination of his employment. However, the damages counterclaim does not give rise to a defence or a set-off to Wood Gundy’s claim. The issues raised by each are discrete. They are not inextricably interwoven.

[24] I cannot identify any way in which the issue for summary judgment could be relevant to any of the remaining counterclaims. None of the issues raised by the remaining counterclaims are inextricably interwoven with the issue of enforceability of the settlement agreement.

[25] For these reasons, I am satisfied that it is appropriate to proceed with Wood Gundy's application for summary judgment despite the newly filed Counterclaim.

Legal principles

[26] On an application for summary judgment brought by a plaintiff, Rule 9-6(5)(a) provides that the court must pronounce judgment "if satisfied there is no genuine issue for trial with respect to a ... defence". It must be "plain and obvious or beyond doubt" that there is no genuine issue, and any doubt in that regard must be resolved against the applicant for summary judgment: *Binnig v. Gill*, 2022 BCSC 1479, at para. 61.

[27] Wood Gundy says its claim for payment of the outstanding amount owing under the settlement agreement meets the high threshold established by this test. It says there is no genuine issue as to the validity and enforceability of the settlement agreement between the parties.

[28] Mr. Bockhold is not represented by counsel in this proceeding, but was clearly able to articulate his position and respond to my questions. He conceded at the hearing that he agreed to the settlement. Had he not, I would have found no genuine issue for trial exists in that regard—he does not dispute that he accepted the formal settlement offer and signed the minutes of settlement, which were negotiated by his counsel.

[29] The court has the discretion to refuse to enforce the settlement of litigation only in very limited circumstances. A settlement agreement is enforceable as a contract: *Roumanis v. Hill*, 2013 BCSC 1047. Where parties have agreed to a settlement, to find it unenforceable there must be some basis "for setting aside the agreement under general contract principles, such as fraud, duress, lack of capacity,

or mutual mistake”: *Robertson v. Walwyn Stodgell Cochrane Murray Ltd.*, [1988] 4 W.W.R. 283 (B.C.C.A.). It is not enough to show “a change of heart, based on some greater consideration of the law or the facts, as to the possibility of success”: *Adam v. Ins. Corp. of B.C.*, (1985) 66 B.C.L.R. 164 (C.A.) at para. 30.

[30] Mr. Bockhold says that the settlement agreement is not enforceable because it was obtained through fraud. Because he is representing himself in this proceeding, I have not limited my analysis of Mr. Bockhold’s position in that regard to the pleadings. I have also considered his oral submissions about why he says the settlement agreement is not enforceable, as though those reasons were pleaded in a further amended Response to Civil Claim.

[31] Mr. Bockhold advances four general ways in which he says the settlement agreement was obtained through fraud: (1) he alleges that it was based on fraudulent misrepresentations made by Wood Gundy (or people speaking for Wood Gundy); (2) he alleges that witnesses called by Wood Gundy committed perjury at trial; (3) he alleges that witness tampering prevented him from calling evidence at trial; and (4) he says that inadequate document discovery prevented him from proving his case at trial.

[32] I am mindful that to successfully oppose summary judgment, Mr. Bockhold only needs to establish that a genuine issue exists in relation to one or more of the grounds on which he says the settlement should be set aside, not that he will ultimately succeed on that issue at trial. Further, I acknowledge that if weighing of evidence “beyond determining whether it is incontrovertible” is required, summary judgment under Rule 9-6 is not appropriate: *Beach Estate v. Beach*, 2019 BCCA 277 at para. 49.

Alleged misrepresentations

[33] The defence of fraudulent misrepresentation requires that Mr. Bockhold establish he was induced to enter the settlement agreement by a false representation of fact that was made by Wood Gundy, to Mr. Bockhold, with

knowledge that the representation was false and with the intention that Mr. Bockhold act on it.

[34] Mr. Bockhold relies on three written representations in relation to this defence. All three appear to be publicly available statements about stock market trading activity.

[35] The difficulty with Mr. Bockhold's reliance on these three statements is that none are representations that Wood Gundy made to him. There is no evidence that these public statements were (a) provided to Mr. Bockhold by Wood Gundy, and (b) with the intention that he rely on them in entering into the settlement agreement. In the absence of such evidence, there is no possibility of establishing that any of these statements were a fraudulent misrepresentation in relation to the settlement agreement.

[36] Mr. Bockhold also says some of the witness testimony at the trial of Action No. S190711 constitutes misrepresentations. These alleged misrepresentations can generally be described as testimony that Wood Gundy follows the rules around trading.

[37] I am not aware of any authority to support the proposition that testimony at trial could qualify as a representation of fact for the purpose of establishing a misrepresentation. In any event, there is no basis in evidence to conclude that the testimony was given with the intention that Mr. Bockhold rely on it to enter the settlement agreement. In these circumstances, there is no possibility of establishing the testimony constitutes a fraudulent misrepresentation in relation to the settlement agreement.

[38] For these reasons, I find that the defence of fraudulent misrepresentation raises no genuine issue for trial.

Alleged perjury

[39] Mr. Bockhold alleges that several witnesses called by Wood Gundy at the trial of Action No. S190711 committed perjury. While not articulated in this way by Mr. Bockhold, I understand his position to be that the settlement agreement should be set aside in these circumstances, because it is the result of a fraud upon the court.

[40] None of the witnesses in question have been charged with or convicted of perjury, nor is there any evidence that there is or has ever been any investigation or proceedings in that regard. Mr. Bockhold believes the witnesses gave false testimony, but this is not a new belief based on information he learned after the settlement. Rather, Mr. Bockhold acknowledges that he believed the testimony to be false at the time it was given in court. He says he told his counsel it was false at the time. There is no evidence to suggest that his counsel was prevented from testing the witnesses' credibility by cross-examining them on the evidence in question. Mr. Bockhold decided to enter into the settlement agreement knowing that this was the state of affairs.

[41] In these circumstances, I find that there is no genuine issue for trial in relation to the allegation of perjury as a ground for setting aside the settlement agreement.

Alleged witness tampering

[42] Mr. Bockhold says that he was unable to defend himself at trial in Action No. S190711, because witnesses he intended to call in his case changed their minds shortly before trial and told him they were not willing to testify. He alleges this was the result of witness tampering, and left him no choice but to agree to the settlement. Again, while not articulated in this way by Mr. Bockhold, I understand his position to be that the settlement agreement should be set aside in these circumstances, because it is the result of a fraud upon the court.

[43] With one exception, Mr. Bockhold agrees he had not subpoenaed the witnesses in question to testify. The one witness who was under subpoena was

apparently not available to attend the trial; there is no evidence that any steps were taken to enforce the subpoena or make other arrangements for their testimony.

[44] Mr. Bockhold's belief that there was witness tampering is not based on new information he learned after the settlement. He says it was shortly before trial when he first learned the facts giving rise to his belief that witness tampering occurred. He says he conveyed his concerns to his counsel at the time. There is no evidence that the allegation of witness tampering was ever raised with the trial judge. Mr. Bockhold decided to enter into the settlement agreement knowing all this information.

[45] In these circumstances, I find that the allegation of witness tampering does not raise any genuine issue for trial as to enforceability of the settlement agreement.

Alleged inadequate document discovery

[46] Finally, Mr. Bockhold says the settlement is not enforceable because a lack of document discovery on the part of Wood Gundy in Action No. S190711 prevented him from proving his case.

[47] To the extent there was a concern about inadequate discovery, that is an issue that should have been addressed before trial or, at the very latest, with the trial judge. In fact, I understand that there was at least one pre-trial application regarding document disclosure in that proceeding. Again, Mr. Bockhold knew this was the state of affairs when he decided to enter into the settlement agreement.

[48] In these circumstances, I find that complaints about pre-settlement document discovery do not give rise to any genuine issue for trial regarding enforceability of the settlement agreement.

Conclusion regarding summary judgment application

[49] I acknowledge that Mr. Bockhold believes he has uncovered evidence of fraud in the form of illegal market activity, and he now believes that Wood Gundy is involved. It is apparent from Mr. Bockhold's submissions that he wishes to use this proceeding, including any documents he might obtain through discovery, to further

investigate and prosecute the alleged offenders. That is the purpose of the counterclaim.

[50] Throughout his submissions, Mr. Bockhold conflated his allegations of fraud in the banking industry with the issue of whether fraud exists in relation to the formation of the settlement agreement. These are distinct issues. Even if there is merit to Mr. Bockhold's allegations and a legal cause of action exists that he can advance in relation to the other matters raised in his Counterclaim—things I am not tasked with deciding on this application and about which I express no view—they are not relevant to enforcement of the settlement agreement.

[51] I acknowledge that Mr. Bockhold is unhappy with the settlement. He says the facts are not as he understood them to be at the time he agreed to settle the litigation. His defence theory at trial was that he was dismissed because he had uncovered a fraud. However, he says he did not understand the full extent of the fraud at the time. He now believes Wood Gundy is also involved, and that their involvement was part of what motivated the decision to terminate him.

[52] This new theory is not based on facts that were unavailable to Mr. Bockhold at the time of the settlement. Rather, he says he did not appreciate the significance of those facts until he learned more information after the settlement, which has caused him to further develop his theory as to why he was terminated.

[53] While I do not question that Mr. Bockhold has changed his mind about the settlement based on further consideration of the facts, that is not a basis for setting aside a settlement: *Adam* at para. 30.

[54] There is no evidence that Mr. Bockhold was improperly denied discovery or otherwise prevented from defending himself in the proceeding. He decided to settle his dispute with Wood Gundy rather than have the court decide it. He did so after hearing some of the evidence at trial. He was represented by legal counsel

throughout, including at the time he agreed to the settlement. As stated by Justice Morley in *Gorup-Paule v. Palmatier*, 2024 BCSC 353 at para. 5:

Even if a settlement turns out not be desirable from the point of view of one of the parties, even if they received (or believed they received) poor advice from counsel, and even if they later change their minds, the courts not only should, but must, enforce the bargain the parties came to, if it was pursuant to a valid contract: *Robertson v. Walwyn Stoddgell Cochran Murray Ltd.*, 1988 CanLII 188 (BCCA), [1988] 4 W.W.R. 283 (B.C.C.A.) at p. 285.

[55] For all these reasons, I find it is plain and obvious, and beyond doubt, that there is no genuine issue for trial with respect to Mr. Bockhold's defence that the settlement agreement is not enforceable. There is also no genuine issue for trial as to the amount owing under the settlement agreement. I am satisfied that the high threshold for summary judgment under Rule 9-6 is met in this case.

[56] Having determined there is no genuine issue for trial as to the enforceability of and amount owing under the settlement agreement, I grant judgment in favour of the plaintiff in the amount of \$250,000, plus interest in the amount of \$42,587.16.

Other orders

[57] Pursuant to Rule 9-6(5)(d), the court may make any order it considers will further the object of these Supreme Court Rules—that is, to secure the just, speedy, and inexpensive determination of every proceeding on its merits in a way that is proportionate to the amount involved, the importance of the issues in dispute, and the complexity of the proceeding.

[58] As I have stated, Mr. Bockhold's counterclaim seeking rescission of the settlement agreement is effectively his defence to Wood Gundy's claim. Having found that his defence discloses no genuine issue for trial, the same conclusion applies to that counterclaim. In the circumstances, I consider it appropriate to strike Part 2, paragraph 1 of the Counterclaim pursuant to R. 9-6(5)(d), without leave to amend.

[59] I have considered whether, on my own motion, I might also strike portions of Part 1 of Mr. Bockhold's counterclaim given my findings regarding the settlement

agreement, or to strike Part 2, paragraph 2 (the claim for damages) to the extent that it duplicates relief sought in Action No. S190711. I have concluded it would not be appropriate to do so without giving the parties an opportunity to make submissions in that regard. Should Wood Gundy wish to pursue such orders, it may request a one-hour 9:00 am hearing before me. Any such request must include a proposed schedule for exchanging written argument in advance of the hearing.

[60] I am not otherwise seized of any of the remaining issues in this proceeding.

[61] My direction that Mr. Bockhold take no steps to serve the Counterclaim before receiving my decision on his and Wood Gundy's applications has now expired and he may proceed with service pursuant to the Rules, at his discretion. However, I urge him to consider first seeking legal advice regarding the Counterclaim.

Costs

[62] Wood Gundy seeks special costs. It has not persuaded me that special costs are warranted in this case.

[63] I award costs of both applications to Wood Gundy.

Orders

[64] I consider it appropriate in this case to dispense with the need for Mr. Bockhold's signature on the form of order.

[65] In conclusion, I make the following orders:

- a) The defendant's application for document production is adjourned generally.
- b) Summary judgment is granted in favour of the plaintiff in the amount of \$250,000 plus accrued interest of \$42,587.16, pursuant to the enforceable settlement agreement reached between the parties in Action No. S190711.
- c) Part 2, paragraph 1 of the Counterclaim is struck, without leave to amend.

- d) Costs of both applications are awarded to the plaintiff.
- e) The need for Mr. Bockhold's signature on the form of order is dispensed with.

"Ramsay J."