

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Buffalo Megan Holding Ltd. v. PKT Holdings Inc.*,
2025 BCSC 798

Date: 20250429
Docket: S235069
Registry: Vancouver

Between:

**Buffalo Megan Holding Ltd., Buffalo Holdings Ltd.
and William Wang**

Plaintiffs

And

**PKT Holdings Inc., Quad-City Real Estate Group Ltd.
Tina Mu, and Yangtao Chai**

Defendants

Before: The Honourable Madam Justice W.A. Baker

Reasons for Judgment

Counsel for Plaintiffs:

R. Clark, K.C.

Counsel for Defendants:

D. Parlow
D. Lucas

Place and Date of Hearing:

Vancouver, B.C.
June 7, 2024

Place and Date of Judgment:

Vancouver, B.C.
April 29, 2025

[1] In this application, the applicants PKT Holdings Inc., ["PKT"] Quad-City Real Estate Group Ltd. and Tina Mu seek to have the claims brought by William Wang dismissed as disclosing no genuine issue for trial. The applicants also seek security for costs in the amount of \$88,000, and to have the action stayed until security is posted.

[2] Ms. Mu is alleged to be the controlling mind of PKT and Quad-City Real Estate Group Ltd. (a company formerly known as Gentai Development Corp.).

[3] Buffalo Megan Holding Ltd. and Buffalo Holdings Ltd. are companies engaged in a project which is the subject matter of the dispute. The plaintiff Mr. Wang is not a director of either company.

[4] In this action, the plaintiffs assert that in 2017, Mr. Wang and the defendant Tina Mu agreed to develop a construction project. The plaintiffs allege that Mr. Wang and Ms. Mu entered into a development agreement, partially oral and partially written, pursuant to which Ms. Mu would be responsible for raising all financing and investment capital needed for the project. The project was expected to require approximately \$26,000,000 in investor equity investment. The parties agreed to form a limited partnership to pursue the project.

[5] The plaintiffs allege that the applicants PKT and Ms. Mu took control of the project, entered into onerous financing agreements to the detriment of the partnership, and Ms. Mu breached her fiduciary obligations to the partnership. They allege that Ms. Mu entered into an agreement with a third party, a Mr. Chai, to acquire the project for herself, earning all profits that were properly due to the partnership, which the plaintiffs describe as a conspiracy.

[6] The plaintiffs allege that PKT filed a petition and sought the appointment of a receiver over the partnership, which was based on untrue assertions. Ultimately, Prospera Credit Union, the project's lender, commenced foreclosure proceedings which resulted in a receiver being appointed.

[7] The plaintiffs take issue with the conduct of the receiver, including its decision to reconfigure the development. PKT supported the reconfiguration proposed by the receiver, and the plaintiffs allege that such support was a further breach of the development agreement and was in furtherance of the conspiracy. The receiver obtained an order for sale of the property. An application for sale of to PKT and Mr. Chai's company was brought by the receiver on October 31, 2022.

[8] Ultimately, the sale was approved by the court, and the plaintiffs did not appeal that order. The sale was completed. Following the completion of the sale, the plaintiffs brought this action.

[9] The plaintiffs allege that PKT and Ms. Mu breached their fiduciary duty to the partnership and its partners, breached the development agreement and partnership agreement, and breached their duty of honesty and good faith in dealing with the property. The plaintiffs allege that these breaches set about a chain of events which ultimately led to the receivership and sale of the property, to the advantage of PKT and Ms. Mu.

[10] The applicants deny the existence of the oral development agreement, as alleged by the plaintiffs. The applicants say any such oral agreement would contradict the entire agreement clauses of the written agreements the parties did execute. The parties executed the following written agreements in furtherance of the development project: a shareholders' agreement, a limited partnership agreement, a development management agreement, and bare trust and agency agreements regarding the holding of legal title to the land parcels.

[11] The applicants also allege on this application that the orders sought by the plaintiffs are contrary to the orders of the court in the receivership, and constitute an abuse of process.

[12] The applicants bring this application for summary judgement pursuant to Rule 9-6(5)(a). Pursuant to this rule, the court must pronounce judgment or dismiss the claim if it is satisfied that there is no genuine issue for trial with respect to a claim: 4 *Corners Properties Ltd. v. Boffo Developments (Smithe) Ltd.*, 2013 BCSC 1926 para 20-24.

[13] The court in *Jesson v. Wilkinson*, 2018 BCSC 1921 set out the test on applications pursuant to Rule 9-6:

[16] Rule 9-6 of the *Supreme Court Civil Rules* permits a defendant to bring an application for summary judgment dismissing all or part of a claim against them on the basis that the notice of civil claim does not raise a genuine issue for trial. To be successful, the applicant must establish that it is manifestly clear that no *bona fide* issue for trial exists. If I am left in doubt as to whether there is a triable issue, that doubt would generally be resolved in favour of the plaintiff and the application would be dismissed: see *Litynsky v. Litynsky*, 2012 BCSC 1160 at para. 43.

[17] In considering whether there is a genuine issue for trial, I may review evidence. However, it is generally not appropriate to assess the credibility of a witness or determine the relative weight to be given to evidence in a summary trial application. Generally, if assessing or weighing evidence is required, then the requisite test has not been met. The consideration of evidence is limited to whether it establishes a triable issue: see *Kerfoot v. Richter*, 2018 BCCA 238 at para. 29; citing *Skybridge Investments Ltd. v. Metro Motors Ltd.*, 2006 BCCA 500 at para. 12.

[18] I am entitled to make inferences of fact based on undisputed facts before the court as long as the inferences are strongly supported by the facts: see *Canada (Attorney General) v. Lameman*, 2008 SCC 14 at paras. 10 and 11.

[14] The plaintiffs rely on *McCullough v. Malick*, 2022 BCSC 2134 for the proposition that the threshold for establishing a triable issue is not high:

[35] The burden is high on an application for summary judgment. In *Canadian Western Bank v. 0777419 B.C. Ltd.*, 2009 BCSC 683 at para. 15, Justice Barrow found it must be manifestly clear that no *bona fide* triable issue exists; he took that to mean much the same thing as beyond a reasonable doubt, citing *Progressive Construction Ltd. v. Newton* (1981), 25 B.C.L.R. 330, 1980 CanLII 493 (S.C.).

[36] The purpose of summary judgment is to weed out and prevent meritless claims or defences from proceeding to trial: *Balfour v. Tarasenko*, 2016 BCCA 438 [*Balfour BCCA*] at para. 41. The party seeking summary judgment must show that there is no genuine issue of material fact that requires a trial for determination: *Canada (Attorney General) v. Lameman*,

2008 SCC 14 at paras. 10-11 [*Lameman*]. On a summary judgment application brought against a defendant, the essential question is whether the defendant is bound to lose: *Balfour BCCA* at para. 42.

[37] Where the defendant relies upon an asserted defence to resist the application, it must be *bona fide* in nature: *Balfour BCCA* at para. 42. This means that the proposition of law upon which the defendant relies must have a *bona fide* foundation in fact: *North Vancouver (District) v. Babyeats Ltd.*, 2014 BCSC 890 at paras. 44 and 46; *Bank of Montreal v. Yow* (1986), 1986 CanLII 864 (BC CA), 16 B.C.L.R. (2d) 249 at 253-255 (C.A.)

[38] The threshold for establishing a triable issue is not high: *TCC Mortgage Holdings Inc. v. Alysén Place Developments Inc.*, 2011 BCSC 383 at para. 14 [TCC]. Only a limited review of the evidence is permitted on a summary judgment application. As noted by Justice Horsman in *Ding v. Ding*, 2021 BCSC 1055 at para. 29 [*Ding*]:

Rule 9-6 of the *Supreme Court Civil Rules* permits the court to grant judgment on the basis of a limited review, but not weighing, of the evidence. It must be manifestly clear that there is no genuine issue for trial. If the evidence needs to be weighed and assessed, then judgment cannot be granted under Rule 9-6: *Beach Estate v. Beach*, 2019 BCCA 277 at paras. 48–49 and 65.

[15] The applicants submit that there is no genuine issue for trial on Mr. Wang's claims of breach of contract, breach of fiduciary duty, conspiracy, or aggravated damages because he cannot establish that he independently contracted with any of the applicants, that any fiduciary duties were owed to him personally, or that he personally suffered damages.

Breach of contract and breach of fiduciary duties

[16] There is no evidence that Mr. Wang was a party to any of the written agreements in support of the project. Buffalo – Gentai Development Ltd. was a company owned 25% by Gentai Development Ltd. and 75% by Buffalo Holdings Ltd. The directors of Buffalo – Gentai Development Ltd. were the defendant Ms. Mu, Mr. Peter Yang, Ms. Changxia Lv and Mr. Hongyan Ren.

[17] A Limited Partnership Agreement dated December 1, 2017, was entered with Buffalo – Gentai Development Ltd. as the General Partner. Buffalo Megan Holding Ltd., Quad-City Real Estate Group Ltd. and others became limited partners. Mr. Wang was not a director of any of the limited partners, and there was no

evidence before me to establish that he was a shareholder in any of the companies involved in the project.

[18] The Limited Partnership and Buffalo – Gentai Development Ltd. entered a Development Management Agreement.

[19] The Partnership entered into various Bare Trust and Agency Agreements, pursuant to which the legal title to parcels of land were held in trust for the Partnership.

[20] Mr. Wang pleads that he and Ms. Mu entered into an oral agreement, which he defines as the development agreement. He pleads that the development agreement is the overarching agreement, and the written agreements flow from the development agreement.

[21] Mr. Wang relies on the law in relation to collateral or umbrella agreements, where overarching agreements, sometimes oral, have been upheld and where the consideration for which is the entering into of some other contract or contracts: *Strother v Darc*, 2016 BCCA 297 at para 27-28, *McCullough* para 64-65.

[22] The difficulty I have with the position of Mr. Wang is that it is not supported on the evidence before me. While I cannot weigh evidence, or assess credibility, on this application, I nevertheless can review the evidence which was adduced by the parties. In *Canada (Attorney General) v. Lameman*, 2008 SCC 14 at para. 11, the court confirmed that in bringing a summary judgment application, the defendant cannot simply rely on allegations in pleadings, but must prove that there is no genuine issue for trial. If the defendant meets this test, the plaintiff must respond in kind. The plaintiff must “either refute or counter the defendant’s evidence, or risk summary dismissal.” The parties must put their best foot forward. The court may then make inferences of fact based on the undisputed evidence.

[23] In November 2021 Gentai Development Corp. and PKT Holdings Inc. commenced a petition against Buffalo Holdings Ltd., Buffalo Megan Holding Ltd., Buffalo-Gentai Development Ltd., the Limited Partnership, and others (Vancouver

Registry No. S219671). The petitioners sought dissolution of the partnership. In that petition, Mr. Wang and Ms. Mu filed affidavits, which were referred by the plaintiffs on this application.

[24] In Mr. Wang's affidavit in Action No. S219671, sworn in January 2022, he describes his business relationship with Ms. Mu as follows:

9. We discussed developing a project on the Port Moody lands together. The location was prime, being less than 400 meters from the Port Moody Skytrain Station.

...

11. We discussed a very businesslike arrangement. We have borrowed funds from Gentai for other projects and our acquaintance was a business centered one. In the first place, we agreed each would be responsible for their own areas of expertise. I would do the development, the plans, the rezoning, etc., and the Petitioners [Gentai Development Corp. and PKT Holdings Inc.] would arrange all necessary capital investment (apart from me) and financing. They would maintain the financial books and records of the project, provide control over all payments being made, and arrange any needed financing.

12. However, we did not really know or have an established trust in each other, so we decided we would put in place a structure in which each of us would have an equal voice in all major decisions. All major decisions would be joint and reached in our mutual self-interest.

...

15. We decided to employ the vehicle of a limited partnership and contemplated the Petitioners finding and interesting a considerable number of investors. We wanted to ensure that that large number of investors did not cause disruption in the partnership's business, but we also wished to provide a package which would allay fears on the part of those investors about further cash calls leading to the loss or dilution of a share in the development's profits.

16. We were also anxious not to give any one partner, including both of us, the ability to, in essence, decide to terminate the partnership. Accordingly, we agreed that partners would not be able to withdraw their capital, would not be able to transfer their interests without consent, and would not seek to wind up the partnership and distribute its assets.

...

18. We signed the Agreements described in paragraph 16 of Affidavit #1 of Ms. Mu which are Exhibits "A", "B" and "C" to Affidavit #1 of Gerald Chiang.

[25] Mr. Wang did not swear an affidavit in the action in which this application was brought, and did not produce any evidence of the oral development agreement

alleged in the notice of civil claim. Instead, he relied on his affidavit in the prior petition in which he describes reducing his agreement with Ms. Mu to the written documents which are exhibited to Mr. Chiang's affidavit and are the shareholders' agreement with respect to Buffalo-Gentai Development Ltd., the Limited Partnership Agreement, and the Development Management Agreement. There is no evidence of any consideration for a collateral contract, or the terms of an alleged collateral contract.

[26] In her affidavit on this application, Ms. Mu denies there was any oral development agreement, outside of the written agreements which I have described. She also denies entering into any agreements with Mr. Wang personally.

[27] To support a finding of a collateral contract, a party must establish the elements of an enforceable agreement, and such elements must be strictly proven. The Supreme Court of Canada in *Hawrish v. Bank of Montreal*, [1969] S.C.R. 515 confirmed this at p. 520, citing *Heilbut, Symons & Co. v. Buckleton*, [1913] A.C. 30:

Such collateral contracts, the sole effect of which is to vary or add to the terms of the principal contract, are therefore viewed with suspicion by the law. They must be proved strictly. Not only the terms of such contracts but the existence of an animus contrahendi on the part of all the parties to them must be clearly shewn. Any laxity on these points would enable parties to escape from the full performance of the obligations of contracts unquestionably entered into by them and more especially would have the effect of lessening the authority of written contracts by making it possible to vary them by suggesting the existence of verbal collateral agreements relating to the same subject-matter.

[28] I find that on the evidence before me on this application, Ms. Mu has established that there was no oral agreement between her and Mr. Wang with respect to the development project. I find that the only inference that can be drawn from the evidence was that Mr. Wang and Ms. Mu agreed to create a limited partnership and associated written agreements through which the project would be developed. These written agreements represent the entirety of the agreement relating to the development project.

[29] There is no evidence before me that supports an inference that an overarching umbrella type agreement was entered into by Ms. Mu and Mr. Wang personally. While Mr. Wang speaks of the areas of responsibility for him and Ms. Mu, I find that is insufficient to establish a collateral contract to the written agreements the parties entered into. I find the only inference that can be drawn from the evidence is that Mr. Wang chose to use Buffalo Holdings Ltd., Buffalo Megan Holdings Ltd., Ms. Lv and Mr. Ren to represent his interests in the project, as he was free to do. However, there is no evidence that he and Ms. Mu agreed to create an independent, collateral contract, as he alleges in this litigation.

[30] I find that it is manifestly clear that no *bona fide* triable issue exists in the breach of contract and breach of fiduciary duty claims brought by Mr. Wang personally. The applicants did not seek any orders specifically dismissing claims under the alleged oral development agreement. However, because I am dismissing the claims brought by Mr. Wang in contract and breach of fiduciary duty, it follows that I find it is manifestly clear that no *bona fide* triable issue exists with respect to any claims based in the alleged oral development agreement between Mr. Wang and Ms. Mu.

Conspiracy

[31] Both parties agree that, pursuant to *Can-Dive Services Ltd. v. Pacific Coast Energy Corp.*, 1993 CanLII 6870 (BCCA), a claim in conspiracy will be established where the following elements are met:

- a) Two or more people make an agreement
- b) Action is taken pursuant to the agreement
- c) If the action is lawful, the conspirators must have intended to cause damage to the plaintiff, or if the action is unlawful the conspirators must have known or ought to have known that the action would injure the plaintiff, and

d) The plaintiff must suffer damage as a result of the action.

[32] The applicants submit that the claim alleges no facts in support of an intention to cause harm to Mr. Wang, or that Mr. Wang actually suffered harm.

[33] The claim pleads that the conspiracy resulted in a loss of profit to the partnership, but there is no allegation to Mr. Wang himself suffered any damage. The only allusion in the notice of claim to any damages from the alleged conspiracy is that it deprived the partnership of an anticipated profit.

[34] Mr. Wang produced no evidence on this application to support his claim in conspiracy.

[35] I find that it is manifestly clear that no *bona fide* triable issue exists in the conspiracy claim brought by Mr. Wang personally.

Abuse of process

[36] In Mr. Wang's affidavit in Action No. S219671, sworn in January 2022, Mr. Wang refers to Ms. Mu's attempts in 2021 to sell the project due to a lack of funds. Mr. Wang set out his plans to complete the rezoning and then either sell the project or obtain construction financing to complete the project. He described how Mr. Chai is a rival to him, who was seeking to take over the project.

[37] Prospera Credit Union commenced foreclosure proceedings against the Limited Partnership, Buffalo-Gentai Development Ltd., Ms. Mu, Gentai Development Corp, Buffalo Holdings Inc, and others. Affidavits sworn in those proceedings were referred to by the plaintiffs on this application.

[38] Mr. Gerald Chiang, an employee of Mr. Wang, swore an affidavit in the Prospera petition on March 3, 2023, in which he attached a purchase and sale agreement between the receiver and PKT and Chace Energy Holding Corp. (a company controlled by Mr. Chai). Pursuant to this agreement, the receiver sold the assets of the development project, and the shares of the numbered company that owned the legal title to the lands with the beneficial interest being held by the Limited

Partnership. Mr. Chiang described the negotiations, through counsel, that resulted in the agreement for sale being accepted by Buffalo Holdings Inc., and exhibited the transcript of the appearance before the court on the approval application.

[39] Mr. Ritchie appeared as counsel for Buffalo Holdings Inc. and WJY 2015 Trust. Mr. Ritchie advised the court that any approval would be without prejudice to their position that the receiver overstepped its authority and misconducted itself, which resulted in the low price for the assets. Mr. Ritchie also advised the court that he and Mr. Parlow (appearing for Gentai Development Corp., Ms. Mu and Mr. Yang) agreed that when the funds were released, \$500,000 would be taken before the remainder of the funds were distributed. Mr. Ritchie's clients would receive 40% of that \$500,000, and if there was any shortfall regarding repayment of a promissory note, that shortfall would be the problem of Mr. Parlow's client.

[40] Mr. Wang and the Buffalo companies did not appeal the approval and vesting order. On March 8, 2023, the court approved the activities of the receiver, distributed the net sale proceeds, and discharged the receiver. Mr. Wang and the Buffalo companies did not appeal that order, or commence any proceedings against the receiver.

[41] While it is clear that the outcome of the petition, the positions of the parties in relation to sale and the approval and vesting order, and the orders approving the conduct of the receiver, will be relevant at trial, I cannot say that it is clear no *bona fide* triable issue exists. The plaintiffs allege that Ms. Mu took steps to bring about the collapse of the partnership and the sale of the project. The affidavits filed in the two petitions do put into issue the *bona fides* of Ms. Mu and her partner Mr. Chai in the operation of the project. Mr. Ritchie, on behalf of the plaintiffs herein, consented to orders without prejudice to his right to challenge the authority and conduct of the receiver in those proceedings. The evidence before me is not clear and undisputed, and I cannot agree on this summary judgment application that the claims are a collateral attack on the orders made in the receivership. That will have to be an issue left for trial.

Security for costs

[42] The applicants seek security for costs in this action. The plaintiffs concede that security is warranted, but they do not agree on the quantum and timing of posting security. Both parties agree that the principles set out in *Kropp v. Swanese Bay Golf Course Ltd.*, 1997 CanLII 4037 (BCCA) are applicable.

[43] Security for costs is available in certain circumstances to protect a defendant from the likelihood that, if it is successful, it will not be able to recover its costs from the plaintiff. The authority to order security for costs against a corporate plaintiff is found in s. 236 of the *Business Corporations Act*, SBC 2002, c. 57, and established case law, including *Fat Mel's Restaurant Ltd. v. Canadian Northern Shield Insurance Co.*, 1993 CanLII 1669 (BCCA) and *Natco International, Inc. v. Photo Violation Technologies Corp.*, 2008 BCSC 1527.

[44] The plaintiffs agree that their properties in BC are encumbered. The following information about assets of the plaintiffs in BC was produced on this application:

- a) The plaintiff Buffalo Holdings Ltd. has the correct legal name of Buffalo Holdings Inc. Buffalo Holdings Inc. owns no real property, and all of its personal property is subject to a general security agreement in favour of its lawyer, which expires on December 20, 2027.
- b) The plaintiff Buffalo Megan Holding Ltd. owns one piece of real property with an assessed value of \$1,155,300, encumbered with a mortgage with a balance of \$516,039 owing. It is also subject to two certificates of pending litigation. Its personal property is the subject of a general security agreement in favour of a lender, and a general security agreement in favour of its lawyer, which expires on December 20, 2027.
- c) Changxia Lv (the former wife of the plaintiff Mr. Wang) and a person named Wang Jiyao (admitted to be the plaintiff Mr. Wang) hold a property in joint tenancy. This property has an assessed value of \$4,751,000, and

is the subject of a mortgage with a balance of \$1,566,861, two certificates of pending litigation, and one judgment in the amount of \$3,648,676.

[45] Ms. Mu affirmed that Mr. Wang now lives in China, and no contrary evidence as to Mr. Wang's residency was put before me on this application.

[46] The plaintiffs did not adduce any evidence that the posting of security would impede their ability to pursue their claim.

[47] I am satisfied that the applicants have established a real risk that the plaintiffs have no assets in the jurisdiction sufficient to satisfy a costs order, should the applicants be successful at the end of the day. I find that the applicants are entitled to an order for security for costs.

[48] The applicants seek to have the plaintiffs post security in the amount of \$88,000 prior to any further steps being taken in the proceeding.

[49] The plaintiffs seek to have security posted in stages, as follows:

- a) \$10,000 within a reasonable time
- b) \$20,000 prior to examinations for discovery
- c) \$26,000 one month before trial.

[50] The applicants rely on *Synq Access + Security Technology Ltd. v. Ohman*, 2018 BCSC 1242 at para 18, for the proposition that staged security is not appropriate in cases with serious allegations of dishonesty, or breach of fiduciary duty, as in the case before me. In *Synq* the court held that staging payments could lead to delay in the prosecution of the case. Given the allegations of dishonesty would hang over the applicants until the case was resolved, the case should proceed with dispatch and no staging was ordered.

[51] In this case, the plaintiffs allege Ms. Mu breached her fiduciary duties to the partnership and Ms. Mu and PKT advanced their own interests over the interests of

the partnership. They allege that Ms. Mu disclosed confidential information to Mr. Chai in furtherance of their conspiracy, and that Ms. Mu as part of a conspiracy falsely created a deadlock in the partnership, improperly attempted to terminate the partnership, and intended to acquire the partnership's assets for herself and Mr. Chai, to the detriment of the partners and their interest in an expected profit from the project.

[52] The applicants submit that these allegations of dishonesty, conspiracy and breach of fiduciary duty are of particular harm to Ms. Mu given her reputation as a mortgage broker, and require the claim to be advanced with dispatch.

[53] I agree with the applicants that this case is not one where the order for security for costs should be staged over time. The seriousness of the allegations supports an order for security to be posted in one tranche.

[54] In *Synq*, the court also reviewed the factors to be considered in setting the quantum of security:

[13] In setting the quantum for security a court should consider the likely time and cost involved in bringing the case to a conclusion, including:

- a) Extent and complexity of document production and examination,
- b) Length of anticipated examinations for discovery of parties or witnesses,
- c) Anticipated length of trial,
- d) The need for expert evidence and preparation of expert reports,
- e) The location of the trial and the requirements of travel and accommodation for witnesses and counsel,
- f) The likely length and complexity of legal research and preparation,
- g) Any other factor that is likely to have an impact on the cost and expense of the trial.

[55] The applicants submit that this case will involve substantial work in the discovery phase of the action, including in obtaining documents from the receiver, obtaining and translating documents and communication of the plaintiffs, obtaining documents from Mr. Chai, reviewing document production and conducting discoveries. The trial is currently expected to take 20 days.

[56] The applicants also submit the case has little merit, for the reasons already discussed.

[57] The applicants produced a draft bill of costs, in support of their application for security in the amount of \$88,000. This bill of costs estimated costs for a 20 day trial, including assuming document production was on the high side of the range of 1-999 documents, mid point for expert evidence in relation to expected appraisal evidence, two days of discovery of the plaintiffs, two days of discovery of the applicants, and the costs of an interpreter.

[58] The plaintiffs challenge the following items claimed:

- a) Item 1 – the plaintiffs claim this relates to the period prior to the start of proceedings and prior to this application. I find that this item is properly recoverable and should be included in my considerations for security.
- b) Items 14 and 15 – the plaintiffs claim these are conjunctive. I agree with the applicants that item 14 relates to serving a notice to admit, while item 15 relates to responding to a notice to admit. Both items should be included in my considerations.
- c) Item 17 – expert evidence. I accept the applicants’ submission that expert evidence in the form of appraisals is likely required, and may be considered by me on this application.
- d) Items 19 and 20 – the plaintiffs claim these should be limited to seven hours per party. The applicants say they are entitled to examine two representatives of the plaintiffs which, at seven hours per plaintiff, comes out to four days in total. I agree with the applicants.
- e) Item 21 – the plaintiffs claim this item ought to be included in the application for summary judgment. I agree with the applicants that they did not include any separate claim for the security for costs application and

have properly included their claims in relation to the application for security for costs in their claim for the application for summary judgment.

- f) Item 36 – the plaintiff say the applicants’ claim of 8 units out of a maximum of 10 is overstated. I disagree. In the circumstances of this case, I find that 8 units is a reasonable estimate.
- g) Items 29, 32, 39, 42, 44 – the plaintiffs claim these are not supportable. I find that these items, which relate to appearance to settle an order, settlement conferences, payment out of court, negotiations, and execution, are not properly the subject of this security for costs application. These are not items which will necessarily flow during the course of proceedings. The bill of costs will be reduced by 9 units, or \$990.
- h) Court reporter costs of \$12,000. While the plaintiffs challenge this estimate, they produced no other evidence of reasonable fees. I find \$12,000 is a reasonable estimate of court reporter fees to be incurred during discovery.

[59] I find that \$87,000 is a reasonable estimate of costs, and I order the plaintiffs to post security for costs in the amount of \$87,000 within 30 days of this order.

[60] The applicants ask for liberty to apply to increase the amount posted, should the estimate prove to be inadequate as the case progresses. Given the case is in a very early stage, I agree that such an order makes sense.

Disposition

[61] I order that all claims against the applicants brought by Mr. Wang are dismissed pursuant to Rule 9-6(4) on the ground that they disclose no genuine issue for trial.

[62] The plaintiffs shall post \$87,000 as security for the applicants’ costs, within 30 days of this order.

[63] This action is stayed pending the posting of security by the plaintiffs.

[64] The applicants have liberty to apply for further security.

[65] The applicants are entitled to their costs in any event of the cause.

“W.A. Baker J.”