

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Grewal v. Dentalcorp Health Services Ltd.*,
2025 BCSC 1507

Date: 20250807
Docket: S240756
Registry: Vancouver

Between:

Dr. Gurkamal Grewal and Dr. Grewal Dental Corp.

Plaintiffs

And

Dentalcorp Health Services Ltd.

Defendant

- and -

Docket: S240999
Registry: Vancouver

Between:

**Dentalcorp Health Services Ltd. and
Dr. Larry Podolsky Dental Corporation**

Petitioners

And

Dr. Gurkamal Grewal Inc.

Respondent

Before: The Honourable Justice Maisonville

Reasons for Judgment

Counsel for Dr. Gurkamal Grewal and
Dr. Grewal Dental Corp.:

L. Kotler
M. Switzer

Counsel for Dentalcorp Health Services Ltd.
and Dr. Larry Podolsky Dental Corporation:

A. Sekunova
D. Melnick

Place and Dates of Hearing:

Vancouver, B.C.
November 20–22, 2024
July 17–18, 2025

Place and Date of Judgment:

Vancouver, B.C.
August 7, 2025

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INTRODUCTION

[1] The defendant, Dentalcorp Health Services Ltd. (“Dentalcorp”), applies for a declaration that the commercial lease between the plaintiffs, Dr. Gurkamal Grewal and Dr. Grewal Dental Corp., and Dentalcorp of a dental facility (the “Lease”) has been improperly terminated and should remain in full force and effect.

[2] In the alternative, Dentalcorp seeks an order of relief from forfeiture of the Lease pursuant to s. 24 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253. Dentalcorp has brought this matter before the court as a summary trial application pursuant to Rule 9-7 of the *Supreme Court Civil Rules*.

[3] This matter proceeded as a chambers application and required five full hearing days after the initial three days put aside was insufficient to address all the matters arising on the issue before the Court.

[4] The materials before the Court were voluminous, and a further binder of materials and additional arguments were filed in the days before the hearing recommenced to add to the four volumes of materials. In addition to the two binders of authorities and separate legal arguments, additional legal submissions in excess of 60 pages single-spaced were submitted, all of which was additional to the filed application materials.

[5] Of note is the fact that this application does not address all of the issues between the parties but liability only. The issue of quantum will have to be addressed in later proceedings, thus, making it impossible for any final resolution to be made by this court to completely address the issues between the parties.

BACKGROUND

[6] The plaintiff, Dr. Grewal, is a dentist and had a practice which he sold to Dentalcorp. Dr. Grewal was the owner of a dental facility located at 3180 Barrens Road, Nanaimo, BC (the “Premises”).

[7] The parties entered into a series of agreements in December 15 and 16, 2021, generally relating to the sale of Dr. Grewal's dental practice to Dentalcorp. As part of those agreements, the parties also entered into the Lease on December 16, 2021 with respect to the Premises.

[8] Dr. Grewal retained title to the land and leased the property to Dentalcorp. Dentalcorp now operates the dental clinic called Wellington Dental Clinic at the Premises.

[9] Dentalcorp paid \$8.5 million to purchase the clinic from Dr. Grewal, including \$6.8 million for assets under a share purchase agreement and \$1.7 million for professional goodwill under the asset purchase agreement. This was paid by cash of over \$5.5 million in the issue of shares in Dentalcorp's parent corporation.

[10] Following the purchase, Dentalcorp invested just under \$100,000 for the clinic's operations in dental equipment, computer hardware, and imaging software for its practice.

[11] In late September 2023, Dentalcorp performed a renovation of its sterilization centre at the clinic (the "Renovation"). The Renovation was completed in five days. Dentalcorp did not obtain the required building permits for the Renovation.

[12] Dr. Grewal alleged breaches and, as a result, terminated the Lease on December 22, 2023. Dr. Grewal takes the position that the notice of termination was valid and that he is, therefore, entitled to re-enter the Premises.

[13] Dentalcorp initially denied that a breach of the Lease occurred (ultimately during the course of the hearing conceding a breach by failing to obtain a building permit) but maintained the position that Dr. Grewal was not entitled to terminate the Lease because:

- a) upon learning that of the required building permit that was not obtained relying on advice from its contractor, Dentalcorp took immediate steps and did everything in its power to rectify the issue and obtain permits from the City of Nanaimo;

- b) upon receipt of Dr. Grewal's notice of default, Dentalcorp remedied the alleged defaults within ten days as was required by the provisions of the Lease; and
- c) Dr. Grewal actively prevented Dentalcorp from obtaining the necessary building permits and made it impossible for Dentalcorp to cure the breach under the Lease.

[14] Alternatively, Dentalcorp seeks relief from forfeiture and argues it will suffer significant losses, including the loss of its investment made in the clinic of millions of dollars and the cost required to relocate and to set up a new clinic, which is estimated in the range of \$2 million.

[15] Additionally, Dentalcorp argues that innocent third parties will suffer significant losses and harm if relief from forfeiture is not granted, including the clinics' employees who will lose employment and approximately 3,500 Dentalcorp patients.

[16] Procedural matters before the Court at the outset of this five-day hearing which started in November 2024 to July 2025 made it evident that this matter was complex and involved issues of fact to be resolved.

[17] Dentalcorp argues this matter is suitable for summary trial. Dr. Grewal, on the other hand, argues that while the issues of the breaches of the Lease may be suitable, the relief from forfeiture aspect of this matter requires a trial. The parties' position will be set out in more detail in these reasons.

DISCUSSION

[18] Rule 9-7 of the *Supreme Court Civil Rules* sets out as follows (in part):

- (15) On the hearing of a summary trial application, the court may
 - (a) grant judgment in favour of any party, either on an issue or generally, unless
 - (i) the court is unable, on the whole of the evidence before the court on the application, to find the facts necessary to decide the issues of fact or law, or
 - (ii) the court is of the opinion that it would be unjust to decide the issues on the application,

- (b) impose terms respecting enforcement of the judgment, including a stay of execution, and
- (c) award costs.

[19] The issues on this application are therefore, first, whether this Court is unable to find the facts necessary to decide the proposed issues and, second, whether it would be unjust to decide them summarily.

[20] In *Johnson v. Diverse Truck & Equipment Inc.*, 2024 BCSC 1787, Justice Donegan, as she then was, set out the following principles in relation to the suitability of a matter for summary trial under Rule 9-7. She noted at para. 26:

[26] [...] the court may grant judgment in favour of a party, either on an issue or generally, unless the court is unable, on the whole of the evidence before the court on the application, to find the facts necessary to decide the issues of fact or law where the court is of the opinion that it would be unjust to decide the issues on the application. [...]

[21] Even where the parties had agreed to have this case disposed of in its entirety by summary trial, Donegan J. noted this does not displace a court's obligation to determine whether the matter is suitable for determination in this way or not. Justice Donegan noted:

[27] To determine whether a case is suitable for summary trial, I am to consider a number of factors, including such things as the amount of money involved, the complexity of the matter, the cost of taking the case forward to a conventional trial in relation to the amount of money involved, the course of the proceedings, the cost of the litigation and the time of the summary trial, whether credibility is a critical factor in the determination of the dispute, whether a summary trial may create unnecessary complexity in the resolution of the dispute, and whether the application would result in litigating in slices: *Inspiration Management Ltd. v. McDermid St. Lawrence Ltd.* (1989), 36 B.C.L.R. (2d) 202 (C.A.) and *Gichuru v. Pallai*, 2013 BCCA 60 [*Gichuru*] at paras. 30–31.

[22] Justice Donegan additionally noted

[28] It is incumbent on parties to a summary trial to put their best foot forward, failing which they bear the risk of having judgment granted against them: *Gichuru* at para. 32.

Is the Court Unable to Find the Facts Necessary to Decide These Issues?

[23] Factors weighing against the suitability of proceeding by summary trial include whether the Court is unable to determine issues of credibility and reliability and make findings of fact from the evidence. The existence of credibility issues does not necessarily preclude determination by summary trial: *Amacon Alaska Development Partnership v. ARC Digital Canada Corp.*, 2023 BCCA 34 at para. 40. However, where credibility is a critical factor in the determination of the dispute, and where it cannot be resolved by reference to documentary or other evidence, resolution by summary trial is not appropriate: *Cory v. Cory*, 2016 BCCA 409, at para 10.

[24] The facts as set out by Dentalcorp are that it conducted the Renovation of its sterilization centre at the clinic. Dentalcorp did not obtain a building permit, in violation of the Lease, and relied instead on its contractor who indicated a permit was not required. The factual issues before the Court are thus not simply restricted to interpretation of a lease.

[25] The factual determinations to be made include additional actions that Dr. Grewal says constitute further breaches and whether in light of those additional alleged breaches Dentalcorp should be granted relief from forfeiture. Those actions include what occurred when Dr. Grewal determined that the renovations were being undertaken by Dentalcorp when he contacted the City of Nanaimo and what then ensued, including whether Dentalcorp's employees or its contractors prevented the inspector from the City of Nanaimo from accessing the Premises.

[26] The issues in addition to the interpretation of the Lease, include whether there are implied additional terms, and whether Dr. Grewal acted in a way to frustrate Dentalcorp's remedying the renovation of the Premises. In turn, Dr. Grewal claims that Dentalcorp's descriptions of the actions taken are false, inaccurate, and an "abuse of process", as was submitted in its oral argument. Dr. Grewal submitted that breaches have occurred and relief from forfeiture should not be granted.

[27] It is of note that pretrial discovery is not complete. Counsel for Dr. Grewal submitted that while he had conducted an examination for discovery of Ryan McArthur, a representative of the Dentalcorp, it was not finished. Dr. Grewal argues in oral submission that Mr. McArthur was unable to properly answer numerous questions. Indeed, in Dr. Grewal's submissions, Mr. McArthur's evidence as a whole should not be accepted as reliable because there are too many instances where Mr. McArthur does not have direct knowledge of the material facts. The defence chose not to discover Dr. Grewal and no one else was discovered on behalf of the plaintiffs, Dr. Grewal and Dr. Grewal Dental Corp.

[28] There are a number of issues that are before the Court that would require the weighing of evidence. Dr. Grewal argues that Dentalcorp's dealings with him included dishonest conduct such as:

- a) advising Dr. Grewal that the permit issues would be rectified with the City of Nanaimo but failing to take steps and, instead, proceeding further with the Renovation, in breach of the stop work order;
- b) falsely asserting or suggesting that Dentalcorp had complied with the stop work order;
- c) refusing the City of Nanaimo's inspector access to all or part of the Premises while denying to Dr. Grewal that that event had occurred;
- d) falsely accusing Dr. Grewal and Dr. Grewal's wife, who worked as an office manager for Dr. Grewal Dental Corp. of changing alarm codes of the Premises;
- e) falsely asserting that Dr. Grewal admitted to the RCMP that he had changed the alarm codes at the Premises; and
- f) failing to be candid about the full extent of the Renovation.

[29] As can be seen from the above, these matters are denied and there are significant issues of credibility and reliability to be determined in relation to those issues, which will impact on the Court's ability to analyze whether breaches have occurred and whether there should be relief from forfeiture. It is not possible to resolve these issues by reference to independent documentary or other evidence.

Would It Be Unjust to Decide These Issues by Way of Summary Trial?

[30] Factors to consider in whether it would be unjust to decide issues by way of summary trial were noted in *Ferrer v. 589557 B.C. Ltd.*, 2020 BCCA 83 at para. 27:

[27] [...]

- [b] whether it would be unjust to decide the issues by way of summary trial, considering amongst other things:
 - i. the implications of determining only some of the issues in the litigation, which requires consideration of such things as:
 - (1) the potential for duplication or inconsistent findings, which relates to whether the issues are intertwined with issues remaining for trial;
 - (2) the potential for multiple appeals; and
 - (3) the novelty of the issues to be determined;
 - ii. the amount involved;
 - iii. the complexity of the matter;
 - iv. its urgency;
 - v. any prejudice likely to arise by reason of delay; and
 - vi. the cost of a conventional trial in relation to the amount involved.

[31] The amount of time involved in the summary trial can also be relevant: *Dahl v. Royal Bank of Canada et al.*, 2005 BCSC 1263 at para. 12, upheld on appeal at 2006 BCCA 369.

[32] To determine whether it would be unjust to decide the issues by way of summary trial, I consider these factors in turn.

i. The implications of determining only some of the issues in the litigation

[33] An important consideration in determining whether a certain issue could be separated out for the purposes of summary trial is the question whether the issue is intertwined with other issues.

[34] Dr. Grewal argues that the Court cannot find the facts necessary to decide the issues engaged by the summary trial application. In particular, he argues that the

Court cannot decide the issue of relief from forfeiture without determining whether Dentalcorp acted in bad faith: it would produce an unjust result given the degree to which those issues are intertwined.

[35] Furthermore, the parties have agreed that the issue of quantum is to be determined at a trial. Yet, much of the same evidence and witnesses will of necessity have to be considered in a trial of quantum. There is the very real possibility there may be inconsistent findings with respect to the evidence as it is before me and how it would be presented at trial. This is a consideration of the appropriateness of litigating in slices: *Bacchus Agents (1981) Ltd. v. Philippe Dandurand Wines Limited*, 2002 BCCA 138.

ii. The amount involved

[36] The amount is substantial. As noted, Dentalcorp paid \$8.5 million to Dr. Grewal in 2021, which included assets (\$6.8 million) and goodwill (including intangible assets such as reputation and proprietary information and relationships with staff).

iii. The complexity of the matter

[37] Dentalcorp argues that the matter is not complex—it is only seeking declaratory relief and reinstatement of the lease. This submission, however, fails to take into account that the trier of fact must endeavour to carefully consider and weigh all of the evidence to arrive at a just determination, which includes a determination on all the alleged breaches of the Lease by Dentalcorp in the circumstances here to find whether declaratory relief is or is not warranted.

[38] This matter is complex. Complexity is not simply a function of issue analysis and its difficulty. Complexity additionally incorporates consideration of the amount of time to conduct an application, the evidentiary issues and objections, the amount of information to be reviewed and analyzed. There was an abundance of evidentiary issues here including challenges to credibility and reliability of party and third-party evidence.

iv. The urgency of the matter

[39] The parties have already agreed to divide the issues leaving the quantum of damages to be determined at a trial of this matter. It will not be possible consequently for this matter to be finally determined in any event. The matter, consequently, is not sufficiently urgent to outweigh a delay to trial.

v. Any prejudice likely to arise by reason of delay

[40] Dentalcorp argued there would be prejudice should the matter of liability have to proceed to trial. Dental patients and staff are being inconvenienced. A stop-work order remains posted to the door. In response, Dr. Grewal submits that, should Dentalcorp be unsuccessful in its application with respect to relief from forfeiture, there would be no prejudice because the patients would still be able to be serviced by the clinic and its employees would be able to keep their jobs. This submission was countered by Dentalcorp which noted that that would mean Dentalcorp would be required to walk away from the many millions of dollars that it had paid to purchase the dental clinic from Dr. Grewal.

[41] As noted, a determination on liability would not finally settle this matter and further could result in inconsistent findings in relation to the witnesses and the evidence.

[42] Dr. Grewal has been advised by the City of Nanaimo that the City will be doing nothing further than putting a notice of infraction on title and, accordingly, no meaningful prejudice is likely to arise by reason of the delay.

[43] The prejudice identified by Dentalcorp, if it were to be established, could be compensated by an order for damages.

[44] The trial is presently set for ten days commencing July 13, 2026. No meaningful prejudice is likely to arise by reason of delay.

vi. The cost of a conventional trial in relation to the amount involved

[45] As set out earlier in these reasons, at stake are many millions of dollars and many jobs. The cost of trial is proportional to the amount involved.

vii. The time involved

[46] This matter has taken five days of court time and could not be considered “summary”.

[47] In all of the circumstances, I find that this matter is not suitable for summary trial and, consequently, it not be appropriate to opine on the merits of this application, save and except to note that, given the allegations and the difficulty of finding the necessary evidence considering the state of the discovery in this matter and the issues that were raised on the evidence as proffered by the parties which rendered portions inadmissible, it is impossible, on the record as tendered, on a summary trial to find the necessary facts in a manner that can be conducted without being able to assess credibility, reliability, and the facts themselves. Even if the issues of the breaches of the Lease were proper to determine on a summary basis, the issues are intertwined with relief from forfeiture on which there are serious allegations of untruthfulness levelled as well as abuse of process which was levelled against Dentalcorp by Dr. Grewal in oral argument.

[48] There are substantial conflicts between the evidence necessary to be resolved. The Court is left with the task of resolving matters of credibility and reliability in an unsatisfactory manner. The issue of relief from forfeiture is directly tied up with the obligations of Dentalcorp under the Lease and the issues are intertwined. The factual issues are thus not straightforward and in conflict. Evidentiary objections have to be resolved in an unsatisfactory manner in addition to determining the main issues. Issues of cashflow are advanced by Dentalcorp but no direct evidence was before the Court. Dentalcorp argues that the issue of damages can be considered in part now. This flows from its argument on relief from forfeiture by comparing it to the damages that Dr. Grewal will suffer if relief is not granted. Yet,

the damages to Dr. Grewal will be the subject of the trial yet to come. The discovery process remains ongoing.

[49] Further, to assess whether Dentalcorp should be granted relief for forfeiture, the court must examine the conduct of the party seeking relief, the gravity of the breaches, the disparity between the value of the property forfeited and the damage caused by the breach, and whether the party seeking relief has “clean hands”: *600433 B.C. Ltd. v. XJ Motors Ltd.*, 2011 BCSC 1144, at para 34. .

[50] A number of breaches are alleged. The matter becomes complex particularly as it pertains to assessing the context in which the breaches alleged unfolded, which again is essential to a proper determination whether Dentalcorp should be granted relief for forfeiture because there is the associated issue of whether there was bad faith on the part of Dentalcorp as alleged by Dr. Grewal.

[51] I note the decision in *Morin v. 0865580 B.C. Ltd.* at 2015 BCCA 502 at paras. 48, 49, and 58 in which the Court of Appeal noted that while trial judges should be guided by decisions from the BC Court of Appeal on the rule in preference to *Hryniak v. Mauldin*, 2014 SCC 7, they should have regard to the objectives of proportionality efficiency in deciding whether summary trials are appropriate.

[52] The Court in *Hryniak* noted that in the context of a complex, fact-intensive, multi-party, and multi-issue case, with red flags relating to document disclosure (as is the case alleged here by Dr. Grewal), the savings of time and expense have to be balanced.

[53] I note as well *N.J. v. Aitken Estate*, 2014 BCSC 419 in which the court noted that “not all cases are suitable for summary disposition”: para. 35. Importantly, it may not be in the interests of justice to “litigate in slices”: para. 36. If the summary trial would not bring an end to the litigation, it could open the door to the possibility of inconsistent findings which would not be an efficient use of court resources and would not be suitable for disposition under Rule 9-7 of the *Supreme Court Civil Rules*: para. 39.

CONCLUSION

[54] Dentalcorp’s application for a determination on liability is dismissed.

“Maisonville J.”