COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Dr. J.S. Minhas Dental Corp. v. Dentalcorp Health Services Ltd.,* 2025 BCCA 286

Date: 20250812
Docket: CA50293

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Between:

Dr. J.S. Minhas Dental Corp., Dr. Jasdip Minhas also known as Dr. Jasdip Singh Minhas, Minhas Family Trust, 0949630 B.C. Ltd., 1006207 B.C. Ltd., 0974720 B.C. Ltd., 1091277 B.C. Ltd., 0987093 B.C. Ltd., 0767121 B.C. Ltd. and 0762245 B.C. Ltd.

Appellants
(Defendants)

And

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

Respondents
(Plaintiffs)

Before: The Honourable Madam Justice Horsman
(In Chambers)

On appeal from: Orders of the Supreme Court of British Columbia, dated November 1, 2024 (*Dentalcorp Health Services Ltd. v. Dr. J.S. Minhas Dental Corp.*, 2024 BCSC 2006, Vancouver Docket S244260) and dated March 4, 2025 (*Dentalcorp Health Services Ltd. v. Dr. J.S. Minhas Dental Corp.*, 2025 BCSC 353, Vancouver Docket S244260).

Counsel for the Appellants:	L.M.A. Kotler
Counsel for the Respondents:	M.J. Hewitt C.R. Chan
Place and Date of Hearing:	Vancouver, British Columbia June 26, 2025
Place and Date of Judgment:	Vancouver, British Columbia August 12, 2025

Summary:

The applicants (defendants) apply for leave to appeal from, and a stay of, an interlocutory injunction restraining them from engaging in certain activities in relation to the operation of dental clinics. The appellants allege that the chambers judge erred in: (1) finding that there was a strong prima facie case that restrictive covenants in the contracts between the parties had been breached, (2) finding that the respondents had shown irreparable harm if the injunction did not issue, and (3) failing to provide clarifying direction about the scope of the injunction at a supplementary hearing. Held: The application for leave to appeal is dismissed, and it is therefore unnecessary to address the stay application. It was not in the interests of justice to grant leave having regard to the relevant considerations.

Reasons for Judgment of the Honourable Madam Justice Horsman:

[1] The applicants (who I will collectively refer to as "Dr. Minhas") seek leave to appeal and a stay of an interlocutory injunction restraining Dr. Minhas from engaging in certain activities in relation to the operation of dental clinics.

[2] The respondents (who I will collectively refer to as "Dentalcorp") purchased five of Dr. Minhas's dental practices. Dentalcorp brought the underlying action to enforce restrictive covenants related to Dr. Minhas's operation of dental practices in British Columbia (the "Restrictive Covenants"). The chambers judge found that the respondents had established a strong *prima facie* case that Dr. Minhas had breached the Restrictive Covenants, and he issued an injunction restraining such conduct pending trial. Dr. Minhas contends that the chambers judge made various errors in finding that the Restrictive Covenants were reasonable, in his assessment of irreparable harm, and in failing to provide requested clarification on the scope of the injunction.

Background

[3] I take the following background from the reasons for judgment of the chambers judge.

[4] Dr. Jasdip Minhas is a licensed dentist. Dentalcorp operates a network of dental practices across Canada. Dentalcorp purchased five of Dr. Minhas's dental practices in Prince George, known as the Family Dental Care Clinics ("FDC Clinics").

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Afterwards, Dr. Minhas retained a managerial role at Dentalcorp. The parties entered a number of agreements, under which Dr. Minhas received approximately $11 million in cash and share value.

[5] One of the agreements entered into by the parties was a Services Agreement. The Services Agreement required Dr. Minhas to promote Dentalcorp's interests, continue to help manage the FDC Clinics, and protect confidential information. The Services Agreement also allowed Dr. Minhas to bring acquisition opportunities to Dentalcorp and profit if Dentalcorp acquired the proposed practice. The Services Agreement contained Restrictive Covenants providing that during the term of the Agreement and for three years after its termination, Dr. Minhas would not:

a) carry on or be engaged in or concerned with or interested in any "Competitive Business" anywhere within the "Restricted Territory", which is defined as anywhere within a 10 km radius of each FDC Clinic; or

b) engage in the acquisition, consolidation and/or management of any Competitive Business within British Columbia.

[6] Similar terms were included in separate non-competition agreements that were signed by the parties.

[7] It is relevant to highlight that under the Restrictive Covenants the restriction on Dr. Minhas's activities was more stringent within the Restricted Territory. The "Prince George restriction", as the parties have characterized it, prevented Dr. Minhas from carrying on, being engaged in or concerned with or interested in any Competitive Business within the Restricted Territory. Outside of Prince George, Dr. Minhas was prevented from engaging the "acquisition, consolidation and/or management" of any Competitive Business in British Columbia.

[8] From 2018 to 2022, Dr. Minhas worked with Dentalcorp on potential acquisitions across BC.

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[9] In 2021, Dr. Minhas proposed that Dentalcorp acquire the “Southridge Clinic”, which was located within 10 km of an FDC Clinic. After the Southridge Clinic rejected two offers from Dentalcorp, Dr. Minhas proposed to acquire it himself. The parties’ accounts of their communication around the proposed acquisition differed. Dentalcorp stated that it told Dr. Minhas that exceptions to the Restrictive Covenants would rarely be made and would have to be contingent on several conditions; Dr. Minhas maintained that Dentalcorp gave him a “green light” to proceed with the purchase under a framework that Dentalcorp would provide.

[10] Dr. Minhas called Dentalcorp in November 2022 to tell it about his idea for a franchise model called Smili Dental (the “Smili Venture”). Under the model, Smili Dental would assist dentists with finding locations and beginning their practices. Dr. Minhas maintained that Dentalcorp told him it would look to support him and would not sue him over the Smili Venture.

[11] In May 2023, Dentalcorp sent Mr. Minhas a letter alleging that his involvement with the Smili Venture and the Southridge Clinic (which later became part of the Smili Venture) breached the Services Agreement. The letter demanded that Dr. Minhas take immediate steps to remedy the alleged breaches.

[12] In 2024, the Smili Venture opened a location in Powell River (the “Powell River Clinic”), which employed a number of Dentalcorp’s employees. Dr. Minhas intended to open a clinic in Prince George (the “Pine Centre Clinic”) in late 2024 (after the injunction hearing) in partnership with a high-earning Dentalcorp associate. The Pine Centre Clinic would be within 10 km of an FDC Clinic. There was also evidence at the injunction hearing that Dr. Minhas had plans to open other Smili Venture clinics in BC.

[13] On June 24, 2024, Dentalcorp terminated its Services Agreement with Dr. Minhas, alleging various material breaches of the Agreement, including breaches of the Restrictive Covenants. On the same day, Dentalcorp filed an action seeking, among other things, to enforce the Restrictive Covenants.

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The injunction application

[14] On July 12, 2024, Dentalcorp filed an application for an interlocutory injunction. The relief sought by Dentalcorp included orders:

a) restraining Dr. Minhas from carrying on, being engaged in or concerned with or interested in any Competitive Business located within a 10 km radius of any FDC Clinic; and

b) requiring Dr. Minhas to cease operating the Powell River Clinic, the Pine Centre Clinic, and any other dental clinic "established or develop[ed] contrary to the restrictive covenants".

[15] The injunction application was heard over three days on September 23–25, 2024. On November 1, 2024, the chambers judge issued reasons for judgment granting the injunction: *Dentalcorp Health Services Ltd. v. Dr. J.S. Minhas Dental Corp.*, 2024 BCSC 2006 (the "Injunction Decision").

[16] The judge instructed himself on his jurisdiction to grant an interlocutory injunction pursuant to s. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, which allows a court to grant an injunction where the court considers it just and convenient. The judge noted that the test for granting an interlocutory injunction is the three-step test from *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311 [*RJR*]. No issue is taken on this application with the judge's statement of the governing principles.

[17] The judge addressed a preliminary issue regarding the nature of the relationship underlying the Restrictive Covenants. He referenced case law supporting the proposition that a restrictive covenant arising from an employment contract is presumptively void on public policy grounds, while a restrictive covenant arising from the sale of a business will usually be enforced because it is in the seller's best interests to be able to assure a purchaser that a promise not to compete is enforceable. The judge concluded that the Restrictive Covenants in this case

arose from a commercial transaction, rather than an employment relationship. Again, this finding is not challenged on the present application.

[18] Dentalcorp accepted that in order to obtain an interlocutory injunction in these circumstances, it had to meet the threshold of demonstrating a strong *prima facie* case at the merits stage of the *RJR* test. The judge quoted the explanation of this threshold from *R. v. Canadian Broadcasting Corp.*, 2018 SCC 5 at para. 17.

[19] The judge was satisfied that Dentalcorp had established a strong *prima facie* case in relation to some, though not all, of the alleged conduct of Dr. Minhas. Specifically, he found there was a strong *prima facie* case that Dr. Minhas had breached the terms of the Restrictive Covenants in relation to:

a) his involvement in the creation of the Pine Centre Clinic, which was within a 10 km radius of an FDC Clinic; and

b) his role in the creation of the Powell River Clinic.

[20] The judge rejected Dr. Minhas's argument that the Restrictive Covenants should not be enforced because they were unreasonable. Among other considerations, the judge noted that: Dr. Minhas had received legal advice on the agreements; they expressly reflect his acknowledgment that the terms were reasonable; the tightest restrictions applied only to competitive businesses within a 10 km radius of the FDC Clinics; the purpose of the restrictions was to protect Dentalcorp in its acquisition of the goodwill and other assets of Dr. Minhas; and Dr. Minhas received several million dollars as consideration for his commitments.

[21] The judge also rejected the argument that the Restrictive Covenants were unreasonable because they were ambiguous in restraining Dr. Minhas from competing with Dentalcorp "in conjunction with" another person. While similar wording was found to be ambiguous in *IRIS The Visual Group Western Canada Inc. v. Park*, 2017 BCCA 301 [*IRIS*], the judge found that case to be distinguishable because it concerned the enforceability of a restrictive covenant in an employment contract. He referenced another judgment of this Court in *Karras v. Wizedemy Inc.*,

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2024 BCCA 301 [*Wizedemy*], upholding an injunction in relation to a restrictive covenant that included the language "in conjunction with".

[22] While the evidence of harm was not overwhelming, the judge found that Dentalcorp would suffer irreparable harm if the injunction was not ordered. He noted that the agreements between the parties stated that any breach of the Restrictive Covenants would result in irreparable harm entitling Dentalcorp to an injunction. The judge inferred that Dr. Minhas's current and future competitive dental clinics would undercut Dentalcorp's own expansion plans and the viability of their existing locations. He found that it may be impossible to "unscramble the egg and determine how much [Dentalcorp] lost as a result of the violations of the agreement" as opposed to the result of legitimate competition: Injunction Decision at para. 137.

[23] The judge concluded that the balance of convenience favoured granting the injunction given that: damages after trial would not adequately compensate Dentalcorp; Dr. Minhas may not be able to satisfy a damage award; the parties originally agreed that a breach of the Restrictive Covenants would entitle Dentalcorp to an injunction; Dr. Minhas had altered the *status quo* of the relationship; and Dentalcorp had a strong *prima facie* case.

[24] Finally, the judge turned to the question of the appropriate terms of the injunction. As noted, in relation to the Prince George restriction, Dentalcorp sought an order restraining Dr. Minhas from being "engaged in or concerned with or interested in" any Competitive Business within a 10 km radius of an FDC Clinic. The judge found that this term was reasonable, save that it should exclude the Southridge Clinic as Dentalcorp had been clear that it was not seeking an order in relation to Southridge at this time.

[25] In relation to the restriction applicable in the rest of the Province, the judge found that imposing "some control" was reasonable given Dr. Minhas's active efforts to expand the Smili Venture: Injunction Decision at para. 146. However, he did not agree with the form of order proposed by Dentalcorp, which would require Dr. Minhas to cease operating the Powell River Clinic, Pine Centre Clinic, and any

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other clinic established or developed contrary to the Restrictive Covenants. The judge found that this wording went too far in that it arguably required the operations of the Smili Venture franchisees to be shut down. Therefore, the judge concluded that the term should be narrowed to focus on Dr. Minhas's conduct.

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[26] Borrowing from the language of the Restricted Covenants as it related to the restrictions applicable outside of Prince George, the judge ordered that Dr. Minhas "cease to be engaged in the acquisition, consolidation and/or management" of the Powell River Clinic, the Pine Centre Clinic, and any other dental clinic established or developed contrary to the Restricted Covenants.

[27] On November 27, 2024, Dr. Minhas filed a notice of appeal of the Injunction Decision.

<u>The post-judgment applications</u>

[28] Following the release of the Injunction Decision, the parties could not agree on the form of order. They requested a further hearing before the chambers judge, which occurred on February 4, 2025.

[29] There were competing applications before the chambers judge. Dentalcorp applied to settle the order on terms that tracked the language of the Injunction Decision. Dr. Minhas applied to clarify and/or vary the order by including numerous additions to the terms of the Injunction Decision that were not reflected in the language of the judgment. For example, Dr. Minhas's proposed order included terms that:

a) permitted Dr. Minhas to divest himself of carrying on, being engaged in or concerned with, or interested in the Pine Centre Clinic;

b) permitted Dr. Minhas to act as franchisor with respect to the Smili Venture franchisees, including providing them with training and operating assistance; and

c) defined the terms “acquisition”, “consolidate” and “management” through the addition of over 50 subparagraphs to the proposed order.

[30] In his notice of application, Dr. Minhas stated his desire to comply with the Injunction Decision “provided that necessary clarity can be obtained”. The term permitting Dr. Minhas to divest his interest in the Pine Centre Clinic related to the position taken by Dentalcorp that the injunction prohibited Dr. Minhas from being a franchisor of Pine Center, while Dentalcorp also maintained that any divestiture of Dr. Minhas’s franchisor interest may constitute a breach of the court’s order.

[31] Although not entirely clear from his application material, Dr. Minhas confirmed during the hearing before the chambers judge that he was not seeking reconsideration of the Injunction Decision. Instead, he relied on the court’s jurisdiction to: (1) settle an order, (2) vary an order, and (3) provide clarification where the terms of an order, particularly an injunction order, are unclear.

[32] On March 4, 2025, the chambers judge issued reasons on the post-judgment applications: *Dentalcorp Health Services Ltd. v. Dr. J.S. Minhas Dental Corp.*, 2025 BCSC 353 (the “Supplementary Decision”).

[33] In the introduction portion of his reasons, the judge stated that the “practice of asking the Court to clarify its orders should be discouraged”: Supplementary Decision at para. 2. However, he accepted that he had the jurisdiction to provide such clarification.

[34] The judge accepted that he could receive evidence from the parties in order to assess whether there was sufficient confusion to justify the issuance of a clarification order. Dr. Minhas’s evidence disclosed that he was continuing to pursue franchises under the Smili Venture model in Powell River and the Okanagan. He was also in the process of purchasing premises in North Vancouver that he intended to use as a dental practice. The chambers judge also referred to evidence regarding the parties’ discussions as to how Dr. Minhas should extract himself from the Pine Centre Clinic.

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[35] The judge concluded that the order should be settled on the terms proposed by Dentalcorp, which accurately tracked the Injunction Decision. He found that the additional language proposed by Dr. Minhas was “unnecessary and inappropriate”: Supplementary Decision at para. 21. In the judge’s view, the terms of the order that he had pronounced were sufficiently clear to operate as the foundation for the injunctive relief. The judge found that two fresh affidavits tendered by Dr. Minhas purporting to opine on whether the operation of a franchising business involved “acquisition, consolidation or management” were unhelpful. This was because the settling of the order had to be based on the record before the Court at the time the injunction order was made.

[36] As to whether the Injunction Decision should be varied, the judge found that there was no material change of circumstances that justified a variation.

[37] Finally, the judge turned to whether clarification of the order was appropriate. He noted that the Court had the jurisdiction to provide directions and clarification regarding the scope of an injunction order. The judge found that it was appropriate to issue a clarification in this case as Dr. Minhas appeared to have “lost the plot of the story that brought us to this point”: Supplementary Decision at para. 37. Specifically, Dr. Minhas indicated his intention to enter into additional franchising arrangements under the Smili Venture model. The judge found that the Standard Franchise Agreement used in the Smili Venture model provided a high level of management control to Dr. Minhas. The judge rejected Dr. Minhas’s submission that his involvement with Smili Venture franchisees was limited to providing training and operating assistance.

[38] The judge found it was clear (and clearly his intention) that Dr. Minhas’s entry into the Standard Franchise Agreement would qualify as being “engaged in the acquisition, consolidation and/or management” of dental clinics. He noted that Dr. Minhas’s conduct in relation to the Smili Venture franchise model was the basis for the injunctive relief. For these reasons, the judge issued the following fresh clarification order:

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> For greater certainty, any entry by the defendants into, or continued application of, the defendants' standard form franchise agreement set out in Exhibit "A" of the 2nd Affidavit of Jasdip Singh Minhas dated January 10, 2025 (the "Standard Franchise Agreement") is within the scope of the activities enjoined by the court order of November 1, 2024.

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[39] The judge declined to provide further clarification as to whether Dr. Minhas would be in breach of the injunction under various theoretical scenarios advanced during the course of the hearing. He concluded that his limited jurisdiction to issue clarifying direction was not "an invitation to engage in such bargaining with the Court": Supplementary Decision at para. 44. He also declined to provide clarification regarding how Dr. Minhas could best respect the injunction in relation to the Pine Centre Clinic. The judge concluded that he did not have enough details about the corporate arrangements Dr. Minhas had in place at the Pine Centre Clinic to provide such direction.

[40] On April 2, 2025, Dr. Minhas filed an amended notice of appeal to include the Supplementary Decision. By consent, the deadline for him to file his notice of application for leave to appeal and for a stay was extended to May 2, 2025.

Analysis – Should leave to appeal be granted?

Legal framework

[41] Pursuant to s. 11(a)(v) of the *Court of Appeal Rules*, B.C. 120/2022, an order granting a pre-trial injunction is a limited appeal order, requiring leave.

[42] The well-known test for leave to appeal is set out in *Goldman, Sachs & Co. v. Sessions*, 2000 BCCA 326 at para. 10:

> a) whether the point on appeal is of significance to the practice;
>
> b) whether the point on appeal is of significance to the action;
>
> c) whether the appeal is *prima facie* meritorious or frivolous; and
>
> d) whether the appeal will unduly hinder the progress of the action.

[43] These factors are "all considered under the rubric of the interests of justice": *Vancouver (City) v. Zhang*, 2007 BCCA 280 at para. 10.

[44] The decision to grant or deny injunctive relief is discretionary. Appeals from such orders are exceptional "since the law is well-settled and the appeal will typically turn on the facts of the case": *Karras v. Wizedemy Inc.*, 2024 BCCA 216 at para. 15 (Chambers).

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Discussion

[45] If granted leave to appeal, Dr. Minhas intends to make four arguments:

a) the judge erred in finding that the Restricted Covenants were not ambiguous, and in distinguishing *IRIS* as it relates to the use of the words "in conjunction with";

b) the judge erred in finding that Dentalcorp had established it would suffer irreparable harm if an injunction was not granted, when Dentalcorp's evidence of harm was hearsay or speculative and its damages were quantifiable in any event;

c) the first two errors led the judge to err in his assessment of the balance of convenience; and

d) the judge erred in refusing to clarify the order as requested by Dr. Minhas, and in adding terms to the order that were not sought by any party.

[46] While Dr. Minhas has characterized these as errors in principle, in fact the challenge is primarily to the judge's factual findings and his case-specific exercise of discretion. With that general comment in mind, I will turn to the specific factors that govern the leave application.

Merits of the appeal

[47] The merits threshold for leave to appeal is relatively low. The test has been expressed as "[w]hether the applicant has identified a good arguable case of

sufficient merit to warrant scrutiny by a division of this Court": *Bartram v. Glaxosmithkline Inc.*, 2011 BCCA 539 at para. 16, citing *A.L.J. v. S.J.M.*, 46 B.C.A.C. 158, 1994 CanLII 2614 (C.A.), (Chambers).

[48] The decision of the chambers judge to grant an interlocutory injunction is a discretionary one that would attract deference on appeal. Appellate intervention is justified only if the lower court misdirected itself on the law, made a palpable and overriding error of fact, or the decision is so clearly wrong that permitting it to stand would work an injustice. The "clearly wrong" standard is rarely used in isolation from a conclusion that there has been an error of law or a palpable and overriding error of fact: *British Columbia (Director of Civil Forfeiture) v. Conrad*, 2024 BCCA 10 at paras. 52–53.

[49] For the reasons that follow, I am not persuaded that Dr. Minhas's proposed grounds of appeal have merit.

[50] The question of whether the terms of a restrictive covenant are ambiguous, and therefore unreasonable, engages an issue of contractual interpretation. This is a question of mixed fact and law that, absent an extricable error of law, is subject to deference on appeal: *Garcha Bros Meat Shop Ltd. v. Singh*, 2022 BCCA 36 at para. 78 [*Garcha*]; *Wizedemy* at para. 30. Furthermore, the onus on an applicant for an injunction in these circumstances is not to establish that a restrictive covenant is enforceable, but to raise a strong *prima facie* case that it is: *Garcha* at para. 80. The fact that this Court in *IRIS* found similar wording in a different contract to be ambiguous did not oblige the judge to conclude that the Restrictive Covenants were ambiguous. These are not standard form contracts. Dr. Minhas has not identified an extricable error of law by the judge in his conclusion that Dentalcorp had raised a strong *prima facie* case that the Restrictive Covenants were enforceable.

[51] Similarly, deference is owed to the judge's conclusion that Dentalcorp met its burden of establishing irreparable harm. Again, Dr. Minhas does not take issue with the judge's statement of the relevant legal principles, but rather with his factual conclusion that irreparable harm had been demonstrated. As the judge observed,

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where a plaintiff establishes a strong *prima facie* case for a breach of a restrictive covenant, an interim injunction will usually be granted: Injunction Decision at para. 128, citing *Belron Canada Inc. v. TCG International Inc.*, 2009 BCCA 577. While the court must consider each prong of the *RJR* test, as the judge did in the present case, the importance of irreparable harm is diminished in this context: *Li v. Rao*, 2019 BCCA 264 at para. 67. Dr. Minhas has not identified an arguable error in principle in the judge's assessment of irreparable harm, or palpable and overriding error in his assessment of the facts.

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[52] Finally, Dr. Minhas maintains that the judge's failure to clarify the terms of the injunction leaves him in the dark as to what conduct he is permitted to engage in relation to the Smili Venture franchises. However, the judge concluded that the terms of the injunction were clear, and the issue was with Dr. Minhas's attempt to circumvent them. Dr. Minhas's complaint that the judge issued a clarification direction that no party asked for must be placed in context. Dr. Minhas's apparent objective on the clarification application was to obtain judicial approval for his continued participation as a franchisor under the Smili Venture model because, he asserted, that role did not engage him in the management of Smili Venture clinics. The judge understandably looked to the provisions of the Standard Franchise Agreement, which was in evidence through Dr. Minhas's affidavit, to test the legitimacy of this assertion.

[53] Dr. Minhas's submissions on the leave application rest on the proposition that the conduct restrained by the clarification order goes beyond the terms of the Restrictive Covenants. However, this proposition is inconsistent with the judge's findings. The judge concluded that Dr. Minhas's entry into the Standard Franchise Agreement would qualify as being "engaged in the acquisition, consolidation and/or management" of dental clinics, and, further, that it was Dr. Minhas's franchising activities that created a strong *prima facie* case that there had been a breach of the Restrictive Covenants. Dr. Minhas may disagree with the judge's findings, but he had not identified any arguable error in principle or palpable and overriding error of fact.

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[54] Dr. Minhas also argues that the injunction remains unclear regarding the status of the existing franchise agreements, and that the clarification order may affect the third-party rights of franchisees. Any impact of the injunction, including the clarification order, on franchisees is speculative on the record. In any event, it is not clear to me how such third-party impacts could permit Dr. Minhas to continue to engage in franchising activities that the judge found (at least to the standard of a strong *prima facie* case) breached the terms of the Restrictive Covenants.

Significance to the practice

[55] Dr. Minhas argues that his proposed appeal raises two main points of significance to the practice: (1) the sufficiency of evidence required to establish irreparable harm in the context of commercial competition, and (2) the expectations of courts to clarify orders, particularly injunctions, when requested. In relation to the latter point, Dr. Minhas submits that this Court ought to address the judge's assertion that seeking clarification of court orders should be discouraged.

[56] I am not persuaded that the points Dr. Minhas identifies are of significance to the practice.

[57] The principles that govern the assessment of irreparable harm where an interlocutory injunction is sought in a commercial case are well-settled. The judge cited and applied the case law setting out the relevant principles. Dr. Minhas does not take issue with the judge's statement of the law, but rather its application to the facts of this case.

[58] Similarly, I see no issue of significance to the practice in relation to the manner in which the judge dealt with Dr. Minhas's clarification application. It is true that the judge commented, in *obiter*, that clarification applications should be discouraged. However, he acknowledged his jurisdiction to issue clarifying directions, and he dealt with Dr. Minhas's application on its merits. The judge cited and applied *Chand v. Insurance Corporation of British Columbia*, 2009 BCCA 559, which is the case Dr. Minhas relies on in support of his argument on clarification.

The fact that the judge did not issue the clarification sought by Dr. Minhas does not raise an issue of significance to the practice.

Significance to the action

[59] Dr. Minhas maintains that the appeal is of significance to the action because the injunction provides substantially all of the relief sought in the action. The Restrictive Covenants will expire in June 2027, and the action is unlikely to proceed to a trial before then. In effect, Dr. Minhas says, Dentalcorp has obtained final relief on an interlocutory basis.

[60] I do not accept Dr. Minhas's characterization of the significance of the interlocutory judgment to the action. Dentalcorp's notice of civil claim seeks other remedies, including damages and equitable compensation, for various alleged breaches of the agreements and breaches of fiduciary duty by Dr. Minhas beyond the limited conduct that is captured by the injunction. Dr. Minhas has filed a counterclaim alleging breaches of the agreements and wrongful termination by Dentalcorp. Presumably, he will also seek damages in the event that the court ultimately determines that Dr. Minhas's conduct did not breach the Restrictive Covenants, and thus an injunction was not justified. In sum, the issues between the parties will be subject to a full adjudication regardless of the issuance of the injunction.

Will the appeal hinder the progress of the action?

[61] There is limited evidence before me as to what steps the parties have taken in the trial court. It is fair to observe that the proceeding is at the early stages, and pleadings have only recently closed. There is no scheduled trial date. Nevertheless, an appeal will, at the very least, distract the parties from their focus on proceeding to trial expeditiously.

Disposition

[62] Having regard to the relevant considerations, I conclude that it is not in the interests of justice to grant Dr. Minhas leave to appeal the injunction. The application

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for leave is dismissed. Therefore, it is unnecessary to address Dr. Minhas's application for a stay pending appeal.

[63] The respondents are entitled to their costs of the application.

"The Honourable Madam Justice Horsman"

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