

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Olson v. Cranbrook (City)*,
2026 BCSC 278

Date: 20260220
Docket: S30772
Registry: Cranbrook

Between:

**Ronald Arthur Robert Olson and #0973275 BC Ltd. (also known as
RJO Developments)**

Plaintiffs

And:

The Corporation of the City of Cranbrook

Defendant

Before: The Honourable Justice Lawn

Reasons for Judgment on Costs

Counsel for the Plaintiffs:

J.M. Lalonde

Counsel for the Defendant:

A.D. Price

Written Submissions of the Defendant
Received:

November 17, 2025

Written Submissions of the Plaintiffs
Received:

December 17, 2025

Reply Submissions of the Defendant
Received:

January 6, 2026

Place and Date of Judgment:

Cranbrook, B.C.
February 20, 2026

Introduction

[1] I heard this matter over nine days last year. In reasons for judgment dated November 3, 2025, I dismissed the plaintiff’s claim. The parties provided written submissions on costs culminating in the defendant’s reply submissions received on January 6, 2026. These are my reasons determining costs in this matter.

[2] The defendant made an offer to settle for \$80,000 on March 25, 2025, roughly two months before the start of the trial. It was open for acceptance to April 11, 2025, and contained the following wording:

The City of Cranbrook reserves the right to bring this offer to the attention of the court for consideration in relation to costs after the court has pronounced judgment on all other issues in this proceeding.

[3] The letter containing the offer incorporated earlier letters dated September 18 and 25, 2024, which the defendant had sent ahead of an earlier trial date that did not proceed. In those letters, the defendant set out various weaknesses that the defendant saw in the plaintiff’s case. The defendant relied on those letters in its letter of March 25, 2025.

[4] The defendant now seeks ordinary costs of this matter up to March 25, 2025, and double costs thereafter.

The Rules

[5] Rule 14-1(9) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 provides:

(9) Subject to subrule (12), costs of a proceeding must be awarded to the successful party unless the court otherwise orders.

[6] Rule 9-1 deals with offers to settle. A party does not automatically receive double costs if its offer exceeds the amount awarded at trial: the rule gives the Court broad discretion as to the cost consequences which flow from such an offer. It states, in relevant part:

Offer may be considered in relation to costs

(4) The court may consider an offer to settle when exercising the court's discretion in relation to costs.

Cost options

(5) In a proceeding in which an offer to settle has been made, the court may do one or more of the following:

- (a) deprive a party of any or all of the costs, including any or all of the disbursements, to which the party would otherwise be entitled in respect of all or some of the steps taken in the proceeding after the date of delivery or service of the offer to settle;
- (b) award double costs of all or some of the steps taken in the proceeding after the date of delivery or service of the offer to settle;
- (c) award to a party, in respect of all or some of the steps taken in the proceeding after the date of delivery or service of the offer to settle, costs to which the party would have been entitled had the offer not been made;
- (d) if the offer was made by a defendant and the judgment awarded to the plaintiff was no greater than the amount of the offer to settle, award to the defendant the defendant's costs in respect of all or some of the steps taken in the proceeding after the date of delivery or service of the offer to settle.

Considerations of court

(6) In making an order under subrule (5), the court may consider the following:

- (a) whether the offer to settle was one that ought reasonably to have been accepted, either on the date that the offer to settle was delivered or served or on any later date;
- (b) the relationship between the terms of settlement offered and the final judgment of the court;
- (c) the relative financial circumstances of the parties;
- (d) any other factor the court considers appropriate.

[7] The underlying rationale for the double costs provisions was set out in *Hartshorne v. Hartshorne*, 2011 BCCA 29 at para. 25:

[25] An award of double costs is a punitive measure against a litigant for that party's failure, in all of the circumstances, to have accepted an offer to settle that should have been accepted. Litigants are to be reminded that costs rules are in place "to encourage the early settlement of disputes by rewarding the party who makes a reasonable settlement offer and penalizing the party who declines to accept such an offer" (*A.E. v. D.W.J.*, 2009 BCSC 505, 91 B.C.L.R. (4th) 372 at para. 61, citing *MacKenzie v. Brooks*, 1999 BCCA 623, *Skidmore v. Blackmore* (1995), 2 B.C.L.R. (3d) 201 (C.A.), *Radke v. Parry*, 2008 BCSC 1397). In this regard, Mr. Justice Frankel's comments in *Giles* are apposite:

[74] The purposes for which costs rules exist must be kept in mind in determining whether appellate intervention is warranted. In addition to

indemnifying a successful litigant, those purposes have been described as follows by this Court:

- “[D]eterring frivolous actions or defences”: *Houweling Nurseries Ltd. v. Fisons Western Corp.* (1988), 37 B.C.L.R. (2d) 2 at 25 (C.A.), leave ref’d, [1988] S.C.R. ix;
- “[T]o encourage conduct that reduces the duration and expense of litigation and to discourage conduct that has the opposite effect”: *Skidmore v. Blackmore* (1995), 2 B.C.L.R. (3d) 201 at para. 28 (C.A.);
- “[E]ncouraging litigants to settle whenever possible, thus freeing up judicial resources for other cases: *Bedwell v. McGill*, 2008 BCCA 526, 86 B.C.L.R. (4th) 343 at para. 33;
- “[T]o have a winnowing function in the litigation process” by “requir[ing] litigants to make a careful assessment of the strength or lack thereof of their cases at the commencement and throughout the course of the litigation”, and by “discourag[ing] the continuance of doubtful cases or defences”: *Catalyst Paper Corporation v. Companhia de Navegação Norsul*, 2009 BCCA 16, 88 B.C.L.R. (4th) 17 at para. 16.

[8] The four factors listed in Rule 9-1(6) provide the framework for the exercise of discretion in this case and I will consider them each in turn.

Analysis

i) Ought the offer to have been accepted?

[9] This factor asks not whether the offer was “a reasonable offer” but rather, whether the plaintiffs ought reasonably to have accepted it: *Kobetitch v. Belski*, 2018 BCSC 2247 at paras. 24–25. This factor is assessed under the circumstances as at the time it was open for acceptance: not by reference to the award eventually made: see *C.P. v. RBC Life Insurance Company*, 2015 BCCA 30 at para. 97.

[10] The plaintiffs submit that they were reasonable to decline the defendant’s offer due to the circumstances of the case. The plaintiffs highlighted various circumstances including that they commenced a reasonable proceeding; most of the trial preparation was already done; the amount was low considering the plaintiffs’ value of the claim at \$200,000; and that this was not a clear-cut case for either party.

[11] I accept the defendant's argument on these points. Commencing a viable claim does not immunize a plaintiff from double costs. While the plaintiffs may already have incurred legal fees, there were still two months to go before trial and substantial further costs to be incurred, up to and including the cost of nine days of trial time. While there was no finding made as to the monetary value of the claim, I agree with the defendant's submission that \$80,000 was likely close to 50 percent of the plaintiffs' best-case scenario. Finally, even if there was no clear-cut case for either side, something the defendant disputes, this would only support the notion that compromise to avoid a lengthy trial would have been reasonable in the circumstances.

[12] The plaintiffs also relied on the proposition that it is unfair to penalize a plaintiff with a double costs award, where a defendant makes an offer which is higher than the amount awarded to the plaintiff at trial. The plaintiffs referred to G Peter Fraser, John W Horn & Susan A Griffin, *The Conduct of Civil Litigation in British Columbia*, 2nd ed (Markham: LexisNexis Canada Inc, 2007) (loose-leaf revision 51) and the case of *C.P.* where, at para. 91, the Court said:

A plaintiff who obtains a judgment for less than an offer to settle is already subject to sanctions: R. 9-1(6)(a) allows the court to deprive the successful plaintiff of costs to which it would otherwise be entitled. Rule 9-1(5)(d) provides an even more punishing outcome as the plaintiff is not only deprived of costs he or she would otherwise receive, but must also pay the defendant's costs subsequent to the offer to settle. To also allow a defendant double costs would skew the procedure in favour of defendants and unfairly penalize and pressure plaintiffs.

[13] That is not the situation that has occurred here, however. The plaintiffs did not receive a judgment for less than the amount of the offer to settle: the plaintiffs' claim was dismissed.

[14] The authors of *The Conduct of Civil Litigation in British Columbia* describe the situation where the plaintiff's claim is dismissed altogether after it has rejected the defendant's offer as a circumstance where double costs may exceptionally be expected to be awarded to a defendant using the offer to settle procedure. In a footnote to this proposition, they cite *Martin v. Lavigne and Neufeld (Costs)*, 2010

BCSC 1610 at paras. 29–30, where it was assumed that a defendant who had made a reasonable offer to settle in a case where the plaintiff’s claim was dismissed, would normally be entitled to double costs unless, after giving consideration to the factors in R. 9-1(6), there was good reason to deprive the defendant of some or all costs. That is the situation in this case.

[15] Finally, I observe that there was no affidavit from the plaintiffs, as to why they declined the March 25, 2025 offer. While the submissions of counsel may go towards a consideration of whether the settlement offer was objectively reasonable, they cannot represent the subjective view of the party rejecting the offer: see *Yeomans v. Buttar*, 2021 BCSC 1394 at para. 24.

[16] I find in all the circumstances that it was unreasonable of the plaintiffs not to accept the defendant’s March 25, 2025 offer.

ii) Relationship between the offer and final judgment

[17] On this factor, the plaintiffs argued that the situation giving rise to the action was unusual, insofar as the defendant wrote two letters which various witnesses stated were unique in their experience.

[18] This factor, however, asks the court to examine the relationship between the offer and final judgment: not the underlying circumstances of the claim.

[19] The defendant’s offer was significantly superior to the result obtained at trial, in that the plaintiffs’ claims were dismissed and it will have to pay at least ordinary costs. The defendant relies on several cases for the proposition that even an offer to waive costs has been found to be sufficient to support an award for double costs under this factor: see e.g., *P.H. v. Canada (Attorney General)*, 2016 BCSC 173 at para. 40.

[20] I agree with the defendant. The disparity between the offer and result weighs in favour of a double costs award in this case.

iii) The relative financial circumstances of the parties

[21] The weight of authority considers financial circumstances to be relevant in those cases where there is some evidence that the financially stronger party has used its financial resources in a manner which distorted the litigation process, or has taken unfair advantage of the weaker party. Even if there can be said to be a disparity here, I find there is no evidence of any such conduct on the part of the defendant.

Conclusion

[22] Accordingly, I find that the factors weigh in favour of a double costs award. The defendant is entitled to double costs March 25, 2025, to the date of these reasons. Prior to March 25, 2025, the defendant is entitled to party and party costs at scale B.

“Lawn J.”