

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Belfor (Canada) Inc. v. BC Hardwood Floor
Co. Ltd.*,
2026 BCSC 293

Date: 20260224
Docket: S244506
Registry: Vancouver

Between:

Belfor (Canada) Inc. doing business as Belfor Property Restoration

Plaintiff

And

BC Hardwood Floor Co. Ltd.

Defendant

And

**Graf Custom Hardwood o/a Appalachian Wood Floors, Inc., and Timbertown
Building Centre Ltd.**

Third Parties

Before: The Honourable Mr. Justice Tindale

Reasons for Judgment

In Chambers

Counsel for the Plaintiff:

M. Xin

Counsel for the Defendant:

C. Manning
A. Bebek, Articling Student

Place and Date of Hearing:

Vancouver, B.C.
September 15, 2025

Place and Date of Judgment:

Vancouver, B.C.
February 24, 2026

[1] The plaintiff Belfor (Canada) Inc. doing business as Belfor Property Restoration, pursuant to a notice of application filed July 31, 2025, seeks the following relief from the defendant BC Hardwood Floor Co. Ltd.:

- a) judgment pursuant to Rule 9-7 for damages in the amount of \$95,341.03, or another amount to be determined by the Court;
- b) pre-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79 from June 7, 2024 until the date of judgment; and
- c) costs of the action, in an amount to be assessed.

[2] The defendant is opposed to the relief sought by the plaintiff.

BACKGROUND

[3] The plaintiff carries on business as a property restoration contractor.

[4] In January 2022 the owner of a house located at 5929 Hudson Street, Vancouver, British Columbia (the “House”) hired the plaintiff as a general contractor to carry out flood restoration and repair work in the House.

[5] In January 2022 the plaintiff hired the defendant to supply and install flooring in the House. On January 20, 2022, a representative of the plaintiff signed a quote presented by the defendant (the “Contract”).

[6] As part of the Contract the defendant agreed to warranty their work as follows:

B.C. Hardwood warranties all contracted work for the period of one year from date of invoice. Our warranty covers labour and materials necessary to perform warranty work. It excludes all consequential and out of pocket expenses incurred by the homeowner/occupant of the premises, during the execution of the warranty work such as hotel bills and are in place only when the account has been settled full.

(The “Warranty”.)

[7] The defendant completed the flooring work in May 2022.

[8] The plaintiff completed the restoration work in the House in August 2022.

[9] After the plaintiff had completed their work, the owners of the House discovered that there were deficiencies with the flooring work done by the defendant (the “Flooring Deficiencies”).

[10] The plaintiff notified the defendant of the Flooring Deficiencies, and the defendant began work on the Flooring Deficiencies in March 2024 (the “Remedial Work”) and completed the Remedial Work in April 2024.

[11] The plaintiff claims various expenses from the defendant which they incurred in relation to the Remedial Work.

POSITION OF THE PARTIES

Plaintiff

[12] The plaintiff says that the issue on this application is whether or not the consequential expenses incurred by the plaintiff as a result of the Flooring Deficiencies is covered by the Warranty.

[13] Kelly Mazzei, general manager for the plaintiff deposes to the following in her 1st Affidavit made on July 31, 2025:

16. On September 22, 2023, BC Hardwood sent to the Owner a letter setting out the work that BC Hardwood proposed to perform to address the Flooring Deficiencies. Attached hereto and marked as Exhibit “C” is a letter from Michael Crompton on behalf of BC Hardwood to the Owner, dated September 22, 2023.

17. BC Hardwood took the position that it was only responsible to remove and replace the affected flooring, and repair and re-and the affected flooring. However, in order to do that work, the site needed to be prepared, the Owner had to find alternative living arrangements, and the site needed to be finished and cleaned thereafter. The following steps needed to take place in order to address the Flooring Deficiencies:

- (a) packing, removing and storing the Owner’s furnishings in the House;
- (b) providing alternative living arrangements for the Owner and his family during performance of the Remedial Work;
- (c) removing and replacing the affected flooring;

- (d) repairing and re-sanding the affected flooring;
- (e) caulking, filling and painting trimming and baseboards; and
- (f) cleaning the House at the conclusion of the Remedial Work.
(together, the “Remedial Work”).

[14] Michael Crompton in his letter to the owner of the House dated September 22, 2023, which is Exhibit C to the 1st affidavit of Kelly Mazzei, wrote the following:

Upon inspection, B.C. Hardwood Floor Company Ltd. agrees to perform the following re-mediation work:

- To remove and replace most effected boards (5 per floor currently with visible floor) on main and basement levels
- To sand fill and stain with original stain combination using Rubio Monocoat finish on main and basement levels.

...

The manufacturer (Graf Custom Floors) and the distributor (Treeco.) have agreed to participate in the labour costs for the remediation of this floor and the investigation of remedial expenses. As per our Terms and conditions: “Our warranty covers labour and materials necessary to perform warranty work. It excludes all consequential and out of pocket expenses incurred by the homeowner/occupant of the premises, during the execution of the warranty work such as hotel bills.”

Notwithstanding the foregoing, BCH will continue to work with yourself and our suppliers to mitigate consequential expenses. We would suggest that quotes for furniture removal and storage be request from not only Belfor but also Salmon Transfer Ltd. Similarly, all other consequential expenses including accommodation should be examined for savings.

Once the total expenses have been ascertained, BCH will meet with its suppliers to see what can be offered.

[15] The plaintiff invoiced the amount of \$145,258.08 including GST in connection with the Remedial Work to the defendant. On June 7, 2024, the plaintiff’s lawyer sent a letter to the defendant demanding payment of the expenses incurred by the plaintiff as a result of the Flooring Deficiencies (the “Consequential Expenses”).

[16] The plaintiff for the purpose of this application is prepared to waive its claim for the alternative living arrangement expenses of the owner of the House, which reduces the plaintiff’s claim to \$95,341.03.

[17] The plaintiff argues that this application is suitable for summary trial because it rests on a straightforward contractual interpretation issue involving a relatively small amount of money. The plaintiff says that there is no dispute as to the existence of the Flooring Deficiencies and that the conflicting evidence that does exist on this application does not affect the matter's suitability for summary trial.

[18] The plaintiff submits that the term "labour and material" in the Contract must include something more than the defendant's costs to rectify the Flooring Deficiencies.

[19] The plaintiff further contends that the Consequential Expenses were necessary in order to rectify the Flooring Deficiencies. For instance, the House needed to be cleaned and the range and dishwasher needed to be removed before the Remedial Work could be done.

[20] The plaintiff submits that they told the defendant about the Consequential Expenses and the defendant never objected to these expenses.

[21] The plaintiff argues that if the Consequential Expenses were not necessary, they would have expected some suggestions from the defendant as to how the Flooring Deficiencies would be rectified.

[22] In the 2nd affidavit of Kelly Mazzei, made on August 18, 2025, she deposes to the following at para. 9(b):

(b) Further, on December 18, 2023, Mr. Crompton advised me that BC Hardwood would "come in once the floor is free and clear of furniture to identify if any boards require replacement" ... for the test area.

[Emphasis added in affidavit.]

[23] The plaintiff argues that the defendant implicitly agreed to the Consequential Expenses when the plaintiff requested that the floor had to be free and clear of furniture before the Remedial Work was done and the defendant did not disagree.

[24] The plaintiff argues that there is evidence of the reasonableness of the Consequential Expenses on this application. However, they argue in the alternative that if the court does not have enough evidence in that regard, the court can nevertheless determine the liability of the defendant.

Defendant

[25] The defendant argues that a summary trial is suitable and appropriate to deal with the discrete issue of contractual interpretation and the application of the warranty contained in the Contract.

[26] However, the defendant argues that the issues of causation, reasonableness and quantification of damages are not suitable for summary trial because there is insufficient or incomplete evidence before the court to determine these issues.

[27] The defendant contends that there is no evidence as to the cause of any of the problems with the flooring materials and there is conflicting affidavit evidence on the issue of damages.

[28] The defendant further submits that it is not liable for the plaintiff's losses as the damages sought do not fall within the scope of "labour and materials" under the wording of the Warranty and are in fact specifically excluded by the terms of the Warranty.

[29] The defendant argues that the whole of the Contract must be read in determining whether the defendant is liable for the plaintiff's losses. The defendant notes that under the heading "Conditions" in the Contract is the following:

The following work to be performed by others and is arranged and paid for by the client:

- Final dust cleanup, Final paint touch-up
- Furniture removal, storage and replacement if required

...

[30] The defendant argues that the Warranty explicitly excludes “all consequential and out of pocket expenses incurred by the homeowner/occupant of the premises, during the execution of the warranty work such as hotel bills”.

[31] The defendant argues that there are deficiencies in the affidavit evidence of Kelly Mazzei because her affidavits include inadmissible hearsay. Further in her 1st affidavit, made on July 31, 2025, she includes a report authored by Clayton Shull dated June 12, 2023, which details the Flooring Deficiencies. The defendant notes that Mr. Shull has not been tendered or qualified as an expert witness and any report from Mr. Shull should have been attached to an affidavit from him.

[32] The defendant also argues that Michael Crompton, who is the general manager of the defendant, has provided conflicting evidence to that of Ms. Mazzei. Mr. Crompton in his 1st affidavit made on August 13, 2025, deposes to the following:

31. I was personally involved in managing the Warranty Work on behalf of BC Hardwood.

...

36. At no time was BC Hardwood ever informed or advised by Belfor that Belfor would seek recovery of the Consequential and Out of Pocket Expenses from BC Hardwood following the completion of the Warranty Work, contrary to the evidence of Ms. Mazzei in her Affidavit dated July 31, 2025, at paragraph 21. Instead, Belfor advised BC Hardwood that they would take care of Elliot’s (the homeowner’s) requests.

...

38. Upon examining the job prior to the start of the Warranty Work, and based on my experience in the hardwood flooring industry, the Warranty Work did not require:

- a. the owner(s) of the Property to move out for an extended period while the full scope was completed. Only the finishing days required the Property to be unoccupied.
- b. contents in unaffected rooms to be boxed and removed. Poly plastic would have efficiently and effectively sealed off those areas as is commonplace during warranty work.
- c. door casings and trim to be removed, nor the re-painting of these items as it was only select affected boards which were replaced.
- d. the disconnecting or reconnecting plumbing, electrical components, fixtures and appliances as it was only select affected boards which were replaced.

39. Therefore, much, if not most, of the Consequential and Out of Pocket Expenses claimed by Belfor were unnecessary and unreasonable to incur and not required in order for the Warranty Work to proceed and I did advise Ms. Kelly Mazzei of Belfor of this, prior to the commencement of the Warranty Work.

[33] The defendant argues that given the conflicts in the evidence between Mr. Crompton and Ms. Mazzei this matter is not suitable for a summary trial on the issue of damages.

[34] As such, the defendant submits that the issue of liability should be severed from the issue of damages on this summary trial because there is a likelihood of a significant savings in time and expense realized by a summary trial.

[35] Turning to the merits, the defendant argues that when the Contract is read as a whole it is clear that the Warranty does not include the damages sought by the plaintiff such as costs of removing and storing furniture, providing alternative living arrangements, disconnecting fixtures, painting and cleaning.

[36] The defendant argues that it cannot be said that the Consequential Expenses sought by the plaintiff are impliedly included within the meaning of “labour and materials” as this would be contrary to the express terms of the Contract. The defendant submits that it is well settled that an implied term cannot be found that is contrary to the express terms of a written contract: *Vorvis v. Insurance Corporation of British Columbia*, [1989] 1 S.C.R. 1085 at 1097, 1989 CanLII 93.

[37] Further, the defendant submits that the exclusion of consequential and out of pocket expenses was not an unconscionable term at the time the Contract was made because there was no inequality of bargaining power as both parties are commercially sophisticated.

[38] Finally, the defendant argues there is no overriding public policy that would militate against the very strong public interest in enforcing freedom of contract and the agreed-upon exclusion clause.

[39] The defendant says the plaintiff is attempting to recover expenses that are expressly excluded by the Warranty and cannot be recovered from the defendant.

[40] The defendant also says that the damages sought by the plaintiff are unreasonable or unnecessary and the plaintiff has failed to establish the cause of any loss and any corresponding liability of the defendant.

[41] The defendant argues that the plaintiff's application, and their action as a whole, ought to be dismissed.

DECISION

[42] The plaintiff filed their notice of civil claim on July 8, 2024, seeking damages against the defendant for breach of contract.

[43] The plaintiff brings this notice of application pursuant to Rule 9-7 of the *Supreme Court Civil Rules*.

[44] Rule 9-7(15) reads:

- (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.

[45] In *Cepuran v. Carlton*, 2022 BCCA 76 the British Columbia Court of Appeal, in discussing the scope of the summary trial rule, stated the following:

[149] The scope of the summary trial rule was explained by a five-member division of this Court in *Inspiration Mgmt. Ltd. v. McDermi St. Lawrence Ltd.* (1989), 36 B.C.L.R. (2d) 202, 1989 CanLII 229 (C.A.). The rule provides for determination of disputes by summary trial—that is, by an application in Chambers supported by affidavits—unless the judge is unable to find the

necessary facts or is of the view that it would be unjust to do so (at 211). In deciding whether to allow the matter to be determined by summary trial, the judge is to consider such factors as: the amount involved, the complexity of the matter, its urgency, any prejudice likely to arise from delay, the cost of taking the case forward to conventional trial in relation to the amount involved (today described as “proportionality”), the course of the proceedings, whether the evidence is sufficient to decide the dispute, and any other relevant factors: *Inspiration Mgmt.* at 214.

[46] There are difficulties in determining some aspects of the plaintiff’s claim by way of a summary trial. In particular, the cause of the Flooring Deficiencies has not been established by the evidence on this application. Both Dino Bettamin and Michael Crompton on behalf of the defendant deposed that they were not aware of why the cracks appeared in the flooring.

[47] Kelly Mazzei attached a report authored by Clayton Shull detailing the Flooring Deficiencies as Exhibit “B” to her 1st affidavit. Mr. Shull provides his opinion as to the cause of the Flooring Deficiencies though he has neither been qualified as an expert nor does his report detail his qualifications. Further Mr. Shull should have provided his own affidavit on this hearing. Mr. Shull’s evidence is not admissible on this application.

[48] Mr. Crompton and Ms. Mazzei have also provided conflicting evidence with regard to the necessity for the Consequential Expenses.

[49] Mr. Crompton deposed that the Consequential Expenses were not required in order for the Remedial Work to be done while Ms. Mazzei deposed that the defendant implicitly agreed to the need for the Consequential Expenses.

[50] Mr. Crompton also deposed that he was never advised by the plaintiff that they would be seeking reimbursement for the Consequential Expenses.

[51] The evidence provided by the plaintiff in relationship to the Consequential Expenses incurred by the plaintiff is insufficient to determine whether these expenses were necessary or reasonable in order to do the Remedial Work.

[52] Ms. Mazzei in her 1st affidavit attaches as Exhibit “G” a detailed repair schedule and as Exhibit “H” invoices from sub-trades for the Consequential Expenses. The difficulty with these documents is that without further explanation it is not clear whether or not the work was required or reasonable in the circumstances.

[53] For all of the above noted reasons, a determination of any damages by way of summary trial is not appropriate. This is particularly so given the conflicting evidence of Ms. Mazzei and Mr. Crompton and the lack of admissible evidence as to the cause of the Flooring Deficiencies and the reasonableness or necessity of any of the Consequential Expenses claimed by the plaintiff.

[54] Both parties agree that if the evidence is insufficient to determine damages on this summary trial application, a determination as to liability can still be made.

[55] In *Burg Properties Ltd. v. Economical Mutual Insurance Company*, 2013 BCSC 209 Madam Justice Gerow discussed the procedure where a party seeks to proceed only on liability on a summary trial application

[27] There is authority for the proposition that in a summary trial application where a party seeks to proceed only on liability, a two step approach should be followed: the first step is to determine whether there should be severance, and the second step is to determine if a summary trial on the issue of liability is appropriate: *Chun v. Smit*, 211 BCSC 412 at paras. 8-9. In *Chun*, the court stated that the test for severance is whether there are extraordinary, exceptional or compelling reasons for the severance. A compelling reason to order severance is a likelihood of a significant savings in time and expense realized by a summary trial: *Bramwell v. Greater Vancouver Transportation Authority*, 2008 BCSC 1180 at para. 12.

[56] Both parties agree that the issue of liability should be severed if a determination of damages cannot be made on this summary trial application. In this case the compelling reason to order severance is a likelihood that a significant savings in time and expense will be realized by the summary trial. An interpretation of the Warranty may resolve the matter in its entirety or at least reduce the issues at trial to a determination of damages.

[57] A summary determination of the issue of liability is appropriate on this application because an interpretation of the Warranty is possible from the evidence on this application.

[58] The defendant argues that the Warranty expressly excludes all of the Consequential Expenses claimed by the plaintiff. The plaintiff argues that the Warranty covers the “labour and material” costs required to prepare the House for the Remedial Work.

[59] The Supreme Court of Canada in *Sattva Capital Corp. v. Creston Moly Corp.* 2014 SCC 53 discussed the interpretation of contracts:

[47] Regarding the first development, the interpretation of contracts has evolved towards a practical, common-sense approach not dominated by technical rules of construction. The overriding concern is to determine “the intent of the parties and the scope of their understanding” (*Jesuit Fathers of Upper Canada v. Guardian Insurance Co. of Canada*, 2006 SCC 21, [2006] 1 S.C.R. 744, at para. 27, per LeBel J.; see also *Tercon Contractors Ltd. v. British Columbia (Transportation and Highways)*, 2010 SCC 4, [2010] 1 S.C.R. 69, at paras. 64-65, per Cromwell J.). To do so, a decision-maker must read the contract as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances known to the parties at the time of formation of the contract. Consideration of the surrounding circumstances recognizes that ascertaining contractual intention can be difficult when looking at words on their own, because words alone do not have an immutable or absolute meaning:

No contracts are made in a vacuum: there is always a setting in which they have to be placed. . . . In a commercial contract it is certainly right that the court should know the commercial purpose of the contract and this in turn presupposes knowledge of the genesis of the transaction, the background, the context, the market in which the parties are operating.

(*Reardon Smith Line*, at p. 574, per Lord Wilberforce)

[60] The defendant argues that it is clear on a reading of the entire Contract that certain work is not included as part of the Contract or is to be performed by others.

[61] For example, on page 2 and 3 of the Contract it reads that existing flooring and baseboards are to be removed by others and new baseboards are to be done by others. Also, final dust cleanup and final paint touch-up is to be performed by others and paid for by the client.

[62] Further the defendant notes that at page 4 of the Contract under the heading “Terms and Conditions” it includes similar terms such as:

- “Dust cleanup by others”;
- “Furniture removal by others”;
- “Toilet bowl removed and replaced by others”;
- “Kitchen utilities removed and replaced by others”; and
- “It is understood that expenses for clean up, accommodation, contents removal and storage costs caused by delay will not be paid for by BC Hardwood”.

[63] This is a commercial contract where both the plaintiff and the defendant are commercially experienced. In my view there is no inequality in bargaining positions between the plaintiff and the defendant.

[64] The defendant completed the Remedial Work and the damages that the plaintiff seeks are for the Consequential Expenses it decided to incur on behalf of the owner of the House. While the defendant agreed to work with the owners of the House to mitigate their consequential expenses, they at no time agreed to pay for these expenses.

[65] On a reading of the Contract as a whole, the Warranty expressly excludes the Consequential Expenses sought by the plaintiff. The Warranty covers the defendant’s labour and material costs necessary to perform the warranty work, not the labour and material costs of a third party.

[66] Further, in my view it was not reasonably foreseeable that the plaintiff would incur the costs of the Consequential Expenses on behalf of the owners of the House at the time that the Contract was entered into.

[67] As such, the Contract has a valid and applicable contractual exclusion clause which saves the defendant from liability in the circumstances of this case.

SUMMARY

[68] In summary, after reading the Contract as a whole and understanding that the plaintiff hired the defendant to install flooring in the House, I find that the Warranty expressly excludes recovery of the Consequential Expenses incurred by the plaintiff during the execution of the Remedial Work and the Warranty only covers the defendant's labour and material costs for the Remedial Work.

[69] The defendant is not liable to the plaintiff in contract for the damages the plaintiff seeks.

[70] The plaintiff's action against the defendant is dismissed.

[71] The defendant is entitled to their costs of this action.

"The Honourable Mr. Justice Tindale"