

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Wu v. Precision Pulley & Idler Inc.*,
2026 BCSC 309

Date: 20260227
Docket: S40601
Registry: Chilliwack

Between:

Pei Ming Philip Wu

Plaintiff

And

Precision Pulley & Idler Inc., Administrator Susan Lang

Defendant

Before: The Honourable Justice Chan

Reasons for Judgment

The Plaintiff, appearing in person:

P.M.P. Wu

Counsel for the Defendant:

J. Wu

Place and Date of Hearing:

Abbotsford, B.C.
February 4, 2026

Place and Date of Judgment:

Chilliwack, B.C.
February 27, 2026

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Introduction

[1] The plaintiff Pei Ming Philip Wu was employed by RAS Industries (“RAS”) starting in 2005 as a senior machinist. RAS was subsequently acquired by the defendant Precision Pulley & Idler Inc. (“PPI”) in 2015. Mr. Wu’s employment continued with the defendant until February 11, 2021, when his employment was terminated. The parties negotiated a settlement, and Mr. Wu signed a release on August 25, 2021.

[2] Mr. Wu filed a notice of civil claim on November 25, 2024, seeking in effect to set aside the settlement agreement. He seeks compensation for wrongful dismissal, reimbursement for his medical expenses and lost wages due to his job-related injury and a declaration of unjust termination.

[3] The defendant employer brings an application pursuant to Rule 9-6 of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 [SCCR], seeking dismissal of the action. The defendant argues there is no genuine issue for trial as the claim was brought out of time.

Affidavits filed on the Application

[4] As I understand it, Mr. Wu argues he was a person under a disability and as such, the limitation period was postponed. He cites his health challenges, language difficulties and financial challenges which hindered his ability to obtain appropriate legal representation.

[5] In response to this application, Mr. Wu has filed affidavits of April 16, 2025, May 26, 2025, August 13, 2025, August 20, 2025, and August 28, 2025. I have reviewed all the affidavits to ensure the Court has all the evidence that can speak to the issue of disability.

[6] In his affidavit of May 26, 2025, Mr. Wu deposes as follows:

...Explanation for Delay and Discoverability (including job-related foot injury)

27. I respectfully provide the following explanation for the delay in commencing this action. In addition to my vision and language challenges, I suffered a job-

related foot injury that was accepted by WorkSafeBC. I was sent to the emergency hospital due to a bacterial infection, and for approximately five months I was unable to walk, stand on the ground, or drive. This injury and its recovery further prevented me from seeking or managing legal assistance. I was advised that my condition qualified for WorkSafeBC coverage, and my claim was accepted, confirming the injury's job-related origin. (a) In 2021, before I was terminated, I was getting cataracts. Later I was suffering from serious cataracts that severely impaired my ability to read and drive. I was essentially functionally blind and on a long waitlist for surgery. This made it extremely difficult to read legal documents, understand emails, or communicate effectively. (b) I also faced a significant language barrier, as English is not my first language. I was not provided with adequate interpretation or plain-language legal explanation when I signed the settlement. (c) I had no financial ability to retain a lawyer on an hourly fee basis. (d) That lawyer later told me that this was his first employment case and often expressed a desire to quit. I was afraid to lose him because I did not believe I could find another lawyer willing to take my case without upfront payment. (e) I was advised by this lawyer that the settlement was final and that I would lose if I sued. I was discouraged and led to believe I had no case and no options. (f) At the same time, I was also dealing with the effects of a work-related injury that had been accepted by WorkSafeBC. Managing this injury and medical treatment added to the stress and made it even harder for me to consider launching a legal action. (g) In 2024, I independently consulted another person who helped me understand my situation better. I then realized that I might have legal grounds to challenge the settlement and the manner in which it was obtained. (h) I acted promptly after this discovery and filed my claim in 2024.

Legal Framework

[7] The defendant brings an application pursuant Rule 9-6 of the *SCCR* seeking summary judgment. The defendant relies on Rule 9-6(5) which sets out the following:

Rule 9-6 — Summary Judgment

Power of court

(5) On hearing an application under subrule (2) or (4), the court,

(a) if satisfied that there is no genuine issue for trial with respect to a claim or defence, must pronounce judgment or dismiss the claim accordingly,

[8] The applicable provisions of the *Limitation Act*, S.B.C. 2012, c. 13 are the following:

Definitions

1 In this Act:

...

"person under a disability" means an adult who is incapable of or substantially impeded in managing the adult's affairs; ...

Basic limitation period

6 (1) Subject to this Act, a court proceeding in respect of a claim must not be commenced more than 2 years after the day on which the claim is discovered.

[9] Section 8 provides that a claim is discovered on the first day a person knew or reasonably ought to have known the following:

- a) the injury, loss, or damage occurred;
- b) the injury was caused by or contributed to by an act or omission;
- c) the act or omission was that of the person against whom the claim is or may be made; and
- d) having regard to the nature of the injury, loss or damage, a court proceeding would be an appropriate means to seek to remedy the injury, loss, or damage.

[10] In this case, the key provision is s. 19, which provides as follows:

Discovery rule for persons under disability

19 A claim of a person under a disability is discovered,

(a) unless a notice to proceed is delivered under paragraph (b) before the person ceases to be a person under a disability, on the later of the following:

(i) the day on which the person ceases to be a person under a disability;

(ii) the day on which the claim is discovered under section 8, 12, 13, 14, 15, 16 or 17, as the case may be, or

(b) on the day on which a notice to proceed that complies with the requirements of section 20 (2) and any requirements prescribed under section 20 (5) is delivered in accordance with section 20 (1) and with any requirements prescribed under section 20 (5).

[11] The court may dismiss an action pursuant to Rule 9-6(5)(a) if there is no genuine issue for trial. An action commenced outside the statutory limitation period can be dismissed by a Rule 9-6 application. The court in *Sandhu v. Sun Life Assurance Company of Canada*, 2016 BCSC 1077 set out the guiding principles:

[12] The principles to be applied on such an application are well known. The test is whether there is a *bona fide* issue to be determined, and the court must

be satisfied that it is plain and obvious that the action will not succeed. In considering whether there is a *bona fide* issue, the court must assume that uncontested material facts as pleaded by the plaintiff are true; matters of fact cannot be weighed and inferences from the facts must be viewed in a light most favourable to the plaintiff: *Skybridge Investments Ltd. v. Metro Motors Ltd.*, 2006 BCCA 500; *Leger v. Metro Vancouver YWCA*, 2013 BCSC 2021 at paras. 16-17; *Foote v. Canada (Attorney General)*, 2012 BCSC 177, aff'd 2013 BCCA 135.

[13] Where a claim is statute barred, there can be no genuine issue to be tried: see, for example, *Andersen v. Howes*, 2012 BCSC 1229; *Sime v. Jupp*, 2009 BCSC 1154. Summary judgment is normally not appropriate where there are “real issues” concerning postponement of a limitation period: *Vedco Industries Ltd. v. Volco Enterprises Ltd.* (1996), 85 B.C.A.C. 208. However, where there are no disputed facts that would give rise to a consideration of postponement, summary judgment is available: *Foote v. Canada (Attorney General)*, 2013 BCCA 135; *Brown v. Canada (Attorney General)*, 2014 BCSC 357, aff'd 2015 BCCA 102.

Was Mr. Wu under a disability such that the limitation period was suspended for a period of time?

[12] Mr. Wu was terminated on February 11, 2021. At the time, limitation periods were suspended due to COVID-19. The suspension ended on March 25, 2021. The defendant argues the limitation period began to run on March 26, 2021, and Mr. Wu needed to start his action by March 26, 2023.

[13] Mr. Wu argues the limitation period was postponed as he was under a disability. As I understand it, he cites medical challenges, language difficulties and challenges with obtaining appropriate legal representation. In my view, only the medical challenges may relate to the issue of disability. Mr. Wu has cited no authority where language difficulties and dissatisfaction with legal advice amount to disability that impact the running of limitation periods. These arguments may go to the merits of his claim to set aside the settlement agreement, but in my view, they are not to be assessed in determination of whether his claim is statute-barred.

[14] In *Wirtanen v. British Columbia*, 98 B.C.L.R. (2d) 335 at 13–14, 1994 CanLII 888 (S.C.), this Court set out a non-exhaustive list of factors to consider when determining whether a plaintiff is substantially impeded in managing their affairs:

1. Is the plaintiff cognizant of the facts giving rise to the cause of action? For example, is the plaintiff aware that there was a motor vehicle accident, that she was injured and may be able to sue and collect money?
2. Does the plaintiff understand the nature and purpose of the proceedings, including the respective roles of judge, jury and counsel?
3. Does the plaintiff comprehend the personal import of the proceedings? Is she able to form a rational judgment about the effect of the action on her interests? Specifically, she must be able to understand what costs mean and comprehend enough of the information provided to her to appreciate the consequences of winning and losing.
4. Is the plaintiff able to comprehend legal advice being given to her? Is she able to instruct counsel and make critical decisions on counsel's advice?

[15] The onus of proof is on the party raising a disability: *Olenga v. Royal Columbian Hospital (R.C.H.)*, 2017 BCSC 975 at para. 60, aff'd 2018 BCCA 349.

[16] Neither party has adduced any medical opinion on the issue of whether Mr. Wu was incapable of or substantially impeded in managing his affairs, and if so, how long that disability lasted. Mr. Wu has filed various documents that he asserts show he was receiving medical treatment for his right foot job-related injury and undergoing cataract surgery.

[17] He relies on a letter from WorkSafeBC dated March 11, 2022, which advised him he was entitled to temporary wage loss benefits from March 25, 2021, to August 8, 2021, for his foot injury. The letter referenced Mr. Wu visiting the emergency department at Peace Arch Hospital on March 25, 2021, complaining of swelling in his right foot. He received follow-up care in the wound care clinic and was discharged from the clinic on June 26, 2021. WorkSafeBC concluded that there was no medical evidence to support ongoing temporary disability after August 8, 2021.

[18] Mr. Wu provided correspondence from Dr. Matthew Bujak's office that showed he had surgery for cataracts on September 16, 2022, and December 1, 2022. Included in the correspondence is a consent form, in which Dr. Bujak signed indicating on

June 6, 2022, he had discussed the proposed health care and related risks with the patient and confirmed their understanding.

[19] On the evidence adduced, there is no evidence which supports that he was incapable of managing his affairs from the date he was terminated until November 2022, which Mr. Wu would need to prove for his claim to not be out of time. I note he was actively negotiating his wage loss claim with WorkSafeBC from June 2021 onwards, speaking to board officers. He also indicated he was looking for work after termination until March 2021, and he worked two days in August 2021, for another employer. There is evidence that in June 2022, he was able to provide consent to cataract surgery and did so again prior to his December 2022 cataract surgery.

[20] The evidence shows Mr. Wu was aware he was terminated in February 2021. He retained a lawyer to negotiate on his behalf and signed a settlement agreement in August 2021. While he deposes now that he is not satisfied with his legal representation, in my view, that is not sufficient to prove he was under a disability such that his discovery of his cause of action was postponed. In my view, the fact that he retained a lawyer and negotiated a settlement shows he was aware of his claim in 2021. He now wishes he had proceeded differently.

[21] His evidence that he was hindered by his health challenges to retain a different lawyer is not sufficient to prove he was under a disability, as his health challenges related to mobility and vision, and not an inability to understand his situation. There is no medical evidence to support Mr. Wu's claim that he did not understand the legal advice he received. By his own evidence, he understood the legal advice he received at the time; now, he wishes he had pursued another opinion.

[22] Putting Mr. Wu's case at its highest, even accepting that he was under a disability until August 8, 2021, when his temporary disability wage loss benefits from WorkSafeBC terminated, he needed to file his action by August 8, 2023.

[23] In my view, the evidence does not show Mr. Wu was incapable of or substantially impeded in managing his affairs during the relevant time period. It is not

enough for a plaintiff to simply claim that he has a disability to satisfy the requirements of the *Limitation Act: Sandhu* at para. 30. The evidence adduced by Mr. Wu does not show he was under a disability. Further, this Court has no jurisdiction over his claims pursuant to the *Workers Compensation Act*, R.S.B.C. 2019, c. 1 and the *Human Rights Code*, R.S.B.C. 1996, c. 210.

[24] Mr. Wu also relies on a case plan order made after a case planning conference was held on September 8, 2025, to argue that his matter was to be scheduled to be heard in long chambers. He argues this shows the court already recognized his action requires a long chambers hearing and is not suitable for summary dismissal. In my view, the case plan order was a procedural tool to indicate sequencing of applications. The case plan order granted leave to the defendants to file a summary judgment application to be heard at the same time as Mr. Wu’s application to set aside the settlement agreement or on an earlier date. The defendants filed this application for summary judgment on September 16, 2025. On January 19, 2026, the Court ordered that the defendant’s summary judgment application be heard before Mr. Wu’s application. The case plan order did not decide Mr. Wu’s application must proceed to hearing on the long chambers list.

[25] There are no disputed facts on the issue of postponement and no triable issue. I find his claim was filed out of time and must be dismissed pursuant to Rule 9-6 as there is no genuine issue for trial.

Conclusion

[26] Mr. Wu’s claim is dismissed.

[27] As the defendant is successful, it is entitled to its costs of the application at the ordinary scale.

“Chan J.”