

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Vivavivo Inc. v. Signalchem Lifesciences Corporation*,
2026 BCSC 702

Date: 20260420
Docket: S244325
Registry: Vancouver

Between:

Vivavivo Inc.

Petitioner

And

Signalchem Lifesciences Corporation

Respondent

- and -

Docket: S253799
Registry: Vancouver

Between:

Amarjeet Singh Sidhu and Viceroy Investments and Holdings Ltd.

Petitioners

And

Signalchem Lifesciences Corporation

Respondent

- and -

Docket: S257390
Registry: Vancouver

Between:

Avtar Singh Gill

Petitioner

And

Signalchem Lifesciences Corporation

Respondent

Before: The Honourable Madam Justice Sharma

Reasons for Judgment

Counsel for the Petitioners in S244325:	A.V. Oduoza
Counsel for the Petitioners in S257390 and S253799:	J.P. Scouten
Counsel for the Respondent:	N.J. Muirhead
Place and Date of Trial/Hearing:	Vancouver, B.C. January 14, 2026
Place and Date of Judgment:	Vancouver, B.C. April 20, 2026

Table of Contents

I. INTRODUCTION 4

II. BACKGROUND..... 5

 A. The Consent Order 6

 B. Valuation 7

 C. The Failed Amalgamation 9

 D. Parties’ Positions 10

III. LEGAL FRAMEWORK..... 12

IV. ANALYSIS 15

 A. Arbitration..... 15

 B. Injunction..... 16

 1. Serious Question 17

 2. Harm and Balance of Convenience 18

V. CONCLUSION 22

VI. OTHER ORDERS..... 23

VII. COSTS 25

I. INTRODUCTION

[1] This judgment addresses three separate matters that were heard together. They arise from three separate proceedings:

- a) A petition filed in June 2024 by Vivavivo Inc. (“Vivavivo”) against Signalchem Lifesciences Corporation (“Signalchem”), File No. S244325. Vivavivo filed a notice of application on September 24, 2025 (the “September NOA”).
- b) A petition filed in May 2025 by Amarjeet Sidhu and Viceroy Investments and Holdings Ltd. against Signalchem, File No. S253799. Mr. Sidhu is the sole director and shareholder of Viceroy Investments and Holdings Ltd. For convenience, I will refer to both petitioners in that proceeding as “Viceroy”. At the hearing before me, Viceroy was seeking the relief set out in only some of the paragraphs of the petition.
- c) A petition filed in October 2025 by Avtar Gill against Signalchem, File No. S257390. At the hearing before me, Mr. Gill was seeking the relief set out in only some of the paragraphs of the petition.

[2] Justice Basran granted an order on October 17, 2025, to have these matters heard together.

[3] There is little dispute about the facts, governing legislation, and legal principles. All three proceedings concern Signalchem’s uncontested statutory obligation to purchase the petitioners’ shares. Signalchem has earmarked funds for the payout value of those shares, which have been placed in its lawyer’s trust account. The parties’ dispute is whether those funds are sufficient and, if they are not, whether Signalchem should be ordered to increase the amount held in trust.

[4] For the reasons explained in this judgment, I only grant one order sought by the petitioners, which is to disburse to them some of the funds held in trust. I dismiss their application to refer this matter to arbitration, and I dismiss their application for relief in the nature of an injunction.

II. BACKGROUND

[5] Signalchem is a private company with a total of 39,710,871 common shares. It is a biotechnology company that develops new medicines aimed at treating cancer and other significant diseases. It conducts research and clinical studies with the ultimate aim of bringing treatments to market. It also works with partners in the life sciences industry.

[6] Signalchem had four wholly-owned subsidiaries. On October 16, 2023, Signalchem’s shareholders approved a special resolution authorizing the sale of one of those subsidiaries, Signalchem Biotech Inc. (“Signalchem Biotech”), to Sino Biological, Inc. for US\$48 million.

[7] The notice of that special meeting alerted shareholders to certain rights that were prompted by the sale. Specifically, the *Business Corporations Act*, S.B.C. 2002, c. 57 [BCA], confers particular rights on dissenting shareholders upon the occurrence of certain triggering events. Those requirements are set out in, among others, ss. 238, 243–244 of the *BCA* (discussed below). Relevant to this judgment is the right of shareholders to dissent to a resolution authorizing the sale of a substantial amount of a company’s undertaking, which triggers the company’s obligation to buy those shares.

[8] When the resolution was passed approving the sale, the petitioners provided notice and dissented. At that time, they held the following number of shares in Signalchem:

- a) Vivavivo held 2,857,142 shares, representing approximately 7.2% of total shares;
- b) Mr. Sidhu owned 412,727 and Viceroy owned 200,000 shares; and
- c) Mr. Gill owned 60,000 shares.

[9] The petitioners submit that after they dissented, initial discussions about the amount of the payout value stalled, which prompted Vivavivo to file its petition on June 26, 2024.

A. The Consent Order

[10] On July 2, 2024, Vivavivo filed a notice of application seeking:

- a) an injunction preventing Signalchem from paying out the proceeds of sale of Signalchem Biotech except in the ordinary course of business and, in particular, restraining Signalchem from paying out half of the sale proceeds as a dividend;
- b) in the alternative, an order that Signalchem pay into court to the credit of this action US\$3,456,000; and
- c) an order that Signalchem produce copies of its financial statements.

[11] That application was resolved by way of the consent order entered on July 16, 2024 (the “Consent Order”). Pursuant to that Consent Order, Signalchem agreed to pay US\$4,661,766.36 into an interest-bearing trust account “pending further Order of this Court or agreement of the parties”. Paragraph 2 of the Consent Order states that those monies “shall be used to discharge, in whole or in part, the ‘payout value’ of the Petitioner’s ‘notice shares’”, as defined under the *BCA*.

[12] The Consent Order also states that nothing in it should be construed as evidence as to the payout value or as an admission or concession by any party regarding that value. The parties were at liberty to apply for further directions regarding the amount that was agreed to be paid.

[13] Signalchem actually paid into trust a greater amount, in part, to account for the payout to Viceroy and Mr. Gill, who had not yet filed their petitions when the Consent Order was entered. The combined total of the money held in its lawyer’s trust fund at the time of the Consent Order was US\$5,759,400.32. However, counsel

indicated that the amount was converted to Canadian funds and the account is interest bearing, so the current value of those funds is somewhat unclear.

B. Valuation

[14] The central dispute amongst the parties is the valuation of payout owed by Signalchem to the petitioners. They also disagree on whether that issue should be resolved by arbitration or in court.

[15] In support of the orders they seek to have more money paid into trust, the petitioners raise two interrelated points. First, they say that there is reason to believe that the value of their shares is significantly more than currently held in trust. Second, they contend that if an extra amount is not aside now, there is a risk they will never receive their full payout.

[16] They rely on a report prepared internally by Signalchem as to the value of the company. The report is titled “Business Plan” and is dated May 2022. Vivavivo has produced the document, which indicates that it was prepared by Signalchem’s management. At page 3, the report states that it contains “forward-looking statements” about expected costs and timing for further developments and the operation of various projects. It also states that there are “risks and uncertainties that may cause [Signalchem’s] actual future results to be materially different than those expressed in the ... forward-looking statements” and cautions the reader not to place undue reliance on the statements. The document is marked strictly confidential.

[17] At page 62, in a section titled “Valuation Estimate and Exit Strategy”, the then current fair value of the company was stated to be US\$437 million. The following page contains a table that breaks down the components of the company, which add up to that amount.

[18] Vivavivo also referred to two other documents, which it submits support its position that the money set aside in trust is clearly insufficient:

- a) A PowerPoint titled “Corporate Overview” dated October 2023 that was circulated to shareholders and the public, which references a licensing agreement to a Chinese entity that resulted in a payment of at least US\$210 million to Signalchem; and
- b) A subscription agreement Signalchem has with another company, which valued 935,150 of Signalchem’s shares at \$2.71614 per share, for a total payment of \$2.54 million to Signalchem.

[19] The petitioners assert that Signalchem Biotech was the “cash cow” of the company and that its sale can be expected to have a significant impact on the company’s value. They also point out that the company informed its shareholders (no longer including the petitioners) in May 2024, that it had received a portion of the sale proceeds from the sale of Signalchem Biotech of just over \$35 million, and shareholders could expect to receive dividends from half of those proceeds in July 2024. It was not contested that dividends were paid out from those proceeds. Combined, the petitioners assert these events raise a concern that Signalchem may be unable to pay what they say is the full value of their shares.

[20] Signalchem submits the evidence does not demonstrate that the amount placed in trust will be insufficient. In response to the petitioners’ reliance on the Business Plan, Signalchem’s position is that the report itself qualifies the statement valuing the company at \$437 million and, realistically, the actual amount was closer to \$100 million.

[21] More importantly, Signalchem relies on a report dated January 20, 2025, prepared by Evans and Evans Inc. (the “Evans Report”). The authors state that they were hired to provide a fair market value of the company on a per-share basis as of October 18, 2023, which was immediately before the resolution authorizing the sale that triggered the dissent rights. Signalchem points out that the Corporate Overview and subscription agreement (referred to above at para. 18) are referenced in the Evans Report.

[22] At section 8, the Evans Report states that the authors reviewed the company's consolidated and unconsolidated financial statements for the years 2019 to 2022 and the period ending in 2023. It explained possible methodologies for valuating Signalchem and its subsidiaries.

[23] After addressing the subsidiaries, the Evans Report comes to a fair market value of the company of between \$80,300,080 and \$80,370,000. The authors applied a 15% discount because Signalchem is a privately held company.

[24] Signalchem submits that taking into account the valuation in the Evan Report, the fair market value of Signalchem's shares as of the day before the sale was \$1.68 to \$1.75 per share. It goes on to say that the amount currently held in trust is the equivalent of about \$2.20 per share, which diminishes the petitioners' argument that the amount is inadequate. It also points out that the dividend that was paid out amounted to only \$0.61 per share.

[25] The petitioners take issue with several aspects of the Evans Report. Importantly, they say it is not an independent report, which puts the entirety of the report in question. They also take issue with the methodologies used. On this, they point out that the methodology used led the authors to value Signalchem Biotech at \$48,330,000 to \$50,000,030, even though it was sold for US\$48 million. They assert this represents a significant difference.

C. The Failed Amalgamation

[26] A major factor in contention amongst the parties is the impact on valuation of other litigation involving Signalchem. That litigation concerns a failed amalgamation agreement. In May 2021, a company called Newmac Resources Inc. ("Newmac") came to an agreement with Signalchem for an amalgamation, but it did not proceed.

[27] Newmac started litigation in China against Signalchem, which it later abandoned. In December 2023, Newmac filed a lawsuit in the Supreme Court of British Columbia pursuing the same relief. In that claim, Newmac asserts that it would have received a 7.21% interest in what would have been the amalgamated

entity, entitling it to damages in an amount of at least US\$31,724,000 (that appears to be based on the company being valued at about US\$437 million as stated in the Business Plan).

[28] In response to inquiries by Vivavivo in February 2025 about the production of a valuation report, Signalchem took the position that the valuation of shares could not be disentangled from the Newmac litigation. Its position is that if Newmac succeeds in its litigation, it could have a significant impact on the valuation of the company, so it would be inappropriate to value Signalchem without considering Newmac's claim.

[29] At the hearing before me, one aspect of Signalchem's concern was the possibility of double recovery based on its allegation that there was a possible corporate relationship between Vivavivo and Newmac, who are currently represented by the same lawyer. However, there was no evidence before me as to a corporate relationship between them.

[30] The petitioners contend that the status of the Newmac litigation does not have as significant of an impact on valuation, as asserted by Signalchem. Its position is that outstanding litigation is merely a contingent liability that can be taken into account in the valuation process.

D. Parties' Positions

[31] Vivavivo's position is that since it had owned 7.2% of Signalchem's shares, its payout cannot be *anything less* than 7.2% of the sale price for Signalchem Biotech, which was US\$48 million. That amount is approximately US\$3.456 million. However, it submits that the appropriate amount it should receive should be based on Signalchem's May 2022 Business Plan, which valued the company at approximately US\$437 million, which would result in a significantly higher payout. The other petitioners take the same position.

[32] The petitioners seek the following orders:

- a) Paragraphs 1 and 2 of Vivavivo's September NOA:
- i. An order that the funds currently set aside and held in the trust account of Yan Muirhead LLP be transferred to the trust account of Vincent Mark Law Corporation and, subsequently, for 50% of the funds to be released to the petitioners in proportion to the petitioners' shares; and
 - ii. An order that Signalchem deposit an additional US\$9,341,889.32 into the trust account of Vincent Mark Law Corporation, which will be an interest-bearing account;
- b) Paragraphs 2, 4, 7, and 8 of the petition filed by Viceroy:
- i. An order that Signalchem purchase Viceroy's shares in the amount of to be determined;
 - ii. In the alternative, an order that the payout value of Viceroy's shares be determined by the Court and that the Court set directions for the process to determine the payout value;
 - iii. An order that Signalchem deposit an additional US\$9,341,889.32 in an interest-bearing account in the trust account of Yan Muirhead LLP, which is to be held until the resolution of the petitions, at which point the funds will be used to purchase the petitioners' shares in the amount of the shares' payout value; and
 - iv. In the alternative, an order enjoining Signalchem from distributing to its shareholders or paying to any party all or any portion of the sale proceeds of Signalchem Biotech pending the determination of the payout values of the petitioners' shares or a further order from the Court;
- c) Paragraphs 2, 3, and 6–7 of the petition filed by Mr. Gill:

- i. An order that the determination of the payout value of Mr. Gill’s shares be referred to arbitration pursuant to s. 245(2)(a) of the *BCA*;
- ii. In the alternative, an order setting directions for the payout value of Mr. Gill’s shares to be determined by the Court;
- iii. An order that Signalchem deposit an additional US\$7,206,306.14 into the trust account of Yan Muirhead LLP, which is to be held until the resolution of the petitions, at which point the funds will be used to purchase the petitioners’ shares in the amount of the shares’ payout value; and
- iv. In the alternative, an order enjoining Signalchem from distributing to its shareholders or paying to any party all or any portion of the sale proceeds of Signalchem Biotech pending the determination of the payout values of the petitioners’ shares or a further order from the Court.

[33] Signalchem’s position is that no further funds should be set aside for the payout to the petitioners. It submits that it is relevant and significant that without compulsion by court order—it voluntarily paid into its own lawyer’s trust fund an additional amount than sought by Vivavivo in the original notice of application.

III. LEGAL FRAMEWORK

[34] The sale of Signalchem’s subsidiary, Signalchem Biotech, was a triggering event for the purpose of s. 238(1)(e) of the *BCA*. All of the petitioners gave notice of their dissent pursuant to the statute. Pursuant to s. 245(2), a dissenter is entitled to seek court orders relating to “payout value” of the dissenting shareholder’s shares.

[35] Section 237(1) defines payout value to mean, in the case of a dissent issued pursuant to a triggering event, the “fair value that the notice shares had immediately before the passing of the resolution adopting the arrangement”.

[36] Section 245(1) states that a company and a dissenter may agree on the amount of the payout value and, in that event, the company must promptly pay the amount or send a notice that the company is unable to do so.

[37] However, where a dissenter has not entered into an agreement pursuant to that section, the legislation permits an application to court:

245 (2) A dissenter who has not entered into an agreement with the company under subsection (1) or the company may apply to the court and the court may

(a) determine the payout value of the notice shares of those dissenters who have not entered into an agreement with the company under subsection (1), or order that the payout value of those notice shares be established by arbitration or by reference to the registrar, or a referee, of the court,

(b) join in the application each dissenter, other than a dissenter who has entered into an agreement with the company under subsection (1), who has complied with section 244 (1), and

(c) make consequential orders and give directions it considers appropriate.

(3) Promptly after a determination of the payout value for notice shares has been made under subsection (2) (a) of this section, the company must

(a) pay to each dissenter who has complied with section 244 (1) in relation to those notice shares, other than a dissenter who has entered into an agreement with the company under subsection (1) of this section, the payout value applicable to that dissenter's notice shares, or

(b) if subsection (5) applies, promptly send a notice to the dissenter that the company is unable lawfully to pay dissenters for their shares.

[38] The petitioners emphasize that once the sale was approved and their notices of dissent were perfected, they were no longer shareholders. The consequence of that is that they are not entitled to dividends. Because Signalchem is a private company, they also have no rights of participation in company affairs, nor rights to get information about its affairs.

[39] The policy behind the statutory right to a payout value was discussed in *Bradley Resources Corporation v. Kelvin Energy Ltd.*, 1985 ABCA 65 [*Bradley Resources*], which is relied on by the petitioners. Although that case concerns

Alberta legislation, which has some differences from the *BCA*, the general statements about a dissenter's right to a payout are not controversial.

[40] Specifically, the British Columbia and Alberta legislation both incorporate as an essential feature a company's obligation to make an offer as to the valuation amount to a dissenter because they are no longer shareholders, as explained by the Alberta Court of Appeal:

[10] We agree that the purpose of the legislation is to give a shareholder the right to refuse to participate in ventures not originally contemplated for the company. The right to appraisal and payment, while not designed to give the dissenting shareholder any new priority over creditors, is obviously designed to give him, as against the majority, the right to walk away fully paid from a company which takes a dramatic new turn in the road. We adopt this analysis by R. B. Kuzyk in *Dissenting Shareholders Appraisal Right*. L.E.S.A. 1984:

The shareholder of a corporation has made an economic investment in the corporation, and his investment is premised upon the maintenance of certain fundamental ground rules. Both the Companies Act (Alberta) and the *BCA* recognize that certain changes to the structure of the corporation affect these fundamental ground rules, and so are accorded special treatment. The holders of a majority of the shares of the corporation have a right to control the corporation, but this must be balanced against the right of the minority shareholders to ensure that the fundamental nature of their economic investment in the corporation does not change without their consent.

[41] The Alberta Court of Appeal further commented that the relief granted under the legislation was not a constructive trust and does not make the dissenter a secured creditor. However, it does empower the Court to grant a "form of special relief": *Bradley Resources* at para. 12.

[42] Similarly, the Alberta Court of Appeal in *Brookdale International Partners, L.P. v. Crescent Point Energy Corp.*, 2018 ABCA 221, stated that the dissenting shareholder's rights to a payout is an "existing vested right" because the dissenter must deliver up its shares, thereby depriving it of its usual rights:

[10] When a shareholder dissents, it is deprived of all the usual rights of a shareholder. It must deliver up its shares, it can no longer vote at meetings, it receives no dividends or distributions, and it cannot sell the shares: s. 191(14). In place of that, it receives a statutory chose in action, in the form of a right to be paid fair value for the shares. That is an existing vested right, not to be confused with the procedure that is used to determine the value. [Emphasis in original.]

IV. ANALYSIS

[43] The main issue is whether Signalchem should be ordered to put significantly more money into trust to protect the dissenter’s payout. In addition to disagreeing about the payout value, the parties dispute how the matter should be determined.

A. Arbitration

[44] The petitioners submit that the issue of determining the payout value should be referred to arbitration pursuant to the *BCA*. Signalchem disagrees.

[45] The section in question is s. 245(2), which, in addition to conferring on the court the ability to determine the payout value, states the court may “order that the payout value of those notice shares be established by arbitration or by reference to the registrar, or a referee, of the court”.

[46] The *Arbitration Act*, S.B.C. 2020, c. 2, applies to an arbitration that takes place in British Columbia: s. 2(1). It is premised on the notion that parties come to an agreement to arbitrate a current or potential future dispute: *Arbitration Act*, s. 5(1).

[47] The petitioners assert that arbitration would be more cost-effective and expeditious compared to proceeding in court. Among other things, they argue that the parties would have the benefit of choosing an arbitrator with specific experience in this area of the law. The petitioners also say getting an expedited arbitration is easier than obtaining court dates. Timeliness is important to them because they are concerned about Signalchem’s ability to pay any amount more than what has been set aside, especially if it continues to pay out dividends. Added to that concern is the petitioners’ view that the sale of the subsidiary, which prompted their dissent, may have a significant impact on Signalchem’s value.

[48] Signalchem’s position is that it would be inappropriate for the Court to mandate arbitration in the face of one party’s opposition. It submits that the Court is in a better position to resolve the issues because of the three separate proceedings, and the need to assess the relevance of the Newmac litigation. It also challenges the petitioners’ claim that arbitration will necessarily be more cost-effective, pointing out that no evidence was filed to substantiate that claim.

[49] Neither party found any authority guiding the Court's exercise of discretion to refer the matter to arbitration pursuant to s. 245(2) of the *BCA*.

[50] The petitioners submit that the reference to arbitration in s. 245(2) would be meaningless if it was not intended that the Court may mandate parties proceed in that fashion.

[51] I do not agree. Section 245(2) empowers the Court to refer the matter to arbitration, but it does not make that reference mandatory upon a dissenter's application. It is plausible that the parties may have come to an agreement during negotiations about the payout value to resort to arbitration if they cannot otherwise reach an agreement. Or, upon the dissenter filing an application under s. 245, all parties may agree to pursue arbitration. In either case, the section simply confirms the Court's ability to give effect to that agreement.

[52] I agree with Signalchem that it is contrary to the fundamental tenets of arbitration for the Court to force the parties to arbitrate in the absence of their agreement to do so.

[53] In any event, all parties agree that the section confers a discretion on the Court. On the facts of this case, I am not persuaded that an arbitration would be cost-effective or more expeditious given Signalchem's opposition to that process.

[54] For that reason, I decline to refer the matter to arbitration or to the registrar.

B. Injunction

[55] Vivavivo has filed an application for an injunction whereas the other petitioners seek injunctive relief in their petitions. Their positions are aligned.

[56] The petitioners seek two orders that:

- a) the funds currently set aside and held in the trust account of Yan Muirhead LLP be transferred to the trust account of Vincent Mark Law Corporation

and 50% of the funds to be released to the petitioners in proportion to their shares; and

- b) Signalchem be ordered to pay into trust additional amounts of US\$9,341,889.32 and US\$7,206,306.14 pending final resolution of the three petitions.

[57] The test for an injunction is well-known and not controversial. The party seeking an injunction must establish that: there is a serious question to be tried; it will suffer irreparable harm if the injunction is not granted; and, the balance of convenience favours granting the injunction: *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, 1994 CanLII 117 [*RJR-MacDonald*].

[58] In addition to the factors set out in *RJR-MacDonald*, courts emphasize that the three steps are meant to be applied flexibly and none are mandatory requirements. Overall, the court's assessment should primarily be guided by what is just and equitable in the circumstances: *Teal Cedar Products Ltd. v. Rainforest Flying Squad*, 2021 BCSC 605 at paras. 33–34.

1. Serious Question

[59] The parties do not agree on the nature of the “issue” to be assessed under the three-part test.

[60] The petitioners say that the issue to be tried is the determination of the payout value. They argue that they easily pass the threshold of serious issue to be tried because they have a statutory right to receive the payout value of their shares from Signalchem. Signalchem argues that the petitioners frame the question too broadly. Because money has already been set aside, it submits that the issue raised is whether the money set aside is sufficient. On that point, they say the evidence filed does not demonstrate that to be a serious issue.

[61] I disagree. The threshold is low. The ultimate issue in dispute in these proceedings is the value of the petitioners' shares. The petitioners have a statutory

right to be paid. The Court is not at this time in a position to determine that value, but there is at least some evidence consistent with the petitioners' position that the money set aside may be inadequate. On that basis, I accept that there is a serious question to be tried.

2. Harm and Balance of Convenience

[62] The parties' submissions on irreparable harm and balance of convenience were, to a large extent, intermingled.

[63] The petitioners say the irreparable harm is the possibility that they will not receive the full amount of their payout value. They say Signalchem has failed to adduce any evidence that its ability to continue to operate will be prejudiced if the injunction was granted, which strongly supports their position.

[64] Signalchem conceded that there was no specific evidence from which I could infer it would suffer irreparable harm if the injunction was granted, other than it is an operating company, which needs capital. However, it submits that this is not determinative. Its position is that other factors tip the scales in favour of not granting the injunction.

[65] The petitioners cited cases they assert supports their position: *Bradley Resources; First Choice Capital Fund Ltd. v. First Canadian Capital Corp.*, 157 Sask. R. 253 at paras. 64–65, 1997 CanLII 11040 (Q.B.) [*First Choice Capital*]; and *Conn v. Twenty Two Degree Energy Corp.*, 2010 ONSC 4598 at paras. 10–11.

[66] I do not find these cases support granting the injunction in this case. The key difference in the facts before me compared to those cases is that the petitioners already have a large fund safeguarded towards the payout value of their shares. In all other cases, no money had been placed into trust or paid into court for that purpose.

[67] In *Bradley Resources*, the company, Kelvin Energy, sold all of its assets. Bradley Resources Corporation ("Bradley") was a shareholder and had not

consented to the sale, triggering its right to a payout value. The dispute was whether the valuation for Bradley's shares had to take into account the price for the very sale that prompted the dissent, an issue that was going to trial.

[68] However, Bradley obtained an *ex parte mareva* injunction after discovering that up to \$14 million in liquid assets had suddenly been transferred out of Alberta, all independent directors of Kelvin Energy had resigned, and the company had come to be dominated by a principal shareholder: *Bradley Resources* at para. 5.

[69] Kelvin Energy then applied to lift the injunction. The chambers judge did so. However, on appeal, it was common ground that the lifting of the injunction was based on a misapprehension as to the breadth of an undertaking given by Kelvin Energy's counsel. At the Court of Appeal, Kelvin Energy's counsel sought to be relieved from that undertaking, which the Court of Appeal granted. However, counsel also sought that the Court of Appeal essentially re-hear the matter of the *mareva* injunction, and the Court of Appeal reluctantly agreed.

[70] In doing so, the Court of Appeal held that the nature of the harm alleged by the dissenter holder would not have entitled it to a "traditional" injunction or a *mareva* or *quia timet* order because it raised only a suspicion about future harm (further dissipation of assets), rather than the probability or high probability required by the legal tests for the other relief sought.

[71] However, the Alberta Court of Appeal found that the legislation empowered it to grant another form of relief to avoid the "new right [being] effectively destroyed or put at substantial risk during the period before final judgment and payment precisely because the company proceeds down the new road": *Bradley Resources* at para. 11. The relief was dictated by the legislation itself:

[12] We do not say that there is a constructive trust nor that Bradley has a right to become a secured creditor, nor that management and control of the company should pass over to Bradley or the courts. But the majority right to control the affairs of the company without interference has been fettered by s. 184, and we think it is a fit exercise of our undoubted power of injunction to interfere to assure Bradley, as against only the majority, that the award it ultimately receives as compensation for the decision of Kelvin to sell is not

meanwhile rendered meaningless precisely because Kelvin decided to sell. We think this situation calls for a form of special relief not considered in Brant Investments.

[Emphasis in original.]

[72] It was also unclear at that point how many dissenting shareholders were entitled to relief nor what Kelvin Energy planned to do with the money from the sale: *Bradley Resources* at paras. 3, 13. In those circumstances, the Alberta Court of Appeal granted an order enjoining Kelvin Energy from dealing with the proceeds of the sale in any way without prior court approval.

[73] In *First Choice Capital*, the question was whether interim injunctive relief in the nature of a *mareva* that had already been granted ought to remain in effect. The order restrained the respondents from disposing of assets except in the ordinary course of business.

[74] In that case, the applicants made various claims, including in tort and contract, against the respondents for alleged mismanagement of almost \$50 million in investment funds. The applicants sued both the various corporations and affiliates that managed the applicants' investment funds and the individuals who owned and controlled those corporations and affiliates. The litigation had been ongoing for over two years and numerous fiats, judgments, and appeals had been issued. Specifically, courts had made findings of fact of "predatory" behaviour by the directors of the investment fund, which resulted in, among other orders, the appointment of interim directors and the removal of the respondents from the control and management of the investment funds.

[75] Similarly, in *Conn*, the company ("Twenty Two") sought approval for a sale of its major assets. Upon reviewing the statements, the applicants discovered that in the preceding two-year period, there had been a great increase in Twenty Two's liability to pay for consulting and management services to related parties and Twenty Two's principal shareholder. On that basis, the shareholders dissented.

[76] The court stated that the value of the dissenters' shares would turn on the determination of the legitimacy or enforceability of the alleged debts and accounting transfers given to parties related to or close to Twenty Two. By then, the sale had gone through, and the first instalment of the sale price had been paid. The fear was that the second payment would be made to the related entities before the dissenters could have their application heard. In that context, the court granted an order that the second instalment of the sale proceeds be paid into court.

[77] In this case, the petitioners already have a fund of money safeguarded for the payout value, which distinguishes their situation from those discussed in the cases. I add that the evidence relied upon by the petitioners to suggest that Signalchem may be unable to meet a much larger payout is less compelling than in those other cases.

[78] Injunctive relief is typically granted to address serious and urgent situations. The petitioners complain that they have been waiting too long to receive the payout of funds to which they are clearly entitled. Some of the delay is the regrettable result of the parties being unsuccessful in attempts to be heard in this Court, but there have also been delays while parties changed counsel. Signalchem also points out that Viceroy and Mr. Gill did not file their petitions until May and October 2025, respectively. Overall, it is not clear to me that either side can be blamed for the delay in these applications being heard.

[79] Signalchem also takes the position that Vivavivo's application is an attempt to vary or re-litigate the orders to which it consented and, in that light, it would be unjust and inequitable to order Signalchem to set aside more funds. With regard to the other petitioners, Signalchem relies on its voluntary agreement to set money aside in support of its position that equity does not favour granting the injunction. In that sense, it argues that there is insufficient reason to disrupt the "status quo", emphasizing that the current state of affairs was achieved by consent.

[80] I agree. I am not persuaded that the evidence relied upon by the petitioners is sufficient to constitute anything more than a suspicion that the amount held in trust

will be inadequate. There is some logic to Signalchem’s justification of the amount. Furthermore, I am not persuaded that there is a risk that the petitioners would be unable to receive their payout should the court ultimately determine something more is owed to them.

[81] However, I was given no reason why the petitioners could not receive some of the funds already set aside now, which I understood may be necessary, in part, to fund this litigation. Accordingly, I will grant that relief.

V. CONCLUSION

[82] For all the reasons stated above, I do not find the evidence supports granting the relief sought by the petitioners, with one exception.

[83] Accordingly, I order as follows:

- a) With regard to Vivavivo’s September NOA:
 - i. the order sought in paragraph 1 is granted only to the extent that 50% of the funds currently held in trust be released to all petitioners in proportion to each petitioner’s shares. The order seeking to transfer funds to Vincent Mark Law Corporation, in trust, is dismissed; and
 - ii. the order sought in paragraph 2 that Signalchem deposit additional funds into trust is dismissed.
- b) With regard to the petition filed by Viceroy:
 - i. the orders sought in paragraph 7(a)–(b) that additional funds be paid into trust are dismissed; and
 - ii. the order sought in paragraph 8 is dismissed.
- c) With regard to the petition filed by Mr. Gill:
 - i. the order sought in paragraph 2 that the determination of the payout value of Mr. Gill’s shares be referred to arbitration is dismissed;

- ii. the orders sought in paragraph 6(a)–(b) that additional funds be paid into trust is dismissed; and
- iii. the order sought in paragraph 7 is dismissed.

VI. OTHER ORDERS

[84] The petitioners have sought directions to have a hearing, so the Court can determine the payout value of their shares. In my view, it is prudent to set down a two-day hearing to determine the payout value of the petitioners’ shares as sought in each of their petitions; thus, all three petitioners shall be heard together.

[85] To achieve that, pursuant to s. 245(2)(c) of the *BCA* and this Court’s inherent jurisdiction, I order as follows:

- a) Counsel will confer and find up to three dates that they are all available for a two-day hearing at the Vancouver Law Courts no earlier than September 15, 2026, and no later than December 18, 2026.
- b) Once they have agreed upon those dates,, and no later than **14 days** from the date of this judgment, counsel shall contact, in writing, Supreme Court Scheduling (“SCS”) in Vancouver, drawing SCS’s attention to these directions and providing the dates all counsel are available. SCS will determine which block is most convenient for the Court and confirm the hearing dates, seeking clarification or further information directly from me as necessary.
- c) The parties shall exchange the following material prior to the hearing:
 - i. Signalchem shall deliver to each petitioner no more than two affidavits in support of its position as to the payout value of the petitioners’ shares. Those affidavits shall be delivered no later than **May 15, 2026**.
 - ii. At least one of Signalchem’s affidavits must contain the Evans Report.

- iii. If Signalchem intends to rely on documents it considers to be confidential, it shall seek the agreement of all parties to terms keeping those documents confidential. The other parties shall not unreasonably withhold their agreement. However, those terms will permit each petitioner to share any confidential document with any person who will be swearing an affidavit in support of that petitioner's position, and their staff, so long as that person also agrees to the confidentiality terms.
 - iv. Each petitioner shall provide no more than two affidavits in response to Signalchem's affidavits, and, for the purpose of all these directions, Viceroy Investments and Holdings Ltd. and Mr. Sidhu shall be considered to be one petitioner. Those shall be delivered to all other parties no later than **June 26, 2026**.
 - v. Unless all parties agree in advance, no further affidavits shall be prepared by any party for the hearing.
- d) The parties shall prepare written submissions for the hearing, but they must not exceed 25 pages:
- i. Signalchem shall deliver its submissions to the petitioners no later than eight weeks before the hearing dates.
 - ii. Each petitioner shall deliver its submissions to all other parties no later than four weeks before the hearing dates.
 - iii. Signalchem can deliver reply submissions consisting of no more than five pages no later than two weeks before the hearing date.
 - iv. The parties shall agree on an index to a joint book of authorities, and each party shall prepare its own book of authorities. Signalchem will prepare a copy for the Court.

- e) No later than one week before the hearing, the parties shall agree on an index to prepare one joint record for all three petitions. Each party shall prepare its own copy of the record using the same index.
- f) Signalchem shall prepare and file on time a copy of the joint record with the registry in advance of the hearing and will have one copy available for the presiding justice.

[86] The parties are free to modify the dates for the exchange of materials so long as all parties agree in advance in writing.

[87] If the parties require clarification of these directions or would like to modify them, they may seek a brief hearing before me by completing an on-line request to appear, but any such hearing must be sought to take place no later than one month from the date of this judgment.

[88] With the exception of that window of time to seek clarification, I am not seized of these matters.

VII. COSTS

[89] The determination of the costs of the hearing before me is deferred to be determined by the presider who hears the petitions.

“Sharma J.”