

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Nourifard v. Emadzadeh*,  
2025 BCSC 2442

Date: 20251210  
Docket: S201132  
Registry: Vancouver

Between:

**SAEID NOURIFARD**

Plaintiff

And

**NAVID EMADZADEH and  
NOVARC TECHNOLOGIIES**

Defendant

Before: The Honourable Mr. Justice Ball

## **Reasons for Judgment On the Legal Fees Application**

Counsel for the Plaintiff:

A. Soliman

Counsel for the Defendant:

A. Beddoes

Place and Date of Hearing:

Vancouver, B.C.  
April 30, 2025

Place and Date of Judgment:

Vancouver, B.C.  
December 10, 2025

**Introduction**

[1] These are reasons on an application brought pursuant to the inherent jurisdiction of this Honourable Court to vary the consent order dated December 30, 2024 (the “Order”) to permit the defendant/applicant, Navid Emadzadeh, to use proceeds from the sale of the shares that are the subject of this action for the limited purpose of paying the legal fees of the defendant in this proceeding, and for costs.

[2] The Order directs that funds from any sale of the shares must be held in trust, “subject to further order of this Court” and “without prejudice to the parties’ positions and arguments in this proceeding.”

[3] A consent order dismissing the claim as against the defendant, Novarc Technologies Inc. (“Novarc”), was filed on June 18, 2025.

**Facts**

[4] On or about December 8, 2016, Mr. Emadzadeh purchased 100,000 common shares (the “Shares”) of Novarc for a price of \$2.50 per subscribed share for an aggregate consideration of \$250,000. The subscription agreement was in writing and dated December 8, 2016.

[5] Mr. Emadzadeh states that he paid for the Shares himself using a combination of his own funds and funds that he borrowed from his friend, Torug Zolnaser, with the assistance of Mr. Zolnaser’s company, Shad Enterprises.

[6] At the time of his purchase of the Shares, Mr. Emadzadeh executed a document pursuant to which he warranted he was purchasing the Shares as a principal on his own account, and “and not for the benefit of another pursuant to applicable securities laws”.

[7] The Articles of Novarc expressly provide that no person will be recognized as holding shares in trust.

[8] The plaintiff claims to be the beneficial owner of 90,000 of the Shares. It is not clear at this time, and hotly disputed, about how and when the plaintiff advanced \$225,000 to purchase 90,000 shares of Novarc.

[9] Novarc is no longer a party to this litigation because of a settlement with the plaintiff.

**Plaintiff's submissions**

[10] The plaintiff relied on the case of *Pine Valley Mining Corporation (Re)*, 2008 BCSC 619 [PVM], which involved a detailed consideration of the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36 [CCAA]. An initial order was made under the CCAA on October 20, 2006 (the "Initial Order"). Based on the Initial Order, shares of Falls Mountain Coal Inc. ("FMC") owned by PVM were sold to a third party. PVM had mounted a claim against FMC for some \$27 million (the "Inter-Company Claim"). PVM used a portion of the sale proceeds to pay legal fees associated with the Inter-Company Claim.

[11] The claims of general creditors against FMC were approximately \$2 million. Under a Plan of Arrangement, when PVM sold its shares in FMC to a third party, the claims of creditors of FMC were extinguished. FMC was released from the proceedings, and its creditors instead acquired claims against the proceeds of sale.

[12] PVM had purported, in accordance with the terms of the Initial Order, to pay its legal counsel to negotiate a settlement of the Inter-Company Claim. Ultimately that negotiation was unsuccessful. Counsel for the creditors took the position that legal fees for the negotiation on behalf of PVM in the Inter-Company Claim should have been paid by PVM alone, and that counsel for PVM should repay the fees paid from the sale proceeds.

[13] Ultimately, that issue was joined before the Court. The Court concluded that the Monitor had correctly interpreted the provisions of the Initial Order. The issue was whether PVM was able to continue to charge the sale proceeds with its legal

fees on the Inter-Company Claim, given there was no evidence on a going forward basis that PVM did not have sufficient funds to advance the Inter-Company Claim.

[14] The Court concluded, on balancing the interests of all creditors, that the FMC creditors would be burdened with a disproportionate share of legal fees paid from the sale proceeds and therefore that PVM should use its own assets going forward to fund the litigation. The Initial Order was amended accordingly.

[15] This is a fundamental distinction from the case at bar. In *Xie v. Lai*, 2021 BCSC 1768 at para. 22, the Court stated that “defendants who seek the release of some of the funds for the payment of legal or other expenses must establish, as a preliminary matter, that they have no other assets available to pay expenses”. (See also *ICBC v. Dragon Driving School Canada Ltd. et al*, 2004 BCSC 1580, and *Otal v. Azure Foods Inc.*, 2019 BCSC 1510 at para. 18.) The evidence in the present case, which is at this point unchallenged, is that Mr. Emadzadeh has no other assets available to pay expenses. He owns no real property. The one company he did own was described by counsel “as worse than worthless”. The final order made in PVM which required PVM to use its own funds to pay expenses was made in circumstances where PVM had significant assets and was seeking judgment for \$27,000,000, and not, in a case like the present one, where Mr. Emadzadeh has no other assets available to pay expenses.

**Defendant’s submissions**

[16] Mr. Emadzadeh applies to be permitted to use a sum of money, now held in trust, in the amount of \$166,000 derived from the sale of approximately 6,400 shares in Novarc. This is a small proportion of the 100,000 Novarc shares purchased by Mr. Emadzadeh in 2016. There are still many shares which could potentially satisfy any order made against him.

[17] Counsel submitted that the issue of sale of the Shares arose when Mr. Emadzadeh’s counsel was out of town at a legal conference and counsel agreed to the Order referred to above which contains language anticipating further orders such as “subject to further order of this Court” and “without prejudice to the

parties...”. The order now being sought will help to ensure that the trial is conducted fairly with the available resources.

[18] Further, it is likely that limitations issues will be raised at trial, having already been the subject of an appeal cited at 2024 BCCA 240. In those proceedings, at para. 27, the Court of Appeal commented on the “inherently factual analyses” that these sorts of arguments necessitate, and how such disputes are “usually ‘genuine issues for trial’”. An unrepresented litigant, as the defendant would likely become without sufficient resources to retain counsel, would be ill-prepared or qualified to conduct litigation at the required level, in particular, facing a panoply of unparticularized trust claims set out in the notice of civil claim at Part 3, Legal Basis, para. 2. A consideration of fairness would justify the granting of the order sought by the defendant to have access to the sum of \$166,076.99, now held in trust by defendant’s counsel, together with accrued interest, if any, for sole purpose of the payment of legal fees.

**Conclusion**

[19] Pursuant to the inherent jurisdiction of this Court, there will be an order varying the consent order entered December 30, 2024, to permit the applicant, Navid Emadzadeh, to use proceeds from the sale of the Shares, which are the subject of this proceeding, in the amount of \$166,076.99 held in trust for the sole purpose of paying the applicant’s legal fees in this action, subject to further order of this Court and without prejudice to the parties’ positions and arguments.

[20] Counsel requested that no further application be reset on the issues discussed above until these reasons were issued. Given that the Court is not aware of any further applications, no further other is necessary.

**Costs**

[21] The issue of costs was not argued before this Court and I will leave that issue for decision by the trial judge.

“Ball, J.”