

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Masjoody v. Pahlavi*,
2024 BCSC 1818

Date: 20240819
Docket: S240157
Registry: Vancouver

Between:

Masood Masjoody

Plaintiff

And

**Reza Pahlavi, X Corporation, John Doe 1, John Doe 2, John Doe 3, John Doe 4,
John Doe 5, John Doe 6, John Doe 7, John Doe 8, John Doe 9, John Doe 10,
John Doe 11, Arash Kamancheh, Maryam Lagertha, Sedigheh Minachi, Azar
Khorramshahi**

Defendants

Before: The Honourable Madam Justice Sharma

Oral Reasons for Judgment

In Chambers

The Plaintiff, appearing in person:

M. Masjoody

Counsel for the Defendant X Corporation:

L.E. Burgess
M. Starker, Articled Student

Place and Date of Trial/Hearing:

Vancouver, B.C.
August 19, 2024

Place and Date of Judgment:

Vancouver, B.C.
August 19, 2024

[1] **THE COURT:** This is an application for an adjournment brought by X Corporation. X Corporation is one of the defendants named in the lawsuit brought by Mr. Masjoody who represents himself. His notice of civil claim primarily alleges defamation and slander as against X Corporation as well as a number of specific individuals and a number of John Does.

[2] In terms of the procedural history of the litigation, most relevant step is that X Corporation applied to this Court to have the claim as against it dismissed on the basis of an arbitration clause contained in the terms of service. At one time there may have been a territorial jurisdiction argument, the primary position was an argument based on lack of jurisdiction because of a forum clause. That application was heard by Justice Mayer, and he dismissed it. X Corporation has applied to appeal that ruling, and I understand that the appeal is current.

[3] Also, there has been an application in the Court of Appeal for a stay of Justice Mayer's decision. Justice Groberman, in chambers, indicated that application should be brought in this Court, and I understand that application will be heard next week.

[4] That application going ahead is among the grounds claimed for the adjournment by X Corporation. However, it also says an adjournment is appropriate because it deserves time to respond to the application brought by Mr. Masjoody. X Corporation's position is that his application is long and complex. X Corporation also says that it is inappropriate for Ms. Masjoody's application to be heard because it was set for 90 minutes, and looking at the notice of application (the "NOA") filed and the scope of it, it would need more than 90 minutes. Those are the reasons why X Corporation has asked that the matter be adjourned.

[5] Thus, X Corporation asks that any relief sought against it, and the other relief identified in paragraphs 2, 3, 4, and 5 of the NOA be adjourned generally, and that any relief sought in paragraphs 6 through 8, as it relates to X Corporation, be adjourned pending the resolution of their interim stay application, and appeal relating to Justice Mayer's decision. They also seek costs.

[6] I am granting the adjournment. The main reason is that the application being brought by Mr. Masjoody, even if it did not involve X Corporation, would need more than 90 minutes. I so understand it to be the case that he has served certain John Does, and they have not responded.

[7] However, this is an application for defamation. It requires the court to make a ruling on whether or not statements made are defamatory, which requires a review of the actual statements and words used in the appropriate context. It is alleged that there are 70 defamatory statements. X Corporation is named in this matter, and as such, it is a party with full rights. It takes a position that it wants to be able to argue that the posts are not defamatory, as it is entitled to do. In order to do that, it would require more than 90 minutes. Even if X Corporation was not party to this proceeding. the injunction application would need at least a day.

[8] One of the other reasons why X Corporation says an adjournment is necessary is that Mr. Masjoody has provided translations of the posts because they are written in Farsi. He is a Farsi speaker. However, X Corporation's position is that there has to be certified translations. I am not making a finding on that, but it is not an unreasonable position.

[9] Moreover, I understand that one of the named defendants, against whom relief is not being sought today, takes issue with the translations that provided by Mr. Masjoody. In the event certain posts alleged to have been authored by a John Doe was actually authored by a named defendant, there may be a live issue about the meaning of those words. And, of course, in defamation, the meaning of the words is the most important issue. It seems to me it would be inappropriate to go forward when X Corporation takes the position that there may be arguments about the interpretation of the alleged defamatory statements.

[10] Mr. Masjoody argues that he drafted the relief being sought in the alternative such that it was neutral as to its effect against X. What I mean by that is that the relief sought in paragraph 2 of his NOA seeks a declaration that certain statements are defamatory. But, in the alternative, he suggested that the court make a finding

that statements are defamatory as published by the posters, but any order about defamation against X Corporation be determined at trial or on a further application. I appreciate that he was trying to segregate the relief, thinking that would be more efficient. However, as noted, X Corporation has the right and ability to argue that the posts are not defamatory to begin with, so the segregation of orders does not assist with regard to whether 90 minutes is sufficient to have that application heard.

[11] The orders sought in paragraphs 4 and 5 of Mr. Masjoody's NOA do require X Corporation to do something, therefore they amount to be injunctions as against X Corporation. Mr. Masjoody has a printout from X Corporation's webpage, under frequently asked questions ("FAQ"). He said that suggests that X Corporation will sometimes remove things if the Court has declared it to be defamatory. His point was that the content of that website suggests X Corporation accepts its role is neutral. Counsel for X Corporation did not know that Mr. Masjoody was going to bring that to the Court's attention. When I asked for some clarity on X Corporation's position on that issue, counsel was not in a position to say anything, which is reasonable given the circumstances.

[12] However, notwithstanding any position X Corporation might take in future about that, the relief in the NOA is being sought directly against X Corporation. Therefore, even if it might ultimately accede to a request either from the plaintiff to remove items, what is being sought is a court order compelling that, which is a very different matter. Therefore, I do not think that information was of assistance. Nor do I find it problematic that counsel was not in a position to answer questions about how that FAQ operates in this particular circumstance.

[13] I reiterate that Mr. Masjoody's application could not be completed in 90 minutes. It requires a full day. I am also satisfied that the nature of the application, apart from the upcoming stay application, entitles X Corporation more time to respond to it because of the translation issue and the volume of material that is alleged to be defamatory. For all those reasons, I am satisfied, in the interests of justice, to adjourn Mr. Masjoody's application, generally.

[14] To be clear, I adjourn paragraph 2, 3, 4, and 5, and paragraphs 6 and 8 as they relate to X Corporation's application, in part 1, until after the final determination of X Corporation's interim stay application, including any appeals. It also sought a declaration that the adjourned injunction application must be scheduled in long chambers. I also grant that application.

[15] I will hear from the parties more about the relief sought in paragraph 2(b). I am not sure I understood Mr. Masjoody's position in response to that. I will also hear from them both on costs.

(Discussion re orders)

[16] THE COURT: X Corporation seeks lump sum costs of this application in the amount of \$850 to be payable forthwith. It relies on the procedural history that is set out in its material, and specifically, the requests that the plaintiff not set down applications pending the appeal. X Corporation also relies on what it says were directions or cautions from the Court about filing additional applications. I do note Mr. Masjoody does not necessarily agree that the comments amounted to cautions in the same manner as X Corporation. It is on that basis, and on the Court's ability to control its own process, that X Corporation seeks an award to deter what it says is Mr. Masjoody's unreasonable conduct.

[17] I appreciate that Mr. Masjoody may have been given information potentially by the Court, and certainly by counsel that proceeding to file these applications in the absence of a conclusion on the other matters was risky. However, Mr. Masjoody believed that he had crafted something that was, in fact, more neutral. He is representing himself. While he may be someone who has appeared in court before and had other litigation, the law of defamation is particularly complex. He believed that he provided an alternative that was more neutral against X Corporation. X Corporation itself accepts that the law in Canada is unsettled as to whether social media companies are publishers. It would certainly not be something that I would

expect Mr. Masjoody to be fully aware of. In all those circumstances, costs are in the cause.

“Sharma J.”