IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Upton v. Vstride Solutions Ltd.,*
2024 BCSC 2247

Date: 20241104
Docket: S-240942
Registry: Vancouver

Between:

James Upton

Plaintiff

And

Vstride Solutions Ltd., and Arvinder Singh and Jane Doe together doing business as Par Softwares

Defendants

And

James Upton and Legacy Luxury Lifestyle Inc.

Defendants by Counterclaim

Before: Associate Judge Robertson

Oral Reasons for Judgment re adjournment

In Chambers

Counsel for the Plaintiff/Defendant by Counterclaim James Upton:	R.N. Godfrey
Counsel for the Defendants Vstride Solutions Ltd. and Arvinder Singh:	D.A. Solimano
No other appearances	
Place and Date of Trial/Hearing:	Vancouver, B.C. November 4, 2024
Place and Date of Judgment:	Vancouver, B.C. November 4, 2024

[1] **THE COURT:** This is an application for an adjournment of an application in which the plaintiff is seeking procedural orders, namely to substitute a proposed defendant in place of the existing “Jane Doe” and amend the pleadings accordingly, and to deal with outstanding requests from discoveries, and discoveries generally, including of the proposed substituted defendant who was somehow examined, although not yet named as a party.

[2] The existing defendants seek an adjournment on the basis that the proposed substituted defendant, who is the personal named defendant's spouse, has recently found themselves unrepresented due to an administrative issue at the Law Society, which nobody could have foreseen. Based on an agreement with the plaintiff and the custodian who has been appointed over the counsel’s practice, the plaintiff has agreed to adjourn the application to amend the pleadings, but wishes to proceed with the remaining relief being sought.

[3] In a nutshell, the basis for the adjournment request is that it makes practical sense to have all the matters addressed by the application heard together, particularly when there may be something that relates to the proposed new defendant such that determining this application in a piecemeal basis may lead to some unforeseen or unknown inconsistency on which counsel for the proposed new defendant may have a position.

[4] While I do question whether the proposed new defendant, who does not appear to be adverse to the other defendants, would have standing in respect of the application for those other defendants to answer outstanding discovery requests, having regard to the factors set out in *Navarro v. Doig River First Nation,* 2015 BCSC 2173, at para. 20, I grant the adjournment.

[5] With respect to the relevant factors, I am to consider the history of the matter, as well as the overall objective to have matters heard expeditiously. In this respect, I note this action was just commenced on February 24, 2024 so is in its relative infancy, particularly given that it looks to be a relatively complex commercial dispute. The fact that the parties are already at the discovery phase, even though some of

the foundational issues such as properly naming the parties have not been resolved, is an indicator that this is moving forward on an efficient way. There has been no delay by the defendants up to this point in that respect.

[6] There is no trial date that is at risk of being frustrated by a delay of this application, so no evidence of prejudice. There is some potential prejudice to the defendant seeking the adjournment in that there is a possibility that there might be some inconsistency as a result of splitting up the application between the two different defendants, although for the reasons previously noted that may be remote.

[7] Nonetheless, I am prepared to grant the adjournment, as it is in the overall interests of justice to do so. In this respect, the consideration of the interests of justice includes a consideration of the efficient use of the court's resources, when there is, as is the case here, no potential prejudice to the parties in having the matter adjourned of, for that matter, no obvious benefit to it being done as originally scheduled. The court has commented numerous times on the inefficiency in chambers as a result of serial applications. In my view, this is an example of something that would be more efficiently dealt with as one application and not split up.

[8] That being said, I do see some efficiency in requiring as a term or condition of this adjournment that by November 18, 2024 the defendant, Arvinder Singh, will prepare and deliver to the plaintiff particulars of any objections to the requests made at the examination for discovery held on August 6, 2024, as set out in Schedule B.

[9] In my view, that addresses any potential prejudice that the defendant could possibly experience due to the delay as it means that he will have some information as to what is being objected to. That answer may also render the rest of the application moot.

"Associate Judge Robertson"