

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: **Sahyoun v. Broadfoot**,
2008 BCSC 1859

Date: 20080819
Docket: S084539
Registry: Vancouver

Between:

**Dr. Nabil Riad Sahyoun,
Mrs. Sanaa Riad Sahyoun**

Plaintiffs

And:

**Susan Broadfoot, Trudy Damery, William Stephen Mullen, Bob MacFarlane,
Kim Harder, Caroline Covil, Dave Jagpal, Mel Ferrabee, Bruce Curry,
Scott Ritcey, Arla Swift, Alan Hughes, Linn Menzies, Gerry Mignault, Murray Coell,
BC Ministry Of Housing And Social Development (Formerly Ministry Of
Employment And Income Assistance), Marilyn McNamara, Andrea Duncan,
Kathleen McIsaac, Brian Gifford, Employment And Assistance Appeal Tribunal
\BC, David Loukidelis, Celia Francis, Al Boyd, Office of the Information
and Privacy Commissioner for BC, And BC Ministry of Attorney General**

Defendants

Before: Master Taylor

Oral Reasons for Judgment

In Chambers
August 19, 2008

Appearing on his own behalf

Nabil Riad Sahyoun

Appearing on her own behalf

Sanaa Riad Sahyoun

Counsel for Defendants,
Susan Broadfoot, Trudy Damery, William Stephen Mullen, Bob
MacFarlane, Kim Harder, Caroline Covil, Dave Jagpal, Mel
Ferrabee, Bruce Curry, Scott Ritcey, Arla Swift, Alan Hughes,
Linn Menzies, Gerry Mignault, Murray Coell, BC Ministry Of
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Counsel for Defendants,
David Loukidelis, Celia Francis, Al Boyd, Office of the
Information and Privacy Commissioner for BC, And BC Ministry
of Attorney General

S.E. Ross

Place of Hearing:

Vancouver, B.C.

[1] **THE COURT:** Before me today is an application by all of the defendants pursuant to notices of motion served on the plaintiffs, pursuant to Rule 19(24) and the various subsections of that Rule, seeking to dismiss or strike out the plaintiffs' statement of claim as it discloses no reasonable cause of action, is unnecessary, scandalous, frivolous, or vexatious, or otherwise an abusive process of the court.

[2] This matter got started somewhat later today than normal by virtue of something that went on outside in the courthouse and all of the parties apparently attended the wrong courtroom through no fault of their own. This matter was set for two hours hearing today.

[3] Two matters of concern have arisen. The first is whether or not an adjournment should be granted to the plaintiffs based upon a medical concern that Dr. Riad Sahyoun has not got the ability to read the materials provided to him by the defendants in their applications and outlines, given myopia and the other matter was with your eyes, sir?

[4] NABIL RIAD SAHYOUN: Diabetes, glaucoma.

[5] **THE COURT:** Glaucoma and diabetes, too, which would obviously affect his ability to see. In that regard, the plaintiffs have provided an affidavit with some four pages and a number of exhibits which was affirmed by both of them on the 15th of August, and date stamped the 18th of August. Other exhibits B and C, speak to the disabilities of the plaintiff of Dr. Riad Sahyoun, I will call them, which have been concurred by Dr. Christopher Hunt, his medical or his family physician, I take it. There is also a letter entered as Exhibit C to the affidavit from Dr. Hunt, dated August 13, 2008, which I will read in full:

This man was in my office today stating that he has been given many documents for a legal case. He does suffer from severe myopia and diabetes. In my opinion, he will take at least two weeks to look through these documents and therefore I would support a postponement.

Dr. Hunt does not say whether or not he saw the documents. All he says is "many documents for a legal case."

[6] The parties, the defendants, make the application today to say that ample time has been given to Dr. Riad Sahyoun to review the documents, and besides they are not particularly difficult to review. He has had them for some time, at least the outlines have been in his possession since on or about August the 11th, and the notices of motion sometime before that.

[7] The other concern that was raised today was whether or not I, as a Master, have jurisdiction to hear this application, the application to strike the pleadings. There is no question that I have jurisdiction to make a determination as to whether or not an adjournment should be granted.

[8] Part of what I have to decide is whether or not -- or what I have to do is weigh the prejudices, real or imagined, as between the parties. It has been said that Dr. Riad Sahyoun is a master of strategy and that he knows exactly what he is doing. On the other hand, he is a self-represented litigant before these courts. Whether or not there is any merit to his application has to be determined at some time, and the application under Rule 19(24).

[9] Today, I make the determination that justice must not only be done, it must be seen to be done. If it is to be seen to be done, then I have to grant an adjournment to the plaintiffs but on some terms. I would think that two further weeks for the adjournment of this matter is stretching the limit of credulity. Today is the 19th of August, I can see this matter being adjourned to the end of the following week, to either the 28th or 29th. I think that should give sufficient time for Dr. Riad Sahyoun to review any of the documents that have been served on him pursuant to the application to strike the pleadings. Are all counsel available on the 29th of August?

[10] MR. MACKEY: I am, Master Taylor, but I'm not available on the 28th, unfortunately.

[11] THE COURT: All right.

[12] MS. ROSS: Yes, I can make myself available.

[13] THE COURT: Thank you, Ms. Ross. Dr. Riad Sahyoun, are you available on the 29th of August?

[14] NABIL RIAD SAHYOUN: I have a concern about -- another concern, please read my --

[15] THE COURT: I did not ask you about concerns, sir. I asked you if you --

[16] NABIL RIAD SAHYOUN: Not about time. I'm talking about time.

[17] THE COURT: I asked you if you were available on the 29th of August. That is all I need an answer to, sir. Yes or no?

[18] NABIL RIAD SAHYOUN: I could not hear your order because I have hearing loss.

[19] THE COURT: I have not made an order.

[20] NABIL RIAD SAHYOUN: It is one of my disabilities that I have hearing loss.

[21] THE COURT: Would you please answer the question? Are you available on the 29th of August next, sir?

[22] NABIL RIAD SAHYOUN: 29th would be a Wednesday?

[23] THE COURT: It is a Friday.

[24] NABIL RIAD SAHYOUN: Friday, no problem for Friday.

[25] THE COURT: Thank you.

[26] NABIL RIAD SAHYOUN: But please --

[27] THE COURT: This matter will now be heard next on August 29th, at 10:00 a.m., in this courthouse.

[28] NABIL RIAD SAHYOUN: Give me your reasons because I would like to read it. I wish -- today's reasons, if I feel unsatisfied --

[29] THE COURT: If you need reasons, sir, you can order a transcript from the court. All right?

[30] NABIL RIAD SAHYOUN: Absolutely, because I -- before coming to --

[31] THE COURT: Please do not argue with me. I am talking. When I talk, you listen. All right.

[32] There will be an order that until this matter is heard on the 29th of August, 2008, the plaintiff will not seek any orders against the defendants in any matter whatsoever that would require the defendants to produce documents pursuant to a demand for discovery of documents. In other words, I am delaying the demand for discovery of documents until -- or the effect of that demand for discovery of documents until this matter is heard, in full, on the 29th of August, or any other dates that might be heard thereafter. In other words, all procedural matters, save and except those that relate to the defendants' application, pursuant to Rule 19(24) are suspended until the application pursuant to Rule 19(24) can be heard. Do you understand, sir?

[33] NABIL RIAD SAHYOUN: I'm appealing so I give -- I --

[34] THE COURT: I did not ask you that question. I asked if you understood.

[35] NABIL RIAD SAHYOUN: Not -- not very much so I said give me in writing because I couldn't hear.

[36] THE COURT: I do not give writings, sir.

[37] NABIL RIAD SAHYOUN: So I understand -- so I am going to appeal that, your order of today.

[38] THE COURT: That is fine.

[39] NABIL RIAD SAHYOUN: Please -- please give me my time because I'm --

[40] THE COURT: No, sir.

[41] NABIL RIAD SAHYOUN: Listen, give me my time. I'm going to a judge. I'm appealing your order today --

[42] THE COURT: Anything further from counsel?

[43] NABIL RIAD SAHYOUN: -- I require your reasons for that.

[44] MS. WESTMACOTT: We're seeking costs of this application in any event of the cause, My Lord -- Your Honour.

[45] NABIL RIAD SAHYOUN: -- because you deprive me from documents.

[46] THE COURT: I am not opposed to the granting of that order. I am just questioning whether or not it would be effective in the sense that I understood that there is an indigent status matter, so would it not come out of one pocket and go into the other?

[47] MS. ROSS: My Lord, for what it's worth, that may be so in some degree -- in some measure. I understand what you're saying. The commissioner rarely -- this is the first time in 15 years the commissioner - that I can recall - the commissioner seeking costs other than **Varzeliotis**. In the commissioner's submission, it is important that the order be made even if it may never be recovered. It is important. It's a statement that the tying up of the courts and the parties ought not to be thrown away.

[48] THE COURT: All right. There will be an order for costs for preparation and attendance for today.

[49] SANAA RIAD SAHYOUN: Excuse me, how they -- how they ask about cost when they make the application?

[50] THE COURT: You should get some legal advice on that. I do not have to give --

[51] NABIL RIAD SAHYOUN: So you make order that I pay costs for them.

[52] THE COURT: Yes, in any event of the cause.

“Master Taylor”