

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RIZWAN AHMAD KHAN GONDAL

-PLAINTIFF-

AND:

**TECK RESOURCES LTD. AKA TECK COMINCO LTD., DONALD R. LINDSAY,
ANTHONY A. ZOOBKOFF AND GARY M. JONES [TECK DEFENDANTS];**

**NOVAGOLD RESOURCES INC., AND RICK VAN NIEUWENHUYSE [NOVAGOLD
DEFENDANTS];**

**EAGLE PLAINS RESOURCES LTD., TIMOTHY J. TERMUENDE AND DARREN
B. FACH [EAGLE PLAINS DEFENDANTS];**

**TRADE WINDS VENTURES, INC., DETOUR GOLD CORPORATION AND IAN D.
LAMBERT [TRADE WINDS DEFENDANTS];**

BMO NESBITT BURNS, INC. AND DOUG MOHER [BMO DEFENDANTS];

**MCLEOD & COMPANY, JOSHUA SADOVNICK, ELIZA LONGSHORE,
SHANNON REIMER AND KRISTEN KINNEY [MCLEOD DEFENDANTS];**

**WATSON GOEPEL MALEDY LLP AND STEVEN W. ABRAMSON [WATSON
GOEPEL DEFENDANTS];**

**BLAKE, CASSELS & GRAYDON LLP, WILLIAM C. KAPLAN, MARCO
VOJVODIC, TIMOTHY LOUMAN-GARDINER, KIMBERLY GRIERSON AND
AMANDA LAMB [BLAKES DEFENDANTS];**

**NATHANSON, SCHACHTER & THOMPSON LLP, GEOFFREY GOMERY, JAMES
MACINNIS, PETER SENKPIEL, CATHERINE NASH, KAYLA VANTRINET,
KATHIE AUSTIN AND PATRICIA MCGUFFIE [NATHANSON DEFENDANTS];**

**SINGLETON URQUHART LLP, JOHN R. SINGLETON AND AARON L.
SHERRIFF [SINGLETON DEFENDANTS];**

**CLARK WILSON LLP AND NICOLE M. BYRES [CLARK WILSON
DEFENDANTS];**

**BOUGHTON LAW CORPORATION AND GEORGE E. H. CADMAN [BOUGHTON
DEFENDANTS];**

DAVIES WARD PHILLIPS & VINEBERG LLP AND CARA CAMERON [DAVIES DEFENDANTS];

IRVING MITCHELL KALICHMAN LLP, DOUG MITCHELL AND MATHIEU BOUCHARD [IRVING MITCHELL DEFENDANTS];

NICHOLL PASKELL-MEDE LLP AKA CLYDE & CO AND CAROLINE MALO [NICHOLL PASKELL DEFENDANTS];

K-III COMMUNICATIONS INC. AKA PRIMEDIA INC., CHARLES G. MCCURDY, BEVERLY C. CHELL, WILLIAM F. REILLY VIA ESTATE, CURTIS THOMPSON, MICHAELANNE DISCEPOLO, GARY WEIDY, REBECCA ALBRECHT, CLIO ALEXIADIS, CHERYL SPIVAK, EVETTE PASTORIZA, DANA COWAP AND CHRISTINA WAGNER [K-III DEFENDANTS];

KOHLBERG, KRAVIS, ROBERTS & COMPANY AND HENRY R. KRAVIS [KKR DEFENDANTS];

VANGUARD TEMPORARIE INC., VANGUARD ACCOUNTING TEMPORARIES, INC., JOHN MCGRATH AND NATALIE BROWN [VANGUARD DEFENDANTS];

GRINNELL COLLEGE, ERIC CHEN, TAHIR AZIZ, STEVEN HEILIG, PAULA V. SMITH, ELIZABETH DOBBS, PAUL TJOSSEM, HENRY M. WALKER, RAYMOND OBERMILLER, BARRY ANCONA AND ANDREW COOPER VIA ESTATE [GRINNELL DEFENDANTS];

NEW YORK STOCK EXCHANGE EURONEXT AKA NYSE, CHARLES SCHWAB & CO., INC., FORDHAM UNIVERSITY VIA LINCOLN SQUARE LEGAL SERVICES AKA FORDHAM UNIVERSITY LAW CLINIC, RICHARD GOLDSTEIN, FRANK SULLIVAN, PATRICK O'NEIL, KAREN KUPERSMITH, MARCELLA SILVERMAN, MOHAMMAD NAROOR, SAJID J. QURESHI AND SHAHEEN A. QURESHI [NYSE DEFENDANTS];

UNITED STATES DEPARTMENT OF HOMELAND SECURITY, UNITED STATES DEPARTMENT OF JUSTICE IMMIGRATION AND NATURALIZATION SERVICE, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, UNITED STATES DEPARTMENT OF STATE, ERIC HOLDER, SARAH E. WILBERNE AND CORINA LUNA BENEVIDES [USCIS DEFENDANTS];

JOHN DOE AND JANE DOE

-DEFENDANTS-

Form 33 (Rule 8-1 (10))

APPLICATION RESPONSE

Application Response of: Rizwan Ahmad Khan Gondal.

This is a Response to the Notice of Application of: Novagold Resources and Rick Van Nieuwenhuysen et al filed on 15/02/2013.

Part 1: ORDERS CONSENTED TO

None.

Part 2: ORDERS OPPOSED

The application respondent opposes the granting of all the orders set out in paragraphs 1 – 3 of Part 1 of the notice of application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

None.

Part 4: FACTUAL BASIS

Proceedings in British Columbia and Quebec

1. Eagle Plains Resources is a registered corporation in British Columbia with its headquarters located at 16-11th Avenue South, Ste. 200, Cranbrook, BC V1C 2P1.
2. The written Agreement for Strategic Advisory Services entered into with Eagle Plains was signed and faxed into its headquarters at Cranbrook, BC on or about October 13, 2006.
3. On or about December 31, 2006 the Petitioners in S128773 breached the said Agreement.
4. The Petitioners and the Applicants in S125746 are close partners and associates of each other.
5. The Respondent made several requests including the request made via letter dated July 7, 2007 to resolve the matter amicably. All of such requests were ignored by the Petitioners and the Applicants.
6. Subsequently, these parties directed the Respondent to take the matter to court.
7. Based upon legal advice from attorneys in Montreal, the Respondent initiated, as of right, the first proceeding in British Columbia in March of 2008.
8. On April 17, 2008, in striking the Respondent's Statement of Claim, dismissing the first action and granting the Applicants special costs, Master Baker of the Supreme Court of British Columbia stated that the Respondent has a valid cause of action against these parties, however, the Supreme Court of British Columbia, Vancouver Registry may not be the correct forum for the adjudication of the said matter.
9. Upon Appeal, on September 22, 2008, Justice Leask of the Supreme Court of British Columbia, Vancouver Registry stated that the dismissal of the Respondent's first action by Master Baker did not affect the Respondent's rights and allowed the Respondent to bring a second action against the same defendants for similar causes of action.

10. Subsequently, during November of 2008, the Respondent initiated, as of right, the second action against these parties at the Supreme Court of British Columbia, Vancouver Registry.
11. On January 13, 2010 in the proceeding at the Superior Court in Quebec, these parties argued for and agreed that the Supreme Court of British Columbia, Vancouver Registry is the proper forum for the adjudication of the said matter.
12. Based upon the Applicant's representations, on January 13, 2010, Justice Downs of the Superior Court in Quebec dismissed the Respondent's motion to institute proceedings in Quebec and sent the matter back to the Supreme Court of British Columbia, Vancouver Registry for adjudication upon the merits.
13. Upon Appeal, on March 29, 2010, Justice Leask of the Supreme Court of British Columbia, Vancouver Registry, quashed the special costs orders delivered by Master Baker on April 17, 2008 and August 13, 2008.
14. On March 29, 2010, the Applicants presented and argued the matter of the Respondent's supposed threats and communications to the Justices, court personnel and the defence counsel to Justice Leask. The Justice held that he did not want to penalize the Respondent because of the Respondent's lack of understanding of the court procedure.
15. Justice Leask on March 29, 2010 stated that he did not want to penalize the Respondent with any costs order because the Respondent did not understand the rules of the court. Justice Leask further stated that there will be no costs up to that point in the two proceedings under S087961 and S081714 but beginning with the next hearing he will begin to award costs on a hearing by hearing basis.
16. The Applicants ignored Justice Leask's order and chose to bill the Respondent for their costs of everything beginning with the first action.
17. Furthermore, on March 29, 2010, Justice Leask allowed the Respondent to, inter alia, plead the causes of action in breach of contract and conspiracy against the Applicants.
18. Initially, in the second action at the Supreme Court of British Columbia, Vancouver Registry, the Respondent did not name the lawyers as defendants.
19. On January 13, 2010, Justice Downs of the Superior Court in Quebec did not dismiss the action against the lawyers as they were not named defendants in British Columbia. However, upon request by the opposing counsel, Justice Downs sent the case against the lawyers back to BC to be adjudicated in the same proceeding.
20. It has been more than five (5) years since the Respondent initiated the first action against the Applicants. However, to date, despite the presentation of substantial and relevant evidence, the matter has not been adjudicated upon its merits in any court.
21. The Respondent has neither threatened the Justices or the court personnel in Canada or the United States nor is the Respondent planning to bring any proceedings against such parties in any court.

Proceedings in the United States

22. NYSE Defendants fraudulently obtained an Arbitration award against the Respondent at the New York Stock Exchange.
23. Subsequently, the Respondent initiated, as of right, a proceeding against the NYSE Defendants, for their conduct in delivering an arbitration award against the Respondent and having violated the Respondent's legal rights.
24. Initially, Justice Carol Edmead of the Supreme Court of New York, County of New York erroneously dismissed the Respondent's action.
25. Upon presentation of new evidence to Justice Carol Edmead, by an order entered on September 16, 2005, the Justice held that the Respondent has a valid cause of action against the NYSE Defendants and reopened the case.
26. In the meantime, the Respondent had initiated separate proceedings, as of right, against the NYSE Defendants at the United States District Court for the Southern District of New York for violations of Federal laws.
27. On October 06, 2005 the Respondent was refused entry into the United States by the USINS at the Rainbow Bridge, NY, point of entry.
28. Subsequently, without good reason or cause, the Respondent's applications for a visa to travel to the United States have been repeatedly denied.
29. To date, the Respondent has not been allowed to get back to the United States and has not been able to prosecute his case against the NYSE Defendants in any court.
30. The Applicants have never been named as Defendants in any of the proceedings in the United States.

Proceeding in Newfoundland and Labrador

31. The Applicants have never been named as Defendants in the proceeding at the Supreme Court of Newfoundland and Labrador.

Part 5: LEGAL BASIS

1. The matter of the proper jurisdiction of the Supreme Court of British Columbia, Vancouver Registry over this matter and the Respondent's conduct has been adjudicated and settled upon. As such, issue estoppel or res judicata applies.

Gondal v Teck Resources Ltd et al, 2010 QCCS 111.

2. In British Columbia, the overriding objective of the Supreme Court Civil Rules is to secure the determination of every proceeding on its merits. To date, this has not happened in this case.

674191 B.C. Ltd v Gold Spring Recreational Association [2013] BCSC 446, Paragraph 67.

British Columbia Supreme Court Civil Rules, Rule 1-3.

3. The Respondent is justified and has reasonable grounds to institute legal proceedings at the Supreme Court of British Columbia, Vancouver Registry.

Supreme Court Act, RSBC 1996, c.443, Section 18.

4. The issues raised against the Applicants have never been adjudicated by a court of competent jurisdiction and the Respondent has not named the Judges or court personnel as defendants. The Respondent's action against the Applicants is hence not vexatious, frivolous, scandalous or an abuse of process.

Shantz, Gorman and Godfried [2012] BCPC 81.

University of British Columbia v Chan [2013] BCSC 942.

5. It is not plain and obvious that the Notice of Civil Claim does not plead a reasonable cause of action or that the Respondent's claims have no chance of success. In cases, even when there is doubt, the matter should be allowed to be determined at trial. The Respondent's allegations are not so irrelevant or novel that they can be termed prejudicial or embarrassing.

Hunt v Carey Canada Inc., [1990] 2 SCR 959, Page 980.

Odhavji Estate v Woodhouse, [2003] SCC 69.

R v Imperial Tobacco Canada Ltd, [2011] SCC 42.

Dudley v Canada (Attorney General), [2013] BCSC 1005.

6. The Supreme Court of Newfoundland and Labrador Rule 21.01 (a) automatically grants the Judge discretion to order security for costs for non-residents of the Province. Since the Respondent is not a resident of the Province of Newfoundland and Labrador, the Judge issued an order for security for costs on an installment basis. The Respondent has, however, not been able to raise the necessary funds to post as security and the matter remains unadjudicated upon its merits.

Supreme Court of Newfoundland and Labrador, Rule 21.01.

Gondal v Buchans River Ltd et al, [2009] NLCA 29.

7. The Supreme Court of British Columbia does not have the jurisdiction to require security for costs simply because the plaintiff is impecunious, is not a resident of the Province or does not have any assets in it.

Han v Cho, [2008] BCSC 1229, Paragraphs 13, 27.

8. The Rule in British Columbia is that an individual can bring action in a court without giving security for costs. In this case, the defendants have no arguable defence to the Respondent's claim, any order for security for costs would have the effect of stifling the Respondent's claim and the hardship the Respondent is continuing to suffer is caused by the Applicants'

actions in issue. Furthermore, any order for security for costs at this stage would be unjustifiably late in the time line of the adjudication of this matter. Also, the Applicants will not suffer any hardship if security for costs is not ordered.

Shiell v Coach House Hotel Ltd., [1982] 37 BCLR 254.

Number 216 Holding Ltd v ING Insurance Company of Canada, [2013] BCSC 9.

Part 6: MATERIAL TO BE RELIED ON

1. Affidavit#1 of Rizwan Gondal made 09/07/2013.
2. Pleadings and materials filed by the Petitioners and other Respondents in S128773.
3. Pleadings and materials filed by the Applicants and other Respondents in S125746.
4. Pleadings and materials filed by all parties in S081714.
5. Pleadings and materials filed by all parties in S087961.
6. Any other documents, case law or arguments which the court would allow.

The application respondent estimates that the application will take one day.

Date: 10/07/2013.

Rizwan Gondal

Signature of application respondent

Application respondent's E-mail address for service: rakgondal@yahoo.ca