

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *McDougall v. Knutsen*,
2023 BCSC 826

Date: 20230517
Docket: S1912340
Registry: Vancouver

Between:

**Donald Geoffrey McDougall and
0838697 BC Ltd.**

Plaintiffs

And

**Scott Walter Knutsen,
Anik Gagnon,
Cobra Integrated Systems Ltd.,
KKBL No. 617 Ventures Ltd., and
614844 B.C. Ltd.**

Defendants

Before: The Honourable Justice Funt

Reasons for Judgment on Costs

Counsel for the Plaintiffs:

T.G. Keast, K.C.

Counsel for the Defendants:

G. Boothroyd-Roberts

Place and Date of Hearing:

Vancouver, B.C.
April 27, 2023

Place and Date of Judgment:

Vancouver, B.C.
May 17, 2023

[1] These are my reasons for costs related to the trial with the reasons indexed as *McDougall v. Knutsen*, 2023 BCSC 211 (the “trial reasons”).

[2] The cover page of the trial reasons shows 17 days of hearing, which is, in one respect, misleading. Of the 17 days (February 28, March 1 to 4, 7 to 11, April 11 to 12, 14, May 3, 12, June 9, and 23, 2022), 14 days were full days, the other three days were 9 a.m. 55-minutes appearances.

[3] As set forth in the trial reasons, the focus of the case was “the breakdown in the relationship among three experienced business persons in connection with a closely-held corporation”.

[4] The plaintiffs sought an oppression award of approximately \$1,213,000 based on the value of the shares the plaintiffs said they had expected to receive. The plaintiffs also sought damages of \$205,733 for the termination of employment relationship related to Mr. McDougall without notice and without cause.

[5] I found that the plaintiffs had not been oppressed or unfairly prejudiced. The Court ordered that the defendant, Cobra Integrated Systems Ltd., pay \$98,075 to Geoff Co. (the plaintiff, 0838697 B.C. Ltd.) as damages for the termination, without cause and without notice, of the employment relationship.

[6] Rule 14-1(9) of the *Supreme Court Civil Rules* provides:

Costs to follow event

(9) Subject to subrule (12), costs of a proceeding must be awarded to the successful party unless the court otherwise orders.

[Emphasis added.]

[7] In the case at bar, Rule 14-1(12) is not engaged.

[8] The plaintiffs were the successful parties with respect to the employment termination and the defendants were the successful parties in resisting the oppression claim: *Loft v. Nat*, 2014 BCCA 108 at para. 46.

[9] The fact that a plaintiff is awarded less than the amount sought is not, by itself, a proper reason to deprive the plaintiff of costs: *Loft* at para. 47. This rule would apply to the plaintiffs' claim, standing alone, with respect to the termination of the employment relationship.

[10] Although the plaintiffs' two claims were separate, significant portions of the evidence the parties tendered were relevant to each claim. For example, the Shareholders' Agreement was relevant to each of the claims and both claims related to the breakdown in the relationship between the plaintiffs and the defendants with the history of the relationship engaged.

[11] Having regard to the separate respective successes, the greater emphasis all parties placed on the oppression claim, the commonality of significant aspects of the evidence, the context of the historical relationship of the parties, and the larger monetary amount associated with the oppression claim, the Court awards the defendants one-half of their reasonable costs and disbursements.

[12] For greater certainty, the plaintiffs are not awarded costs.

[13] The trial time should be viewed as 14 and one-half full days.

[14] The trial was one of ordinary difficulty.

"Funt J."