IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Cytrynbaum v. Dream Wines Corporation,* 2026 BCSC 999

Date: 20260602
Docket: S256596
Registry: Vancouver

Between:

David Cytrynbaum

Plaintiff

And

Dream Wines Corporation, Eric Tetrault, and Robert (Bob) Tetrault

Defendants

Before: The Honourable Justice E. Sigurdson

Reasons for Judgment

Counsel for the Plaintiff:	P.J. Sullivan E. Thorpe
Counsel for the Defendant, Robert (Bob) Tetrault:	A.W. Schleichkorn
No other appearance	
Place and Date of Hearing:	Vancouver, B.C. May 15, 2026
Place and Date of Judgment:	Vancouver, B.C. June 2, 2026

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[1] This decision addresses applications made in the context of a claim alleging breach of contract, negligent misrepresentation, undue enrichment and other claims. The claim relates to an alleged loan made in 2005 of $600,000 from the plaintiff to a wine distribution company. The defendants are the company Dream Wines Corporation (“Dream Wines”), the president of Dream Wines, Eric Tetrault, and his father Robert Tetrault, through whom the loan is alleged to have been arranged.

[2] The defendant Robert Tetrault seeks a declaration that this Court has no territorial competence in relation to him in this claim by the plaintiff David Cytrynbaum. I refer to Robert Tetrault as Mr. Tetrault, and Eric Tetrault by his full name for clarity. Mr. Tetrault asserts that the subject matter of the litigation is located in Quebec, as the claim involves an oral loan agreement made between two residents of Montreal. In the alternative, Mr. Tetrault asks that the Court decline to exercise jurisdiction as the courts of Quebec are the more appropriate forum to determine the issues between Mr. Cytrynbaum and Mr. Tetrault, in particular due to Mr. Tetrault’s declining health. The defendants Eric Tetrault and Dream Wines have attorned to the jurisdiction of this Court, and do not take a position on Mr. Tetrault’s application.

[3] The plaintiff Mr. Cytrynbaum also seeks leave to file an amended notice of civil claim. Mr. Tetrault advised that he takes no opposition to the application to amend in the event the Court retains jurisdiction over claims regarding Mr. Tetrault.

Background

[4] Dream Wines is an Alberta company that is registered and carries on business in British Columbia. It sells wines to licensees in British Columbia and throughout western Canada. It has relationships with wineries in the province and has operations here. Eric Tetrault is the president and is based in British Columbia, as are the majority of the company’s employees.

[5] Mr. Cytrynbaum is a resident of Quebec, as is Mr. Tetrault. The two were friends for about 40 years.

[6] Mr. Cytrynbaum alleges that he had loaned $600,000 to the defendants in 2005 following representations made to him by them, including particularly by Mr. Tetrault. Mr. Cytrynbaum claims that Mr. Tetrault initially approached him about a loan to Dream Wines and that he had not heard of Dream Wines before his introduction from Mr. Tetrault. Further, he claims Mr. Tetrault acted as an agent or advisor of Dream Wines in arranging the loan. This fact is denied by Dream Wines and Eric Tetrault, and will be an issue at trial.

[7] Mr. Cytrynbaum attests that he understood Mr. Tetrault was an advisor or agent of Dream Wines. The parties referred to evidence before me that Mr. Tetrault regularly used a Dream Wines email address. The examination for discovery evidence provided context for this use, including that Eric Tetrault describes giving Mr. Tetrault the address on his request as a favour, and his belief that people engaging with Mr. Tetrault would not believe him to be working for Dream Wines. It also describes that Mr. Tetrault only used that email address. The evidence included that Mr. Tetrault acquired wines from Dream Wines and resold them for a profit.

[8] Eric Tetrault gave evidence on examination for discovery that he acknowledges Mr. Cytrynbaum loaned money to the defendants, but that Mr. Tetrault is responsible for the repayment. He also gave evidence that to his knowledge, the money advanced by Mr. Cytrynbaum went to Dream Wines' business.

[9] Mr. Cytrynbaum alleges that in about 2012, he discussed the loan with Mr. Tetrault, who advised the loan would be repaid and the business was projected to be profitable. He alleges that as a result he did not collect on the loan at that time.

[10] Mr. Cytrynbaum pleads that later when making his will, he asked the defendants for repayment of the loan. The defendants refused and denied the existence of the loan; Mr. Cytrynbaum commenced the action.

[11] In their response to civil claim, Eric Tetrault and Dream Wines assert that they are not parties to a loan agreement with Mr. Cytrynbaum. They deny that

Mr. Tetrault was an employee or advisor of Dream Wines. Their account includes that Eric Tetrault asked Mr. Tetrault for a loan for Dream Wines, and he agreed to provide it, and that they repaid it in full. They assert no knowledge of whether any funds borrowed from Mr. Tetrault were obtained from Mr. Cytrynbaum.

[12] Mr. Tetrault's response to civil claim denies all allegations and pleads that the Court does not have jurisdiction. All of the defendants assert a limitation defence.

Jurisdiction Application

Legal Framework

[13] There are two elements to Mr. Tetrault's application: territorial competence and *forum non conveniens*.

[14] First, I must decide under R. 21-8 of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 [*Rules*] whether this Court has territorial jurisdiction over Mr. Tetrault who is alleged to have been party as agent to a loan from Mr. Cytrynbaum, a Quebec resident, obtained for the benefit of Dream Wines, a British Columbia business, and Eric Tetrault. Mr. Tetrault resides in Quebec, and Eric Tetrault and Dream Wines operate in British Columbia in the business of wine distribution. The burden to demonstrate that the court has territorial competence over the dispute rests with the party asserting jurisdiction: *Keivan v. Hadavi*, 2026 BCSC 338 at para. 7.

[15] Second, If the Court finds that there is territorial jurisdiction on the facts, the question is whether another jurisdiction, Quebec, is more appropriate for the resolution of the claims regarding Mr. Tetrault, such that the court should decline jurisdiction pursuant to s. 11 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 [*CJPTA*]. In that case, I must determine whether the court should exercise its discretion to refuse jurisdiction because another jurisdiction is more appropriate for the determination of the issues between Mr. Tetrault and Mr. Cytrynbaum. The *forum non conveniens* analysis asks whether another forum is "clearly more appropriate" and the burden of proof rests with the party asserting another forum is clearly more appropriate: *Keivan* at para. 8.

Applicable Rules and Legislation

[16] Rule 21-8(1)(a) provides that a party served with a pleading may, after filing a jurisdictional response, apply to strike out the claim if it does not allege facts that, if true, would establish the court has jurisdiction over that party in respect of the claim made against that party. The rule empowers the court to dismiss or stay the proceeding. Rule 21-8(2) provides that a party may apply for a stay of a proceeding on the ground that the court ought to decline to exercise jurisdiction over that party in respect of the claim in the proceeding.

[17] The court's territorial competence is determined by reference to the *CJPTA*. The legislation considers the court's competence in relation to "proceedings" which are defined in s. 1 as: "an action, suit, cause, matter, petition proceeding or requisition proceeding and includes a procedure and a preliminary motion".

[18] The legal principles I outline below are summarized concisely in: *International Raw Materials Ltd. v. Steadfast Insurance Company*, 2023 BCSC 1389 [*International Raw Materials*] at paras. 7–15.

Territorial Jurisdiction

[19] Section 3 of the *CJTPA* describes the conditions under which a court has "territorial competence", meaning the aspects of jurisdiction that depend on connection between the "territory… in which the court is established" and the "*party to a proceeding*… or the *facts on which the proceeding is based*": s. 1 of the *CJPTA*, (emphasis added.)

[20] Section 3 provides:

> **Proceedings against a person**
>
> **3** A court has territorial competence in a proceeding that is brought against a person only if
>
> (a) that person is the plaintiff in another proceeding in the court to which the proceeding in question is a counterclaim,
>
> (b) during the course of the proceeding that person submits to the court's jurisdiction,

> (c) there is an agreement between the plaintiff and that person to the effect that the court has jurisdiction in the proceeding,
>
> (d) that person is ordinarily resident in British Columbia at the time of the commencement of the proceeding, or
>
> (e) there is a real and substantial connection between British Columbia and the facts on which the proceeding against that person is based.

[21] Section 3(e) is the applicable subsection on this application. Section 10 of the *CJPTA* sets out the factors that create a presumption of a real and substantial connection for the purposes of s. 3(e).

[22] A real and substantial connection with British Columbia is presumed to exist if the proceeding concerns contractual obligations to be performed in British Columbia, where the contract is governed by British Columbia law, or where the contract resulted from a solicitation of business in British Columbia by or on behalf of the seller: s. 10(e) of the *CJPTA*. A presumption also exists where the proceeding concerns restitutionary obligations that substantially arose in British Columbia, and where a tort was committed in British Columbia: s. 10(f) and (g) of the *CJPTA*. Most germane to this case, s. 10(h) of the *CJPTA* presumes territorial competence respecting a case that concerns a business carried on in British Columbia.

[23] In considering territorial jurisdiction there are two stages: whether there is proof of presumed territorial competence; and whether the presumption should be rebutted. In summary, these are:

a) First, the plaintiff must show the existence of one of the connecting factors in s. 10. Jurisdictional facts pleaded are taken to be true, but the defendant challenging jurisdiction is entitled to contest those pleaded facts with evidence. In that case, the plaintiff is required only to show there is a good arguable case that the pleaded facts can be proven, and this is a low burden or a low bar (see also *VM Agritech Limited v. Smith*, 2024 BCCA 360 at para. 10). The Court's function on such a motion is not to make findings of fact on a balance of probabilities, but to determine whether alleged facts, if true, would support jurisdiction: see *International Raw Materials* at para. 11.

b) Second, if one of the connecting factors is established on undisputed pleadings or on a good arguable case, there is a mandatory presumption of a real and substantial connection. The defendant may then attempt to rebut the presumption of territorial competence by establishing facts that demonstrate the connecting factor does not point to a real relationship between the subject matter of the litigation and the forum. This is a heavy burden, as the presumption of jurisdiction is strong.

See *Ewert v. Höegh Autoliners AS,* 2020 BCCA 181 at paras. 16–17.

Forum Non Conveniens

[24] If this Court has territorial competence, s. 11 of the *CJPTA* provides a codification of the court's discretion to decline territorial jurisdiction if it determines another jurisdiction would be more appropriate: *VM Agritech Limited* at para. 6.

[25] The circumstances which must be considered by a court in determining whether "it or a court outside British Columbia is the more appropriate forum in which to hear a proceeding" are set out in s. 11(2) of the *CJPTA*, which reads:

> (2) A court, in deciding the question of whether it or a court outside British Columbia is the more appropriate forum in which to hear a proceeding, must consider the circumstances relevant to the proceeding, including
>
> (a) the comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum,
>
> (b) the law to be applied to issues in the proceeding,
>
> (c) the desirability of avoiding multiplicity of legal proceedings,
>
> (d) the desirability of avoiding conflicting decisions in different courts,
>
> (e) the enforcement of an eventual judgment, and
>
> (f) the fair and efficient working of the Canadian legal system as a whole.

[26] This Court has also emphasized that the interests of the parties, specifically the *prima facie* entitlement of the plaintiff to its choice of forum, must be considered: *England v. Research Capital Corporation*, 2008 BCSC 580 at para. 61. The burden is on Mr. Tetrault to show the proposed alternate forum is clearly more

appropriate: *Airbnb, Inc. v. Ware*, 2026 BCCA 110 at para. 93; *Garcia v. Tahoe Resources Inc.*, 2017 BCCA 39 at para. 54, citing *Club Resorts Ltd. v. Van Breda,* 2012 SCC 17 at para. 109.

Decision

Territorial Competence

[27] Under the first part of the inquiry, I consider whether one of the connecting factors in s. 10 exists, giving rise to a presumption of territorial jurisdiction. The plaintiff must show that there is a good arguable case that the pleaded facts give rise to one of the connecting factors.

[28] Mr. Cytrynbaum relies on s. 10(h) of the *CJPTA* in arguing that the Court has territorial competence over the claim, there is a presumption of a real and substantial connection where the proceeding concerns a business carried on in British Columbia. The notice of civil claim pleads that as an agent of Dream Wines, Mr. Tetrault obtained a loan of $600,000 for the benefit of Dream Wines' business. In support of this pleading, Mr. Cytrynbaum relies on his understanding that this was Mr. Tetrault's role as advisor and agent, that Mr. Tetrault used a Dream Wines email in relation to these issues, and relies on the inside management rule, which "provides that persons dealing with the corporation's director, officer, or agent are entitled to assume the latter has the requisite authority to transact on behalf of the company and that such transactions comply with internal corporate governance procedures": *Takhar v. Phoenix Homes Limited,* 2025 BCCA 152 at para. 64.

[29] Mr. Cytrynbaum argues that this is not a case of bootstrapping as was discussed by the Supreme Court of Canada in *Sinclair v. Venezia Turismo*, 2025 SCC 27 as there is a core allegation in this claim that Mr. Tetrault was an agent of the business and a presumptive connection, due to his alleged capacity as an advisor for the business located in British Columbia.

[30] Mr. Tetrault asks the Court to conclude that it does not have territorial jurisdiction, and in the alternative to exercise its discretion pursuant to s. 11 of the

CJPTA to find that it would be more appropriate for the claims against Mr. Tetrault to be addressed in the Quebec courts. As a starting point, Mr. Tetrault has not attorned to the court's jurisdiction, and Mr. Cytrynbaum has withdrawn the argument that he had failed to follow the proper procedure in contesting jurisdiction.

[31] Mr. Tetrault emphasises that he and the plaintiff are both not resident in BC, and argues there is no real and substantial connection between British Columbia and the facts of the case. Mr. Tetrault argues that there is no presumptive territorial competence in relation to claims against him, because the true essence of the claim against Robert Tetrault is a contractual claim, and the contract was made in Quebec between two Quebec residents. Any oral contract or discussions respecting the alleged loan or representations between the parties would have occurred in Quebec where they reside, and in his submission, the law of Quebec will apply. Mr. Tetrault submits any alleged financial loss was sustained within the province of Quebec and any financial records that exist would exist in Quebec.

[32] He characterises the claim as being about an alleged personal, not business, obligation between two Quebec residents, with the situs of the agreement being in Quebec, and says the presence of BC co-defendants does not automatically create jurisdiction over a non- resident for claims of misrepresentation and oral contract situated outside of the jurisdiction. Mr. Tetrault argues that it is not permissible to bootstrap Mr. Tetrault into the claim against the other defendants and relies on *Sinclair* at para. 63, to say that the position of each defendant should be examined independently in relation to jurisdiction. In doing so, Mr. Tetrault argues that the proper approach is to look at each cause of action and whether that cause of action against Mr. Tetrault, independent of the other parties, can sustain a connection to BC's territorial jurisdiction. Mr. Tetrault argues that the presence of co-defendants who have attorned to the Court's jurisdiction is insufficient to give rise to jurisdiction over distinct claims against him.

[33] In respect of the negligent misrepresentation claims, Mr. Tetrault says similarly that any representations made by him were made and received in Quebec.

Similarly, he argues that under s. 10(f) of the *CJPTA,* a real and substantial connection respecting unjust enrichment is presumed only where restitutionary obligations substantially arose in British Columbia, and here any deprivation or corresponding enrichment occurred between two Quebec residents in Montreal.

[34] He argues that the agency theory advanced in the notice of civil claim does not give rise to a good arguable case, and the evidence Mr. Tetrault relies on rebuts the connection. In particular, he relies on his own affidavit evidence asserting that he was not a shareholder, director, officer, partner, principal or employee of Dream Wines. He also says that the plaintiff's evidence is not sufficient in the face of this denial, in particular Mr. Cytrynbaum's expressed belief in Mr. Tetrault's role as an agent is not admissible, and the evidence of the use of a Dream Wines email is insufficient to prove that Mr. Tetrault was acting in the role of a representative in arranging a loan from Mr. Cytrynbaum.

[35] The applicable standard is that the plaintiff must show there is a good arguable case that the pleaded facts can be proven when the jurisdictional facts pleaded are challenged by the defendant. The pleaded fact in question is whether Mr. Tetrault was an agent/advisor for Dream Wines. I find the evidence relied on by Mr. Tetrault is not sufficient to rebut the presumption. The plaintiff has advanced a good arguable case on the pleadings and affidavit material. In particular, the pleading is that Mr. Tetrault was an agent or advisor, and the inside management rule applies. Mr. Tetrault used an email address associated with the business, and secured funds from Mr. Cytrynbaum, using that email, and Eric Tetrault confirmed in examination for discovery that the funds obtained were used by the business Dream Wines. This is sufficient to present a good arguable case, without finding any facts on a balance of probabilities, that Mr. Tetrault was involved as an advisor or agent in obtaining a loan on behalf of Dream Wines from Mr. Cytrynbaum.

[36] In these circumstances, the admonition in *Sinclair* against bootstrapping a defendant to the jurisdiction does not prevent this Court from having jurisdiction in relation to Mr. Tetrault. In *Sinclair*, when discussing territorial jurisdiction in respect

of contract claims, the Court commented that where there are multiple defendants, the question of jurisdiction should be examined "from the perspective of each defendant rather than in light of the factual and legal situation writ large" (at para. 63). The Court must be satisfied that there is a jurisdictional connection in relation to each defendant, and without that, judicial overreach should not be committed to imply jurisdiction over all defendants. This includes where one defendant attorns to the court's jurisdiction but another resists it.

[37] Here, the argument for jurisdiction by the plaintiff is not reliant on s. 10(e), which provides presumptive territorial jurisdiction over disputes related to a contract entered into in the province. Instead, the plaintiff relies on s. 10(h), which captures claims where the subject matter is a business in the province. The *Sinclair* decision warns against dragging in a defendant who is outside of a contract under that factor, emphasizing that a presumptive connecting factor must exist in respect of each defendant.

[38] The case as pleaded by Mr. Cytrynbaum is about the business of Dream Wines, and whether it, through its alleged agent, borrowed $600,000 from Mr. Tetrault, and whether it has repaid any of those funds. There is a good arguable case in that context which involves Mr. Tetrault as an alleged player in that business. The connecting factor is not the contract, but involvement in the business which is the subject of the litigation. In my view, Mr. Tetrault is not being dragged in uncritically but is wrapped up in the connecting factor being the relationship of the claim to a business operating in British Columbia.

[39] In *International Raw Materials*, the Court described the scope of s. 10(h) of the *CJPTA*. The Court in that case accepted the proposition that the proper approach to 10(h) is that "the question is not whether the plaintiff is based in British Columbia, but rather 'whether the plaintiff's business in British Columbia is, in fact, the subject matter of the action'": at para. 36. I find, as did Justice Riley in *International Raw Materials*, that the plaintiff has established a good and arguable case for saying that the subject matter of the litigation is whether a loan was entered

into for the benefit of Dream Wines, a business in British Columbia, whether that loan was obtained by an agent on behalf of the business, whether the plaintiff could rely on that individual's insider representations in providing the loan, whether it was a loan or an investment in the business, whether it was repaid, and if not who is responsible for repaying it and to whom. In this sense, I am persuaded there is a good arguable case respecting an action that "concerns" a business that was carried on in BC: *International Raw Materials* at paras. 36–37.

[40] Accordingly, I find that the claim fits within the presumptive connecting factor set out in s. 10(h) of the *CJPTA*, and that the presumption has not been rebutted by responsive evidence. Having found a connecting factor in s. 10(h), I move to the second inquiry, which is whether, despite presumptive territorial competence there is another more suitable jurisdiction that should have competency in relation to the claim against Mr. Tetrault specifically.

Forum Non Conveniens

[41] Mr. Tetrault submits that the more appropriate and convenient jurisdiction is Quebec, for a number of reasons. First, Mr. Tetrault is very ill and is experiencing significant physical limitations. He has applied for medical assistance in dying. His submission is that given these challenges, the more convenient forum for adjudication of this dispute is Quebec, where he resides. Second, he submits that critical evidence in the claim will be banking records that are located in Quebec. Third, he argues that the applicable law is likely Quebec law for issues surrounding the alleged contract. He also argues that any judgment against Mr. Tetrault would have to be enforced in Quebec.

[42] Mr. Cytrynbaum counters that Mr. Tetrault's examination for discovery and other evidence will have to be taken by video in any event, due to his illness. The Quebec court system was not argued by either party to move more rapidly than this court. Mr. Cytrynbaum argues that there is a proceeding in BC that will be ongoing, counsel and the other defendants are located in BC, where there is a live issue of

Mr. Tetrault's involvement in Dream Wines, and the business operations and relevant evidence about the business will be located in this jurisdiction.

[43] He argues that there would be a risk of inconsistent decisions in different courts if this Court refused to exercise jurisdiction in relation to only one of three defendants, in an intertwined claim. This would create multiple overlapping proceedings and result in increased cost and inefficiency.

[44] Mr. Cytrynbaum also submits there is no juridical advantage sought by the plaintiff by seeking to have the claim heard in BC.

[45] The burden is on Mr. Tetrault to show that Quebec is a clearly more appropriate forum. I must consider the following factors in my determination:

> a) the comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum,
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> (b) the law to be applied to issues in the proceeding,
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> (c) the desirability of avoiding multiplicity of legal proceedings,
>
> (d) the desirability of avoiding conflicting decisions in different courts,
>
> (e) the enforcement of an eventual judgment, and
>
> (f) the fair and efficient working of the Canadian legal system as a whole.

[46] In all of the circumstances I find that Mr. Tetrault has not met the burden to show that another forum is clearly more appropriate. While I am sympathetic to the physical suffering Mr. Tetrault is experiencing, I am not persuaded that requiring the claims against him to be adjudicated in Quebec would mitigate that suffering. Nor would it address comparative convenience and expense for the parties and their witnesses.

[47] There is an apparent dispute about the applicable law, and I am not prepared to conclude whether or not the law of Quebec would be applied to any of the issues in the case. I am persuaded by the fact that it is desirable to avoid multiple proceedings both for the sake of judicial and party efficiency and for the purpose of avoiding conflicting decisions. I do not find that the question of the enforcement of an

eventual judgement is a particularly persuasive factor in this case. I also give weight to the plaintiff's choice of forum, the fact that counsel for the attorned parties are present in this jurisdiction, and that the proceeding in British Columbia will advance regardless of the court's decision on jurisdiction in relation to Mr. Tetrault.

[48] Accordingly, I decline to accept Mr. Tetrault's invitation to conclude that Quebec is a more appropriate forum for the plaintiff's case in relation to him.

Amendment Application

[49] Rule 6-1(1)(b) permits amendment of a pleading in whole or in part after the notice of trial has been filed, if leave is granted by the court. Generally, amendments should be permitted as necessary to determine the real issues between the parties. Here, Eric Tetrault and Dream Wines consent to the amendment, and Mr. Tetrault does not oppose the amendment in the event that the Court maintains jurisdiction. The amendments to the pleading address additional information and clarification of positions that arose following the examination for discovery of Eric Tetrault by Mr. Cytrynbaum.

[50] I conclude that in all of the circumstances it is appropriate to permit the pleading to be amended.

"E. Sigurdson J."