# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *T&S Transportation Systems Inc. v CLI Express Ltd.,* 2026 BCSC 1991

Date: 20261016
Docket: S256100
Registry: New Westminster

Between:

**T&S Transportation Systems Inc.**

Plaintiff

And

**CLI Express Ltd. and A Square Logistics Inc.**

Defendants

Before: The Honourable Mr. Justice Blok

## Reasons for Judgment

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|---|---|
| Counsel for the Plaintiff: | R. Nagra |
| Counsel for the Defendant, CLI Express Ltd.: | J. Gill |
| Place and Date of Hearing: | New Westminster, B.C.<br>October 7, 2026 |
| Place and Date of Judgment: | New Westminster, B.C.<br>October 16, 2026 |

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## I. Introduction

[1] The defendant, CLI Express Ltd. (“CLI”), applies to set aside a default judgment in this matter.

[2] CLI maintains that its principal did not realize the significance of the documents CLI received, due both to the fact that the notice of civil claim was not brought to his attention and because CLI had commenced proceedings of its own arising out of the same event. CLI submits it has a defence worthy of investigation and says the interests of justice favour the setting aside of the default judgment.

[3] The plaintiff, T&S Transportation Systems Inc. (“T&S”) says the Court is being asked to disregard CLI’s various failures to respond properly to both the action and the default judgment and submits these failures should not be excused. T&S also says CLI has not demonstrated a meritorious defence.

## II. Facts

### A. Chronology of Events

[4] The action arises out of the theft of a transport trailer and its load on November 29, 2023.

[5] Both T&S and CLI are trucking companies. In November 2023, T&S was engaged by a customer to deliver a refrigerated load from Delta, British Columbia to two locations in eastern Canada. T&S brokered the load to another trucking company, the defendant A Square Logistics Inc. (“A Square”). A Square, in turn, brokered the load to CLI, but not for the entire trip. Instead, A Square brokered the load to two carriers, the first being CLI, who was directed to drop the load at a specific location near Montreal, at the address of a tire shop. The second engagement by A Square was with a further carrier, SAAR Logistics (“SAAR”) for it to pick up the load from the tire shop address and resume the shipment.

[6] CLI transported the load using a trailer owned by its affiliate company, Roadline Transport Ltd. (“Roadline”), and dropped the load at the Montreal-area tire shop address. A GPS tracker in the trailer showed the load was at the drop location

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on November 27, 2023. That same GPS tracker showed that the load was picked up on November 29, 2023 around 10:00 p.m. The GPS tracker was disconnected about 40 minutes later. Neither the trailer nor its load have been recovered.

[7] On December 2, 2024, Roadline commenced an action against A Square, SAAR and others for the loss of its trailer.

[8] On December 3, 2024, T&S send a demand letter to both CLI and A Square concerning the loss the load.

[9] On December 12, 2024, T&S commenced the subject action against CLI and A Square. The notice of civil claim was served on CLI by registered mail to its registered and records office. The affidavit of service shows the delivery was signed for by "L.K." on December 30, 2024.

[10] Daljit Singh Sidhu is the principal and sole director of CLI. CLI's registered and records office is the residence of Mr. Sidhu and his family. He provided two affidavits in support of CLI's application.

[11] Among other matters, Mr. Singh deposed that "L.K." is his wife, Lovedeep Kaur. He says the notice of civil claim was never brought to his attention at the time it was served.

[12] On January 28, 2025, T&S obtained a default judgment against both CLI and A Square for $111,098.56, interest of $6,004.49 and costs of $1,024.76. A copy of the default judgment, together with a covering letter, was served on CLI on February 13, 2025 at its registered and records office by both mail-slotting the documents and by handing other copies to Mr. Singh.

[13] On April 3, 2025, T&S served CLI with an appointment to examine Mr. Singh in aid of execution, together with a demand for documents. The examination in aid was set for May 14, 2025.

[14] In May 2025, Mr. Singh wrote two letters to counsel for T&S. In a letter dated May 9, 2025, he acknowledged the "discovery hearing" set for May 14, but said CLI

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had no contractual relationship with T&S and, by the terms of its engagement with A Square, CLI's delivery obligation had been fulfilled by its delivery to the designated drop location. Mr. Singh added:

> As we have no direct contraction relationship with [T&S], and given that we have already incurred the loss of a trailer, we respectfully request your support in acknowledging our limited role in this matter and supporting our request for exemption from the discovery appearance.

[15] Mr. Singh's second letter to T&S's counsel was dated May 13, the day prior to the examination. In that letter, he said he was committed elsewhere on urgent matters and he again pointed out CLI's lack of culpability in the matter, noting that liability rested with A Square, explaining that CLI's insurers had denied liability because A Square was the responsible party, and stating that A Square's insurers had denied liability because A Square had double brokered or "split" the load.

[16] Mr. Singh did not attend the examination in aid of execution on May 14 and T&S's counsel obtained an endorsement for CLI's non-attendance.

[17] On July 16, 2025, T&S filed a notice of application seeking orders against CLI for disclosure of documents. That order was granted on July 31, 2025.

[18] On August 28, 2025, counsel for T&S served a further appointment to examine CLI in aid of execution, setting the examination date for September 15, 2025. Mr. Singh did not appear at that examination.

[19] On November 28, 2025, CLI filed, through counsel, a notice of application for an order setting aside the default judgment in this matter.

### B. Mr. Singh's Evidence

[20] Mr. Singh deposed that his English skills are limited and he is not "well versed" in civil court processes. He notes that his May 2025 correspondence was prepared with the help of CLI's account manager.

[21] Mr. Singh acknowledges that he received some "letters" at his residence earlier in 2025. I note these were likely the default judgment and covering letter

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served on February 13, 2025. However, Mr. Singh deposes that he was unaware of the legal significance of those documents.

[22] Another CLI employee, Navneet Kaur ("NK"), who is CLI's safety management officer, received counsel's emailed letter relating to an examination in aid of execution. Mr. Singh said that, at the time, he was unsure why he was served an appointment for a discovery. He also said this was the first time he was made aware that a claim had been filed against CLI. NK was also sent the later correspondence, documents and notice of application relating to document demands and further appointments.

[23] On behalf of Mr. Singh, NK emailed plaintiff's counsel on September 25, 2025, explaining that CLI's response to the document demands was being delayed due to the resignation of the company accountant. He also explained that they were seeking legal advice and reiterated that CLI was not at fault and in fact had suffered a loss of its own.

[24] Mr. Singh deposed that, at that time, he was still unaware why the examination for discovery was proceeding or why the plaintiff required CLI's financial documents.

[25] He said he first contacted and then retained counsel in September and October, respectively. After retaining counsel he learned that the appointments had not been for an examination for discovery but were instead for an examination in aid of execution following a default judgment obtained against CLI in January 2025. He said this was the first time he realized that this case was not ongoing but instead had concluded by way of a default judgment.

[26] His impression that the matter had been ongoing was the reason why he was attempting to convey his position that CLI was not at fault for the loss and seeking an exemption from involvement in the proceedings.

[27] On receipt of initial legal advice, he retained counsel and instructed them to apply to set aside the default judgment. He said the delay between October 2025

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(when he received legal advice) and the filing of CLI's application in late November 2025 was due to other financial issues regarding mortgages "which have consumed my time" during that period.

[28] Mr. Singh asserts that CLI has a meritorious defence to the claim because: (1) there was no agreement between T&S and CLI; (2) CLI and A Square are not affiliated companies; (3) CLI delivered the load as per its contract with A Square, and so it fulfilled its obligations; and (4) A Square was negligent by further brokering the load to an "unknown third party", who appears to have done so fraudulently, resulting in the theft of both the load and Roadline's trailer.

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## III. Positions of the Parties

### A. CLI

[29] CLI says the evidence shows that Mr. Singh was not made aware of the notice of civil claim when it was served and he did not appreciate the significance of the documents that came to his attention. In response to the demands and examination appointments sent to him in April and May 2025, he sent two letters explaining that CLI was not at fault or, in other words, putting forward CLI's defence. He did the same in response to the September 15 examination in aid appointment.

[30] CLI says its conduct was not "wilful" but instead was due to Mr. Singh's ignorance about what he was to do in response to the documents he received.

[31] CLI submits that the existence of its own claim is a further factor in favour of setting aside the default judgment, as it is possible that CLI, an innocent party, may prevail in its action but due to the default judgment, lose in this lawsuit, which would mean inconsistent results arising from the same subject matter. The default judgment might also be used against CLI in the Roadline action in arguing that CLI is liable for the loss of its trailer.

[32] CLI argues that these circumstances warrant the setting aside of the default judgment in the "overall interests of justice".

[33] CLI cites *Dhunna v Brown*, 2026 BCSC 517 [*Dhunna*] as a precedent in its favour. There, default judgment was taken in November 2021, damages were assessed pursuant to that judgment in July 2023, and an application to set aside the judgment was taken in June 2025. Execution proceedings ensued, and two examinations in aid of execution were conducted. In that case, the application judge noted:

> [7] This Set Aside Application presents the circumstance of a defendant who has engaged in severe delay applying to set aside a default judgment order which has led to a substantial damages order, and who did not engage legal counsel in the action for over three years after the Default Judgment and approximately 21 months after the Damages Order.

[34] CLI notes *Dhunna* was a case involving a self-represented litigant who said he was unaware he could apply to set aside the judgment, who was examined in aid of execution twice (whereas here, no examination took place) and despite the lengthy delay and the execution proceedings, the judgment was still set aside.

**B. T&S**

[35] T&S says the chronology of events shows that CLI has treated the Court's processes as merely discretionary, and now CLI seeks to be excused from its own failures.

[36] T&S submits there is a consistent theme of "never our fault" or, in other words, always blaming others.

[37] T&S emphasizes the various points at which CLI should have fully appreciated the claim or demand, the lawsuit and the default judgment. The default judgment was obtained on January 28, 2025 and served on CLI on February 13, 2025. The notice of application to set aside the default judgment was not filed until November 28, 2025, a nine-month delay.

[38] The scheduling of the examinations in aid of execution, together with the variety of correspondence surrounding those examinations, were additional

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opportunities for CLI to discern the nature of the proceedings and take proper and prompt steps to address them.

[39] In this regard, T&S notes that Mr. Singh had counsel at the time he was served, as Roadline's notice of civil claim was filed earlier that month. He failed to consult counsel on this matter at any point prior to September 2025, long after default judgment had been obtained.

[40] Further delays ensued after the application was filed, as the first hearing date was on September 6, 2026 and there were two other hearing dates that month. Although T&S did not press this aspect, counsel described that particular delay as "stalling", noting that the hearing of the matter was made peremptory on CLI at the last of those three court appearances.

[41] T&S also submits that CLI has not demonstrated a meritorious defence to its claim in negligence. A bailee for reward, as well as sub-bailees below that bailee, owe the owner a duty of care to protect the item from loss. T&S argues that leaving a refrigerated trailer unattended and parked at a tire shop is an act of negligence that renders CLI jointly and severally liable with A Square, the sub-bailee, and that no defence has been put forward to this aspect of its claim.

## IV. Discussion

### A. Legal Principles

[42] I begin with the *Miracle Feeds* factors. These derive from the venerable and oft-cited case, *Miracle Feeds v D. & H. Enterprises Ltd.* (1979), 10 BCLR 58 (Co. Ct.) [*Miracle Feeds*], where the court said:

> … in order for a defendant to succeed on an application to set aside a default judgment, he must show:
>
> 1. That he did not wilfully or deliberately fail to enter an appearance or file a defence to the plaintiff's claim;
>
> 2. That he made application to set aside the default judgment as soon as reasonably possible after obtaining knowledge of the default judgment, or give an explanation for any delay in the application being brought;

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> 3. That he has a meritorious defence or at least a defence worthy of investigation; and
>
> 4. That the foregoing requirements will be established to the satisfaction of the court through affidavit material filed by or on behalf of the defendant.

[43] In *Forgotten Treasures International Inc. v Lloyd's Underwriters*, 2020 BCCA 341, the Court of Appeal noted that the *Miracle Feeds* factors were not mandatory, exhaustive or immutable, or to applied inflexibly, but instead they are appropriate indicators in considering whether it is in the interests of justice to set aside the default judgment:

> [17] *Miracle Feeds* establishes a framework to address an application to set aside a default judgment. It is important to recognize that the various considerations that are identified in *Miracle Feeds* are just that: they are factors that a chambers judge should consider and weigh. These factors are not fixed or immutable; rather, they are discretionary. In *Andrews v. Clay*, 2018 BCCA 50, this Court recently reviewed a number of relevant authorities and said:
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> > [29] I have described these as factors rather than tests, as they are not intended to be either mandatory or exhaustive of the considerations that are relevant, though in most cases they will be the appropriate indicators of whether it is in the interests of justice to set aside the default judgment.
> >
> > [30] In *H.M.T.Q. in right of the Province of British Columbia v. Ismail*, 2007 BCCA 55 (Chambers), for instance, Smith J.A. considered *Miracle Feeds* in the context of a default judgment in the Supreme Court of British Columbia and made these comments:
> >
> > > [11] In my view the items enumerated in the *Miracle Feeds* test are not conditions that must be satisfied by an applicant. Rather, they are relevant factors to be taken into account by a chambers judge in exercising the discretion conferred by Rule 17(12). I find support for this view in the remarks of Madam Justice Saunders in *Deline v. Whittle*, [2002 BCCA 662] where she said,
> > >
> > > > [12] On the merits, I observe that the order appealed involves the exercise of discretion. Although Mr. Deline vigorously contends that the *Miracle Feeds* test was not met, and thus there is sufficient merit in the appeal to warrant leave being granted, I do not agree. There are, necessarily, aspects of judgment that must be applied by a chambers judge in the exercise of discretion under Rule 25(15). …
> >
> > [31] In *Nichol v. Nichol*, 2015 BCCA 278, this Court cautioned against an inflexible application of the *Miracle Feeds* factors:
> >
> > > [37] The factors set out in the Miracle Feeds decision are not meant to be applied inflexibly, nor are they immutable: see *H.M.T.Q. in right of the Province of British Columbia v. Ismail*, 2007 BCCA 55 at

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> para. 11. The discussion by Mr. Justice Voith in *Director of Civil Forfeiture v. Doe*, 2010 BCSC 940 at para. 15 in the context of the R. 17(12) of the previous Supreme Court Rules is apt:
>
> > [15] … [I]t does not follow as a matter of necessity that the failure of the defendants to expressly address each of the various requirements set out in *Miracle Feeds* precludes them from being successful on an application under Rule 17(12) [the rule in the previous Supreme Court Rules that permitted a party to apply to set aside default judgment]. These requirements are not immutable. The failure or inability of a defendant to address a particular factor in *Miracle Feeds* is not necessarily fatal. Conversely, there may well be additional factors identified by a defendant which are relevant to its application and to the court's discretion.

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### B. Analysis

[44] At the outset, I note the evidence is clear that the notice of civil claim was served at the registered and records office of CLI on December 30, 2024 and that the default judgment was served on CLI and Mr. Singh at his residence - which was CLI's registered and records office - on February 13, 2025.

[45] I also note that the plaintiff did not warn CLI that it would take default judgment if it failed to provide a response. I fully accept that T&S was under no obligation to do so, but the authorities indicate that the absence of advance notice is a matter that may be considered in the exercise of discretion.

[46] The evidence of Mr. Singh is that the notice of civil claim was never brought to his attention, and as to the default judgment, he said he was unaware of its legal significance. While in some circumstances this might be difficult to accept, I bear in mind that Mr. Singh's English skills are limited. I also note that he responded to the plaintiff's attempts to arrange and conduct an examination in aid of execution by writing two letters explaining that CLI was an innocent intermediary, it had performed its obligations as required in its contract, and that it was not liable. These letters tend to support his assertion that he did not appreciate that judgment had already been granted against CLI.

[47] Of course, Mr. Singh ought to have sought legal advice. However, there is evidence that even when he eventually contacted a lawyer, he could not move the matter forward because “financial issues” delayed him from doing so for two months.

[48] On the evidence, and particularly in light of the two May letters written by Mr. Singh, I am satisfied the notice of civil claim, though properly served, was not brought to Mr. Singh’s attention, and that the later documents, including the default judgment itself, were not properly understood by Mr. Singh. In these circumstances, I accept that Mr. Singh did not wilfully or deliberately fail to respond to this lawsuit on behalf of CLI.

[49] As for the second *Miracle Feeds* consideration, I am satisfied that that CLI moved with reasonable despatch by filing, on November 28, 2025, a notice of application to set aside the default judgment. On the evidence, this was filed two months after Mr. Singh first consulted with counsel, with that delay explained by the “financial issues” referred to earlier. Although any delay is less than ideal, it is not a long delay and I am satisfied that Mr. Singh moved with reasonable despatch given these apparent financial constraints.

[50] The final *Miracle Feeds* consideration is that there must be a defence worthy of investigation. I am satisfied that CLI has answered this aspect. CLI says it transported the load to the drop location designated by A Square, thus fulfilling its contractual duties with A Square, and so the load was not its responsibility at the time it was stolen. This is at least an arguable defence.

[51] T&S argues that CLI has not offered a defence to its claim for negligence; that is, that CLI should not have dropped the trailer without ensuring it was secure or in a secure area. However, there is little evidence either way on this issue. The drop location is the address of a tire store. That is all we know. Whether that was negligent seems an open question, a question that turns on the actual nature of the location as well as perhaps myriad other circumstances. I conclude that there is a defence worthy of investigation on the negligence allegation.

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[52] There is a final circumstance that bears on the interests of justice because Roadline, CLI's affiliate, has commenced its own litigation for the loss of the trailer. In fact, Roadline commenced its lawsuit first. If the default judgment is not set aside, it is possible there could be differing results in the two lawsuits arising from the same event. This is a circumstance that weighs in favour of setting aside the default judgment.

[53] Having considered all the circumstances, and in particular those matters referred to in *Miracle Feeds*, I am satisfied that it is in the interests of justice to allow the application, albeit on terms that CLI pay to T&S all its costs thrown away.

## V. Conclusion

[54] The default judgment entered against CLI Express Ltd. on January 28, 2025 is hereby set aside.

[55] CLI shall pay to T&S all of its costs thrown away. For greater certainty, those costs are to include the steps taken to obtain the default judgment and all execution measures against CLI. Those costs are payable forthwith.

"Blok J."

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