IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *TCC Mortgage Holdings Inc. v Rohland,* 2026 BCSC 2153

Date: 20261104
Docket: S1811991
Registry: Vancouver

Between:

TCC Mortgage Holdings Inc.

Plaintiff

And

Gregory Rheinhard Rohland and Inga Zane

Defendants

Before: The Honourable Mr. Justice Funt

Reasons for Ruling – Subrule 7-1(21) of the *Supreme Court Civil Rules*

Counsel for the Plaintiff:	S. Batkin A.M. Kovac
The Defendant, appearing in person:	G.R. Rohland
Counsel for the Defendant, Inga Zane:	J.P. Scouten
Place and Date of Hearing:	Vancouver, B.C. October 29, 2026
Place and Date of Judgment:	Vancouver, B.C. November 4, 2026

2026 BCSC 2153 (CanLII)

Table of Contents

1.0 INTRODUCTION 3
2.0 OUR LITIGANT-DRIVEN SYSTEM 3
3.0 THE GENERAL RULE RESPECTING THE DISCOVERY OF DOCUMENTS 5
4.0 THE SUBJECT DOCUMENTS 6
5.0 ANALYSIS 7
6.0 CONCLUSION 12

2026 BCSC 2153 (CanLII)

1.0 Introduction

[1] The defendant, Mr. Gregory Rohland, applies to now use in this ongoing trial certain documents he did not previously list or otherwise disclose.

[2] There have been 33 days of trial to date with a further ten days scheduled for December to hear further evidence, with a further two days to be scheduled for legal argument.

[3] In sum, Mr. G. Rohland is asking the Court to relieve him from his past failure to make discovery. He wishes to use the documents to impeach the testimony of his brother, Mr. Michael Rohland, who testified in this trial in July this year and to use as evidence to support his defence.

[4] Mr. G. Rohland relies on Subrule 7-1(21) of the *Supreme Court Civil Rules*, BC Reg. 168/2009 [*Rules*]. Subrule 7-1(21) reads:

> Party may not use document
>
> (21) Unless the court otherwise orders, if a party fails to make discovery of or produce for inspection or copying a document as required by this rule, the party may not put the document in evidence in the proceeding or use it for the purpose of examination or cross-examination.
>
> [Emphasis added.]

[5] For the reasons that follow, Mr. G. Rohland's application is granted. He may tender the documents as evidence as part of his examination-in-chief.

[6] After Mr. G. Rohland has completed his testimony (he has currently testified in examination-in chief for several days) including all cross-examination, and after the defendant, Ms. Zane has testified, he may then apply to recall Mr. M. Rohland.

2.0 Our Litigant-Driven System

[7] The *Rules* serve our litigant-driven system.

2026 BCSC 2153 (CanLII)

[8] With respect to our litigant-driven system in *Reznik v Matty*, 2013 BCSC 1346, I wrote:

> [26] The court is litigant-driven. Litigants within (or with sufficient connection to) our province, may come to court to resolve disputes. It is the litigants who frame the case through pleadings and decide what evidence should be placed before the court. Our judges play a limited role. Under our legal system, judges do not frame the case. They do not collect evidence. Nor do they investigate matters.
>
> [27] As the needs of litigants evolve, the court will address the disputes as they are brought before it. As Maitland (F.W. Maitland and F.C. Montague, *A Sketch of English Legal History* (London: G.P. Putnam's Sons,1915) at 14 observed:
>
> > Our increasing mastery over the physical world is always amplifying the province of law, for it is always complicating the relationships which exist between human beings.

[9] Since Maitland's time, the physical world relationships between human beings have become significantly more complicated, including with advancements in travel, technology, communications, and the transfer of funds.

[10] Our *Rules* set forth in Subrule 1-3(1) their object and in Subrule 1-3(2) qualifies their object with proportionality:

> Object
>
> (1) The object of these Supreme Court Civil Rules is to secure the just, speedy and inexpensive determination of every proceeding on its merits.
>
> Proportionality
>
> (2) Securing the just, speedy and inexpensive determination of a proceeding on its merits includes, so far as is practicable, conducting the proceeding in ways that are proportionate to
>
> (a) the amount involved in the proceeding,
>
> (b) the importance of the issues in dispute, and
>
> (c) the complexity of the proceeding.

[11] Subrule 7-1(21) must be read in the context of our litigant-driven system and the general rule addressing the discovery of documents from which Mr. G. Rohland now seeks relief.

2026 BCSC 2153 (CanLII)

3.0 The General Rule Respecting the Discovery of Documents

[12] Subrule 7-1(1) is the general rule respecting the discovery of documents. It reads:

> (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
>
> (a) prepare a list of documents in Form 22 that lists
>
> (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party of record at trial to prove or disprove a material fact, and
>
> (ii) all other documents to which the party intends to refer at trial, and
>
> (b) serve the list on all parties of record.

[13] Further, Subrule 7-1(9) requires the prompt ongoing disclosure of documents by each of the parties to the litigation. It reads:

> (9) If, after a list of documents has been served under this rule,
>
> (a) it comes to the attention of the party serving it that the list is inaccurate or incomplete, or
>
> (b) there comes into the party's possession or control a document that could be used by any party of record at trial to prove or disprove a material fact or any other document to which the party intends to refer at trial,
>
> the party must promptly amend the list of documents and serve the amended list of documents on the other parties of record.

[14] In *Cook v Kang*, 2020 BCSC 575 [*Cook*], Justice Riley, as he then was, summarized the following factors the court considers in exercising its discretion under Subrule 7-1(21) at para 27:

> (a) whether the opposing party will be prejudiced by the proposed use of the documents;
>
> (b) whether a reasonable explanation has been provided for the failure to properly disclose the document;
>
> (c) whether refusing permission to use the document would be an impediment to determining the merits of the case; and
>
> (d) whether, in the circumstances of the case, the ends of justice require that permission be given to use the document despite the failure to properly disclose it.

2026 BCSC 2153 (CanLII)

4.0 The Subject Documents

[15] Mr. G. Rohland says all of the documents he seeks to put in evidence relate to dealings involving his brother, Mr. M. Rohland.

[16] In March 2013, Mr. G. Rohland made an assignment into bankruptcy. For many years, starting in 2015, Mr. M. Rohland testified that he allowed Mr. G. Rohland to have access to one of his personal Canadian bank accounts. Mr. M. Rohland also testified that he gave Mr. G. Rohland a number of signed blank cheques. Mr. M. Rohland further testified that he knew by 2015 that Mr. G. Rohland was an undischarged bankrupt under our laws.

[17] Mr. G. Rohland remains an undischarged bankrupt.

[18] Mr. G. Rohland now wishes to use the subject documents to impeach Mr. M. Rohland with respect to his testimony earlier in this trial on July 3, 6, and 7, 2026 and to use as evidence to support his defence.

[19] Some months prior to Mr. M. Rohland testifying, he had made it clear to Mr. G. Rohland that he would be adversarial. For example, on November 10, 2025, in an email he sent to Mr. G. Rohland, Mr. M. Rohland wrote:

> Since you didn't reimburse me the legal fees, we are now adversaries, and I will treat you as such.
>
> You are on notice that I'm rewriting and will be presenting new updated affidavits. The new affidavits will be purged of all the lies you told me and will set the record straight. You are also on notice that we are on divergent paths on this court case. I'm not on board your agenda or your purposes.

[20] Further, the plaintiff, TCC Mortgage Holdings Inc., in its May 15, 2026 Trial Brief stated:

> 5. In late 2025 or early 2026, Mr. Rohland and his brother, Michael Rohland, had a falling out, resulting in Michael Rohland, *inter alia*:
>
> (a) recanting all of his previously given evidence, stating that the affidavits he had sworn were drafted by Mr. Rohland;
>
> (b) confirming that the $110,000 provided by Mr. Rohland for the purchase of the Property did not belong to Michael Rohland or his company, Structured Annuity Solutions LLC ("SAS"); and

2026 BCSC 2153 (CanLII)

(c) seeking to discontinue claims in the SAS Action brought by Mr. Rohland in the names of Michael Rohland and SAS.

5.0 Analysis

[21] As noted, Mr. G. Rohland wishes to use the previously undisclosed documents to both impeach Mr. M. Rohland's credibility and as evidence to support his defence.

[22] With Mr. M. Rohland having completed his testimony, the use of the previously undisclosed documents would be contrary to the Rule in *Browne v Dunn*, (1893), 6 R 67 (HL), which addresses fairness.

[23] In *Mand v Cheema*, 2025 BCSC 1595, Justice Blake described the Rule in *Browne v Dunn* as follows:

> [175] Counsel for the plaintiffs referred to the rule of *Browne v. Dunn* as a "wrinkle": *Browne v. Dunn,* (1893), 6 R. 67 (H.L.), 1893 CanLII 65 (FOREP). Properly understood, the rule in *Browne v. Dunn* is a rule of trial fairness. As Lord Herschell described at 70–71:
>
> > My Lords, I have always understood that if you intend to impeach a witness you are bound, whilst he is in the box, to give him an opportunity of making any explanation which is open to him; and, as it seems to me, that is not only a rule of professional practice in the conduct of a case, but is essential to fair play and fair dealing with witnesses.
>
> [176] As a matter of fairness, if a party intends to impeach another party's witness with contradictory evidence on a significant issue, then they should put that evidence to the witness on cross-examination: [*British Columbia (Director of Civil Forfeiture) v*] *Angel Acres* [*Recreation and Festival Property Ltd.*, 2023 BCCA 70] at para. 190. In that way, a witness has the opportunity to address or explain the contradiction: *R v. Jajja*, 2024 BCCA 125 at para. 42.
>
> [177] If the rule is properly engaged, and breached, then the trial judge has broad discretion to fashion a remedy. There is no fixed consequence if a cross-examiner fails to do so; rather, it is within the purview of the trial judge to choose a remedy based on all of the circumstances. If it is not possible to recall the witness, then the trial judge may exercise their discretion to lessen the weight put upon the contradictory evidence, or the contradictory evidence may be rejected in favour of the testimony of the opponent's witness: *Angel Acres* at para. 190.

2026 BCSC 2153 (CanLII)

[24] The *Rules* are designed to apply all litigants similarly. There is not a separate set of court rules for self-represented litigants.

[25] On the first day of trial, June 15, 2026, the Court provided Mr. G. Rohland a memorandum titled “Memorandum from the Court to Self-Represented Litigants: Trial Procedure in Civil and Family Cases”.

[26] With respect to cross-examination, the Memorandum reads:

> The purpose of cross-examination is to test and challenge evidence that the witness gave in direct examination that you disagree with, as well as to get evidence from the witness that supports your own case. Unlike when you are asking questions of your own witnesses, when you are cross-examining the other party’s witnesses you may, and often will, ask leading questions.
>
> If you plan to provide evidence that contradicts the evidence of a witness, you should challenge the witness about that aspect of their evidence. For example, if you plan to lead evidence that an accident occurred when it was dark out, and the other party’s witness has testified that it was daylight, you could ask that witness the following questions in cross-examination:
>
> > Question: Is it correct that you testified that when the accident happened it was daylight and you could see very well?
> >
> > Answer: Yes, I did say that.
> >
> > Questions: I suggest that you are mistaken. I suggest that when the accident happened it was dark out, and you could not see very well.
> >
> > Answer: No, I am not mistaken (or some other response).
>
> This allows the witness a fair chance to agree, explain, or deny what is suggested. You are not required to cross-examine a witness about something, but if you decide not to, the trial judge may accept the evidence of the witness as true because it was not challenged.
>
> Similarly, you are not required to cross-examine every witness, but if you do not, the witness’s evidence may be accepted if nothing has been introduced to contradict it.
>
> [Emphasis added.]

[27] Complicating matters is the fact that Mr. Scouten, counsel for Ms. Zane, may, quite rightly, wish to use one or more of the subject documents in his cross-examination of Mr. G. Rohland. In particular, as Mr. Scouten submitted at the hearing of this application, the subject documents may be evidence of the source

2026 BCSC 2153 (CanLII)

and flow of funds related to the $110,000 to which subparagraph 23(b) of the plaintiff's Further Amended Notice of Civil Claim refers.

[28] The source and flow of the $110,000 are relevant and material to the issues in the action. In this regard, Ms. Zane's Further Amended Response to Civil Claim reads (in part):

> 13. To supply the additional funds needed to complete the purchase, Mr. [G.] Rohland offered to arrange for a loan of approximately $110,000.00 to be provided through what he described to Ms. Zane at the time as a "group of US businessmen", which funds would be provided to Ms. Zane's conveyancing solicitors to be used in completing the purchase, to which Ms. Zane agreed.
>
> 14. On or about November 28, 2026, a wire transfer in the amount of approximately $110,000.00 (the "$110,000 Payment") was sent to, and deposited into, Ms. Reili's personal bank account at the Lonsdale Avenue branch of the Toronto-Dominion Bank in North Vancouver. After the funds were received, Ms. Reili (escorted by Mr. [G.] Rohland) attended at her bank and obtained two bank drafts, together totalling $109,982.50, which were provided to Ms. Zane's conveyancing solicitors, in trust, for the purpose of completing the purchase of the Property.
>
> 15. Ms. Zane's understanding, at all material times, was that the $110,000 Payment constituted a loan from a source that was not specifically identified to her at the time it was initially made, but which she was later told was a company or companies connected to his brother, Michael Rohland, which would be repayable at some time in the future.
>
> 16. Ms. Zane further states, and the fact is, that the understanding existing amongst all of the persons involved in arranging, making and receiving the $110,000 Payment was that it constituted a loan, as is reflected by the transaction records related to the wire transfer that was sent to Ms. Reili, and not a contribution made toward that purchase of the Property.
>
> 17. Contrary to what is alleged in the Further Amended Notice of Civil Claim, Ms. Zane specifically denies that the $110,000 Payment, or any part of it, consisted of funds belonging to Greg Rohland or that originated from property beneficially owned by him, or that those funds constituted monies which TCC, Sprott or his other creditors had any right to seize, attach or otherwise lay claim to for recovery of amounts owing to them by Mr. [G.] Rohland.
>
> 18. Ms. Zane further denies that Mr. [G] Rohland ever told her that the funds used to make the $110,000 Payment belonged to him or originated from property beneficially owned by him, or that Ms. Zane ever believed or had reasons to believe that such was the case.

2026 BCSC 2153 (CanLII)

> 19. Ms. Zane further denies that an agreement or understanding of any sort every existed between her and Mr. [G] Rohland, or that she believed or had reason to believe, that the $110,000 Payment constituted a contribution made by Greg Rohland toward the cost of purchasing the Property for which he would acquire or be entitled to acquire a beneficial interest in the Property.

2026 BCSC 2153 (CanLII)

[29] In the above, Ms. Reili is Ms. Zane's mother. The subject property was bare land on Bowen Island upon which the defendants both currently say they intended to build a personal residence.

[30] Similarly, after Mr. G. Rohland is cross-examined by Mr. Scouten, plaintiff's counsel may also wish to cross-examine Mr. G. Rohland with respect to the subject documents and, in particular, with respect to the source and flow of funds.

[31] In my view, the best way to secure "the just and inexpensive determination" of this action "on its merits" is to first have Mr. G. Rohland continue with his examination-in-chief. He will be allowed to testify to the documents he now seeks to produce.

[32] Following his examination-in-chief, Mr. G. Rohland may be cross-examined by Mr. Scouten for Ms. Zane and either Mr. Batkin, Mr. Clifford, or Ms. Kovac for the plaintiff. Among any other relevant matters, the respective cross-examinations may canvass evidence related to any of the documents Mr. G. Rohland now seeks to produce.

[33] After the testimony of both Mr. G. Rohland and Ms. Zane is completed, Mr. G. Rohland may then apply to have Mr. M. Rohland recalled. The plaintiff and Ms. Zane will have the opportunity to make their respective responding submissions. After considering the respective submissions, I will make a ruling, provided such an application is made.

[34] In my view, the foregoing approach avoids the risk of possibly needing to recall Mr. M. Rohland more than once, and moreover, will serve to provide the Court with greater context if Mr. G. Rohland applies to recall Mr. M. Rohland.

[35] With respect to the four *Cook* factors, I have the following comments.

[36] First, the plaintiff and the defendant, Ms. Zane, are prejudiced by the proposed use of the documents at this time. The use of the documents at this time will disrupt the normal, well-designed course of a trial. Court time is also wasted with both the plaintiff and Ms. Zane incurring unnecessary legal costs.

[37] I will also add that the wasted court time is an unnecessary cost to the public. The public bears most of the costs related to the operations of our courts.

[38] With respect to the second factor, Mr. G. Rohland has not provided a reasonable explanation for his failure to disclose the documents he now wishes to use at this trial, despite them being in his possession.

[39] None of the sought documents are so called “stragglers”. In more complex litigation, it is not unusual that as a result of a photocopying error or in the process of collating documents, a page or a document intended to be disclosed is not disclosed.

[40] Such an undisclosed page or document is like a dairy cow in a herd from an older time in a colder clime, which got struck in a hollow after the herd was called to the barn for the night. It was never the farmer’s intention not to have all the cows in the barn for the night.

[41] With respect to the third factor (impediment to determining the merits), I am satisfied that the documents may go to the merits of the case. Accordingly, although a “speedy and inexpensive determination” is frustrated, in the case at bar, the “determination” of the trial “on its merits” warrants considerable weight.

[42] Closely related to the third factor, in the case at bar, the fourth factor, “the ends of justice”, further requires the Court to allow the documents to be used despite Mr. G. Rohland’s failure to disclose the documents on a timely basis under Rule 7-1(1) or Rule 7-1(9).

2026 BCSC 2153 (CanLII)

[43] With respect to the fourth factor, the action engages, in large measure, a flow of funds analysis. The analysis is hampered by allegations and testimony (including from Mr. M. Rohland) that at least some of the relevant documents do not accurately reflect the actual particular financial transactions or records. In this respect, the "ends of justice" weigh heavily in favour of allowing Mr. G. Rohland relief from the fact that he failed "to make discovery of or produce for inspection on copying a document as required".

[44] In sum, the weighing of the four *Cook* factors supports the Court allowing Mr. G. Rohland to tender as evidence the subject documents.

6.0 Conclusion

[45] As part of his examination-in-chief, Mr. G. Rohland may tender the subject documents as evidence. These documents are:

- Binder 20 (Exhibit Z), Tabs II.1 and II.2, Tabs III.4 to III.8, and Tab III.10; and

- Ten emails sent to or from the 074 email address in August and September 2016 which are part of the document production made by Mr. G. Rohland in response to the order the Court made on September 29, 2026.

[46] After Mr. G. Rohland has completed his testimony (including all cross-examination) and Ms. Zane has completed her testimony, Mr. G. Rohland may then apply to recall Mr. M. Rohland.

"Funt J."

2026 BCSC 2153 (CanLII)