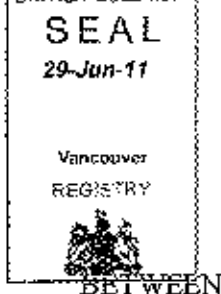


Amended pursuant to Rule 24-1(11) of

Supreme Court of British Columbia
Original Writ and Statement of Claim filed June 30, 2010



No. VLC-S-S-104826
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

GLENN WALSH

PLAINTIFF

AND

BDO DUNWOODY LLP BDO CANADA SRL and
JAS BUTALIA

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

Amended pursuant to Rule 24-1(11) of
The Rules of Court

No. VLC-S-S-104826
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

GLENN WALSH

PLAINTIFF

AND

BDO DUNWOODY LLP BDO CANADA SRL and
JAS BUTALIA

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

1. The Plaintiff is a consultant and Canadian citizen presently resident in Malta with a residential address of #12, Flat 3, Cathedral Street, St. Paul's Bay, Malta, SPB 09. Prior to December 29, 1998, the Plaintiff was resident of Canada residing in Kamloops, British Columbia.
2. The Defendant BDO Canada LLP BDO Canada SRL ("BDO") is a limited liability partnership duly constituted pursuant to the laws of the province of Ontario and extra-provincially registered in the province of British Columbia, with a registered office at 600 - 925 West Georgia Street, Vancouver, British Columbia V6C 3L2. At all material times BDO provided professional accounting and tax planning services to the Plaintiff including from offices in British Columbia, including 300 - 272 Victoria Street in Kamloops, under its former name "BDO Dunwoody LLP".
3. The Defendant, Jas Butalia ("Butalia"), is a chartered accountant and an accredited member of the Institute of Chartered Accountants of British Columbia, with a residential address of 211 Bearspaw Hills Road, Calgary, Alberta T3R 1B3. At all material times Butalia was a partner of BDO providing professional services to the Plaintiff in British Columbia.
4. At all material times, the Defendants were engaged by the Plaintiff as his professional advisors, and were under contract and under independent duties of care to provide advice commensurate with the standard of care of competent chartered accountants specialized and with expertise in taxation matters, tax planning and in Departure Trades as hereinafter

described. The Defendants specifically represented to the Plaintiff in British Columbia their expertise as aforesaid.

5. In 1997 and 1998 the Defendants counselled the Plaintiff to engage in a series of transactions ("Departure Trades") which they represented would result in a deductible expense which the Plaintiff would be entitled to use to reduce the Plaintiff's Canadian taxable income to nil for his 1998 taxation year (the "Taxation Plan"). The object of the Taxation Plan was to enable the Plaintiff to depart Canada and cease to be a resident of Canada without having incurred Canadian income tax liability for 1998, and not be subject to further income taxation by Canada.

6. In devising the Taxation Plan, the Defendants undertook to act for and on behalf of the Plaintiff in circumstances which gave rise to a professional relationship including a fiduciary relationship of trust and confidence.

7. The Taxation Plan devised by the Defendants required in part that:

- (a) The Plaintiff borrow in June, 1998, a substantial amount (the "Loan") for a qualified investment prescribed by it on terms which required the Plaintiff:
 - (i) on December 31, 1998 to pay interest accrued to that date, at 8.74% per annum; and
 - (ii) on January 15, 1999 to pay further interest and repay the principal in full.
- (b) The Plaintiff depart Canada and cease to be a resident of Canada on December 29, 1998;

8. The Defendants represented to the Plaintiff that the Loan interest accruing up to and payable on December 31, 1998 would qualify as a deduction from the Plaintiff's income for his Canadian 1998 taxation year to reduce his taxable income to nil.

9. The Plaintiff relied upon the Defendants' representations concerning the efficacy of the Taxation Plan and, upon the advice of the Defendants, on December 29, 1998 departed Canada and then ceased to be a resident of Canada, after which he paid the interest payment

above referred to on December 31, 1998 and met and paid the remaining Loan obligations as and when due, all in accordance with the Taxation Plan.

10. However, the taxation plan failed. In particular, and without limitation, the Defendants failed to take into account section 114 of the *Income Tax Act, R.S.C. 1985, c.1 (5th Supplement)* and the fact that allowable deductions from the Plaintiff's 1998 taxable income were limited to amounts which reasonably related to the partial period during which the Plaintiff was a resident of Canada. The interest expense paid by the Plaintiff on December 31, 1998 was not paid at a time when he was a resident of Canada and, accordingly, was not deductible as it arose in the period of the year in which he was not a resident of Canada. As a result, the Plaintiff has been damaged.

Part 2: RELIEF SOUGHT

1. The Plaintiff seeks to recover from the Defendants, jointly and severally, general damages, special damages particulars of which will be delivered and special costs.

Part 3: LEGAL BASIS

1. The Defendants' advice and representations were erroneous and given and made to the Plaintiff in breach of the Defendants' contract, tort and fiduciary duties to the Plaintiff in breach of the requisite standard of care (the "professional negligence") including failure to take into account and meet the requirements of s.114 of the *Income Tax Act R.S.C. 1985 c.1 (5th Supplement)*.

2. The Defendants' professional negligence above referred to was reiterated after the Plaintiff's tax return in respect of 1998, prepared by the Defendants, was re-assessed by Revenue Canada which disallowed the deduction above referred to. This reiteration never was withdrawn notwithstanding the professional duties of care which the Defendants continued to owe the Plaintiff during their continued retainer including in respect of evaluation of the re-assessment. Nor was the reiteration ever withdrawn.

3. As a direct consequence of the Defendants' professional negligence, the Plaintiff

has been damaged.

4. The Defendants' professional negligence took place in British Columbia.

Fax number address for service: 604.925.8984
E-mail address for service: *none authorized*
Place of trial: Vancouver, B.C.
The address of the registry is: Vancouver Law Courts
800 Smithe Street
Vancouver, BC V6Z 2E1

Date: June 30, 2010



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McLean & Armstrong LLP
per: Brian G. McLean
(Lawyer for the Plaintiff)

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(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.

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The Plaintiff claims to recover damages from the Defendants for professional negligence in providing advice on taxation matters.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

[Check one box below for the case type that best describes this case.]

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES

[Check all boxes below that apply to this case]

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

Reliance is placed on the *Income Tax Act* RSC 1985 C.1 (5th Supplement)

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]