

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***Han v. Cho***,
2008 BCSC 1568

Date: 20081117
Docket: L050150
Registry: Vancouver

Between:

Chul-Soo Han and Suk Hee Park and Jae Bok Yun

Plaintiffs

And:

**Soonam Cho, also known as Jeong Eun Cho, also known as
Jung Eun Cho, also known as Soon Yi Jung, also known as
Cho Chong-Un, also known as Su-Nam Cho, also known as Bora Kang,
Subi Park, also known as Subi Yu,
Jioh Park also known as Jioh Yu, also known as Yang Hyun Park
and Young Chan Shim**

Defendants

Before: The Honourable Madam Justice Griffin

CHAMBERS RULING

Counsel for Plaintiffs:

F.G. Potts
T. Goepel

The Defendants, Soonam Cho & Subi Park:

No one appearing

The Defendant, Jioh Park:

Appearing on her own behalf

Date and Place of Hearing:

November 5, 2008
Vancouver, B.C.

[1] **THE COURT:** The plaintiffs have brought two applications to strike the statements of defence, appearances and counterclaims of the defendants based on the defendants' failure to comply with their discovery obligations.

[2] The trial is scheduled to commence December 1, 2008. Whether or not all issues on the pleadings will be live issues at the trial depends on the outcome of the plaintiffs' applications.

[3] I have decided to dismiss the plaintiffs' applications to strike the defendants' pleadings. Because of the importance of letting the parties know sufficiently in advance of trial so that they can prepare for trial, I have delivered this ruling now, with reasons to follow.

[4] The plaintiffs will remain free to argue at trial that the defendants' failure to attend discovery in a timely way, and the defendants' failure to produce documents at all or in a timely fashion, ought to result in the court drawing

adverse inferences against the defendants and ought to be taken into account in any costs award at trial.

[5] I also order the following ancillary relief in respect of the plaintiffs' applications:

(a) no matter what the outcome of the current litigation, the defendants Jioh and Subi Park must pay the plaintiffs' out-of-pocket disbursements thrown away as a result of the examinations for discovery that these defendants did not attend on August 27 and 28, 2008, including the costs incurred in relation to any of the plaintiffs travelling from and returning to Korea in order to attend and instruct counsel on the discoveries; and,

(b) the defendant Subi Park is ordered to produce to counsel for the plaintiffs the documents in her possession or control relating to her application for refugee status in Canada.

[6] Finally, I must emphasize to the defendants that, while I have decided to not strike out their pleadings, they have ongoing obligations to produce documents to the plaintiffs including bank records. This court has previously ordered the defendants to produce all banking records, Korean, Canadian, or otherwise, in their names or in the names of aliases between the period of February 11, 2004 to October 10, 2008, without exception. The defendants do not have the option of refusing to produce these records or of arguing that the records are not relevant.

[7] Given the impending trial date, I will seek submissions on costs of this motion at the close of trial.

"S. Griffin, J."

The Honourable Madam Justice S. Griffin