

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *0844842 B.C. Ltd. v Pinnacle Wealth
Brokers Inc.*,
2026 BCSC 1902

Date: 20260909
Docket: S1914722
Registry: Vancouver

Between:

**0844842 B.C. Ltd., Mei Chen, Zhongheng Chen, Xin Dai,
Wei Dong Deng, Liping Gu, Xiaohong Guo aka Jean Guo, Xiaodong He,
Ziyan Huang aka Peter Huang, Jing Lu, Xuesong Leng, Hang Li, Ming Li,
Shi Lin Liu, Dongmin Liu, Hong Tao, Qiongzhi Wang, Biao Wang,
Shuying Weng, Jun Xia, Wei Xiao, Lin Xu, Jing Xu, Shumin Xu, Jie Yang,
Chun-Xiao Yu, Linmei Zhang, Haiyan Zhang, Xiaoping Zhao, Huiyan Zhou,
Xiaofang Zhou, Min Zou, Jing Chen, Caibin Chen, Zhi Qing Feng, Yue Gu,
Liyao Hao, Longhua Jin, Zhiping Lei, Weiwei Li, Xiao Lu Mao, Xin Qi, Yong Qin,
Ai Tao Shen, Tian Cheng Wang, Da Gang Simon Ye, Shioh Lan Yin,
Fiona Young, Yelin Zhang, Xiao Tian Zhang, Yunlong Zhao, Xian Zhao,
Xiling Zou, Richard Cai, Ye Qing Chen, Chao Cheng, Chao Cheng,
Guoliang Ding aka Luke Ding, Li Han, Victor Jia, Changjiang Jia, Li Li, Sha Li,
Xiu Qing Lin, Lin Yu Yin, Lianghuan Liu, Jian Hong Luo, Baoping Qi,
Xiaoxing Shi, Wei Tan, Jing Wang, Ling Ling Wang, Yi Wang, Zhaorong Wang,
Wan Cheng Xu, William Ye, Hui Ping, Yan Yun Chen, Tao Chen, Beifen Chen,
Aijuan Ding, Xinping Guo, Xiao Nino Guo, Wenli Lei, Yong Li, Guohong Lin,
Jianxun Liu, Ying Liu, Jian Ru, Fu Hui Wang, Chuan Wei, Conway Wu
and Shao Li Yan**

Plaintiffs

And

**Pinnacle Wealth Brokers Inc., Wai Ping Chan aka Phoebe Chan,
Ji Liang Hou aka Jackson Hou, Maggie Hu, William Liu, Ying Xue, Yong Yang,
Wenbo Zhang aka Davis Zhang, Leo Zhang, Weslease Income Growth Fund,
Marvin Jones, Keith Talbot, Randy Hayward, Herbert Rainford-Towning,
Ranbir Kang aka Ron Kang, Jay Simmons, Joseph Loughheed
and Weslease of Canada Ltd.**

Defendants/Plaintiffs by way of Counterclaim

Before: The Honourable Mr. Justice Coval

On appeal from: An order of an Associate Judge of the Supreme Court of British
Columbia, dated April 1, 2026 (*0844842 BC Ltd. v Pinnacle Wealth Brokers Inc.*,
Vancouver Docket S1914722).

Oral Reasons for Judgment

In Chambers

The Plaintiff, Xiaoping Zhao, appearing in person:

X. Zhao

The Plaintiff, Hong Tao, appearing via videoconference:

H. Tao

Counsel for the Defendants/Plaintiffs by way of Counterclaim, Pinnacle Wealth Brokers Inc. and Wenbo Zhang aka Davis Zhang:

C. Rempel
J. Houston

Place and Date of Hearing:

Vancouver, B.C.
August 18, 2026

Place and Date of Judgment:

Vancouver, B.C.
September 9, 2026

[1] **THE COURT:** The plaintiffs appeal the April 1, 2026 decision of an associate judge, dismissing their claim for unreasonable delay in prosecution, as against the defendants Pinnacle and Davis Zhang.

[2] The parties agreed that, because the dismissal was a final order, the standard of review in this appeal is correctness. So this calls for a new hearing to decide whether the claims should be dismissed.

[3] The defendants rely on the plaintiffs having taken no formal steps to advance the case since they filed it in December 2019, so for approximately five and a half years, and that the allegations are professional misconduct, which the case law says calls for speedier prosecution: *Giacomini Consulting Canada Inc. v. The Owners, Strata Plan EPS 3173*, 2023 BCCA 473, para 38.

[4] The plaintiffs respond that it would not be in the interests of justice to dismiss their case when they have lost significant amounts of money invested with Pinnacle, and their lawyer withdrew in June 2023 leaving them unable to find a replacement willing to take the case.

[5] In terms of the plaintiffs' actual alleged losses, the evidence indicates that the total losses involved in this investment were around \$68 million of investor funds, all lost in the bankruptcy of the Weslease entities for which Pinnacle was raising investor funds. I believe the plaintiffs said during their submissions that approximately \$10 million of that was their money, but at times they did refer to the entire \$68 million as well. In either case, the plaintiffs' alleged losses are a significant amount.

Background Facts

[6] The plaintiffs are 94 individuals and one corporation who invested in the Weslease Income Growth Fund through Pinnacle as their broker.

[7] Pinnacle is a registered exempt market dealer in British Columbia and across Canada. Pinnacle sold trust units to investors. The investor money was then loaned

to the Weslease partnership, which issued promissory notes at 12% per year. Weslease invested the funds mainly in office and other types of equipment, which it leased to business operators in industries such as dental and health care.

[8] Overall, as I said, Weslease raised about \$68 million in this way from investors from 2014 to 2016. In 2018, Weslease went into receivership under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, and as I mentioned, the plaintiffs allege losing their entire investment.

[9] The notice of civil claim was filed December 31, 2019. It was prepared by the plaintiffs' former lawyer, Derek Young, then with DS Lawyers Canada LLP. Against Pinnacle and Mr. Zhang, it alleged between 2014 to 2017 breach of fiduciary duty, fraudulent misrepresentation, and breach of oral agreements about the Weslease investments. The response and counterclaim were filed by these defendants on February 10, 2020, and amended in November 2020, denying all the allegations.

[10] On November 27, 2020, the plaintiffs obtained an order renewing their notice of civil claim for six months and providing for substitute service on some of the defendants. In August 2022, DS Lawyers proposed to deliver the plaintiffs' initial list of documents in October. That did not occur, and the plaintiffs have not delivered a list of documents.

[11] On November 23, 2022, DS Lawyers advised the defendants that Mr. Young had left the firm and that the firm was seeking direction from these plaintiffs regarding ongoing representation. Pinnacle's lawyers followed up with correspondence in December 2022 and January and February 2023 regarding status but received no response. In May 2023, there was a case planning conference arranged by counsel for Pinnacle and Mr. Zhang. DS Lawyers appeared at the conference and advised that they intended to withdraw. Their notice of withdrawal was filed in June 2023.

[12] The trustees of the trust units sold by Pinnacle applied to dismiss the claims against them, and that application was granted on October 25, 2024. As

I understand it, that application was based on lack of prosecution and lack of merits. On June 25, 2025, Pinnacle and Mr. Zhang served this application. The plaintiffs responded in July 2025. The application was originally scheduled for August 2025 but was subsequently adjourned more than once due to insufficient court time.

[13] The application before the associate judge was on April 1, 2026. The plaintiffs did not appear despite being served. The associate judge was satisfied that there had been inordinate delay, without any tenable excuse, and concluded that it was not in the interests of justice for the action to proceed in applying the *Giacomini* test.

Plaintiffs' Position

[14] The plaintiffs say they have never decided to abandon their claims. They say that, as innocent investors, they have lost significant amounts due to relying on Pinnacle's advice.

[15] Ms. Tao, for example, whose daughter spoke at the application, is a single mother who alleges losing \$250,000. They say the lack of progress in their case is mainly due to their lawyer withdrawing in June 2023 and then awaiting the outcome of two things: first, their complaint to the Law Society about the \$158,000 in fees paid to their previous firm; and second, awaiting the decision of the Alberta Securities Commission's investigation into the Weslease bankruptcy, which was not published until March 2024.

Governing Law

[16] Under the leading case of *Giacomini*, if the defendant establishes inordinate delay in the prosecution, meaning delay that is excessive in the circumstances, and that delay is inexcusable, then the case should be dismissed unless that is contrary to the interests of justice.

[17] The factors to be considered in assessing the interests of justice include:

- (a) the prejudice the defendant will suffer defending the case at trial;
- (b) the length of the delay;

- (c) the stage of the litigation;
- (d) the impact of the delay on the defendant's professional, business, or personal interests;
- (e) the context in which the delay occurred, in particular whether the plaintiff delayed in the face of pressure by the defendant to proceed;
- (f) the reasons offered for the delay;
- (g) the role of counsel in causing the delay; and
- (h) the public interest in having cases that are of genuine public importance heard on their merits.

[18] The power to dismiss an action for want of prosecution is not to be lightly exercised because it deprives a plaintiff of adjudication on the merits. This must be weighed, however, against the interests of the defendants and society more generally in the efficient resolution of civil disputes.

[19] The Court in *Giacomini* generally shifted the focus in these types of applications from, whether the delay in prosecution has prejudiced the defendant's ability to have a fair trial, to a broader focus on the interests of justice that is to consider both the public confidence in the justice system and the justice system's interest in promoting access to justice by having cases resolved in a timely manner.

Analysis

[20] The plaintiffs' delay has been excessive and inexcusable.

[21] No steps have been taken since the claim was filed in December 2019, other than in November 2020 renewing the notice of civil claim and obtaining orders for substitute service.

[22] Although the plaintiffs have a reasonable explanation for some of this delay, for much of it they do not. There is no explanation for the absence of progress from late 2020 to early 2023 when represented by DS Lawyers. It may be the case that they were following legal advice and awaiting the decision of the Alberta Securities Commission, but this certainly should not have prevented them from taking some

steps in the litigation such as, at least, production of documents and examinations for discovery. It is understandable that some delay might have followed the withdrawal of DS Lawyers in June 2023, particularly because the plaintiffs' evidence is that they then tried in vain to find other lawyers. But again, the lack of any steps since that time cannot be excused. If no lawyer could be found, the plaintiffs needed to find a way to advance the case themselves.

[23] Turning to the interests of justice, in my view, the key considerations in these circumstances favouring the plaintiffs are the large losses they have suffered as individuals and their inability to find legal representation since June 2023.

[24] On the defendants' side is the length of inexcusable delay, the prejudicial impact of that on the defendants given the nature of the allegations and claims, and that more than a decade has passed since these investments were made.

[25] I give little weight to the plaintiffs' submission that many if not most of them may not speak English or reside in Canada. There is no evidence about those factors. Given the number of plaintiffs involved and the amounts of money involved, it is reasonable to assume many if not most would be sophisticated enough to find a small group to move the litigation forward on their behalf. Nor do I give weight to them being such a large group and therefore awkward to manage. It was their decision, with legal advice, to bring the case in this manner rather than with particular representatives or a test case. If anything, their size has the advantage of spreading the cost of litigation between many of them. So, for example, the \$158,000 they spent on their initial firm is less than \$1,700 each.

[26] Regarding the merits, I give some weight to the fact that the Alberta Securities Commission, in lengthy reasons after a hearing that included around 15 witnesses including seven investors, dismissed the case against Weslease. The witnesses in that hearing included Pinnacle's principal, Mr. Robert Anderson, whom the Commission found sincere and credible and who himself had invested around \$82,000 in 2014/2015. The Commission found some poor business decisions and problematic due diligence in rapidly changing economic conditions, but the evidence

did not support the allegations of misrepresentation, either express or by omission to Pinnacle or the existing or prospective investors. Those are mainly, of course, findings about Weslease, not Pinnacle, but it is some evidence that investors were generally not misled and of the Commission's impression of Pinnacle's principal.

[27] Balancing all of this, in my view it is not in the interests of justice to allow the case to continue. The main reasons for this are that (a) it has languished for far too long for this type of case, to the prejudice of the defendants; (b) importantly, in all this time, apart from the notice of civil claim, prosecution of the case has not even begun; and (c) the plaintiffs have demonstrated in this application no plan of how they would move it forward efficiently from here.

Conclusion

[28] The appeal from the associate judge's April 1st, 2026 decision is dismissed.

[SUBMISSIONS ON COSTS]

[29] THE COURT: Yes, I just have to -- I will order -- I do not see any reason not to make the usual order, so I will order costs of this appeal to the defendants, Pinnacle and Mr. Zhang, and it is obviously not in the cause because the cause is done. So, it is just costs to Mr. Zhang and Pinnacle as against the plaintiffs.

[30] All right. Thank you all very much. We'll adjourn there.

“Coval J.”