

CANADA / JUDGMENT

Choi v. Slopinski

2026 BCCA 12

COURT

British Columbia Court of Appeal

DECIDED

12 January 2026

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2026 BCCA 12 Choi v. Slopinski

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

Choi v. Slopinski,

2026 BCCA 12

Date: 20260112

Docket: CA51163

Between:

Munchang Choi

Appellant

(Plaintiff)

And

Sandra Slopinski, Michele Vincenti, Mazi Shirvani, Stephanie Chu,

Amirali Nourbakhsh, Sandra Song, University Canada West

Respondents

(Defendants)

Before:

The Honourable Madam Justice Horsman

(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated

November 10, 2025 (Choi v. Slopinski, 2025 BCSC 2226,
Vancouver Docket S250289).

The Appellant, acting on his own behalf:

M. Choi

Counsel for the Respondents:

M.D. McDonald

A. Ng, Articled Student

Written Submissions Filed by the Appellant:

December 10, 2025

Written Submissions Filed by the Respondents:

December 31, 2025

Place and Date of Judgment:

Vancouver, British Columbia

January 12, 2026

Summary:

The appellant appeals the orders of a chambers judge striking his claim on the basis it does not disclose a reasonable cause of action, without leave to amend. He applies for a no fee order and an order staying the enforcement of the costs order in the court below. Held: The no fee order is granted; the stay is granted in part. The costs order may not be enforced pending the determination of the appeal but the respondents may proceed with a scheduled hearing before the Registrar to assess costs.

Reasons for Judgment of the Honourable Madam Justice Horsman:

- [1] The appellant, Mr. Choi, applies for a no fee order and an order staying the enforcement of the costs order made in the court below pending the determination of his appeal.
- [2] The hearing of these applications was scheduled for January 6, 2026. Mr. Choi requested in advance that the hearing proceed in writing. He stated that he had mental health challenges that caused him to experience anxiety when appearing in court. The respondents objected to a written hearing.

- [3] In a memorandum to the parties, I indicated that I was satisfied that the applications could fairly be heard in writing. They are straightforward and routine interlocutory applications that involve the application of well-established tests to facts that are not in significant dispute. As noted in my memorandum to the parties, my conclusion that these applications could be heard in writing does not affect the mode of hearing of any future court appearance in this proceeding.

Background

The notice of civil claim

- [4] This proceeding originally commenced with Mr. Choi's filing of a notice of civil claim on January 14, 2025. He filed an amended notice of civil claim (the "Amended NoCC") on January 28, 2025. Mr. Choi is self-represented in this proceeding.
- [5] As alleged in the Amended NoCC, Mr. Choi is a student enrolled in the Master of Business Administration program at the defendant University of Canada West ("UCW"). He became concerned that two of his instructors had used course material that contained extensive uncredited third-party content. Mr. Choi filed complaints against the instructors, alleging that they had engaged in plagiarism. He was dissatisfied with UCW's response to the complaints, prompting him to commence this proceeding. The defendants are UCW and six individuals who are instructors, former instructors, or administrators at UCW.
- [6] The Amended NoCC includes the following allegations:
- a) UCW's conduct in penalizing students for plagiarism while failing to address the same conduct by instructors created a double standard that undermined fairness, transparency, and institutional credibility;
 - b) UCW's failure to uphold its own policies undermined the academic environment and directly harmed Mr. Choi's educational experience by diminishing trust in the institution's ability to maintain integrity;
 - c) UCW's lack of action in the face of Mr. Choi's complaints allowed the continued use of plagiarized material, which compromised course integrity;
 - d) The use of plagiarized course content caused Mr. Choi significant academic challenges including reduced learning outcomes; and
 - e) Mr. Choi's academic and professional prospects were materially damaged.
- [7] The relief sought in the Amended NoCC includes a variety of orders that are clearly beyond the jurisdiction of the court to grant in the context of private civil dispute, including orders requiring UCW to: (1) conduct a thorough, independent investigation into the allegations of plagiarism, overseen by a neutral third party; (2) provide a detailed public report on its findings; (3) implement a formal appeals process for students to challenge academic decisions; (4) adopt state-of-the-art plagiarism detection tools; (5) establish periodic course

content audits to be conducted by external experts; (6) establish faculty training programs; and (7) develop a whistleblower protection policy.

- [8] Mr. Choi also seeks the more conventional form of relief of an award of damages to compensate him for the alleged harm to his academic and professional reputation and prospects due to the defendants' conduct.
- [9] The causes of action in the Legal Basis section of the Amended NoCC are: (1) breach of contract; (2) violation of the Canadian Human Rights Act, R.S.C. 1985, c. H-6, and Accessible Canada Act, S.C. 2019, c. 10; and (3) negligence.

The chambers judgment

- [10] The respondents filed a motion to strike the Amended NoCC pursuant to R. 9-5(1) of the Supreme Court Civil Rules, B.C. Reg. 168/2009 [SCCR].
- [11] In reasons for judgment issued on November 10, 2025, the chambers judge concluded it was plain and obvious that the Amended NoCC did not disclose a reasonable cause of action and therefore should be struck in its entirety under R. 9-5(1)(a) of the SCCR: *Choi v. Slopinski*, 2025 BCSC 2226 ("RFJ").
- [12] The chambers judge found that Mr. Choi's main complaint--plagiarism--was not a cause of action.
- [13] While Mr. Choi had pleaded breach of contract, the chambers judge noted that the Amended NoCC did not set out any material facts to support the cause of action. She found that he had not pleaded with sufficient clarity "what the alleged agreements are, what terms are alleged to be breached, causation, and the alleged damages that flow from the breach": RFJ at para. 25. The chambers judge characterized the allegations of breach of contract as "vague": RFJ at para. 25.
- [14] The chambers judge found that the allegation that the respondents had contravened the Canadian Human Rights Act and Accessible Canada Act also did not disclose a reasonable claim because these statutes only apply to federally regulated entities.
- [15] Finally, the chambers judge concluded that Mr. Choi had not pleaded the required material facts to support a cause of action in negligence against any of the respondents.
- [16] The chambers judge further noted that many of the remedies sought in the Amended NoCC--such as an independent investigation, a public report and a requirement that UCW implement plagiarism detection tools--were outside the jurisdiction of the Court.

- [17] Mr. Choi provided a proposed second amended notice of civil claim in advance of the hearing of the application before the chambers judge that alleged additional causes of action and included amendments to the existing causes of action. The chambers judge concluded that the proposed amendments did not disclose reasonable causes of action or remedy defects in the existing pleading.
- [18] The chambers judge thus found it was plain and obvious that the Amended NoCC did not disclose any reasonable cause of action and that a further amendment would not cure the defects. Accordingly, Mr. Choi was not granted leave to amend his pleading.
- [19] The chambers judge concluded that distilled to its essence, Mr. Choi's claim concerned his belief that UCW's position that the institution's no-plagiarism policy did not apply to faculty was unfair. In the view of the chambers judge, the issue of the application of the no-plagiarism policy was a matter of "academic judgment which is for the university to adjudicate except on an application for judicial review": RFJ at para. 52. The chambers judge cited this Court's decision in *Albu v. The University of British Columbia*, 2019 BCCA 222, in support of this conclusion.
- [20] The chambers judge ordered that the respondents were entitled to their costs from Mr. Choi at Scale B.

The costs assessment

- [21] On November 24, 2025, counsel for the respondents delivered Mr. Choi their bill of costs, claiming a total of \$8,120.35 in costs and disbursements, as well as a certificate of costs. Counsel advised that the respondents had reserved January 21, 2026, for an appointment before the Registrar to have costs assessed if Mr. Choi did not agree with the amount claimed. Mr. Choi advised counsel for the respondents that he did not agree with the amount claimed and would not sign the certificate of costs.
- [22] On November 27, 2025, Mr. Choi filed and served his notice of appeal.
- [23] A hearing to assess costs is scheduled to proceed before the Registrar at 2 pm on January 21, 2026.

The applications in the Court of Appeal

The application for a no fee order

- [24] The jurisdiction to order that no fees are payable is found in R. 85 of the Court of Appeal Rules, B.C. Reg. 120/2022. The Registrar has determined that Mr. Choi meets the criteria to establish undue hardship. Pursuant to R. 85(6)(a), I must still be satisfied that the appeal is not bound to fail, is not scandalous, frivolous or vexatious, and is not an abuse of court process.

- [25] The merits assessment is a low threshold in this context. The chambers judge provided thorough reasons for her decision, and her analysis is unassailable in many respects. Mr. Choi has pleaded multiple causes of action without regard to the requirement to plead material facts, the differing positions of the respondents, and the limits of the court's remedial jurisdiction in the context of a private civil claim.
- [26] Nevertheless, it appears to me at least arguable that the chambers judge erred in declining to grant leave to Mr. Choi to plead a more focused claim in contract against UCW. There appears to be no dispute that Mr. Choi was enrolled at UCW and paid tuition costs. There was some form of a contractual relationship between Mr. Choi and UCW, even if he failed to properly plead the terms of the contract.
- [27] There is also some cause to question the chambers judge's reliance on *Albu* in support of the proposition that a superior court does not have jurisdiction to adjudicate matters that are fundamentally academic except through an application for judicial review. The respondent in *Albu* was the University of British Columbia ("UBC"), a public university that is governed by a provincial statute--the University Act, R.S.B.C. 1996, c. 468. UCW is a private university. There may be a question as to whether the acts of UCW that Mr. Choi complains of are of a sufficiently public character to be amenable to judicial review: *Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall*, 2018 SCC 26.
- [28] It is unnecessary for me to say more about the strength of Mr. Choi's appeal on this ground. The question of whether an institution such as UCW is amenable to judicial review is not a straightforward one. It may be arguable that there is a functional equivalence between UCW and a public university such as UBC, and that this is sufficient to give UCW's decisions a public character that may ground a judicial review application.
- [29] Regardless, it seems to me at least arguable in these circumstances that a properly pleaded claim for breach of contract is the appropriate--and only--remedy for UCW's alleged non-compliance with its own policies.
- [30] For these reasons, I am persuaded that Mr. Choi's appeal is not frivolous or bound to fail. Therefore, I grant his application for an order that no fees are payable under Schedule 2 of the Court of Appeal Rules in this appeal.

The application for a stay

- [31] Mr. Choi seeks an order staying the enforcement and operation of the cost order made by the chambers judge pending the determination of his appeal, including any application for leave to appeal and appeal from this Court to the Supreme Court of Canada. Mr. Choi specifically asks that the stay order include a term restraining the respondents from proceeding with the costs assessment hearing currently scheduled before the Registrar for January 21, 2026.

- [32] Section 33(1) of the Court of Appeal Act, S.B.C. 2021, c. 6, gives a justice of this Court the power to "order a stay of all or part of proceedings, including execution, in the cause or matter from which the appeal is brought".
- [33] The test to be applied is set out in *RJR-MacDonald Inc. v. Attorney General (Canada)*, [1994] 1 S.C.R. 311, 1994 CanLII 117 ("RJR"). The applicant must show that: (a) there is merit to the appeal in the sense that there is a serious question to be tried; (b) the applicant will suffer irreparable harm if the stay is not granted; and (c) on balance, the inconvenience to the respondent is not higher than to the applicant.

The merits threshold

- [34] For the reasons I have explained in addressing Mr. Choi's application for a no fee order, I do not consider his appeal to be frivolous or bound to fail. Therefore, he meets the low merits threshold on the first prong of the RJR test.

Irreparable harm and balance of convenience

- [35] In addressing the remaining stages of the RJR test, it is important to examine the parties' positions on irreparable harm and prejudice and to distinguish between the assessment of costs and the enforcement of the costs order.

Enforcement of the costs order

- [36] Mr. Choi's primary argument is that he simply cannot afford to pay the costs claimed--or any comparable amount--in his current financial circumstances without jeopardizing his family's basic needs and payment of their disability-related expenses. He maintains that if the cost order is enforced before the appeal is heard, his family's housing, food supply and access to medical care will be endangered, creating a real risk that he will effectively be forced to abandon his appeal. At the very least, Mr. Choi and his family will suffer significant, and non-compensable, disruption and hardship that may prove unnecessary if he succeeds on his appeal.
- [37] The respondents argue that Mr. Choi has not demonstrated irreparable harm, or any form of prejudice, because there is no evidence suggesting that they intend to take steps to collect their costs before the appeal is determined. The respondents wish to proceed with the hearing before the Registrar to assess costs because this will: (1) avoid further delay when and if Mr. Choi's appeal is dismissed; and (2) allow them to consider bringing an application in this Court for security for costs in the court below, which generally will not be granted by this Court until costs are assessed by the Registrar: *Clark v. Matossian Estate*, 2025 BCCA 274 at paras. 14-19.
- [38] However, the respondents say the fact that they wish to have costs assessed does not mean they intend to enforce the costs award at this time. They rely on the judgment of Justice Hunter in *Nourifard v. Emadzadeh*, 2024 BCCA 49 in support of the proposition that a stay of

a costs order should not be granted absent evidence of a high degree of probability that the respondent will take steps to enforce the costs order during the currency of the appeal absent a stay: at paras. 43-44. In *Nourifard*, Justice Hunter dismissed the application for a stay but granted the appellant leave to re-apply if the respondent took steps to execute on the costs award.

- [39] In my view, the circumstances of *Nourifard* are distinguishable from the present case in two important respects. First, the respondent in *Nourifard* had not taken steps to have costs assessed and he had brought an application for security for trial costs. Justice Hunter found this was not consistent with an intention to seek costs during the pendency of the appeal. In the present case, the respondents have taken steps to assess costs and they have not--as of yet--applied in this Court for security for costs in the court below. The respondents make no commitment not to take steps to enforce the costs order, which they will be able to do as soon as the costs are assessed.
- [40] Second, the appellant in *Nourifard* was represented by counsel and the irreparable harm he alleged was purely financial: the risk that the appellant would be unable to recover the costs if he succeeded on the appeal. In the present case, Mr. Choi is self-represented and the irreparable harm relates to housing and food security for him and his family, as well as their proper medical care. In the exceptional circumstances of this case, I see no reason why Mr. Choi should have to take a wait and see approach, left only with the remedy of returning to court if the respondents choose to take steps to enforce costs.
- [41] In my view, Mr. Choi has demonstrated that irreparable harm may result from the refusal of a stay of the enforcement of the costs order pending the determination of the appeal. The respondents have provided no evidence of prejudice if enforcement is stayed. Therefore, the balance of convenience also favours the granting of a stay of enforcement.

The hearing to assess costs before the Registrar

- [42] I am not persuaded that the stay should extend to the hearing before the Registrar to assess costs scheduled for January 21, 2026. Mr. Choi argues that even preparing for and attending a contested hearing before the Registrar is difficult for him because of: (1) his need to arrange for alternative care for his son as his wife is presently out of the country, and (2) his psychiatric difficulties in coping with real-time adversarial proceedings. In my view these difficulties do not amount to irreparable harm within the meaning of the RJR test.
- [43] The fact is that Mr. Choi is engaged in an adversarial proceeding that he initiated. This proceeding has required, and will continue to require, Mr. Choi to participate in court hearings that may be contested and that he may find difficult. The respondents, for their part, are presumptively entitled to costs, having succeeded in a proceeding that they were brought into by Mr. Choi. It would be prejudicial to the respondents to unnecessarily add to their delay by preventing them from proceeding with a hearing before the Registrar. Therefore, the balance of convenience favours the refusal of a stay in relation to the

Registrar's hearing.

[44] Accordingly, I consider it appropriate to make an order staying the enforcement of the costs order against Mr. Choi until the appeal is determined but not to stay the hearing before the Registrar. The partial stay will only extend to the determination of Mr. Choi's appeal to this Court, and not to any future proceedings in the Supreme Court of Canada.

Disposition

[45] For the foregoing reasons, I make the following orders:

- a) Mr. Choi's application for an order that no fees are payable under Schedule 2 of the Court of Appeal Rules in this appeal is granted;
- b) Mr. Choi's application for an order staying the enforcement of the chambers judge's costs order is granted in part:
 - i. No steps shall be taken by the respondents to enforce the costs order against Mr. Choi pending the determination of this appeal;
 - ii. The stay does not extend to the hearing to assess costs before the Registrar, which may proceed as scheduled.
- c) The costs of the stay application are in the cause.

"The Honourable Madam Justice Horsman"

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