Federal Court Cour fédérale

Date: 20250710

Docket: T-451-25

Citation: 2025 FC 1233

Ottawa, Ontario, July 10, 2025

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

LLOYD'S REGISTER CANADA LTD.

Applicant

and

MUNCHANG CHOI

Respondent

ORDER

UPON the motion brought informally in writing by the Applicant pursuant to Rule 74 of the *Federal Courts Rules*, SOR/98-106, for an Order removing the Motion Record filed by the Respondent on March 28, 2025 [Motion Record] from the Court file on the grounds that it is scandalous, frivolous, vexatious, and otherwise an abuse of process;

AND UPON the Order of Associate Judge Kirk Shannon dated May 27, 2025 requiring the Respondent to show cause why the Motion Record should not be removed from the Court file, and to:

(a) produce a copy of the decision in "*Fontaine v Canada*, 2004 FC 1777" cited in the Motion Record; and

(b) if artificial intelligence [AI] was used in the drafting of the Motion Record, provide submissions that address the Court's Practice Direction, *The Use of Artificial Intelligence in Court Proceedings*, dated May 7, 2024 [AI Practice Direction];

AND UPON reading the parties' submissions;

AND CONSIDERING the following:

The Respondent says that his use of generative AI tools was limited to drafting and preliminary research. He denies that the citation "*Fontaine v Canada*, 2004 FC 1777" was generated, or "hallucinated", by AI. Rather, he says that he intended to rely on *Fontaine v Canada (Attorney General)*, 2012 ONCA 206 [*Fontaine*], and made a mistake when writing the citation. He notes that he is a self-represented litigant with mental health issues, and asks the Court not to remove the Motion Record from the Court file and refrain from imposing punitive measures.

The Applicant replies that the latitude afforded a self-represented litigant has limits, and notes that the Respondent has previously relied on AI-generated cases in other proceedings (citing *Choi v Lloyd's Register Canada Limited*, 2024 CIRB 1146 at paras 73-79 [*Choi*]). In that case, a panel of the Canada Industrial Relations Board composed of Jennifer Webster, Vice-

Chairperson, said the following about the reliance of the Respondent (referred to in the Board's decision as the complainant) on AI-generated authorities (at paras 76-77):

> In this case, the complainant included references to over 30 legal decisions in his 125 pages of reply submissions. He made accurate references to two Board decisions, *Torres* and *Valenti*. These decisions had been cited in the respondent's submissions, and the respondent had filed the decisions, along with other Board decisions, in a book of authorities as part of its submissions. All other case references in the complainant's reply submissions were generated by AI.
>
> In some instances, the complainant's submissions rely on fabricated decisions of this Board to support his arguments […]
>
> The three "Board" decisions referenced in the above passage from the complainant's submissions are not actual decisions of the Board. In total, the complainant has misrepresented over 30 legal authorities and legal principles in his reply submissions to the Board. This misrepresentation undermines the credibility and reliability of his submissions.
>
> The complainant explained to the Board that the errors in his reply submissions were the result of his inexperience in litigation and his shortcomings in editing. Although the Board appreciates that the complainant is a self-represented party and may be inexperienced, he is nonetheless responsible for ensuring the accuracy of the submissions he files with the Board.

The Applicant says that the explanation provided by the Respondent for citing a non-existent case defies belief. *Fontaine* does not stand for the proposition for which it is cited in the Respondent's submissions, namely that "the Court has discretion to grant [a subpoena] when the presence of the witness is necessary for a just and fair adjudication of the matter". Instead, *Fontaine* concerns motions brought in the context of an appeal of a decision adding two residential schools to a schedule under the Indian Residential Schools Settlement Agreement and ancillary remedies, none of which concerned the issuance of subpoenas.

The Respondent's explanation for citing a non-existent case that was apparently generated by AI is unsatisfactory and cannot be accepted by the Court. As Justice David Masuhara of the British Columbia Supreme Court observed in *Zhang v Chen*, 2024 BCSC 285, "[c]iting fake cases in court filings and other materials handed up to the court is an abuse of process and is tantamount to making a false statement to the court. Unchecked, it can lead to a miscarriage of justice" (at para 29).

Pursuant to the Court's AI Practice Direction, parties must inform the Court and each other if any documents they submit to the Court for the purposes of litigation include content that was created or generated by AI. The Respondent was made aware of AI Practice Direction in *Choi* (at para 78), and admits to having used generative AI tools in preparing his submissions; however, he still has not provided the declaration required by the AI Practice Direction.

The undeclared use of AI in the preparation of documents filed with the Court, particularly when they include the citation of non-existent or "hallucinated" authorities, is a serious matter. In *Ko v Li*, 2025 ONSC 2965, a lawyer who relied on "fake case precedents" avoided a finding of contempt of court only because she took full responsibility for her actions and expressed appropriate contrition (at para 56 and following). The Respondent in this case has done neither, and continues to insist he has done nothing wrong.

In all of the circumstances, the removal of the Motion Record from the Court file is a very modest sanction.

Removal of the abusive Motion Record from the Court file is necessary to preserve the integrity of the Court's process and the administration of justice. A party who assists the Court in ensuring the orderly administration of justice should not have to suffer costs (*NM Paterson & Sons Ltd v The St Lawrence Seaway Managment Corp*, 2004 FCA 210 at para 18).

The Applicant has not requested costs on a solicitor-client basis, although such an award may have been warranted (*Young v Young*, [1993] 4 SCR 3 at p 134). Instead, costs will be awarded to the Applicant in the all-inclusive amount of $500.00.

THIS COURT ORDERS that:

1. The Respondent's Motion Record dated March 28, 2025 is hereby removed from the Court file.

2. Costs are awarded to the Applicant in the all-inclusive amount of $500.00, payable forthwith and in any event of the cause.

"Simon Fothergill"
Judge