

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Choi v. Slopinski*,
2025 BCSC 2226

Date: 20251110
Docket: S250289
Registry: Vancouver

Between:

Munchang Choi

Plaintiff

And

**Sandra Slopinski, Michele Vincenti, Mazi Shirvani,
Stephanie Chu, Amirali Nourbakhsh, Sandra Song, and
University Canada West**

Defendants

Before: The Honourable Justice Chan

Reasons for Judgment

Counsel for the Defendants:

L. Tsang
K.M. Samson

No other appearances

Place and Date of Hearing:

Vancouver, B.C.
October 3, 2025

Place and Date of Judgment:

Vancouver, B.C.
November 10, 2025

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Introduction

[1] The plaintiff Munchang Choi is a student at University Canada West (“UCW”), a private post-secondary institution in Vancouver. Mr. Choi enrolled at UCW in July 2024. In the Fall of 2024, he became dissatisfied with UCW’s responses to complaints he had filed against instructors, alleging they had engaged in plagiarism. He filed a Notice of Civil Claim (“NOCC”) on January 14, 2025 against UCW and six individual defendants. He filed an amended Notice of Civil Claim (“ANOCC”) on January 28, 2025. The six individual defendants are instructors, former instructors or administrators at UCW.

[2] Collectively, all of the defendants filed on March 14, 2025 an application to strike Mr. Choi’s ANOCC pursuant to R. 9-5(1) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 [SCCR]. The defendants argue the ANOCC discloses no reasonable cause of action against them. Alternatively, the defendants argue the ANOCC should be struck for being unnecessary, scandalous, frivolous and vexatious and an abuse of process.

[3] Mr. Choi filed an application on March 18, 2025, to cross-examine the deponents of affidavits filed by the defendants on their strike application. The application to strike and the application for cross-examination were set to be heard on the same date.

Preliminary Issue

[4] A day or so before the hearing date, Mr. Choi sent correspondence to counsel for the defendants and the registry, advising that due to medical reasons and his need to provide care for his disabled son, he would not be able to attend the hearing. He advised he is not seeking an adjournment but wishes the court to proceed based on his written materials.

[5] Mr. Choi included an affidavit sworn on September 29, 2025, where he set out that his son is diagnosed with autism seizure disorder and requires 24-hour supervision. Mr. Choi’s spouse had to urgently travel to Korea on September 19, 2025

to provide care to her mother, leaving Mr. Choi as the only caregiver to his son. Mr. Choi deposed that he has a medical disability which causes difficulties for him to appear in court in person. Mr. Choi asked the court to proceed in his absence on the written record, including his response to the strike application, his notice of application for cross-examination and the supporting affidavits he had filed.

[6] The defendants indicated they are ready to proceed and opposed any adjournment of these applications.

[7] Pursuant to R. 22-1(2) of the *SCCR*, the court in a chambers proceeding may proceed in the absence of a party if the court considers it will further the object of the *Rules*. There is evidence that Mr. Choi is aware of this date being set to hear both applications. He has specifically stated he does not seek an adjournment but wishes the matter to proceed in his absence based on his written materials. I found the Court should proceed in his absence. Proceeding to hear these applications would further the object of the *SCCR* for the just, speedy and inexpensive resolution of disputes. These applications were originally set to be heard in April 2025 then reset to August 2025. On both occasions, the applications were not heard. I note the primary reason the court heard these applications in the absence of Mr. Choi is that is what he wanted. I make no finding as to whether proceeding without requiring Mr. Choi's attendance at the hearing is an appropriate accommodation for medical disability, as that was not the basis on which this Court determined to proceed in his absence.

Procedural Background

[8] The plaintiff filed a NOCC on January 14, 2025.

[9] The plaintiff filed an ANOCC on January 28, 2025.

[10] The plaintiff filed on March 5, 2025 two petitions in this Court in relation to the same allegations, seeking judicial review. One petition was in relation to Mr. Choi's complaint against the instructor in HRMT 622; the second petition was in relation to his complaint against the instructor in BUSI 601. Both complaints were for plagiarism by the instructors of course materials.

[11] The defendants filed their application to strike on March 14, 2025.

[12] The plaintiff filed his application for cross-examination on March 18, 2025.

[13] The parties were before Justice Dion on April 3, 2025. Both applications were directed to be heard together in chambers, with the defendants' application to strike to be heard first.

[14] The applications were reset for August 22, 2025. In the meantime, Mr. Choi had filed an appeal of Dion J.'s order. That was dismissed by Groberman J.A. with oral reasons on September 25, 2025: *Choi v. Slopinski*, Vancouver CA50876 (B.C.C.A.).

[15] No judge was available to hear the applications on August 22, 2025. They were reset for October 3, 2025.

Application to Strike

Rule 9-5(1)(a) Application

[16] Rule 9-5 of the *SCCR* states:

Rule 9-5 — Striking Pleadings

Scandalous, frivolous or vexatious matters

(1) At any stage of a proceeding, the court may order to be struck out or amended the whole or any part of a pleading, petition or other document on the ground that

(a) it discloses no reasonable claim or defence, as the case may be,

(b) it is unnecessary, scandalous, frivolous or vexatious,

(c) it may prejudice, embarrass or delay the fair trial or hearing of the proceeding, or

(d) it is otherwise an abuse of process of the court,

and the court may pronounce judgment or order the proceeding to be stayed or dismissed and may order the costs of the application to be paid as special costs.

Admissibility of evidence

(2) No evidence is admissible on an application under subrule (1) (a).

[17] The well-established test on an application to strike under R. 9-5(1)(a) is whether, assuming the truth of the pleaded facts, it is plain and obvious that the statement of claim discloses no reasonable cause of action: *Odhavji Estate v. Woodhouse*, 2003 SCC 69 at para. 15, citing *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959 at 980, 1990 CanLII 90. Evidence is not admissible on such an application: R. 9-5(2).

[18] A claim will only be struck if it cannot be amended to cure the defect: *Strohmaier v. British Columbia (Attorney General)*, 2015 BCSC 1189 at paras. 16–17. Further, the fact that a claim is novel does not mean it should be struck. A novel but arguable claim ought to be permitted to proceed to trial: *R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para. 21. This means that the defendant faces a high bar to succeed in their application to strike under R. 9-5 of the SCCR.

[19] Rule 3-1(2) of the SCCR states that a claimant's NOCC must set out each of the following:

- a) "...a concise statement of the material facts giving rise to the claim;"
- b) "...the relief sought by the plaintiff against each named defendant;"
- c) "...a concise summary of the legal basis for the relief sought;"

[20] The defendants apply to strike Mr. Choi's ANOCC. In it, under "Part 3: Legal Basis", he pleads breach of contract, violation of federal and provincial guidelines, and negligence. From what I can understand from the ANOCC, Mr. Choi is a student in the MBA program at UCW. He alleges instructors in two courses—HRMT 622 and BUSI 601—used materials that were plagiarized from content written by others. He complained to the university administration that this was a violation of UCW's academic integrity policy. He also filed complaints with external agencies. For context, evidence filed by the defendants on this strike application show UCW had investigated Mr. Choi's complaint about plagiarism by the instructor of HRMT 622 and determined that there was no academic misconduct by the instructor, and the course material in question were course outlines and grading rubrics which were created from

standardized templates used by UCW. Mr. Choi was advised the academic integrity policy only applied to students.

[21] In his ANOCC, he alleges no corrective action was taken by UCW's administration. He alleges not subjecting faculty members to the policy is unfair. He alleges he suffered emotional distress, loss of trust in UCW's reputation and credibility, financial costs incurred from his reporting his complaints to various authorities, loss of time and resources diverted from his studies to pursue his complaints, and damages to his academic advancement.

[22] Mr. Choi's claim is focussed on his belief that the instructors plagiarized materials and UCW did not adequately respond to his complaints, as the policy prohibiting plagiarism only applies to students and not faculty. He believes the policy only applying to students and not faculty is a double standard that is unfair and discriminatory.

[23] His view is the investigation conducted by UCW into his complaints was filled with procedural delays. He alleges UCW retaliated against him for his complaints. Under "Part 2: Relief Sought", Mr. Choi seeks, among other relief, "[a] court order requiring UCW to conduct a thorough, independent investigation into allegations of plagiarism"; for UCW to provide a public report on its findings; "[i]mplementation of a formal appeals process for students to challenge academic content"; "[a] requirement for UCW to adopt state-of-the-art plagiarism detection tools" for all course materials; financial compensation of \$50,000 for "mental distress, financial losses and harm to [his] academic and professional reputation"; and a court declaration that UCW "violated its academic integrity policies, procedural fairness standards and faculty accountability requirements".

[24] His main complaint—plagiarism—is not a cause of action. The cause of action would be breach of a copyright, but that is only actionable by the copyright holder: *Rai v. Meta Platforms, Inc.*, 2024 BCSC 1408 at paras. 49–52. Mr. Choi does not allege the instructors copied Mr. Choi's materials. His allegation is the instructors copied materials from others.

[25] While Mr. Choi pleads breach of contract, he does not set out any material facts to support this cause of action, including the particulars of the alleged contract, the particulars of the alleged breach, causation, and damages that are alleged to have flowed from the breach: *Gaucher v. British Columbia Institute of Technology*, 2021 BCSC 289 at para. 63. Mr. Choi’s pleadings state only that the “failure to address the use of plagiarized materials in HRMT 622 and BUSI 601 constitutes a breach of its contractual obligation to provide a credible and equitable academic environment”, and that “[b]y neglecting to investigate and resolve the Plaintiff’s complaints, UCW violated the terms outlined in its enrollment agreement and academic integrity policies, failing to meet the standards it promises to students.” Mr. Choi has not pleaded with sufficient clarity what the alleged agreements are, which terms are alleged to be breached, causation, and the alleged damages that flow from the breach. His allegations of breach of contract are vague.

[26] Mr. Choi alleges violation of federal and provincial guidelines. He references “non-compliance with the Canadian Human Rights Act, as UCW failed to provide equitable treatment and fair resolution of the Plaintiff’s complaints, resulting in discriminatory practices.” Mr. Choi also alleges contraventions of “the Accessible Canada Act”. As the university is a private institution and not a federal governmental entity, the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6, does not apply to it: s. 2 of *Canadian Human Rights Act*. Similarly, the *Accessible Canada Act*, S.C. 2019, c. 10, only applies to matters coming within the legislative authority of the federal government: s. 5 of the *Accessible Canada Act*. The plaintiff has no causes of action under these statutes.

[27] The elements of a claim in negligence are that the defendant owed to the plaintiff a duty of care, the defendant’s conduct breached that duty, the plaintiff suffered damages, and the damages were caused in fact and in law by the breach: *Saadati v. Moorhead*, 2017 SCC 28 at para. 13, citing *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27 at para. 3.

[28] Mr. Choi alleges negligence in academic administration. He alleges UCW “failed to enforce its academic integrity policies consistently, resulting in a breach of its duty to maintain proper academic oversight.” The plaintiff has failed to plead the required material facts to support a cause of action in negligence against any of the defendants. For example, the plaintiff has not pleaded any material facts on the applicable standard of care which was breached, or on the foreseeability of harm.

[29] In my view, the ANOCC does not contain any reasonable causes of action. Further, an independent investigation, a public report and a requirement that UCW implement plagiarism detection tools, among other relief that Mr. Choi seeks as a remedy, are outside the jurisdiction of this Court.

Proposed Second Amended Notice of Civil Claim

[30] Mr. Choi attached a proposed second ANOCC to his affidavit of July 14, 2025. If allowed to amend, Mr. Choi will presumably file this second ANOCC.

[31] Mr. Choi listed his amended causes of action as follows:

- *Human Rights Code*, R.S.B.C. 1996, c. 210 [Code];
- *Accessible British Columbia Act*, S.B.C. 2021, c.19 [ABCA];
- *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 [Charter];
- Tort of negligence and negligent misrepresentation;
- Tort of misfeasance in public office;
- Breach of contract and legitimate expectation;
- Breach of fiduciary and trust-like duties;
- Federal court direction in File T-1967-24;
- Independent medical examination April 2025; and

- Common law principles of natural justice and procedural fairness.

[32] I will examine each of these causes of action.

Human Rights Code

[33] This court has no jurisdiction over matters under the B.C. *Human Rights Code*. The proper forum to file a complaint alleging contraventions of the *Code* is the B.C. Human Rights Tribunal: s. 21 of *Code*.

Accessible British Columbia Act

[34] The *Accessible British Columbia Act* [ABCA] does not apply to UCW. The *Accessible British Columbia Act* prescribes that organizations which fall under the ABCA must have accessibility committees to identify barriers to individuals in or interacting with the organization: s. 9 of the ABCA. However, the ABCA does not apply to UCW, as it is not a government entity or within a class or prescribed organizations to which the ABCA applies: s. 8 of the ABCA; *Accessible British Columbia Regulation*, B.C. Reg. 105/2022 [*Regulation*], s. 3. While UCW is a post-secondary education institution, UCW is not a university within the meaning of the *University Act*, R.S.B.C. 1996, c. 468, or an institution within the meaning of the *College and Institute Act*, R.S.B.C. 1996, c. 52: s. 1 of the *Regulation*.

Canadian Charter of Rights and Freedoms

[35] Mr. Choi claims breaches of ss. 7, 15 of the *Charter* and seeks a remedy pursuant to s. 24(1) of the *Charter*. However, UCW is not a government entity, and the *Charter* does not apply to it: s. 32 of *Charter*.

Tort of negligence and negligent misrepresentation

[36] Mr. Choi alleges the defendants owed him “a duty of care to ensure accurate academic assessment, appropriate disability accommodation, and non-discriminatory administration.” He alleges the defendants “breached this duty through procedural omissions, bad faith conduct, and failure to act”. He alleges this conduct caused “foreseeable psychiatric injury and academic loss”.

[37] As discussed earlier, Mr. Choi has not set out with any clarity the material facts he alleges that give rise to a claim in negligence or negligent misrepresentation. It is also unclear which defendant or defendants he is referring to in his allegation of negligence or negligent misrepresentation. The defendants are UCW, individual instructors, former instructors and administrators at UCW. It is unclear what standard of care Mr. Choi alleges applies in the circumstances. It is also unclear which conduct of which defendants Mr. Choi alleges breached this standard of care. It is unclear what representations Mr. Choi alleges were negligent. Further, no material facts are pleaded to show reliance by Mr. Choi on alleged negligent misrepresentations.

[38] Mr. Choi has cited no case authority in support of a negligence claim in his response to the application to strike. The cases he did cite—*Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817; *Martineau v. Matsqui Disciplinary Bd.*, [1980] 1 S.C.R. 602—are administrative law decisions. Mr. Choi also cites *Mullins v. McMaster University*, 2020 ONSC 2403, which I am advised by defendants' counsel is not a real case. Mr. Choi cites that decision as a Supreme Court of Canada decision that supports judicial review of decisions of administrative bodies including universities. I note Mr. Choi has already filed two petitions for judicial review.

[39] Mr. Choi has not set out whether the duty of care he relies on for a claim in negligence in these circumstances has been recognized in jurisprudence. If it has been already recognized, Mr. Choi cited no cases in support of a duty of care in these circumstances. If such a duty of care has not been recognized, then a full two-stage analysis of whether a duty of care exists as set out in *Cooper v. Hobart*, 2001 SCC 79 must be conducted: *Burke v. Watson & Barnard (A Firm)*, 2016 BCCA 439 at para. 43. At the second stage of the *Cooper* analysis, policy considerations may exist to preclude any *prima facie* duty of care. The court has repeatedly found academic matters are best left to the university to adjudicate. In *Albu v. The University of British Columbia*, 2019 BCCA 222, the Court of Appeal stated the principle as follows:

[14] The second principle is that a superior court does not have jurisdiction to adjudicate matters that are fundamentally academic except through an

application for judicial review: see *Williams v. Simon Fraser University*, 2019 BCCA 41 at para. 15. Examples that have been given in the jurisprudence of matters that are fundamentally academic include academic requirements, and rules and regulations that a university applies to students. This principle, while less developed than the good faith defence, recognizes that a court is not well equipped to judge the kinds of academic questions that can arise in a university setting.

[40] In my view, negligence and negligent misrepresentation are not reasonable causes of action for Mr. Choi.

Tort of misfeasance in public office

[41] Mr. Choi alleges the academic deans and compliance officials acted in “quasi-public roles”. However, he pleads no material facts which can support such an allegation.

[42] In my view, there is no evidence to support that any of the defendants, as instructors or administrators at UCW, are public officials exercising public authority, an essential element of the tort of misfeasance in public office: *Taylor v. British Columbia*, 2020 BCSC 1936 at paras. 53–54. UCW is a private university. This is not a reasonable cause of action.

Breach of contract and legitimate expectation

[43] As discussed earlier, Mr. Choi has not set out any material facts to support this cause of action, including the particulars of the alleged contract, the particulars of the alleged breach, causation, and damages that are alleged to have flowed from the breach. The plaintiff alleges a breach of an implied contract that UCW would provide fair grading, procedural justice and disability accommodation; however, there are no material facts pleaded to support the existence of such an implied contract.

Breach of fiduciary and trust-like duties

[44] Mr. Choi alleges UCW has a duty to act in loyalty, good faith and fairness to him, as a person with a disability. However, he has pleaded no material facts to support a fiduciary relationship between him, a student, and UCW. There is no pleading that UCW was under an obligation to place Mr. Choi’s interests above other

interests, including other students, staff and faculty, and UCW's own interests: *Alexander v. University of Lethbridge*, 2022 ABCA 228 at para. 19. In my view, breach of fiduciary duty is not a reasonable cause of action.

Federal court direction in File T-1967-24

[45] The plaintiff appears to refer to directions granted by the Federal Court in relation to a matter he filed in that court.

[46] A direction by the Federal Court in another matter cannot support a cause of action in these circumstances.

Independent medical examination April 2025

[47] The plaintiff submitted a medical report in support of his contention that video or in person court hearings are harmful to him.

[48] This medical report is expert evidence. It does not establish a cause of action.

Common law principles of natural justice and procedural fairness

[49] The plaintiff alleges his claims are "further supported by the common law duty of fairness applicable to quasi-judicial and academic decisions, especially those affecting students with documented disabilities." He alleges "[t]he failure to provide transparent, unbiased, and procedurally inclusive mechanisms constitutes a breach of natural justice."

[50] Procedural fairness and natural justice are not causes of action. They are concepts embedded in judicial review of administrative law proceedings.

Conclusion on application to strike

[51] In my view, it is plain and obvious that the plaintiff's ANOCC does not disclose any reasonable causes of action, and a further amendment will not cure the defects.

[52] Distilled to its essence, the plaintiff's claim concerns his allegations two instructors plagiarized course materials, and the plaintiff's dissatisfaction with UCW's response to his complaints about the plagiarism. Mr. Choi found the university's

position that the no-plagiarism policy did not apply to faculty unfair. In my view, the issue of the application of the no-plagiarism policy is a matter of academic judgment which is for the university to adjudicate except on an application for judicial review: see *Albu* at para. 14. If there is recourse for the plaintiff, it may lie in judicial review.

[53] Further, the plaintiff's pleading also fails to comply with R. 3-1(2) of the *SCCR* by failing to set out the relief sought against each defendant. The plaintiff made no distinctions between the seven defendants. In various places in the *ANOC*, the plaintiff simply alleges "the Defendants".

[54] The plaintiff's claim is dismissed pursuant to R. 9-5(1)(a) for disclosing no reasonable cause of action without leave for further amendment.

[55] As I result, I decline to consider the defendants' application to strike pursuant to R. 9-5(1)(b) and (d).

[56] The plaintiff's application for cross-examination is dismissed, as no evidence is admissible on the R. 9-5(1)(a) application.

[57] As the defendants have been successful, they are entitled to their costs at the ordinary scale.

"Chan J."