

ONTARIO SUPERIOR COURT OF JUSTICE

RE: Hanna Ko, Applicant

-and-

Hai Chun Li and Zhou Hang Li, in their capacity as the
Estate Trustees for the Estate of Xiang Guo Li and Mingjie
Cheng, Respondents

BEFORE: FL Myers J

COUNSEL: *Jisuh Lee*, for the Applicant Hanna Ko and on her own
behalf

Zhou Hang “Joseph” Li, on his own behalf

HEARD: May 16, 2025

ENDORSEMENT

Background to the May 16, 2025 Scheduling Conference

- [1] By order dated May 6, 2025, I required the applicant’s counsel, Ms. Jisuh Lee, to show cause why she should not be held in contempt of court. My reasons for doing so are reported at *Ko v. Li*, 2025 ONSC 2766 (CanLII).
- [2] The order arose from a motion in this proceeding heard on May 1, 2025. Before that hearing, Ms. Lee had delivered a memorandum known as a “factum.” In her factum, Ms. Lee made submissions to the Court concerning the law that applied to the issues in dispute.
- [3] To support her legal submissions, Ms. Lee included in her factum references to several non-existent or fake precedent court cases. In her oral argument in open court before me on May 1, 2025, Ms. Lee relied on two non-existent precedent cases from her factum.

- [4] The problem came to light during the hearing when I could not find any reference online to the cases relied upon by Ms. Lee as applicable precedents to state the law.
- [5] At that time, Ms. Lee was unable to advise whether her factum had been prepared using generative artificial intelligence or whether the cases she listed in her factum and relied upon orally were “hallucinations” fabricated by an AI platform.
- [6] In my prior decision, I discussed at some length lawyers’ duties not to misstate the law to the court. I gave notice to Ms. Lee that by citing fake case precedents she may have violated her duties as legal counsel and I required her to show cause why she should not be held in contempt of court.
- [7] At paras. 32 and 33 of my decision, I convened an informal scheduling conference for May 16, 2025 to discuss the procedure for the show cause hearing.

Brief Statement of the Outcome

- [8] As set out more fully below, before and at the scheduling conference, Ms. Lee forthrightly admitted the facts, apologized, and proposed positive steps to address the issues.
- [9] I take judicial notice of the fact that Ms. Lee has gained notoriety as a result of the widespread publication of reports concerning the show cause order in both the legal and the general press.
- [10] For the reasons set out below, in my view, this proceeding has already accomplished all the purposes of addressing contempt in the face of the court at a show cause hearing. The goals already met, in my opinion, include: maintaining the dignity of the court and the fairness of civil justice system, promoting honourable behaviour by counsel before the court, denouncing serious misconduct, deterring similar future misconduct by the legal profession, the public generally, and by Ms. Lee specifically, and rehabilitation.
- [11] Ms. Lee has already adequately purged any possible contempt of court that could be found.
- [12] Therefore, on the conditions ordered below on consent of Ms. Lee, I withdraw the show cause order and deem it satisfied.

Contempt of Court

- [13] In *R. v. Cohn*, 1984 CanLII 43 (ON CA), Goodman JA, writing for the court, described contempt in the face of the court as follows:

A contempt in the face of the court may be broadly described as any word spoken or act done in, or in the precincts of, the court which obstructs or interferes with the due administration of justice or is calculated so to do. Forms of conduct which have been held to constitute such contempt are: assaults committed in court; insults to the court; interruption of court proceedings; refusal on the part of a witness to be sworn, or having been sworn, refusal to answer...: 9 Hals., 4th ed., pp. 4-8, paras. 5, 6 and 7.

- [14] Irrespective of issues concerning artificial intelligence, counsel who misrepresent the law, submit fake case precedents, or who utterly misrepresent the holdings of cases cited as precedents, violate their duties to the court.
- [15] I agree with Masuhara J. in *Zhang v Chen*, 2024 BCSC 285 (CanLII):
- Citing 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.
- [16] A court decision that is based on fake laws would be an outrageous miscarriage of justice to the parties and would reflect very poorly on the court and the civil justice system.
- [17] In determining and pronouncing the law applicable to its decisions, the court receives submissions from counsel concerning the applicable law. As discussed below, the court relies on counsel to state the law accurately and fairly. Misrepresentation of the law by a lawyer poses real risks of causing a miscarriage of justice that undermines the dignity of the court and the fairness of the civil justice system.
- [18] In my prior endorsement, I listed several duties that may be violated by a lawyer delivering a factum and making oral submissions relying on fake cases and mis-citing cases for propositions that have nothing to do

with the actual issues and holdings of the cases. For clarity however, it seems to me useful to note that some of the duties that I listed are not necessarily duties owed to the court.

- [19] The Law Society of Ontario remains the regulator of licenced lawyers and paralegals in Ontario. The Law Society regulates the professional duties of lawyers in addition to their duties to the court.
- [20] Were this matter proceeding to a show case hearing, I would have first particularized for Ms. Lee that the court's concern was with misrepresentation of the law to the court. The organizational cause of what occurred in Ms. Lee's law firm is not the court's real concern in my view. In my view, issues concerning a lawyer's duties of technological competency and staff supervision, for example, are better dealt with by the Law Society.
- [21] In a court proceeding however, the proverbial buck stops with counsel. All counsel (and not just senior counsel on the file) bear responsibility for the accuracy of their submissions and for any misrepresentations they may make by signing, delivering, and relying on fake or false legal precedents and arguments.
- [22] Counsel may not mis-state or misrepresent the law to the court whether by way of AI hallucinations or by any other means.

Ms. Lee Files Documents for the Scheduling Conference

- [23] Prior to the scheduling conference, Ms. Lee delivered to the court a letter dated May 9, 2025 in which she explained that her factum had indeed been prepared by her staff in part with the use of generative artificial intelligence. They used the ChatGPT platform. The errant cases were AI hallucinations as surmised. Ms. Lee apologized and asked that no finding of contempt of court be made against her.
- [24] Ms. Lee then delivered a letter dated May 13, 2025 in which she undertook to complete no fewer than six hours of Continuing Professional Development training in legal ethics and technology including addressing specifically the professional use and risks of AI tools in legal practice.
- [25] Ms. Lee revised her offending factum to remove all fake citations.

[26] Ms. Lee also delivered and uploaded to Case Center a submission for the May 16, 2025 scheduling conference. I reproduce it in full:

Oral Statement for Show Cause Hearing – May 16, 2025

Your Honour:

I wish to begin by expressing my sincere apologies to the Court for the events that occurred in connection with the May 1 hearing in *Ko v. Li*.

The factum I filed contained citations that were inaccurate and, as I now understand, referred to fictitious cases. I deeply regret this and fully accept responsibility. These authorities were drafted using a legal research tool powered by artificial intelligence. While this tool generated legal arguments, I made the grave mistake of failing to verify the case law before filing the factum with the Court.

I wish to emphasize that I did not intend to mislead the Court or to present non-existent authorities. I acknowledge, however, that intent is not the only measure of accountability. I now understand fully that it was my duty — and mine alone — to verify every part of the submission before placing it before Your Honour.

After learning of the issue at the hearing, I took immediate steps to investigate, and I have since withdrawn the defective factum and prepared and served a corrected version with verified legal authorities.

In addition, I have implemented new protocols in my practice to ensure that:

- Every legal authority is independently confirmed through CanLII or Westlaw;
- No AI-generated content will be relied on without rigorous manual review;
- I will no longer delegate legal research to tools I cannot control or verify personally.

This was a serious lapse in judgment. It does not reflect the standard of diligence and care I have always tried to uphold in my practice, nor does it reflect my respect for this Court.

I am grateful for the opportunity to appear and make this statement. I respectfully ask the Court to accept this explanation, and my commitment that such an error will never occur again.

Thank you, Your Honour.

Jisuh Lee

The Scheduling Hearing

- [27] A show cause hearing for contempt in the face of the court is a criminal proceeding. As discussed in *Cohn*, like any person accused of an offence, Ms. Lee was entitled be informed of the detailed claims made against her without unreasonable delay. She was entitled to retain counsel; to have time to prepare a defence; to call evidence (if she chose to do so); and to make submissions on the applicable law on liability and sentencing (if found in contempt of court).
- [28] In addition to the issues set out in the endorsement, it seemed to me to be necessary and appropriate to provide notice to Ms. Lee about two further issues.
- [29] First, her factum failed to comply with Rule 4.06.1 (2.1) of the *Rules of Civil Procedure*, RRO 1990 Reg 194. The rule requires:
 - (2.1) A factum shall include a statement signed by the party's lawyer, or on the lawyer's behalf by someone the lawyer has specifically authorized, certifying that the person signing the statement is satisfied as to the authenticity of every authority cited in the factum. O. Reg. 384/24, s. 1.
- [30] Rule 4.06.1 (2.1) was enacted in 2024. It codifies part of the existing duties of counsel to cite law honestly and without misrepresentation.
- [31] Although the court system in Ontario is adversarial, lawyers are bound by duties to protect the fairness of the process for all. As part of their professional duties, counsel are required to cite the law fairly. Despite lawyers' roles as zealous advocates, as noted previously, they may not

misrepresent the law. They are positively required to advise the court of precedents that stand in opposition to their clients' positions even if they have not been mentioned by the opposing counsel.¹

- [32] Although these bedrock ethical rules are taught to lawyers throughout their training, the Civil Rules Committee felt it necessary to create a special rule to address the new phenomenon of AI hallucinations.
- [33] As cases such as *Zhang v Chen* and this case demonstrate, AI is ubiquitous and yet its risks and weaknesses are not yet universally understood. Therefore Rule 4.06.1 (2.1) was enacted specifically to remind counsel of their obligation to check the cases cited in their legal briefs to ensure they are authentic. The need for lawyers to include a certificate in their factums declaring that the cases cited as precedents in the factum are real was hoped to bring home to all lawyers the need to check and not to trust factums generated by AI or by others.
- [34] Ms. Lee's factum did not include the certification required by Rule 4.06.1 (2.1). By leaving out the mandatory certification, counsel may have sidestepped the process designed specifically to avoid the issue that arose here.
- [35] I did not mention Ms. Lee's failure to comply with this rule in my initial decision. Therefore, I wanted to ensure that Ms. Lee received notice of the issue at the scheduling conference.
- [36] In addition, and apart from a contempt citation, another rule had potential application and required the court to give notice to Ms. Lee. Rules 57.07 (1)(a) and (b) provide:

57.07 (1) Where a lawyer for a party has caused costs to be incurred without reasonable cause or to be wasted by undue delay, negligence or other default, the court may make an order,

¹ See: Law Society of Ontario, *Rules of Professional Conduct*, (Toronto: Law Society of Ontario, 2022, online: <https://lso.ca/about-lso/legislation-rules/rules-of-professional-conduct/chapter-5>), at Rules 5.1-2 (e), (f), and (i).

a) disallowing costs between the lawyer and client or directing the lawyer to repay to the client money paid on account of costs;

(b) directing the lawyer to reimburse the client for any costs that the client has been ordered to pay to any other party;

- [37] Rule 57.07 (2) allows the court to raise this issue on its own initiative provided the court gives notice to counsel and gives her a reasonable opportunity to make submissions in response.
- [38] It seems to me that with or without a finding of contempt, one possible remedy for the wrongdoing alleged was to ensure that counsel did not bill her client for the drafting, delivering, and use of the deficient factum.²
- [39] Therefore, at the outset of the scheduling conference on May 16, 2025, I raised with Ms. Lee both Rules 4.06.1 and 57.07 to give her notice that they would be in issue at the show cause hearing. I did so to help guide the scheduling process and ensure that Ms. Lee had sufficient time to prepare whatever evidence and submissions she might wish to make on all the issues.
- [40] I also raised specifically with Ms. Lee that although she was a very experienced counsel, she was entitled to be represented. I told her my respectful view that she should be represented by a lawyer to ensure that she had access to objective, experienced judgment to help guide her in the show cause proceeding.

² Rule 57.07 (1)(c) also allows the court to order a lawyer who is guilty of misconduct to personally pay the costs of the opposing parties in appropriate cases. That rule has no applicability here. First, Ms. Ko succeeded in her motion. There is no basis for the responding parties to claim reimbursement of their costs. Second, the responding parties were all self-represented. They incurred little, if any, assessable costs on the motion. Moreover, they presented no law and no legal submissions concerning the fake cases cited in Ms. Lee's factum. Had the responding parties incurred costs because of a lawyer citing fake cases, this rule could indeed be applicable regardless of the substantive outcome of the motion.

- [41] Ms. Lee acknowledged this advice and then requested to make a submission. I reminded her of her right to remain silent and to seek counsel. She said that she did not need or want counsel because she was not contesting the facts. She just wanted to explain.
- [42] While I was not sure how to treat the statement about to be made on the merits at a scheduling conference, I found it appropriately respectful to allow Ms. Lee to say her piece. What follows is my summary of Ms. Lee's submissions.
- [43] Ms. Lee has been a lawyer for some 30 years. She has no disciplinary history with the Law Society or the court.
- [44] She is not comfortable with technology – from her smartphone, to her computer, and certainly including generative AI.
- [45] Ms. Lee says she was shocked when told at the May 1, 2025 hearing that the cases on which she relied could not be found. She did not have an answer to what happened and could not deal with it in the moment. She undertook to investigate at her firm, and she did so. After that point in the hearing, she did not rely on her factum any further.
- [46] Ms. Lee reiterated her regret at failing to review the cases in her factum before submitting it and before relying on some of the cases in court.
- [47] Ms. Lee also explained, as she had at the original hearing, that Ms. Ko was funded by Legal Aid in her initial family proceeding. When her husband passed away, Legal Aid Ontario determined that the matter was now an “estates” case, so it terminated her funding. Ms. Ko had been left with no source of livelihood and the complexity of a case in which two people each claimed to be the lawful spouse of the deceased at the same time. There are now three legal proceedings to be determined: Ms. Ko's family law case, her estates case, and Ms. Cheng's competing estates case.
- [48] Ms. Lee has had a long history of involvement with the Korean Canadian Women's Association. She managed its office for a year before she attended law school. She was a member of its board of directors for several years. Although Ms. Lee does not accept Legal Aid Certificates generally in her practice, she does offer to help the Korean Canadian Women's Association in some cases where a client is referred with particular need and a complex problem as here.

Ms. Lee advises that while Ms. Ko has offered to pay her from any money realized from her deceased spouse's estate, the chances of Ms. Lee being paid for her representation of Ms. Ko are small. In my prior decision, I made the point that there appeared to be little practical likelihood that the parties could afford the professional services and effort needed to realize value from the deceased husband's business assets in China (assuming that is even possible).

- [49] To that end, I should mention that Ms. Ko made a brief submission expressing gratitude to Ms. Lee for providing her representation in proceedings in family court in Newmarket and in this court at minimal cost to date.
- [50] Ms. Lee says that to save costs she delegated to staff parts of the file preparation where she could. She did not direct the use of AI to prepare the factum. She accepts that she is responsible for her staff. So she does not rely on delegation as an excuse. Rather, she uses it more to explain that she did not deliberately mislead the court.
- [51] When Legal Aid stopped funding Ms. Ko, Ms. Lee was unsure whether the case belonged in family court or the estates court. The three cases all became very active at the same time. Ms. Lee was in Newmarket on a case conference on April 28, 2025 and then before me in Toronto on May 1, 2025.
- [52] Given the complexity and Ms. Ko's economic need, Ms. Lee felt she could not morally drop the case.
- [53] Ms. Lee says that as she nears the end of a 30-year career, she now feels ashamed. Since the release of my endorsement requiring her to show cause, Ms. Lee has been bombarded by calls from reporters and colleagues. She has declined requests by the press for interviews. Her son in Florida saw press reports online.
- [54] Ms. Lee concluded by acknowledging that she is an officer of the court with duties to uphold the integrity and honour of the justice system. She believes that she has done so during her career and intends to keep doing so.
- [55] She closed by saying that she had nothing more to say. She did not retain counsel because she just wanted to deal with the matter forthrightly

acknowledging the issues and hoping she will attract no sanction for contempt of court.

Analysis

- [56] Ms. Lee has essentially adopted a US-style plea of “no contest” and has thrown herself on the mercy of the court – at a scheduling conference.
- [57] While this matter proceeded in an unorthodox manner (that is not one I would recommend to anyone facing a contempt citation) I cannot see any purpose in continuing with this contempt proceeding.
- [58] Apart from the fact that her “Oral Statement” was delivered in writing for a scheduling conference, her responses are completely appropriate and comprehensive.
- [59] Ms. Lee forthrightly acknowledges the fact that her factum was created using ChatGPT and contains fake cases. She acknowledges her failure to verify the cases in her factum. The error was *not* delegating the factum or using generative AI to assist in drafting the factum. Rather, Ms. Lee’s failure arose when she signed, delivered, and used the factum without ensuring that the cases were authentic and supported the legal arguments she was submitting to the court.
- [60] Counsel who make submissions to the court in writing or orally are obliged to be satisfied the submissions of law do not misstate the law. In this expression of counsel’s duty, it does not really matter if the factum was drafted by AI or a clerk or a student. As noted above, while unquestioning reliance on AI presents a new form of risk of impropriety, it is not the use of AI itself that is the concern. It is difficult to imagine any case in which a barrister ought to sign, serve, and file with a court a submission of law without first satisfying himself or herself that the authorities relied upon exist and support the arguments made.
- [61] Ms. Lee’s submission quite properly recognizes and deals expressly with her responsibility as fairly stated. Then she proposes steps to correct her practice to guard against committing the same lapse again.
- [62] The expressions of accountability and regret, coupled with the withdrawal of the offending factum, purge any contempt of court that might have been found. I likely would not have been inclined to require Ms. Lee to file a new factum. The original motion is finished, and the factum is spent. However, if Ms. Lee feels a new factum is required and appropriate, it should contain the certification required by Rule 4.06.1 (2.1).

- [63] Ms. Lee has undertaken to take courses in the proper use and risks of AI in practice. She plainly understands the need to review cases in a factum before signing it, delivering it, and relying on it in court.
- [64] I was keen to the fact that in a case of his type, there is no public prosecutor. I do not occupy a position to enter into plea bargain negotiations and remain as judge. However, in light of everything I had read and heard from Ms. Lee, and her stance effectively throwing herself on the mercy of the court, I formed the view that there was no public interest served in proceeding with the show cause hearing.
- [65] I asked Ms. Lee if she was prepared to proceed on the basis that:
- a. I would make the facts of her expressions of regret and accountability public in an endorsement;
 - b. I would condition the cessation of the show cause proceeding on a requirement that she fulfill her commitment to take Continuing Professional Development courses as described in her written undertaking dated May 13, 2025; and
 - c. that she commit not to bill Ms. Ko for the research, factum writing, and attendance at the motion held May 1, 2025 (in the event that Ms. Ko receives assets to give her a means to pay for services rendered).
- [66] This was acceptable to Ms. Lee.
- [67] In my view, the publicity surrounding this case has served both to publicly denounce inappropriate conduct and as general deterrence to the bar and others who might rely on AI for legal submissions.
- [68] The proceeding has left Ms. Lee with no doubt of the expected standards. She will take education courses to bring the details home to her.
- [69] Ms. Ko is also protected from being billed for inapt services.
- [70] I think it is important to say as well, that Ms. Lee is a very senior counsel who serves Ms. Ko selflessly in the best traditions of the bar. Ms. Lee won the motion for Ms. Ko on May 1, 2025 without reliance on the factum. Ms. Lee allowed her practice standards to slip and now realizes

the need to recommit to providing clients and the court with the levels of professionalism required.

- [71] In deciding not to proceed with a contempt hearing, it is possible that Ms. Lee escapes some sentencing options. In other cases where counsel have filed briefs containing fake cases from AI in the US, courts have ordered counsel to pay monetary sanctions typically in the range of US\$5,000. But US courts have different roles than courts in Canada regarding the regulation of the lawyers who appear before them. They also have the ability to impose sanctions against counsel much more readily than here.
- [72] While it is possible that a court might have imposed a small fine on Ms. Lee had she been found in contempt of court, in my view no sentencing principle is being overlooked in declining to incur further court time and counsel time for the possibility of adding a small fine to Ms. Lee's outcome.
- [73] There had to be someone who was going to be the first lawyer to file AI hallucinations here. It was likely to be someone so junior as to overestimate the infallibility of AI, or someone so senior as to not really yet understand its fallibility. Ms. Lee has suffered a public shaming near the end of an unblemished career. The denunciation and deterrent effect produced her immediate and forthright response in a manner far beyond any reasonably expected impact of a small fine.

Outcome

- [74] In contempt of court matters, the court retains a broad discretion concerning the manner of proceeding provided that the alleged contemnor has notice of the process and substantive issues. I therefore dismiss the show cause proceeding on condition that Ms. Lee fulfill her commitment to take Continuing Professional Development courses as described in her written undertaking dated May 13, 2025 and that she not bill Ms. Ko for the research, factum writing, and attendance at the motion held May 1, 2025 (in the event that Ms. Ko receives assets to give her a means to pay for services rendered).

Costs of the May 1, 2025 Hearing

- [75] I reserved the costs on May 1, 2025 pending the outcome of this proceeding. Ms. Lee properly delivered a Costs Outline for Ms. Ko before

the hearing of the original motion. Ms. Ko sought \$20,000 costs on a full indemnity basis. The only costs that may now be payable by Ms. Ko to

her counsel on the motion are for preliminary steps and drafting the motion record. On reviewing the Costs Outline on this basis, I would fix the aggregate costs of Ms. Ko claimable against the parties opposite at \$4,000 on a partial indemnity basis.

- [76] In my decision dated May 6, 2025, Ms. Ko obtained relief as sought against both Hai Chun Li and Mingjie Cheng. The relief was opposed by each of them. Ms. Ko is presumptively entitled to partial indemnity for her costs from each of Hai Chun Li and Mingjie Cheng respectively in the amount of \$2,000 all-inclusive.
- [77] In the event that Ms. Li or Ms. Cheng wish to oppose the imposition of costs against them they may each deliver written costs submissions of no more than three pages each by June 6, 2025.

FL Myers J

Released: May 20, 2025