

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: *Christopher Webb*, for His Majesty the King

Jisuh Lee, on her own behalf

Mitra Mohammadi-West, for Mingjie Cheng

Louise Christofolakos, the Law Society of Ontario as an
observer

HEARD: December 2, 2025

ENDORSEMENT

The Case Conference

- [1] By letter dated October 6, 2025, the court ordered lawyer Jisuh Lee to show cause why she should not be held in contempt of court for admitting to deliberately making untruthful and misleading oral and written statements to the court in the course of a prior contempt of court proceeding.
- [2] In the October 6, 2025 letter, the court referred carriage of the new contempt of court proceeding to the Attorney General of Ontario. The court also scheduled a case conference for December 2, 2025 to allow counsel for the Attorney General to advise the court and the public of the Crown's progress in regard to the contempt proceeding.

The Initial Contempt of Court Proceeding

- [3] 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).
- [4] The order arose from a motion in this estates proceeding heard on May 1, 2025. To support her legal submissions, Ms. Lee included in her factum and oral submissions references to non-existent or fake precedent court cases.
- [5] The problem came to light during the hearing when I could not find any reference online to the cases cited and relied upon by Ms. Lee.
- [6] The transcript of the hearing discloses that I asked Ms. Lee directly if she had used ChatGPT to write the factum. She responded, "I did not."
- [7] At that time, Ms. Lee said she 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.
- [8] In my initial endorsement, I convened a case conference on May 16, 2025 concerning the contempt of court proceeding.
- [9] By Letter dated May 9, 2025, Ms. Lee wrote to the court in advance of the case conference. She wrote, in part:

After my attendance at the motion hearing on May 1, 2025, I made necessary inquiries with my staff and confirmed that the factum in question was, in part, drafted with the assistance of an AI-based tool (ChatGPT) for preliminary legal research and composition.
- [10] At the case conference on May 16, 2025, Ms. Lee said that she delegated the preparation of the factum that contained AI hallucinations to a student. She also said that she learned that the factum had been prepared using AI from her Assistant.
- [11] In addition, Ms. Lee delivered a document for the case conference entitled "Oral Statement for Show Cause Hearing – May 16, 2025." It is quoted in full in my decision dated May 20, 2025 reported as *Ko v. Li*,

2025 ONSC 2965 (CanLII). While not expressly stated, the tenor of that document was that Ms. Lee delegated preparation of the factum to someone else.

- [12] As discussed in the May 20, 2025 endorsement, although the May 16, 2025 case conference was not intended to be the return of the show cause hearing, Ms. Lee satisfied me that day that the proceeding did not need to go further. For example, at paras. 62 and 70 of the decision, I wrote:

[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.,,

and

[70] 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.

The Nest Steps: LSO Investigation and Ms. Lee's September 30, 2025 Letter

- [13] As part of her brief for the December 2, 2025 case conference, Ms. Lee has provided a copy of correspondence to her from the Law Society of Ontario from June of this year. The Law Society advised Ms. Lee that it was investigating her conduct in this matter.
- [14] The Investigator made a number of specific information and document requests of Ms. Lee.
- [15] Ms. Lee then sent an unsolicited letter to the court dated September 30, 2025. In this letter Ms. Lee advises that some of her statements to the court in the contempt of court proceeding were not true. She wrote:

In truth, I prepared the factum in question solely and entirely by myself, without any involvement from staff or any other individual. I personally used ChatGPT to assist in drafting portions of the document, including the preliminary legal research and composition. I failed to verify the citations independently, leading to the inclusion of inauthentic case law and hyperlinks. The misrepresentation in my May 9 letter- implying that staff

were involved-was made out of fear of the potential consequences and sheer embarrassment at having to admit my solitary responsibility for this grave lapse in judgment. I recognize that this attempt to deflect accountability only compounded my initial error and further undermined the trust the Court places in counsel.

I am deeply contrite for this dishonesty. My actions fell far short of the ethical standards expected of an officer of the court and have caused me immense personal remorse. **I fully acknowledge that misleading the Court, even unintentionally at first and then deliberately to mitigate my shame, erodes the integrity of the judicial process.** There is no excuse for my behavior, and I take full and unreserved responsibility for both the original oversight in using AI without proper verification and the subsequent misrepresentation. I sincerely apologize to Your Honor, the Court, and all parties involved for any disrespect or inconvenience this has caused. I am truly sorry. [Emphasis added.]

The Court's Letter dated October 6, 2025

[16] In responding to Ms. Lee's letter, I wrote:

Your conduct during the course of the contempt of court proceeding, and your subsequent correspondence to me, could be a basis to review the outcome of that proceeding under Rule 59.06 of the *Rules of Civil Procedure*. However, that is not the proper approach in my view.

Your admission of dishonesty in the contempt proceeding is a fresh act. The initial contempt proceeding concerned principally your failure to review the citations in your factum before delivering it and relying on fake cases in open court. The new disclosure raises issues of deception of the court in a contempt of court proceeding. The procedural context and the quality of the acts are very different.

[17] I then advised Ms. Lee that I required her to show cause why she should not be held in contempt of court for obstructing or interfering with the administration of justice in the initial contempt of court proceeding by:

(a) Your untruthful oral statement in open court on May 1, 2025 that you did not write the factum;

(b) Your misleading statement in the May 9, 2025 letter that you made inquiries of your staff to determine that your factum had been prepared with AI;

(c) Your untruthful oral statements in the Case Conference on May 16, 2025 that a student prepared the factum and that you learned that AI had been used in the factum from an Assistant in your office; and

(d) The untruthful implication of your Oral Statement document that you delegated the preparation of the factum to others in support of the untruthful oral statements you made at the Case Conference.

[18] As indicated above, the letter concluded with a direction referring carriage of this contempt of court proceeding to the Attorney General of Ontario and convening this case conference.

The Criminal Contempt of Court Process

[19] The case law recognizes two forms of criminal contempt of court: contempt in the face of the court (i.e. in court or in the precincts of the court) and contempt committed outside the court. In both cases, the *actus reus* is, “conduct which seriously interferes with or obstructs the administration of justice or which causes a serious risk of interference or obstruction,” The *mens rea* element of the offence requires proof of “deliberate or intentional conduct, or conduct which demonstrates indifference... akin to recklessness.” *R v. DaFonte*, 2016 ONCA 532 (CanLII), at para. 17. See also *R. v. Cohn*, 1984 CanLII 43 (ON CA).

[20] This case involves contempt in the face of the court. The factum and submissions delivered by Ms. Lee were all performed in court or as part of a court proceeding - whether it was the underlying proceeding in which Ms. Lee was counsel to a party or in the first contempt of court proceeding involving Ms. Lee personally.

- [21] Criminal contempt of court proceedings used to be commenced by indictment. However, that process has fallen into disuse. As discussed by the Court of Appeal in *Cohn*, there are currently three ways to initiate summary criminal contempt proceedings. If exigent circumstances require immediate action, contempt can be dealt with orally, at once, in open court. Contempt of court proceedings can also be commenced orally by directing a contemnor to appear in court at a specified time and place to show cause why he or she should not be cited for contempt. Or, as in this case, the proceeding may be initiated by sending a letter to the alleged contemnor directing her to appear in court to answer the charge.
- [22] The giving of notice to show cause is not a finding of contempt. Rather it is notice to the alleged contemnor, “that he or she has been contemptuous and will be required to show cause why they should not be held in contempt.” *R. v. K. (B.)*, 1995 CanLII 45 (SCC), at paras. X and XI.
- [23] Citing a person in contempt and an order to show cause go beyond simply giving notice of a charge. As in this case, they involve a preliminary finding of there being a sufficient basis to put the contemnor to an answer. As discussed in *Cohn*:

It is not a matter of the presumption of innocence being made inapplicable in contempt proceedings. In a case such as this it is simply a matter that the facts known to the presiding judge which took place in his court and with respect to which there can be no doubt and no better proof adduced are such as to amount to prima facie proof unless the alleged contemnor calls evidence or gives evidence which affords to him a proper defence. In that regard he is in no different position than a person accused of an offence under the Criminal Code where the prosecution has established a prima facie case.

- [24] As criminal contempt of court is dealt with summarily, without the contemnor enjoying a right to a trial by jury, the Court of Appeal has recognized the maximum penalty for contempt consistent with the *Charter of Rights* must be less than a five-year period of incarceration. Mr. Webb notes that the Canadian Judicial Council suggests that it will be rare for imprisonment for a non-continuing contempt, “to exceed a few

days or months although cases could arise for a more serious sanction.”¹ This is by no means a rule of law or a limit on the applicability of the full panoply of remedies available at common law up to and including a term of imprisonment of less than five-years in appropriate cases.

- [25] I take from the case law as well, that the most important aspect of a criminal contempt proceeding will be to ensure that a fair and just process is provided to the contemnor. The raw exercise of common law judicial authority is to be restrained to ensure that it is exercised only in circumstances that preclude arbitrariness or authoritarianism.
- [26] The Court of Appeal discussed the procedure for criminal contempt of court as follows:

In summary, it is my opinion that, in Canada, in all cases of alleged contempt in the face of the court, it is within the inherent jurisdiction of the court to proceed by way of summary proceedings. In the event that the contempt offence is tried by summary proceedings, the sentence imposed after conviction must be a fine or imprisonment for a period of less than five years. In conducting those proceedings it is incumbent on the court to ensure that the offender has a fair trial in accordance with the principles of fundamental justice. Those principles include the right to be presumed innocent until proven guilty beyond a reasonable doubt, to be informed without unreasonable delay of the specific offence with which he is charged, to have counsel, to have a reasonable time to prepare a defence, to call witnesses and not to be compelled to give evidence. He has the right to be tried by an independent and impartial tribunal. In that regard, where the contempt alleged consists of insolent or contemptuous behaviour or other disorderly conduct or behaviour which reflects adversely upon the character, integrity or reputation of the initiating judge, the charge should be tried by another judge.

¹ *Some Guidelines on the Use of Contempt Powers*, Canadian Judicial Council, May 2001, at p. 41.

- [27] The purpose of the case conference convened December 2, 2025 was to establish a process to move forward while protecting Ms. Lee's rights.

The Crown Takes Carriage

- [28] By letter dated November 28, 2025, Mr. Webb advised that the Crown intended to appear to take carriage of the contempt proceeding.
- [29] It is the position of the Crown that Ms. Lee committed criminal contempt of court by filing and using the initial factum. I found that delivering a factum containing non-existent legal submissions creates a serious risk of a miscarriage of justice. The Crown submits that Ms. Lee's failure to check the citations amounted to "indifference akin to recklessness."
- [30] The Crown takes the position in this proceeding that Ms. Lee's act of attempting to purge her first criminal contempt by deliberately submitting an untruthful fact narrative compounds her wrongdoing. The Crown will argue that she deliberately sought to obstruct or interfere with the administration of justice in the first contempt proceeding by doing so.
- [31] Mr. Webb submitted that the court should encourage Ms. Lee to retain counsel and then schedule a hearing at which she can present evidence and make submissions as she deems appropriate.
- [32] Unfortunately, Ms. Lee's position makes it difficult to proceed on such an efficient basis.

Ms. Lee Again Purports to Purge her Contempt at a Case Conference

- [33] A few days prior to the December 2, 2025 case conference, Ms. Lee filed an unsworn brief with submissions and documents.
- [34] The brief purports to evidence that Ms. Lee has attended Continuing Legal Education courses concerning AI. She has created a policy for her office regarding the use of AI drawn from the Law Society of Ontario's recommendations.
- [35] Ms. Lee also discloses that she is under investigation by the Law Society regarding her practice management. Apparently, shortly after Ms. Lee sent her letter to the court on September 30, 2025, the Investigator made a recommendation to the Law Society regarding next steps. Ms. Lee awaits that outcome.

- [36] Ms. Lee's case conference brief includes the following concluding submissions:

PART 4: MY POSITION AND PROPOSALS

A. I fully accept responsibility for both the original failure to verify the factum and the subsequent misrepresentations to the court. I am deeply sorry for my conduct, which fell far below the standard expected of an officer of the court, and I am committed to full transparency and accountability.

B. By disclosing the pending LSO investigation here, I reaffirm my candour to the court and cooperation with all regulatory processes. I respectfully ask the court to:

- i Note my sincere apology, the significant remedial steps I have taken, and my active cooperation with the LSO investigation (file CAS-165781-ZOC5S2);
- ii Accept that any contempt has been purged by these admissions and undertakings;
- iii Resolve the matter without further hearing or penalty, or with only a reprimand if the court considers it necessary; and
- iv Direct that no finding of contempt be entered, or, if a finding is made, that it be accompanied by no further sanction.

I remain prepared to pay any reasonable costs thrown away and to provide any additional information or undertaking the court requires.

- [37] At the case conference, I made clear at the outset that the proceeding was on the record. A reporter was present.
- [38] After hearing from counsel for the Crown concerning his proposals for the procedure to move forward, I turned to Ms. Lee. I strongly urged her to retain counsel. I also reminded her of her right to remain silent

especially on the merits of the contempt charge. I suggested that if she wanted counsel, the case conference could be adjourned. I told her expressly that I feared that she was not representing herself as well as objective, independent counsel might.

- [39] Like the first time, Ms. Lee decided to make a lengthy statement on the merits while not under oath. I respected her wish to do so although, as discussed below, she has created procedural complexity.
- [40] Ms. Lee explained that she struggled with moral questions after she “withheld the truth” about who drafted the AI-based factum at the first contempt hearing. She says she decided to admit her wrongdoing recognizing that this time the issue was about the truthfulness of her statement about who drafted the initial factum.
- [41] Ms. Lee submitted that by admitting wrongdoing, apologizing, and asking for forgiveness, she hopes to be found to have purged any contempt that she might have committed.
- [42] She also noted that her conduct did not prejudice anyone in the underlying litigation. As I discovered the AI hallucinations during the initial hearing on May 1, 2025, they were not used to prejudice the parties adverse to Ms. Lee’s client.
- [43] Ms. Lee advised that as a result of a suggestion from the Law Society’s Investigator, she no longer represents Ms. Ko in the underlying litigation. She says she is owed fees of around \$80,000 and she has no likelihood of recovery of this amount from her former client.
- [44] Ms. Lee went further to submit that her conduct had not “sabotaged any proceeding.” I asked about the first contempt of court case. She agreed that her effort to mislead might have sabotaged that proceeding. But she stated that she doubted that the outcome of the contempt proceeding on May 16, 2025 turned on the identity of who prepared the AI-based factum.
- [45] She submitted that this proceeding should be resolved now in light of her voluntary admission of wrongdoing, her sincere apology, her unblemished discipline history with over 30 years of practice, her lack of a criminal record, and the fact that she did not fabricate evidence in the underlying proceeding to help a client or prejudice a party opposite.

- [46] She concluded that she knows that the issue is serious and it will not happen again.

How to Proceed

- [47] Mr. Webb submitted that it seemed like Ms. Lee was conceding that the court should make a finding of contempt of court today and then consider whether she has purged her contempt adequately.
- [48] While not asking for a finding of contempt of court today, Mr. Webb fairly submits that Ms. Lee has cemented her position by her written submissions and her lengthy statement on the record.
- [49] Ms. Lee was somewhat equivocal as to whether she was conceding a finding of contempt in order to get to an assessment of sentence and purging.
- [50] Mr. Webb fairly submits that given the seriousness of this proceeding, the court should require evidence, cross-examination, and submissions. I agree. A finding of contempt is made on proof beyond a reasonable doubt. The court may consider efforts by the contemnor to purge the contempt and all relevant circumstances. Ms. Lee should have the opportunity to put evidence before the court and any evidence led by any party should be subject to cross-examination.
- [51] I am concerned that Ms. Lee is not recognizing the seriousness of the issues in this proceeding. She has not assisted me in ensuring that the issues are properly identified and fairly considered on admissible evidence and with precedents concerning the applicable legal principles. I have not seen any case law in which a lawyer, owing duties of candour and honour, admits to *deliberately* misleading a court in a criminal contempt of court proceeding about herself. This is a very unusual case and one that may resonate throughout the administration of justice.
- [52] Moreover, Ms. Lee's reluctance to retain counsel and her insistence on confessing, leaves me in procedural quandary as to the fair and proper way forward.
- [53] I raised with Mr. Webb whether this might be a good case in which to appoint *amicus curiae*. Appointing a lawyer to act "as a friend of the court" would not be forcing a lawyer on Ms. Lee nor paying for a lawyer to act for her. Rather, an experienced criminal lawyer may be better able to guide the court with submissions from the perspective of ensuring a

fair process and proper outcome. Mr. Webb fairly accepted that in his case, *amicus* may well provide useful assistance to the court to carrying this charge forward in a principled and fair manner.

Directions

[54] Accordingly, Dean Embry, a lawyer with the law firm Embry Dann LLP, is appointed *amicus curiae* in this matter. He has confirmed to the Court's Executive Legal Officer that he is willing to serve in this position.

[55] The Crown shall provide funding for the *amicus curiae* in accordance with the following terms:

- a. *Amicus* shall be paid at the legal aid rate;
- b. Mr. Embry will abide by Legal Aid Ontario's policies and procedures, including authorization for disbursements, budget setting, monitoring and review of accounts, billing practices, and payment rules;
- c. Mr. Embry will promptly provide Legal Aid Ontario with a copy of this order;
- d. Legal Aid Ontario shall manage funding of Mr. Embry in accordance with this order and Legal Aid Ontario's policies and procedures, including authorization for disbursements, budget setting, monitoring and review of accounts, billing practices, and payment rules;
- e. Mr. Embry will promptly advise Legal Aid Ontario if this court subsequently alters the scope of this appointment; and
- f. The Crown and Legal Aid Ontario, or either of them, may promptly return to court to address necessary variations or in the event of non-compliance with these terms.

[56] As *amicus curiae*, Mr. Embry will assist the court, as follows:

- a. advise the court of issues and points of law regarding the remainder of this proceeding from the perspective of providing a fair process to a contemnor faced with a show cause order;
- b. advise the court on whether, in light of Ms. Lee's statements and admissions, there are any procedural steps remaining or that

ought to be held before the court considers whether to make a finding of contempt;

- c. advise the court on any applicable principles concerning the concept of “purging contempt” considering, in particular, purging a contempt which has allegedly arisen from a prior attempt by the contemnor to purge a contempt;
 - d. If a finding of contempt is made in this proceeding., *amicus* will advise the court on the applicable sentencing principles;
- [57] Mr. Embry may approach the court at a case conference on notice to all parties in the event that he requires directions as to the scope or manner of carrying out his role.
- [58] I am not comfortable deciding whether to proceed with scheduling a hearing or sentencing until Mr. Embry has had an opportunity to speak to Mr. Webb and Ms. Lee.
- [59] I direct Mr. Webb to schedule a case conference before me on notice to Ms. Lee, Mr. Embry, and the parties in the underlying litigation once they have either agreed on a process or at least have identified issues requiring resolution to do so. This should be no later than the end of January, 2026.
- [60] Finally, counsel for Ms. Cheng has advised that Ms. Cheng may be seeking costs against Ms. Lee. I am not sure what costs Ms. Cheng has incurred due to either contempt proceeding. However, as a party to the underlying litigation, she is entitled to be heard.

FL Myers J

Released: December 4, 2025