

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Bryzzhev v. University of British Columbia*,
2026 BCCA 213

Date: 20260430
Docket: CA50879

Between:

Oleg Bryzzhev

Appellant
(Plaintiff)

And

**University of British Columbia, UBC Senate,
Committee on Academic Standing**

Respondents
(Defendants)

Before: The Honourable Madam Justice Fenlon
The Honourable Madam Justice Horsman
The Honourable Justice Edelmann

On an application to vary: An order of the Court of Appeal for British Columbia,
dated February 18, 2026 (*Bryzzhev v. University of British Columbia*,
2026 BCCA 87, Vancouver Docket CA50879).

Oral Reasons for Judgment

The Appellant, appearing in person:

O. Bryzzhev

Counsel for the Respondents:

J. Chohan

Place and Date of Hearing:

Vancouver, British Columbia
April 30, 2026

Place and Date of Judgment:

Vancouver, British Columbia
April 30, 2026

Summary:

There are two applications before the Court: an application by the appellant to vary the order of a chambers judge of this Court requiring him to pay security for the costs of his appeal in the amount of \$7,500 within 30 days, and an application by the respondents to dismiss the appeal as abandoned because security has not been paid. The appeal is from the order of a chambers judge striking the appellant's claim on the basis that it relates to matters of an academic nature. In ordering the appellant to pay security for costs, the chambers judge concluded the appeal had no merit.

Held: The appellant's application to vary the order requiring him to pay security for costs is allowed and the order is set aside. It follows that the respondents' application to dismiss the appeal as abandoned is dismissed. The law regarding the scope of a university's immunity from civil claims in relation to matters of an academic nature is not clearly settled. The issues raised in this appeal overlap with issues that are presently before this Court in another appeal. In these unusual circumstances, it is not in the interests of justice to order the appellant to pay security for costs when such an order may prevent him from pursuing his appeal.

HORSMAN J.A.:

Background

[1] The appellant, Mr. Bryzzhev, applies to vary the order of a chambers judge of this Court requiring him to post security for costs of the appeal in the amount of \$7,500 within 30 days. As the appellant has not posted this security, the respondents apply to dismiss the appeal as abandoned.

[2] The appellant was an unclassified student at the University of British Columbia ("UBC"). He eventually received a Diploma in Education – Teaching English as a Second Language. The appellant later enrolled in the Bachelor of Arts ("BA") program at UBC. He maintains that UBC represented that he would be able to transfer all of his credits from courses he completed during his time as an unclassified student towards his BA degree. The appellant alleges that after he enrolled in the BA program, and contrary to its representations, UBC would only agree to transfer some of his course credits.

[3] The appellant filed a notice of civil claim naming UBC, the UBC Senate, and the Committee on Academic Standing as defendants. He advances claims based in

contract, fiduciary duty, tort, breaches of various statutes and the *Canadian Charter of Rights and Freedoms* [Charter]. The remedies the appellant seeks include damages. Although the parties' submissions were not specifically directed to this point, it does not appear to me that the UBC Senate and the Committee on Academic Standing are proper defendants to the civil claim. In these reasons, I will assume—as the parties have—that UBC is the primary defendant.

The application to strike in BC Supreme Court

[4] The defendants applied to strike the notice of civil claim pursuant to Rule 9-5(1)(a) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009, on the basis that it did not disclose a cause of action. The application was allowed by a chambers judge in reasons indexed as 2025 BCSC 1285. The chambers judge based her decision on two grounds: (1) the “essential character of the dispute” was academic in nature, and the law in British Columbia holds that such disputes are not actionable; and (2) s. 69(2) of the *University Act*, R.S.B.C. 1996, c. 468, provides immunity to UBC if it appears that it acted “under the authority of this Act or any other Act”.

[5] In support of the first ground, the chambers judge cited the following cases: *Albu v. The University of British Columbia*, 2018 BCSC 1954 at para. 26, aff'd 2019 BCCA 222; *Williams v. Simon Fraser University*, 2018 BCSC 1787 at para. 10, aff'd 2019 BCCA 41; and *Skyllar v. The University of British Columbia*, 2022 BCSC 439 at para. 54, aff'd 2023 BCCA 90.

[6] As to the second ground, the chambers judge noted that the *University Act* provides UBC, and its Senate, with wide authority over academic matters. She concluded there was nothing in the pleading “that places the alleged wrongful conduct of the University beyond the scope of its statutory authority and immunity”: at para. 23. Further, she saw nothing in the claim that raised matters going beyond complaints about “academic issues”: at para. 23.

[7] In the result, the chambers judge struck the notice of civil claim without leave to amend.

The appeal and application for security for costs

[8] The appellant appealed the order striking his claim. The respondents applied for an order that he post security for costs.

[9] In oral reasons issued February 18, 2026, a chambers judge in this Court granted the respondents' application and ordered the appellant to post security for costs in the amount of \$7,500 within 30 days: 2026 BCCA 87.

[10] Before the chambers judge, the appellant argued that he was indigent and that any order that he pay security for costs may prevent him from pursuing the appeal. The chambers judge accepted that the appellant would have difficulty posting costs. The converse proposition was that the appellant's financial circumstances would make it difficult for UBC to recover its costs in the event of a successful appeal. Therefore, the chambers judge found that the application for security turned on an assessment of the merits.

[11] The chambers judge was of the view that the appellant's appeal had little prospect of success. She concluded it was well-established that s. 69(2) of the *University Act* prohibits causes of action such as that advanced by the appellant. Specifically, she found that the dispute about how UBC treats course credits "falls squarely within its exclusive jurisdiction over academic matters": at para. 14.

[12] As I have noted, the appellant did not post the security within 30 days, as ordered by the chambers judge. The respondents have since filed an application to dismiss the appeal as abandoned and set this application for hearing at the same time as the appellant's variation application.

The application to vary the order of the chambers judge

[13] The standard of review on an application under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, is highly deferential. The review is not to be treated as a re-hearing. For a review division to interfere with the order of a justice in chambers, an applicant must demonstrate that the justice was wrong in law, wrong in principle,

or misconceived the facts: *Seattle Environmental Consulting Ltd. v. Workers' Compensation Board of British Columbia*, 2017 BCCA 386 at paras. 5–7.

[14] This variation application arises in unusual circumstances. Shortly after the chambers judge issued her judgment, a full division of this Court heard an appeal from the decision of the British Columbia Supreme Court in *Easley v. University of British Columbia*, 2025 BCSC 680. Judgment has been reserved. *Easley* was one of the cases cited by the Supreme Court chambers judge in her decision to strike the appellant's claim. *Easley* similarly involved an allegation of breach of contract. The issues in the two cases substantially overlap.

[15] A division of this Court in *Easley* heard argument on the scope of the common law rule that precludes civil actions challenging a university's academic decisions. The law has evolved after the decision of the Supreme Court of Canada in *Young v. Bella*, 2006 SCC 3, which recognized that the relationship between a university and fee-paying student has a contractual foundation giving rise to duties that sound in both contract and tort: at para. 31. There is some inconsistency in the law across the country as to how this contractual relationship interacts with a university's historical common law immunity over academic matters. For a helpful perspective on the current state of the law, see Anna S.P. Wong, "Erosion of University Autonomy: Judicial Supervision of University Conduct" (2024) 61:4 Alta. L. Rev. 881.

[16] This Court has on two occasions dismissed appeals from orders striking actions against a university that is subject to the *University Act* on the basis that the claim concerned academic matters: *Williams* and *Skyllar*. On other occasions, the Court has recognized that a student might be able to seek a civil remedy for breach of contract against a university in limited circumstances: see *Albu* (where an action to enforce a settlement agreement arising from an academic dispute was entertained, at least in part, on its merits) and *Mohl v. The University of British Columbia*, 2006 BCCA 70 at para. 42 (where the Court found the breach of contract allegation was not doomed to fail). This Court has not yet provided a comprehensive

articulation of the scope of the “academic matters” that are not actionable in court. It is asked to do so on the *Easley* appeal.

[17] The question of the scope of the immunity in s. 69(2) of the *University Act* is also complex. On its face, s. 69(2) appears to preclude any cause of action against UBC arising from its exercise of powers under the *University Act* or any other Act. UBC’s powers under the *University Act* (including powers exercised by the Board of Governors on UBC’s behalf) cover a broad range of matters concerning the administration and operation of the university. They include the powers to contract, to hire employees and set terms of remuneration, to hold and transfer property, and to invest and borrow money.

[18] The question is what the legislature intended to capture in s. 69(2). Did the legislature intend to immunize UBC for all claims involving the exercise of its statutory powers so that claims like wrongful dismissal and occupier’s liability are also precluded? If the legislature intended a narrower scope of immunity, what is the narrower scope? This Court has also not addressed these issues of statutory interpretation to any extent to date. They are live issues on the *Easley* appeal.

[19] In these circumstances, which were not known to the chambers judge at the time of the application for security for costs, I am of the view it cannot be said that the appellant’s appeal is bound to fail. While his claim for breach of the *Charter* appears foreclosed by binding Supreme Court of Canada jurisprudence, the same cannot be said of his breach of contract claim. The law is not straightforward as to the scope of either the common law or statutory immunity. This appeal raises issues that overlap with issues currently before this Court in another appeal on which judgment is under reserve. The eventual judgment in *Easley* may provide clarity on the scope of the common law and statutory immunity, which in turn may illuminate the strength or weakness of the appellant’s pleaded private law claims. In the meantime, I am of the view that it would not be in the interests of justice to deprive the appellant of his entitlement to pursue an appeal by an order that he post security for costs.

Disposition

[20] I would allow the variation application and set aside the order of the chambers judge requiring the appellant to post security for costs.

[21] It follows that I would also dismiss the respondents' application to dismiss the appeal as abandoned.

[22] I would leave the question of the costs of these applications to the division hearing the appeal.

[23] **FENLON J.A.:** I agree.

[24] **EDELMANN J.A.:** I agree.

[25] **FENLON J.A.:** The order requiring the appellant to post security for costs is set aside and the respondents' application to dismiss the appeal as abandoned is dismissed.

“The Honourable Madam Justice Horsman”