

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Yilmaz v. Dhugga*,
2026 BCCA 277

Date: 20260615
Docket: CA51333

Between:

Ozgur Yilmaz

Appellant
(Plaintiff)

And

Surjit Singh Dhugga and Warren Bradley Weir

Respondents
(Defendants)

And

Mussio Goodman LLP and Eric Goodman

Respondents
(Claimants)

Before: The Honourable Justice Riley
The Honourable Justice MacNaughton
The Honourable Justice Brundrett

On appeal from: An order of the Supreme Court of British Columbia, dated
January 28, 2026 (*Yilmaz v. Dhugga*, 2026 BCSC 419,
Vancouver Docket M213089).

Oral Reasons for Judgment

The Appellant, appearing in person
(via videoconference):

O.D. Yilmaz

Counsel for the Respondents,
Mussio Goodman LLP and Eric Goodman:

T.R. O'Mahony

Place and Date of Hearing: Vancouver, British Columbia
June 15, 2026

Place and Date of Judgment: Vancouver, British Columbia
June 15, 2026

Summary:

The appellant appeals a chambers judge's decision dismissing his application to strike a solicitor's lien filed by his former lawyer under s. 79 of the Legal Profession Act, S.B.C. 1998, c. 9, s. 1.

Held: Appeal dismissed. A charge may still attach to a settlement even if there is no settlement in place at the time the retainer is terminated. The charge arises upon the lawyer having done work on behalf of a client in pursuit of their claim that results in some recovery or preservation of property.

[1] **MACNAUGHTON J.A.:** The appellant, Ozgur Yilmaz, appeals a chambers judge's decision dismissing his application to strike a solicitor's lien filed by his former lawyer, Eric Goodman of the firm of Mussio Goodman, under s. 79 of the *Legal Profession Act*, S.B.C. 1998, c. 9, s. 1 [LPA].

[2] Mr. Yilmaz disputes the validity of the lien.

Background

[3] In December of 2020, Mr. Yilmaz signed a written agreement retaining Mussio Goodman LLP ("MG"), on a contingency fee basis, "to act on [his] behalf with respect to any and all claims [he] had arising out of an accident which occurred in October 2019" (the "Contingency Fee Agreement"). The Contingency Fee Agreement provided that Mr. Yilmaz would pay MG legal fees "calculated as a percentage of any and all recovery on [his] claims".

[4] Eric Goodman was the lawyer who had carriage of Mr. Yilmaz's action. Mr. Goodman acted as Mr. Yilmaz's solicitor of record from 2020 until February 2025. At that point, Mr. Goodman withdrew from representing Mr. Yilmaz for cause. I need not set out Mr. Goodman's specific reasons for withdrawing. After an exchange of emails, Mr. Goodman said to Mr. Yilmaz:

There is no pressure from us to accept a settlement, stay at our firm, or find another lawyer. The decision is entirely up to you. But we will not change our views nor our position laid out in my previous e-mail with respect to going to trial. We must abide by our professional and ethical obligations, but we are prepared to try to negotiate the settlement on I Ting's (and perhaps your) behalf over the coming weeks.

...

If you do not wish for us to engage in negotiations under these terms, that's not a problem - let us know and we can part ways now.

You may wish and are certainly encouraged to discuss all of this with another lawyer and the Law Society as well.

[5] Upon receiving Mr. Yilmaz's response, MG withdrew from representing him. Three months after MG withdrew, Mr. Yilmaz settled his personal injury claim directly with the Insurance Corporation of British Columbia (ICBC).

Decision Below

[6] On January 28, 2026, the chambers judge dismissed Mr. Yilmaz's application to discharge the lien: *Yilmaz v. Dhugga*, 2026 BCSC 419. After considering the wording of s. 79, the caselaw raised by the parties, and the role of the registrar, the chambers judge concluded:

[9] In this case, there is no question that the plaintiff had a contingency agreement with Mr. Goodman, and that legal work was done on his behalf. There may very well be a dispute about how much work was done and what the disbursements are. Certainly, the plaintiff made some reference to those things. However, I am unable to find that there is no chance that additional fees might be owing, so the plaintiff has not met the burden to discharge the lien.

Issues on Appeal

[7] Mr. Yilmaz contends that the chambers judge made four material errors of law:

- i. In failing to determine the threshold question under s. 79(1) of the *LPA* which he framed as whether MG had recovered or preserved property to which a solicitors' lien could attach;
- ii. In treating *Albion Securities Co. Ltd. v. Nathason*, 2003 BCSC 232 [*Albion*] as an answer to this threshold question;
- iii. In failing to apply the governing approach set out in *Hosseini v. Oreck Chernoff*, 1999 BCCA 386, and *Cliffs Over Maple Bay (Re)*, 2011 BCCA 346 [*Cliffs*]; and
- iv. In failing to determine whether MG was entitled to a lien over funds from resolving his dispute with ICBC regarding his Part 7 benefits.

[8] MG responds that there were no legal errors, material or otherwise, in the chambers judge's approach.

Discussion

[9] The starting point for my analysis is the wording of s. 79(1) of the *LPA*, which provides:

A lawyer who is retained to prosecute or defend a proceeding in a court or before a tribunal has a charge against any property that is recovered or preserved as a result of the proceeding for the proper fees, charges and disbursements of or in relation to the proceeding, including counsel fees.

[10] In *FitzGibbon v. Pipers*, 2012 BCCA 269, this Court considered s. 79 in a similar context. In that case, the client retained a law firm, which later withdrew. The client then retained a second lawyer who settled the client's claim. The original law firm applied for a charge against the settlement funds recovered by the client, pursuant to the *LPA*.

[11] The chambers judge granted the order and this Court dismissed the appeal. The Court discussed the role of s. 79, explaining that, by its express terms, a lawyer who is retained to prosecute a court proceeding has a charge against any property that is recovered as a result of that proceeding. The charge arises upon the lawyer having done work on behalf of the client in pursuit of their claim that resulted in some recovery: *FitzGibbon* at para. 29.

[12] The Court described the nature of the charge as an "inchoate right", the crystallization of which requires only the pronouncement of the court: at para. 30. The Court said it was not an answer to the inchoate nature of the charge to say that the property to which it applies has not been identified: at para. 33.

[13] The legitimacy of a law firm's decision to terminate the solicitor/client relationship may be considered by the registrar in deciding whether the law firm is entitled to be paid fees, taxes and disbursements from the settlement proceeds over which the charge exists. Similarly, questions of negligence or misconduct as bases for defeating the charge are matters to be addressed by the registrar: *FitzGibbon* at paras. 37–38.

[14] Mr. Yilmaz's argument—that no charge can attach to a settlement if there is no settlement in place when the retainer is terminated—is irreconcilable with this Court's determination in *FitzGibbon* that a law firm that withdrew before the settlement was negotiated by a subsequent lawyer was nonetheless entitled to a lien on that settlement.

[15] On its plain reading, s. 79(1) of the *LPA* requires only two things before the registrar can make a determination on the quantum of the appropriate fees owed to a solicitor:

- i. a lawyer is retained to prosecute or defend a proceeding; and
- ii. property is recovered or preserved as a result of that proceeding.

[16] In this case, Mr. Yilmaz admitted that he retained MG on a 30% contingency fee. He attached the Contingency Fee Agreement as an exhibit to the affidavit he filed, and it was before the chambers judge. There was evidence that his retainer of MG continued for about five years before MG withdrew. The settlement funds were obtained in relation to the proceeding for which he hired MG. The conditions of s. 79(1) were clearly met. There is no further requirement in s. 79(1) for counsel to show a precise causal connection between their work and the recovery of the settlement funds.

[17] I also agree with the chambers judge's conclusion regarding Mr. Yilmaz's argument that, because MG withdrew before the settlement was reached, they could not assert a lien. The chambers judge said:

[6] On a plain grammatical reading of the section and from a common-sense perspective, I do not agree with the plaintiff's interpretation. He suggests that because the lawyer withdrew before there was a settlement, there can be no recovery of property to which a lien could attach. If it was the case, then there would be many people who would fire their lawyer on the eve of getting a settlement and then claim they do not have to pay the fees. That is the common-sense context in which I interpret the section, but in my view, the words themselves are extremely clear.

[18] The only case Mr. Yilmaz brought to the chambers judge's attention in support of his position was *Hosseini*. In particular, he drew her attention to para. 26:

[26] In my judgment the parallel structure of the language must be given some meaning. A lawyer employed to prosecute a claim regarding property seeks to recover that property; a lawyer employed to defend the claim strives to preserve it. The relationship between the words connects the lien with the lawyer's employment. In other words, the lien must relate to what the lawyer was hired to do and what the lawyer accomplished; it can only go against the property that the lawyer recovered or preserved as the case may be.

[Emphasis in original.]

[19] I agree with the chambers judge that this holding from *Hosseini* must be read in the factual context in which it was made. That case involved a solicitor attempting to charge property that had been awarded to the opposing party. It was in this context that the court said that "the lien must relate to what the lawyer was hired to do and what the lawyer accomplished". The client lost the case and the property was awarded to their spouse, so there was nothing "recovered" or "preserved" from the claim to which a lien could attach. This paragraph of *Hosseini* emphasizes that a plaintiff's solicitor tasked with "recovering" property cannot charge property awarded to the defendant, and a defendant's solicitor tasked with "preserving" property cannot charge property awarded to the plaintiff.

[20] Read in this context, *Hosseini* does not stand for the proposition that where a lawyer withdraws from representing a client before there is a settlement in the proceeding for which they were retained, they are not entitled to a lien under the *LPA*.

[21] Mr. Yilmaz also relies on *Cliffs*, and *Wang v. Jiang*, 2020 BCSC 901 together with *Hosseini* as authorities for his argument that the chambers judge was required to determine whether the lien was a result of what the lawyer actually accomplished. He emphasizes the importance of the link between the lawyer's employment, the lawyer's accomplishment, and the property charged.

[22] Paragraph 25 of *Cliffs*, on which Mr. Yilmaz relies, cites *Hosseini* to hold that a court must be satisfied that the solicitor recovered or preserved property as a result of the proceeding in which his or her fees and disbursements arise. A similar finding was made in *Fitzgibbons* at para. 29.

[23] Paragraph 39 of *Wang*, on which Mr. Yilmaz relies, also cites *Hosseini* to state that the claiming solicitor must prove that they recovered or preserved the property against which the lien is claimed.

[24] I have already discussed why I do not see *Hosseini* as helpful to Mr. Yilmaz's position.

[25] Nor do *Cliffs* and *Wang* independently support the proposition Mr. Yilmaz advances. In *Cliffs*, the court noted that the term "property" in s. 79 of the *LPA* (and in its predecessor legislation) has been construed liberally and that, in the circumstances of that case, obtaining a debtor-in-possession order and financing was securing "property", entitling the law firm to a lien. In *Wang*, two law firms held funds in trust for their respective clients. The court found that the funds held in trust by the two firms were the property of an opposing party, and they were to be disbursed to that opposing party. Then Chief Justice Hinkson determined that, since the funds held in trust were not property recovered by the law firm, they were not subject to a lien.

[26] These cases do not undermine the chambers judge's conclusion that MG performed work under the Contingency Fee Agreement for Mr. Yilmaz. The question of how much the work of MG contributed to the final settlement is a question for the registrar.

[27] Finally, Mr. Yilmaz alleges that the chambers judge erred in her reference to *Albion*. The chambers judge relied on *Albion* for the propositions that there is a "high bar" to discharge a lien and that, unless there is little or no possibility that further fees and disbursements may be owing, review before the registrar is the appropriate forum: at para. 8. Mr. Yilmaz says that this presupposes the existence

of a lien and property to which fees and disbursements could attach, improperly moving the registrar's review ahead of the attachment question, which, he argues, comes first.

[28] The chambers judge's reasons make clear that she referred to *Albion* for its discussion of the role of the registrar. She cited para. 29, which says:

[29] Unless it can be said that there is little or no possibility that the Respondents will be entitled to further fees and disbursements over and above what has already been paid, the assessment proceeding [before the Registrar] rather than these proceedings is the appropriate forum for the Petitioners to raise the questions that they wish to raise regarding the accounts rendered by the Respondents.

[29] Registrars deal with concerns about the extent to which the work done contributed to the result, the quality of the work done, and the quantum of disbursements (an issue Mr. Yilmaz brought up in his argument). Registrars may also interpret the scope and intent of contingency fee agreements.

[30] Although it does not appear that Mr. Yilmaz made submissions before the chambers judge with respect to a lien on Part 7 funds recovered, he clearly made that argument in his written submissions. I agree that the assessment before the Registrar is the appropriate forum in which to address Mr. Yilmaz's arguments with respect to whether the retainer agreement extends to his Part 7 benefits.

[31] For these reasons, I would dismiss the appeal.

[32] **RILEY J.A.:** I agree.

[33] **BRUNDRETT J.A.:** I agree.

[34] **RILEY J.A.:** The appeal is dismissed.

"The Honourable Justice MacNaughton"