

**CITATION:** Zheng v. Universal Protection Service of Canada Corporation, 2025 ONSC 4138  
**COURT FILE NO.:** CV-18-603145  
**DATE:** 2025 07 11

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** QUN ZHENG, *Plaintiff*

- and -

UNIVERSAL PROTECTION SERVICE OF CANADA CORPORATION  
(dba ALLIED UNIVERSAL SECURITY SERVICES OF CANADA),  
JANET PUDAN, MONIQUE BUITRON, KETHEESAN  
PACKIYANATHAN and JOE CACCAMO, *Defendants*

**BEFORE:** Associate Justice Todd Robinson

**APPEARING:** I. Andriessen and A. Dorfman, *for the defendants*  
Q. Zheng, *in person*

**HEARD:** April 11, 2025

**REASONS FOR DECISION**  
**(Motion for Security for Costs and Prohibition Order)**

[1] The defendant, Universal Protection Service of Canada Corporation (dba Allied Universal Security Services of Canada) (“Universal”), brings this motion seeking \$50,000 in security for costs from the plaintiff, Qun Zheng, and an order prohibiting Mr. Zheng from taking any further steps in this action or any further appeals without leave of the court. Mr. Zheng opposes the motion, taking the position that it is a strategic motion and that there is no need or basis to grant the orders sought.

[2] My decision on this motion has taken longer than it should have taken. Compelling arguments were made by Universal on why the plaintiff’s conduct warrants security for costs and intervention of the court, particularly considering Mr. Zheng’s ongoing practice of appealing judicial decisions. Mr. Zheng similarly made compelling arguments on the strategic nature of this motion and Universal’s delay in bringing it. I have taken time to consider the arguments from both sides in context of the parties’ relationship throughout the litigation.

[3] Ultimately, I have decided that the motion must be dismissed. I have determined that an order for security for costs is not warranted or just at this late stage of the proceeding. Also, in my view, a prohibition on motions without leave is unnecessary since the action has already been set down for trial and I lack jurisdiction to bar Mr. Zheng from appealing decisions without leave.

## ANALYSIS

### *Security for costs*

[4] Although not specifically cited in their materials, the defendants seek security for costs under subrules 56.01(1)(c) and (e) of the *Rules of Civil Procedure*, RRO 1990, Reg 194 (the “*Rules*”), which provide as follows:

56.01 (1) The court, on motion by the defendant or respondent in a proceeding, may make such order for security for costs as is just where it appears that,

[...]

(c) the defendant or respondent has an order against the plaintiff or applicant for costs in the same or another proceeding that remain unpaid in whole or in part;

[...]

(e) there is good reason to believe that the action or application is frivolous and vexatious and that the plaintiff or applicant has insufficient assets in Ontario to pay the costs of the defendant or respondent;

[5] Granting security for costs is a discretionary decision. The initial onus is on the moving party to demonstrate that the responding party fits within one or more of the provisions of subrule 56.01(1) of the *Rules*. Doing so triggers an enquiry into security for costs, which involves considering a number of factors and making the order that is just in the circumstances of the particular case.

[6] Determining the justness of a security for costs order requires a holistic approach, in which all circumstances of the case are examined, as guided by the overriding interests of justice. Although various factors have been outlined by courts to be considered, such as merits of the claim, delay in bringing the motion, the impact of a defendant’s conduct on the available assets of the plaintiff, access to justice concerns, and the public importance of the litigation, those factors are not static. Each case must be considered and decided on its own facts: *Yaiguaje v. Chevron Corporation, supra*, 2017 ONCA 827 at paras. 22-25.

[7] Universal relies on two unpaid costs orders as supporting security for costs:

(a) a costs award in of \$3,000 in favour of G4S Secure Solutions (Canada) Ltd. (a predecessor corporation to Universal), which was ordered payable by the Divisional Court on January 11, 2022, following an unsuccessful application for judicial review of a decision of the Human Rights Tribunal of Ontario; and

(b) a costs award of \$1,500 against Mr. Zheng ordered by the Court of Appeal on October 24, 2022, following an unsuccessful appeal from the Divisional Court’s dismissal of Mr. Zheng’s judicial review application.

[8] Mr. Zheng does not dispute that he has not paid these costs awards. He sought leave to appeal to the Supreme Court of Canada from the Court of Appeal’s decision, which was denied. He thereafter requested a reconsideration, but that too was denied. Mr. Zheng’s view is that he is

not required to pay the costs award while his appeal remains pending. In May 2024, he filed a motion in the Supreme Court of Canada seeking judicial review of the registrar's rejection of his motion to reconsider. Until Mr. Zheng has received a final decision, he feels he is not required to pay. Mr. Zheng has directed me to no authority supporting that his liability to pay costs awards is stayed by the fact of an appeal process.

[9] I have considered Universal's arguments, but am not satisfied that the \$4,500 in unpaid costs awards in separate proceedings (albeit related) warrants an order for security for costs in this action. Mr. Zheng has tendered evidence supporting that he has paid other costs awards made against him in this proceeding, which Universal does not dispute. Similar to the decision in *Lee v. Toronto Housing Company Inc.*, 2011 ONSC 4461, at para. 16, the \$50,000 in security for costs requested by Universal is disproportionate to the extent of unpaid costs from the other proceedings. I do not find it just to order security for costs of the magnitude sought on the basis of nominal unpaid costs awards from Mr. Zheng's separate application for judicial review and appeal.

[10] Universal also advances an argument for why I should find that the claim is frivolous and vexatious and that Mr. Zheng lacks sufficient assets in Ontario to satisfy a costs award. However, I have decided that I need not address those arguments given Universal's delay in bringing this motion.

[11] A motion for security for costs must be brought promptly upon the defendant discovering that it has a reasonable basis for bringing the motion. A plaintiff should not have to post security after it has incurred significant expense in advancing the litigation. A moving party should not be entitled to security for costs if its delay causes prejudice to the plaintiff, but failure to explain the delay may be fatal to the motion even in the absence of prejudice: *688103 Ontario Inc. v. 5000917 Ontario Inc.*, 2025 ONSC 720 at para. 14. Although a significant delay in moving for security for costs will not inevitably be fatal, it does call out for an explanation: *Bloomsbury & Butterfield Ltd. v. Economical Mutual Insurance Group*, 2011 ONSC 4889 at para. 56.

[12] This action was commenced in 2018. The defendants' statement of defence was delivered in March 2019. I accept that the pandemic interfered (although the extent of the impact is not discussed in the evidence). Affidavits of documents were exchanged. There have been no examinations for discovery. Several motions were brought, with appeals. Mr. Zheng set the action down for trial in October 2023, well before this motion was brought. At the pre-trial in August 2024, a 5-day trial was scheduled for February 2026. This motion was thereafter brought. Over five years lapsed between delivering a statement of defence and bringing this motion.

[13] I agree with Mr. Zheng that Universal has failed to provide a cogent and convincing explanation for its delay in bringing this motion, particularly insofar as the relief is based on the claim being frivolous and vexatious. Although Universal points to delays occasioned by the parallel human rights proceeding, Mr. Zheng's application for judicial review and the subsequent appeals, and various motions in this proceeding, I am unconvinced that Universal was somehow precluded from moving for security for costs while those various steps played out.

[14] Universal also submits that the pre-trial associate judge already considered delay before permitting this motion to be brought. There is no such endorsement before me and, in any event,

I am not bound by what the pre-trial associate judge may or may not have determined with respect to delay. The motion is before me and it was incumbent on Universal to provide an explanation for its delay. If the claim is frivolous and vexatious now, then it was also frivolous and vexatious when the statement of defence was delivered in March 2019, as well as throughout the many years since that time until this motion was brought.

[15] In my view, on the facts of this case, it would be unjust to grant an order for security for costs based on the claim being frivolous and vexatious at this late stage of the proceeding – over five years into litigation between pre-trial and trial – absent a convincing explanation for why this motion could not reasonably have been brought sooner, which I do not have.

### ***Prohibiting motions and appeals***

[16] Universal seeks an order that Mr. Zheng may not take any further step in this action or commence any further appeals without leave of the court. It relies on rule 37.16 of the *Rules* in support of that order.

[17] Pursuant to rule 37.16, I have jurisdiction to prohibit a party from making further motions without leave, provided that I am satisfied that the party is attempting to delay, add to the costs of the proceeding, or abuse the process of the court by a multiplicity of frivolous or vexatious motions. The rule speaks to motions, not appeals. The rule also does not afford me jurisdiction to prevent “any step” in the action from being taken.

[18] With respect to “any further step”, in my view, making a general order prohibiting Mr. Zheng from taking further steps in this action prior to the pending trial without first obtaining leave is overbroad, unfair, and unwarranted.

[19] With respect to motions, Mr. Zheng has already set the action down for trial and is already precluded by subrule 48.04(1) from initiating or continuing further motions without leave. There are limited exceptions in subrule 48.04(3), but I find no basis to vary operation of that subrule to require that Mr. Zheng obtain leave for such motions.

[20] With respect to appeals, I am not convinced by the plaintiff’s arguments that I have jurisdiction as an associate judge to direct whether a litigant is entitled to initiate an appeal. Appeal rights and routes, including whether leave is or is not required, are governed by the *Courts of Justice Act*, RSO 1990, c C.43, which notably provides for appeals as of right from all levels of court. While rule 2.03 of the *Rules* affords me with jurisdiction to dispense with compliance with any rule at any time, where and as necessary in the interest of justice, it does not grant me jurisdiction to dispense with or vary rights afforded under a statute.

[21] I have been directed to no legislation, rule, or case law authority supporting that I may make an order superseding the rights of appeal outlined in *Courts of Justice Act*. Absent clear jurisdiction to do so, I am not prepared to entertain, let alone make, the requested order.

**DISPOSITION**

[22] For the foregoing reasons, Universal's motion is dismissed.

**COSTS**

[23] Costs outlines have been exchanged. Given the varied potential outcomes of this motion, I did hear costs submissions at the time of the hearing. I encourage the parties to settle costs of the motion. If they cannot agree, then written costs submissions shall be exchanged. Mr. Zheng shall serve any costs submissions by August 1, 2025. Universal shall serve its responding costs submissions by August 15, 2025. There shall be no reply submissions absent leave of the court. Costs submissions shall not exceed four (4) pages, excluding any offers to settle and case law.

[24] Once served, all costs submissions shall be submitted by email directly to my Assistant Trial Coordinator, Christine Meditskos, with proof of service. Unless exchanged and submitted in accordance with the above, the parties shall be deemed to have agreed on costs.

---

**ASSOCIATE JUSTICE TODD ROBINSON**

**DATE:** July 11, 2025