

KING'S BENCH FOR SASKATCHEWAN

Citation: **2025 SKKB 120**

Date: **2025 07 30**
File No.: KBG-RG-00843-2025
Judicial Centre: Regina

BETWEEN:

STUDENTS' UNION OF THE UNIVERSITY OF REGINA INC.
PLAINTIFF/APPLICANT

- and -

UNIVERSITY OF REGINA
DEFENDANT/RESPONDENT

Counsel:

Michael S. Scott	for the plaintiff/applicant
Erin M.S. Kleisinger, K.C.	for the defendant/respondent
and Gabrielle H. Robitaille	

FIAT
July 30, 2025

BERGBUSCH J.

I. OVERVIEW

[1] The Students' Union of the University of Regina Inc. [URSU] applies for an interlocutory injunction to compel the University of Regina [University] to release fees collected from students and to direct the University to continue collecting and transferring such fees to URSU until the issues in this action are resolved. URSU claims it needs these funds to carry on operations and to fund student services and programs. The University ceased transferring funds to URSU effective January 1, 2025, raising wide-ranging concerns about URSU's stewardship of the funds, alleged financial

mismanagement, lack of transparency and poor governance, and so on. The University later gave URSU written notice of termination of a long-standing fee collection agreement between the parties.

[2] URSU's application raises the following issues:

- (a) Should portions of the affidavits filed by URSU be struck?
- (b) Has URSU demonstrated that its claim raises a serious question to be tried or is *prima facie* meritorious? As a related question, which of these tests applies to the Court's assessment of the merits of URSU's claim?
- (c) Will URSU suffer irreparable harm if the injunction is denied?
- (d) Does the balance of convenience favour granting the injunction?

[3] In substance, URSU seeks two injunctions: (1) a prohibitory injunction to restrain the University from breaching the existing fee agreement between the parties while it remains in force, and (2) a mandatory injunction to compel the University to continue to collect student fees on URSU's behalf and transfer them to URSU after the University's termination of the agreement becomes effective. URSU has established a serious question to be tried regarding the former injunction, but it has failed to show a strong *prima facie* case as required for the latter. This alone is a sufficient basis to refuse the requested mandatory injunction.

[4] URSU has not demonstrated a meaningful risk of irreparable harm if the requested prohibitory injunction is denied. The University has put in place a protocol that allows URSU to request the University to pay invoices and cover URSU's payroll using student fees. If URSU follows this interim procedure, it will be able to continue operating in the short-term without Court ordered assistance. However, the University

will cease collecting student fees altogether in the Fall of 2025. Had URSU established a strong *prima facie* case for the mandatory injunction, I would have concluded that it had also made out a meaningful risk of irreparable harm because URSU cannot operate without the student fees collected on its behalf by the University.

[5] The balance of convenience does not favour granting the prohibitory injunction. Since the funds are reasonably available to URSU, the inconvenience to URSU if the injunction is denied is modest. By contrast, the University has established a real risk that URSU will not properly allocate student funds to student groups entitled to them or account for them if the Court orders the University to transfer them as a lump sum. Regarding the requested mandatory injunction, the inconvenience of imposing on the University an extra-contractual obligation to collect and transfer student funds to URSU for an indeterminate period would be significant. Finally, the overall equities of the present situation do not favour granting the injunction. URSU is in dire financial straits and is not forthcoming about the measures it has taken to date or its plans to achieve financial viability. Compelling the University to collect fees from students on URSU's behalf in the present circumstances would be unfair to students and irresponsible.

[6] For the reasons which follow, the application for an interlocutory injunction must be dismissed.

II. BACKGROUND

[7] URSU is a non-profit corporation that represents over 14,000 undergraduate and graduate students attending the University. Pursuant to Article II of its Constitution, URSU's mandate is to represent the educational interests of students of the University, to act as their official representative, and to promote and develop their social, economic and cultural interests. Article III provides that persons enrolled at the University who pay the required student fees shall be members in good standing

of URSU. Article XIII addresses URSU's provision of student services, which include funding and office space for an autonomous women's centre, support for a student newspaper, funding for refugee students, and operation of an emergency bursary fund.

[8] The University is a body corporate and politic continued pursuant to *The University of Regina Act*, RSS 1978, c U-5, s 3(1) [*UR Act*]. The University is governed by a Board of Governors established under s. 56 of the *UR Act*, whose members include "one student who shall be the president of the students' union": s. 56(2)(e). The *UR Act* does not contain any other reference to the students' union. For many decades the University has recognized URSU as the representative of all students attending the University.

[9] The Board of Governors has the authority to fix and determine the fees that every student is required to pay: *UR Act*, ss 62(k) and 85. The University has established a policy, entitled *Authority to Set Fees for Goods and Services Policy*, which identifies who has authority to set fees for goods and services provided by the University. Among other things, it acknowledges that URSU is an independent entity with its own ability to set and collect fees. The policy also states that a number of student fees are collected from students by the University on behalf of URSU. The Board of Governors retains the authority to approve the collection of new URSU fees and fee increases that exceed the consumer price index [CPI] for Saskatchewan in the previous year. Authority to approve the collection of annual increases to URSU fees not exceeding the Saskatchewan CPI for the previous year is delegated to the Associate Vice-President (Finance) [AVP (Finance)].

[10] URSU and the University are parties to an agreement dated October 13, 1989, governing the University's collection of student fees on behalf of URSU [Fee Agreement]. The recitals in the Fee Agreement explain that the University had "for some time by agreement collected student union fees on behalf of the Students' Union"

and the parties considered it advisable to complete a new agreement. In the Fee Agreement, the University agreed to collect fees duly established by the students' union from students: para. 2. The University is obliged to pay those fees to URSU not later than 30 days after the last day for payment of fees without penalty: para. 4. URSU must provide the University with audited financial statements within 120 days after the end of its fiscal year: para. 11. The Fee Agreement also permits either party to give written notice of termination to the other and specifies how notice of termination is to be given: paras. 12 and 13. I will come back to the Fee Agreement later.

[11] The University tendered in evidence an excerpt from its 2024-2025 Undergraduate Calendar, which includes a description of URSU's services, benefits and related student groups and summarizes University tuition fees and various mandatory fees. Students' union fees consist of a base fee plus a fee per credit hour [Membership Fee], a fee to fund premiums for the student health and dental benefit plan, and a fee for a municipal bus pass plan for students [U-Pass Service]. The University's academic schedule comprises three terms: Winter, Spring/Summer, and Fall. The Membership Fee is collected each term, is used by URSU to fund its operations, and includes specific levies for various student programs. The fee for the health and dental plan is collected once a year, during the Fall term. The fee for the U-Pass Service is collected in the Fall and Winter terms only. Students' union fees are imposed by the University and must be paid when students pay tuition and other University fees.

[12] The relationship between URSU and the University is complex and subject to numerous agreements in addition to the Fee Agreement. URSU leases space on campus from the University to house its business office and for ancillary users, such as student centres and student clubs, societies, and organizations; for social and cultural activities, including the Owl bar and restaurant and a multi-purpose room; and for certain revenue-generating retail operations. URSU's leased premises are located in

close proximity to the University's Student Affairs offices, which facilitates students accessing the complementary services provided by Student Affairs and URSU. Rather than paying rent, URSU is invoiced twice a year for the operating costs of the revenue-generating premises and URSU also pays the costs of enhanced maintenance for the leased premises. The University pays URSU an annual fee as compensation for the University's use of the multi-purpose room.

[13] Dr. Jeff Keshen, the University's President and Vice-Chancellor, attested that one of his priorities when he arrived at the University in July 2021 was to foster the University's relationship with URSU. For several years thereafter, Dr. Keshen had a positive working relationship with successive URSU presidents and the University and URSU worked together constructively on several initiatives.

[14] However, by the summer of 2023, according to Dianne Ford, the University's Vice-President (Administration), the University had many concerns about URSU's use and operation of the leased premises. The University has adduced substantial evidence about those concerns, but the details are not germane to this decision. Briefly, and at the risk of over-simplifying, URSU took actions in relation to the leased premises without consulting or coordinating with the University, refused to use the University's booking system for URSU-managed spaces, permitted a sub-tenant to perform work without the required permissions or a building permit, often failed to attend scheduled meetings with the University, and did not respond to inquiries on a timely basis.

[15] At Ms. Ford's request, the University's AVP (Finance) undertook a review of URSU's finances. The review disclosed that URSU had experienced an operating loss of \$1,473,781 for the fiscal year ending April 30, 2023, a substantial increase over the previous year's loss of \$569,097 driven by higher expenses of \$1,156,194 while revenues rose by just \$210,895. Cash from URSU's operations and

from student fees was not sufficient to meet current liabilities, and URSU had incurred \$516,881 in bank debt in 2023. The value of URSU's short term investments had fallen from \$1,538,140 in 2021 to \$100,901 in 2023.

[16] In about May of each year from 2020 to 2023, URSU requested and the University provided a \$200,000 advance on student fees for cashflow purposes. However, in August 2023, URSU requested an additional advance of \$400,000, explaining that it was facing "institutional issues."

[17] As a result of the University's growing concern about URSU's management and finances, Ms. Ford and several members of her team met with the URSU President, Tejas Patel, in November 2023. University representatives walked Mr. Patel through their financial analysis and recommended that URSU engage a consultant to conduct a governance review and an accounting firm to perform a forensic audit of URSU's finances. The University offered to bear the cost of both engagements. Ms. Ford and her team had several follow-up meetings with URSU. Mr. Patel responded to the University by letter December 22, 2023, stating among other things that URSU was "working towards rectifying any deficits in the financials of URSU" and was committed to working with the University to resolve any financial issues (Exhibit N to the Affidavit of Dianne Ford sworn June 3, 2025 [Ford Affidavit]).

[18] During the next few months, Mr. Patel advised Ms. Ford that URSU was going to move ahead with a forensic audit and governance review. Mr. Patel also disclosed that the Canadian Federation of Students was threatening to sue URSU over unpaid fees of approximately \$1 million. URSU also terminated the employment of its general manager.

[19] In April 2024, URSU elected a new executive, including a new president, Mahad Ahmad. Following the election, Aoun Muhammad was appointed URSU's permanent general manager.

[20] Dr. Keshen attested that the relationship between the University and URSU became less cooperative and transparent after the election of the new URSU executive and hiring of URSU's new general manager. Among other things, URSU signed a sub-lease with a vendor for a café space without the required approval of the University. The University had concerns with URSU's operation and renovation of the Owl and URSU's general lack of consultation with the University. The University's executive team offered to meet with the URSU executive in the summer and early fall of 2024, but the URSU executive claimed to be too busy to meet.

[21] Meanwhile, in the summer of 2024 URSU sought and received advances on student fees totalling \$600,000 from the University. URSU also requested a rent holiday from the University.

[22] URSU's financial statements for the year ending April 30, 2024, were released in September 2024. They showed a worsening financial position. URSU had incurred a further loss of \$1,245,273, which included an operating loss of \$662,507 for the Owl. URSU's cash and cash equivalents on hand were only \$300,935, a drop of \$879,595 from 2023. URSU's bank debt had increased to \$1,093,381 in 2024 from \$516,881 in 2023. URSU's auditor included a "Material Uncertainty Related to Going Concern" opinion in the financial statements, summarized as follows:

Material Uncertainty Related to Going Concern

We draw attention to Note 2 of the financial statements, which indicates that the Students' Union's unrestricted net assets are in a deficit position of \$1,368,362 as at April 30, 2024 as a result of recurring deficiencies of revenues over expenses. As stated in Note 2, these events or conditions indicate that a material uncertainty exists that may cast significant doubt on the Students' Union's ability as a going concern. ...

[Ford Affidavit at Exhibit Q]

[23] Since May 2024, Ms. Ford had made repeated attempts to schedule a

meeting with the URSU President and its Vice-President Student Affairs. Finally, an hour-long meeting was scheduled for October 4, 2024. URSU representatives arrived 55 minutes late and Ms. Ford was only able to meet with them for 15 minutes. During that brief meeting, Ms. Ford expressed the University's concern about resolutions adopted by the URSU Board to hold student referenda on the elimination of student levies for the Women's Centre, UR Pride and Engineers Without Borders.

[24] As the University's concerns grew, Dr. Keshen arranged a meeting between his executive team and the URSU executive on December 3, 2024, to walk through a review of URSU's finances for the period 2018-2024 prepared by the University's AVP (Finance). Ten minutes before the start of the meeting, the URSU executive advised they would not be attending. Dr. Keshen sent the URSU executive an email the following day, summarizing efforts taken by the University over the previous year to assist URSU to address its precarious financial situation, among other things. Dr. Keshen noted that URSU appeared to be on the verge of insolvency and had not presented a plan to remedy the situation. He advised that the University executive would raise its concerns with the University's Board of Governors and seek direction.

[25] In his response dated December 5, 2024, Mr. Ahmad told Dr. Keshen not to worry about URSU's financial situation and said he could "guarantee" URSU's finances were on the right path. URSU had received legal and accounting advice that it should focus on plugging financial leaks rather than pursue previous mismanagement or conduct a forensic audit. He said URSU had created and implemented an emergency financial plan and URSU's payroll would be lower by \$700,000 from the previous year. He alluded to negotiations URSU was having with third parties to reduce costs, which were part of a plan "to rectify financial misappropriations of the past." He questioned the University's "aggressive approach ... to pin the previous mismanagement practices to my team [*sic*]." (Affidavit of Dr. Jeff Keshen sworn June 5, 2025, Exhibit A [Keshen Affidavit]). He also noted that URSU's executive was accountable to its Board and its

members and did not report to the University.

[26] In a written report to the Board of Governors for its December 2024 meeting, Mr. Ahmad advised that URSU's annual audit had been successfully completed. Referring to URSU's precarious financial position, Mr. Ahmad stated only that URSU had "created the emergency financial plan and it's already implemented to fix URSU finances [*sic*]." (Keshen Affidavit at para. 30).

[27] Ms. Ford and her team met with Mr. Ahmad and URSU's Vice-President Student Affairs on December 12, 2024. The URSU representatives advised they had concluded there was no point in doing a forensic audit because the URSU Board had approved the activities of URSU's former management. Further, they stated that they were too busy to undertake a governance review. Ms. Ford warned that URSU's financial condition and the failure of its leadership to work collaboratively with the University was jeopardizing the relationship between the two organizations and the University was losing confidence in URSU's ability to fulfill its responsibilities.

[28] At the Board of Governors' direction, Dr. Keshen wrote to URSU on January 13, 2025, to make the following points:

- (a) URSU's recognition by the University as students' representative body was subject to the University's ongoing approval and could be revoked.
- (b) If the University was not satisfied that URSU was responsibly managing funds raised from student fees, the University might not continue to levy or remit the fees.
- (c) The University was concerned about URSU's financial condition.
- (d) The University wanted URSU to provide information about its

emergency plan to rectify its financial position.

- (e) The University wanted to enter into a comprehensive “Recognition and Fee Sharing Agreement” with URSU.

[29] Not having received a substantive response to his letter, Dr. Keshen wrote to Mr. Ahmad on January 28, 2025, to advise that the University needed the information it had requested by February 3, 2025, failing which the University would not transfer the next instalment of student fees to URSU and would instead put in place an interim protocol for payment of essential services and expenses. In a response dated February 2, 2025, URSU provided some of the requested financial information, while advising that further requests for information “will not be accommodated.” URSU’s letter provided no meaningful details about its plan to become solvent.

[30] At the same time, the University had documented many concerns about URSU’s activities related to the leased premises, including underutilization of the multi-purpose space, overstaffing and poor customer service at the Owl, failing to ensure that liquor was securely stored at the Owl, sub-leasing a café space without prior University approval, and renovations to the Owl completed without a building permit or compliance with the University’s electrical safety program.

[31] The University’s Associate Vice-President (Student Affairs) wrote to Mr. Muhammad on February 5, 2025, to articulate these concerns and give notice of URSU’s alleged breaches of its lease. In a brief, dismissive response, Mr. Muhammad suggested many of the University’s concerns were a “significant overreach” and contended that they did not warrant terminating URSU’s lease.

[32] At a meeting on February 12, 2025, URSU representatives declined to share information with Ms. Ford about the impact of staff reductions on URSU’s financial position. URSU did not have a plan finalized to address its outstanding debt

but claimed its audited financial statements for the current year would show a surplus. During the meeting, URSU disclosed that it does not hold student fees levied for particular groups, such as the Women’s Centre, UR Pride, and Engineers Without Borders, separate from its other funds. URSU asserted that funds levied for specific student groups do not have to be paid to those groups and URSU’s use of such funds is “unrestricted.” Shortly before this meeting, URSU removed from its website a detailed breakdown showing how student fees are allocated.

[33] The University’s executive team formed the view that URSU did not grasp its serious financial position or have a plan to address it and decided not to transfer the Winter 2025 student fees to URSU in a lump sum. Instead, the University would withhold the funds and implement an interim protocol to facilitate payment of URSU’s legitimate expenses until URSU dealt with its financial, operational, and governance issues, as the University saw them.

[34] In a letter dated February 27, 2025, the University advised URSU that, effective immediately, the University would remit funds from the fees levied and collected from students to URSU “as may be legitimately required, following the protocol outlined on Schedule ‘A’ ...” (Affidavit of Aoun E. Muhammad sworn May 5, 2025, Exhibit J [Muhammad Affidavit]). A three-page payment protocol [Payment Protocol] was enclosed as Schedule “A”, setting out a procedure for URSU to make requests to the University’s AVP (Finance) for the disbursement of funds to pay invoices related to URSU’s health and dental plan and the U-Pass Service, to support various student groups, funds and organizations, to pay invoices from third parties, and to cover URSU’s payroll (Muhammad Affidavit, Exhibit J). The letter also advised that the University would continue to collect student fees on behalf of URSU for the Spring/Summer 2025 term but, commencing in the Fall of 2025, collection of student fees would be subject to several conditions:

- (a) URSU entering into a formal agreement with the University.
- (b) URSU undertaking a governance review and implementing best practices as outlined in the review or an appropriate plan. The University offered to facilitate and pay for the review, a copy of which would be provided to the University.
- (c) URSU undertaking a forensic audit or equivalent to determine any financial irregularities. The University offered to pay for the audit report, a copy of which would be provided to the University.

[35] On March 11, 2025, URSU's President, general manager, and Board Chair met with the Board of Governors. URSU urged the Board to reconsider the Payment Protocol and release the Winter 2025 student fees to URSU. The Board confirmed that the Payment Protocol would remain in effect because it continued to be concerned about URSU's stewardship of student funds.

[36] Glenys Sylvestre, Chief Governance Officer and University Secretary, provided further details of the University's concerns regarding URSU's governance. She averred that students have frequently raised concerns about URSU's election processes. She said that continual turnover in the key positions of URSU board chair and chief returning officer have made it difficult to maintain effectiveness and consistency in URSU's governance and election processes. Ms. Sylvestre said that she has heard concerns from students about hiring by URSU that may violate its anti-nepotism policy. Ms. Sylvestre also mentioned an incident regarding an alleged privacy breach involving URSU. Ms. Sylvestre summarized concerns expressed by some students to "University officials" following URSU's annual general meeting on February 7, 2025, regarding the lack of transparency of URSU's operations and finances. Ms. Sylvestre also discussed a petition circulated by students seeking a referendum to gauge support to dissolve URSU. Finally, Ms. Sylvestre noted that a

majority of students who voted in the 2025 URSU General Election abstained from voting for the positions of URSU President and Vice-President Student Affairs. I will not go into this evidence in greater detail because much of it consists of hearsay and speculation and I am unable to see how controversies related to URSU's elections, student politics, and general governance are relevant to the issues the Court must decide on this injunction application.

[37] According to Ms. Ford, Protective Services (the University's security service) received confidential information alleging systemic misappropriation of funds and other illegal activity involving URSU. A new financial review of URSU was undertaken by the University's former AVP (Finance) in April 2025. I will not review this evidence, as it is not provided by the former AVP (Finance) and is inadmissible hearsay and opinion. The University has forwarded this information to law enforcement officials.

[38] On April 2, 2025, Dr. Keshen gave notice to URSU that the University was terminating the Fee Agreement and would not collect student fees on URSU's behalf beginning in the fall of 2025.

[39] Muhammad Rehan was elected URSU's new president in March 2025. He attested that URSU needs the student fees collected by the University to operate, to provide services to students, and to pay URSU's creditors. Further, he averred that URSU's financial situation "has improved from the years prior to 2024" (Affidavit of Muhammad Hamza Rehan sworn May 6, 2025 at para. 6). He claimed URSU has ended some programs that were too costly for the benefits they provided or were duplicative and URSU is working toward financial stability.

[40] Aoun Muhammad has served as URSU's general manager since March 12, 2024. He attested that between January and April 2025, URSU made repeated written and oral requests for the University to release the student fees owed to URSU.

Mr. Muhammad said that URSU has shared evidence of improved financial management with the University, citing as examples his hiring as general manager, a payroll restructuring that reduced URSU's payroll from \$2.3 million to \$1.7 million, closure of URSU's Legal Advocacy Centre, an internal operational audit and structural reforms, and a projected \$400,000 surplus for the 2024-25 fiscal year (Muhammad Affidavit at para 7).

[41] Mr. Muhammad claimed URSU has demonstrated its willingness to work with the University administration. He said URSU is willing to initiate a governance review and negotiate a new fee collection agreement by August 2025. He stated this timeline is necessary because URSU's new Board and Executive took office on May 1 and needs time to get up to speed before making significant decisions.

[42] On April 24, 2025, URSU issued a Statement of Claim against the University.

[43] On May 7, 2025, URSU filed a Notice of Application seeking the following interlocutory relief: an order that the University shall forthwith provide URSU payment of the 2025 Winter semester student fees levied upon students, an order that the University shall provide URSU payment of the 2025 Spring/Summer semester student fees levied upon students, and a declaration that the University is obliged to pay URSU the levied portion of student fees in the usual course as per custom and the agreement between the parties dated October 13, 1989, until further order or agreement.

III. POSITIONS OF THE PARTIES

[44] Counsel for the plaintiff submits that URSU's case for an interlocutory injunction in relation to student fees paid collected by the University for the Winter 2025 and the Spring/Summer 2025 terms is straightforward. The University is contractually obliged to pay the student fees collected from students to URSU and has

no authority to withhold them. URSU contends the injunction it seeks is prohibitory in nature, since URSU is seeking only to have the University continue to perform its obligations under the Fee Agreement. However, whether the injunction is characterized as prohibitory or mandatory, URSU submits that its claim meets the applicable merits test, in that there is a serious issue to be tried and URSU has a strong *prima facie* case.

[45] URSU submits that it will suffer irreparable harm if the University is not ordered to pay the levied monies because URSU will be put out of business. URSU offers many programs that benefit students that it will not be able to deliver if it does not receive the funding. URSU has already made some cuts to its services and anticipates that its finances will show improvement once its financial statements are completed. URSU submits that the University's proposal, a payment protocol whereby URSU will submit each payable to the University, is impractical, unnecessary, and inherently patronizing.

[46] Regarding the balance of convenience, URSU cites *Ryerson Students' Union v Ryerson University*, 2020 ONSC 1490, 149 OR (3d) 534 [*Ryerson*]. URSU says it seeks an injunction substantially identical to the one granted in that case, where Ryerson University was ordered to transfer funds under an operating agreement and to continue to do so pending disposition of the action. In *Ryerson*, the balance of convenience favoured the students' union; URSU submits that its situation is analogous. If the Court does not grant the injunction, URSU will cease operations and most of the services it provides will stop. Further, the funds were collected on behalf of URSU and do not belong to the University.

[47] Finally, URSU submits that, looking at the application holistically, equitable considerations support issuing the injunction. URSU is trying to provide services to its members while the University refuses to pay the money collected from students for that purpose to URSU. Further, many of the concerns raised by the

University about its operations go back to 2021 or 2022 and involve its prior administration, and URSU questions why the University has decided to stop paying student fees now. URSU is prepared to submit to a forensic audit and a governance review, but it does not have funds to pay for either.

[48] In contrast to its written submission, in oral argument URSU sought an order requiring the University to pay the fees collected for the Winter 2025 and the Spring/Summer 2025 terms only. Counsel said that URSU would argue later for an order requiring the University to continue to collect student fees and remit them to URSU while this litigation continues.

[49] The University submits that much of the affidavit evidence filed by URSU contains speculation, opinion, argument, unsupported belief, and immaterial or irrelevant material, in contravention of Rule 13-30(2) of *The King's Bench Rules*, and must be struck. The University also submits that the Response Affidavit of Hamza Rehan was not served by the applicable deadline and is not confined to new matters.

[50] Regarding the framework for injunctive relief, the University contends that the threshold for the first stage of the test varies depending upon whether the injunction sought is prohibitory or mandatory. If it is the former, the applicant must show it has a serious question to be tried; if the latter, the applicant must demonstrate a strong *prima facie* case. The University argues URSU must show a serious question to be tried for its application to compel the University to release collected student fees, whereas URSU must demonstrate a strong *prima facie* case to succeed on its application to require the University to continue to collect and remit fees for an indefinite period. The University concedes that URSU's entitlement to have the collected funds remitted to it raises a serious question to be tried. However, the University disputes that URSU has shown a strong *prima facie* case to have the fees collected and remitted indefinitely. The University says that it lawfully terminated the Fee Agreement by providing 90

days' written notice and URSU points to no authority that would permit it to bind the University to an indefinite fee collection contract.

[51] The University submits that URSU has not provided evidence of irreparable harm. Many of the affidavits filed by URSU claim harm to the individual affiants, rather than to URSU itself. As for the affidavits that address harm suffered by URSU, the affiants have not adduced evidence of demands by creditors, inability to pay specific creditors, default by URSU under any contract, or URSU's inability to continue operating if an injunction is not granted. Further, the University has offered to pay large invoices directly and has proposed a Payment Protocol under which URSU can access the collected student fees for any and all legitimate expenses related to student services, programs, and centres. URSU also has alternate sources of income. In addition, the University argues that the alleged harm is entirely within URSU's control.

[52] The University further submits that the balance of convenience does not favour granting the injunction. It attributes URSU's predicament to its refusal to access the fees collected from students through the Payment Protocol and to its unsustainable financial and operational situation. By contrast, the University submits that it and its students face ongoing harm from URSU's conduct, which would be perpetuated if the injunction were granted. The University disagrees with URSU's position that it is not obliged to keep segregated the portion of the student fees levied for specific student groups. The University alleges that URSU has misused or misappropriated student fees. The University says that students have raised questions about URSU's finances and lack of transparency and it, as the institution collecting compulsory fees from students, owes them a fiduciary duty to ensure that the recipient of the fees uses them appropriately.

[53] Finally, the University contends that URSU has disintitled itself to equitable relief by its express breaches of various agreements with the University, its

financial mismanagement, and its suspected misconduct.

[54] The University submits that URSU's applications for a prohibitory and a mandatory injunction are both before the Court and should be determined and dismissed.

IV. EVIDENCE AND OBJECTIONS

[55] URSU initially filed nine affidavits in support of its application:

- (a) Affidavit of Muhamad Hamza Rehan sworn May 6, 2025;
- (b) Affidavit of Aoun E. Muhammad sworn May 5, 2025;
- (c) Affidavit of Shiva Askari sworn May 5, 2025;
- (d) Affidavit of Ziyang Li sworn April 22, 2025;
- (e) Affidavit of Ricky Desai sworn April 22, 2025;
- (f) Affidavit of Shabbir Hassan sworn April 22, 2025;
- (g) Affidavit of Jamal Miloud Mo. Al Mehrate sworn April 22, 2025;
- (h) Affidavit of Harveer Singh sworn April 22, 2025; and
- (i) Affidavit of MD Tayef Ahmed sworn April 22, 2025.

[56] The University filed three affidavits in response to URSU's application, as follows:

- (a) Affidavit of Dianne Ford sworn June 3, 2025;
- (b) Affidavit of Glenys Sylvestre sworn June 3, 2025; and

(c) Affidavit of Dr. Jeff Keshen sworn June 5, 2025.

[57] The University objects to portions of URSU's affidavits on the grounds that they contain speculation, opinion, argument, facts not within the knowledge of the affiant, immaterial or irrelevant information, and scandalous matter.

[58] Rule 13-30(1) of *The King's Bench Rules* provides that "an affidavit must be confined to facts that are within the personal knowledge of the person swearing or affirming the affidavit." In interlocutory applications, affidavits sworn or affirmed on the basis of information known to the affiant, which the affiant says he or she believes, may be admitted, provided the affiant discloses the source of the information: Rules 13-30(2) and (3).

[59] Affidavit evidence must be relevant and must not contain speculation, argument, or conclusions: *Yashcheshen v Teva Canada Ltd.*, 2022 SKCA 49 at para 76, [2022] 8 WWR 60 [*Teva*]. Generally, an affidavit should not contain opinion unless it is proffered by a qualified expert: *Teva* at paras 78-79. However, affidavits may contain expressions of opinion with respect to matters of common experience: see *R v Graat*, [1982] 2 SCR 819 at 837-8; *Wait v Prince Albert (City of)*, 2003 SKQB 128 at para 5, [2003] 7 WWR 187.

[60] When a party objects to affidavit evidence, the chambers judge is required to identify any portions that are struck and the reasons for doing so: *S.G. v K.B.*, 2021 SKCA 133 at para 22; *Wongstedt v Wongstedt*, 2017 SKCA 100 at paras 38-39, [2018] 4 WWR 82; *Thomas v Input Capital Corp.*, 2020 SKCA 67 at para 32, 82 CBR (6th) 9. The Court may also make an order striking scandalous matter from affidavits: Rule 13-33.

[61] For the most part, I do not agree with the University's objections to URSU's affidavits. The University contends the affidavits contain inadmissible

opinion, argument or speculation. In particular, the University objects to evidence of benefits URSU has provided to the affiants individually, as students receiving services from URSU, employees of URSU, and representatives of organizations such as The Carillon Newspaper Inc. [Carillon] and Regina Public Interest Research Group [RPIRG] that receive funding from URSU. They also gave evidence about the expected impact on them and similarly situated persons if URSU's funding is not restored and it is forced to cease operations. I conclude that none of this evidence is impermissible opinion, argument, or speculation. Further, as I will explain later, evidence that addresses harm to URSU if the injunction is refused is relevant. Evidence that relates to the public interest or involves harm to third parties if the injunction is denied can be considered by the Court as part of its assessment of the balance of convenience.

[62] Some paragraphs in the Muhammad Affidavit must be struck as they contain inadmissible argument, opinion, and speculation. The following portions of the affidavit are struck: paragraph 9, third sentence; paragraph 10, third, fourth and fifth sentences; subparagraph 11(b); subparagraph 11(g); and paragraph 18.

[63] In addition, numerous paragraphs in the Affidavit of Harveer Singh sworn 22, 2025, set out his opinions and speculation about the University's allegedly heavy-handed approach to student misconduct and the University's alleged goal of eliminating URSU by cutting off its funding. These allegations are also scandalous. Paragraphs 4, 6, 8, 9, and 10 are struck. Before I leave this point, I observe that the evidence before the Court, and particularly the correspondence between the parties, reveals overwhelmingly that the University has made considerable good faith efforts to rescue URSU from collapse, while URSU's leadership has repeatedly failed to engage constructively with the University executive.

[64] The University also objects to the Response Affidavit of Hamza Rehan sworn June 16, 2025, contending that it should have been served by July 13, 2025, and

should have been confined to reply “only to new matters raised by the opposite party,” as permitted by Rule 6-9(6). However, the Response Affidavit was served on June 16, 2025, more than two clear days before the special hearing scheduled for June 20, 2025, as required by Rule 6-9(6). Further, the paragraphs the University objects to respond for the most part to factual matters raised in the University’s affidavits. The Response Affidavit of Hamza Rehan is admitted in full.

[65] URSU did not expressly object to information in the University’s affidavits. However, the University’s affidavits also contain information that amounts to speculation, argument, opinion, and hearsay. As will be apparent from these reasons, I have disregarded some of the University’s evidence in exercising my gatekeeper function.

V. APPLICABLE LAW

[66] Section 10-15 of *The King's Bench Act*, SS 2023, c 28 [Act] is the source of the court’s authority to grant interlocutory injunctions. The section reads:

10-15(1) A judge may, on an interlocutory application, grant a mandamus or an injunction or appoint a receiver if it appears to the judge to be appropriate or convenient that the order should be made.

(2) An order pursuant to subsection (1) may be made unconditionally or on any terms and conditions that the judge considers appropriate.

(3) If an injunction is sought, whether before, at or after the hearing of an action or matter, to prevent any threatened or apprehended waste or trespass, a judge may grant the injunction:

(a) whether the person against whom the injunction is sought:

(i) is or is not in possession under any claim of title or otherwise; or

(ii) if not in possession, does or does not claim a right to do the act sought to be restrained under any colour of title; and

(b) whether the estates claimed by any of the parties are legal or equitable.

[Emphasis added]

[67] A three-part test applies to applications for interlocutory injunctions: the applicant must satisfy a preliminary assessment of the merits of the case; the applicant must show that it will suffer irreparable harm if the injunction is refused; and the balance of convenience must weigh in favour of the injunction: *RJR-MacDonald Inc. v Canada (Attorney General)*, [1994] 1 SCR 311 at 334 [*RJR-MacDonald*].

[68] Regarding the merits assessment, in most cases the Court must be satisfied that the claim is not frivolous or vexatious and there is a serious question to be tried: *RJR-MacDonald* at 335. This merits test has no specific requirements and the threshold is low: *RJR-MacDonald* at 337. If the Court is satisfied the claim is not frivolous or vexatious, the Court should consider the second and third tests, even if, in the Court's view, the plaintiff is unlikely to succeed at trial.

[69] If granting the injunction will in effect amount to a final determination of the action, then a more extensive examination of the merits may be required: *RJR-MacDonald* at 338. Generally, the “serious question to be tried” test will apply to applications for prohibitory interlocutory injunctions, where a party is required to refrain from doing something: see *R v Canadian Broadcasting Corp.*, 2018 SCC 5 at para 16, [2018] 1 SCR 196 [*CBC*].

[70] However, where an applicant seeks a mandatory interlocutory injunction, which directs a defendant to take a positive course of action, the more stringent “strong *prima facie* case” standard applies to the merits assessment: *CBC* at para 15. This includes an order compelling a defendant to restore the *status quo*. The difference

between prohibitory and mandatory injunctions is not always obvious, requiring the Court to look past the form of what is asked to the substance of the relief requested and the likely practical consequences of the injunction. When the strong *prima facie* case test applies, the Court must be satisfied there is a strong likelihood on the law and the evidence presented that the applicant will ultimately be successful after a trial: *CBC* at para 17.

[71] Next, the applicant must establish that it will suffer irreparable harm if the injunctive relief is refused. Irreparable refers to the nature of the harm, not its scale; it is harm that cannot be quantified in monetary terms or cured through an award of damages: *RJR-MacDonald* at 341. A scenario in which a party will be put out of business can amount to irreparable harm: *R.L. Crain Inc. v Hendry* (1988), 48 DLR (4th) 228 (Sask QB); *Impact Security Group Inc. v Brown*, 2021 SKQB 226 at para 80. Only harm suffered by the applicant is considered at this stage of the analysis. Concerns about the impact on the public can be assessed when the balance of convenience is considered: *RJR-MacDonald* at 340-341; *Arctic Cat, Inc. v Bombardier Recreational Products Inc.*, 2020 FCA 116 at para 32, 176 CPR (4th) 323 [*Arctic Cat*]; *Cleanit Greenit Composting System Inc v Director (Alberta Environment and Parks)*, 2022 ABQB 582 at para 102, 54 Alta LR (7th) 116. An injunction may be refused where much of the irreparable harm alleged by the applicant was self-inflicted and avoidable: *Arctic Cat* at para 32.

[72] The standard of proof to establish irreparable harm is relatively low. The plaintiff must establish a meaningful risk of irreparable harm or a meaningful doubt as to the adequacy of damages if the injunction is denied: *Mosaic Potash Esterhazy Limited Partnership v Potash Corporation of Saskatchewan Inc*, 2011 SKCA 120 at para 61, 341 DLR (4th) 407 [*Mosaic*].

[73] As to the third part of the test, the applicant must show that the balance

of convenience favours granting the injunction. This requires an assessment of the harm the applicant will suffer if the injunction is denied as compared to the harm to the respondent if it is granted: *Mosaic* at para 113. This is sometimes referred to as the balance of inconvenience: *RJR-MacDonald* at 342. The effect the result of the application will have on the interests of the public can be considered at this stage.

[74] Finally, the three tests are to be seen as a framework for assessing whether an injunction should be granted, not as watertight compartments to be considered in isolation. The overarching concern is the justice and equity of the situation: *Mosaic* at paras 42 and 113.

[75] The applicant is required to provide an undertaking to pay any damages sustained by the respondent as result of the injunction, should the respondent prevail after a trial: *Mosaic* at para 114. URSU has filed such an undertaking.

VI. ANALYSIS

[76] To start, in their oral submissions URSU and the University disagreed on whether the Court should decide URSU's application for an injunction to compel the University to continue to collect student fees and remit them to URSU while this litigation is ongoing. URSU asked the Court to determine its application for release of student fees collected during the Winter 2025 and the Spring/Summer 2025 terms, suggesting that it would renew its application for an indefinite injunction later. The University asks the Court to decide URSU's application in its entirety now.

[77] URSU's application was fully briefed and argued. Judicial economy and efficiency favour my deciding URSU's entire application now. This will provide clarity to the parties regarding the strength of their positions and may encourage settlement. I will take up the entire application in this decision.

A. Merits Assessment

[78] The first question for the Court to decide is which test applies to the preliminary merits assessment. Is URSU required to show a serious question to be tried or must it establish a strong *prima facie* case? The answer to this question depends upon whether the injunctive relief is characterized as prohibitory or mandatory.

[79] URSU's application seeks, in effect, two injunctions. The first is an order compelling the University to pay to the students' union fees collected from students for the Winter 2025 and the Spring/Summer 2025 terms. The Winter term fees have been collected and the Spring/Summer term fees have been or will be collected by the University under the Fee Agreement, which will remain in effect until the start of the Fall 2025 term. The second is an order compelling the University to continue to collect student fees and remit them to URSU from the start of the Fall 2025 term until this litigation is resolved.

[80] As the Supreme Court of Canada noted in *CBC*, characterizing an injunction as prohibitory or mandatory is not always obvious. Generally, an order that requires a defendant to refrain from some action is prohibitory, while an order compelling the defendant to act is mandatory. In the case of an order directing the University to pay the fees it has collected or will collect from students for the Winter term and the Spring/Fall term, this could be viewed as an order compelling the University to perform the Fee Agreement (mandatory relief) or an order to refrain from breaching the Fee Agreement (prohibitory relief).

[81] *Ryerson* concerned an operating agreement like the one in issue in this case, under which Ryerson University collected student fees and paid them to Ryerson Students' Union [RSU]. Ryerson had given RSU a termination letter asserting RSU had repudiated the agreement, Ryerson accepted RSU's repudiatory breach, and Ryerson was terminating the agreement with immediate effect. RSU sought an injunction

requiring Ryerson to comply with its obligations under the agreement. According to Ryerson, the proposed injunction aimed to restore the *status quo* and would require positive action, characteristics of a mandatory injunction according to the Supreme Court's decision in *CBC* at para 15.

[82] Ryerson contended that, as it had already terminated the agreement, the Court was not being asked to prohibit the termination but rather to restore the *status quo*. Koehnen J. disagreed, holding that there had been no change in the *status quo* during the short interval between Ryerson's purported termination and RSU's injunction request. The application judge followed the direction in *CBC* to look past form in order to identify the substance of what was being sought. Accepting Ryerson's argument that it had already terminated the contract would lead to injustice in contract cases, by putting defendants who ignored ordinary notice requirements in a better position than those that gave notice. Moreover, the obligations on Ryerson under the contract were not onerous: it was required to collect fees from students and transfer them to RSU at determined intervals. For those reasons, Koehnen J. held that the requested injunction was prohibitory: *Ryerson* at paras 26-39.

[83] In this case, the University concedes that an injunction requiring it to pay fees already collected from students would be prohibitory. However, the University contends that an order compelling continued performance of the Fee Agreement after it has been terminated in accordance with the notice provision would amount to a mandatory injunction. The distinction lies in the fact that the Fee Agreement remains operative until the Fall 2025 term, at which point it is brought to an end because of the termination notice given by the University.

[84] I agree with the University's position. An order that requires the University to comply with the Fee Agreement while it remains in effect can also be viewed as an order to refrain from breaching the Fee Agreement. The latter is the

preferable way to look at the situation because it requires the parties to act in accordance with their contract and does not change the essence of the matter: see *TDL Group Ltd. v 1060284 Ontario Ltd.*, [2001] OJ No 3614 (QL) (Ont Sup Ct) at para 8 [*TDL*]; *Mosaic* at para 25; *Ryerson* at para 39. However, an order compelling the University to continue to collect fees and remit them to URSU after the termination notice period has elapsed would have to be based on some legal theory arising outside of the contract itself. The substance of the order would be to create a right not contemplated by the parties in their contract: *TDL* at para 7. See also *Students' Association of the University of Calgary v University of Calgary*, 2016 ABQB 550 at paras 27-30, 44 Alta LR (6th) 51 [*University of Calgary*].

[85] Thus, the “serious question to be tried” standard applies to URSU’s action against the University for the remittance of fees already collected or to be collected from students up to the start of the Fall 2025 semester. The “strong *prima facie* case” standard applies to URSU’s claim that the University is legally obliged to continue collecting and remitting student fees after the Fee Agreement terminates.

[86] URSU’s Statement of Claim alleges that the University collected mandatory student union fees from students enrolled at the University, which it remitted to URSU to fund its operations, programs, and services for the benefit of the student body. The claim alleges that this funding arrangement existed by an ongoing practice or understanding from the early 1980s and by written agreement dated October 13, 1989.

[87] URSU alleges that the amounts collected by the University from students on behalf of URSU are held in trust for URSU or, alternately, URSU has a contractual or equitable right to receive those amounts. Further, URSU alleges that the University wrongfully withheld funds collected on behalf of URSU beginning on or about January 1, 2025, and has refused to remit any further funds to URSU. The University has

advised URSU that it will not collect student fees to remit to URSU in succeeding academic terms.

[88] URSU pleads that the University's actions constitute breach of trust, breach of contract, and/or unjust enrichment. URSU seeks an order that the University remit all funds collected on behalf of URSU for the Winter 2025 semester; an order requiring the University to continue collecting and remitting fees on behalf of URSU; equitable and injunctive relief; in the alternative, damages in an amount to be proven at trial; pre- and post-judgment interest; and costs.

[89] In the Fee Agreement, the University agreed to collect from each student, students' union fees duly established by the students' union. The University agreed to collect these student fees concurrently with the collection of tuition fees and to pay the students' union fees to URSU. The relevant paragraph of the Fee Agreement reads as follows:

4. Students' Union fees will be collected concurrently with the collection by the University of tuition fees for each semester and summer session and, saving only the portion held by the University for the Students' Union Building Fund, will be paid to the Students' Union not later than thirty days after the last day specified for that semester or session for payment of fees without penalty, as specified in the general Calendar of the University.

[Emphasis added]

[90] The Fee Agreement also contains an express provision permitting its termination, as follows:

12. This agreement shall remain in force until either party serves notice of termination. Notice of termination shall be in writing and must be given ninety days prior to the commencement date of the Semester for which the collection of such fees by the University is to be discontinued. Such termination shall not in any way serve to convey to the Students' Union any interest in the said Students' Union Building Fund which shall continue to be administered by the University, and

provided further that if such termination occurs before the whole balance of any debt to the University has been paid, the balance then remaining outstanding shall forthwith become due and payable and may be deducted from any sum otherwise payable by the University to the Students' Union.

Section 13 of the Fee Agreement sets out the procedure for giving notice of termination.

[91] Beginning January 1, 2025, the University ceased paying the student fees to URSU although it has continued to collect these fees from students for the Winter 2025 and Spring/Summer 2025 terms. On April 2, 2025, the University gave URSU written notice of termination of the Fee Agreement, advising URSU that the University would not collect student fees on URSU's behalf beginning in the fall of 2025.

[92] URSU has established a serious question to be tried that the University has unlawfully withheld the collected student fees, breaching its contractual obligation to pay the fees to the students' union during the term of the Fee Agreement. Accordingly, I will consider whether URSU has shown that it will suffer irreparable harm if the prohibitory injunction is not granted and whether the balance of convenience favours granting the injunction.

[93] However, URSU has not made out a strong *prima facie* case that the University is obliged to continue to collect fees from students and remit them to the students' union after the Fee Agreement is no longer in force. URSU intimates that the termination notice is ineffective but provides no authority for this proposition. The University's due exercise of a termination clause in the Fee Agreement makes this case distinguishable from *Ryerson*.

[94] Accepting, as I do, that the Fee Agreement has been terminated, URSU has not advanced a legal theory that the University owes a continuing obligation to URSU to collect and remit student fees in the absence of a subsisting contract. In particular, URSU has provided no authority for the proposition that this obligation

could arise from a past arrangement or custom. In reply, the University points to the provision in the *UR Act* that confers on the Board of Governors authority to fix and determine the fees to be paid by students. This may be a complete answer to the URSU claim, but I do not need to decide that question now.

[95] URSU has not established a strong likelihood on the law and the evidence that it will succeed at trial in establishing that the University has duty, arising from contract, custom, or some other legal footing, to collect fees from students on URSU's behalf.

[96] URSU's application for a mandatory injunction compelling the University to continue collecting student union fees from students and remitting them to URSU must be dismissed.

B. Irreparable Harm

[97] I will now consider whether URSU has shown that it will suffer irreparable harm if the prohibitory injunction is denied. As previously discussed, the focus is on harm to URSU, not to the public. Accordingly, I will not consider alleged harm to individual students or student groups at this stage of the analysis.

[98] URSU has filed several affidavits providing evidence that URSU will be unable to continue operations if it does not receive the student fees collected by the University. This includes the affidavits of Mr. Rehan (its recently elected president), Mr. Muhammad (its general manager), and several URSU employees.

[99] The University calls URSU's evidence into question, suggesting that neither Mr. Rehan nor Mr. Muhammad expressly states that URSU will suffer irreparable harm if the prohibitory injunction is denied. Further they do not say that any of URSU's creditors have demanded payment, that URSU will be unable to pay any specific creditors, that URSU is in default under any contract, or that URSU will be

unable to continue operating if the University is not ordered to release the student fees. The University also notes that URSU has some alternate revenue sources, including rent, revenues from the Owl, and so on.

[100] Respectfully, this aspect of the University's submission is unpersuasive. The evidence is clear that student fees are URSU's primary funding source. In addition, the University has led cogent evidence that URSU is insolvent. If anything, it is URSU that seems to downplay how dire its financial circumstances are; both URSU's president and general manager suggest vaguely that a financial turnaround is imminent. Taking all of the evidence together, I have no hesitation in finding that URSU will be unable to continue operations and will default on its debt obligations without access to the student fees withheld by the University. This would constitute irreparable harm if URSU had no means to access those funds.

[101] The University also contends that URSU cannot demonstrate a meaningful risk of irreparable harm when that harm has been completely within URSU's control. The University submits that URSU is the author of its own misfortune, citing *Grasshopper Solar Corporation v Independent Electricity System Operator*, 2021 ONSC 3038 at para 93. The University has been warning URSU that its financial position was unsustainable for many months and offered to work with URSU to find solutions, even offering to pay for a forensic audit and a governance review more than once, starting in November 2023. Until the court hearing, URSU had rebuffed these offers, variously taking the positions that a forensic audit is not necessary, that the University has attempted to dictate which accounting firm should conduct the audit, and that URSU's new executive should be given time to get up to speed before committing URSU to any course of action.

[102] Faced with a deteriorating financial condition, URSU's failure to engage meaningfully with the University is puzzling. As discussed earlier, an interlocutory

injunction may be refused where the plaintiff's alleged irreparable harm is largely self-inflicted. Perhaps URSU's current financial predicament could have been avoided with timely, decisive action. Regardless, the University's decision to withhold student fees beginning on January 1, 2025, has precipitated the immediate crisis.

[103] More to the point, the Payment Protocol implemented by the University is a complete answer to URSU's claim of irreparable harm. Ms. Ford attested that the Payment Protocol will remain in place in the interim so that URSU can access the Winter 2025 and the Spring/Summer 2025 student fees to pay creditors, provide services and funding to students and student groups, and continue operations. Under the Payment Protocol, URSU may make written requests for payment to the University's AVP (Finance). The procedure set out in the Payment Protocol is not onerous.

[104] In the case of the URSU student health and dental plan, URSU must provide a payment request along with the invoice issued by the plan provider, confirm in writing that the amount of the invoice is justified and due to the insurer, and confirm that the use of the student fees is consistent with the purpose for which the applicable portion of the fees was collected. The University will then pay the invoice directly or, if the insurer will not accept payment directly from the University, transfer the amount to URSU so that URSU can immediately pay the invoice and confirm to the University that it has done so. The Payment Protocol sets out an identical procedure to effect payment to the City of Regina for the U-Pass Service.

[105] The Payment Protocol also establishes a process for URSU to make a written request for funds committed to various student groups and organizations, including the Canadian Federation of Students, the Carillon, the Women's Centre, RPIRG, Engineers Without Borders, UR Pride Centre, and so on. The University will process the request and make the payment directly to the student group, with concurrent

notice to URSU. If URSU receives a request for support from a student group that it does not approve, URSU must provide a copy of the request to the University along with its rationale for denying it.

[106] The Payment Protocol includes a process for URSU to submit third party invoices to the University with a request for funds so URSU can make the payments. The Payment Protocol also includes a mechanism for URSU to provide a summary of its payroll to the University with a request for transfer of the necessary amount to meet payroll and to pay required statutory remittances. Finally, the Payment Protocol provides that URSU's Vice-President Finance will meet with the AVP (Finance) on an as-needed basis to review and address any amounts owing by URSU that are to be paid from student fees and are not addressed in the Payment Protocol.

[107] URSU objects to the Payment Protocol, contending that it is impractical. However, in argument URSU's counsel conceded that URSU had made no attempt to request payment following the outlined procedures. Preparing requests to the AVP (Finance) would involve minimal extra work for URSU, since URSU needs to review and process invoices in the ordinary course in any event. The Payment Protocol also imposes an out-of-the-ordinary administrative burden on the AVP (Finance) and a dedicated University staff person assigned to manage the process. Ms. Ford attested that the Payment Protocol was modelled on a similar protocol put in place by the University of Ottawa in 2018 when it was dealing with allegations of financial mismanagement and improper governance by its students' union. In the present case, the University's objective is to enable timely payment using student fees, while imposing a modicum of accountability. Overall, the Payment Protocol will involve some inconvenience for both parties, but on its face it appears workable.

[108] URSU bristles at having to provide confirmation of its expenses to the University in order to obtain the release of funds, claiming that this is patronizing.

Having to submit to some oversight by the University as a condition of receiving funds does not constitute irreparable harm: see *University of Calgary* at para 79.

[109] Obviously, the Payment Protocol introduces an element of inconvenience that would not exist if the University simply transferred the student fees in a lump sum, as the Fee Agreement provides. The Payment Protocol allows URSU to continue operations, to pay its debts, to provide student services, to fund student groups, and so on. Since URSU can avoid the apprehended harm by submitting to the Payment Protocol, I conclude that URSU has not shown a meaningful risk of irreparable harm if the prohibitory injunction is not granted.

[110] As URSU has not satisfied the second test, its application for an injunction requiring the University to pay the collected student fees in a lump sum must be dismissed. However, I will briefly address the third test, balance of convenience, in case I have erred in some way in the foregoing analysis.

[111] Finally, I will not undertake a detailed analysis of the risk that URSU will suffer irreparable harm if the mandatory injunction is not granted, since I have concluded that URSU has not shown a strong *prima facie* case for that relief. As things stand, the University will not collect funds from students on URSU's behalf in the Fall of 2025 and beyond or make them available to URSU through the Payment Protocol or some other process. Dr. Keshen averred that the University is implementing processes to ensure the continuation of student services, including health and dental benefits, transit passes, and emergency funding for the Fall of 2025. This suggests that the University is looking to bypass URSU if necessary and find other means to deliver these services to students. What this will look like is unknown.

[112] Given URSU's dependence on student fees and the University's plan to cease collecting such fees on URSU's behalf starting in the Fall 2025 term, I would have found a meaningful risk of irreparable harm in relation to the mandatory injunction

if URSU had shown a strong likelihood that its claim would succeed at trial.

C. Balance of Convenience

[113] As previously discussed, the third test for an interlocutory injunction requires the Court to weigh the harm the plaintiff will suffer if the order is denied against the harm to the defendant if the relief is granted. The impact of the relief sought or its refusal on the public interest may be considered.

[114] I have already determined that the inconvenience to URSU if the prohibitory injunction is denied would be modest, since at least in the short-term URSU can access student funds through the Payment Protocol. If the University does not continue to collect student fees on URSU's behalf in the Fall 2025 term and beyond, URSU will undoubtedly have to cease operations. However, URSU's financial condition is so precarious as it is that an order continuing the *status quo* for an indefinite period while the litigation proceeds might not preserve URSU as a going concern in any event.

[115] URSU has also filed in evidence numerous affidavits providing details of harm individuals and groups will allegedly suffer if URSU ceases operations:

- (a) RPIRG is a non-profit organization dedicated to community-based research, education, action and awareness in the public interest. MD Tayef Ahmad, RPIRG's executive director, explained that the organization's funding comes from a levy collected from students by the University, which is transferred to URSU and then to RPIRG. RPIRG has not received the student levy for the Winter 2025 term to date and will have to cease operations without these funds. In that event, several permanent and seasonal staff positions would be lost. As discussed earlier, the Payment Protocol

establishes a process for URSU to access those funds.

- (b) Harveer Singh, URSU's advocate admin, attested that he is involved in student advocacy and assists students accused of academic or non-academic misconduct. He averred that the University's decision to withhold URSU's funding would result in the loss of advocacy services for students. As discussed earlier, I have struck the balance of Mr. Singh's affidavit.
- (c) Jamal Miloud Mo. Al Mehrate, a PhD student in Industrial Systems Engineering, received urgent financial assistance and short-term employment from URSU. He attested that URSU plays a "critical role" in supporting student welfare.
- (d) Shabbir Hassan, another PhD student, has a serious medical condition and receives coverage through URSU's group health insurance plan. He is concerned that the University's decision to withhold student fees from URSU could adversely affect his and other students' access to benefits.
- (e) Ricky Desai is an URSU employee and president of CUPE Local 1486, which represents URSU's unionized staff. Mr. Desai averred that unionized staff have played an active role in the "financial turnaround" (Affidavit of Ricky Desai sworn April 22, 2025 at para. 10) achieved by URSU this year, but he provided no details except that URSU's in-scope staff agreed to delay a retroactive pay increase to provide temporary financial relief to URSU. He also attested that the University's withholding funds from URSU imperils the employment of nearly 40 unionized staff.

- (f) Ziyang Li is the executive director of Carillon, which publishes a student newspaper. The Carillon is primarily funded through a levy, established by student referendum, which is collected from students by the University and transferred to URSU. The Carillon has not received the Winter 2025 student levy from URSU, has no alternate revenue sources, and will be forced to scale back or suspend operations if it does not receive these funds. Much like RPIRG, URSU could access these funds in the immediate term by making a request through the Payment Protocol.
- (g) Shiva Askari, URSU's accounting supervisor, attested that she has worked diligently for three years to help restore financial accountability and operational stability at URSU. If she loses her employment with URSU, her application for permanent residency through the Saskatchewan Immigrant Nominee Program is also likely to be denied.

[116] Many individuals depend on URSU for employment and essential services, and various student groups and centres depend on funding they receive from the students' union. However, it appears these adverse consequences can be avoided in the short-term if URSU requests funds from the University in accordance with the Payment Protocol. Thus, if the prohibitory injunction is denied, the inconvenience to URSU and to members of the public who rely on URSU will be minimal.

[117] The inconvenience to the University if the prohibitory injunction were granted is hard to measure. If the University is ordered to transfer the student fees in a lump sum to URSU, this will involve less administrative work than processing requests for payment via the Payment Protocol. That said, in my view a larger view of inconvenience is required.

[118] In the exercise of its statutory authority, the University determines the fees students pay, including fees collected for URSU, and collects those fees from students. Increases to student fees collected for URSU are approved by the Board of Governors or the AVP (Finance). While URSU operates autonomously from the University, misuse of fees by URSU carries reputational risk for the University by association. In addition, the student fees are levied for particular purposes: for URSU's operations, for the student health and dental plan, for the U-Pass Service, and for specific student centres and groups. URSU has indicated that it does not feel bound to pay over to student groups and centres dedicated amounts levied from students expressly for those organizations. URSU has even removed from its website the breakdown showing how student fees are allocated. Compelling the University to transfer funds to URSU without a commitment from URSU the funds will be used for legitimate, authorized purposes would be inappropriate.

[119] Considering the larger public interest, ordering the transfer of student fees in a lump sum amount to URSU without any accountability or controls offers no guarantee that third parties will receive amounts owed to them. Students also have no assurance that URSU will use the funds levied from them appropriately and to promote their interests. However, if the injunction is denied, URSU will be able to request funds through the Payment Protocol, a measured and practical method to ensure that URSU applies fees collected from students to legitimate expenses.

[120] It is instructive to contrast again the present circumstances with the *Ryerson* case. There, Ryerson had also alleged financial mismanagement by RSU. However, RSU had acted promptly in response to reports of financial irregularity. Ryerson could not give a single example of a necessary financial control that RSU had not put in place: *Ryerson* at para 63. While RSU had not completed a forensic audit after promising to do so, it had conducted a review of questionable expenditures and found that \$96,000 were unsupported. RSU also reported its findings to law

enforcement: *Ryerson* at para 65. In the present case, URSU has provided only vague assurances to the University that its financial condition is improving. URSU has indicated that it does not intend to investigate the possible misappropriation of funds. It has resisted undertaking a forensic audit and governance review even though the University has offered to bear these costs.

[121] Having regard for all of the foregoing considerations, I have concluded that the balance of convenience does not support granting either form of injunction sought by URSU.

D. Overall Equities and Justice

[122] As was stated in *Mosaic* at para 113(d), “[t]he judge’s ultimate focus in considering whether to grant interlocutory injunctive relief must be on the overall equities and justice of the situation at hand.”

[123] For more than a year and a half the University has attempted to engage constructively with URSU on a range of topics, including URSU’s unsustainable financial position, the underperformance of the Owl, apparent violations of URSU’s lease obligations, URSU’s obligations towards student groups and centres (such as the Women’s Centre, UR Pride, and Engineers Without Borders), coordinating events such as Welcome Week, effective use of shared campus space, and so on. URSU’s executive has often refused to schedule meetings with the University administration, has cancelled meetings at the last minute, and has arrived late to meetings, impeding collaboration and meaningful progress. URSU admits to recent mismanagement and misappropriation of funds but resists transparency or accountability about its use of student fees. When the University pressed URSU to explain how it will achieve financial solvency, URSU complained about improper interference in its internal affairs. The material uncertainty opinion included in URSU’s 2024 financial statements should have spurred URSU to implement a serious financial restructuring, but URSU

has only responded with vague assurances that it has everything in hand.

[124] Given URSU's recent track record, it would be irresponsible for the Court to order the University to pay a large lump sum amount to URSU without any meaningful oversight. Further, it would be extraordinary for the Court to require the University to continue to follow the Fee Agreement after it was lawfully terminated. This would be tantamount to imposing a new agreement on the parties and improperly interfere with their freedom of contract: see *University of Calgary* at paras 92-95.

VII. CONCLUSION

[125] URSU's application for prohibitory and mandatory injunctions is dismissed, with costs.

J.
P.T. BERGBUSCH