

# Court of King's Bench of Alberta

**Citation: Cho v Harmony Ceramic Dental Laboratory Ltd, 2025 ABKB 365**

**Date:** 20250613  
**Docket:** 2001 10979  
**Registry:** Calgary

Between:

**Yu Hyun Cho**

Plaintiff

- and -

**Harmony Ceramic Dental Laboratory Ltd. and Myung Chul Yoon**

Defendants

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**Endorsement  
of the  
Honourable Justice P.R. Jeffrey**

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[1] This action is again at a standstill (see an earlier Endorsement decision in this action at 2024 ABKB 571) despite the efforts over two years ago to get it back on track towards trial, purportedly by consent. The Plaintiff continues to give attention to the pre-trial steps, the Defendant not. The Plaintiff commenced this application for advice and directions, which I have heard by way of written submissions.

[2] Questioning of the Plaintiff proceeded Q4 2024. The Plaintiff responded to undertakings January 2025. The Plaintiff attempted at least twice since this past January to elicit a response from the Defendant on moving the matter toward trial in the Alberta Court of Justice (“**ACOJ**”), as they had agreed long ago and as the Court then ordered. The Defendants ignored those attempts. The Defendants did not respond at all, let alone say anything like “we have more

questioning to complete, let's schedule that" or their counsel saying "our office has been so short-staffed that we have been completely unable to pick up the phone and respond to your recent letter; can you please forbear just a bit longer as a courtesy to a colleague of the bar."

[3] Until the Plaintiff wrote to the Court for advice and directions, all the Plaintiff's efforts at moving this action to trial in the ACOJ were fruitless.

[4] Upon the Plaintiff recently writing the Court to seek advice and directions, and the Court inviting the Defendants to respond, the Defendants now say both those things - that it still needs to question the Plaintiff on what it now for the first time says were deficient undertaking responses and that the person assisting counsel on this lawsuit is no longer at that counsel's office. Both of these explanations for its delay were known months ago, yet neither were communicated in response to the Plaintiff's inquiries over the 5 months since the Plaintiff delivered its undertaking responses. After responding to his undertakings the Plaintiff understandably expected the action to transfer to the ACOJ for trial. Paragraph 6 of my Consent Order of January 12, 2023 (filed February 2, 2023) states:

6. Upon completion of the questionings, the Action shall transfer to the Provincial Court of Alberta, Civil Division;

[5] The Defendants say questionings are not complete. The Plaintiff says that I should conclude that they are, that the Defendants' opportunity to continue questioning has expired.

[6] On the spirit of the Order, the Plaintiff is correct. The parties were to expeditiously complete questionings and then hold the trial in the ACOJ. Both parties represented to the Court that desire and intent. It took a while, but the questionings referred to were held, soon after responses to undertakings were provided, and ample opportunity transpired since in which any follow-up questioning could have been held – or at least scheduled.

[7] It was eminently reasonable for the Plaintiff to infer from the circumstances that the Defendants had completed their questioning - all undertaking responses were delivered, considerable time passed thereafter without any mention of the earlier undertaking responses being considered deficient.

[8] The Plaintiff received no meaningful response to the Plaintiff's efforts to transfer the matter to the Alberta Court of Justice, in accordance with their agreement and the aforementioned Consent Order. Indeed, it is hard to construe the delays the Defendants' approach has caused as anything other than intentional. The approach is certainly contrary to the foundational *Rules* of this Court, to the agreement the Defendants reached with the Plaintiff on pushing this action to trial, and the Consent Order of this Court. It is precisely the sort of conduct sharply denounced by the SCC in *Hryniak v Mauldin*, in its exhortation to all participants in the civil justice system.

[9] Mr. Stepper is technically correct, however, that questioning has not yet completed if follow-up questioning on undertaking responses considered deficient remains outstanding.

[10] In these circumstances, I am requiring the following. The Defendants may pose any follow-up questions they have of the Plaintiff arising from the alleged deficiencies in the Plaintiff's undertaking responses, in writing, sent in care of the Plaintiff's counsel, provided they do so within one week of today, therefore served on the Plaintiff's counsel no later than 12 noon June 20, 2025.

[11] The Plaintiff shall have 30 days within which to respond to any such written follow-up questions, and the Plaintiff must accompany the responses with an attestation under oath that the responses are true, to the best of his knowledge and belief.

[12] Regardless of whether the Defendants pose any further questions arising from the Plaintiff's undertaking responses, and subject to paragraph 15 below, on Monday June 23 the Parties by their counsel must transfer their dispute into the ACOJ and set it for trial on accordance with the Consent Order and the ACOJ's practices.

[13] Any further issues between the parties, including about the validity of any of the written questions or the sufficiency of responses to written questioning or assertions of privilege, shall proceed before the ACOJ in accordance with its practice and discretion.

[14] I am inclined to grant the Plaintiff enhanced costs of this contested written application, payable forthwith, in the amount of \$2500.00. That amount represents my consideration of the relevant factors in *Rules* 10.31 to 10.33, three times the Schedule C amounts plus probable disbursement, rounded to the closest higher even number. But I wish to hear first from counsel for the Defendants on reasons why I should not do so. Counsel for the Defendants has until noon Monday, June 16, 2025, to comment on that prospect, after which I shall decide. Plaintiff's counsel is of course at liberty to comment in response also if she wishes, provided she do so as promptly as has been her practice to date in this matter.

[15] Notwithstanding the foregoing, if any costs are ordered payable by the Defendants, they must be paid to the Plaintiff in care of his counsel by 12 noon June 20, 2025, failing which the action shall not transfer to the ACOJ but remain in this Court for one more hearing, at which the Defendants will be given an opportunity to show cause why their defence not be struck but allowed to transfer to the ACOJ for trial, rather than judgment be immediately entered for the Plaintiff at the close of that show cause hearing.

[16] Plaintiff's counsel must prepare an order containing these decisions, including on any costs granted once that has been decided.

**Dated** at the City of Calgary, Alberta this 13<sup>th</sup> day of June, 2025.

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**P.R. Jeffrey**  
**J.C.K.B.A.**

**Counsel:**

Irma Roberts  
for the Plaintiff

Tom Stepper  
for the Defendants