

/GA COURT OF APPEAL OF ALBERTA

COURT OF APPEAL FILE NUMBER: 2501-0282AC

TRIAL COURT FILE NUMBER: 2301-14224

REGISTRY OFFICE: CALGARY

PLAINTIFF / APPLICANT: YUE SONG

STATUS ON APPEAL: APPELLANT

STATUS ON APPLICATION: APPLICANT

DEFENDANT / RESPONDENT: THE LAW SOCIETY OF ALBERTA

STATUS ON APPEAL: RESPONDENT

STATUS ON APPLICATION: RESPONDENT

DOCUMENT: MEMORANDUM OF ARGUMENT

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INTRODUCTION AND RELIEF REQUESTED

1. This is an application under *Rules* 14.36(3) and 14.56 to permit the applicant (“**Song**”), to amend a March 9, 2026, order of the case management officer (the “**CMO**”) so as to permit the filing of lower Court briefs (“**Briefs**”) in the appeal record (“**AR**”) or extracts of key evidence (“**EKE**”).¹ Song filed an application for judicial review² (the “**OA**”) alleging the respondent, the Law Society of Alberta (the “**LSA**”), was acting *ultra vires* by the adoption of “**Political Objectives**”: promoting various post-modern ideologies including critical race theory, critical legal theory, and postcolonialism (the “**Theories**”). Song’s central claim is that, given the nature of the Theories and the LSA’s conduct, the LSA is: 1) subverting the profession’s duties of loyalty to the *Constitution*³ and to clients; 2) intending to effect *de facto* changes to Canadian law by altering legal “culture” (changing the law by changing the lawyer); and 3) unreasonably infringing Song’s ss. 2(a) and 2(b) freedoms under the *Canadian Charter of Rights and Freedoms* (the “*Charter*”).

PROCEDURAL HISTORY

2. In support of the OA, Song filed two affidavits⁴ totaling 1,400 pages; an expert report⁵; and 285 pages of dense, concise, and meticulously cited written argument.⁶ From the outset, Song has warned that justice requires a solid working knowledge of the Theories which are “difficult and obscure”⁷ as well as a nuanced understanding of the LSA’s terms of art including “cultural competence”⁸ (e.g.: the Court must appreciate that the Theories reject Enlightenment principles

¹ Affidavit of Yue Song (“**ABCA Affidavit**”), sworn June 3, 2026, at Ex. D, E, F, G, H and I.

² 2024-01-19 Amended Originating Application for Judicial Review [Appeal Record (“**AR**”), Part 1, pp. 4-14].

³ *Constitution Act, 1867* and *Constitution Act, 1982*.

⁴ Affidavit of Yue (Roger) Song filed December 21, 2023 (“**Song1**”).

⁵ Expert Report of Joanna Williams filed October 27, 2023.

⁶ AB (ABCA at Ex. A) and ARB (ABCA, Ex. C).

⁷ AB para. 8 (ABCA, Ex. A, p. 8), see also OA, para. 16(a) (AR p. 7) and AB para. 303 (ABCA, Ex. A, p. 79).

⁸ ARB p. 10, Section III (ABCA, Ex. C, p. 278).

including objective reality and reason and that “cultural competence” means belief that “all experience is constructed.”⁹). This is a laborious process.¹⁰ Other essential context includes: 1) the LSA’s regulatory framework and the relationship between the rule of law and the independence of the bar from political interference¹¹; 2) a demonstration that the Theories permeate the LSA’s materials¹²; 3) differences between the LSA’s certified record of proceedings and the full records relied on by the LSA¹³; and 3) the inconsistency between the Theories and the LSA’s statutory mandate.

3. Given the magnitude and importance of the claim, oral argument was very brief: five hours. Most of Song’s arguments were advanced exclusively or primarily in the Briefs. Oral argument was highly generalized and Song’s counsel repeatedly emphasized heavy reliance was made on the written argument¹⁴, as acknowledged by the Court: “I know there’s a lot more you want to say. I know there is a lot more in your brief but we’re good?”¹⁵

4. Kachur J. dismissed the OA¹⁶ in a 25-page written judgment¹⁷ (the “**Reasons**”), refusing to consider the central claim on the basis it was: 1) merely Song’s “assumptions” and “subjective interpretations”; and 2) not justiciable.¹⁸ Kachur J. refused to admit or analyze most of Song’s evidence¹⁹ and then concluded there was “no factual or legal basis for the claim” on the strength

⁹ Adams Article p. 880 (Song1 RRR); and see Song1 147, BBB, EEE, KKK.

¹⁰ Completed, primarily, at AB pp. 76 to 166 (ABCA, Ex. A, pp. 26-50).

¹¹ AB pp. 33 to 53 (ABCA, Ex. A, pp. 36-56).

¹² AB pp. 83 to 167 (ABCA, Ex. A, pp. 86-170) - to address the conclusion that the Political Objectives were Song’s “assumptions” or “subjective interpretations” at, *inter alia*, Reasons 30 (AR p. 20).

¹³ AB pp. 8 – 33 (ABCA, Ex. A, pp. 11-36), ARB pp. 11-22 (ABCA, Ex. C, 279-290), as compared to Reasons 62 (AR p. 24-25) (the affidavits are “duplicative”).

¹⁴ 2025-01-03 Appeal Record, Part 3, Transcript of Proceedings (“**AR Tx**”) pp. 11:32-34, 48:23-25, 49:26-27, 110:26-27 and 113:6-7.

¹⁵ AR Tx 60:14-15.

¹⁶ AR pp. 40-41 (the “**Order**”).

¹⁷ Reasons (AR pp. 15-39).

¹⁸ Reasons para. 30 (AR p. 20).

¹⁹ Reasons paras. 51 – 64 (AR pp. 23-25).

of “a few examples.”²⁰ Therefore, the AR contains virtually no summary or analysis of the bulk of Song’s evidence or argument. The case Song put to the lower Court is largely absent from the record. The central claim was relegated to a single paragraph²¹ following which the claim was characterized as a mere “assertion.”²² The Theories were mentioned in a single paragraph²³ and nowhere explained.

5. Apart from the central claim, Song advanced, exclusively or primarily, written argument on a vast array of other legal issues, which are either absent from the Reasons or misconstrued including: 1) when evidence is admissible in a judicial review;²⁴ 2) that the LSA’s Professional Development Profile (“**Profile**”) is not “merely a list”;²⁵ 3) that the Court’s “high duty” is to scrutinize the LSA’s choice to politically interfere with lawyers²⁶; 4) that the LSA’s education program was not evidence based²⁷; and 5) that Song’s *Charter* claim was not that the “Political Objectives ... violate sections 2(a) and (b) of the *Charter* ...”²⁸ and included religious neutrality.²⁹

6. Briefs are generally not permitted to be filed³⁰ but may be permitted by the CMO³¹ or a judge where appropriate.³² The purpose of the prohibition is to maintain the 30-page factum limit

²⁰ Reasons para. 31 – which examples were, with respect, inapposite the conclusions at para. 30 (AR p. 20).

²¹ Reasons para. 41 (AR p. 21).

²² Reasons para. 42 (AR p. 21).

²³ Reasons para. 24 (AR p. 19).

²⁴ ARB paras. 51 to 113 (ABCA, Ex. C, pp. 279-290), which arguments are either entirely absent from and misconstrued at Reasons para. 61 (AR p. 24).

²⁵ Reasons para. 35 (AR pp. 20-21), failing to consider AB paras. 678 to 704 (ABCA, Ex. A, pp. 176-183) or generalized oral argument at AR Tx 113:5-7.

²⁶ Reasons para. 30 (AR p. 20), failing to consider AB paras. 287 to 291 (ABCA, Ex. A, pp. 77-78) (which argument “echo[ed] throughout the brief[s]”), or ARB paras. 115, 116, and 119 to 152 (ABCA, Ex. C, pp. 291-299) or generalized partial argument at AR Tx 108:20 to 111:23 and 113:11 to 115:6.

²⁷ Contrary to *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, para. 102, Reasons paras. 14, 99 – 106, and 145 (AR pp. 17, 30-31 and 36-37), failing to consider AB paras. 24-65, 69, 76-79, 85-86, 347-413, etc. (ABCA, Ex. A, pp. 11-24, 26-27, 30, 89-108).

²⁸ Reasons para. 135 (AR p. 35), failing to consider AB paras. 769 and 771 (ABCA, Ex. A, pp. 196-199).

²⁹ AB paras. 772 – 778 (ABCA, Ex. A, pp. 199-200), which claim is entirely absent from the Reasons.

³⁰ In the AR (*Rule* 14.18(2.1)) or in the EKE (*Rule* 14.27(1)(c), *Consolidated Practice Directions of the Court of Appeal of Alberta*, s. F.6 (“**Directions**”), and Overview of Extracts of Key Evidence, p. 2 (“**Overview**”)).

³¹ *Rules* 14.18(3) and s. 14(2)(c)(ii) of the *Court of Appeal Act*, RSA 2000, c C-30.

³² *Rules* 14.36(3), 14.37 and 14.56.

and to ensure factums focus on errors, not re-argue the case.³³ Page limits may not interfere with meaningful appellate review.³⁴ The *Rules* are applied to achieve the fair and effective resolution of disputes.³⁵ This Court has "wide discretion" to ensure an appeal is managed appropriately.³⁶

7. The within procedural request is necessitated by the nature of (some of) the errors alleged. Specifically, it is a reviewable error³⁷ to render reasons which fail to serve core functions including: 1) maintaining judicial legitimacy and respecting the litigant by demonstrating justice was done including that the court “seized the substance of the matter”, especially substance which “cries out for ... analysis”³⁸; and 2) supporting appellate review including by disclosing the basis for the decision in the context of, *inter alia*, the arguments presented.³⁹ Song claims Kachur J. made such errors. He is, however, caught in a Catch-22. To succeed on these grounds, he must prove, both, that arguments were advanced and ignored *and* that such errors materially affected the outcome.⁴⁰ But that proof is not possible on the current record *because* the Reasons are deficient. Without the Briefs, the right to meaningful appellate review is prejudiced. The deficiency of the Reasons operates to immunize the Order from meaningful appellate scrutiny. Unlike *LaTrace*, Song, therefore, identifies the utility of Briefs.⁴¹ In effect, they will serve the function the Reasons should have: fairly addressing the case Song actually advanced.

³³ See Directions, Overview, *Carbone v Whidden*, 2015 ABCA 161 (“*Carbone*”), para. 28, and *LaTrace v Warkentin Building Movers Virden Inc (Warkentin Building Movers)*, 2026 ABCA 25 (“*LaTrace*”), para. 18.

³⁴ *LaTrace*, paras. 5((d),(e) and (f)), citing *OZ Merchandising Inc v Canadian Professional*, 2020 ONCA 532.

³⁵ *Rule 1.2(1)* and *Weaver v Cherniawsky*, 2016 ABCA 152, para. 17.

³⁶ *Rule 14.56* and *CGU v Association of Professional Engineers and Geoscientists*, 2024 ABCA 325, para. 9.

³⁷ *R. v Sheppard*, 2002 SCC 26 (“*Sheppard*”), para. 28.

³⁸ *Sheppard*, paras. 1, 5, 31 to 33 and *R. v M. (R.E.)*, 2008 SCC 51 (“*R. v M*”), paras. 11, 33, 35, and 43; Failure to engage with a litigant’s case is a denial of access to justice and a reviewable error of law: *Evashkow v Melia*, 2025 ONSC 2181, para. 9, *Friends of the Oldman River Society v Canada (Minister of Transport)*, 1992 CanLII 110 (SCC), pp. 76-77; *Pham v Qualified Metal Fabricators Ltd.*, 2023 ONCA 255, para. 24.

³⁹ *R. v M*, paras. 16, 17, 25 and 57.

⁴⁰ *Rule 14.75(2)* and *Van de Perre v Edwards*, 2001 SCC 60, para. 5.

⁴¹ *LaTrace*, para. 21.

ARGUMENT

8. Song's appeal otherwise requires the foregoing context (e.g. to argue that refusing to scrutinize the Political Objectives was an error,⁴² Song must explain how the LSA's objectives are "political" [i.e. the object is to change the law⁴³] and must set out the regulatory framework to elucidate the LSA's contrasting, proper objectives.).

9. The CMO suggested Song could simply assert, without proof, that arguments were made. This is not feasible. The content of those arguments would need to be substantively reproduced to show what they were and that ignoring them affected the outcome. But, the factum is not for restating the case. It is meant to focus on errors. Moreover, Song cannot restate his argument in the factum, much less with space to spare to address errors. The CMO demonstrates a further risk to this approach. Without proof it might be *assumed* that arguments went unaddressed because "... those were [not] the main arguments that the court felt it was necessary to address ..."⁴⁴

10. If the Briefs are filed, Song can discuss the errors exactly as done herein: by use of pin point references to the record – as factums should.⁴⁵ Should this application be denied, the precedent will be that a litigant must book extended oral hearing time to set out the full case on the transcript (which is part of AR). Such a precedent would be counterproductive and wasteful of scarce Court resources.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 4th DAY OF JUNE 2026.

Glenn Blackett
Counsel for the Applicant/Appellant

⁴² Reasons para. 30 (AR p. 20).

⁴³ AB paras. 411 to 413 (ABCA, Ex. A, p. 108).

⁴⁴ 260309 CMO letter para. 29 (ABCA, Ex. F, p. 362).

⁴⁵ *LaTrace*, para. 6.

TABLE OF AUTHORITIES

Primary Sources	
1.	<i>Canada (Minister of Citizenship and Immigration) v Vavilov</i> , 2019 SCC 65
2.	<i>Carbone v Whidden</i> , 2015 ABCA 161
3.	<i>CGU v Association of Professional Engineers and Geoscientists of Alberta Appeal Board</i> , 2024 ABCA 325
4.	<i>Evashkow v Melia</i> , 2025 ONSC 2181
5.	<i>Friends of the Oldman River Society v Canada (Minister of Transport)</i> , 1992 CanLII 110 (SCC)
6.	<i>LaTrace v Warkentin Building Movers Virden Inc (Warkentin Building Movers)</i> , 2026 ABCA 25
7.	<i>OZ Merchandising Inc v Canadian Professional Soccer League Inc</i> , 2020 ONCA 532
8.	<i>Pham v Qualified Metal Fabricators Ltd.</i> , 2023 ONCA 255
9.	<i>R. v M. (R.E.)</i> , 2008 SCC 51
10.	<i>R. v Sheppard</i> , 2002 SCC 26
11.	<i>Van de Perre v Edwards</i> , 2001 SCC 60
12.	<i>Weaver v Cherniawsky</i> , 2016 ABCA 152
Legislation	
13.	<i>Alberta Rules of Court</i> , Alta Reg 124/2010
14.	<i>Court of Appeal Act</i> , RSA 2000, c C-30
15.	<i>The Constitution Act</i> , 1867, 30 & 31 Vict, c 3
16.	<i>The Constitution Act</i> , 1982, Schedule B to the <i>Canada Act 1982 (UK)</i> , 1982, c 11
Secondary Sources	
17.	Consolidated Practice Directions of the Court of Appeal of Alberta , s. F.6
18.	Overview of Extracts of Key Evidence