

COURT FILE NO.: CV-25-3036-0000
DATE: 2025-10-02

SUPERIOR COURT OF JUSTICE – ONTARIO

491 Steeles Avenue East, Milton ON L9T 1Y7

RE: Zehao Zhang and Yaoxi He, Plaintiffs

AND:

YuanZhong Zhang and Hui Chen, Defendants

BEFORE: Justice Miller

COUNSEL: Nafi Yujiao Zhou and C. Qin, for the Plaintiffs
Leon Li and S. Kebeich for the Defendant Chen
No one appearing for the Defendant YuanZhong Zhang

HEARD: October 1, 2025, by video conference

ENDORSEMENT

- [1] The Defendant Zhang was not present and not represented. I am satisfied that he had been served by email in accordance with my endorsement of July 10, 2025.
- [2] This motion for a Mareva injunction brought by the Plaintiffs Zehao Zhang and Yaoxi He was before me July 10, 2025. The Defendant Hui Chen at that time sought an adjournment to file responding material. The adjournment was granted. The matter was sent to triage court and now returns before me for the hearing of the motion.
- [3] The Plaintiffs seek an order to freeze the assets of the Defendants, Yuanzhong Zhang (also known as James Zhang), and Hui Chen.
- [4] They submit there is compelling evidence that the Defendants have engaged in civil fraud, unjust enrichment, knowing receipts, conspiracy, and that the Defendants have dissipated, or there exists a real and demonstrated risk they will dissipate, assets to frustrate judgment.

- [5] The Plaintiffs submit that that the motion should be dismissed on several grounds: the Court has no jurisdiction to hear the motion as the Plaintiffs did not plead injunctive relief in their Statement of Claim.

Circumstances

- [6] The Plaintiffs seek an order restraining two bank accounts for each of the Defendants and the proceeds of sale of a property located at 63 Carnegie Dr, Oakville, ON L6H 0V9 which was owned solely by the Defendant Chen but had been the matrimonial home of both Defendants/
- [7] The proceeds of sale of the Carnegie property, \$1.3 million, remain in trust pursuant to an agreement between counsel for the Plaintiffs and counsel for the Defendant Chen in exchange for the Plaintiffs lifting a caution on that property.
- [8] The Plaintiffs alleges that they funneled over \$2 million Canadian and approximately \$1.6 million in Chinese Yen to the Defendant Zhang from 2019 through March 2025 on behalf of a number of students for whom the defendant Zhang was to find job placements. They allege that Mr. Zhang had promised that if no job placement was found 100% of the money paid would be returned.
- [9] The Plaintiffs allege that when they discovered that no job placements were being made the demanded return of the monies paid. Defendant Zhang between May 16 and June 1, 2025, Mr. Zhang promised to refund all monies paid by the Plaintiffs and the students, but immediately thereafter ceased all communication.
- [10] The Defendant Chen's evidence is that she has been a full-time employee with the City of Toronto since April 2021 as a Senior Financial Planning Analyst. Prior to that, Ms. Chen worked as a Senior Financial Analyst at Suncor Energy since 2014. She married Defendant Zhang in 2011.
- [11] Defendant Chen's evidence is that in 2018, she discovered her husband's gambling problem, as well as two mortgages that he took out on their matrimonial home without Defendant Chen's knowledge to pay towards his gambling debts. As a result, Defendant Chen and her husband were forced to sell that property with negative sale proceeds.

Since 2018, the relationship between Defendant Chen and Defendant Zhang started to deteriorate. However, Defendant Chen reluctantly stayed in the marriage for her two small children who were only 5 years old and a few months old when she discovered her husband's gambling addiction.

- [12] Defendant Chen's evidence is that in 2020, she purchased the pre-construction property at 63 Carnegie Dr., Oakville, for \$1,415,852.82. The entire purchase price was funded by 1) Defendant Chen's parents' funds of \$915,852 to cover the downpayment, and 2) a mortgage of \$500,000 from CIBC. After the purchase, The Carnegie Property was maintained by Defendant Chen's stable income from the City of Toronto and her parents' financial support. Defendant Chen has provided a breakdown of her parents' financial contribution with detailed, uncontroverted supporting documentary evidence.
- [13] It is Defendant Chen's evidence that since Defendant Zhang never contributed any funds towards the Carnegie Property, and given his gambling addiction, in 2022, she and Defendant Zhang entered into a Marriage Contract where they specifically agreed that Defendant Chen was the sole owner of the Carnegie Property and would be solely responsible for all carrying costs of the property.
- [14] It is Defendant Chen's evidence that due to his gambling problem, Defendant Zhang has borrowed large sums of money from her and her family and has only repaid partially. Since 2022, Defendants Chen and Zhang sought help from Mr. Michael Mansfield, a gambling addiction counsellor at "ADAPT – Halton Alcohol, Drug and Gambling Assessment, Prevention and Treatment Services". Defendant Chen provided documentary evidence to show this.
- [15] Unfortunately, this did not stop Defendant Zhang's gambling problem. Ms. Chen was left alone to take care of her two young children, and over time, Defendant Chen and her husband gradually lost communication. They separated in March 2024 and filed for divorce in March 2025.
- [16] It is Defendant Chen's evidence that after the dissolution of her marriage, she no longer desired to live at the Carnegie Property. She listed it in open market for two and a half months eventually sold it for a competitive price of \$1.88 million. In the meantime, she

purchased a new property in Oakville, Ontario for her and her two young children which is scheduled to close in January 2026.

[17] Defendant Chen confirms that Defendant Zhang has left the country.

The Legal test

[18] The parties agree on the test for an injunction of this nature to be granted.

[19] Rule 40.01 of the *Rules of Civil Procedure* provides that an interlocutory injunction under Section 101 of the *Courts of Justice Act* may be obtained on a motion to a judge by a party to a proceeding or an intended proceeding.

[20] The Test for an interlocutory Mareva Injunction is: (1) a strong prima facie case; (2) that the defendant has assets in the jurisdiction; (3) that there is a real risk that the defendant will remove his assets from the jurisdiction or dissipate those assets to avoid judgment; (4) that the moving party will suffer irreparable harm if the injunction is not granted; (5) that the balance of convenience favours granting the injunction; and (6) the moving party must give an undertaking as to damages.

[21] The Plaintiffs must establish each part of the test for an injunction of this nature to be granted.

Application of the Test to this Case

[22] The Plaintiffs submit that they have a strong *prima facie* case of civil fraud and unjust enrichment against the Defendants. They rely on their own evidence that Defendant Zhang falsely represented that he could provide employment placement services in Canada to students in exchange for substantial payments, and that full refunds would be issued unconditionally if placements were not secured; that despite having received the funds, the Defendant Zhang failed to provide employment placement, job offer, or related service as promised, nor did he return the funds or offer any form of compensation. The Plaintiffs submit that the Defendant Zhang knew or was reckless as to the truth of these representations, having no infrastructure, capacity, or lawful ability to provide such services at the time they made the promises; and the Plaintiffs, acting on behalf of the students and in reliance on these misrepresentations, transferred

approximately CAD \$2,070,239.37 and RMB ¥8,319,738.14 to the Defendants between April 2019 and April 2025.

- [23] They further submit that as there is evidence that Defendant Chen received some of the monies they paid she was part of the fraudulent scheme or was wilfully blind as to the origin of the funds and has been unjustly enriched.
- [24] The Plaintiffs submit that they and the students suffered significant financial losses, receiving no services, refunds, or compensation, and have been unable to reach the Defendants, who have since ceased communication and are believed to have disposed of their assets and attempted to flee the jurisdiction.
- [25] The Defendant Chen submits that the Plaintiffs fail on the first branch of the test as they have not established a strong *prima facie* case. The Plaintiffs pleaded that Defendant Zhang failed to provide any job placement to the Plaintiffs' student customers, and therefore the Business was a fraud. However, at cross-examinations, the Plaintiffs admitted that Defendant Zhang has indeed provided many job placements for the students and they have not kept any records as to how many students got job placements provided by Defendant Zhang and how many did not.
- [26] Further, the Plaintiffs admitted that they never had any communications with Defendant Chen whatsoever and no representations regarding job placements for students were ever made by her.
- [27] Defendant Chen gave evidence that the Carnegie property was not sold at under market value and she produced her real estate agent for cross-examination.
- [28] The Plaintiffs have refused to produce any contracts between them and the alleged students on the basis of irrelevancy and no claim that they represent the student by way of a "bare trust". This flies in the face of their allegation that they have suffered financial damages.
- [29] Defendant Chen references the decision in *10390160 Canada Ltd et al. v. Casey et al.*, 2022 ONSC 628 at paras 30-32. Penny J. indicated as follows:

[30] The leading authority on knowing assistance claims against related parties is van Rensburg J.A.'s dissenting reasons in *DBDC Spadina Ltd. v. Walton*, 2018 ONCA 60, 419 D.L.R. (4th) 409, rev'd 2019 SCC 30, [2019] 2 S.C.R. 530, which were endorsed by a unanimous Supreme Court of Canada on appeal from the majority judgment of the Court of Appeal.

[31] Justice van Rensburg would have dismissed the related party claims in that case because the "participation" element had not been established. Noting that the authorities require "specific harmful conduct" by the stranger to the trust, van Rensburg J.A. explained that the plaintiffs did not point to any independent conduct by the related companies establishing their "participation" in the principal's breach of fiduciary duty except to repeat the same allegations made against the principal. These related corporations under the control of the principal may have "participated" in the general sense in the fraudulent scheme when money was moved to and from their accounts, and been "conduits" or "been used by [Walton] in the overall fraud", but "that does not equate to their participation in the dishonest breach of fiduciary duty": see *DBDC Spadina*, at paras. 217-21.

[32] *DBDC Spadina* stands for the proposition that "something more" is required for a knowing assistance claim beyond the mere receipt of funds or being used as a conduit in the overall breach of trust....

[30] Simply put, the case against Defendant Zhang is not a strong *prima facie* case, and the case against Defendant Chen is even less so.

[31] I find that the Plaintiffs have failed to satisfy the test of having a strong *prima facie* case against either Defendant.

[32] Further while Defendant Chen has assets in this jurisdiction, those being the proceeds of sale from the Carnegie property currently held in trust, I find that the Plaintiffs have not established that there is a real risk that Defendant Chen will remove her assets from the jurisdiction or dissipate those assets to avoid judgment.

[33] Defendant Chen is a Canadian Citizen with stable employment and two small children. She has not attempted to take the proceeds and run, but rather to reinvest those monies in home for herself and her children in the same neighbourhood as the Carnegie property.

- [34] I further find that the Plaintiffs have failed to establish that they will suffer irreparable harm if the injunction is not granted or that the balance of convenience favours granting the injunction. In addition they have not given an undertaking as to damages and refused to answer questions in cross-examination as to where they reside or how they might satisfy any award of damages against them.
- [35] In all of the circumstances I find it is not necessary for me to address other objections raised by Defendant Chen to the relief sought by the Plaintiffs, including that two Supplementary motion records were filed after cross-examinations and well after the timeline set by the Court.
- [36] The Plaintiffs Motion is dismissed and the proceeds of sale of the Carnegie property currently held in trust may be paid out to Defendant Chen.

Costs

- [37] Defendant Chen seeks her substantial indemnity costs in the amount of \$107,249.12. She submitted a Costs Outline showing that many hours were spent by their legal team reviewing the voluminous materials filed by the Plaintiffs including six motion records, two of which were filed after cross-examinations in violation of Rule 39.02.
- [38] In addition, Defendant Chen served an Offer to Settle which mirrored the result, and this offer was served July 9, 2025 before much of the work by Defendant Chen's legal team commenced.
- [39] Rule 57.01 of the Rules of Civil Procedure provides that in awarding costs a court should consider, amongst other things, the complexity of the proceeding; the importance of the issues; the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding; and, whether any step in the proceeding was improper, vexatious or unnecessary as well as any other matter relevant to the question of costs.
- [40] Proportionality of course must always be considered, and despite the work of having to review voluminous materials I find that the costs sought by Defendant Chen are out of proportion to the matter at hand. By way of contrast, had the Plaintiffs been successful they would have sought some \$40,000 in costs.

[41] In all of the circumstances the Plaintiffs are ordered to pay Defendant Chen's costs of the motion in the fixed amount of \$75,000 inclusive of tax and disbursements.



Miller J.

Released: October 2, 2025