

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

<b>BETWEEN:</b>	)	
	)	
	)	
AUTOFOCUS CANADA INC.	)	David M. Sanders, for the Respondent in
	)	Appeal
Plaintiff (Respondent in Appeal)	)	
	)	
<b>– and –</b>	)	
	)	
BALWINDER SINGH and 002497135	)	David Fenig, for the Appellants
ONTARIO LTD. o/a JBH XPRESS LTD.	)	
	)	
Defendant (Appellants)	)	
	)	
	)	
	)	<b>HEARD:</b> May 12, 2025

2025 ONSC 4117 (CanLII)

**ENDORSEMENT**

**KALAJDZIC J.:**

- [1] In 2019 and 2020, the plaintiff advanced approximately \$70,000 to Balwinder Singh in four separate loans. Two of the loans listed JBH Xpress Ltd. as a co-borrower. Approximately \$30,000 was repaid, but by late 2020, the high-interest loans were in default. In this period, Mr. Singh was the subject of multiple proceedings by several creditors, including two major banks.
  
- [2] The plaintiff started four Small Claims Court actions to collect its debts. The claims were served in January 2021. A paralegal representing the defendants attempted to negotiate a settlement of the litigation. Eight months later, when discussions failed, the plaintiff obtained four default judgments and writs of possession for the vehicles pledged as security for the loans. The defendants were ordered to pay almost \$115,000 plus prejudgment interest at 34.9%.
  
- [3] Three years later, the defendants moved to set aside default judgment on the basis that they were the victims of fraud. They alleged that the plaintiff did not serve the statements of claim on them, they did not hire a paralegal to represent them in negotiations, and they did

not know about the actions until 2023. This alleged fraud was in service of a larger fraud, namely, that the defendants did not borrow money from the plaintiff at all and did not sign any loan documents.

- [4] Deputy Judge Dycha dismissed the defendants' motion to set aside default judgment. He found that the defendants did not move to set aside the judgments promptly, did not raise a meritorious defence, and did not have a reasonable explanation for the default.
- [5] On the issues of fact, Dycha D.J. rejected the defendants' fraudster theory. He found that the defendants were served, partial repayments of the debt were made, and a paralegal was retained to negotiate with the plaintiff on the defendants' behalf throughout 2021.
- [6] The defendants now seek to overturn the decision of Dycha D.J. on the basis that he made palpable and overriding errors of fact and errors of law. They argue again that they were not served with the statements of claim and that Dycha D.J. erred in law when he did not set aside the judgments as of right. They also submit that they have a meritorious defence for two reasons: the defendant, Balwinder Singh, could not have signed the loan documents on December 9, 2019, and; the bank account associated with the loans was not his.
- [7] In addition, the defendants sought to admit fresh evidence on the appeal, and they raised a new issue, namely, that interest charged on the loans contravened the criminal interest provisions of the *Criminal Code*, R.S.C., 1985, c. C-46. For oral reasons given at the hearing, I ruled that the fresh evidence was inadmissible and that the criminal interest argument was not argued at the motion and therefore was not proper on appeal.
- [8] A motion judge's decision to set aside a default judgment is a discretionary one that attracts deference on appeal. Deputy Judge Dycha considered hundreds of pages of evidence and heard three hours of legal argument. He provided lengthy reasons. The facts are complicated, but, in the end, the defendants have not persuaded me that the Deputy Judge made a palpable and overriding error of fact or errors of law. His decision does not amount to an injustice. Accordingly, the appeal is dismissed.

**Did the Deputy Judge make a palpable and overriding error of fact or an error of law in concluding that the defendants were served?**

- [9] If default judgment is irregularly obtained, a defendant may be entitled to have it set aside as of right: *Redabe Holdings Inc. v. I.C.I. Construction Corporation*, 2017 ONCA 808, at para. 8. Thus, where a defendant was not properly served with the statement of claim in accordance with the rules, judgment may be set aside as of right without the requirement that the defendant establish a defence on the merits: *Amexon Property Management Inc. v. Paramedical Rehab Solutions Inc.*, 2011 ONSC 4783, at paras. 21-23.
- [10] The defendants submit that the Deputy Judge erred in two ways on the issue of service of the statements of claim:
  - a. First, the defendants submit that the Deputy Judge ignored evidence that Mr. Singh was not home on the date of service of the claims, and, in doing so, he committed

a palpable error of fact that goes to the very heart of the motion to set aside the default.

- b. Second, they submit that the claims were not served properly on JBH Xpress because the process server served the claims at Mr. Singh's residential address and not at the corporate head office. Deputy Judge Dycha, therefore, committed an error of law when he did not set aside judgment against the corporate defendant as of right on the basis of irregular service.

a. *Service on Balwinder Singh*

[11] The question of service was the focus of considerable argument both at the motion before the Deputy Judge and before me. The parties filed several affidavits and hundreds of documents in support of their respective positions.<sup>1</sup>

[12] Ultimately, Dycha D.J. made the following findings:

- On January 19, 2021, the plaintiff's employee, Rachel Egan, went to Mr. Singh's home with her husband, Brad Egan. They waited several hours for Mr. Singh to return home. When he did, Ms. Egan handed a thick envelope containing all four claims to Mr. Singh.
- Although the affidavit of Randy Wright, the owner of Auto Focus, initially stated that Ms. Egan repossessed one of Mr. Singh's cars on the same day of service, the Deputy Judge found that this was a mistake and that the evidence showed repossession took place about ten days later upon the second attendance at the property.
- On February 1, 2021, Mr. Singh's son, Jad, retained Francisco Gomez, a paralegal, to assist in settlement discussions on Mr. Singh's behalf. In an email that day, Jad confirmed that one of his father's cars had been repossessed a few days earlier.
- Over 100 emails were exchanged between Mr. Gomez, Mr. Singh, Jad, and the plaintiff's paralegal between February and November 2021. They exchanged offers to settle but ultimately were not able to resolve the outstanding debts. Ms. Cavacas, the plaintiff's paralegal, informed Mr. Gomez when default judgments were signed against the defendants.
- In March 2021, Mr. Singh wrote to Ms. Cavacas directly attempting to negotiate a settlement. He referenced earlier communications between her and Mr. Gomez.

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<sup>1</sup> Unfortunately, the voluminous record in this matter was not properly named and bundled in Case Center, indexes in the briefs did not contain hyperlinks, and some affidavits merely attached other affidavits as exhibits. The lack of organization made it difficult to locate documents both at the hearing and while writing my decision. All counsel are reminded again about the importance of adhering to the Standard Naming Protocol and other requirements in the [Consolidated Practice Direction for Divisional Court Proceedings](#).

- The Deputy Judge concluded that it is “a logical inference that Mr. Gomez, who immediately (ie: February 1, 2021) contacted Ms. Cavacas, was hired by Mr. Singh to negotiate these loans, as Mr. Gomez, in fact, attempted to do. Mr. Gomez dealt with Mr. Singh and Jad. The Defendants hired Mr. Gomez as they had just been served with these claims. It is likely that Mr. Gomez knew the identity of the Plaintiff’s legal representative, Ms. Cavacas, and how to reach her, from the Statements of Claims, themselves, and the Court is not convinced that Mr. Gomez was hired by a fraudster.”
- Mr. Singh also received notice of the writs in subsequent litigation brought by RBC in February 2023, when documents related to all of Mr. Singh’s judgment debts were served. Still, Mr. Singh did not move to set aside the default judgment until March 2024.

[13] The Deputy Judge concluded that Mr. Singh was served with the claims. He accepted the plaintiff’s evidence and found that the defendants’ fraudster theory “defied logic”. The defendants now argue that the Deputy Judge was wrong to do so because he failed to consider three pieces of defence evidence.

[14] First, the defendants contend that Ms. Egan’s affidavit of service is fraudulent because it does not bear her signature. They proffered her affidavit sworn April 22, 2024 in which she stated that the signature on the affidavit of service sworn January 22, 2021 “appeared” to be different from hers. However, when cross-examined by plaintiff’s counsel prior to the appeal, Ms. Egan confirmed that she did, in fact, serve the claims on Mr. Singh at his home on January 19, 2021. She had a specific recollection of doing so, but three years later, she did not recall signing the affidavit of service. In contrast, the plaintiff adduced contemporaneous notes corroborating Ms. Egan’s execution of the affidavit on that date.

[15] Ms. Egan’s April 22, 2024 affidavit was less than candid. She did not say unequivocally the signature was not her own. She did not provide samples of her signature from 2021 to support her statement that the signature “appeared” to be different from hers. And, most importantly, she did not deny that she served the defendants on January 19, 2021. Her affidavit was silent on the issue of service. The defendants’ reliance on Ms. Egan’s carefully crafted affidavit and selective account brings into question the reliability of the defendants’ evidence.

[16] Second, the defendants submit that Dycha D.J. erred in rejecting the evidence of Bradley Eaton sworn April 3, 2024 in which he states that “to the best of [his] recollection”, Balwinder Singh was with him in Milton, Ontario on January 19, 2021. Mr. Eaton is Mr. Singh’s tenant. He provides no evidence supporting his equivocal recollection of the pivotal date more than three years later. Deputy Judge Dycha committed no palpable error in giving little weight to this evidence.

[17] Finally, the defendants argue that the Deputy Judge erred when he accepted that Jad and Mr. Singh hired Mr. Gomez to negotiate the claims between February and November 2021. The defendants submit that the Deputy Judge misapprehended Mr. Gomez’s evidence on the issue of who had retained him. I disagree.

[18] Mr. Singh attached a series of emails to his April 2024 affidavit that involve Mr. Gomez. In those emails, Mr. Gomez confirms the following:

- On February 1, 2021, he received a signed retainer agreement and executed an Authorization and Direction to act for Mr. Singh. The meeting and document exchange took place by video and email, which, during the pandemic, was routine.
- Jad told Mr. Gomez that Mr. Singh had authorized him to speak to Mr. Gomez about the litigation. Mr. Gomez recalls asking Jad to put his father on the video call, and he recalls asking Mr. Singh to confirm that Jad could speak on his father's behalf.
- Jad paid Mr. Gomez \$500 by e-transfer.
- In January and March 2024, Mr. Gomez asked Mr. Singh if he thought he was the victim of identity fraud. If so, Mr. Gomez offered to report his fraudulent retainer to the Law Society. Mr. Singh did not give those instructions.
- Mr. Singh asked Mr. Gomez to provide proof of the zoom link that was used on February 1, 2021 when Mr. Gomez spoke to him and to Jad Singh. Mr. Gomez did not do so, indicating that he had given all of the information in his possession about the 'video call'.

[19] Deputy Judge Dycha noted that it would have been helpful to have an affidavit from Mr. Gomez himself about the circumstances of his retainer. Nevertheless, he assessed the evidence and concluded that there was no question someone retained Mr. Gomez to negotiate a settlement with the plaintiff on the defendants' behalf. He did not accept the defendants' theory that Mr. Gomez was himself duped by a fraudster – presumably the same fraudster who allegedly forged Mr. Singh's signature on the loan documents and repaid approximately \$30,000 of the debt.

[20] It was open to the Deputy Judge to make this finding. The evidence in support of the defendants' fraudster theory was thin at best. The timing of Mr. Gomez's retainer – just days after the claims were served and one of the cars was repossessed – is convincing circumstantial evidence that the defendants had notice of the claims. The defendants could have adduced direct evidence from Mr. Gomez for the appeal or offered an explanation as to why they did not go the Law Society if someone impersonating Jad or his father had retained Mr. Gomez. They did not do so.

[21] I am satisfied that Dycha D.J. did not commit errors of fact or law when he concluded Mr. Singh was properly served.

b. *Service on JBH Xpress*

- [22] The defendants next argue that the corporate defendant was not properly served at its registered corporate headquarters and that default judgment should be set aside against it on this basis.
- [23] In addition to the findings of fact listed in paragraph 12 above, Dycha D.J. found as follows:
- Mr. Singh’s son, Jad, owns JBH Xpress. “Mr. Singh, certainly, would have known that JBH was operated by his son, that it had involvement in the loans and that Jad [...] could be apprised of the existence of the claims by Mr. Singh, himself.”
  - The defendants’ subsequent contacts with the plaintiff prove that Mr. Singh in his personal capacity, and Jad as owner of JBH Xpress, had notice of the Small Claims Court actions.
  - Jad wrote the following to Mr. Gomez on February 1, 2021: “A loan was taken under my father’s name without consent by another family member. [...] My father came aware [sic] of this last week and his first vehicle was repossessed out of his driveway on Friday. He was told by an officer if he would file a police report as this is fraud, he wouldn’t be obligated to pay the loans or have any of his vehicles repossessed.”
  - In the same email, Jad confirmed that his father wanted to settle on reasonable terms, failing which he would file a fraud report. Mr. Singh did not file a fraud report.
  - Jad attached the four loan documents to the February 1, 2021 email.
- [24] The email correspondence with Mr. Gomez confirms that Jad had notice of the claims and immediately sought to resolve them. A broker snapshot in the appeal record confirms that the email address from which the February 1 email was sent belonged to Jad Singh. Assuming, as the defendants contend, that Jad was the director of JBH Xpress at the time of service, the company knew of the claims no later than February 1, 2021.
- [25] Deputy Judge Dycha did not discuss the issue of irregular service. Rather, he found that the evidence showed that JBH Xpress had notice of the claims.
- [26] Having notice of a claim is not the same as being served with a claim in accordance with the rules of service: *Amexon*, at para. 31. Even an irregularly obtained judgment, however, does not afford a defendant an unlimited and unconditional remedy. “The defendant must still act diligently to set the judgment aside or risk delay shifting the equities against it”: *8355266 Canada Inc. v. S.W. Hospitality Inc.*, 2015 ONSC 5722, at para. 12.
- [27] In other parts of his decision, the Deputy Judge found that the defendants did not move promptly to set aside default judgment. JBH Xpress waited almost three years from the

noting of default to bring its motion. The Deputy Judge was therefore entitled to exercise his discretion not to set aside default judgment on the basis of irregular service.

- [28] The evidence shows another basis on which it was open to the Deputy Judge to conclude that service was effected on JBH Xpress. Mr. Wright obtained a copy of JBH Xpress' Articles of Incorporation in December 2019, when the first of the loan documents was signed. According to the Articles, the sole director as of 2015 was Balwinder Singh. Based on the information available to the plaintiff at the time of service, therefore, Mr. Singh was the director of JBH Xpress. I have already found that Dycha D.J. did not err in finding that Mr. Singh was served personally. Service on a director is service on a corporation per r. 16.02(1)(c) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. Thus, JBH Xpress was regularly served.
- [29] It is unclear why the Deputy Judge did not address this latter argument. One possibility is the misleading evidence filed by the defendants. Mr. Singh testified that 002497135 Ontario Ltd. "does not exist" and that "at all material times Jadwinder Singh was and is currently [JBH's] sole principle and director" [sic]. He produced Articles of Incorporation for "2497135 Ontario Ltd." that show his son is the director of the JBH Xpress. However, those Articles were produced on December 27, 2023, long after default judgment was obtained. It is also misleading to state the numbered company does not exist; 002497135 Ontario Ltd. and 2497135 Ontario Ltd. are evidently the same corporation. Mr. Singh's affidavit is less than forthright on these two points. It is certainly not true that Jad was the sole director at all material times, when, according to the Articles Mr. Singh gave to Mr. Wright, Mr. Singh was the director at the time the loans were obtained.
- [30] I find that Dycha D.J. committed no error of fact, let alone a palpable one, when he concluded that service of the claims on JBH Xpress was proper. It follows that I find he committed no error of law when he declined to set aside default judgment on the basis of irregular service.

**Did the Deputy Judge make a palpable and overriding error of fact in concluding the defendants had no meritorious defence?**

- [31] On a motion to set aside default judgment in the Small Claims Court pursuant to r. 11.06 of the *Rules of the Small Claims Court*, O. Reg. 258/98, defendants must satisfy the court that:
- a. they have a meritorious defence and a reasonable explanation for the default; and
  - b. the motion is made as soon as is reasonably possible in all the circumstances.
- [32] The defendants' main argument at the motion was that Mr. Singh was a victim of identity theft and that this defence had sufficient merit to justify setting aside default judgment. In support of the fraudster theory, the defendants submitted evidence of the following two facts:

- a. Mr. Singh says he was not home on December 9, 2019, the date of the first loan document and when pictures were taken during daylight hours of the two cars that were used as collateral. Driver's logs show that he was in Cornwall, Ontario that morning and in Saint-Bruno-de-Montarville, Quebec at 2:30 that afternoon and thus could not have driven home in time to meet Mr. Wright during daylight hours.
  - b. Although Mr. Singh currently has a BMO account, he did not have one in 2019 or 2020 and therefore he could not have received funds from or made payments to the plaintiff from a BMO account. He produced a letter dated April 17, 2024 from a personal banking associate that states he had no account with BMO prior to November 2023. The pre-authorized deposit forms indicating a BMO account under his name were therefore fraudulent.
- [33] Deputy Judge Dycha accepted the plaintiff's argument that the driver's log was inconclusive, stating Mr. Singh could have driven from Cornwall to Woodbridge before sunset. The Deputy Judge did not appreciate, however, that the log appears to show Mr. Singh was near Montreal later that day.
- [34] Deputy Judge Dycha rejected the BMO account evidence on the basis that the letter did not indicate "that there never was a banking relationship", only that Mr. Singh did not have an account in 2019. The BMO letter, however, states that Mr. Singh "has never had any accounts with BMO prior to November 17, 2023."
- [35] The issue on appeal, then, is whether these errors in the Deputy Judge's reasons amount to a palpable and overriding error. The defendants also submit that the Deputy Judge's reasons were deficient because he did not address the defence evidence sufficiently.
- [36] The sufficiency of a judge's reasons is assessed on a pragmatic and functional approach, having regard to the nature of the issues, the evidence, implicit findings, and the extent to which the reason for the judge's conclusion is patent on the record: *Crudo Creative Inc. v. Marin* (2007), 90 O.R. (3d) 213 (Div. Ct.), at paras. 21, 23.
- [37] A court's reasons need not be perfect nor do they have to refer to all aspects of the evidence or every point raised: *Crudo*, at para. 22; *Canadian Broadcasting Corporation Pension Plan v. BF Realty Holdings Ltd.* (2002), 214 D.L.R. (4th) 121 (Ont. C.A.), at para. 64.
- [38] Read as a whole, Dycha D.J.'s reasons are not "conclusory and generic": *Diamond Auto Collision Inc. v. The Economical Insurance Group*, 2007 ONCA 487, at para. 12. They are not devoid of analysis. There was significant evidence of dealings between the parties and their representatives that challenged the defendants' fraudster theory. Deputy Judge Dycha referred to the following evidence in concluding that there was no air of reality to the theory:
- Mr. Wright obtained a copy of Mr. Singh's driver's licence. Mr. Wright affirmed that the man he met to sign the loan documents was Mr. Singh. Mr. Singh could not explain how his personal identification was provided to Mr. Wright.

- The plaintiff produced a general security agreement signed by Mr. Singh as president of JBH Xpress on August 12, 2020. Mr. Singh produced no evidence that he did not sign this document.
- Emails between Jad Singh – from an email address he confirmed was his – and the plaintiff’s paralegal confirm negotiations about the loans were taking place in 2021. This conduct is not consistent with the fraudster theory.
- Mr. Gomez confirmed speaking with Mr. Singh by video call on February 1, 2021. Mr. Singh claimed Mr. Gomez was duped, but he did not call the police or notify the Law Society. Deputy Judge Dycha inferred that the police would have been involved had a fraud been perpetrated upon Mr. Singh and/or Mr. Gomez.
- The alleged fraudster who took out the loans, signed documents, corresponded with the plaintiff, and hired Mr. Gomez also paid approximately \$30,000 against the loans. According to Mr. Singh, the fraudster made these payments “to throw Mr. Singh off his tracks.” Deputy Judge Dycha did not find this theory plausible or meritorious. He concluded that it “defied logic [...] that someone would obtain four loans fraudulently and then make approximately \$30,000 worth of payments upon them.”
- When the Bailiff repossessed one of Mr. Singh’s vehicles, Mr. Singh claims that he assumed the vehicle was stolen. Yet, he did not produce any documents, such as a police report or insurance claim, to corroborate that version of events. The inference, therefore, is that he knew the car had been repossessed.

[39] It was open to Dycha D.J. to conclude that the fraudster defence was not meritorious based on these findings as well as the other evidence filed for the motion. Again, he was not obligated to refer to every piece of evidence in his reasons.

[40] Other evidence related to the fraudster defence includes the following:

- Jad, who at all material times was acting for his father, did not produce any evidence that he did not have an account with BMO in the relevant time period.
- The defendants did not ask BMO to investigate to whom belonged the account into which the loan proceeds were deposited and from which \$30,000 in repayments were withdrawn. Jad claims in his April 18, 2024 affidavit that he requested confirmation from BMO that the relevant account did not belong to him and that the confirmation will “take weeks”. Yet, no such confirmation was produced on this appeal one year later.
- Jad attempted to negotiate a settlement after default and sent a copy of a bank draft as proof of intention to pay via Mr. Gomez in August 2021. Mr. Singh claims he could not have sent the bank draft because it originated in Calgary. Mr. Singh ignores his own evidence that Jad was in Calgary in August 2021.

- Mr. Wright’s affidavit is not clear as to what day he attended at Mr. Singh’s home – not surprising given that he was recounting events that took place almost five years earlier. He states that “on December 9, 2019, the same date of the [first] loan, Mr. Singh provided me with his drivers licence, ownerships for the vehicles used as collateral, a list of personal references, the Articles of Incorporation for his company, a copy of a letter and signed General Security Agreement and email acknowledging same.” Mr. Wright does not specify that he obtained the December 9 documents *in person*. In the next paragraph, Mr. Wright states: “*In addition to the above, I attended Mr. Singh’s home in person, had the documents signed in person, and took pictures of the 2018 Chevy Cruze in Mr. Singh’s driveway*” [emphasis added]. While he explicitly states that he also attended Mr. Singh’s home, he does not indicate *when* the in-person meeting took place. Consequently, Mr. Singh’s whereabouts on December 9, 2019 were not determinative of the result.
- The pre-authorized payment forms listing the BMO account show the email address that Jad confirms belongs to him.
- In addition to the emails between Mr. Gomez and Ms. Cavacas, there were several emails from Mr. Singh to both Ms. Cavacas and Mr. Wright in the relevant time period.
- There are also emails between Jad and Mr. Wright in December 2019 verifying details of the initial loans.
- Mr. Singh testified that he had no need to borrow money in 2019, yet by late 2018, several writs had been filed against him by TD Bank and Royal Bank, as well as a lien by Legal Aid, for debts in excess of \$130,000. His lack of candour raises further doubts about the overall credibility of his evidence.

[41] I find that there was ample evidence on which Dycha D.J. could have preferred the plaintiff’s evidence to conclude the fraudster theory defied credulity.

[42] In response to every document bearing their signature, every email sent from their address, every payment drawn from a bank account, and every affidavit of service attesting that they were personally served, the defendants have responded that someone else – a fraudster – signed the documents, sent the emails, made the loan payment, and was served the documents. It is a convenient response because, if accepted, it explains everything. But, if Mr. Singh has been the victim of such a protracted, detailed, and extensive fraud – one that includes his own personal identification being given to Mr. Wright, who then meets with Mr. Singh’s doppelganger – one would expect at least a request for a police investigation. Mr. Singh made no such request.

[43] Courts have rejected affidavit evidence that defies common sense in order to make findings on the criminal standard of proof: *Business Development Bank of Canada v. Cavalon Inc.*, 2016 ONSC 4084, at para. 52, aff’d 2017 ONCA 663, 416 D.L.R. (4th) 269, leave to

appeal refused, [2017] S.C.C.A. No. 504. It follows, therefore, that a judge may determine affidavit evidence that “defies logic” does not rise to the level of a meritorious defence.

[44] Although Dycha D.J. erred in his characterization of the BMO letter and the driver’s log, the other voluminous evidence adduced at the motion supports his conclusion that there is no meritorious defence to the litigation. The driver’s log and BMO letter are not determinative of the result; the Judge’s mistaken interpretation of the documents, therefore, do not constitute overriding errors of fact.

[45] Having found that the defendants did not have a meritorious defence, Dycha D.J. exercised his discretion not to set aside default judgment pursuant to r. 11.06 of the *Rules of the Small Claims Court*. That exercise of discretion is entitled to deference, because he applied the correct principles and his decision is not “so clearly wrong as to amount to an injustice”: *Mountain View Farms Ltd. v. McQueen*, 2014 ONCA 194, at para. 55.

**Conclusion**

[46] The Deputy Judge did not commit palpable and overriding errors of fact or law when he determined the defendants had been served with the plaintiff’s claims in January 2021 and therefore did not act promptly in bringing their motion to set aside default judgment. The Deputy Judge also did not commit palpable and overriding errors of fact or law when he concluded that the defendants had no meritorious defence. Accordingly, the appeal is dismissed with costs.

[47] Under the *Consolidated Practice Direction for Divisional Court Proceedings*, the parties must upload the agreement they have reached on costs, or their bills of costs or costs outlines, at least one week before the hearing. I do not see an agreement or bill of costs in Case Center. If the parties have not agreed on costs, the plaintiff shall file written submissions on costs no longer than five double-spaced pages as well as a bill of costs by July 31, 2025. The defendants shall file their responding submissions of equal length by August 14, 2025.

XXXXXXXXXXXXXXXXXXXXXXX

Jasminka Kalajdzic  
Justice

**Released:** July 11, 2025

**CITATION:** Auto Focus Canada Inc. v. Singh et al., 2025 ONSC 4117  
**DIVISIONAL COURT FILE NO.:** DC-24-0031

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

AUTOFOCUS CANADA INC.

-and-

BALWINDER SINGH and 002497135 ONTARIO  
LTD. o/a JBH XPRESS LTD.

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**ENDORSEMENT**

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Kalajdzic J.

**Released:** July 11, 2025