

COURT OF APPEAL FOR ONTARIO

CITATION: Salehi v. Association of Professional Engineers of Ontario,
2025 ONCA 562
DATE: 20250725
DOCKET: COA-25-OM-0241

Lauwers J.A. (Motion Judge)

BETWEEN

Behrouz Salehi

Plaintiff
(Appellant/Moving Party)

and

Association of Professional Engineers of Ontario

Defendant
(Respondent/Responding Party)

Behrouz Salehi, acting in person

Alex Fidler-Wener, appearing as *amicus curiae*, Pro Bono Ontario

No one appearing for the respondent/responding party

Heard: July 16, 2025

ENDORSEMENT

[1] The moving party, Behrouz Salehi, brought a motion for the following relief:

1. Provide contact information of court made defendant (Association of Professional Engineers of Ontario);
or
2. Let me appeal the order of Superior Court of Justice without serving unknown defendant; or

3. Reconsider the court hearing by changing the original defendant (PEO).

[2] Perhaps pro bono counsel was correct to characterize this as a “motion for directions”. The difficulty is that I have no formal jurisdiction to assist Mr. Salehi because there is no proceeding pending before this court. As a self-represented litigant, Mr. Salehi shows no real understanding of how the civil justice system operates. In these reasons I provide an explanation. I set out the context for Mr. Salehi’s requests in the following lengthy description of what has happened in his long-running dispute with the Association of Professional Engineers of Ontario (“APEO”).

[3] Mr Salehi is a professional engineer who is licensed and regulated by APEO under the *Professional Engineers Act*, R.S.O 1990, c. P.28. Mr. Salehi expressed confusion about APEO’s status, especially since, by order dated June 14, 2014, Myers J. changed the title of proceedings in Mr. Salehi’s lawsuit against “Professional Engineers Ontario” (“PEO”) to use the proper name, “The Association of Professional Engineers of Ontario”. I infer that this is the order to which Mr. Salehi is referring in his request that the court “Reconsider the court hearing by changing the original defendant (PEO).”

[4] But this relief is unnecessary. In formal terms, the APEO uses the name, “Professional Engineers Ontario”, and operates under the *Professional Engineers Act*. It has the capacity of a natural person. APEO can be sued and can be served

at its corporate office. It has been the proper party to these proceedings throughout. It would have been appropriate for Mr. Salehi to serve APEO with the notice of motion that brought him before me.

[5] Mr. Salehi's confusion about the status of APEO also likely underpins his second request: "Let me appeal the order of Superior Court of Justice without serving unknown defendant..." The "unknown defendant" throughout has been APEO. I infer that Mr. Salehi did not serve APEO with the motion material now before me since no one appeared on its behalf even though it has been represented throughout by Bernard C. LeBlanc and Natasha S. Danson of Steinecke Maciura Leblanc.

[6] To the extent Mr. Salehi sought relief related to service, service on APEO's counsel of record would have been appropriate. A motion for relief from service is not an opportunity to challenge past orders changing the title of proceedings.

[7] What is left of Mr. Salehi's lawsuit against APEO, if anything?

[8] The background to the dispute between Mr. Salehi and APEO was briefly described by this court in its decision reported at *Salehi v. Association of Professional Engineers of Ontario*, 2016 ONCA 438, at paras. 2-4:

2 The appellant worked as a gas engineer in Iran for many years before moving to Canada in 1997. In 2006, he formally applied to the Association of Professional Engineers of Ontario ("the APEO"), the sole licensing and regulatory body for professional engineers in the province, for a license to practise engineering. After a

lengthy application process, which involved the appellant enrolling in a "bridging" program and rewriting the licensing exams several times, the APEO ultimately approved the appellant's license on June 14, 2013.

3 Several months after he successfully obtained his license, the appellant brought the within action against the APEO, alleging negligence and bad faith in the processing and approval of his application.

4 The APEO brought a motion to strike the claim as disclosing no reasonable cause of action or, alternatively, as having been improperly pleaded. On June 24, 2014, Myers J. struck the claim on the basis that it did not properly plead the necessary elements of the cause of action, but he granted the appellant leave to amend the statement of claim.

[9] In this 2016 decision, this court considered Mr. Salehi's appeal from the decision of Diamond J. reported at *Salehi v. Association of Professional Engineers of Ontario*, 2015 ONSC 7271. In a summary judgment motion brought by APEO, Diamond J. held that there was no genuine issue requiring a trial and dismissed Mr. Salehi's action on the basis that the APEO did not owe a *prima facie* duty of care to the appellant or if it did, that duty of care would be negated by residual policy considerations. Diamond J. also found that the record did not establish any bad faith on the part of the APEO in processing the appellant's licence application.

[10] On appeal, this court held, at para. 10: "We agree with the motion judge that none of the acts the appellant complains of can be said to constitute bad faith." This court also held that: "There was no evidence of malice or intent to harm on

the part of the APEO, nor was there a fundamental breakdown in the orderly exercise of its authority or any abuse of power.”

[11] This court added, at para. 11, that “if the APEO owed the appellant any duty of care, in light of s. 45(1) of the Act, the absence of bad faith in this case is determinative of the result.” Section 45 of the *Professional Engineers Act* immunizes APEO from liability for “any act done in good faith in the performance or intended performance of a duty or in the exercise or the intended exercise of a power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.”

[12] Mr. Salehi’s motion for leave to appeal to the Supreme Court of Canada was refused: *Salehi v Association of Professional Engineers of Ontario*, [2016] S.C.C.A. No. 369. His action against APEO remained dismissed.

[13] Mr. Salehi then moved before this court to have this court's 2016 decision set aside under r. 59.06(2)(a) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, which provides that “(2) A party who seeks to, (a) have an order set aside or varied on the ground of fraud or of facts arising or discovered after it was made; ...may make a motion in the proceeding for the relief claimed.”

[14] In its decision reported at *Salehi v. Association of Professional Engineers of Ontario*, 2022 ONCA 511, this court explained the basis for Mr. Salehi’s r. 59.06(2)(a) motion, at para. 3:

The basis for the motion is facts discovered after the underlying order was made: 1) the transcript of the summary judgment hearing before Diamond J. following which his claim was dismissed; 2) several January 2022 letters from professional engineers commenting on the moving party's course transcripts; and 3) two independent reports on the Association of Professional Engineers of Ontario ("APEO") that include information and some comment regarding the APEO's handling of licensing applications from foreign trained engineers.

[15] However, as the court explained, at para. 4:

[T]his court does not have jurisdiction to entertain a motion to set aside an order that was affirmed on appeal where the motion is based on fraud or newly-discovered facts. Such a motion must be brought before a judge of the Superior Court...

[16] Under r. 59.06(2)(a), the motion to set aside or vary an order “on the ground of fraud or of facts arising or discovered after it was made” must be made by “motion in the proceeding for the relief claimed.” That is the proceeding before Diamond J.

[17] However, because Ferguson J. ordered on April 12, 2018, that “No further motions can be brought in this file”, Mr. Salehi has struggled to bring his r. 59.06(2)(a) motion. The Superior Court seems to have taken the view that Mr. Salehi needed leave to proceed. Eventually, by order dated June 26, 2023, Morgan J. permitted Mr. Salehi to bring a motion for leave to pursue a motion under r. 59.06.

[18] Mr. Salehi's motion for leave to bring a motion to set aside the order of Diamond J. was heard by Dow J. on August 14, 2024. It appears that Mr. Salehi's filing was inadequate but Dow J. muddled through. He obtained a copy of the transcript of the hearing before Diamond J.

[19] Dow J. found that nothing in the transcript demonstrated that "any possible fraud had occurred". He also noted that the transcript was not true fresh evidence because Mr. Salehi "failed to demonstrate how the transcript of the hearing before Justice Diamond could not have been obtained before the appeal of that decision was heard on May 20, 2016" by the Court of Appeal. Dow J. considered the second ground:

The second ground relied on the included letters from licencees of the Association of Professional Engineers of Ontario, Fred Afshar dated January 13, 2022, Kiana Kalali, dated January 17, 2022 and Alireza Azarbad on or after January 7, 2022 supporting the claim by Behrouz Salehi. However, there was no evidence why or how such material could not have been obtained and relied on at the hearing conducted by Justice Diamond or attempted to be used before the Court of Appeal.

[20] Dow J. dismissed the motion for leave on the basis that it "lacks reasonable grounds and is without merit."

[21] Mr. Salehi did not appeal from the order of Dow J.

[22] Mr. Salehi next brought a motion to the Superior Court, stating simply: "I need defendant's contact information." In his endorsement dated May 8, 2025,

Dow J., sitting as triage judge declined to respond to Mr. Salehi's request because "this action has been dismissed and there is no indication of any further appeal or success in such appeal; [and] this request lacks clarity as to why or what "defendant's contact information" is required or is not already known to the plaintiff or cannot be obtained directly from the defendants without a motion and/or hearing".

[23] It is from this endorsement by Dow J. that Mr Salehi made this motion, which came before me. I have answered his question above.

[24] Mr. Salehi is clearly of the view that APEO treated him unjustly and very badly and is galled by the fact that he must pay large costs awards. As understandable as his anguish might be, it is time for him to consider that he has done all he can and there are no more legal roads open to him to pursue APEO.

[25] Since there was no valid motion before me, there is nothing for me to do but provide the limited assistance that I can to help Mr. Salehi understand where things are and that there is nowhere else for him to go. He must simply live with the outcome.

[26] Finally, I prohibit Mr. Salehi from filing any documents with this court pertaining to his dispute with APEO without the permission in writing of a member of this court, based on a written request by Mr. Salehi no more than three pages

in length without any additional material. I direct counter staff not to accept any material from Mr. Salehi that is not consistent with this direction.

[27] I direct court staff to provide a copy of this endorsement to APEO in writing and also to their longstanding counsel.

“P. Lauwers J.A.”