CITATION: Royal Bank of Canada v. Skelly et al., 2025 ONSC 6622
COURT FILE NO.: CV-22-2178
DATE: 2025-11-26

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	
ROYAL BANK OF CANADA	James Satin, for the Plaintiff
Plaintiff	
- and -	
WILLIAM ADAMSON SKELLY and ALISON HUNT	Self-represented, for the Defendant, William Adamson Skelly
	Self-represented, for the Defendant Alison Hunt, Did not attend
Defendant	
	HEARD: November 12, 2025, by Video Conference

REASONS FOR DECISION

Nitchke AJ.

Overview:

[1] The Defendant, William Adamson Skelly ("Mr. Skelly"), brings this motion to set aside the default Judgment obtained by the Plaintiff against him on March 10, 2023.

[2] The Defendant, Alison Marie Hunt, did not attend. No parties made submissions with respect to the claims against her.

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[3] This case presents an important question: how should the Court strike the proper balance where there has been significant unfairness to a Defendant, yet the Defendant has presented no evidence of a meritorious defence? For the reasons that follow, I conclude that the motion must be granted.

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Background:

[4] At all material times, Mr. Skelly operated three restaurants called Adamson Barbecue. The Plaintiff was the primary lender for the restaurants' business loans, credit cards and lines of credit.

[5] The Defendant opened his restaurant in Etobicoke during the provincial lockdown, defying Ontario's COVID-19 lockdown measures under the Reopening Ontario Act. This sparked large anti-lockdown protests and significant media attention. He faced numerous charges both municipally and provincially.

[6] The Defendant alleges his business suffered severe financial losses as a result of the lockdown as well as relating to his charges which led to a bail condition prohibiting the Defendant from accessing his restaurants. There were other financial implications during this time that may have also led to the business insolvency, for example, being sued by the City of Toronto to recoup the cost of their seizure of his building.

[7] Additionally, the Defendant alleges that his attention and time was focused on defending over 100 municipal and provincial charges, the lawsuit initiated by the City of Toronto, a countersuit and a constitutional challenge that he initiated. Although he did not prepare a defence in this matter, he was actively communicating with the law firm retained by the Plaintiff through email in ongoing settlement negotiations.

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[8] In 2021, the Defendant’s business closed, and he moved to a rural property in Alberta. His wife gave birth to a third child.

[9] The Defendant was personally served with the Statement of Claim on November 17, 2022 at his Alberta address. While he was able to be served with the claim by a process server, the Defendant states that there is no mail delivery at that address. He uses a P.O. Box address to accept mail.

[10] In December 2022, and January-February 2023, counsel for the Plaintiff provided extensions of time for the Defendant to deliver a defence. During the last two weeks of February, RBC’s counsel and the Defendant were discussing a possible payment arrangement. RBC was waiting for the Defendant to provide financial disclosure in support of the proposal. The financial disclosure was never provided.

[11] The Defendant was noted in default on March 10, 2023. At the same time, default Judgment was also obtained.

[12] RBC's counsel sent a copy of the Judgment to the Defendant on March 27, 2023, via mail to his Alberta address. The Defendant asserts that he did not receive the package because his address was not set up to accept any mail.

[13] On July 17, 2023, RBC's counsel followed up with the Defendant by email for the financial disclosure. She did not include a copy of the Judgment in her email; nor did she refer to the fact that default Judgment had been obtained. It was completely omitted.

[14] Between July 21 and August 4, 2023, ongoing discussions took place between the parties regarding settlement/payment arrangement. RBC's counsel continued to omit any reference to a default Judgment having been obtained.

[15] On August 15, 2023, the Defendant wrote to counsel and provided his P.O. Box address, stating: "Should RBC insist on pressing a claim despite my best efforts to find remedy, you can deliver documents to my mailing address at…" This correspondence clearly demonstrates that the Defendant had no knowledge of any default Judgment. Moreover, it should have prompted RBC to question whether the address they used to serve the Judgment was sufficient. RBC did not respond to this email.

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[16] Mr. Skelly asserts that he did not receive a copy of the Judgment until it was sent to him by a different counsel retained by RBC in a related matter, commenced in Alberta. He received this on May 27, 2025. Once he learned of it, he argues he moved promptly to set aside the default. He prepared a draft Statement of Defence which was attached to his motion record as Exhibit "G."

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[17] The related matter in Alberta was a claim for the same debt, commenced on February 17, 2025. It was later discontinued.

ANALYSIS:

IS NOTICE REQUIRED?

[18] The Defendant was not given any notice that the Plaintiff intended to note him in default and obtain default Judgment. No motion record was served. The only document he received was the Statement of Claim.

[19] Under Rule 19.02(3) of the *Rules of Civil Procedure*, a Defendant who has been noted in default is not entitled to notice of further steps in the action unless ordered otherwise. Despite this, caselaw repeatedly emphasizes that serving the default Judgment motion record is best practice, and courts increasingly use their discretion to require it: *Elekta Ltd. v. Rodkin*, 2012 ONSC 2062, at para. 10; *Casa Manila Inc. v. Iannuccilli*, 2018 ONSC 7083, at para. 14. In *Western Steel and Tube Ltd. v. Technoflange Inc.*, 2017 ONSC 2697 at para. 24, Myers J. observed that

the "court frequently requires notice to be provided in default proceedings although the *Rules* do not technically require it."

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[20] Rule 19.02 leaves notice in the discretion of the Court: *Beals v. Saldanha*, 2003 SCC 72, [2003] 3 S.C.R. 416 at para. 115. In *Greey v. Greey*, [1994] O.J. No. 1344 (C.A.) at para. 4, the Court of Appeal directed, on the basis of the discretion afforded by *Rule* 19.02(3), that notice of any motion for judgment be provided on the finding that it was "in the interest of justice" to do so.

[21] I find that, in the interest of fairness and transparency, the Defendant should have been served with the default judgment materials. This is particularly compelling given the ongoing settlement discussions conducted by email. Providing those documents by email would have required virtually no cost or effort on the Plaintiff's part and would have ensured that the Defendant was fully informed. It would have been in the interests of justice to do so. This was not an example of an absconding Defendant. Mr. Skelly was actively involved in trying to resolve this claim against him.

[22] I further find that the ongoing email correspondence fostered a false impression for the Defendant that no defence was required. This concern is amplified by the fact that settlement discussions continued by email even after the default judgment had been obtained. Yet, the Plaintiff appears to have made a

deliberate choice to withhold disclosure of that Judgment through those email discussions. The Plaintiff's decision to engage with the Defendant by email, yet serve the default Judgment solely by regular mail, reinforces the conclusion that the Plaintiff was not acting with full transparency.

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THE TEST FOR SETTING ASIDE NOTING IN DEFAULT AND DEFAULT JUDGMENT

[23] When exercising its discretion to set aside a noting in default or default Judgment, the Court considers the following factors which are not exhaustive:

> (a) whether the defendant moved promptly;
>
> (b) whether there is a plausible excuse or explanation for the default;
>
> (c) whether the defendant has an arguable defence on the merits;
>
> (d) the potential prejudice to the defendant should the motion be dismissed, and the potential prejudice to the plaintiff should the motion be allowed; and
>
> (e) the effect of any order the court might make on the overall integrity of the administration of justice.
>
> *Mountain View Farms Ltd. v. McQueen, 2014 ONCA 194 at para 47; Intact Insurance Co. v. Kisel,* 2015 ONCA 205 at para 14; *Storoszko & Associates v. 1489767 Ontario Limited*, 2024 ONCA 147 at para 3.

[24] The above factors are not rigid rules but are pertinent considerations that are assessed in the circumstances of each case to determine whether it is just to relieve the Defendant from the consequence of their default: *Mountain View*, at paras. 48-50.

[25] Within this context, I will review the Mountain View factors.

Did the Defendant move promptly?

[26] The Defendant argues that he did not receive notice of the Judgment until May 27, 2025 when he was contacted by a different lawyer for RBC in Alberta.

[27] This motion was brought on November 11. The Defendants materials were served on October 3, 2025.

[28] RBC asserts that the Defendant knew of the judgment in March 2023 because it was mailed to his Alberta address.

[29] Alternatively, RBC states that the Court can factor in the time between service of the Statement of Claim to when the motion is brought, to determine whether there has been a significant delay. In this matter, the total time is argued to be 36 months.

[30] The Plaintiff relies on *Trayanov v. Icetrading Inc*., 2022 ONSC 583 (CanLII) as authority for the position that a delay of 20 months from the time the time the Defendant was served with the Statement of Claim to the time they served a Statement of Defence. This was after the expiry of a Court ordered deadline.

[31] I distinguish *Trayanov* because here, there are no previous Court-ordered deadlines which have been breached by the Defendant. In that case, the

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Defendant was aware, by virtue of a Court Order, of an impending deadline to prepare and serve a Statement of Defence. That case was also overturned on appeal in any event. The Court of Appeal found that despite the Defendant's failure to take advantage of a "second chance" to file their defence, it was still "just and appropriate" to set aside the noting in default: *Trayanov v. Icetrading Inc*., 2023 ONCA 322 (CanLII).

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[32] Here, the Defendant was arguably led to believe that a defence was not necessary while settlement discussions were ongoing. Once he learned of the Judgment, he moved promptly to have it set aside.

Whether there is a plausible excuse or explanation for the default?

[33] Again, the Defendant relies on the ongoing settlement discussions to explain why he did not file a defence. Additionally, he states that was involved in so many other types of litigation that he was not able to devote more time to the within action.

[34] The Defendant also believes that once the remaining litigation is concluded, he will be successful in recovering damages for compensation for his business closure. Whether or not that is a reasonable assessment of the merits of the other litigation is not for this Court to decide. However, the Plaintiff's position is that his

goal was to hopefully finalize those lawsuits before he could use the damages obtained from the related lawsuits to the benefit of RBC in this lawsuit.

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[35] The Plaintiff submits that it was not reasonable for the Defendant to believe that settlement negotiations would preclude default proceedings. They state that by sending a copy of the Judgment to the Defendant – albeit by mail to the Alberta address – this signalled their intent to pursue enforcement even while resolution discussions were ongoing.

[36] The Plaintiff further submits that it is no excuse for the Defendant to say that he was giving priority to the related proceedings as opposed to this one.

[37] I agree that the Defendant should not be rewarded for, essentially, being too busy to provide a defence. However, I do not agree that it would have been clear to the Defendant that settlement discussions did not preclude default proceedings.

[38] Firstly, the Defendant is self-represented, and counsel for RBC had an ethical obligation not to exploit that vulnerability. In the circumstances—where email was the established mode of communication—the failure to provide the Defendant with copies of the materials and the Judgment via email reflects conduct that appears calculated to take advantage.

[39] Secondly, whether self-represented or not, the fair thing for RBC to have done would be to give the Defendant advanced warning that if he did not file a

defence by a specified date, they would note him in default and proceed with default Judgment without further notice to him. This was not done in this case.

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[40] Accordingly, I find that the Defendant was, at the very least, willed into believing that default proceedings would not be undertaken while resolution discussions were ongoing. Without advanced warning of the consequences of his continued failure to serve a defence, he could not reasonably be said to have known that settlement discussions would not preclude default proceedings.

Does the Defendant have an arguable defence on the merits?

[41] The Affidavit submitted by the Defendant seeks to assert a defence that RBC may not have standing to enforce the debt because it is *possible* that it was securitized, transferred or otherwise assigned. This is indeed the primary defence noted in his draft defence. He also claims in his defence that RBC is unable to produce a copy of the one of the credit agreements that they are seeking to enforce. The other defences advanced are for set-off, an invalid demand for payment on RBC's part, and a denial of any right to interest in the lawsuit.

[42] The Defendant has presented no evidence to suggest that the debt was transferred outside of RBC in this case. It is nothing more than mere speculation based on what the Plaintiff refers to as "pseudolaw." The Plaintiff asserts that there

was no securitization here and that even it there was, it is not a defence to whether funds were borrowed, advanced or repayable.

[43] There is a developing body of caselaw in Alberta that refers to a proliferation of this defence, and debt elimination schemes in general, and which rejects the argument as nothing more than a scam perpetuated by internet "gurus" who profit from promoting strategies for their own benefit, while giving illusory benefit to their customers (see *Bonville v. President's Choice Financial*, 2024 ABKB 483 (CanLII).

[44] These strategies are often referred to as Organized Pseudolegal Commercial Argument (OPCA) strategies, which are contrivances to avoid payment (*ATB Financial v. 1719091 Alberta Ltd*., 2025 ABCA 291 (CanLII).

[45] The Courts that have heard these arguments have found that they are an abuse of Court processes: *Royal Bank of Canada v. Courtoreille*, 2024 ABKB 302 (CanLII) at para. 10.

[46] *Courtoreille* breaks down the debt elimination schemes into the following three parts, at para. 5:

> 1) The debtor is promised money from a private lender to pay of outstanding debt;
>
> 2) The debtor demands that the creditor provide the original signed loan agreement (not a photocopy); and,

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3) The lender is demanded to provide an Affidavit from a chartered accountant to verify the debt was not sold, otherwise no debt exits.

See also *Bonville*, at para. 4.

[47] Unless the debtor receives the original signed contract and the Affidavit, the debtor is encouraged to refuse to pay in these schemes. I have no doubt that the Defendant in this case has become prey to this scam in one way or another.

[48] The Alberta Court of Appeal has said that requiring proof of an original signed loan agreement ("wet ink" documents, or any other type of formal proof) has no merit: *The Toronto Dominion Bank v Manah, 2025 ABCA 201* (CanLII) (at para. 18). While this is not the primary defence asserted by Mr. Skelly, he does rely on RBC's lack of ability to produce the agreement from one of the debts in his defence.

[49] Moving on to the issue of standing, Mr. Skelly says that once he brought the issue of possible securitization to RBC's lawyer in Alberta, the Alberta proceeding was dismissed. He believes that was done as an implicit admission that RBC had a lack of standing to enforce the debts.

[50] Counsel for the Plaintiff argues that the second action for this debt that was commenced in Alberta was a mistake. He argues that once the mistake came to light, it was immediately discontinued. The discontinuance had nothing to do with Mr. Skelly's securitization argument.

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[51] I cannot accept RBC's submission that the Alberta action was a mistake, as there is no evidence of this in the record. That said, I agree with the reasoning that withdrawing a duplicative proceeding in another province does not, in itself, establish that RBC no longer holds the debt. Furthermore, if the withdrawal in Alberta were truly intended to signify that RBC had abandoned its claim due to the Defendant's position on standing, one would reasonably expect the same withdrawal to occur here in Ontario.

[52] The Defendant's defence as it currently stands is unmeritorious. Accordingly, this factor weighs against the Defendant. It is, however, not determinative.

Prejudice

[53] The Plaintiff invokes the doctrine of laches to support its position that it has suffered prejudice. There is no evidence on the record establishing any factual basis for prejudice. There is no evidence of disappearing assets or otherwise.

[54] The Plaintiff states that there is a lack of prejudice to the Defendant because the Defendant has not made any good faith efforts to resolve. I do not agree that there has been an absence of good faith efforts to resolve. In February 2023, the Defendant offered to repay the debts in a $250/month installment plan. Whether

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or not RBC found that to be sufficient, does not necessarily mean it wasn't made in good faith based on the Defendant's particular circumstances.

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[55] The Defendant contends that he will suffer prejudice if the motion is denied, as he would be deprived of the opportunity to defend the action on its merits. This argument, however, is not unique; it arises in virtually every motion of this nature.

[56] I am not persuaded that any party will experience prejudice beyond the ordinary consequence of being unsuccessful on this motion. Accordingly, this factor is neutral.

Administration of Justice

[57] With respect to this last factor of the Mountain View test, the Court will always strive to see that issues between litigants are resolved on their merits: *Nobosoft Corporation v. No Borders, Inc.*, 2007 ONCA 444 at para 7.

[58] In circumstances involving a self-represented Plaintiff who appears to have been misled by a persistent myth in his province promoting pseudolaw, I am not satisfied that the interests of justice would be served by denying him the opportunity to defend the claim on its merits, should they exist.

[59] As noted above under the Notice requirement, it would have been in the interests of justice to have served the Defendant with a copy of the motion for default Judgment. This is relevant under the final portion of the test.

[60] The Plaintiff's conduct in this case is one which should not be rewarded. The following factors resulted in an unfairness to the Defendant:

1) Not specifically giving the Defendant a deadline to defend, failing which default proceedings would be initiated;
2) Not serving the materials on the Defendant despite ongoing email communications regarding resolution;
3) Not serving the Defendant with a copy of the Judgment by email;
4) Continuing to negotiate with the Defendant post-Judgment without ever referring to the fact that it had been obtained.

[61] The Defendant has only presented a draft defence. The circumstances leading to that draft of that defence may have been because it was rushed, or drafted as a result of ineffective "legal" advice/research. Perhaps the defence can be changed.

[62] Accordingly, I find that in all of the circumstances, it would be unjust to prevent the Defendant from defending the action through a technical application of the Rules.

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Conclusion:

[63] Balancing all the factors in *Mountain View*, it is my view that the circumstances of this case favour granting the Defendant's motion to set aside the noting in default and default Judgment.

[64] For the foregoing reasons, I allow the motion and order as follows:

1) The noting in default and default Judgment is set aside;

2) The Defendant shall deliver a defence within 30 days of today's date.

[65] It is my expectation that the Defendant will take this Court's ruling seriously. If there is a legitimate defence, he is afforded one final opportunity to advance it. If there isn't, the parties are encouraged to come to agreeable terms for a payment structure going forward and a final settlement of this action.

Costs:

[66] The Defendant is the successful party and is presumptively entitled to costs. However, the Defendant is receiving an indulgence of the Court. The decision to grant the indulgence was not an easy one: the Defendant presents no meritorious defence in its current form.

[67] In my view, it is fair and reasonable that there be no order with respect to costs of this motion.

Associate Justice Nitchke

Released: November 26, 2025

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