COURT OF APPEAL FOR ONTARIO

CITATION: Proex Logistics Inc. (Re), 2025 ONCA 832
DATE: 20251203
DOCKET: COA-25-CV-0226

2025 ONCA 832 (CanLII)

Thorburn, Coroza and Gomery JJ.A.

In the Matter of the Bankruptcy of Proex Logistics Inc., Guru Logistics Inc., 1542300 Ontario Inc. and 2221589 Ontario Inc.

Ryan Shah, for the appellant, Rana Randhawa

Lee Nicholson and Sam Dukesz, for the respondent, Paul Randhawa

Alan Merskey and Kiyan Jamal, for the Trustee, KSV Restructuring Inc.

Heard: September 17, 2025

On appeal from the order of Justice Jana Steele of the Superior Court of Justice, dated January 3, 2025, with reasons reported at 2025 ONSC 51.

Thorburn J.A:

[1] The appellant Rana Partap Singh Randhawa ("Rana") appeals the motion judge's decision to deny him standing, and to allow the trustee's motion to consolidate estates, pay the claims of the respondent Swinderpal Singh Randhawa

("Paul"), distribute any surplus to the equity holders, and approve the trustee's report.

[2] The appellant Rana and the respondent Paul are brothers. Together, they built RGC, a group of companies which operated a successful trucking business ("the Trucking Business") and a real estate business.[1] They are only equal shareholders of the RGC entities.

[3] RGC was first placed into receivership and then assigned into bankruptcy. KSV Restructuring Inc. was appointed receiver and then trustee-in-bankruptcy ("the Trustee").

[4] The Trustee found that Rana had engaged in wrongful conduct aimed at eroding the value of RGC, and brought a motion to (i) consolidate the estates of the parties' Trucking Business; (ii) authorize the Trustee to pay Paul's claims against the Trucking Business including an unsecured claim of $117,693.40 and an equity claim in the amount of $2,650,000 (the "Wrongful Conduct Claim"), both of which the Trustee had approved; (iii) make distributions of any surplus of proceeds from Proex, Guru, ASR, and 2221589 Ontario Inc. ("the Bankrupt

[1] RGC is comprised of ProEx Logistics Inc., Guru Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation), 2221589 Ontario Inc., 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc., and ASR Transportation Inc. The Trucking Business specifically comprises of Proex, Guru, and ASR. 2221589 Ontario Inc. is part of RGC's real estate business, but was assigned into bankruptcy alongside Proex, Guru, and ASR.

2025 ONCA 832 (CanLII)

Entities”) to Paul and Rana as shareholders of the Bankrupt Entities; and (iv) approve the Trustee’s reports.

[5] Rana opposed the relief sought by the Trustee and sought to adjourn the motion, arguing that he needed more time to challenge the Trustee’s acceptance of Paul’s claims.

[6] The motion judge denied Rana standing to participate in the motion because of: (i) the many outstanding cost awards, all of which remained unpaid for over a year; (ii) the evidence that Rana had dissipated RGC assets; and (iii) the fact that Rana was continuing to pay legal counsel although he claimed he had no money to pay the outstanding costs orders.

[7] In careful but succinct reasons, the motion judge allowed the Trustee’s motion to consolidate the estates, make distributions of any surplus to Rana and Paul as equity holders, and approve the Trustee’s report. However, she was not prepared to authorize acceptance of the Trustee’s approved claims, as under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “*BIA*”), the Trustee alone decides whether to allow a claim.

[8] She held that the *BIA* “does not contemplate the court accepting an approval that has already been made by the trustee”. Therefore, once the Trustee accepted the Wrongful Conduct Claim, and absent any valid statutory challenge, the *BIA* did not provide her with any authority to accept, modify or reject the Trustee’s

2025 ONCA 832 (CanLII)

authorization of any claim. As a result, the Trustee's acceptance of Paul's claims was not reviewable.

[9] Section 135(5) of the *BIA* allows the court to expunge a proof of claim on the application of a creditor or the debtor if the trustee declines to interfere in the matter. A s.135(5) challenge is available both before and after a claim is allowed: L.W. Houlden, G.B. Morawetz, and Janis Sarra, *Bankruptcy and Insolvency Law of Canada*, loose-leaf (2025-Rel. 7), 4th ed (Toronto: Thomson Reuters, 2009) at §6.283. The *BIA* also allows a claimant to appeal the Trustee's acceptance of a claim within 30 days pursuant to s. 135(4) of the *BIA*.

[10] In this case, Rana brought no challenge under s. 135(4) and did not ask the trustee to disallow the claim as required under s. 135(5). The motion judge allowed the Trustee's motion, noting that the Trustee allowed Paul's claims, all appeal rights with respect to Paul's claims had expired, and therefore any claim against the Trustee at this stage would constitute a collateral attack.

[11] Rana now claims a right to appeal the motion judge's decision to this court pursuant to ss. 193(a) or (c) of the *BIA* on the basis that his appeal concerns future rights and/or the property involved exceeds $10,000. In the alternative, he claims that the court should grant him leave to bring a claim pursuant to s. 193(e) of the *BIA*.

2025 ONCA 832 (CanLII)

[12] On the merits, he claims the motion judge erred by:

1. denying him standing n the basis that he held not paid the outstanding costs order;
2. denying him standing as an aggrieved party pursuant to s. 37 of the *BIA*;
3. denying him standing as a creditor pursuant to s. 135 of the *BIA;* and
4. failing to consider the merits of the Wrongful Conduct Claim.

[13] For the reasons that follow, I would dismiss the appeal.

[14] Before conducting my analysis, I provide an outline of the evidence relevant to this appeal.

BACKGROUND EVIDENCE

[15] In March 2018, prior to any insolvency proceedings, Paul commenced an oppression application in respect of the debtor companies.

[16] In October 2018, the brothers signed the "Minutes of Settlement" agreeing to sell the RGC businesses and split the proceeds of sale equally. However, Rana delayed the sale of the Trucking Business.

[17] In 2020, Paul retained a private investigator and as a result of the investigation, became concerned that Rana was diverting assets from RGC to another company, owned by Rana's son.

2025 ONCA 832 (CanLII)

2025 ONCA 832 (CanLII)

(1) The Receivership

[18] Paul brought a motion seeking the appointment of a receiver with a sale and investigation mandate. Rana opposed the motion.

[19] On May 19, 2021, Koehnen J. granted Paul’s motion, appointing KSV as receiver over RGC’s assets (“the Receiver”), and empowering KSV to carry out a sale mandate and investigation into Rana’s conduct.

[20] On or about May 20, 2021, Rana transferred approximately $168,000 of his own funds to each of his two sons. He said the funds were to pay for their studies (one at Toronto Metropolitan University and the other taking real estate courses), which sums the respondent Paul claims are exorbitant. In July 2021, Rana’s wife took out a $2.4 million mortgage on their home.

[21] On September 16, 2021, Koehnen J. granted an order establishing a claims process in the receivership for RGC’s creditors. The deadline by which to file a claim with the Receiver was October 31, 2021 (the “Claims Bar Date”). The claims process order provides as follows:

> 2. THIS COURT ORDERS that the following terms in this Order shall have the following meanings ascribed to them:
>
> …
>
> (c) “Claim” or “Claims” means

(i) any right of any Person against any RGC Entity, in connection with any indebtedness, liability or obligation of any kind of any RGC Entity whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise and whether or not such right is executory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity for or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts existing prior to the date of the Receivership Order, (B) relates to a time period prior to the date of the Receivership Order, or (C) would have been a claim provable in bankruptcy had the RGC become bankrupt on the date of the Receivership Order (a "Pre-Receivership Claim"); or

(ii) any indebtedness, liability or obligation of any kind arising out of the restructuring, termination, or repudiation of any lease, contract, or other agreement or obligation on or after the date of the Receivership Order and whether such restructuring, termination, or repudiation took place or takes place before or after the date of this Order (a "Restructuring Claim");

…

9. THIS COURT ORDERS that any Claimant that fails to deliver or fails to have delivered on the Claimant's behalf a completed Proof of Claim to the Receiver by the Claims Bar Date:

(a) shall be and is hereby forever barred from making or enforcing any Claim and all such Claims shall be forever extinguished and released; and

2025 ONCA 832 (CanLII)

(b) shall not be entitled to receive any further notice in respect of the Claims Procedure of these receivership proceedings or receive any distribution in relation to the estate or assets of any RGC Entity.

…

12. THIS COURT ORDERS that the Receiver be and is authorized and directed to administer the following process to finally determine Claimants' Claims as Proven Claims:

…

(b) if the Receiver determines to revise or disallow any Claim, the Receiver shall send a Notice of Revision or Disallowance to the respective Claimant as soon as is practicable once the Claim has been revised or disallowed;

(c) a Notice of Revision or Disallowance shall be final and conclusive and stand as evidence of the respective Claimant's Proven Claim unless the Claimant delivers to the Receiver in accordance with paragraph 24 of this order, a Notice of Dispute within the fourteen (14) day period after service of the Notice of Revision or Disallowance;

…

(f) the Receiver is hereby authorized and directed to use reasonable discretion as to the adequacy of compliance as to the manner in which the Claims are completed and executed and may, where satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order as to the completion and the execution thereof.

2025 ONCA 832 (CanLII)

[22] On September 24, 2021, the Receiver issued a report confirming that Rana and Motion Transport ("Motion"), another trucking company, delayed the sale of the Trucking Business to divert its assets and opportunities. The Receiver found that Rana was transferring RGC's assets, resources, personnel and revenues to Motion with the aim of eroding RGC's value.

[23] The Receiver stated that Rana "actively engaged with the set-up and operation of Motion to the detriment of the efforts to sell the Trucking Business", including representing that the same competing business, Motion, was a wholly owned subsidiary of ASR.

[24] On or about October 29, 2021, before the Claims Bar Date, Paul submitted two claims: the first, an unsecured claim for $117,693.40 for funds he lent the Trucking Business, and the second, an equity claim for $2.65 million representing the amount he claimed he would have received had the Trucking Business been sold in a timely manner in accordance with the Minutes of Settlement in 2018 (the "Wrongful Conduct Claim").

[25] Upon receipt of the Receiver's report, Rana received notice that the Receiver accepted the basis for the Wrongful Conduct Claim in the Receivership, albeit without final quantification.

2025 ONCA 832 (CanLII)

2025 ONCA 832 (CanLII)

(2) The Bankruptcy

[26] On October 23, 2023, the Trustee assigned the parties' related trucking company businesses: ProEx, Guru, ASR, as well as one of the real estate businesses, 2221589 Ontario Inc., into bankruptcy.

[27] On August 23, 2024, Rana was given notice that the inspectors had approved (i) payment of Paul's unsecured claim and (ii) payment to Paul of approximately $2.65 million as an equity claim in respect of his claim related to the sale of the Trucking Business.

[28] The Trustee then brought a motion in the Superior Court seeking authorization to consolidate the estates of the companies comprising the Trucking Business, pay Paul's approved claims, distribute any surplus of proceeds to Paul and Rana as shareholders of the Bankrupt Entities, and approve the Trustee's reports. That motion, which underlies this proposed appeal, was scheduled for November 27, 2024.

[29] On November 22, 2024, five days before the hearing of the Trustee's motion, Rana's counsel provided the Trustee with his late filed proof of claim as a creditor. The Trustee determined it was unable to accept the proof of claim based on the information provided, as he was unable to reconcile Rana's claim with ASR's records. The Trustee indicated that it would review any further materials from Rana, if provided, but reserved its right to rely on the Claims Bar Date of October 31, 2021.

[30] Although Rana missed the receivership Claims Bar Date and was advised that his late-filed proof of claim in the bankruptcy was deficient, Rana chose not to take any further steps to file a corrected proof of claim.

[31] As Rana's claim remained deficient, the Trustee never accepted Rana's claim against RGC.

[32] At the time of the Trustee's motion, approximately $4 million was available for distribution to creditors. After payment to the creditors, RGC will have a surplus, with Paul and Rana as the only two equity owners in the business with potential claims to any surplus.

[33] Rana opposed the relief sought by the Trustee and sought an adjournment so he could later challenge the Trustee's acceptance of Paul's claims. This was the first time Rana formally objected to the Wrongful Conduct Claim.

[34] At the time of the motion, the motion judge found that Rana had outstanding cost awards payable to Paul in the amount of approximately $1.048 million.

[35] Paul has also commenced a separate civil action against Rana and his alleged co-conspirators for fraud.

THE RIGHT TO APPEAL

[36] The first question on this appeal is whether Rana has a right of appeal or should be granted leave to appeal pursuant to any one of ss. 193 (a), (c), or (e) of the *BIA*.

2025 ONCA 832 (CanLII)

[37] Subsections 193(a), (c) and (e) of the *BIA* provide that:

> Unless otherwise expressly provided, an appeal lies to the Court of Appeal from any order or decision of a judge of the court in the following cases:
>
> (a) if the point at issue involves future rights;
>
> …
>
> (c) if the property involved in the appeal exceeds in value ten thousand dollars;
>
> …
>
> (e) in any other case by leave of a judge of the Court of Appeal.

(1) Future Rights under s. 193 (a)

[38] Rana submits that his appeal concerns future rights within the meaning of s. 193(a) which include: (i) discovery rights; (ii) rights to claim mitigation of damages, that only crystallize following the payment of the Wrongful Conduct Claim; and (iii) rights to commence an action against the Trustee after Paul receives the distribution in question and Rana obtains leave from a court to pursue this claim.

[39] The Trustee claims that no appeal as of right exists for Rana under s.193(a), as even if he is a "creditor" or a "person… aggrieved by any act or decision of the trustee" within the meaning of s. 135(5) or s. 37 of the *BIA*, he neglected to challenge the Trustee's decision to accept Paul's claims when those rights crystallized. Because his future rights only exist because he failed to act when

2025 ONCA 832 (CanLII)

those rights crystallized, he cannot now use his future rights as a basis to assert a challenge to the Trustee's decisions.

[40] The most recent statement of the law in respect of s.193 of the *BIA* by this court can be found in *North House Foods Ltd. (Re),* 2025 ONCA 563, 20 C.B.R. (7th) 1. At para. 21 of the decision, Pepall J.A. noted that this court has generally taken a narrow approach to the interpretation of appeal rights under ss. 193(a) through (d), due in part to the broad automatic stay on appeal contained in s. 195 of the *BIA*. She further held that:

> Future rights under s. 193(a) mean future legal rights.... The question is whether the rights engaged in an appeal are future rights or presently existing rights that are exercisable in the future. [Emphasis added; citations omitted.]

[41] In *North House*, the rights crystallized before the order under appeal, and s. 193(a) was therefore unavailable.

[42] The "future rights" Rana raises relate to the ongoing parallel litigation between Rana and Paul (and a speculative potential lawsuit against the Trustee). Rana has not clearly explained how the Trustee making a distribution in respect of the Wrongful Conduct Claim will affect those rights in separate legal proceedings, or why "discovery rights" are future rights in a proceeding that is currently underway.

[43] Rana interprets "future" rights to include rights a litigant may but will not necessarily obtain in future litigation. That is not a correct definition of a future right

2025 ONCA 832 (CanLII)

as it would mean that any claim advanced includes a future right to a judgment. Rather, a s. 193(a) future right is one that will come into existence at a future time.

[44] The British Columbia Court of Appeal addressed a similar situation in *Farm Credit Canada v. Gidda*, 2014 BCCA 501, 68 B.C.L.R. (5th) 333, at para. 17, citing *Re Catalina Exploration & Development Ltd.*, 1981 ABCA 31, 121 D.L.R. (3d) 95, at 100[2]:

> A right [under s. 193(a)] in a legal sense exists when one is entitled to enforce a claim against another or to resist the enforcement of a claim advanced by another. A present right exists presently; a future right is inchoate in that while it does not now exist, it may arise in the future. For the adjective "future" to have any meaning, it cannot refer to that which presently exists. Does the claim alleged against the trustee presently exist? It is a current allegation of existing facts though they may be procedurally blocked by a need to obtain leave to assert the claim.
>
> To give "future" the meaning that includes that which a litigant may obtain by success in litigation in the future is to say that a right of appeal exists in all cases. Any claim advanced is, in that sense, a future right to a judgment which does not yet exist. It would seem to me for para. (a) of [s.193] to have any meaning that it must refer to rights which could not at the present time be asserted but which will come into existence at a future time. [Emphasis added; citations omitted.]

[45] For these reasons, Rana has not raised any "future rights" under s. 193(a).

---

2 Section 193(a) of the *BIA* was then s. 163 of the *Bankruptcy Act*, R.S.C. 1970, c. B-3.

2025 ONCA 832 (CanLII)

(2) Property that Exceeds $10,000 under s.193(c)

[46] Rana also submits that he has a right to appeal under s. 193(c) because his appeal involves property valued in excess of $10,000.

[47] He challenges Paul's $2.6 million Wrongful Conduct Claim in respect of the RGC surplus, which if allowed by the Trustee, reduces the surplus payable to Rana by approximately $1 million. Further, he claims the motion judge's order was substantive because he was deprived of his claim to the $1 million in surplus funds payable to him absent allowance of the Wrongful Conduct Claim. As such, he claims he meets the criteria to claim a right to property in excess of $10,000 as established by this court in *2403177 Ontario Inc. v. Bending Lake Iron Group Limited*, 2016 ONCA 225, 369 D.L.R. (4th) 635.

[48] In *Bending Lake* at para. 53, Brown J.A. for this court, held that to qualify for an appeal as of right under s. 193(c), the order under appeal must be:

i. more than procedural;

ii. involve the value of the debtor's property; and

iii. result in a loss to the appellant.

[49] All three factors must be met. The $10,000 qualification has been interpreted narrowly; it could not have been Parliament's intention to cast a wide net, as otherwise most cases would meet that description: *North House*, at para. 28. This provision must be limited to appeals which directly involve property exceeding

2025 ONCA 832 (CanLII)

$10,000 in value: *Romspen Investments Corporation v. Courtice Auto Wreckers Limited*, 2017 ONCA 301, 138 O.R. (3d) 373, at para. 22, leave to appeal refused, [2018] S.C.C.A. No. 37636*; Enroute Imports Inc. (Re)*, 2016 ONCA 247, 35 C.B.R. (6th) 1, at para. 5.

[50] A fact-specific inquiry must be conducted to determine whether there was a loss based on the evidentiary record: *Hillmount Capital Inc. v. Pizale,* 2021 ONCA 364, 462 D.L.R. (4th) 228, at para. 42. The question is not simply whether a higher value for the property or interest could be obtained: *First National Financial GP Corporation v. Golden Dragon HO 10 Inc*., 2019 ONCA 873, 74 C.B.R. (6th) 1, at para. 18.

[51] Rana has not provided evidence to support the assertion that the order results in a direct loss to Rana as opposed to a mere economic risk: see *Cameron Stephens Mortgage Capital Ltd. v. Conacher Kingston Holdings Inc*., 2025 ONCA 732, at para. 24*; Marshallzehr Group Inc. v. La Pue International Inc*., 2025 ONCA 124, at para. 11; *Unity Health Toronto v. 2442931 Ontario Inc*., 2025 ONCA 93, 176 O.R. (3d) 37, at para. 25.

[52] To trigger the automatic right of appeal under s. 193(c) of the *BIA*, the appeal must relate to a clear difference in value between the order under appeal and evidence in the record that a debtor could have obtained a higher value: *Downing Street Financial Inc. v. 1000162497 Ontario Inc*., 2024 ONCA 639, 20 C.B.R. (7th)

2025 ONCA 832 (CanLII)

241, at para. 20. Further, the order in question must contain some element of a final determination of the economic interests of a claimant in the debtor: *Bending Lake*, at para. 61.

2025 ONCA 832 (CanLII)

[53] Rana claims that if the order is upheld and the Wrongful Conduct Claim is paid, that reduces his surplus by $1 million, which constitutes a loss to him. The difficulty with this argument is that Rana's claim to that $1 million hinges on Rana successfully challenging the Wrongful Conduct Claim; otherwise, there can be no loss. Even if Rana is successful in this appeal, his position will not change: he must still return to court and apply to have the Wrongful Conduct Claim expunged.

[54] Rana cannot argue the order deprived him of a chance to do so: the Wrongful Conduct Claim was first filed in the receivership proceedings in 2021, but Rana was silent until now. Nor did Rana seek to challenge the Wrongful Conduct Claim before the motion judge, so there is no conclusion on that point for this court to adjudicate. Rana's stake in the appeal is not a loss of $1 million, but merely more time to advance a speculative challenge that he neglected to advance for years.

[55] Further, Rana has not discharged his evidentiary burden under s. 193(c). In the absence of a competing valuation, there is no demonstrable evidence of a loss: *North House*, at para. 30; *Hillmount*, at para. 42.

[56] The order under appeal did not determine Rana's economic interests, and success on this appeal will not grant Rana anything more than an opportunity, one which he failed to take advantage of for years prior to the motion. This is no "loss" within the meaning of s. 193(c).

2025 ONCA 832 (CanLII)

(3) Whether Leave Should be Granted under s. 193(e)

[57] In the alternative, if this court finds that he does not have a right to appeal under ss. 193(a) or (c), Rana says that this court should exercise its discretion to grant him leave to appeal pursuant to s. 193(e) of the *BIA*. He contends that this appeal raises an issue of general importance, is *prima facie* meritorious, and would not unduly hinder the progress of the bankruptcy proceedings*: Business Development Bank of Canada v. Pine Tree Resorts Inc.*, 2013 ONCA 282, 115 O.R. (3d) 617, at para. 29.

[58] In oral argument, the Trustee conceded that the appellant's leave arguments are arguable and the responding parties did not oppose this court hearing the arguments under appeal. This is a factor to be considered under the exercise of discretion to grant leave to appeal: *North House*, at para. 46.

[59] While I have concluded that Rana does not have an appeal as of right to this court under s. 193(a) or (c) of the *BIA*, and Rana did not seek leave by way of motion prior to the hearing of the appeal, the appeal should be decided on its merits. Full submissions on the merits were made in oral argument. The Trustee

acknowledged that there were arguable grounds for leave which the respondent Paul did not challenge, and there are some jurisprudential issues raised in respect of the interpretation of specific provisions in the *BIA*, including the court's authority to bless a Trustee's acceptance of a claim in the absence of a valid challenge, and the impact of equity claims on s. 37 and s. 135 of the *BIA*.

2025 ONCA 832 (CanLII)

[60] As such, I would grant leave pursuant to s. 193(e) of the *BIA*.

ANAYLSIS OF THE MOTION JUDGE'S DECISION

(1) Standing in light of the Outstanding Costs Order

[61] The appellant Rana disagrees with the motion judge's decision to deny him standing to challenge the Trustee's motion on the basis that Rana had dissipated assets while not paying any of the significant outstanding costs orders for over a year.

[62] If the motion judge's decision was within the bounds of her discretion under the Rules, this court cannot interfere: *Garrett v. Oldfield*, 2016 ONCA 424 at paras. 2, 6, leave to appeal refused, [2016] S.C.C.A. No. 350*; McLean v. Wolfson*, 2021 ONCA 928, at para. 13.

[63] In November 2021, Rana was ordered to pay Paul $525,000 in connection with arbitral proceedings, which was enforced by the court in the context of the receivership. He has subsequently been ordered to pay Paul costs in the amounts of $5,000 in November 2022, $25,000 in March 2023, and $50,000 in February

2025. The motion judge also found that Rana was to pay approximately $1 million of the costs attributable to the Receiver's investigation mandate.

2025 ONCA 832 (CanLII)

[64] The motion judge noted that, while Rana has not paid these outstanding costs awards, he has paid many large sums to family members without appropriate justification.

[65] First, on May 20, 2021, Rana paid $168,000 to each of his two sons, allegedly to help them with their "tuition" for study. Rana claimed that one son attended Toronto Metropolitan University and the other was taking real estate courses.

[66] Second, on June 4, 2021, Rana transferred an Ontario property to his sons as a gift.

[67] Third, on June 7, 2021, he sold a home to two daughters of a friend for $150,000 although it had been listed for $480,000 two years earlier.

[68] Fourth, in July 2021, Rana's wife took out a $2.4 million mortgage on the family home. Rana claimed not to know what she did with the funds although he resided in the home and was a guarantor of the mortgage.

[69] Rana offered no reasonable explanation for the above transactions to family members and friends, and he made no payment toward the $1.048 million total outstanding cost awards to Paul. The motion judge also found that, based on the evidence on the record, Rana continued to pay legal counsel throughout.

[70] Based on the transfer of these funds, the motion judge correctly held that, while Rana claimed he was impecunious:

> [T]here is evidence of dissipation of his assets (such as the large gifts of money to his sons and his purported lack of knowledge of the proceeds from the sale of his residential home) and he continues to retain and pay sophisticated counsel.

2025 ONCA 832 (CanLII)

[71] This contravened rules 57.03 and 60.12 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[72] After comprehensively reviewing the case law, the motion judge concluded that:

> The court has discretion under the Rules to prevent a litigant who has flagrantly ignored costs awards from continuing proceedings. The court may intervene to bring ‘some finality to the action’. [Citations omitted.]

[73] She also noted Paul’s submission that further delay would result in prejudice to Paul as “it will result in more costs that Paul will be unable to recover from Rana.” She concluded that:

> The facts of this case demonstrate Rana’s disregard for the court’s costs awards. Accordingly, in the circumstances, I am not prepared to allow this late breaking attempt for Rana to further delay the finality of these proceedings.

[74] The motion judge’s decision to deny standing in these circumstances is amply supported by the case law: see e.g., *Burrell v. Peel (Regional Municipality)*

Police Services Board (2007), 48 C.P.C. (6th) 349 (Ont. Master), aff'd (2008), 66 C.P.C. (6th) 223 (Ont. S.C.), at para. 63 leave to appeal to Div. Ct. refused, 2008 CarswellOnt 8050 (Div. Ct.); *Schwilgin v. Szivy*, 2015 ONCA 816, at paras. 23-25.

2025 ONCA 832 (CanLII)

[75] I see no error in the motion judge's decision to deny standing and would reject this ground of appeal.

(2) The Decision Not to Interfere with the Trustee's Acceptance of Paul's Unsecured Claim and Equity Claim for Wrongful Conduct

[76] Second, the motion judge held that she had no jurisdiction under the *BIA* to authorize the Trustee's acceptance of Paul's claims.

[77] Under the *BIA*, the Trustee decides whether to allow a claim in whole or in part. The *BIA* sets out the steps that may be taken if a party disagrees with the Trustee's decision.

[78] The authority to approve claims vests solely with the Trustee subject only to (i) appeal of the Trustee's decision within 30 days under s. 135(4) of the *BIA*, or (ii) the court's ability to "expunge or reduce a proof of claim or a proof of security on the application of a creditor or of the debtor if the trustee declines to interfere in the matter" under s. 135(5) of the *BIA*.

[79] There is no authority in the *BIA* to permit the court to provide advice and directions after the Trustee has decided to allow a claim absent an application

challenging that decision under s. 135. In this case, no application to challenge the Trustee's determination of Paul's claims was ever brought.

2025 ONCA 832 (CanLII)

[80] As such, I see no error in the motion judge's conclusion that:

> The *BIA* does not contemplate the court accepting an approval that has already been made by the Trustee, nor is it clear how the court could provide advice and directions after the Trustee had already made the decision. [Emphasis in original.]

[81] The motion judge correctly held that since the Trustee had allowed Paul's unsecured claim of $117,693.40 and equity claim of $2,650,000 for wrongful conduct under the *BIA*, there was no basis for the court to interfere and no need for the court to provide any further authorization for the acceptance of those claims to be valid.

[82] I would therefore dismiss this ground of appeal, noting that dismissal of this ground in combination with the standing issue, above, is sufficient to dispose of the appeal.

(3) No Right under s.37 of the *BIA* to Challenge the Trustee's Acceptance of the Wrongful Conduct Claim

[83] Rana claims that he is entitled to rely on s. 37 of the *BIA* to challenge the Trustee's motion to make a distribution respecting the Wrongful Conduct Claim. He is incorrect. First, Rana is not a "person aggrieved" within the meaning of s. 37.

Second, Rana cannot use s. 37 to effectively challenge the Trustee's decision on a claim when the route to do so is in s. 135.

[84] Section 37 of the *BIA* provides:

> Where the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he may apply to the court and the court may confirm, reverse or modify the act or decision complained of and make such order in the premises as it thinks just. [Emphasis added.]

[85] A "person aggrieved" is a person who has suffered a legal grievance, a person against whom a trustee's decision has wrongfully deprived them of something, or wrongfully affected their title to something: Houlden, Morawetz, and Sarra, at §2.132.

[86] Rana claims that his share of the surplus will be diminished if the Trustee makes a distribution on account of the Wrongful Conduct Claim, and that this court should be guided by the broad reading of s. 37 cited in *YG Limited Partnership and YSL Residences Inc.*, 2022 ONSC 6548, 4 C.B.R. (7th) 142, aff'd 2023 ONCA 505, 168 O.R. (3d) 153.

[87] I disagree. As noted by the court in *YG Limited Partnership*, at para. 29, the limited partners in that case were not "persons aggrieved" within the meaning of s. 37 solely because:

> … their ultimate potential recovery will presumably be reduced if the claim is allowed. That is not sufficient to

2025 ONCA 832 (CanLII)

> make them aggrieved within the meaning of section 37. To conclude otherwise would mean that every creditor would have standing pursuant to section 37 to challenge the claim of every other creditor in a bankruptcy proceeding and I reject that notion.

2025 ONCA 832 (CanLII)

[88] Similarly, Rana opposes the distribution essentially because he says the Wrongful Conduct Claim should not have been accepted, as that will affect his claim to the portion of the surplus that would otherwise have been payable to him.

[89] The broad discretionary powers in s. 37 may not be used in place of s. 135 of the *BIA: Re Drummie*, 2004 NBQB 35, 272 N.B.R. (2d) 314.

[90] As outlined below, Rana failed to take any steps to challenge the Wrongful Conduct Claim under s. 135 which provides a complete code for dealing with proofs of claim. To permit him now to challenge the Trustee's decision under s. 37 as a person "aggrieved", would run contrary to the clear and specific legislative structure provided for dealing with proofs of claim under s. 135.

[91] For these reasons, I would dismiss this ground of appeal.

(4) No Right under s.135(5) of the BIA to Challenge the Trustee's Acceptance of the Wrongful Conduct Claim

(a) Rana is not a Creditor

[92] To challenge the Wrongful Conduct Claim, Rana must invoke s. 135 of the *BIA*. However, the motion judge held that he does not meet the preconditions to do so I agree.

[93] The motion judge found that in any event:

> Rana, as an 'equity owner' of the bankrupt entities, is not a creditor and has no standing to challenge the Trustee's decision to accept Paul's Claims. The fact that Rana's economic interests may be negatively affected by the manner in which the assets may be distributed as a result of the acceptance by the Trustee of Paul's Claims does not provide Rana with a right of standing.

[94] Section 135(5) of the *BIA* provides that:

> The court may expunge or reduce a proof of claim or a proof of security on the application of a creditor or of the debtor if the trustee declines to interfere in the matter. [Emphasis added.]

[95] In this case, the motion judge held that as an equity owner, Rana would not have had standing to apply to the court to expunge Paul's claims under s. 135(5) of the *BIA* because he was neither a creditor nor a debtor under the statutory meaning of those terms.

[96] A "creditor" within the meaning of s. 2 of the *BIA*, is a person who has, on a balance of probabilities, established that they have a provable claim.

[97] In this proceeding, a "Claim" is (i) based on facts that in whole or in part, existed before the date of the Receivership Order, (ii) relates to a time prior to the date of the Receivership Order, or (iii) would have been provable in bankruptcy had RGC become bankrupt on the date of the Receivership Order.

2025 ONCA 832 (CanLII)

[98] As discussed below, in some circumstances equity holders may be creditors in the context of bankruptcy proceedings. An equity interest alone, however, is not enough to grant Rana access to s. 135(5). In the circumstances of this case, Rana is not a creditor, because he did not file a timely and valid proof of claim in either the receivership or the bankruptcy..

2025 ONCA 832 (CanLII)

(b) Rana Did Not Bring a s.135(5) Application

[99] Rana did not bring an application under section 135(5) of the *BIA*, though the motion judge found he "had every opportunity to bring a motion to challenge the allowance of Paul's Claims". Rana had many opportunities to question the Trustee on the details of Paul's claims or formally request that the Wrongful Conduct Claim be disallowed, but on the record before us, it appears he failed to do so. He did not bring a s. 135(5) application and did not take the steps necessary for one to be validly brought. Nor, in the circumstances, could he have done so.

(c) No Claim Filed in the Receivership

[100] The appellant Rana was obligated to file a claim within the Receivership. The Claims Bar Date in the Receivership, established by court order, was October 31, 2021.

[101] The Trustee was permitted to rely upon the fact that Rana had not filed a claim in the receivership and was therefore not permitted to do so in the bankruptcy.

(d) No Timely Claim Filed in the Bankruptcy

[102] Even if Rana's claim was not barred by the Claims Bar Date in the Receivership, Rana also failed to file a proof of claim in the Bankruptcy in a timely manner.

[103] Under the *BIA*, there are generally three opportunities to file a proof of claim: (i) prior to the first meeting of creditors, to be permitted to vote; (ii) in response to a notice to prove a claim sent by the Trustee, to be provided within 30 days; and (iii) prior to a distribution, if the creditor wishes to participate in the distribution.

[104] Although Rana was aware of the meeting of creditors, he did not seek to participate. Because he did not file a claim in the Receivership, the Trustee did not send a notice of claim to Rana because he was not a creditor. Rana was, however, aware of the Trustee's intention to make a distribution that excluded him, no later than August 23, 2024.

[105] Notably, a creditor who seeks to challenge another creditor's proof of claim (and the valuation evidence it is based on) pursuant to s. 135(5) may lead their own valuation evidence: see e.g. *Mamdani (Re),* 2021 ABQB 632, at paras. 16-18.

[106] The Trustee was unable to reconcile Rana's Claim with ASR's records and therefore concluded that it was "unable to accept the proof of claim based on the

2025 ONCA 832 (CanLII)

information provided”. He nonetheless advised that he would consider any additional information that Rana chose to submit. Rana chose not to do so.

[107] Rana ignored the deadlines until the eve of the motion, and when he did, his claim was deficient.

2025 ONCA 832 (CanLII)

(e) No Standing on Account of Equity Interest

[108] Rana argues that his status as a shareholder should somehow grant him the ability to challenge the Wrongful Conduct Claim. I do not accept this submission.

[109] In most insolvency proceedings, equity holders have no economic interest in the outcome of the proceeding and have no standing to interfere. However, in rare circumstances, an equity owner can be a creditor. The *BIA* defines “equity claim” as:

> a claim that is in respect of an equity interest, including a claim for, among others,
>
> (a) a dividend or similar payment,
>
> (b) a return of capital,
>
> (c) a redemption or retraction obligation,
>
> (d) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or, in Quebec, the annulment, of a purchase or sale of an equity interest, or
>
> (e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d).

[110] No payment can be made in respect of an equity claim until all claims other than equity claims are satisfied in full. In the vast majority of insolvencies, this will never occur. However, the *BIA* provides that where there are sufficient funds to repay all debts and liabilities of a bankrupt, an equity claim can be a "claim", and one holding an equity claim can be a "creditor". For example, s. 54.1 provides that "creditors having equity claims" are to be classed together for proposal voting purposes, and s. 140.1 provides that "A creditor is not entitled to a dividend in respect of an equity claim until all claims that are not equity claims have been satisfied." In such cases, an equity holder can be a creditor.

[111] In this case, Paul's Wrongful Conduct Claim is an equity claim. On pages 7-8 of the Trustee's Second Report, the Trustee also classified Paul's Ownership Claim (his claim for his right, as a shareholder, to receive a proportionate distribution of the corporate debtors' assets if any remain after all debts and liabilities are satisfied) as an equity claim.

[112] Nevertheless, holding an equity interest alone is not enough for a provable equity claim or creditor status. As noted above, in most cases shareholders have no economic interest in an insolvency proceeding. Nor can equity holders "bootstrap" their way into s. 135 by contending that, if their challenge to an

2025 ONCA 832 (CanLII)

accepted claim is successful, they will then become creditors or their theoretical likelihood of recovery will increase[3].

[113] Based on Rana’s arguments before me, I see no reason to disturb the motion judge’s conclusion that Rana’s failure to file a timely and well-supported proof of claim means he is not a “creditor” and cannot access s. 135(5).

2025 ONCA 832 (CanLII)

(f) No Error in Not Considering the Merits of the Wrongful Conduct Claim

[114] As a result of finding that Rana lacked standing under any section of the *BIA*, the motion judge did not consider the merits of the Wrongful Conduct Claim.

[115] Even if he had standing, which as set out above, he does not, there is no merit to Rana’s claim that Paul is better off now than he would have been had the business been sold in 2018 and that he should therefore now be allowed to bring his claim.

[116] As outlined in the Receiver’s Seventh Report, the Receiver retained Grant Thornton to prepare a valuation of the Trucking Business as of October 31, 2018. This calculation was provided to Rana in early February 2022, and he did not question its accuracy. As such, on May 2, 2022, Grant Thornton issued a valuation, concluding that the Trucking Business had a value of approximately $5.3 million as of that date.

---

[3] See *YG Limited Partnership* and *YG Limited Partnership* and *YSL Residences Inc.* (Re), 2023 ONCA 505, 168 O.R. (3d) 153, for a similar situation, although disposed of on different grounds.

2025 ONCA 832 (CanLII)

[117] Had the business been sold in 2018, Paul would have received $2.65 million or more for his share of the business. Absent allowance for the Wrongful Conduct Claim, he will only receive $1 million in 2025.

[118] Moreover, the motion judge had before her no evidence challenging the value of the Wrongful Conduct Claim that would warrant a consideration of the merits. The appellant now raises, for the first time, the argument that the proceeds from RGC's liquidation in the receivership, less creditor claims, were higher than the estimated 2018 value of RGC's assets, such that the motion judge should have considered the merits of the wrongful conduct claim. This argument is unsubstantiated and accordingly has no merit.

(g) Conclusion on the s. 135 Claim

[119] For these reasons, I see no error in the motion judge's conclusion that there was no further avenue available to Rana to challenge Paul's claims and that, since the matter had been ongoing for years and the Claims Bar Date was more than three years before, it needed to be concluded.

[120] I would therefore dismiss this ground of appeal.

CONCLUSION

[121] For the above reasons, I would dismiss the appeal. I would award partial indemnity costs to the respondent Paul in the amount of $60,000 as agreed by the parties. The Trustee seeks no costs and no costs are awarded to it.

Released: December 3, 2025 "J.A.T."

"Thorburn J.A."
I agree. "Coroza J.A."
I agree. "S. Gomery J.A."

2025 ONCA 832 (CanLII)