

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** JOANNE VAUGHAN, Applicant  
**AND:**  
JIMMIE CHEN, Respondent  
**BEFORE:** THE HON. MADAM JUSTICE S. HEALEY  
**COUNSEL:** Self-Represented Applicant  
Self-Represented Respondent  
**HEARD:** December 10, 2025

**ENDORSEMENT**

**Nature of the Motion**

- [1] The moving party and appellant, Joanne Vaughan, (the “Appellant”) moves for an order extending the time to perfect an appeal. She seeks to appeal from the Order of Cameron J. dated May 2, 2024. The Appellant’s Notice of Motion refers to the Order as being dated January 25, 2024; the endorsement was released on that date, but a subsequent costs decision was released on May 2, 2025.
- [2] Specifically, the Appellant seeks an order extending the time for serving and filing a Notice of Appeal, and an order that the Notice of Appeal be accepted *nunc pro tunc* as if filed within the prescribed time.

**Order Under Appeal**

- [3] The Appellant was named as a defendant in a defamation action commenced by her former lawyer, Shawn Hamilton. In that action she was represented by Jimmie Chen, counsel, the respondent on this motion (the “Respondent). The Appellant served a notice of intention to act in person in that matter in August 2022.
- [4] The Appellant then assessed the Respondent’s accounts by filing a requisition in the Superior Court of Justice in Newmarket. The determination made by Assessment Officer M. Sellers was not satisfactory to the Appellant. The Certificate reduced the fees from \$9,383.13 to \$8,750 and ordered costs payable to the Respondent in the amount of \$1,500.

- [5] The Appellant then brought a motion to oppose the confirmation of Report and Certificate of Assessment.
- [6] Her motion was heard in writing by Cameron J.. In Reasons released on January 25, 2024, Cameron J. reviewed the Appellant’s many submissions as to why the Assessment Officer made extricable errors of law and palpable, overriding errors of fact, including that the Appellant’s evidence was improperly considered. The Appellant also argued that she was denied procedural fairness. Both parties filed motion records and factums for the motion considered by Cameron J..
- [7] Cameron J. determined that the Assessment Officer made no error of law, and did not misapprehend the evidence. She found that his decision was entitled to deference and dismissed the motion. The Appellant was ordered to pay costs of the motion to the Respondent in the amount of \$3,766.66. Those costs were on a substantial indemnity scale; Cameron J. found that the Appellant’s conduct, as described in her costs endorsement, gave rise to circumstances in which she was satisfied that costs were warranted on that elevated scale.

### **Procedural History of this Appeal**

- [8] The Appellant filed a Notice of Appeal in the Court of Appeal for Ontario, despite the fact that Cameron J.’s order was for a single payment of less than \$50,000. A final order of a judge of the Superior Court of Justice in these circumstances invokes the monetary jurisdiction of the Divisional Court, as prescribed by s. 19(1.2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.
- [9] The parties agree that the Notice of Appeal was filed within the 30-day deadline. However, the Respondent notes that it was premature, as the cost submissions had not yet been completed as required by the endorsement of Cameron J. As a result, the order had not been issued.
- [10] In an email dated March 12, 2024, the Respondent “highly recommended” to the Appellant that she seek legal advice regarding the jurisdiction of the Court of Appeal’s monetary limits.
- [11] On March 25, 2024, the Court of Appeal provided a Notice of Intention to Dismiss Appeal for Delay pursuant to Rule 61.13(2.1). The Notice explicitly stated that the appeal would be dismissed if not perfected on or before April 16, 2024. It further stated that an extension of time to perfect may be obtained before the expiration of the deadline.
- [12] On May 10, 2024, after the deadline to perfect and despite the direction in the Notice from the Court of Appeal, the Appellant moved before the Court of Appeal to extend the time to perfect.
- [13] On May 28, 2024, Paciocco J.A. denied the Appellant’s motion on the basis that it was not in the interests of justice to grant an extension to bring an appeal for which the court lacks

jurisdiction. Paciocco, J.A. agreed with the Respondent that the appeal should be before the Divisional Court, which he explicitly stated in his endorsement.

[14] On June 6, 2024, the Court of Appeal dismissed the appeal for delay, with costs fixed at \$750.

[15] On June 7, 2024, Paciocco J.A. endorsed:

In responding to the invitation to make costs submissions, Ms. Vaughan has requested that this appeal file be transferred to the Divisional Court, and for a change in venue in the Divisional Court. The request for a transfer and a change of venue are not properly before me. A Notice of Motion in writing to this Court is required for the transfer of a file, in which the respondent is provided with an opportunity to respond. A change of venue application must be brought in the Superior Court.

Costs will be payable in motion M55135 to the respondent, Jimmy Chen, in the amount of \$2,500.

[16] On the same date, the Appellant emailed the Divisional Court in Sudbury, seeking to “transfer an appeal from the Court of Appeal to the Divisional Court of Appeal in Sudbury, Ontario”. The Appellant explained that she was seeking to have the appeal heard in Sudbury “to ensure neutrality, impartiality and fairness”.

[17] On June 18, 2024, the Appellant filed a motion in the Court of Appeal, titled “Motion for Reopening and Transfer”. The relief that she sought was: 1) for the appeal be reopened and transferred to the Divisional Court; 2) dismissal of the cost order made on the dismissal of the appeal, or a stay of costs; 3) extending the time to perfect her appeal to August 14, 2024, and 4) costs of her motion to re-open and transfer.

[18] Her motion was considered by Favreau J.A., who released her endorsement on October 4, 2024. Her endorsement states: “There is no merit to this motion”. The respondent was awarded costs of \$1,186.50. Justice Favreau also stated: “As there is no live appeal before this court, the motion to transfer is also dismissed. If Ms. Vaughan wants to pursue her appeal in the Divisional Court, she can follow the process of that court for obtaining an extension”.

[19] Despite that clear direction – knowing that the Court of Appeal did not have jurisdiction to hear her appeal – the Appellant filed a motion to “amend” Favreau J.A.’s decision before a panel of three justices in the Court of Appeal. She requested: 1) An order granting the motion that Justice Favreau had dismissed; 2) The cost order of Justice Paciocco be dismissed or set aside; 3) The cost order of Justice Favreau be dismissed or set aside; and 4) An order for an extension of time to perfect her appeal. She also sought an order for punitive and aggravated damages “to discourage the Solicitor from continuing to submit knowingly false statements in his Affidavits and court submissions”.

[20] The panel heard the motion and dismissed it on December 12, 2024, finding no error in principle in Favreau J.A.'s order. Costs were ordered to be paid to the Respondent in the amount of \$3,361.75 inclusive. The endorsement provides:

The merits of the appeal will be a matter for the Divisional Court, if Ms. Vaughan obtains an extension of time to appeal to that court which, as Favreau J.A. points out, she is free to seek.

[21] On February 13, 2025, the Appellant served the Respondent with the Notice of Appeal to the Divisional Court, along with the Appeal Book and Compendium, Factum and Divisional Court Intake Form.

[22] Then, instead of pursuing a motion for an extension, the Appellant commenced a civil action against the Respondent by issuing a Statement of Claim in the Superior Court of Justice in North Bay. She pleaded several causes of action, seeking damages for legal "malpractice", fraud, lost wages, and punitive and aggravated damages. The facts pled generally raise the same issues that were before the Assessment Officer.

[23] The Appellant has also threatened criminal proceedings and has initiated a complaint to the Law Society of Ontario against the Respondent.

[24] On May 13, 2025, the Appellant filed her Notice of Appeal, Appeal Book and Compendium, Factum, and Form 16B with the Superior Court of Justice. It is unclear why these filings were accepted, given that she had not obtained an order granting leave to extend the time for her appeal.

[25] At civil triage court on June 12, 2025, Edwards, R.S.J. endorsed that the Respondent will bring a motion to dismiss the appeal as out of time no later than the end of June, and the Appellant would file responding material no later than July 15, 2025. The matter was to be placed on a regular motions list to be argued by the end of August 2025.

[26] The Respondent's motion to dismiss the appeal came before Vernor J. on August 13, 2025. She allowed the motion to dismiss the appeal without prejudice, directing that the Appellant could file a notice of application for an extension of time to file a notice of appeal within the next 30 days. Costs were ordered to be paid by the Appellant to the Respondent fixed in the amount of \$1,000 inclusive.

[27] In August 2025, the Appellant sent a lengthy letter to the Respondent's principal, Alvin Leung, alleging improprieties in his inclusion of privileged communications and documents in court filings. She demanded various relief, including that the firm consent to "the strike/seal motion", a financial settlement of \$20,000 payable within 30 days, and consent to a dismissal of all cost awards. By this court's calculation, those costs now total \$14,064.91 and there is no evidence from the Appellant that any portion of them has been paid. The Respondent's evidence is that none of the costs orders have been obeyed.

- [28] On September 8, 2025, the Appellant served the Respondent with the notice of motion and motion record that is before this court, seeking an order extending the time to perfect her appeal in the Divisional Court. It was returnable on December 10, 2025.
- [29] The Appellant then made a collateral attack on the order of Vernor J., by filing a separate, urgent motion on or around September 23, 2025. She sought a range of relief including the *nunc pro tunc* filing of her notice of appeal effective February 8, 2024, transfer of the matter to ‘a more neutral court location’, and the urgent removal of solicitor/client communications from court records.
- [30] Through communications with the court that are not clear from this record, the Appellant somehow then obtained an earlier motion date of October 29, 2025. She told the Respondent that the December 10 motion date had been rescheduled to October 29, 2025, and “replaced” this motion with the motion that she had previously filed.
- [31] On October 29, 2025, her motion came before Smith J., who determined that the Appellant was precluded from pursuing the relief she sought unless and until she is successful in her effort to obtain an extension of time to file her notice of appeal. He noted that such a motion was scheduled to be heard on December 10, 2025. Smith J. dismissed the motion without prejudice to the Appellant’s right to bring it again in the event she is granted an extension of time to file her notice of appeal. He reserved the costs of the attendance in the cause.

### **The Law**

- [32] This court must determine whether the justice of the case requires that an extension of time be granted under r. 3.02 of the *Rules of Civil Procedure: Enbridge Gas Distribution Inc. v. Froese*, 2013 ONCA 131, at para. 15.
- [33] The onus is on the Appellant to establish the grounds for an extension: *Javid Estate v. Watson*, 2023 ONCA 665, at para. 3.
- [34] In *Javid Estate*, at para. 3, the court also set out the factors to be considered on a motion to extend under r. 3.02:
- (1) whether the Appellant had an intention to appeal within the relevant period;
  - (2) the length of, and explanation for, the delay in appealing;
  - (3) prejudice to the responding party; and
  - (4) the merits of the proposed appeal.
- [35] This framework is well established in the jurisprudence: *Rizzi v. Marvos*, 2007 ONCA 350, at paras. 16 and 17, citing *Kefeli v Centennial College of Applied Arts & Technology* (2002), 23 C.P.C. (5<sup>th</sup>) 35 (Ont. C.A.), at para. 14.

## Issues

- [36] The only issue to be determined by this court is whether the Appellant has satisfied this court that justice requires that an extension be granted, looking at all of the circumstances of the case.
- [37] Although the Appellant has addressed other matters in her factum and during the argument of this motion, such as transfer of the appeal to a new venue, solicitor and client privilege, abuse of process and reconsideration of the costs order imposed by Justice Vernor, those issues all relate to procedural and substantive arguments to be made only if an extension of time is granted.
- [38] In her factum, the Appellant also seeks relief that is not sought in her notice of motion returnable today. Again, the only issue that is properly before me is whether this court's discretion should be exercised to grant the Appellant an extension of time to file a notice of appeal.

## Analysis

### *Intention to Appeal*

- [39] I find that the Appellant formed an intention to appeal within the relevant period, but went to the wrong forum.

### *Length of the Delay and Reason for Delay*

- [40] The issued order of Cameron J. is dated May 2, 2024. This appeal was filed with the Divisional Court on May 23, 2025 (without leave to file the notice of appeal, as no motion to extend the prescribed period had been served or heard in the correct forum by that date). The motion to extend the time to file the notice of appeal was then not served until September 8, 2025.
- [41] The Appellant was placed on notice that her appeal was in the wrong forum on numerous occasions: by the Respondent's email of March 12, 2024; by the endorsement of Paciocco J.A. dated May 28, 2024; and by the endorsement of Favreau J.A. dated October 4, 2024.
- [42] Despite there being no question that the Appellant was given clear direction from Paciocco J.A. that her appeal had been brought in the wrong court, she persisted in wasting time by bringing further motions before that Court.
- [43] There is also no question on the record that the Appellant knew that she needed to seek an extension of time to file her appeal. This is proven by her own material filed with the Court of Appeal, in which she sought extensions of the time to perfect her appeal. Also, in her endorsement, Favreau J.A. drove home the point: "If Ms. Vaughan wants to pursue her appeal in the Divisional Court, she can follow the process of that court for obtaining an extension". Finally, there is an email in the Respondent's motion record sent by the

Appellant on October 4, 2024 in which she wrote: “I will file for an extension of time. I will do so promptly.”

- [44] The Appellant has provided no reasonable basis for pursuing the steps taken by her between Paciocco J.A.’s endorsement of May 28, 2024 until she finally served this motion on September 8, 2025. It was all of those unnecessary steps, including those taken outside of this appeal process, which appear to have consumed her energy and attention. Even after specifically acknowledging in her email of October 4, 2024 that she would bring a motion for leave promptly, it took her another 11 months to do so. She has offered no cogent explanation for that delay. In her submission, she acted expeditiously once she learned that she was in the wrong forum. This court does not agree with that characterization.

***Prejudice to the Responding Party***

- [45] The entirety of the appeal proceeding has required the Respondent and his firm to spend time and resources devoted to the multiple motions that the Appellant has brought, and her confusing filings and procedural steps. At times the Appellant has also failed to include the Respondent in her communications with the court, or unilaterally booked motion dates.
- [46] The vast majority of these steps have attracted costs, none of which have been paid, which now total more than the monetary amount involved in the *Solicitor’s Act* assessment.
- [47] The record is also clear that in addition to the motions themselves, the Appellant has engaged in a vindictive campaign against the Respondent, the tenor of which is revealed in her many email correspondences. This type of conduct was initially noted by Cameron J., when she ordered costs on a substantial indemnity basis. Exhibit X to the Respondent’s affidavit sworn November 26, 2025 contains more recent emails exchanged by the parties, although the Respondent’s affidavit refers to a barrage following Vernor J.’s decision. While many examples exist, the following will suffice to communicate the tone and intention:

DO you read English Mr. Chen – because clearly you failed to read your own Retainer that stated that **you were not to take steps without written instructions** and instead defrauded me and make a colossal mess of a claim that you were told was settled by settlement and release terms because your buddy, Shawn, was making every effort to re-litigate the same allegations he settled and were barred back on October 5th, 2017 (sic).

....

This is going to the Supreme Court Chen if that is where you would like this to head.

- [48] There is little doubt that it has been prejudicial to the Respondent to devote the disproportionate amount of resources that have had to be expended by him and his firm on

the proposed appeal, and that the Appellant will continue her approach to this appeal in the same manner that she has to date. The costs decision of Cameron J. was not sufficient to deter her or persuade her to act more reasonably, nor the multiple cost awards made so far.

***Merits of the Proposed Appeal***

[49] In her notice of motion, the Appellant asserts that the appeal raises serious questions of law and procedural fairness under the *Solicitors Act*, 1990, c. S.15.

[50] In her affidavit filed for this motion and during argument, the Appellant submits that there was a violation of procedural law, as the Assessment Officer directed her to proceed first “by way of Examination in Chief”. She submits that the Respondent had the onus to defend the steps taken as described in the accounts as being in the best interests of the client. In requiring that she proceed first, the Appellant says that the Assessment Officer reversed the onus, and she was denied her right to a fair hearing. She asserts that Cameron J. erred in upholding the Assessment Officer’s decision despite this breach.

[51] This summarizes the grounds set out in her notice of motion, and the evidence that she has provided for the relief that she seeks.

[52] In the Reasons of the Assessment Officer, he referenced the burden of proof and demonstrated his understanding that the onus rested on the Respondent:

“I am satisfied that the solicitor has met that burden [of proof] by sufficiently reviewing, preparing and adequately representing the client during the litigation.”

and

“I agree with the solicitor that they have met the necessary burden.”

And

“The burden of proof rests with the solicitor to substantiate their accounts on a balance of probabilities. As outlined above, I find that the solicitor has met that burden . . .”

[53] Cameron J.’s reasons are thorough, and she found that the Assessment Officer did not make any errors amounting to procedural unfairness, nor failed to apprehend the evidence as suggested by the Appellant. She noted that the assessment officer made findings of credibility and preferred the evidence of the Respondent.

[54] The genuine merits of this proposed appeal are not compelling.

## Conclusion

[55] The Appellant has not satisfied this court that she has a reasonable explanation for her extraordinary delay, that there is genuine merit to her appeal, or that there will be no prejudice to the Respondent to allow her appeal to proceed. She has ignored all of the costs orders. There are no other circumstances in the case that, in the interests of justice, compel the court to grant the extension sought.

## Costs

[56] The Respondent is entitled to costs of this motion. The record satisfies me that the Appellant has conducted this proceeding in a vexatious manner. The issue of whether the Appellant is a vexatious litigant is not before me, but the Respondent argued that her conduct and tactics include many of the “hallmarks” of litigants who fall into that category: see, for example, *Lenczner Slaughter LLP v. Glycobiosciences Inc. et al.*, 2025 ONSC 829, at para. 12, affirmed 2025 ONCA 841.

[57] Throughout all of her steps both in the Court of Appeal and the Divisional Court, the Appellant has tried to relitigate the matters that were before the Assessment Officer. She has also raised new issues. Over the course of the proposed appeal, she has attempted to introduce the new issue of solicitor-client privileged communications, which was not part of her motion heard by Cameron J. This issue is now central in her material, including her factum for this motion.

[58] Leading up to the hearing of this motion, she has berated the Respondent and other members of his firm, threatened criminal proceedings, filed a professional complaint, filed motions without merit in the wrong court, deliberately ignoring the direction given by Justices in the Court of Appeal, and has unilaterally attempted to vacate motion dates. She has misrepresented the Respondent’s position to the court and to court filing staff. Even during argument, she submitted that the Respondent has consented to the relief sought in her motion, which is clearly not the case.

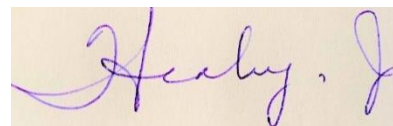
[59] By bringing her repetitive motion before Smith J., which was an abuse of process, the Appellant has wasted costs. The costs of that motion are also before me. By addressing matters in her factum that are not before this court, which had to be addressed by the Respondent, she has wasted costs. In sending lengthy missives to the Respondent and his firm, she has wasted costs.

[60] The Appellant shall pay to the Respondent the costs of this motion and the motion that was before Smith J. on a substantial indemnity basis, fixed in the amount of \$15,535 inclusive and payable in 30 days.

## Order

[61] This court orders:

1. The motion by the Appellant to extend the time for filing her notice of appeal is dismissed.
2. The Appellant shall pay costs to the Respondent fixed in the amount of \$15,535 inclusive and payable within 30 days.

A rectangular area containing a handwritten signature in purple ink. The signature appears to be "Healey, J." written in a cursive style.

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HEALEY J.

**Date:** January 6, 2026