Federal Court of Appeal | Cour d'appel fédérale

Date: 20260129

Docket: A-132-25

Citation: 2026 FCA 18

CORAM: **LEBLANC J.A.**
HECKMAN J.A.
ROCHESTER J.A.

BETWEEN:

6035558 CANADA INC. aka MISSISSAUGA FLOORING SOLUTIONS INC.,
2364651 ONTARIO INC. aka EPICO FOREST PRODUCTS INC.,
2184372 ONTARIO INC. dba HARDWOOD GIANT,
MANMOHAM GREWAL, RAJVIR GREWAL and
RAVNIT KAULDHAR

Appellants

and

UNILIN BEHEER B.V. and
FLOORING INDUSTRIES LIMITED, SARL

Respondents

Heard at Ottawa, Ontario, on January 29, 2026.
Judgment delivered from the Bench at Ottawa, Ontario, on January 29, 2026.

REASONS FOR JUDGMENT OF THE COURT BY: ROCHESTER J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on January 29, 2026).

ROCHESTER J.A.

[1] The appellants, three corporations and three individuals, appeal an order of the Federal Court (*per* Gagné J.) dated March 25, 2025 (2025 FC 552) (the Order), dismissing an appeal of

an order of an Associate Judge of that Court, dated June 19, 2024. The Associate Judge granted the respondents leave to serve and file a second amended statement of claim (Amended Claim) pursuant to Rule 75 of the *Federal Courts Rules*, S.O.R./98-106 (the Rules).

[2] The underlying action is one of alleged patent infringement relating to laminate flooring. It was commenced by the respondents against the three corporate appellants. Following the examination on discovery of the corporate appellants, the respondents sought, and were granted leave, to file the Amended Claim impleading the three individual appellants as named defendants in the underlying action. Each individual appellant is a sole director of one of the three corporate appellants.

[3] The Associate Judge, acting in her capacity as Case Management Judge, was satisfied that the amendments should be allowed on the basis that sufficient material facts had been pled to sustain the claim of patent infringement against the proposed individual defendants. The Associate Judge noted that, pursuant to Rule 75, the Court may allow a party to amend a pleading at any stage of the proceeding to determine the real questions in controversy between the parties, provided that allowing the amendment would not result in prejudice that cannot be compensated by costs, and it would serve the interests of justice. The Associate Judge highlighted that the action remained at an early stage.

[4] Pursuant to Rule 51, the appellants then appealed the Associate Judge's order to a judge of the Federal Court, arguing that the Associate Judge committed at least four reviewable errors. The Federal Court addressed each of the alleged errors and dismissed the motion to appeal.

[5] Orders rendered by Federal Court judges are reviewable under the appellate standard of review. This means that our Court may only intervene if the Federal Court's refusal to interfere with the Associate Judge's order was premised on an error of law or a palpable and overriding error of fact or mixed fact and law: *Wiseau Studio, LLC v. Harper*, 2024 FCA 157 at para. 2, leave to appeal to SCC refused, 41573 (May 1, 2025); *Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215 at paras. 79 and 83–84 [*Hospira*]. A palpable error is one that is obvious, whereas an overriding error is one that must go to the very core of the outcome of the case: *Qualizza v. Canada*, 2025 FCA 222 at para. 9. The standard of palpable and overriding error is highly deferential and is not easily met: *Ibid*; *Western Oilfield Equipment Rentals Ltd. v. M-I L.L.C.*, 2021 FCA 24, at para. 11.

[6] The appellants contend that the Federal Court made three reviewable errors. First, they allege that the Federal Court applied an overly deferential standard of review to the Associate Judge's order because she was acting as the Case Management Judge.

[7] We disagree. The Federal Court properly identified the correct legal test, being that the order in question should only be reversed if it is incorrect in law or is based on a palpable and overriding error concerning the facts or issues of mixed fact and law. She cited *Hospira* and subsequent jurisprudence of this Court. She concluded her consideration of the standard of review with the following statement: "the question is therefore whether the [Associate Judge] erred in law or made a palpable and overriding error in granting the Plaintiffs leave to amend their claim": Order at para. 14. The correct standard was then referenced throughout her analysis.

[8] The appellants highlight that the Federal Court also noted that one "should only interfere in a decision made by a case management judge in the clearest case of misuse of judicial discretion given their familiarity with the issues and general expertise": Order at para. 13. They allege this statement cannot be excised from the reasons and should not have factored into the analysis. The appellants submit that the Federal Court committed a legal error by elevating the standard of review.

[9] Having considered the Order in its entirety, we are not satisfied that the Federal Court committed a reviewable error as alleged. To be very clear, the correct legal test is as set out in *Hospira.* That is the law.

[10] It is true, however, that there are instances where the Federal Court and our Court have commented on the treatment of decisions rendered by case management judges in the same manner as the Federal Court did in the case at bar. Much of this language stems from older jurisprudence, notably, *L'Hirondelle v. Canada*, 2001 FCA 338, at para. 11 and *Constant v. Canada*, 2012 FCA 87, at para. 12 [*Constant*]. Such cases refer to the latitude given to case management judges to manage cases, in the sense that such judges ought to be afforded "elbow room" to manage cases and thus the Court should only interfere in the clearest cases of misuse of judicial discretion.

[11] As recognized by this Court in *Hospira*, comments referring to the "elbow room" given to case management judges, in appropriate contexts, are merely expressions of the deference that is owed to such a judge or associate judge in factually-suffused decisions, absent a reviewable

error (at paras. 102–103). Such expressions or reformulations are in essence justifications for why such a highly deferential standard—palpable and overriding error—is appropriate for factually-suffused decisions made in the context of case management. Nevertheless, we recognize that the use of such expressions or reformulations can lend itself to confusion and thus it is best to stick to the language of the test as set out in *Hospira*.

[12] In the present case, while it would have been preferable for the Federal Court to avoid referencing the older language from *Constant* in addition to the test as set out in *Hospira*, we find that the Federal Court used such additional language as an expression of, or a euphemism for, the highly deferential standard of palpable and overriding error.

[13] Second, the appellants contend that the Federal Court and the Associate Judge ought to have found that there were insufficient particularized pleadings or material facts necessary to pierce the corporate veil. The appellants state that the individual defendants were painted with the same brush and conflated with the corporate defendants using expansive definitions. This argument is predicated on the appellants' submission that there are two lines of jurisprudence that apply *Mentmore Manufacturing Co., Ltd. et al. v. National Merchandising Manufacturing Co. Inc.*1978 CanLII 2037 (FCA), 40 CPR (2d) 164 [*Mentmore*], one being unduly permissive and the other being restrictive. Consequently, the appellants argue that in coming to their findings, the Associate Judge and the Federal Court failed to apply what they submit is the proper interpretation of *Mentmore*.

[14] We decline the appellants' request to rectify what they consider to be two lines of jurisprudence. We agree with the respondents' written submissions that there is no such schism in the jurisprudence that requires our intervention. Moreover, considering the contents of the Amended Claim, we see no basis upon which to intervene with the Federal Court's conclusion that there was no palpable and overriding error in the Associate Judge's finding that the pleadings disclose sufficient material facts to support the inclusion of the individual appellants as named parties in the proceedings.

[15] Finally, the appellants contend that neither the Federal Court nor the Associate Judge provided sufficient reasons in their respective decisions. Having carefully considered both sets of reasons, we find no such error in the Federal Court's conclusion that the Associate Judge's reasons were sufficient given the applicable law and the record before her.

[16] For the foregoing reasons, and despite the able submissions of counsel, we conclude that this appeal will be dismissed with costs.

"Vanessa Rochester"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

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