

ENDORSEMENT ON MOTIONS TO SET ASIDE DEFAULT JUDGMENTS

C.J. CONLAN J.

I. Overview

- [1] This Endorsement relates to two court actions and what is, essentially, the same motion by the defendants in each action.
- [2] In Court File No. CV-25-3291, the plaintiff, Aneta Soares (“Soares”), sued the defendants, who are spouses of one another, Rajbinder Daid (“Daid”) and Ramjit Jaswal (“Jaswal”), under the terms of a second private mortgage (“Soares Mortgage”) regarding a property in Oakville, Ontario, the family home of the defendants (“Property”). The defendants were noted in default and, on December 15, 2025, default judgment was issued in favour of the plaintiff in the amount of \$75,642.08, plus costs and post-judgment interest. Judgment for possession of the property in question in favour of the plaintiff was issued on January 7, 2026. The defendants’ motion to set aside the default judgment is dated February 9, 2026 and was heard at court on March 12, 2026.
- [3] In Court File No. CV-25-5064, the plaintiff, Sanco Capital Corporation (“Sanco”), sued the same defendants, Daid and Jaswal, under the terms of a separate mortgage (“Sanco Mortgage”) regarding the same Property. The defendants were noted in default and, on January 20, 2026, default judgment was issued in favour of the plaintiff in the amount of \$1,479,267.12, plus costs and post-judgment interest, plus possession of the Property in

favour of the plaintiff. The defendants' motion to set aside the default judgment is dated the same as above, February 9, 2026, and was heard at court on the same date as above, March 12, 2026.

- [4] Both Soares and Sanco oppose the defendants' motion to set aside the default judgment in each action.
- [5] The Sanco Mortgage arose in the following way. When the defendants purchased the Property in October 2024, two mortgages were registered on title: a first mortgage in favour of 2534747 Ontario Inc. and Adam Caputo ("253 Mortgage") in the principal amount of \$1,350,000.00, and the Soares Mortgage in the principal amount of \$68,000.00. In March 2025, the 253 Mortgage was assigned to Sanco. It was then renewed in April 2025. Default occurred on August 21, 2025.
- [6] As can be gleaned from the affidavit of Daid sworn on February 9, 2026, beginning at paragraph 34 (Case Center page B-1-72), the defendants allege that they have several "meritorious defences" to both actions, including but not limited to "fraud"; "unconscionability"; "concealment"; "false promises"; the defendants' "willingness to continue to pay the mortgage"; the defendants' "willingness to arrange for refinancing"; "breach of duty of good faith"; "fraudulent misrepresentation"; "conspiracy"; "unjust enrichment"; and "predatory conduct" deserving of "punitive damages". An alleged set-off and/or counterclaim against each of Soares and Sanco is intended by the defendants, according to the said affidavit.

[7] Succinctly put, the defendants allege that “[b]oth default judgments were obtained through the same fraudulent misrepresentations and coordinated conduct by interconnected parties. The facts and defences are identical in both actions. [The defendants] verily believe these two actions are part of a singular, coordinated ‘loan-to-own’ scheme. The lawyer...acted for both private lenders and [the defendants] simultaneously” (paragraph 6 of the said affidavit sworn by Daid).

II. The Law

[8] The test for setting aside a default judgment under Rule 19.08 of the *Rules of Civil Procedure* is well-settled.

[9] The central issue is whether the interests of justice favour granting the order. The exercise of the court’s discretion is informed by the relevant factors and does not require that each factor be weighed equally. The factors are not to be regarded as rigid rules. The weight to be given to each factor will depend on the circumstances of the particular case. The factors that are to be considered are:

- (i) whether the motion was brought promptly after the defendant learned of the default judgment;
- (ii) whether the defendant has a plausible excuse or explanation for the delay;
- (iii) whether the defendant has an arguable defence on the merits;
- (iv) the potential prejudice to the defendant should the motion be dismissed, balanced against the potential prejudice to the plaintiff if the motion is allowed; and

- (v) the effect of any order made on the overall integrity of the administration of justice.

On the third factor, it is a fairly relaxed standard – an air of reality must be found to exist regarding the proffered defence. It is not the role of the judge hearing the motion to determine whether the defence will succeed, or to make findings of fact, or to get into the weeds and assess the merits of the defence. *Mcllwain v. Len's Cove Marina Ltd.*, 2025 ONCA 434, at paragraphs 6, 14, and 16, citing numerous authorities: the seminal decision of the Court of Appeal for Ontario in *Mountain View Farms Ltd. v. McQueen*, 2014 ONCA 194, 119 O.R. (3d) 561, and the later decisions of the Court of Appeal for Ontario in *Intact Insurance Company v. Kisel*, 2015 ONCA 205, 125 O.R. (3d) 365 and *Zeifman Partners Inc. v. Aiello*, 2020 ONCA 33, 442 D.L.R. (4th) 299.

III. The Law as Applied in our Case

- [10] As it turns out, this Court need not decide whether the default judgments should be set aside. The parties and their counsel have resolved the two motions. In the Sanco case, the motion is being adjourned *sine die*, while counsel work out the remaining details. In the Soares case, executed Minutes of Settlement have been filed.
- [11] Essentially, the defendants have been granted an indulgence. They have a few more months to refinance the Property and to pay off the indebtedness. Writs of Possession may be obtained but may not be executed until that further grace period has elapsed.
- [12] So, why bother making this Endorsement, the reader might ask? Because I think that this is an example of counsel working hard and cooperating with one another in order to save

some further legal costs and to reach a sensible solution. Not a sell-out, but rather a reasonable compromise.

[13] Everyone falls on hard times, some more than others, and we all could be in a far different position if the pucks had bounced differently off the boards. In creditor-debtor files, on these motions to set aside a default judgment, I often read the materials and ask myself why this type of resolution would not be possible. That hope is usually dashed when the hearing begins, but not in these two cases.

[14] Well done should be expressed to all counsel involved.

C.J. Conlan J.

Released: March 12, 2026

CITATION: SOARES v. DAID et al, and
SANCO CAPITAL CORPORATION v. DAID et al
2026 ONSC 1527
COURT FILE NO.: CV-25-00003291-0000
CV-25-00005064-0000
DATE: 2026-03-12

2026 ONSC 1527 (CanLII)

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

COURT FILE NO.: CV-25-00003291-0000

SOARES, Aneta

Plaintiff

– and –

DAID, Rajbinder and JASWAL, Ramjit

Defendants

COURT FILE NO.: CV-25-00005064-0000

SANCO CAPITAL CORPORATION

Plaintiff

– and –

DAID, Rajbinder and JASWAL, Ramjit

Defendants

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