

CITATION: Karim Jina, Trustee for the Estate of Dr. Abdul Jina v. Halliwill Seguin LLP, 2026
ONSC 1640

COURT FILE NO.: CV-24-00713437-0000

DATE: 20260317

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Karim Jina, Trustee for the Estate of Dr. Abdul Jina, Applicant

AND:

Halliwill Seguin LLP, Respondent

BEFORE: Justice Grant R. Dow

COUNSEL: *David A. Schatzker*, for the Karim Jina, Applicant

Barton J. Seguin, for the Halliwill Seguin LLP, Respondent

HEARD: March 17, 2026

ENDORSEMENT

- [1] Each party’s motion was scheduled to proceed in writing the week of January 12, 2026, pursuant the Endorsement of Justice Akazaki November 21, 2025. I was assigned to deal with these motions on February 9, 2026 but somehow overlooked it having been assigned to me. I regret that occurred and the resulting delay.
- [2] Karim Jina, trustee for the estate of his father, Dr. Abdul Jina, whom I shall refer to as the applicant-client seeks payment of \$17,168.68 previously paid to Halliwill Seguin LLP, whom I shall refer to as the respondent-law firm, interest as of July 1, 2025, plus the costs of its motion on a substantial indemnity basis.
- [3] The respondent law firm (in what I shall refer to as a “cross motion”) seeks confirmation that its January 14, 2025 Notice of Motion to set aside decision of Assessment Officer Michael Boehm is still outstanding, with timetabling and a return date, retention of the \$17,168.68 in the interim, or leave for its motion to appeal the Superseding Report and Certificate of Assessment as required under Rule of 54.09 and its costs on an appropriate scale.

Background

- [4] In or about March 2023, the applicant-client retained the respondent-law firm to prepare and proceed with a probate application. The retainer was subsequently terminated and the respondent-law firm rendered its account for \$17,168.68 and asserted a solicitor’s lien over

the file. The applicant-client brought a motion to pay security as part of obtaining the file. This resulted in the February 20, 2024 order of Justice Chalmers that the solicitor's lien be vacated upon \$17,168.68 being paid to the respondent-law firm, in trust, and not released until disposition of the assessment, further order of the court or consent of the parties.

- [5] The funds were paid and the account was assessed on August 16, 2024 with both sides appearing. The reasons of Assessment Officer Boehm were released on November 20, 2024. The Assessment Officer concluded the law firm's work "was useless to the client" (paragraph 26) and assessed the account at "\$Nil" (paragraph 29). An objection to that decision, by the Notice of Motion dated January 14, 2025, was served. This was unopposed and resulted in an Order dated February 28, 2025 by Justice Glustein directing the Report and Certificate of Assessment be set aside, granting the respondent-law firm leave to serve objections, the applicant-client an opportunity to reply and the Assessment Officer to reconsider and review his decision and Reasons. This resulted in the Assessment Officer's further decision, released April 7, 2025 where no changes were made to the original assessment. That Superseding Report and Certificate Assessment dated May 29, 2025 included awarding costs payable by the respondent-law firm to the applicant-client of \$10,622.
- [6] On June 18, 2025 (or after the 15 days provided under Rule 54.09 (3), to again object or appeal the decision of the Assessment Officer), counsel for the applicant-client requested the respondent-law firm pay the funds owing. In the absence of a response, counsel followed up on June 24, again without a response.
- [7] The applicant-client then served its Notice of Motion, dated June 30, 2025, returnable July 16, 2025 on July 2, 2025 seeking repayment. On July 11, 2025, the respondent-law firm replied, stating its position and reliance on January 14, 2025 Notice of Motion which resulted in Justice Glustein's Endorsement of February 28, 2025. This ultimately resulted in Justice Akazaki's direction of November 21, 2025 and these matters coming before me.
- [8] Neither party prepared a factum. However, each party submitted affidavits from counsel which could be characterized as setting out their position and submissions.

Analysis

- [9] The first position of the respondent-law firm is that the Superseding Report and Certificate of Assessment, which did not alter the original decision, permits it to rely on its Notice of Motion heard and determined by Justice Glustein. I disagree. The respondent-law firm's Notice of Motion clearly sought to set aside the Assessment Officer's decision and Justice Glustein's Order clearly states in its first paragraph that the Report and Certificate of Assessment of Officer Michael Boehm issued January 7, 2025, in these proceedings "be set aside", without prejudice to the ability of the Assessment Officer to re-issue a further Report and Certificate of Assessment in his discretion as set out in paragraph 4 on that Order. I agree this fully disposed of the relief requested and granted.

- [10] Having concluded the respondent-law firm cannot rely on its Notice of Motion dated January 14, 2025, the second issue is to address whether leave ought to be granted to permit it to proceed with its appeal of the Superseded Report and Certificate of Assessment.
- [11] In this regard, the respondent-law firm referenced *40 Park Lane Circle v. Aiellio*, 2019, ONCA 451 (at paragraph 2) which details the factors to be considered in deciding to extend time for appeal. They are:
- (a) whether the proposed appellant had a *bona fide* intention to appeal within the prescribed period;
 - (b) the length of and explanation for the appellant's delay;
 - (c) any prejudice to the respondent from the granting the extension of time;
 - (d) the merits of the proposed appeal; and
 - (e) whether the justice of the case requires an extension of time.
- [12] Regarding the respondent-law firm's *bona fide* intention to appeal within the prescribed time, my review of its evidence fails to disclose same. No evidence was tendered of any drafting or failed communication advising of the intention to contest the Superseding Report and Certificate of Assessment within the time permitted. Were this the only factor to consider, I would find the request by the respondent-law firm fails.
- [13] Regarding the length and explanation for the delay, the intention to appeal was made known on July 11, 2025, or less than 30 days after it was due. I am also mindful of the failure to respond to the applicant-client's contact on June 18 and June 24 without any explanation provided, and only responding after receipt of the applicant-client's Notice of Motion on July 2, 2025. Were this the only factor to consider, I would find the respondent-law firm's request fails.
- [14] Regarding any prejudice to the applicant-client, his counsel only points to delay in return of the funds and additional legal costs being incurred. I do not find that to be a compelling reason to deny the request for an extension as that can be dealt with as part of granting the indulgence being sought. That is, the costs of responding to this motion have been quantified in a Costs Outline uploaded by counsel for the applicant-client in the amount of \$2,373 inclusive of partial indemnity fees and HST. Further, the \$17,168.68 can be transferred to counsel for the applicant-client (plus any accrued interest, if that occurred) but to be held in trust by counsel for the applicant-client pending completion of this dispute. This factor favours granting the indulgence sought.
- [15] Regarding the merits of the proposed appeal, while the applicant-client submitted the proposed appeal has no reasonable prospect of success given the factual findings made and the deference to be given to same, I agree with the comment in *40 Park Lane Circle v. Aiellio, supra* (paragraph 8) that depriving a party of its right to appeal should only occur where "so little merit" exists. In this regard, there has yet to be review of the substantive

aspect of the account by a judicial officer other than the Assessment Officer Michael Boehm. Further, this review should not (and was not) a full argument of the merits of the appeal and the “\$Nil” result suggests the important right of appeal not be denied. This factor favours granting the indulgence sought.

- [16] Regarding the final factor as to whether the justice of the case requires an extension of time, counsel for the applicant-client relied on the amount in dispute being “modest” (paragraph 35 of Stuart Peikes affidavit, sworn December 10, 2025). This submission is undermined by the subsequent sentence in that paragraph of the willingness to undertake “significant trouble to recover funds”. As a result, this factor favours granting the indulgence sought.
- [17] Mindful of the need to consider and balance these factors, I have concluded the discretion to extend the time should be granted, but on terms.

Conclusion

- [18] The respondent-law firm shall have seven days to:
- (a) prepare and serve its Notice of Motion seeking to set aside the Superseding Report and Certificate of Assessment dated May 29, 2025;
 - (b) return of the \$17,168.68 held in trust, (plus any accrued interest) to counsel for the applicant-client, such funds to be held in trust until there is a settlement, disposition of the Notice of Motion, the consent of the parties or further order of this Court;
- failing which, its motion as contained in its Motion Record dated December 5, 2025 is dismissed.
- Further, the respondent-law firm shall pay the costs of these motions to the applicant-client fixed in the amount of \$2373, inclusive of fees and HST forthwith.
- [19] For clarity, the motion of the applicant-client, as contained in its Motion Record dated November 26, 2025 is otherwise dismissed with the issues of costs and interest deferred to the judicial officer that determines that respondent-law firm’s Notice of Motion.

Mr. Justice G. Dow

Date: March 17, 2026