

**CITATION:** Chicago Title Insurance Company v. Doe et al., 2025 ONSC 4906  
**COURT FILE NO.:** CV-22-00683217-0000  
**DATE:** 20250827

**SUPERIOR COURT OF JUSTICE – ONTARIO**

**RE:** CHICAGO TITLE INSURANCE COMPANY  
Plaintiff

**AND:**

JOHN DOE, JANE DOE, XUAN DIEU VY NGUYEN, 2735046 ONTARIO INC.  
o/a LPR GLOBAL, CANG TRAN a.k.a. TRAN VAN CANG a.k.a. CANG V.  
TRAN a.k.a. CANG VAN TRAN, TENG CHUN CHIAO a.k.a TENG CHUN  
CHAO, THUY DOAN QUANG, NGUYEN HOANG DUY, ALBERT BAIRD and  
KERRY JAMES

Defendants

**BEFORE:** Justice Papageorgiou

**COUNSEL:** *Michael A. Katzman* for the Plaintiff  
for the Defendant

**HEARD:** August 26, 2025

**ENDORSEMENT**

**Overview**

[1] This matter relates to mortgage fraud.

[2] The plaintiff, Chicago Title Insurance Company (“Chicago Title”), brings a motion for default judgment against all defendants except Nguyen Hoang Duy (“Mr. Duy”) with whom a settlement was reached, as well as Xuan Dieu Vy. Xuan Dieu Vy has agreed to attend and be discovered in respect of issues related to this matter and as such the plaintiff has agreed to not seek judgment for the time being.

**The Facts**

[3] On or about March 11, 2021, two individuals purporting to be the owners of 7128 Baskerville Run, Mississauga, Ontario (the “Property”) obtained mortgage proceeds in the amount

of \$585,700 from a mortgagee, Ryan Mortgage Income Fund. These mortgage proceeds were placed into an account held by BMO (the “Fraudulent Mortgage Proceeds”).

[4] Chicago Title provided title insurance to the mortgagee.

[5] It was later determined that the individuals who obtained the mortgage were not the owners of the Property.

[6] Chicago Title made investigations and obtained information from the Deputy Director of Land Titles which led it to various accounts where the Fraudulent Mortgage Proceeds were placed and moved as well as details of such individuals’ identity.

[7] There have been many attendances on this matter before me which involved Chicago Title obtaining a Norwich order as well as a Mareva Injunction which was extended from time to time.

[8] With the exception of the two defendants against whom Chicago Title does not seek judgment, none of the defendants have ever participated.

[9] Chicago title now moves for default judgment.

### **Decision**

[10] For the reasons that follow I grant default judgment as requested and as set out in the signed Judgment.

### **The Issues**

[11] The main issues are:

- Issue 1: Do the materials provide a basis for a finding of liability?
- Issue 2: If so, what are the damages to which the plaintiff is entitled?

### **Analysis**

#### **Issue 1: Do the materials provide a basis for a finding of liability?**

#### **Consequences of noting in default**

[12] Pursuant to r. 19.02 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, having not defended the proceeding, a defendant is deemed to admit the truth of all allegations of fact made in the Statement of Claim.

[13] However, pursuant to r. 19.06 a plaintiff is not entitled to judgment on a motion for judgment or at a trial merely because the facts alleged in the statement of claim are deemed to be admitted, unless the facts entitle the plaintiff to judgment.

[14] In particular, r. 19.05 provides that a motion for judgment which involves unliquidated damages shall be supported by evidence given by affidavit.

**The test on a motion for default judgment**

[15] The test on a motion for default judgement was set out in *Elekta Ltd. v. Rodkin*, 2012 CarswellOnt 2928 (ONSC) as follows: A. What deemed admissions of fact flow from the facts pleaded in the Statement of Claim? B. Do those deemed admissions of fact entitle the plaintiff, as a matter of law, to judgement on the claim? C. If they do not, has the plaintiff adduced admissible evidence which, when combined with the deemed admissions, entitle it to judgement on the pleaded claim?

[16] I am satisfied that Chicago Title has established liability based upon the following deemed admissions in the Statement of Claim as well as evidence filed on this motion as well as all the previous motions.

[17] First, the true title holders are not the individuals who obtained the Fraudulent Mortgage Proceeds. The police determined from video footage that the Defendants, Albert Baird and Kerry James, attended at BMO and obtained the Fraudulent Mortgage Proceeds. The police arrested them.

[18] Second, the Deputy Director of Land titles convened a Tribunal Hearing and determined that the mortgage was fraudulent and deleted the mortgage from title.

[19] Third, the productions ordered by the Tribunal, as well as productions pursuant to two Norwich Orders, show how portions of the mortgage proceeds were moved from the BMO account to the Defendants in the following manner:

- a. On April 5, 2021, a bank draft made payable to 2735046 Ontario Inc. (“273”) in the amount of \$250,000.00 was purchased using a portion of the Fraudulent Mortgage Proceeds, which bank draft was thereafter deposited into RBC bank account number 02186 100-703-8. The principal of 273, Cang Tran, gave evidence before the Tribunal that confirmed this and also evidence that this money was subsequently withdrawn.
- b. On April 10, 2021, a bank draft made payable to Teng Chun Chiao, a.k.a Teng Chun Chao, in the amount of \$50,000.00 was purchased using a portion of the Fraudulent Mortgage Proceeds, which was thereafter deposited into CIBC bank account no. 06422/8828733 on or about April 12, 2021.
- c. On April 10, 2021, a bank draft made payable to Nguyen Hoang Duy in the amount of \$35,000.00 was purchased using a portion of the Fraudulent Mortgage Proceeds, which bank draft was subsequently deposited into TD bank account no. 11042-6144854 on or about April 12, 2021.

- d. On April 12, 2021, a bank draft made payable to 273 in the amount of \$125,000.00 was purchased using a portion of the Fraudulent Mortgage Proceeds, which bank draft was subsequently deposited into RBC bank account number 02186 100-703-8.
- e. On April 13, 2021, 273 caused a bank draft to be payable to Ngoc Tran in the amount of \$20,000 from RBC account 02186 100-703-8. CIBC confirmed that this amount was deposited into his account and that it corresponded to the \$20,000 bank draft he received.
- f. On April 19, 2021, a certified cheque in the amount of \$25,000.00 was purchased using a portion of the Fraudulent Mortgage Proceeds.
- g. On April 19, 2021, a certified cheque in the amount of \$25,000.00 was purchased using a portion of the Fraudulent Mortgage Proceeds.

[20] There are pleadings with respect to each defendants' role in the above which have been admitted and there is also evidence before me in the various records filed in this proceeding that also support this.

[21] There are also pleadings that the defendants have conducted themselves with the intentions of delaying, defeating or hindering Chicago Title as a creditor of the defendants contrary to the *Fraudulent Conveyances Act* and the *Assignment and Preferences Act* in that they diverted funds from themselves to others for no or insufficient consideration thereby depleting funds and assets owned by them, which funds ought to be applied to the debt owed to Chicago Title.

[22] I am satisfied that the plaintiff has made out the tort of fraud, conspiracy to defraud, unjust enrichment and breaches of the *Fraudulent Conveyances Act* and *Assignment and Preferences Act*. All required elements for these have been specifically pleaded in the Statement of Claim.

## **Issue 2: What are the damages to which the plaintiff is entitled?**

[23] Chicago Title had to pay \$620,500.134 to satisfy the insurance claim. Chicago Title received \$29,000 from Mr. Duy and this must be deducted leaving damages owed of \$591,500.13.

### **Punitive Damages**

[24] Chicago Title also claims punitive damages in the amount of \$100,000 which I grant.

[25] In *Whiten v. Pilot Insurance Co.*, 2002 SCC 18, [2002] 1 S.C.R. 595 (“*Whiten*”), at para. 36, the Supreme Court held that punitive damages are awarded in exceptional cases where the defendant's conduct is “malicious, oppressive and high-handed”, “offends the court's sense of decency” and demonstrates “marked departure from ordinary standards of decent behaviour.”

[26] They should only be awarded when the combination of general and aggravated damages would not sufficiently “achieve the goal of punishment and deterrence”: *Hill v. Church of*

*Scientology of Toronto*, 1995 CanLII 59 (SCC), [1995] 2 S.C.R. 1130, at p. 1208. There must be an independent actionable wrong: *Hornstein v. Kats*, 2021 ONCA 293 (CanLII), at para. 6.

[27] Some of the factors the court may consider in awarding punitive damages include:

- whether the misconduct was planned and deliberate.
- the intent and motive of the defendant.
- whether the defendant persisted in the outrageous conduct over a lengthy period of time.
- whether the defendant attempted to conceal or cover up his misconduct: *Whiten*, at para. 113.

[28] In this case the defendants' conduct rises to the level of being oppressive, high handed and it does shock the conscience of the court.

[29] There were several torts pleaded and satisfied in this case that justified the judgment on the merits. Therefore, any additional torts above and beyond the single tort necessary for judgment is sufficient to constitute an independent actionable tort.

### **Costs**

[30] The court has the discretion to award substantial indemnity costs, but such costs are "rare and exceptional" and only warranted where there has been reprehensible, scandalous or outrageous conduct on the part of a party: see *DUCA Financial Services Credit Union Ltd. v. Bozzo*, 2010 ONSC 4601, at para. 5; *Foulis v. Robinson* (1978), 21 O.R. (2d) 769 (C.A.); and most recently *Mars Canada Inc. v. Bemco Cash & Carry Inc.*, 2018 ONCA 239, 140 O.R. (3d) 81, at para. 43.

[31] I am satisfied that the facts in this case are sufficiently reprehensible and award the plaintiff its substantial indemnity costs in the amount of \$97,955.08. I have reviewed the Bill of Costs which sets out the details of the costs incurred which I find fair and reasonable and within the reasonable contemplation of the defendants.

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Justice Papageorgiou

**Date:** August 27, 2025