

CANADA / JUDGMENT

Dell v. Zeifman Partners Inc.

2025 ONCA 871

COURT

Court of Appeal for Ontario

DECIDED

12 December 2025

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Dell v. Zeifman Partners Inc. Collection Decisions of the Court of Appeal Date 2025-12-12 Neutral citation 2025 ONCA 871 Docket numbers COA-25-CV-0217 Judges Trotter, Gary T.; Copeland, Jill M.; Gomery, Sally A. Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Dell v. Zeifman Partners Inc., 2025 ONCA 871 DATE: 20251212 DOCKET: COA-25-CV-0217 Trotter, Copeland and Gomery JJ.A. BETWEEN James Dell, Sophie Dell, Ron Quevillon, Charlene Quevillon, Dino Lavalley, Mary Lavalley, Dan Lavalley, Larry Bourk, Joan Bourk, Richard Zirger, Judi Zirger, Robert Zirger, Sharon Zirger, George Lepp, Cindi Lepp, Mark Lepp and Erica Lepp Applicants (Appellants) and Zeifman Partners Inc. as operator of the waste disposal site at 2021 Four Mile Creek Road, Niagara-on-the-lake Respondent (Respondent) Paul Marshall, Cassandra Kirewskie and Debra McAllister, for the appellants Shahana Kar and Brandon Fragomeni, for the non-party respondents, the Minister of Environment, Conservation and Parks, the Honourable Andrea Khanjin, Mohsen Keyvani and Kim Groombridge Bobby Sachdeva and Gina Rhodes, for the non-party respondents, 2507626 Ontario Inc. o/a 4 Mile Creek Farms and Lakshana Kumarage Terrence H. Hill and Karen Shedden, for the non-party respondent, Erin Montanaro Paul M. DeMelo, for the non-party respondent, the Corporation of the Town of Niagara-on-the-Lake No one appearing for the respondent, Zeifman Partners Inc. as operator of the waste disposal site at 2021 Four Mile Creek Road, Niagara-on-the-Lake Heard: December 9, 2025 On appeal from the order of Justice James A. Ramsay of the Superior Court of Justice, dated January 24, 2025, and from the costs order, dated January 24, 2025. REASONS FOR DECISION

- [1] After hearing the appellants' oral submissions on the merits appeal and the appellants' and non-party respondents' oral submissions on the proposed costs appeal, we dismissed the appeal with reasons to follow. These are our reasons, as well as our determination of costs of the appeal.
- [2] The motion judge granted the non-party respondents' motion to strike the appellants' motion for contempt, without leave to amend. The appellants contend that the motion judge erred in law and in principle. We find no such error.
- [3] In their contempt motion, the appellants alleged that the non-party respondents violated an order of the Normal Farm Practices Protection Board against Zeifman Partners Inc.

- [4] The non-party respondents were not parties to the application by the appellants that resulted in the Board's order. Furthermore, in its costs decision, the Board explicitly stated that its order did not bind any party other than the named respondent, Zeifman Partners Inc. Section 5(4) of the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, empowers the Board to make orders against the "farmer". A farmer is defined, under s. 1(1) of the Act, as "the owner or operator of an agricultural operation".
- [5] The Board's order was accordingly an in personam order. As the motion judge correctly found, the order did not require any other party, other than Zeifman Partners Inc., to do anything. The order does not run with the land, as the appellants contend. Nor was this a circumstance where an order could be made against the non-party respondents.
- [6] As a result, the non-party respondents could not be found in contempt of the order, and the motion to cite them in contempt was frivolous on its face. It was appropriate to strike it.
- [7] The appellants also seek leave to appeal the motion judge's order requiring them to pay substantial indemnity costs totaling \$276,874 to the non-party respondents.
- [8] Leave to appeal the costs order is granted but we find no merit on the appeal itself. The motion judge made no error of principle or other reviewable error in his costs decision. He found, as the Board had, that the appellants had engaged in unreasonable, and in some respects reprehensible, behaviour, and that substantial indemnity costs were required to vindicate the reputations of the non-party respondents.
- [9] The non-party respondents' fees were somewhat higher than the appellants' fees. As the motion judge found, this was not surprising given that the contempt motion put the non-party respondents at jeopardy of fines and, in the case of the individual non-party respondents, imprisonment. We do not agree that the motion judge's costs order imperils the access to justice of litigants at large.
- [10] The appeal is dismissed, with partial indemnity costs to the non-party respondents as follows: \$15,245.03 for Erin Montanaro; \$12,370.11 for the Corporation of the Town of Niagara-on-the-Lake; \$20,000 for the Minister of Environment, Conservation and Parks, the Honourable Andrea Khanjin, Mohsen Keyvani and Kim Groombridge; and \$31,619.04 for 2507626 Ontario Inc. o/a 4 Mile Creek Farms and Lakshana Kumarage. "Gary Trotter J.A." "J. Copeland J.A." "S. Gomery J.A."

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Prepared on 25 October 2026 · Esheria