

CANADA / JUDGMENT

Equifax Canada Co. v. Oh

2026 ONCA 76

COURT

Court of Appeal for Ontario

DECIDED

3 February 2026

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Equifax Canada Co. v. Oh Collection Decisions of the Court of Appeal Date 2026-02-03 Neutral citation 2026 ONCA 76 Docket numbers COA-25-CV-1339, M56583 Judges Lauwers, Peter D. Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Equifax Canada Co. v. Oh, 2026 ONCA 76 DATE: 20260203 DOCKET: M56583 (COA-25-CV-1339) Lauwers J.A. (Motion Judge) BETWEEN Equifax Canada Co. Plaintiff (Responding Party) and Richard Oh Defendant (Moving Party) Richard Oh, acting in person Christopher Stanek, appearing as amicus curiae, Pro Bono Ontario James Renihan, for the responding party Heard: January 28, 2026 REASONS FOR DECISION

[1] Mr. Oh has appealed summary judgment. He moves for:

1. An order that the transcript of the summary judgment motion heard on May 16, 2025 and March 21st, 2025, be included in the appeal record as necessary for the hearing of the appeal pursuant to Rule 61.05(1) and Rule 61.09(3)(b) of the Rules of Civil Procedure;
2. An order extending the time to perfect the appeal until 60 days after the transcript is filed with the Court, pursuant to Rules 2.02 and 61.13(4);

[2] The responding party, Equifax Canada Co. (“Equifax”), opposes Mr. Oh’s request on the ground that the perfection of the appeal would be delayed until April 2026, some five months later than otherwise would have been expected.

[3] In an endorsement dated July 29, 2025, the motion judge granted summary judgment in Equifax’s favour. Any appeal thus should have been commenced by August 28, 2025. Mr. Oh delivered a notice of appeal one day late. Equifax consented to the late delivery.

[4] However, through a combination of Mr. Oh requesting a late filing and failing to promptly pay the filing fee, the notice of appeal was not filed until October 24, 2025. Mr. Oh thus had until November 24, 2025 to perfect his appeal. He has not done so because he claims to require transcripts of both the adjournment attendance and the motion attendance. Mr. Oh has now ordered both transcripts, the latter of which is estimated to be delivered on February 21, 2026.

- [5] Equifax argues that this motion is strikingly similar to *Bell v. Amini*, 2023 ONCA 344, in which a self-represented appellant sought an order confirming whether a transcript of a summary judgment motion at which no witnesses were called to testify was required for the appeal. Justice Simmons held that it was not, noting, at para. 14, footnote 1: Hopefully, these reasons will, in the future, assist counsel in clarifying for self-represented litigants that when an appeal is brought from a motion or application heard based on a paper record and no witnesses are called at the hearing to testify, a transcript of the hearing is not “evidence” within the meaning of rule 61.09(1). Accordingly, a transcript of the hearing is not required for the appeal and the 30 day time limit for perfecting the appeal specified in rule 61.09(1)(a) applies.
- [6] Motion judges and trial judges are increasingly hearing from self-represented litigants who do not have a good command of the rules of evidence. When they make submissions, self-represented litigants often make legal submissions mixed with evidentiary assertions for which there is no sworn evidence apart from the statements themselves.
- [7] A practice that some motion judges have adopted, and which I recommend, is this: when a self-represented litigant who is making submissions begins to make statements that are more like evidence, the litigant should be sworn in and put in the witness box after being cautioned that the litigant will be subject to immediate cross-examination by opposing counsel or opposing litigant if self-represented on any factual statements made. Adoption of this practice would permit the evidence to be sworn and to be available to the litigating parties, to the motion judge and to this court on an appeal.
- [8] The general principles for how judges should work with self-represented litigants to allow for a fair presentation of their case were addressed in this court’s decision in *Girao v. Cunningham*, 2020 ONCA 260, at para. 149 and following.
- [9] In this case, Mr. Oh arrived in court with an unsworn affidavit. The motion judge said: “Even though Mr. Oh’s evidence was late and unsworn, I allowed him to make reference to the ‘affidavit’ in his oral submissions on the motion.” The motion judge went through what he characterized repeatedly as the “affidavit”, in quotation marks, in his reasons without differentiating between what was in the unsworn affidavit and what Mr. Oh said in open court. Therefore, without the benefit of the transcripts, it will be difficult to determine both the source of Mr. Oh’s evidence and its content.
- [10] The motion judge granted summary judgment, dismissing Mr. Oh’s argument on three possible defences of non est factum, duress, and unconscionability. After concluding that there was no genuine issue requiring a trial, the motion judge granted summary judgment. This is the decision that Mr. Oh seeks to appeal.

[11] In order to ensure that Mr. Oh's arguments are fully understood by the panel, I grant the order he seeks. This order does not turn what Mr. Oh said into admissible evidence. The decision on admissibility is the panel's to make. The costs of this motion are reserved to the panel hearing the appeal. "P. Lauwers J.A."

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