

COURT OF APPEAL FOR ONTARIO

CITATION: Pilaszek v. SCIV Inc., 2026 ONCA 376

DATE: 20260526

DOCKET: M56987 (COA-26-CV-0411)

Thorburn J.A. (Motion Judge)

BETWEEN

Patrycja Pilaszek

Moving Party (Appellant)

and

SCIV Inc.

Responding Party (Respondent)

Patrycja Pilaszek, acting in person

Aaron H. Boghossian, for the responding party, SCIV Inc.

Jacob Medvedev, appearing as *amicus curiae*

Heard: May 20, 2026

REASONS FOR DECISION

**Relief Sought**

[1] SCIV Inc. (“SCIV”) brought a mortgage enforcement action against Patrycja Pilaszek and obtained judgment on March 24, 2026, and a writ of possession on April 16, 2026. Ms. Pilaszek filed a notice of appeal on March 31, 2026.

[2] Ms. Pilaszek seeks an order staying the enforcement of the judgment and writ of possession pending appeal under r. 63.02(1)(b) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. The test for a stay pending appeal mirrors the test for an interlocutory injunction in *RJR-Macdonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, at p. 334. Under this test, the moving party must demonstrate that:

- (a) there is a serious issue to be tried on appeal;
- (b) the appellant will suffer irreparable harm if the stay is denied; and,
- (c) the balance of convenience favours granting the stay.

[3] The factors are not watertight compartments and the weakness of one may be compensated for by strength of another: *Zafar v. Saiyid*, 2017 ONCA 919, at para. 18. The overarching consideration to be made by this court is “whether the interests of justice call for a stay”: *Longley v. Canada (Attorney General)*, 2007 ONCA 149, 223 O.A.C. 102, at para. 15; *Zafar v. Saiyid*, at para. 18.

[4] The moving party has the onus to prove that the stay pending appeal should be granted: *Sorrentino v. Certas Home and Auto Insurance Company*, 2025 ONCA 835, at para. 7.

### **Background Facts**

[5] On April 12, 2023, SCIV registered a one-year mortgage loan of \$130,000 with an 11.5% annual interest rate on Ms. Pilaszek’s property at 3250 Bentley

Drive, Unit 17, Mississauga, Ontario (the “Charge”). Ms. Pilaszek was represented by legal counsel during the transaction.

[6] Ms. Pilaszek agreed to be bound by “Standard Charge Terms” which would allow SCIV to enter, lease, or sell the land on default of payment after 15 days.

[7] Ms. Pilaszek defaulted on the Charge on March 12, 2024. The Charge matured on April 12, 2024, and no renewal, amendment or extension of the Charge was offered.

[8] To date, Ms. Pilaszek remains in default.

[9] On April 26, 2024, SCIV’s solicitors served Ms. Pilaszek with a notice of sale under mortgage and notice of intention to enforce security.

[10] On June 4, 2024, SCIV issued its statement of claim. Ms. Pilaszek then filed a statement of defence and counterclaim, and SCIV filed a reply and defence to counterclaim.

[11] After the exchange of pleadings, SCIV brought a motion for summary judgment.

[12] On October 10, 2024, a timetable was endorsed for the exchange of materials for a motion for summary judgment, and examinations in furtherance of the motion.

[13] On September 18, 2025, a further timetable was endorsed, requiring the filing of facta and the completion of cross-examinations by December 19, 2025. The parties returned to court on January 8, 2026, and a two-hour motion for summary judgment was scheduled for March 24, 2026.

[14] On March 13, 2026, Ms. Pilaszek served the respondent's counsel with her affidavit and a document titled "Defendant's Factum" wherein she stated that she did not intend to rely on any of the material previously filed by her then-counsel and intended to represent herself. She also filed a notice of intention to act in person.

[15] At the return of the motion, Ms. Pilaszek sought an adjournment because she was now representing herself. The adjournment was denied.

[16] Ms. Pilaszek argued that summary judgment was inappropriate as she was a victim of fraud, and a full trial was required to address conflicting accounts of the loan transaction. She claimed that she had been induced by one Mr. Monasteridis to purchase an interest in a pre-construction townhouse condominium in Mississauga, a property that did not exist. She claimed that Mr. Monasteridis facilitated the SCIV loan transaction and directed her to send the loan monies to him, thereby defrauding her. She also claimed that SCIV was not a legitimate or trustworthy lender, as it had recently started its lending business in Ontario and did not have a significant online presence.

[17] Assuming there was a fraud by Mr. Monasteridis, the motion judge found that Ms. Pilaszek offered no evidence that SCIV was in any way associated with the alleged fraud.

[18] The motion judge granted SCIV's motion for summary judgment and dismissed Ms. Pilaszek's counterclaim. Pursuant to the judgment, the court ordered that Ms. Pilaszek pay the amounts owing to SCIV and deliver possession of the property.

[19] On appeal, Ms. Pilaszek claims the motion judge failed to consider and address her affidavit evidence, improperly weighed evidence and made findings of credibility on a paper record, erred in dismissing her counterclaim, and breached the principles of procedural fairness by denying her request for an adjournment and awarding full indemnity costs.

### **The Issue**

[20] The issue on this motion is whether enforcement of the judgment and the writ of possession should be stayed pending appeal.

### **Analysis**

#### **1. No Serious Issue**

[21] The first prong of the test on a motion to stay is whether there is a serious issue to be heard on appeal.

[22] Ms. Pilaszek does not dispute that funds were advanced to her by SCIV. Ms. Pilaszek's submissions on the merits of the appeal also do not focus on the fraud allegations adjudicated by the motion judge.

[23] Instead, Ms. Pilaszek raises a new issue: the calculation of her indebtedness, asserting that the amount advanced to her was less than the \$130,000 claimed, and that she received only approximately \$110,000.

[24] SCIV maintains that Ms. Pilaszek owes \$166,436.28 (being \$130,000 plus interest and additional charges). Ms. Pilaszek claims that bank records show a deposit of only \$111,218.15 was made into her account.

[25] She claims that the amount owing is a serious issue, and that the motion judge erred in granting summary judgment without a full evidentiary record on the amount owing.

[26] I disagree. Ms. Pilaszek did not dispute the quantum proposed by SCIV at the motion. The amount owing is reflected in the judgment and supported by the evidence that was before the motion judge who was in a position to decide the amount advanced, interest, and ultimate quantum.

[27] Second, Ms. Pilaszek claims the motion judge improperly weighed the evidence and failed to consider "allegations of fraud and misrepresentation connected to the loan transaction". I disagree.

[28] The motion judge considered the allegations but held that “[n]one of these allegations are supported by any proper evidence”. Instead, she found in favour of SCIV which had “provided evidence the Charge documents were properly signed by Ms. Pilaszek with the assistance of independent legal counsel, the funds were advanced, default occurred, and the indebtedness remains outstanding.”

[29] The purpose of summary judgment under rule 20 of the *Rules of Civil Procedure*, is to dispose of an action where a trial is unnecessary because there is no genuine issue for trial.

[30] The moving party must demonstrate that there is no genuine issue requiring a trial. Once that burden is met, the respondent must prove “that its defence has a real chance of success”: *Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87, at paras. 57-41; *Toronto Dominion Bank v. Hylton*, 2012 ONCA 614, at para 5. Bald assertions, speculations, suspicions, and accusations without supporting evidence do not create genuine issues for trial: *Bank of Montreal v. Abdel-Messih (2006)*, 148 A.C.W.S. (3d) 380 (Ont. C.A.).

[31] Further, in *2275518 Ontario Inc. v. The Toronto Dominion Bank*, 2024 ONCA 343, at para. 44, this court held that: “the summary judgment process is tailor-made to enforce liquidated claims by creditors against debtors and guarantors”.

[32] In this case, the motion judge exercised her discretion in weighing the evidence properly before her on a rule 20 motion and concluded that “Ms. Pilaszek

has provided no evidence to support the bald allegations made against SCIV". Ms. Pilaszek was not entitled to rest her case solely on the allegations or denials in her pleadings.

[33] Nor was there a breach of procedural fairness in denying Ms. Pilaszek's request for an adjournment. The motion judge refused the adjournment on the basis that the matter had been outstanding for 18 months, and the mortgage was outstanding since April 12, 2024. Various SCIV representatives received threats during this period.<sup>1</sup> Examinations were completed, materials filed, and Ms. Pilaszek decided to terminate her lawyer's services one week before the motion, because they had "decided to part ways." Moreover, there was no evidence that the denial of her adjournment request led to a miscarriage of justice.

[34] I see no breach of the principles of procedural fairness in the motion judge's decision to deny Ms. Pilaszek's request for an adjournment.

[35] Lastly, the motion judge properly exercised her discretion and ordered costs to be paid on a full indemnity basis. She did so noting that:

Ms. Pilaszek advanced allegations of fraudulent conduct without any evidence to support those allegations and she bears responsibility for the egregious acts of intimidation and threats of violence made by her friends and/or associates. In the circumstances, SCIV is entitled to costs on a full indemnity basis.

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<sup>1</sup> Ms. Pilaszek denies she is associated with any such threats.

This ... was not a typical proceeding. It was necessary for SCIV to file several affidavits to address the repeated threats and to answer the baseless allegations of fraudulent conduct. Cross-examinations were required due to the unfounded accusations made against Mr. Fogler.

[36] Cost orders are an exercise of discretion. Given the evidence of harassment and intimidation, and submissions made before the motion judge, I see no reason to interfere with the motion judge's cost order.

[37] For these reasons, I find there is no serious issue to be tried.

## **2. No Irreparable Harm**

[38] Ms. Pilaszek submits that she will suffer irreparable harm if the judgment is enforced because she will lose her residential property. However, that consequence is expressly contemplated in the terms of the Charge which Ms. Pilaszek agreed to. Ms. Pilaszek acknowledged, with the benefit of independent legal counsel, SCIV's entitlement to take possession of and sell the property in the event of default. A chargor cannot contractually accept the consequence of default and then invoke that same consequence as irreparable harm to forestall enforcement: *Park v. Manulife Bank of Canada*, 2025 ONCA 815, at para. 9.

[39] Furthermore, aside from asserting that she will lose access to the property, Ms. Pilaszek has not adduced any evidence of permanent and non-compensable harm: *Morguard Residential v. Mandel*, 2017 ONCA 177, at paras. 22-24. I agree

that the loss of possession upon default is a “bargained-for remedy” that Ms. Pilaszek accepted under the Charge. Treating that consequence as irreparable harm, without more, would effectively allow a moving party to satisfy the irreparable harm element in virtually every residential mortgage enforcement proceeding. This would be inconsistent with the borrower’s agreement that the lender may take enforcement steps upon default.

[40] Ms. Pilaszek has been in default for over two years and she has taken no steps to cure the default.

### **3. Balance of Convenience**

[41] The balance of convenience requires the court to determine which party would suffer greater harm from granting or refusing a stay pending appeal: *Sorrentino*, at paras. 7, 15.

[42] I find that the balance of convenience favours SCIV. SCIV has not had the benefit of its security for almost two years. A stay would extend that deprivation and its recovery depends on the proceeds of sale of this asset.

[43] The interests of justice do not favour prolonging a two-year default of a mortgage, on grounds of appeal that disclose no serious issue, while SCIV bears the cost of delay. I therefore find that the balance of convenience favours SCIV.

**Disposition**

[44] For these reasons, the motion for a stay of the judgment and the writ of possession is denied.

“Thorburn J.A.”