

# COURT OF APPEAL FOR ONTARIO

CITATION: Peninsula Employment Services Ltd. v. Castillo, 2026 ONCA 563

DATE: 20260804

DOCKET: COA-25-CV-0344

Paciocco, Sossin and Wilson JJ.A.

BETWEEN

Peninsula Employment Services Ltd.

Plaintiff  
(Appellant)

and

Marc Castillo\*, Castillo HR Consulting Inc.\*, Borderworx Logistics Inc.\*, Smart  
Information Technologies Ltd.\*, Creative Minds Children Services Inc\*., Anita  
Crawford, Erika Saclayan, Nikki Mathews

Defendants  
(Respondents\*)

Brett Hughes, for the appellant

Hailey Bruckner and Ryan Shah, for the respondents Marc Castillo and Castillo  
HR Consulting Inc.

No one appearing for the respondents Borderworx Logistics Inc., Smart  
Information Technologies Ltd. and Creative Minds Children Services Inc.

Heard and rendered orally: June 17, 2026

On appeal from the order of Justice Edward M. Morgan of the Superior Court of  
Justice, dated February 24, 2025, with reasons reported at 2025 ONSC 1121.

COSTS DECISION

[1] Each party is to bear their own costs of the appeal, and the costs below are reserved to the judge rehearing the motion. Should the motion be abandoned, the costs below are to be resolved along with the costs of the abandoned motion that the respondents are entitled to under r. 37.09(3) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[2] In terms of the costs of the appeal, success on the appeal was divided, making this an appropriate case for the parties to bear their own costs. The appellant prevailed in setting aside a permanent stay of proceedings based on a change in the law that occurred after the motion judge's decision was released. However, this court did not find that no abuse of process occurred, despite the appellant's request that we do so. Instead, the stay motion was remitted back for reconsideration and therefore remains alive. The respondents were also successful in resisting the appellant's attempt to secure an order on appeal relating to the disclosure/Anton Piller issue.

[3] As for the costs below, because the motion must be reheard, this is an appropriate case for costs of the original stay motion to be reserved to the judge at the rehearing. It is likely that if the stay motion is reargued, work undertaken during the first motion can be relied upon during the rehearing, saving the need to repeat legal work already undertaken. Justice can best be achieved by the motion judge examining the costs implications of the initial motion in the context of the entire proceeding.

[4] Similarly, if the respondents choose not to proceed with the stay motion, it is in the interests of justice for costs below to be resolved along with the costs of the abandoned motion provided for in r. 37.09(3), given the close interrelationship between the proceedings.

“David M. Paciocco J.A.”

“L. Sossin J.A.”

“D.A. Wilson J.A.”