

CITATION: Meridian Credit Union Limited v. Mian, 2026 ONSC 5725
COURT FILE NO.: CV-26-981-0000
DATE: 2026 10 09

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Meridian Credit Union Limited, Plaintiff

AND:

Liaquat Mian and LJM Developments (Stoney Creek) Inc., Defendants

BEFORE: Associate Justice Glick

COUNSEL: Josh Suttner, for the Plaintiff

Ronald Flom for the Defendants

HEARD: September 24, 2026

ENDORSEMENT

OVERVIEW

[1] This is a motion by the Defendants to address the Default Judgment entered against them dated June 24, 2026. The Defendants seek an Order setting aside the noting in default, an Order setting aside the Default Judgment, and a series of Orders addressing the enforcement proceedings arising from the Default Judgment. The Defendants also seek leave to serve and file their draft Statement of Defence. The Plaintiff opposes the relief sought. In the alternative it argues that if the Default Judgment is set aside, the Writs of Seizure and Sale ought to remain.

[2] For the reasons set out below the Defendants' motion is granted. The noting in default, default judgment and writs are all set aside. The Defendants are granted leave to serve and file a Statement of Defence within twenty days of the date of this decision.

BACKGROUND

Events Giving Rise to the Litigation

[3] The Plaintiff, Meridian Credit Union Limited (“Meridian”) is an Ontario corporation established pursuant to the *Credit Unions and Caisses Populaires Act*, 2020, S.O. 2020, c. 36, Sched. 7. The Defendant Mr. Mian is the sole registered officer and director of two corporations: SNAM Investment Group Inc. (“SNAM”) and LJM. LJM is a defendant in this action and SNAM is not.

[4] Meridian loaned funds to LJM and SNAM. Meridian says the first loan was in July 2017, and was made to LJM to assist with construction financing on a property located at 325 Highway 8, Stoney Creek (“325 Lands”). Mr. Mian signed a guarantee in relation to that credit agreement. Mr. Mian says that Meridian represented to him that it would not enforce the covenant prior to exercising its right to sell the 325 Lands. Meridian disputes that this is the case and points to the text of a guarantee that says the opposite.

[5] Meridian says that between July 2017 and January 2018 it made a series of advances totaling \$1,890,499 to LJM to refinance the existing land loan against the 325 Lands and for soft costs incurred. In 2022, it says that the loan to LJM was increased to \$3,675,000 to cover additional costs for the project after the Ontario Land Tribunal approved a 148-unit development.

[6] Meridian also says that in or around March 2018 it made an initial loan to SNAM in respect of a project located at 540 and 544 North Service Road in Grimsby (the “Grimsby Lands”).

[7] Meridian entered into further agreements with LJM and SNAM on November 21, 2024. The credit agreement with LJM was that Meridian would provide a loan facility of up to \$3,675,000 and two letters of credit for \$10,650 and \$98,857. The security for the agreement was to include Mr. Mian’s unlimited personal guarantee from 2017 and a limited guarantee from SNAM. The credit agreement with SNAM was that Meridian would extend or renew the initial SNAM Loan and that the security for that loan would be an additional guarantee from Mr. Mian and a guarantee from LJM, limited to \$2,227,500.

[8] The credit agreements were signed in November 2024 and the guarantees were signed in February 2025.

[9] LJM and SNAM missed loan payments in late 2025. As of February 11, 2026, Meridian says a total of \$5,887,255.50 was owing to it. It says SNAM owed \$2,178,774.38 and LJM owed \$3,708,481.12. Meridian demanded repayment of both amounts from Mr. Mian pursuant to his personal guarantee. Meridian demanded repayment from LJM for amounts owed by SNAM, which amounts exceeded the limit of LJM's guarantee.

The Litigation

[10] Meridian issued the Statement of Claim on April 28, 2026.

[11] Mr. Mian's wife passed away on March 20, 2026. Subsequently Mr. Mian travelled to Pakistan to observe traditional mourning rituals.

[12] Mr. Mian returned to Canada on May 21, 2026. The Statement of Claim was served on him that same day. Mr. Mian says that upon receipt of the claim he contacted a real estate broker to discuss the sale of the two subject properties. He says he was told he would get a sales presentation with a plan for sale which would produce funds to retire the debt obligations. He says he did not receive the presentation.

[13] Mr. Mian says that both before and after receipt of this claim, the LJM group of companies have been involved in approximately thirty-seven legal proceedings as defendants or as plaintiffs. Mr. Mian says he has either settled those actions or pursued them in court. He says that if this action was not able to settle it was his intent to defend the proceedings.

[14] Mr. Mian did not defend the Claim. Neither did LJM. Default judgement was obtained on June 24, 2026, four days after the deadline to defend the claim had passed. The Plaintiff obtained default judgment against Mr. Mian in the amount of \$6,032,985.24 and against LJM Developments (Stoney Creek) Inc. for \$2,232,706.51.

[15] Mr. Mian's evidence is that the default judgment first came to his attention on July 3, 2026. On that same day the Defendants' counsel wrote to the Plaintiff's counsel to advise that the Defendants would be bringing a motion to set aside the default judgment on the earliest available date.

[16] The Plaintiff did not consent to set aside the Default Judgment. On July 6, 2026 the Plaintiff filed Writs of Seizure and Sale.

[17] The Defendants thereafter moved for an urgent motion.

[18] The parties appeared in front of me on July 15, 2026. After speaking to the parties I determined that there was no urgency which required a date in advance of available dates on Calendly. The parties agreed to book September 24, 2026 for the motion and agreed to a timetable for the delivery of materials.

LAW AND ANALYSIS

[19] Rule 19.08(1) provides the court with authority to set aside or vary a default judgment signed by the registrar or granted by way of motion under rule 19.04 on such terms as are just. The decision is a discretionary one.

[20] The test on a motion under rule 19.08(1) is well established. My colleague Justice Mathai recently set out the relevant principles in *Zahiri v. Alizadeh et al.*, 2026 ONSC 5082. As he noted at paragraph 16 of that decision, the “court’s ultimate task on a motion to set aside a default judgment is to determine whether the interests of justice favour granting the order.” The factors a court must consider in exercising its discretion were set out by the Court of Appeal at paragraphs 48-49 of *Mountain View Farms Ltd. v. McQueen* and in a number of cases thereafter. The factors are:

- a. Whether the motion was brought promptly after the defendant learned of the default judgment;
- b. Whether there is a plausible excuse or explanation for the defendant’s default in complying with the Rules;
- c. Whether the facts establish that the defendant has an arguable defence on the merits;

- d. The potential prejudice to the moving party should the motion be dismissed, and the potential prejudice to the respondent should the motion be allowed; and
- e. The effect on any order the motion judge may make on the overall integrity of the administration of justice.

[21] The Court of Appeal has repeatedly made it clear that these factors are not to be treated as rigid rules; the court must consider the particular circumstances of each case to decide whether it is just to relieve the defendant from the consequences of his or her default” (see for example para. 50 of *Mountain View Farms*, para. 14 of *Intact Insurance Company v. Kisel*, 2015 ONCA 205, para. 20 of *Trayanov v. Ictrading Inc.*, 2023 ONCA 322).

[22] The Court of Appeal, at paragraph 14 of *McIlwain v. Len’s Cove Marina Ltd.*, 2025 ONCA 434, stated the principle particularly clearly when it stated that the court is not required to weigh each factor equally. “The weight to be given a specific *Mountain View* factor in determining whether it is just to set aside a default judgement will depend on the circumstances of the particular case.” In some cases, the fact that there is an arguable case on the merits will mean that the court will set aside a default judgement even where none of the other factors weigh in favour of that decision. In some cases, as the Court of Appeal noted at paragraph 10 of *Franchetti v. Huggins*, 2022 ONCA 111, where there was only minimal delay in dealing with the default, courts have not required the defendant to show an arguable case on the merits.

[23] As Justice Mathai stated at paragraph 21 of *Zahiri*, “it is not in the interests of justice to grant judgments based solely on technical defaults. The court will always try to ensure that issues between litigants are resolved on their merits whenever it can be done with fairness to the parties.”

Discussion

[24] I address each of the *Mountain View* factors below. Before I do, I note that the Plaintiff, in opposing the motion relies on the court’s articulation of the factors as set out at paragraph 13 of *Marshallzehr Group Inc v. Mahfooth*, 2026 ONSC 4951. The articulation of the factors in that

case is different than the articulation of the factors as set out in *Mountain View* or in cases such as *Zahiri v. Alizadeh et al.*, 2026 ONSC 5082. Although they may effectively be different articulations of the same test, I prefer the articulation of the relevant factors in the *Mountain View* line of cases, including the Court of Appeal’s very recent decision of *McIlwain v. Len’s Cove Marina Ltd.*, 2025 ONCA 434.

The Motion Was Brought Promptly After the Defendants Learned of the Default Judgment

[25] There is no dispute that the motion was brought promptly after the Defendants learned of the default judgment. On the day Mr. Mian learned of the default judgment his counsel reached out to Plaintiff’s counsel to advise that they would be bringing a motion absent consent. The motion materials were filed with the court ten days later and the Defendants sought an urgent motion to address the issue.

There is a Plausible Explanation for the Defendant’s Default

[26] The Defendants have provided an explanation as to why they did not defend the claim. Mr. Mian’s wife died of cancer. He traveled to Pakistan to observe mourning rituals. The day he returned he was served with the Statement of Claim. Mr. Mian was, at the time, dealing with a large number of other legal proceedings. He says these come about in the context of a severe downturn in the condominium market in the Greater Toronto area. He says he intended to defend this action if it could not be settled, but that he lost track of the status of the matter in the context of the other actions.

[27] The Plaintiff does not dispute the explanation, but says that the fact that Mr. Mian is facing so many other lawsuits is a reason not to set the default judgment aside. It says that “setting aside the judgment will allow the Defendants to continue to prioritize other creditors and claims, to Meridian’s detriment.” I deal with that argument when considering the prejudice to the parties, but note that there is no evidence before me that Mr. Mian or LJM are in fact prioritizing other creditors.

[28] At the highest, there was a delay of 14 days from the date the defence was due to the date that default judgment was obtained and the Defendants began to move to set it aside. The Defendants ought to have defended the Claim, but I accept that there is a plausible explanation for failing to file the defence.

There is an Arguable Defence on the Merits

[29] The Parties spent the majority of the oral hearing focused on this factor. The Defendants argue that they have an arguable defence on the merits. The Plaintiff argues that they do not.

[30] The Plaintiff relies on the court’s decision in *Kantor v. Grewal et al.*, 2025 ONSC 1542, and argues that in assessing whether there is an arguable case on the merits, the motion judge is entitled to take “a good hard look at the merits” and assess credibility. Citing paragraph 34 of *Kantor*, the Plaintiff argues that “the moving party cannot rest on self-serving statements with no detailed evidence, and a self-serving affidavit does not create a triable issue without detailed facts and supporting evidence.” The Defendant in contrast relies on the Court of Appeal’s decisions of *McIlwain* and *Mountain View* to argue that the threshold is not proof that the defence will succeed, but merely whether the defence has an air of reality.

[31] As the Court of Appeal said at paragraph 16 of *McIlwain*, “to put forward an arguable defence on the merits, a defendant need not show that the defence will inevitably succeed, but only that it has an “air of reality”.” Relying on its earlier decision in *Zeifman Partners Inc. v. Aiello*, 2020 ONCA 33, the Court of Appeal noted that it is “not the role of the motion judge to make findings of fact and to assess the merits of the defence.” The Court of Appeal in *McIlwain* at paragraphs 17-18 found that the motion judge in that case had erred in engaging in a weighing of the evidence in determining whether there was an arguable defence on the merits.

[32] The Court of Appeal’s decisions in *Mountain View* and *McIlwain* govern. As Justice Mathai noted at paragraph 18 of *Zahiri*, “to establish an air of reality, a defendant need not establish that the defence will succeed. To meet this low threshold, the defence must be tenable in law, and the defendant must lead some evidence to demonstrate that it is not devoid of factual and/or legal foundation.”

[33] Having regard to the record, and the submissions of the parties, in my view the Defendants have satisfied this factor, at least with respect to one of the defences set out in their draft Amended Amended Statement of Defence. In particular, I find that there is an arguable defence that Meridian represented that it would not enforce the guarantees before realizing on the mortgaged properties and applying the proceeds to the indebtedness. Mr. Mian has sworn in an affidavit that this representation was made during the 2017 negotiations. The Plaintiff's affiant was not involved in those negotiations and therefore did not offer contradictory evidence. In any event, as set out above, my function on this motion is not to weigh the evidence of the parties or assess credibility, but to determine whether there is some evidence to support the defence and to determine whether the defence is tenable at law. Mr. Mian's evidence satisfies the first criteria.

[34] I also find that the defence is tenable at law. While the Plaintiff argues that the guarantees each contained an entire agreement clause and the representation defence must be rejected, the Court of Appeal's decision in *Royal Bank of Canada v. 1643937 Ontario Inc.*, 2021 ONCA 98 stands for the proposition that "the defence of misrepresentation is not precluded or diminished by reason only of the existence of an entire agreement clause".

[35] I note again that this is not a summary judgment motion. I am not, in finding that the defence is tenable, finding that it will succeed at trial, or finding that there is a genuine issue requiring a trial. My finding here is that the defence has an air of reality, sufficient to meet the low threshold of an "arguable defence on the merits" required to be met on a motion to set aside a default judgment.

[36] Even if there was not an arguable defence on the merits, I would not give this factor particular weight. This is because in Milton a Plaintiff may obtain default judgment at the same time as they note a Defendant in default. A motion to set aside a default judgment where the default judgment has been granted by the registrar is thus in many ways akin to a motion to set aside a noting in default, particularly where there has been minimal delay. Courts, on a motion to set aside a noting in default, rarely require the defendant to establish an arguable defence on the merits (*Mountain View* at paragraph 51). Had the default judgment been granted by the court by way of motion under Rule 19.04(1) or Rule 19.05, I would have accorded this factor greater weight.

The Potential Prejudice to the Parties

[37] The Plaintiff argues that it will suffer prejudice if the judgment is set aside. It argues that the Defendants' joint indebtedness of approximately \$6,000,000 has been in arrears and unpaid since late 2025. It also argues that setting aside the judgment will allow the Defendants to continue to prioritize other creditors and claims to its detriment. It argues that its judgment and writs do not prevent the Defendants from negotiating either a sale of the properties or to refinance the properties.

[38] The Defendants argue that they are obviously prejudiced by the default judgment requiring them to pay the Plaintiff significant sums of money. They note that they have been denied the opportunity to present their defences or to have the case determined on its merits. They argue that the debts owing to the Plaintiff are secured by mortgages which will continue, and that the Plaintiff's assertion that the Defendants will prioritize other creditors is speculative. They note that the Plaintiff's affiant agreed on cross-examination that it had no evidence to support its concern other than the fact that the Defendants are involved in other litigation.

[39] I accept the Defendants' submissions as to the prejudice they will suffer if the default judgment is not set aside. Even as they may not ultimately be successful at trial or on a summary judgment motion, they have lost the ability to argue the case on the merits. They are also subject to judgments and enforcement of same.

[40] While I accept that the Plaintiff may suffer prejudice which cannot be compensated for by way of costs, I find that it is outweighed by the prejudice which the Defendants will suffer if the default judgment is not set aside. While I accept that the Plaintiff is concerned that the Defendants will prioritize other creditors, their affiant admitted they have no evidence to support this concern. I also note that the Plaintiff has mortgages registered against both the 325 Lands and the Grimsby Lands which provides them with security. While the Plaintiff states that they are owed more than the value of the two properties, the Plaintiff's affiant admitted on cross-examination that the Plaintiff does not have an appraisal of the fair market value of the second property. They "do not

know whether [they] will have full coverage based on the appraised value of the second property”. There is no evidence before me that the value of the two properties is diminishing.

The Effect of an Order on the Overall Integrity of the Administration of Justice

[41] This factor favours setting aside the default judgment. There is a strong interest in having matters dealt with on their merits. While the Plaintiff argues that the interest of justice in this case favour finality, this is a case where the delay at most was 14 days shortly after Mr. Mian’s wife died and while he was dealing with a number of other proceedings. I accept that he intended to address the matter. It is not in the interest of justice to deny the Defendants an opportunity to have the claim judged on its merit.

A Holistic Consideration of All Factors Favours Setting Aside the Default Judgment

[42] As above, the consideration of the *Mountain View* factors is a holistic exercise. Each factor is not necessarily equal. In this case, as explained above, I accord less weight to the factor regarding an arguable defence on the merits. Having considered all of the relevant factors, I find that the interests of justice favour setting aside the default judgment and noting in default. This part of the Defendants’ motion is granted.

Should the Writs Remain?

[43] The Plaintiff argues that even if I set aside the default judgment, I should not set aside the writs. Relying on the decision of Justice Charney in *The Toronto Dominion Bank v. Picard*, 2020 ONSC 1289, the Plaintiff argues that the overall integrity of the administration of justice requires the security to be preserved. Justice Charney at paragraph 30 of that decision notes that “permitting writs of seizure to be maintained is generally discouraged because the setting aside of the default judgment effectively turns the seizure into execution before judgment.”

[44] I find that in this case it is not in the interest of justice to maintain the writs. I reach this conclusion for two reasons. First, the Plaintiff has security in the form of mortgages on two properties. Second, the Plaintiff filed the writs on July 6, 2026, three days after being advised that

the Defendants intended to bring a motion to set aside the default judgment. In these circumstances the Plaintiff should not be entitled to “execution before judgment”.

[45] As a result, the Defendants’ motion with respect to the writs of seizure and sale is also granted.

CONCLUSION

[46] For the reasons set out above, the Defendants’ motion is granted. I make the following Orders:

- a. The noting in default and default judgment are both set aside.
- b. The Writs of Seizure and Sale issued pursuant to the default judgment are vacated.
- c. An Order is to go directing the Sheriff of every enforcement office where such writs have been filed to withdraw and cancel the writ.
- d. A further Order is to go directing the Registrar of every Land Titles Office in which such a writ has been registered to discharge and delete the registration.
- e. The Defendants are granted leave to serve and file the Statement of Defence within twenty days of this decision.

[47] The parties are encouraged to agree on the costs of this motion. Failing agreement, each party may serve, file and upload submissions of no more than three (3) single-spaced pages, exclusive of offers to settle, bills of costs and case-law. The Defendants are to serve their submissions within seven days of this decision. The Plaintiff is to serve its submissions seven days later. There will be no reply.

[48] There are to be no extensions on costs submissions, even on consent, without my leave. If costs submissions are not provided in accordance with this timetable, then there will be no order as to costs. Finally, in addition to serving, filing and uploading their costs submissions, counsel

are required to provide an electronic copy of their submissions to me at the email address: scj.judicialassistant.milton@ontario.ca. The e-mail subject line should include the file name and the fact that the submissions are for my attention.

Glick AJ.

Date: October 9, 2026