COURT OF APPEAL FOR ONTARIO

CITATION: Vieraitis v. Advanced Grain Handling Systems Inc., 2026 ONCA 776
DATE: 20261030
DOCKET: COA-25-CV-1665

2026 ONCA 776 (CanLII)

Roberts, Favreau and Copeland JJ.A.

BETWEEN

John Vieraitis

Plaintiff (Appellant)

and

Advanced Grain Handling Systems Inc.*
Sake Kielstra*
Derek Janzen

Defendants (Respondents*)

John Vieraitis, acting in person

Michael A. Jaeger, for the respondents

Heard and rendered orally: October 28, 2026

On appeal from the order of Justice Marc A. Garson of the Superior Court of Justice, dated November 18, 2025.

REASONS FOR DECISION

[1] At the outset of the hearing, the panel requested submissions on this court's jurisdiction to hear the appeal, an issue which had been raised with the parties by letter from the court's Office of the Executive Legal Officer, dated March 6, 2026.

[2] The appellant raised two preliminary issues in response. Neither of these issues was raised in advance of the hearing.

[3] First, he requested that Roberts J.A. recuse herself from the panel on the basis that she had heard a previous unrelated proceeding involving him. The panel considered the request and gave oral reasons rejecting it. There is no foundation for either actual bias or a reasonable apprehension of bias.

[4] Second, he requested permission, pursuant to s. 136(2)(b) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 (the ”*CJA*”), to record the hearing. The panel refused permission and advised the appellant that a digital recording of the hearing is made by the court.

[5] The panel then heard submissions from the parties on jurisdiction and rendered an oral decision on jurisdiction.

Decision on jurisdiction

[6] The appellant was ordered to pay the respondents approximately $43,000 in a Small Claims Court action. Rather than pay the judgment, the appellant brought a motion seeking an order to pay into court the amount of the judgment, pending the completion of a new action against the respondents. The motion judge dismissed the motion to pay the funds into court. The appellant seeks to appeal that decision to this court.

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[7] This court does not have jurisdiction to hear the appeal because it is from an interlocutory order. The order dismissing the motion for the payment of funds into court does not determine the real matter in dispute between the parties or any substantive rights of the parties: *Hendrickson v. Kallio*, [1932] O.R. 675 (C.A.); *Drywall Acoustic Lathing Insulation Local 675 Pension Fund v. SNC-Lavalin Group Inc.*, 2020 ONCA 375, at paras. 16-17. The appeal lies to the Divisional Court and is subject to that court granting leave to appeal, pursuant to s. 19(1)(b) of the *CJA*.

[8] Because the appeal would require leave to appeal from the Divisional Court, it is not appropriate for us to transfer the appeal.

[9] The appeal is quashed.

[10] After rendering the oral reasons quashing the appeal, the panel heard submissions on costs of the appeal and reserved our decision on costs. The respondents are entitled to partial indemnity costs of the appeal in the amount of $6,255.44.

"L.B. Roberts J.A."
"L. Favreau J.A."
"J. Copeland J.A."

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