COURT OF APPEAL FOR ONTARIO

BEFORE: RAHMAN J.A.

HEARD: MAY 13, 2026

DISPOSITION OF COURT HEARING:

COURT FILE NO.: COA-26-OM-0188; M56997; M56988

TITLE OF PROCEEDING: CAMERON STEPHENS MORTGAGE CAPITAL LTD. v. 2011836 ONTARIO CORP. ET. AL.

DATE RELEASED: JULY 24, 2026

Fengxi Fanseay Wang, acting in person purportedly for the moving party, 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (COA-26-OM-0188)
Ryan Shah, for the responding party (COA-26-OM-0188)/ the moving party (M56997), Albert Gelman Inc., Receiver
Wendy Greenspoon-Soer and Summer Xia, for moving party, Cameron Stephens Mortgage Capital Ltd. (M56988)
Aya Schechner, appearing as *amicus curiae*, Pro Bono Ontario

Brief Background

I heard three related motions arising out of related bankruptcy and receivership proceedings between Fengxi Fanseay Wang ("Mr. Wang"), Cameron Stephens Mortgage Capital Ltd ("Cameron Stephens") and the court-appointed receiver, Albert Gelman Inc. ("the Receiver").

Mr. Wang was the principal of 2011836 Ontario Corp. and Jefferson Properties Limited Partnership (the "Debtors"), the developers of a 96-unit condominium and townhouse project in Richmond Hill (the "project"). Cameron Stephens provided a loan facility to the Debtors in or around March 2022. Mr. Wang personally guaranteed the loan. The Debtors defaulted on the loan in or around August 2023. The Debtors remained in default even after Cameron Stephens made demands on the loan in September 2023. Consequently, Cameron Stephens successfully applied for the appointment of a receiver in December 2023. Cavanaugh J. appointed the Receiver over the debtors and the project on December 21, 2023.

Because Mr. Wang did not make any payments under his personal guarantee, Cameron Stephens started an action against Mr. Wang in March 2024 to enforce the guarantee. Mr. Wang did not defend the action and was noted in default in July 2024.

Cameron Stephens subsequently applied for a bankruptcy order against Mr. Wang based on his indebtedness to Cameron Stephens and other creditors. Kimmel J. granted the application on December 1, 2025 and declared Mr. Wang to be a bankrupt and appointed a trustee.

The three motions can be briefly described as follows:

COA-26-OM-0188: Mr. Wang's seeks leave to appeal an order dated March 18, 2026 denying him leave to represent the Debtors in the receivership proceedings (the "Representation Order").

M56997: The Receiver seeks security for costs respecting Mr. Wang's appeal of the Representation Order and Mr. Wang's separate appeal of a costs order dated March 9, 2026 (the "Costs Order"), provided leave to appeal is granted for both appeals. The Receiver further seeks a stay of both appeals pending Mr. Wang's payment of security.

M56988: Cameron Stephens seeks security for costs respecting Mr. Wang's appeal of an order dated December 1, 2025 declaring him a bankrupt and appointing the trustee (the "Bankruptcy Order") and to stay the appeal until the required security is posted.

For the reasons that follow, all three motions are dismissed.

Mr. Wang's motion for leave to appeal the Representation Order (COA-26-OM-0188)

In the receivership proceedings, Mr. Wang brought a r. 15 motion to represent the Debtors in these proceedings. His motion was dismissed.

Mr. Wang argues that leave to appeal should be granted pursuant to s. 193(e) of the *Bankruptcy and Insolvency Act,* R.S.C., 1985, c. B-3 because the appeal raises serious and arguable questions. He submits that the motion judge committed 10 separate errors in dismissing his motion. I will not set out all of the errors here. During oral argument, with the assistance of *amicus*, Mr. Wang focused on the motion judge's alleged failure to consider that Mr. Wang had previously been allowed to make submissions on behalf of the Debtors without objection. He further submits that his proposed appeal is not entirely doomed to fail and would not unduly hinder the proceedings, provided it was heard in a reasonable period of time.

The Receiver opposes the motion. The Receiver submits that Mr. Wang has not identified any errors warranting appellate intervention and that no ambiguity existed regarding his lack of authorization to represent the Debtors. The Receiver further submits that Mr. Wang has outstanding cost awards against him, is insolvent, and has pursued various appeals from the receivership proceedings. Granting leave for this further appeal in this context is against the legislative mandate of bankruptcy/insolvency proceedings.

In *Business Development Bank of Canada v. Pine Tree Resorts Inc.*, 2013 ONCA 282, 115 O.R. (3d) 617, at para. 29, this court set out the factors that should be considered in deciding whether leave to appeal under s. 193(e) of the *BIA* should be granted. The court must consider whether the proposed appeal:

1) raises an issue that is of general importance to the practice in bankruptcy and insolvency matters, or to the administration of justice as a whole;
2) is *prima facie* meritorious; and
3) would unduly hinder the progress of the bankruptcy/insolvency proceedings.

Mr. Fang's proposed appeal does not meet this test.

All of the issues raised in Mr. Wang's notice of appeal are specific to his particular circumstances. The motion judge dismissed Mr. Wang's motion based on the application of well-settled principles. There is no issue of general importance raised in his notice of appeal.

The proposed appeal also lacks merit. Mr. Wang simply alleges that the motion judge failed to give adequate weight to certain factors. The motion judge's decision is discretionary and entitled to deference. Mr. Wang does not point to any errors requiring appellate intervention or suggest any basis to find the Representation Order unreasonable. Mr. Wang's proposed appeal is simply an attempt to re-argue the motion.

Permitting this proposed appeal to continue would unduly hinder the proceedings below.

Consequently, leave to appeal the Representation Order is denied. Mr. Wang's motion is dismissed.

The Receiver's security for costs motion (M56997)

The Receiver seeks security for costs in the amount of $60,000 in connection with Mr. Wang's appeals of the Representation Order and the Costs Order. Given my decision to deny leave to appeal the Representation Order, it is not necessary to decide the Receiver's requested security for this appeal. However, the Receiver's request for security for costs respecting Mr. Wang's proposed appeal of the Costs Order must fail on jurisdictional grounds.

During the hearing, I raised with the parties this court's decision in *Société SEPIC S.A. v. Aga Stone Ltd.* (1995), 21 O.R. (3d) 542 (C.A.). In *Société SEPIC*, this court held that the r. 61.01 does not permit this court to order security for costs for a motion for leave to appeal. No subsequent decision of this court has reconsidered or overturned that decision. I acknowledge that at least one decision of this court has ordered security for costs on a motion for leave to appeal: see *1583881 Ontario Limited v. Genesis Express and Logistics Inc.*, 2018 ONCA 994. However, that case did not consider *Société* SEPIC nor whether the court had jurisdiction to order security for costs. Decisions where the issue of jurisdiction was not raised or decided do not establish the jurisdiction of the court in a subsequent matter: *CIBC Mortgages Inc. (FirstLine Mortgages) v. Computershare Trust Co. of Canada,* 2015 ONCA 846, 342 O.A.C. 49, at para. 12.

The Receiver submits that *Société SEPIC* is distinguishable because motions for leave to appeal in *BIA* matters are filed differently than conventional appeals. The Receiver argues that because the *Bankruptcy and Insolvency General Rules,* C.R.C., c. 368 require the filing of a notice of appeal to commence the leave to appeal process, a *BIA* motion for leave to appeal differs from a regular motion for leave to appeal under the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, which has no such requirement. The Receiver also argues that it would go against the remedial purpose of the *BIA* to permit a "technicality" to prevent security for costs in a case where they are clearly warranted.

I cannot accept the Receiver's submission that this court's holding in *Société SEPIC* does not apply to motions for leave to appeal under the *BIA*. Until leave to appeal is granted, there is no appeal pending in this court. The fact that the form used to seek leave is different in the *BIA* context does not change the fact that there is no appeal pending until leave is granted. This court's jurisdiction to grant security for costs is not inherent. It is based on r. 61.06 of the *Rules of Civil Procedure*: *956513 Ontario Ltd. v. Anderson*, (1992), 10 O.R. (3d) 563 (C.A.), at p. 565.

Accordingly, *Société SEPIC* remains binding authority on the scope of r. 61.06. This court does not have jurisdiction to order security for costs for Mr. Fang's motion for leave to appeal.

Consequently, the Receiver's motion is dismissed.

Cameron Stephens' motion for security for costs (M56988)

Mr. Fang appeals the Bankruptcy Order as of right. Cameron Stephens seeks $54,074.69 in security for costs. It relies on r. 61.06(1)(a)[1] and submits that Mr. Fang's appeal is frivolous and vexatious and that Mr. Fang has insufficient assets in Ontario.

A respondent must show that there is good reason to believe that the appeal is both frivolous <u>and</u> vexatious: *York University v. Markicevic*, 2017 ONCA 651, at para. 33; *Gill v. MacIver*, 2023 ONCA 776, at para. 4. This is a high threshold. An appeal is frivolous if it is readily recognizable as devoid of merit and has little prospect of success: *Lavallee v. Isak*, 2022 ONCA 290, at para. 19; *Pickard v. London Police Services Board*, 2010 ONCA 643, 268 O.A.C. 153, at para. 19. A vexatious appeal is one taken to annoy or embarrass the opposite party or an appeal conducted "in a less than diligent" or a vexatious manner, such as a failure to comply with court orders or the *Rules of Civil Procedure*: *Heidari v. Naghshbandi*, 2020 ONCA 757, 153 O.R. (3d) 756, at para. 10; *Gill*, at para. 3. A court does not need to "reach a definitive conclusion, make an affirmative finding or actually determine that the appeal is frivolous and vexatious and that the appellant lacks sufficient Ontario assets to pay the appeal costs": *Pickard*, at para. 18

On its face, Mr. Fang's appeal appears weak. His grounds of appeal seem to simply re-argue submissions that he made before the application judge. However, even assuming that Mr. Fang's appeal is frivolous, I am not satisfied that there is good reason to believe it is vexatious.

Cameron Stephens argues that the appeal is vexatious for three reasons. First, Mr. Fang relied on non-existent AI-generated case citations in his initial notice of appeal, despite the application judge having identified those cases as non-existent and the possible result of AI. Second, Mr. Fang is subject to three outstanding costs orders totalling over $22,000, illustrating that he litigates without regard to financial consequences. Third, Mr. Fang started a civil action against Cameron Stephens during the bankruptcy proceedings, which demonstrates his strategy of resisting and delaying enforcement rather than a *bona fide* attempt to correct an appealable error.

[1] Cameron Stephens' notice of motion set out r. 61.06(1), but it specified reliance on paragraph (a) in its factum and in oral submissions.

I cannot find that the foregoing factors makes Mr. Fang's appeal a vexatious one. First, while Mr. Fang's use of AI-generated cases is troubling, I am mindful that he is a self-represented litigant. I do not consider this to be vexatious behaviour in and of itself. Second, the outstanding costs awards are not indicative of vexatiousness. Two of these outstanding costs awards relate to matters that are the subject of an appeal or motion for leave to appeal. The third costs order is one made by this court when denying another motion for leave to appeal. His failure to pay these costs orders does not suggest the kind of deliberate non-compliance with court orders that this court has considered in finding vexatiousness. Finally, it is true that the application judge criticized Mr. Fang for bringing a lawsuit against Cameron Stephens mid-way through the bankruptcy proceedings. There is no question that this court can consider a litigant's conduct during litigation on the question of vexatiousness: *York University,* at para. 36. However, I again must consider the fact that Mr. Wang is self-represented and that the timing of his lawsuit may not have been tactical but, as he says, because he was previously exercising "restraint" and trying to work out a solution.

Accordingly, I find that Cameron Stephens has not established that there is good reason to believe that the appeal is both frivolous and vexatious, as required. I need not consider the question of Mr. Fang's assets in Ontario. Cameron Stephens' motion is dismissed.

Costs

The Receiver sought substantial indemnity costs of $16,627.27 for Mr. Fang's motion and its motion for security for costs. The Receiver is only entitled to its costs related to its success in opposing Mr. Fang's motion for leave to appeal. Accordingly, costs are payable to the Receiver in the amount of $8,000, all-inclusive.

Mr. Wang did not seek costs from either party, so none are awarded.

Disposition of the motions

Mr. Wang's motion for leave to appeal (COA-26-OM-0188) is dismissed. Costs of the motion are payable to the Receiver in the amount of $8,000.

The Receiver's motion for security for costs (M56997) is dismissed. There is no order as to costs.

Cameron Stephens' motion for security for costs is dismissed (M56988). There is no order as to costs.

M. [illegible] J.A.