

COURT OF APPEAL FOR ONTARIO

CITATION: Stingelin Estate v. Woods, 2026 ONCA 240

DATE: 20260331

DOCKET: COA-25-CV-1046

Tulloch C.J.O., Sossin J.A. and O'Marra J. (*ad hoc*)

BETWEEN

Nicolas Alexander Stingelin, in his capacity as Estate Trustee of the Estate of
Monika Andrea Stingelin, Deceased

Plaintiff (Appellant)

and

Cynthia Woods

Defendant (Respondent)

Christopher Crisman-Cox, for the appellant

Amani Rauff, for the respondent

Heard: March 17, 2026

On appeal from the order of Justice Paul B. Schabas of the Superior Court of Justice, dated June 30, 2025, with reasons reported at 2025 ONSC 3882.

REASONS FOR DECISION

Overview

[1] The appellant appeals from an order granting summary judgment dismissing his negligence and breach of fiduciary duty claims against the respondent, a lawyer retained to prepare the will of his aunt, Sabina Erlich.

[2] The motion judge concluded that the action could not succeed because the respondent owed no duty of care or fiduciary duty to the appellant, the appellant suffered no legally recoverable loss caused by the respondent, and the claim was barred by the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B (the “*Limitations Act, 2002*”).

[3] The motion judge also held that there was no genuine issue requiring a trial.

[4] We see no error; accordingly, we dismissed the appeal with reasons to follow. These are our reasons.

Background

[5] In 1992, Monika Stingelin executed a declaration of trust under which she held legal title to four residential properties in Kitchener for the benefit of her sister, Sabina Erlich. Monika held no beneficial interest in those properties.

[6] Monika’s 2004 will purported to transfer her trusteeship of those properties into a new trust arrangement under which they would be held for Sabina during her lifetime and thereafter in a Henson trust for Sabina’s disabled son, Tony.

[7] Monika died in 2011. The appellant became estate trustee.

[8] Despite the trust arrangement, the appellant did not transfer the properties to Sabina.

[9] In 2015, Sabina retained the respondent to prepare her will. The appellant met the respondent only twice, at meetings attended by Sabina's attorney for property, Penelope Chapman.

[10] Sabina died in 2016. Her will left her estate equally to her sons, Tony and Andrew. Neither the appellant nor Monika's estate was a beneficiary.

[11] In 2017, Sabina's estate demanded transfer of the properties.

[12] When the appellant refused, litigation followed. In 2019, Justice Sloan held that the 1992 trust remained valid, that the properties were beneficially owned by Sabina, and that Monika's estate had no beneficial interest in them.

[13] The appellant subsequently commenced this action alleging that he relied on the respondent's legal advice and suffered damages including legal costs, emotional distress, and reputational harm.

[14] The respondent moved for summary judgment and succeeded.

Analysis

1. No genuine issue requiring a trial

[15] The appellant submits that factual disputes concerning what the respondent said at the meetings and whether Sabina would have drafted her will differently required a trial.

[16] The motion judge correctly rejected that submission.

[17] Summary judgment is appropriate where the evidentiary record permits a fair determination on the merits and a trial would add nothing of value: *Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87, at para. 49.

[18] Even accepting the appellant's version of events, the claim fails because the respondent owed him no duty, the alleged losses were not caused by the respondent, and the claim is out of time.

[19] The motion judge, therefore, committed no error in proceeding in by way of summary judgment.

2. Duty of care

[20] It is undisputed that the respondent was retained by Sabina and not by the appellant. The motion judge found there was no solicitor-client relationship between the respondent and the appellant, and no basis on the evidence to conclude that the respondent undertook to act for him.

[21] A lawyer ordinarily owes duties only to the client. Courts have recognized a narrow exception in will-drafting cases where the testator's solicitor negligently fails to confer an intended benefit on an identified beneficiary under the will: *Ross v. Caunters*, [1979] 3 All E.R. 580 (Ch. Div.); *White v. Jones*, 2 A.C. 207 (H.L.); *Hall v. Bennett Estate* (2003), 64 O.R. (3d) 191 (C.A.), at paras. 49-52. But the existence and scope of any such duty remain dependent on the circumstances. In *Hall*, this court held that the retainer is fundamental to the proximity analysis and

that, absent a retainer to prepare the will, no duty arose to the prospective beneficiary: at paras. 56-59.

[22] That exception does not apply here. The appellant was not an intended beneficiary of Sabina's will. Sabina's 2016 will provided equally for Tony and Andrew. It did not name the appellant or Monika's estate.

[23] The appellant's theory would require recognition of a new duty of care extending beyond the limited class recognized in the will-drafting cases. The motion judge made no error in declining to recognize such a duty. Such a duty requires foreseeability and proximity: *Rankin (Rankin's Garage & Sales) v. J.J.*, 2018 SCC 19, [2018] 1 S.C.R. 587, at para. 18. Neither requirement is met.

[24] First, it was not reasonably foreseeable that advice given to Sabina about her will would expose the respondent to liability to a stranger to the estate who, relying on a different will and trust arrangement, asserted control over property beneficially owned by Sabina.

[25] Second, proximity is not established. The respondent never undertook to act for the appellant and owed undivided loyalty to her client Sabina.

[26] Courts have repeatedly refused to extend the narrow will-drafting duty to beneficiaries under prior wills or to persons asserting that the testator would have made different testamentary arrangements if given different advice: *Graham v. Bonnycastle*, 2004 ABCA 270, 243 D.L.R. (4th) 617, at paras. 17-19, 22-23, 26,

29, leave to appeal refused, [2004] S.C.C.A. No. 489; *Harrison v. Fallis*, 2006 CanLII 19457 (Ont. S.C.), at paras. 24-29; *Johnston Estate v. Johnston*, 2017 BCCA 59, 92 B.C.L.R. (5th) 223, at paras. 31-37.

[27] The motion judge, therefore, correctly concluded that no duty of care existed.

3. Fiduciary duty

[28] The appellant also alleges an *ad hoc* fiduciary relationship.

[29] Such a relationship requires an undertaking to act in the claimant's best interests and defined beneficiaries vulnerable to the fiduciary's discretionary power affecting their legal or substantial practical interests: *Alberta v. Elder Advocates of Alberta Society*, 2011 SCC 24, [2011] 2 S.C.R. 261, at paras. 30-36.

[30] None of those elements are present.

[31] The respondent acted solely for Sabina and owed her undivided loyalty. She neither undertook to act in the appellant's best interests nor exercised discretionary power over his legal or substantial practical interests.

[32] The fiduciary duty claim was, therefore, properly dismissed.

4. Causation and damages

[33] The appellant seeks damages arising from the prior litigation before Justice Sloan, including legal costs, emotional distress, and reputational harm.

[34] Those losses were not caused by the respondent.

[35] Justice Sloan determined that the 1992 trust remained valid, that Sabina was the beneficial owner of the properties, and that Monika's estate had no beneficial interest in them.

[36] The consequences that followed flowed from that judicial determination.

[37] Both negligence and breach of fiduciary duty require proof that the defendant caused the loss complained of before awarding compensation: *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27, [2008] 2 S.C.R. 114, at para. 3; *Stirrett v. Cheema*, 2020 ONCA 288, 150 O.R. (3d) 561, at para. 65, leave to appeal refused, [2020] S.C.C.A. No. 229.

[38] The motion judge, therefore, made no error in concluding that causation and damages were not established.

5. Limitation period

[39] The motion judge also concluded that the claim was statute-barred.

[40] Under s. 4 of the *Limitations Act, 2002*, a claim must be commenced within two years of discoverability.

[41] Discoverability occurs when the claimant knows or reasonably ought to know the material facts giving rise to the claim: *Espartel Investments Limited v. Metropolitan Toronto Condominium Corporation No. 993*, 2024 ONCA 18, 492

D.L.R. (4th) 659, at para. 14, citing *Grant Thornton LLP v. New Brunswick*, 2021 SCC 31, [2021] 2 S.C.R. 704, at para. 29.

[42] By March 24, 2017, Sabina's estate had demanded transfer of the properties. At that point, the appellant knew that the estate alleged that he had breached the trust and that litigation might follow.

[43] The appellant did not commence this action until August 2019.

[44] The motion judge rejected the appellant's submission that discoverability awaited Justice Sloan's ruling. He was entitled to conclude that the claim was discoverable by March 24, 2017, at the latest.

[45] The motion judge, therefore, properly concluded that the action was out of time.

Disposition

[46] The motion judge committed no reversible error.

[47] The appeal is dismissed.

[48] The respondent is entitled to her costs of the appeal, fixed in the amount of \$6,300, inclusive of HST and disbursements.

"M. Tulloch C.J.O."

"L. Sossin J.A."

"A. O'Marra J. (*ad hoc*)"