

# COURT OF APPEAL FOR ONTARIO

CITATION: OZ Optics Ltd. v. XL Insurance Company PLC, 2024 ONCA 95

DATE: 20240206

DOCKET: COA-23-CV-0575

Lauwers, van Rensburg and Thorburn JJ.A.

BETWEEN

OZ Optics Ltd. and Omur Sezerman

Plaintiffs (Appellants)

and

XL Insurance Company PLC, Emond Harnden LLP\*,  
Porter W. Heffernan\* and Sebastien Huard\*

Defendants (Respondents\*)

Michael Lesage, for the appellants

Michael Kestenberg, for the respondents

Heard and released orally: February 2, 2024

On appeal from the judgment of Justice Jessica Kimmel of the Superior Court of Justice, dated April 21, 2023, with reasons reported at 2023 ONSC 2439.

## REASONS FOR DECISION

[1] The appeal is dismissed for the careful and cogent reasons of the motion judge. The appellants have not persuaded us that the motion judge made any errors in law or principle, or any palpable and overriding errors of fact. We agree with her conclusion that the respondents, acting as counsel for both OZ Optics Ltd. and its insurance carrier, XL Insurance Company PLC, “were not in a conflict of

interest, and they avoided being in the position of serving two masters whose interests were not aligned by their timely withdrawal from their representation of the plaintiffs on October 3, 2017.”

[2] Costs are awarded to the respondents in the amount of \$17,500, all-inclusive, as agreed.

“P. Lauwers J.A.”  
“K. van Rensburg J.A.”  
“Thorburn J.A.”