

**CITATION:** GLYCOBIOSCIENCES INC. v. L'OREAL CANADA INC., 2024 ONSC 3745  
**COURT FILE NO.:** CV-24-00000040-0000  
**DATE:** 2024 06 28

**SUPERIOR COURT OF JUSTICE – ONTARIO**

10 Louisa Street, Orangeville ON L9W 3P9

**RE:** GLYCOBIOSCIENCES INC., Plaintiff

**AND:**

L'OREAL CANADA INC., and LENCZNER SLAUGHT LLP,  
Defendants

**BEFORE:** Justice H. McGee

**COUNSEL:** Kevin Drizen, Self-represented Plaintiffs –  
[kdrizen@glycobiosciences.com](mailto:kdrizen@glycobiosciences.com)

Christopher Rae, for the Defendant, L'Oreal Canada Inc. –  
[crae@fasken.com](mailto:crae@fasken.com)

Meghan Bridges, Dan Malone – for the Defendant, Lenczner Slaughter  
– [mbridges@litigate.com](mailto:mbridges@litigate.com), [dmalone@litigate.com](mailto:dmalone@litigate.com)

**HEARD:** May 21, 2024, by video conference  
Reasons released June 28, 2024

**ENDORSEMENT**

[1] Glycobiosciences Inc., (Glyco's) seeks judgement against L'Oreal Canada Inc. ("L'Oreal") and Lenczner Slaughter LLP on the same set of facts as was before the Federal Court, in court file # T-1732-22. Glyco was the plaintiff in the Federal Court proceeding, L'Oreal was the named defendant, and Lenczner Slaughter was the corporate counsel for L'Oreal.

[2] Kevin Drizen is a non-lawyer. He was denied leave to represent Glyco in the Federal Court proceeding. He subsequently issued this Application in the Ontario

Superior Court of Justice for the same relief, again seeking leave to represent Glyco as a non-lawyer representative.

[3] For the reasons set out below, I decline to grant leave.

## **Background**

[4] Kevin Drizen is a Director and the President of Glyco. He identifies himself as the company's sole officer and sole employee, responsible for the day to day running of the company. He has personally prepared all of the materials within this Application. He describes the issues to be determined within the Application as highly complex, with multiple, compounding factors.

[5] In contrast, the Defendants present an uncontested chronology of events which reveal the issues within this Application to be straightforward.

[6] In reasons dated November 8, 2022, Associate Judge Horne of the Federal Court denied leave for Mr. Drizen to represent Glyco in Federal Court matter # T-1732-22. The proceeding was ultimately resolved within a consent between Glyco and L'Oreal. Glyco, still represented by Mr. Drizen, sought additional relief against L'Oreal, which Mr. Drizen states was not covered in the consent.

[7] On March 30, 2023, Associate Judge Horne required Glyco to appoint a lawyer by April 19, 2023 if the corporation wished to pursue the additional relief. Glyco took no steps to appoint counsel, and on April 24, 2023 the Federal Court proceeding was accordingly dismissed for delay. None of Associate Judge Horne's Orders were appealed.

[8] Ten months later, this Application was issued by Glyco in the Ontario Superior Court of Justice. This Application seeks the same additional relief as was sought by Mr. Drizen in the Federal Court proceeding; that is, a request for an Order requiring L'Oreal to delete information filed in connection with the Federal Court leave motion which Mr. Drizen claims is "confidential."

## Legal Representation for Corporations

- [9] Rule 15.01(2) of the *Rules of Civil Procedure*, R.R.O 1990 requires that a corporation that is party to a proceeding in the Ontario Superior Court must be represented by a lawyer, unless leave is obtained to allow a non-lawyer to act on behalf of the corporation.
- [10] The moving corporation has the onus of satisfying the court that leave to be represented by a non-lawyer ought to be granted.
- [11] The court has historically looked at the following factors when determining whether leave should be granted:
- a. Whether the proposed representative has been duly authorized by the corporation to act as its legal representative;
  - b. Whether the proposed representative has a connection to the corporation;
  - c. The structure of the corporation in terms of shareholders, officers and directors and whether it is a closely held corporation;
  - d. Whether the interests of shareholders, officers, directors, employees, creditors and other potential stakeholders are adequately protected by the granting of leave;
  - e. Whether the proposed representative is reasonably capable of comprehending the issues in the litigation and advocating on behalf of the corporation; and
  - f. Whether the corporation is financially capable of retaining counsel, see *Ward v 1121720 Ontario Ltd o/a Haycare Investments Inc.*, 2015 ONSC 3873.
- [12] Ultimately, as set out at para 3 of *De La Rocha v. Markham Endoscopy Diagnostics Inc.*, 2010 ONSC 5100, the task of the court is to determine whether

it is in the interests of justice to grant leave for a non-lawyer to act for a corporation.

[13] Rule 15.01(2) clearly contemplates that corporations are to be represented by lawyers. As summarized by Regional Senior Justice Ellies in *Leblanc v. The Personal Insurance Co. et al.*, 2022 ONSC 5130 (“Leblanc”) at paragraph 5, “[r]epresentation by a lawyer is the rule, not the exception.”

[14] RSJ Ellies further sets out in *Leblanc* that it is not in the interests of justice to allow an individual who is closely connected to a corporation to avail himself of the protections and benefits afforded by incorporation, without also having to assume the burdens of doing so; including the obligation to be represented by a lawyer.

[15] In *Leisure Farm Construction Limited v. Dalew Farms Inc. et al.*, 2021 ONSC 105 RSJ Ellies had added a caution in paragraph 14 that:

Treating a closely held corporation as merely the alter ego of its shareholder or shareholders ignores the fact that, at the end of the day, the individual or individuals can cast off their alter ego and walk away from any judgment against the corporation free from personal liability.

[16] This cautionary approach was most recently confirmed in the recent decision of the Ontario Court of Appeal of *GlycoBioSciences Inc. (Glyco) v. Industria Farmaceutica Andromaco, S.A., de C.V. (Andromaco)* 2024 ONCA 481; another Application in which Mr. Drizen unsuccessfully sought leave to represent Glyco.<sup>1</sup>

[17] At para 7 of *GlycoBioSciences Inc. (Glyco) v. Industria*, Justice Huscroft explains that:

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<sup>1</sup> The *Industria* decision was released after the hearing in this matter, and as an appellate decision of a higher court, it is binding on this court.

The rationale for the rule requiring representation by a lawyer is plain. A non-lawyer who is closely tied to the corporation granted leave under R. 15.01(2) is akin to a self-represented party, but the separate legal personhood of the corporation means, in effect, that the non-lawyer is providing legal services to another person, contrary to s. 26.1(1) of the *Law Society Act*, R.S.O. 1990, c. L.8. Moreover, non-lawyers are not bound by the Rules of Professional Conduct, nor are they subject to the personal financial consequences associated with cost orders that self-represented litigants face: *Leisure Farm Construction Limited v. Dalew Farms Inc. et.al.*, 2021 ONSC 105 at paras. 12-15. Permitting a non-lawyer to act also risks creating an undue burden on the respondents and the court. These considerations must be balanced with any concerns that may arise about access to justice, as discussed below.

## Analysis

- [18] There is no question that Mr. Drizen has a connection to Glyco and that the corporation it is closely held. Neither is it disputed that Mr. Drizen has been duly authorized by the corporation to act as its legal representative, despite his acknowledgement that the corporation has the financial capacity to retain counsel. Mr. Drizen deposed in his examination that the corporation has the means to retain counsel, but prefers to save money.
- [19] That acknowledgment serves to remove access to justice as a consideration in this motion for non-lawyer representation. The desire to save the corporation legal fees is not a barrier to access to justice.
- [20] I apply the reasoning in *GlycoBioSciences Inc. (Glyco) v. Industria* that:
1. A non-lawyer's representative's history of previously acting for the corporation is not dispositive of whether he or she should be permitted to act as counsel in the matter on which leave is now sought, and

2. a corporation's authorization of an individual to represent it is a necessary condition for an Order under r. 15.01(2) but it is not, in and of itself, sufficient to the granting of the Order.
3. The non-lawyer's history of representation for the corporation is relevant to the granting of an Order.

[21] Mr. Drizen's history of representation for the corporation does not assist him in this motion for leave. For example, the Court of Appeal sets out in para 14 of *GlycoBioSciences Inc. (Glyco) v. Industria* :

...[Mr. Drizen's] recent application for judicial review to challenge a costs order was dismissed as an abuse of process: *GlycoBioSciences Inc. v. Herrero and Associates*, 2023 ONSC 4143. In recent litigation in this court, *GlycoBioSciences Inc. v. Herrero and Associates*, 2023 ONCA 331, substantial indemnity costs were ordered to be paid by the corporation, among other things because of Mr. Drizen's "reckless allegations" impugning the integrity of opposing counsel and the motion judge and "an improperly voluminous record". The respondents note that the corporation has not paid the outstanding costs – \$50,000 from the jurisdiction motion and \$26,000 from the appeal. For his part, Mr. Drizen acknowledges the costs have not been paid but says that is because counsel for Herrero has not sought to collect them. I do not know what the true situation is.

[22] In this Application, the Defendants assert that the issuance of this proceeding is "classic forum shopping and is an abuse of process."

[23] I find that Mr. Drizen has not met his burden of establishing that he should be permitted to represent the corporation pursuant to Rule 15.01(2). The motion is dismissed. Allowing Glyco to be represented by a non-lawyer in these circumstances is demonstrably not in the interests of justice. Mr. Drizen's efforts to circumvent Associate Judge Horne's Orders of November 8, 2022 and March 30, 2023 by issuing this Application for the same relief cannot be condoned.

## Costs

[24] The parties are to attempt to resolve costs. If they are unable to do so, I will hear brief submissions at 9:00 am on a date to be requested through my judicial assistant at [Samantha.Alves@ontario.ca](mailto:Samantha.Alves@ontario.ca). A Bill of Costs, and brief, three-page submissions must be served, filed and uploaded to Case Centre no later than three business days prior to the attendance.

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McGee, J.

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**-And-**

Christopher Rae, for the  
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Meghan Bridges, Dan Malone –  
for the Defendant, Lenczner  
Slaght –

**ENDORSEMENT**

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McGee J.

**Date:** June 28, 2024