

CITATION: Stajic v. Ward, 2026 ONSC 1707
COURT FILE NOs.: CV-21-00665194-00CP
DATE: 20260326

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: MARKO STAJIC, MORDECAI BOBROWSKY, and KYLE YAMAMURA,
Plaintiffs

– and –

WAYLAND GROUP CORP. and BENJAMIN ALLAN WARD, Defendants

BEFORE: Justice E.M. Morgan

COUNSEL: *Andrew Morganti*, for the Plaintiffs

Dana Peebles, for the Litigation Guardian to the Defendant, Wayland Group Corp.

HEARD: March 9, 2026

MOTION FOR LEAVE, CERTIFICATION, DEFAULT JUDGMENT

[1] The Defendant, Benjamin Allan Ward (“Ward”), is in default in the action.

[2] Ward has not pleaded in defense and has not appeared at this motion. This is despite Plaintiffs’ counsel having made great efforts to serve him or to bring the matter to his attention at his every known personal and business address as well as through his previous lawyers, his business associates, his known banks, and even his father and his spouse.

[3] I have little doubt that Ward has received notice of the claim and of the various motions that have taken place, including a Mareva injunction issued against him: *Stajic v. Wayland Group and Ward*, 2025 ONSC 6233. That injunction, which was subsequently extended and is still in force, was supported by ample evidence that he is moving his assets around the world and appears to be doing business in Switzerland and, possibly, other countries in Europe and, apparently, the Caribbean: *Ibid.*, at para. 7; *Stajic v. Wayland Group and Ward*, 2025 ONSC 6393.

[4] As pleaded by the Plaintiffs in the Third Fresh as Amended Statement of Claim, the claim is a proposed investors’ class action by investors in the Defendant, Wayland Group Corp. (“Wayland”), a cannabis company, of which Ward was at all material times the CEO. The Plaintiffs move for leave to proceed against Ward under s. 138.3 of the Ontario *Securities Act* (“OSA”),

certification of the action as against Ward under s. 5(1) of the *Class Proceedings Act, 1992* (“CPA”), and default judgment against Ward for damages of just over \$53,000,000.

[5] The action as against Wayland, together with the claims put forward in two companion actions – *Stajic v. Langille* [CV-22-00687490-00CP] and *Bordeleau-Tassile v. Canaccord Genuity Corp.* [CV-23-00693650-00CP] – was granted leave and certified in a previous motion: *Stajic v. Wayland*, 2026 ONSC 647 (“*Wayland Certification*”). Counsel for the litigation guardian for Wayland, who was appointed to that role as part of separate insolvency proceedings against Wayland, attended at the present motion but Wayland takes no position with respect to the relief claimed here.

[6] The basic facts of the case against Ward have been described in the Wayland Certification decision as well as in the two Mareva injunction decisions that the Plaintiffs have obtained against Ward: *Stajic v Wayland Group and Ward*, 2025 ONSC 6233; *Stajic v Wayland Group and Ward*, 2025 ONSC 6393. I will recap them only briefly here.

[7] The Plaintiffs’ claim arises out of misrepresentations made by Wayland in public filings and statements made during Ward’s tenure as CEO and which were authorized by Ward. These public statements misrepresented material facts relating to Wayland’s business, including its capital structure, finances, operations, and, in particular, the progress it was making in the much anticipated build-out of its cannabis production facility in Langton, Ontario. The material aspects of the misrepresentations for which Ward was responsible as CEO are set out in the Plaintiffs’ pleading and described in *Wayland Certification*, at paras. 6-7:

[6] The three actions arise from essentially the same material facts alleging that Wayland (formerly known as Maricann Group Corp.) released core and non-core documents between December 13, 2017 and August 2, 2019, relating to its business operations and its Langton, Ontario cannabis facility. Those documents stated that the facility was being expanded and was on-schedule, on-budget, fully funded, and would commence generating revenues during the Class Period. The Plaintiffs allege that those material facts were not true.

[7] As described in the Plaintiffs’ Notice of Motion, the alleged misrepresentations were publicly corrected in increments:

(a) On October 1, 2018, Wayland disclosed that it was raising additional capital and allocating \$15 million towards the Langton Facility Expansion’s 1st phase when it had previously represented that it was fully-funded and pushed the completion date from 2018 to 2019;

(b) On April 23, 2019, when Wayland issued a statement that it would be forced to delay the release of its annual 2018 financial statements and MD&A; and

(c) On August 2, 2019, when Wayland released a statement announcing that MNP LLP (“MNP”) was resigning as auditor, as a result of an unresolved issue relating to the conduct of Ward. Wayland also announced that Ward has resigned as CEO and director of Wayland. Wayland’s securities became worthless and were delisted.

[8] The Plaintiffs have pleaded a number of causes of action against Ward: (a) common law negligent misrepresentations relating to primary market of Wayland’s impugned securities offerings; (b) common law negligent misrepresentations relating to secondary markets of Wayland’s securities; (c) liability under Part XXIII of the *OSA*, relating to Wayland’s impugned securities offerings in the primary market; and (d) Part XXIII.1, s. 138.3 of the *OSA* relating to the value of Wayland’s securities in the secondary market.

[9] Each of these causes of action concern the same misrepresentations released in the public documents that were certified by Ward as not having misrepresentations. The misrepresentations attributed to Ward in the Plaintiffs’ pleading are summarized by Plaintiffs’ counsel as follows:

(a) That Phase One [of construction on the Langton Facility] was not fully-funded even with the recent capital-raise, would not be completed before the close of 2Q 2019, and Wayland would not be generating revenues from the anticipated-additional cannabis production;

(b) That Phases Two and Three were so far off target that Wayland simply omitted all disclosures about them (e.g., when Wayland filed its application in the CCAA Proceeding, it was only 65% completed with Phase One and did not even refer to Phases Two or Three) – moreover, and critically important, even the CEO of Cryptologic submitted evidence into Wayland’s CCAA Proceeding that it was misled by Wayland because its directors and officers were negligently unaware of Wayland’s assets;

(c) The acquisition of Colmed for \$22M (11 million shares at \$2.00 per share) provided Wayland with very little assets and negligently stated that Wayland (opposed to Ward himself) believed that Wayland would cultivate THC cannabis outdoors and year-round of up to 415,000 sq. ft. of processing and clone/greenhouse facilities (Wayland’s Board of Directors questioned the logic because “There is no reference to historical financial statements... business has not started yet and therefore no tax declarations... is the company already active or is it still a shelf...”); and

(d) Wayland’s management had negligently failed to recognize that MNP LLP had raised objections to various aspects of Wayland’s accounting/financial

practices that would result in Wayland not being able to close its 4Q and F/2018 financial statements.

[10] The consistent misrepresentation pleaded against Ward is that Wayland's Langton Facility was never as close to being as completed as represented within the statements certified as true by Ward; indeed, that the Langton Facility was never fully funded. These misstatements greatly impacted the value of Wayland's shares. Their public correction, and the disclosure to the market of the true state of facts that Wayland's public statements, as authorized by Ward, had obscured, resulted in the insolvency of Wayland and the loss of the public investors' entire investment value.

[11] The facts pleaded against Ward do not need to be further proven in the context of this motion. Under Rule 19.02(1)(a) of the *Rules of Civil Procedure*, a defendant who has been noted in default is deemed to admit the truth of all allegations of fact made in the pleading against him – in this case, the Third Fresh As Amended Statement of Claim. As Justice Perell noted in *Topacio v. Batac*, 2011 ONSC 1008, at para. 14, “[T]he Principal Perpetrators have not defended...and have been noted in default. These defendants, thus, cannot oppose certification, and indeed, based on the admitted allegations in...[the] amended statement of claim, the court is in a position to grant judgment immediately against these defendants.

[12] In any case, the motion record contains uncontroverted affidavit and documentary evidence supporting all of the above allegations.

[13] Turning to the certification issues, the Plaintiff's pleading discloses causes of action against Ward for common law and statutory misrepresentations as they relate to Wayland's issuance of shares and the trading of its shares in the secondary market. As explained by Divisional Court in *LBP Holdings Ltd v. Hycroft Mining Corp*, 2020 ONSC 59, at para. 20 and as summarized by Plaintiffs' counsel, the constituent elements of negligent misrepresentation for both primary market and secondary market investment claims are:

- (a) duty of care based on a special relationship between the plaintiff and the defendant;
- (b) an untrue, inaccurate, or misleading representation;
- (c) the defendant making the representation negligently;
- (d) the plaintiff having reasonably relied on the misrepresentation; and,
- (e) the plaintiff suffering damages as a consequence of relying on the misrepresentation.

[14] The constituent elements of Part XXIII of the *OSA* are:

- (a) a prospectus or offering memorandum contains a misrepresentation;

- (b) a plaintiff who has purchased a security offered by the prospectus or offering memorandum during the period of distribution;
- (c) a defendant who is a specifically designated party against whom the plaintiff has a right of action for damages, including the issuer or selling security holder and every director of the issuer.

[15] The constituent elements of Part XXIII.1 of the *OSA* are:

- (a) a responsible issuer or person with actual, implied or apparent authority to act on behalf of said responsible issuer releases a document that contains a misrepresentation;
- (b) a purchaser of the responsible issuer's security during the period between the time when the document was released and the time when the misrepresentation contained in the document was publicly corrected;
- (c) has a right of action for damages against specifically designed parties, including the responsible issuer and every director of the issuer.

[16] The material facts pleaded in the Third Fresh As Amended Statement of Claim match these elements of statutory and common law misrepresentation. The pleading clearly meets the criteria necessary to pass the cause of action requirement in section 5(1)(a) of the *CPA*.

[17] The Plaintiffs propose the following class definition:

'Class' and 'Class Members' means all persons, other than Excluded Persons, who acquired Wayland's common shares, and other securities sold by Wayland to purchase common shares, during the Class Period and who held some or all of those common shares until after the release of at least one of the Public Corrective Disclosures;

'Excluded Persons' means (i) Wayland's executives, and their family members and any entities that owned a financial interest in which made investments in Wayland; (ii) Benjamin Ward, his family members and business associates, and any entity that he or family member owned which had a financial interest in Wayland; (iii) Yoel Altman, Jeffrey Ayott, Roger Daher, David Danzinger, Andre DeFrancesco, John Esteireiro, John Fitzgerald, Errol Gordon, Peter Kirby, Paul Leggett, Craig Bridgman and their business and family investment companies; (iv) all the entities identified within Wayland's news release dated January 31, 2019; (v) any person that received Wayland's securities from the acquisitions of Colma Pharmaceutical SAS, Haxxon AG, Nanoleaf Technologies Inc., Proimaging AG, and Theros

Pharma Ltd; and (vi) Alpha Blue Ocean, Inc., DEMECAN Holdings GmbH, European High Growth Opportunities Securitization Fund, Grandhill Capital Inc., INEG Holdings UG, and their related companies and investments;

‘Class Period’ means the opening of December 13, 2017 through the close of trading on August 2, 2019; and

‘Public Corrective Disclosures’ means Wayland’s documents released on April 23, May 6, and August 2, 2019.

[18] The Class definition is well thought-out and the Class members are knowable and relatively easily ascertained. The definition satisfies the requirement that there be a definable class under section 5(1)(b) of the *CPA*.

[19] The Plaintiffs propose the following common issue:

Did Ward make, or authorize the making of, any misrepresentations or fail to disclose a material change or material fact concerning Wayland, its operations and/or financial status, including in connection with its production facility located in Langton, Ontario, during the period of December 13, 2017 to August 2, 2019?

[20] The phrasing of the issue is modeled on that approved by Justice Perell in *Labourers’ Pension Fund of Central and Eastern Canada v. Sino-Forest Corporation*, 2017 ONSC 5026, at para. 16. Plaintiffs’ pleading contains material facts to support this common issue question. The question is common for the entire class and will advance the claim with respect to Ward. It satisfies the requirement under section 5(1)(c) of the *CPA* that there be a common issue.

[21] The only available alternative to a class action would be individual actions by each class member. Given that the common issue will resolve a major set of issues across the entire class, individual actions are not preferable in terms of access to justice or judicial economy. Furthermore, as stated in *Wayland Certification*, at para. 14, “This is an investors’ action encompassing the claims of many small to medium size investors, many of whom will not have a sufficiently large claim to justify the expense of bringing an individual action. A class action is the preferable procedure in this scenario.”

[22] Moreover, Plaintiffs’ counsel point out that just as issues of the individual damages of each member of the class will be analyzed and resolved in a claims administration process, the reliance of each class member on the impugned statements – an ingredient in a common law misrepresentation claim – can likewise be resolved in the post-judgment claims administration process. As Justice Strathy stated in *Brown v. Canadian Imperial Bank of Commerce*, 2012 ONSC 2377, at para. 195, and as approved by Divisional Court in *Fantl v. Transamerica Life Canada*, 2015 ONSC 1367, at para. 45:

I do not regard the potential need for individual assessments as detracting from the preferability of a class action. Not only is this factor specifically excluded from consideration by s.6(1) of the *CPA* but practical experience has shown that systems can be devised for the fair and efficient resolution of such issues.

[23] Accordingly, this class action meets the requirement under section 5(1)(d) of the *CPA* that it be the preferable procedure.

[24] The current Plaintiffs are the same individuals who were recognized as appropriate representative Plaintiffs in the previous motions. As indicated in *Wayland Certification*, at para. 15, “Each of the representative Plaintiffs appears to have a viable claim against the Defendants, and none appear to have any conflict with the Class. I am advised that the representative Plaintiffs are all capable of instructing counsel on behalf of the Class.”

[25] In my view, the Plaintiffs clearly satisfy the requirement that there be suitable representative Plaintiffs under section 5(1)(e) of the *CPA*.

[26] The criteria for certification are therefore satisfied. In addition, the same features of the claim that apply to the certification analysis – the same material facts pleaded and evidenced in the record – also demonstrate that there is a reasonable possibility that the Plaintiff will succeed at trial in its claim under section 138.3 of the *OSA*. The grounds for obtaining leave to proceed under the *OSA* are therefore also satisfied.

[27] Turning to the motion for default judgment, the court must be satisfied as to the following inquiries: (a) What deemed admissions of fact flow from the facts set out in the Plaintiffs’ pleading? (b) Do those deemed admissions of fact entitle the Plaintiffs, as a matter of law, to judgment on the claim? and (c) If they do not, have the Plaintiffs adduced admissible evidence which, when combined with the deemed admissions, entitles it to judgment on the pleaded claim?: *Elekta Ltd. v. Rodkin*, 2012 ONSC 2062, at para. 14.

[28] In making their case for judgment, the Plaintiffs state that they have satisfied the evidentiary burden in establishing the constituent elements for liability under each cause of action and for damages for the class as a whole. They rely on the uncontested allegations in the Third Fresh As Amended Statement of Claim and in the uncontested affidavit evidence of Daniel Pallag (setting out the history of Ward’s involvement with Wayland and the misrepresentations and public corrections authorized by him as CEO), Gregg Edwards (providing expert economic evidence on the losses incurred by the class as a result of the misrepresentations) and Marko Stajic (describing the investment and losses from a plaintiff/class member’s perspective).

[29] In their pleading and their evidentiary record, the Plaintiffs have established that all of the constituent elements for their causes of action against Ward are well grounded in fact and law as they relate to the offering of Wayland’s securities on January 9, August 10, and October 31, 2018, and the trading of Wayland’s securities in the secondary market between December 13, 2017 through August 2, 2019. The sworn evidence of Gregg Edwards of CE Financial Economics, Inc.,

a well-recognized expert in market efficiency, loss causation, and class-wide damages whose evidence has been accepted in several dozen securities class actions in the U.S., Australia, and Canada, provides solid evidentiary grounding for the Plaintiffs' damages claim on behalf of the class.

[30] As a direct and foreseeable result of Ward's breaches of duty and the misrepresentations he authorized Wayland to publicize, the Plaintiffs and the class members that held Wayland's securities past April 23, May 6, and August 2, 2019, suffered considerable economic injury. Mr. Edwards has provided a reasonable and conservative calculation of primary and secondary market class-wide damages.

[31] Any calculation of damages must begin by taking note of ss. 130(9) and 130.1(6) of the *OSA*, which provide that damages are not to exceed the price at which the securities were offered to the public. Coupled with that is s. 138.6 of the *OSA*, which provides that the court shall determine, in respect to each defendant found liable in the action, the defendant's responsibility for the damages assessed in favour of all plaintiffs, and that a defendant is responsible for payment of that portion only.

[32] Plaintiffs' counsel recall that in *Sino-Forest, supra*, at para. 24, Justice Perell held that pursuant to section 137.7(2) of the *OSA*, "these liability limits do not apply if the individual Defendant authorized, permitted or acquiesced in making the misrepresentation while knowing that it was a misrepresentation." As in *Sino-Forest*, the Plaintiffs have pleaded, and it is deemed to be true, that the individual Defendant – i.e. Ward – knew that the impugned documents issued by Wayland contained material misrepresentations. Accordingly, there is no statutory limit to his liability.

[33] In his third Report, dated March 2, 2026, applying customary multi-sector, multi-trader models, Mr. Edwards provided two conclusions as to the quantification of class-wide damages: (a) the total primary and secondary market damages was \$122,393,924; and (b) applying a conservative analysis based on Wayland's Non-Objecting Beneficial Owner ("NOBO") lists that were produced to the Plaintiffs, the primary and secondary market damages for those shares comes to \$1.21 per qualified damaged share, or \$53,616,189 in the aggregate.

[34] As Plaintiffs' counsel explained in a post-hearing response to my query, this damages calculation represents 47% of the overall losses caused by Ward. Counsel has also explained that the amount calculated by Mr. Edwards sufficiently discounts the overall loss to the class members that it can be taken to already factor in the recent \$8 settlement with the other directors and officers of Wayland: see *Stajic v. Wayland Group Corp.*, 2026 ONSC 1680. There is no need to further discount the amount of damages.

[35] Mr. Edwards' evidence is uncontroverted and credible. Ward's conduct in authorizing the misrepresented public statements was wilful and, therefore, the damages caused by that conduct are not subject to any ceiling. The class is entitled to damages as Mr. Edwards has presented and calculated them.

Disposition

[36] The Plaintiffs shall have Orders against Ward granting leave under the *OSC* and certification under the *CPA*. They shall also have judgment against Ward in the amount of \$53,616,189.00.

[37] Plaintiffs' counsel should send draft Orders/Judgment to my assistant in Word format.

Costs

[38] Plaintiffs' counsel has submitted a Costs Outline in which they seek \$200,000 in costs, inclusive of all fees, disbursements, and HST.

[39] Considering the substantial amount of work that has gone into this case, which is now coming to an end, that is a reasonable amount. I do not doubt that the hours invested by counsel are well in excess of the amount sought.

[40] Ward shall pay the Plaintiffs costs in the all-inclusive amount of \$200,000.

Date: March 26, 2026

Morgan J.