

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Case Title:	Geha Enterprises Pty Ltd v Deuteronomy 28 Investments Pty Ltd and Registrar General of the ACT
Citation:	[2026] ACTSC 103
Hearing Date:	17 April 2026
Decision Date:	21 April 2026
Before:	Muller J
Decision:	(1) the application of the first defendant headed “interlocutory process” dated 23 March 2026 is dismissed. (2) the first defendant is to pay the plaintiffs costs of and incidental to the application.
Catchwords:	CIVIL LAW – PRACTICE AND PROCEDURE – Application for leave representation by an officer or employee of the corporation – where officer holds legal qualifications – use of generative AI in submissions – leave refused
Legislation Cited:	<i>Corporations Law</i> (repealed), s 1335 <i>Court Procedures Rules 2006</i> (ACT), r 30(4)
Cases Cited:	<i>Ariss and Another v Express Interiors Pty Ltd (In liquidation)</i> [1996] 2 VR 507 <i>Damjanovic v Maley</i> [2002] NSWCA 230; 55 NSWLR 149 <i>Hubbard Association of Scientologists International v Anderson and Just</i> [1972] VR 340 <i>O’Toole v Scott</i> [1965] AC 939; 2 ALL ER 240
Parties:	Geha Enterprises Pty Ltd formerly named Investment Group Australia Pty Ltd (Plaintiff) Deuteronomy 28 Investments Pty Ltd (First Defendant) Registrar-General of the ACT (Second Defendant)
Representation:	Counsel A. Schofield (Plaintiff) D. Mikhael / Self-Represented (Applicant) Solicitors O’Connor Harris & Co Pty Ltd (Plaintiff)
File Number:	SC 322 of 2025

MULLER J:

1. Geha Enterprises Pty Ltd (“Geha”) entered into a loan agreement with Deuteronomy 28 Investments Pty Ltd (“Deuteronomy 28”) in June 2023. The loan was originally repayable by 16 August 2023, but the repayment date was extended. It was a term of the agreement that Deuteronomy 28 provide security for the loan in the form of a charge over various properties held by them. Another agreement was entered into by the parties on 29 October 2024. The second agreement was a deed of forbearance, and, under the deed, Deuteronomy 28 acknowledged a debt of not less than \$2,100,000 and also acknowledged the charge over the various security properties. Deuteronomy 28 has repaid some, but not all, of the debt. Geha sought and obtained orders in this Court extending the caveat over six different properties owned by Deuteronomy 28 until further order of the court. That order was made on 29 August 2025, and the caveats remain in place as there has been no relevant further order.
2. At various interlocutory hearings, David Mikhael, the sole director and shareholder of Deuteronomy 28, has been given leave to appear on behalf of Deuteronomy 28 without legal representation. Rule 30(4) of the *Court Procedures Rules 2006* (ACT) prevents a company from carrying on a proceeding in the Supreme Court without a solicitor, unless the company has leave of the court to do so. Mr Mikhael has filed an application seeking that leave.

What are the grounds relied on for seeking leave?

3. Mr Mikhael reads two affidavits in support of his application, and he also relies on written and oral submissions. He accepts it is usual for a company to be represented by a solicitor in court proceedings, but he relies upon the following in support of his application for leave:
 - (a) Mr Mikhael is himself a legal practitioner admitted in the ACT Supreme Court on 9 December 2011. He holds the academic qualifications of Juris Doctor, Graduate Diploma in Legal Practice and Master of Commercial Law. He held a restricted practising certificate until 30 June 2012. He did not renew the certificate as his employer at the time, and subsequently, did not require him to hold one. He attests to having previously completed the academic and practical requirements to qualify as an accountant.
 - (b) Deuteronomy 28 does not trade. It acts only as a corporate trustee of an investment trust. Mr Mikhael and his two children are the beneficiaries of the trust.
 - (c) Mr Mikhael is the sole director and shareholder of Deuteronomy 28.

- (d) The properties over which caveats are currently in place are properties held by the trust.
 - (e) Deuteronomy 28 previously engaged lawyers for proceedings in the ACT and New South Wales. The combined legal costs to date are approximately \$30,000 with no substantive progress in the proceedings.
 - (f) As a consequence of the caveats the company is unable to refinance, sell or otherwise deal with the trust properties.
 - (g) Mr Mikhael says he and the company is unable to afford to retain legal counsel to go on the record in the proceedings.
 - (h) Deuteronomy 28 continues to rely upon lawyers based in Melbourne who advise on a retainer basis. Mr Mikhael offers the background involvement of the lawyer as a further safeguard in support of the granting of leave.
 - (i) Mr Mikhael refers to previously suffering health difficulties, but with the benefit of professional support, he says they do not impede his capacity to conduct these proceedings on behalf of the company.
 - (j) He relies upon his status as a lawyer, his intimate knowledge of the company and its activities, and his incapacity to pay, as the primary bases for the granting of leave.
4. In written submissions filed by Mr Mikhael he relies on a number of legal authorities. They are:
- (a) *Ariss and Another v Express Interiors Pty Ltd (In liquidation)* [1996] 2 VR 507;
 - (b) *Re Unique Building Services Pty Ltd* [2012] ACTSC 104;
 - (c) *Checked Nominees Pty Ltd v ANZ Banking Group Ltd* [1986] 4 ACLC 196.
5. The first case is real, but, it concerns a decision of the Court of Appeal in Victoria about the exercise of discretion to award security for costs under s 1335 of the *Corporations Law* (repealed). It has no relevance whatsoever to this application. The second and third cases do not exist. They are a figment of the imagination of whichever generative artificial intelligence software was used by Mr Mikhael in this instance (he concedes such software was used).

What are the factors to be considered?

6. Rule 30(4) of the *Court Procedures Rules 2006* (ACT) confers a discretion. The rule itself imposes no constraints on the exercise of discretion. In considering an application by an

individual without legal qualification to represent a corporation, the Court of Appeal in Victoria considered the circumstances in which leave may be granted in *Hubbard Association of Scientologists International v Anderson and Just* [1972] VR 340. At page 342, the Court quoted with approval the passage from the Judgment of the Privy Council in *O'Toole v Scott* [1965] AC 939; 2 ALL ER 240 commencing at page 959 of that decision:

There is no reason in principle for limiting the discretion as suggested. It can be exercised either on general grounds common to many cases or on special grounds arising in a particular case. Its exercise should not be confined to cases where there is a strict necessity; it should be regarded as proper for a magistrate to exercise the discretion in order to secure or promote convenience and expedition and efficiency in the administration of justice.

7. In *Damjanovic v Maley* [2002] NSWCA 230; 55 NSWLR 149, the New South Wales Court of Appeal was considering an application by a plaintiff's psychologist to act as his advocate in proceedings. Although the circumstances were quite different, the Court reviewed a long line of authority regarding the exercise of discretion in permitting representation by persons who are not legal practitioners. The Court then set out a list of relevant principles drawn from those authorities commencing at [69]. They may be summarised as:

- (a) whether the case is complex – with complexity mitigating against the grant of leave;
- (b) the genuine difficulties experienced by the party seeking leave such as language barriers or emergency situations;
- (c) the absence of a duty to the Court owed by the advocate and the unavailability of disciplinary measures – mitigating against the grant of leave;
- (d) protecting the client sought to be represented, from risk – being the risk of poor representation and the risk flowing from the absence of any duty owed to the client;
- (e) an inferior Court or Tribunal may more readily grant such leave, but a higher Court should exercise real caution; and
- (f) overriding interests of justice considerations.

Should leave be granted in this case?

8. Accepting the exercise of the discretion to permit representation of a corporation by an officer of that corporation is to be exercised cautiously, particularly in the case of a superior Court, I was initially swayed by Mr Mikhael's submissions. He holds legal qualifications and he is clearly the "eyes and ears" of the corporate entity. It is likely he has an intimate knowledge of the factual matters underpinning the dispute between the

parties. However, after reflecting on the evidence before me, as a whole, I am not satisfied this is an appropriate matter in which to grant leave. To do so would not, in this case, “secure or promote convenience and expedition and efficiency in the administration of justice.” I have reached that view because:

- (a) the case is attended with some complexity, involving the interpretation and application of a loan agreement and deed of forbearance and the analysis of the extent, if any, to which the agreement may have been varied by conduct.
 - (b) Mr Mikhael, although submitting from the bar table there are financial constraints preventing legal representation, elected to place no evidence before me to support his submission. I am left with the knowledge the company was at least at one point in a position to secure a line of finance in excess of \$2 million, and presently holds at least six different land holdings on trust for the benefit of the Mikhael family. There is no evidence the company, or Mr Mikhael, is impecunious.
 - (c) although Mr Mikhael has legal qualifications, his use of generative artificial intelligence to assist in the production of written submissions, including reliance upon legal authority that simply does not exist, weighs against accepting his legal qualifications place him at a level above any other lay person seeking to represent a corporation. That reliance also highlights the difficulty presented by his lack of a practising certificate. Were he a practitioner holding such a certificate his reliance upon false authority may have constituted a disciplinary matter.
9. For the reasons given above I do not consider it in the interests of justice to permit Mr Mikhael to represent Deuteronomy 28 in these proceedings.

Orders

10. I make the following orders:
- (1) the application of the first defendant headed “interlocutory process” dated 23 March 2026 is dismissed.
 - (2) the first defendant is to pay the plaintiffs costs of and incidental to the application.

I certify that the preceding ten [10] numbered paragraphs are a true copy of the Reasons for Judgment of his Honour Justice Muller.

Associate: MG Malouf

Date: 21 April 2026

