

Docket: 2025-207(IT)G

BETWEEN:

NEONITA TANAFRANCA,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Motion decided on the basis of written representations, without an oral hearing.

Before: The Honourable Justice Michael U. Ezri

For the Appellant: Joel Shuster (agent)

Counsel for the Respondent: Zahra Onokevbagbe

ORDER

[1] The appellant's motion to be represented by her accountant is dismissed without costs.

Signed this 10th day of November 2025.

“Michael Ezri”

Ezri J.

Citation: 2025TCC169
Date: 20251110
Docket: 2025-207(IT)G

BETWEEN:

NEONITA TANAFRANCA,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR ORDER

[1] Sometimes judges make mistakes. I made one in an Order that I issued on July 17, 2025. As a result, the appellant now asks for relief that this Court has no power to grant. While I regret the error, I cannot correct one mistake with another.

[2] This appeal filed under this Court's General Procedure relates to an assessment of an allegedly unreported capital gain of some \$300,000 along with the imposition of gross negligence penalties. Given the high amount in dispute along with the penalties, it appears appropriate that this case is proceeding under this Court's General Procedure.

[3] The Order that I issued on July 17, noted that the appellant was being represented by an accountant in a case that has been filed under this Court's General procedure. It went on to order that the appellant had to either hire a lawyer or move to be represented by a non-lawyer.

[4] The appellant then moved to be represented by her accountant.

[5] Unfortunately, the *Tax Court of Canada Act* (TCCA) which sets out the framework under which this Court operates, does not permit the appellant to be represented by a person who is not a lawyer for appeals that proceed under this Court's General Procedure. The TCCA was recently amended to permit corporations and partnerships to be represented by someone other than a lawyer, but only under special circumstances. I find it useful to reproduce the old and new versions of section 17.1 of the TCCA side by side:

Pre June 20, 2024 version of s. 17.1	June 20, 2024 and post version of s. 17.1
<p>17.1 (1) <u>A party</u> to a proceeding in respect of which this section applies may appear in person or be represented by counsel, but where <u>the party</u> wishes to be represented by counsel, only a person who is referred to in subsection (2) shall represent <u>the party</u>.</p> <p>(2) Every person who may practise as a barrister, advocate, attorney or solicitor in any of the provinces may so practise in the Court and is an officer of the Court.</p>	<p>17.1 (1) <u>An individual</u> who is a party to a proceeding in respect of which this section applies may appear in person or be represented by counsel, but if <u>the individual</u> wishes to be represented by counsel, only a person who is referred to in subsection (2) shall represent <u>the individual</u>.</p> <p>(1.1) If a party to a proceeding in respect of which this section applies is not an individual, that party shall be represented by a person who is referred to in subsection (2) unless the Court under <u>special circumstances grants leave to the party to be represented by a director, officer, employee, member or partner of the party</u>.</p> <p>(2) Every person who may practise as a barrister, advocate, attorney or solicitor in any of the provinces may so practise in the Court and is an officer of the Court.</p>

[6] As can be seen above, the old legislation required all parties to either appear in person or to be represented by counsel. There were no exceptions.

[7] However, some taxpayers like corporations and partnerships can never “appear in person” because they are legal creations, and not physical individuals. As a result, such entities had no choice under the old legislation but to retain a lawyer to act for them¹. The new legislation addresses that issue by allowing corporations to be represented by their directors, officers or employees or by partners of a partnership.

[8] However, that new exception is narrow. In particular:

¹ *BCS Group Business Services Inc. v R*, 2020 FCA 205, para 64.

- a) Leave is not routinely granted. Special circumstances must exist to justify having a non-lawyer act, with those the granting of leave being described in the jurisprudence as “exceptional”²; and
- b) The provision does not extend to accountants or any other class of professional acting as representatives.

[9] I take the amendments to s. 17.1 of the TCCA as a strong indicator that Parliament has carefully considered the extent to which it is prepared to permit non-lawyers to act in this Court. It has chosen not to extend the exception in new subsection 17.1(1.1) to individuals who seek to be represented by non-lawyers for cases conducted under the General Procedure of this Court. I am bound by Parliament’s choice in this matter.

[10] Section 17.1 of the TCCA can be contrasted with section 18.14 of the TCCA which permits non-lawyers to represent appellants in appeals that proceed under the Informal Procedure of this Court:

18.14 All parties to an appeal referred to in section 18 may appear in person or may be represented by counsel or an agent.

[11] I do note that this Court also has rules of procedure for the General Procedure, but they do not offer any relief to the appellant. Rule 30(1) and (2) also require individuals to either act in person or be represented by lawyers:

30 (1) Subject to subsection (3), a party to a proceeding who is an individual may act in person or be represented by counsel.

(2) Where a party to a proceeding is not an individual, that party shall be represented by counsel except with leave of the Court and on any conditions that it may determine.

[12] I therefore cannot grant the motion to permit the appellant to be represented by her accountant, notwithstanding that my previous order may have invited that request.

[13] Finally, I note that the appellant’s written representations explain, among other things, that the accountant is familiar with the facts and circumstances and has invested considerable effort to prepare for the matter. It may well be the case that the accountant can tell the court about the facts and circumstances as a witness

² 684761 v R, 2025 TCC 45, para.15.

to the case without having to be the agent for the appellant. This is a matter to be dealt with by the judge at trial.

Signed this 10th day of November 2025.

“Michael Ezri”

Ezri J.

CITATION: 2025TCC169
COURT FILE NO.: 2025-207(IT)G
STYLE OF CAUSE: NEONITA TANAFRANCA AND HIS MAJESTY THE KING
PLACE OF HEARING: Written representations
DATE OF HEARING: N/A
REASONS FOR ORDER BY: The Honourable Justice Michael U. Ezri
DATE OF ORDER: November 10th, 2025

APPEARANCES: N/A

For the Appellant: The Appellant herself
Counsel for the Respondent: Zahra Onokevbagbe

COUNSEL OF RECORD: N/A

For the Appellant:

Name: N/A

Firm: N/A

For the Respondent: Shalene Curtis-Micallef
Deputy Attorney General of Canada
Ottawa, Canada