

# Supreme Court Turns Down Leave to Appeal Case Important to Loan Co-Guarantors

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The Supreme Court of Canada has declined to hear an appeal of an Ontario decision that left one of two parties who guaranteed a loan stuck for the entire obligation.

In doing so, the Supreme Court has let stand trial court and appeal court decisions that concluded if you guarantee a loan in partnership with somebody else and then, unilaterally, choose to pay it off in absence of a demand by the lender to do so, your co-guarantor will not be ordered to reimburse you for its share unless particular circumstances pertain.

It has also let stand the Ontario Court of Appeal's position that, unless a situation is dire, co-guarantors must work with each other to meet their obligations in a mutually satisfactory way.

All of this flows from the Supreme Court's recent dismissal of an application by Can-Win Leasing (Toronto) Limited for leave to appeal *Can-Win Leasing (Toronto) Limited vs. Rafael Moncayo*.

No reasons were given for the dismissal.

For a discussion of the Court of Appeal decision, please see "*Law of Guaranty: Can-Win Leasing, Contribution and the Rights Between Co-Sureties*" published in the December 2014 issue of Blaneys on Business at <http://www.blaney.com/articles/law-guaranty-can-win-leasing-contribution-and-rights-between-co-sureties>.