

**CITATION:** Teixeira v. Breau, 2025 ONSC 4550  
**COURT FILE NO.:** CV-23-93467  
**DATE:** 2025/08/06

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** Jose P. Teixeira in his capacity as Trustee of Teixeira Family Trust (2029),  
Plaintiff

**AND**

Herb Breau and Newbec Capital Inc., Defendants

**BEFORE:** The Honourable Justice C.T. Hackland

**COUNSEL:** Brian K. Awad, counsel for the Plaintiff

J.F. Lalonde and Andrew Donaldson, counsel for the Defendants

**HEARD:** June 20, 2025 (Ottawa)

**REASONS FOR DECISION (SUMMARY JUDGEMENT MOTION)**

**Hackland J.**

[1] The plaintiff seeks an order granting summary judgement on a promissory note in the sum of \$1,650,000. This promissory note was provided to the plaintiff by a company controlled by the defendants and guaranteed by the individual defendant, Mr. Breau. This promissory note was provided in consideration for a cash advance the plaintiff made to the defendants, which was directed to the defendants' lawyer in trust.

[2] The evidence establishes the purpose of the plaintiff advancing this amount to the defendant, or to the defendant's company, was to assist the defendants in purchasing a company owned by the plaintiff, by way of a share purchase agreement (the SPA). Clearly, the sum of \$1,650,000. was advanced to the defendant Mr. Breau and his company, as a form of vendor takeback financing.

[3] The purchase of the Plaintiff's company (later named Chester Basin Seafoods Group) was completed pursuant to the SPA. The Promissory Note subsequently became due, but it has never been paid. None of these facts are seriously in contention.

[4] In the circumstances, the plaintiff is entitled to claim payment on the promissory note and in ordinary circumstances would be entitled to summary judgement, as claimed. However, the defendants are currently pursuing an Ontario action, *Breau v. Teixeira CV-24-95214*, against the plaintiff, claiming rescission of the SPA and/or damages, for a series of alleged misrepresentations and non-disclosures concerning the company sold to the defendants pursuant to the SPA. Moreover, in the Nova Scotia courts the defendants are pursuing a derivative action arising from the same transaction. Moreover, the business entity the defendants purchased from the plaintiff is in receivership in Nova Scotia proceedings and this is alleged to be part of a conspiracy orchestrated by Teixeira to re-gain the company assets.

[5] In the circumstances the defendants seek to set aside the SPA and to claim damages which would be set off against their indebtedness, if any, under the promissory note. There will need to be a judicial determination of the defendants' entitlement to this claimed relief in *Breau v. Teixeira* (in action CV-24-95214). In action CV-24-95214 the defendant Breau is seeking an order consolidating that action with the present action on the promissory note and is seeking a declaration that the promissory note is rescinded.

[6] In the court's view granting summary judgement on the promissory note would be inappropriate at this stage of the proceeding because this entire transaction of which the promissory note was a component is before the court in action CV-24-95214. Granting summary judgement on the promissory note will not avoid the need for trial of the parties respective claims in the other proceeding. This has the potential to result in conflicting findings of fact and would certainly involve evidence surrounding the circumstances under which the promissory note was provided by the defendants.

[7] In the circumstances the court makes the following order:

- a. the plaintiff's motion for summary judgement herein is dismissed. The plaintiff's claim under the promissory note in the present action may be tried together with or

consolidated with *Breau v Teixeira* ( CV-24-95214), in the discretion of the trial judge or by order of any associate judge or judge of this court. In the alternative, the plaintiff's claim on the promissory note, may be asserted as a cross-claim in response to the defendants' claims against the plaintiff for breaches of the share purchase agreement in action CV-24-95214.

- b. I leave it to the trial judge to determine if the defendants should be awarded costs of successfully defending this summary judgement motion, once the issues surrounding the promissory note are adjudicated at trial.
- c. A case conference may, at counsel's discretion, be scheduled before me or before Associate Justice Fortier to review procedural issues in this action and action CV-24-95214 arising from this order. As the plaintiff and plaintiff's counsel is resident in Nova Scotia, any such case conference may take place via Zoom video conference.
- d. Costs of this summary judgement motion are reserved to the trial judge.

---

Justice Charles T. Hackland

**Date:** August 6, 2025

**CITATION:** Teixeira v. Breau, 2025 ONSC 4550  
**COURT FILE NO.:** CV-23-93467  
**DATE:** 2025/08/06

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**RE:** Jose P. Teixeira in his capacity as trustee  
of Teixeira Family Trust (2029), Plaintiff

**AND**

Herb Breau and Newbec Capital Inc.,  
Defendants

**COUNSEL:** Brian K. Awad, counsel for the Plaintiff

J.F. Lalonde and Andrew Donaldson,  
counsel for the Defendants

---

**REASONS FOR DECISION  
(SUMMARY JUDGEMENT MOTION)**

---

Justice Charles T. Hackland

**Released:** August 6, 2025