

CITATION: C.R.E.W. Construction Group Inc. v. Brown, 2026 ONSC 717
COURT FILE NO.: CV-20-00000121-0000
DATE: 20260205

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: C.R.E.W. Construction Group Inc., Plaintiff

AND:

Cameron Brown, Defendant

AND RE: Cameron Brown, Plaintiff by Counterclaim

AND:

C.R.E.W. Construction Group Inc. and Kevin Shorter, Defendants by Counterclaim

BEFORE: Justice C. Boswell

COUNSEL: Colin A. Brown for the Defendant/Plaintiff by Counterclaim

Sandra Hsia for the Plaintiff/Defendants by Counterclaim

HEARD: Motion in writing

ENDORSEMENT

[1] C.R.E.W. Construction Group Inc. (“CREW”) is a construction contractor operating in York Region. It was founded jointly by the defendant, Cameron Brown, and the defendant by counterclaim, Kevin Shorter, in 2012. It was operated jointly by the two founders until June 2019 when Mr. Brown either resigned or was locked out of the business.

[2] CREW sues Mr. Brown for damages arising from a variety of alleged wrongdoing, including, but not limited to, misappropriation of CREW supplies and labour for the purpose of constructing Mr. Brown’s personal residence, the misappropriation of cash payments made by clients, the conversion of CREW tools, and the wrongful solicitation of CREW customers.

[3] Mr. Brown countersues CREW and Mr. Shorter under the oppression remedy provisions of the *Business Corporations Act (Ontario)* R.S.O., 1990, c. B.16.

[4] The action was commenced pursuant to the Simplified Rules on January 9, 2020.

[5] I conducted a telephone case conference with counsel on November 18, 2025. At that time, I set aside administrative dismissals of both the claim and counterclaim. Mr. Brown’s counsel signalled an intention to move for an order that Mr. Shorter provide answers to

outstanding undertakings. I gave him leave to do so in writing. The parties filed materials in relation to the motion according to a timetable I fixed at the case conference. The following reasons explain my ruling on the undertakings dispute.

[6] Mr. Shorter's examination for discovery was conducted in May 2021. He gave 59 undertakings. In the almost five years that have followed, he has made significant efforts to answer those undertakings.

[7] Mr. Brown's motion, served January 8, 2026, identified three outstanding undertakings:

- (i) To provide copies of CREW's Visa statements for the months of December 2019 and February 2021;
- (ii) To provide a list of parties who may have knowledge of the events in issue; and
- (iii) To provide will-say statements for any of the witnesses the plaintiff/defendants by counterclaim intend to call at trial.

[8] I am satisfied that the undertakings in issue were given, based on my review of the relevant parts of the transcript of Mr. Shorter's examination.

[9] CREW and Mr. Shorter filed a responding motion record which included the affidavit of Yuki Choi, who is a legal assistant to their counsel, Ms. Hsia. Ms. Choi attached several documents to her affidavit relating to the outstanding undertakings. They include:

- (i) A copy of an email sent by Ms. Hsia to Mr. Brown's counsel on January 9, 2026 attaching the two sought-after credit card statements. According to Ms. Hsia's email, these documents had been "repeatedly provided earlier;"
- (ii) A copy of an email sent by Ms. Hsia to Mr. Brown's counsel on January 23, 2026 attaching what she described as her client's list of potential witnesses and their will-say statements.

[10] Based on the materials submitted in the responding motion record, I am satisfied that two of the three outstanding undertakings have been satisfactorily answered. I am satisfied that the Visa statements have been delivered as promised and that a list of persons with knowledge of the matters in issue has been provided, along with their contact information.

[11] I am not satisfied that sufficient will-say statements have been provided.

[12] The list of possible witnesses contains six names: Jodie Shorter, Rick Landry, Bill Woods, Terry Andrews, Chris Neuendorf, and Allen Koroll.

[13] To be clear, the undertaking with respect to will-say statements applies only to those possible witnesses that CREW and/or Mr. Shorter "expect to be a witness at trial."

[14] Of the possible witnesses listed, there is no indication as to which CREW and/or Mr. Shorter actually expect to be a witness at trial. For those expected witnesses, proper will-say statements are required.

[15] A “proper” will-say statement provides a summary of the anticipated evidence of a witness. See *R. v. Stinchcombe*, [1991] 3 S.C.R. 326, at para. 30. The summary serves a disclosure function. Parties are not entitled to conduct examinations for discovery of all potential witnesses to a case. They are entitled to examine a party or a representative of a corporate party. Will-say statements for other anticipated witnesses help fill in the disclosure gap. They serve the adversarial process by assisting parties in assessing their settlement positions and in preparing for trial. They shed light on the case to be met.

[16] While a will-say statement does not need to go beyond a high-level overview of the expected witness’s evidence, “a non-exhaustive, generic list of potential topics...that the party expects the witness to give” is not sufficient. See *Creamore v. Parilla*, 2022 BCSC 2402, at para. 21.

[17] Here, some of the potential witnesses (Rick Landry, Chris Neuendorf, and Allen Koroll) were described in the witness list but no details at all were provided as to what evidence is expected to be adduced from any of them.

[18] With respect to the balance of possible witnesses, indications are provided as to who they are, together with the slightest hints about the evidence they might provide. For instance, Jodie Shorter was described as the administrator for CREW. Her will-say statement consists of one line: “Jodie will testify with respect to the wrongdoings alleged in the Statement of Claim.” This bald statement amounts to nothing more than an indication that Ms. Shorter will offer relevant evidence. It does not serve the disclosure function that a will-say statement is meant to provide.

[19] Similarly inadequate will-say statements were provided for Mr. Woods and Mr. Andrews.

[20] In the result, I find that the will-say statements provided are insufficient and that the undertaking to provide will-say statements for each expected witness remains unsatisfied. I direct that they be provided within 30 days.

[21] Mr. Brown seeks his costs of the motion. He has been successful in establishing that there is at least one outstanding undertaking. He is presumptively entitled to his costs on a partial indemnity basis.

[22] This was a very straightforward motion. Modest costs are sought. In fixing costs, I am mindful that Mr. Shorter has, in my view, made reasonable efforts to satisfy his many undertakings. One remains. I fix costs at \$1,000 all-inclusive and payable within 30 days.

Date: February 5, 2026