

CITATION: Talwar v. Grand River Hospital, 2026 ONSC 744
COURT FILE NOS.: CV-22-00000071, CV-24-000011521 (Kitchener)
DATE: 20260206

**ONTARIO
SUPERIOR COURT OF JUSTICE**

D.L. Corbett J.

CV-22-00000071 (Kitchener)

B E T W E E N :

Manoj Talwar

Plaintiff / Responding Party

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)
) *Manoj Talwar*, self-represented
)
)

- and -

Grand River Hospital, St. Mary's General
Hospital, Malcolm Maxwell, Donald Shilton,
Peter Potts, Ashok Sharma, Peter Stevenson,
Bogdan Paun, Yves LeClerc and Matthew
Kilmurry

Defendants / Moving Parties

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) *H Simon Clements and Christian Breukelman*
) for the Defendants
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CV-24-000011521 (Kitchener)

B E T W E E N :

Manoj Talwar

Plaintiff / Responding Party

)
)
) *Manoj Talwar*, self-represented
)
)

- and -

Grand River Hospital, St. Mary's General
Hospital, Ronald Gagnon, Lee Fairclough
and Peter Potts

Defendants / Requesting Parties

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) *Simon Clements and Christine Breukelman*
) for the Defendants
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)

) In Writing

REASONS FOR DECISION (COSTS)

D.L. Corbett J.

[1] I have received costs submissions from the parties following my decision dismissing these proceedings (2025 ONSC 6304). As I indicated in that decision, there shall be no order for costs in the Div Ct proceeding (DC-24-0306 (Hamilton)).

[2] The plaintiffs are presumptively entitled to their partial indemnity costs for the two actions: *Beraskow v. TD Insurance and ServiceMaster of Ottawa*, 2018 ONSC 6419 (Div. Ct.). They claim on this basis \$50,329.05 for the First Action and \$5,764.00 for the Second Action.

[3] The plaintiffs have provided bills of costs and brief argument: they assert the claimed costs are consistent with the principles of proportionality and reasonable expectations: *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 OR (3d) 291 (CA).

[4] Dr Talwar's "primary request" is that costs before me be reserved to the Court of Appeal. This, he argues, "is the cleanest and fairest course given the live appeals." He argues that "reserving costs commonly avoids inconsistent outcomes and promotes judicial economy." He offers no jurisprudence in support of this submission. This request is contrary to established practice and would be impractical. Costs are decided at each step in the process. Appeal courts would not welcome trial courts delegating their responsibilities "upstairs". Dr Talwar's "primary request" is without merit and is denied.

[5] Dr Talwar argues that a high claim for damages "does not automatically justify a higher costs award" and that costs must remain fair, reasonable and proportionate (paras. 5 and 12). I accept that submission. However, the more that is at stake in a proceeding, the more a defending party is justified incurring costs to defend it.

[6] At paragraphs 7 to 15, Dr Talwar provides a series of reasons why he says that costs should "be modest" here. The issue is what are "fair and reasonable" partial indemnity costs in these cases. Whether those turn out to be "modest" or not will very much lie in the eye of the beholder.

[7] Dr Talwar argues that costs should not be awarded on a substantial indemnity basis (para. 4), and that an "elevated" costs award should not be made (para. 7). The defendants are not seeking "elevated" costs or costs on a substantial indemnity basis. The question is whether the claimed partial indemnity costs are fair, reasonable and proportional.

[8] Dr Talwar notes that he has been self-represented and had "sincerity of belief" and not "vexatious intent" (para. 9). Partial indemnity costs are an indemnity, not a sanction. Dr Talwar is not entitled to a reduction in the fair amount of partial indemnity costs because he was self-represented.

[9] Dr Talwar objects to the claim for costs in respect to case management (para. 11). I accept this objection. Costs are not awarded in respect to case management events unless the case management judge has directed otherwise. Only a small portion of the claimed costs are in respect to case management, and I have adjusted my award by removing those costs.

[10] Dr Talwar argues that costs should not be "inflated by reference to the broader hospital privileges history or the amount claimed." It was appropriate and necessary for the defendants to

present this court with the historic record respecting the privileges dispute – that was essential context for the motion before this court. It would not have been appropriate for the defendants to have claimed costs of prior proceedings, but they have not made such a claim.

[11] Dr Talwar argues that motion costs for the first appearance (in January 2024) ought not be awarded, or ought to be referred to the Court of Appeal. The costs to January 2024 include the costs of preparation of the motion materials and factum – all of which are recoverable as partial indemnity costs of the proceeding – and all of which were essential to the motion before this court. I would not award costs “thrown away” of the contested adjournment, itself, but those were very little.

[12] Dr Talwar notes that he has paid prior costs awards, and that the court should “avoid compounding financial pressure through an inflated costs award”. I agree that the costs awarded should not be “inflated”. I do not agree that prior costs awards – and the fact that they have been paid – is a basis to deny less than fair, reasonable and proportionate partial indemnity costs for these proceedings.

Disposition

[13] In respect to the Second Action, I find there were few assessable costs incurred. The pleading is close to identical to the claim in the First Action, no Statement of Defence was delivered, and little additional cost was added to address dismissal of the Second Action beyond the costs incurred in respect to the First Action. I fix the partial indemnity costs of the Second Action at \$2,500, plus HST.

[14] In respect to the First Action, the defendants were reasonable in bringing a motion for summary judgment and in litigating it in the way that they did. Complexity arose because of the history of litigation and administrative proceedings, and the defendants reasonably put these matters to the court in detail. I would not award costs in respect to case management before me, nor would I award costs “thrown away” on the adjournment in January 2024. I have reviewed the bills of costs and find no excessive duplication, but rather, appropriate delegation to and supervision of junior professionals. Having sued the hospitals and individuals at the hospitals for very sizeable sums, Dr Talwar cannot be surprised that the defendants engaged senior and experienced counsel and incurred the expense of a well-presented and documented motion for summary judgment. I award costs of the First Action at \$45,000, plus HST, which I find reasonable and proportionate in all the circumstances.

[15] I note that the aggregate partial indemnity costs awarded - \$47,500, plus HST – is about 60% of the costs actually incurred by the defendants: as I noted above, costs are an indemnity – and a partial one at that, and an award of about 60% of actually incurred costs is within the range of “normal” for such awards.

Order

[16] For these reasons, this court orders that:

- (i) Dr Talwar pay partial indemnity costs of the First Action to the defendants fixed at \$45,000, plus HST, payable within 30 days; and

- (ii) Dr Talwar pay partial indemnity costs of the Second Action to the defendants fixed at \$2,500, plus HST, payable within 30 days.

D.L. Corbett J.

Released: February 6, 2025

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BETWEEN:

Manoj Talwar

Plaintiff / Responding Party

v.

Grand River Hospital et al

Defendants / Moving Parties

REASONS FOR DECISION (COSTS)

D.L. Corbett J.

Released: February 6, 2026