

**CITATION:** Ty v. Ottawa-Carleton Standard Condominium Corporation No. 1106 et. al., 2026  
ONSC 833  
**COURT FILE NO.:** CV-25-100115-0000  
**DATE:** February 10, 2026

## **SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** Ty v. Ottawa-Carleton Standard Condominium Corporation No. 1106 et al

**BEFORE:** Associate Justice Kamal

**COUNSEL:** Robert Ty self-represented Applicant

**E-mail:** [rob.sand.ty@gmail.com](mailto:rob.sand.ty@gmail.com)

**Phone:** 613-454-8174

Christy Allen and Dominique Mesina, for the Respondent

**E-mail:** [christy@davidsoncondolaw.ca](mailto:christy@ davidsoncondolaw.ca) | [dominique@davidsoncondolaw.ca](mailto:dominique@davidsoncondolaw.ca)

**Phone:** 613-231-8332 | 613-369-2054

**HEARD:** February 10<sup>th</sup>, 2026

### CASE CONFERENCE ENDORSEMENT

- [1] In this day and age, virtual proceedings (and out-of-court attendances) are an important way to achieve access to justice. If counsel/parties agree to a virtual method of proceeding, they should have a good reason to later insist on in-person attendance.
- [2] The parties cannot agree on the method of attendance for cross-examinations on affidavits.
- [3] The Respondents are requesting an Order under [Rule 1.08\(8\)](#) for the cross-examinations to take place in-person. Pursuant to my previous order, the cross-examinations were supposed to take place in January 2026; therefore, the timetable needs to be varied.
- [4] The cross-examinations were scheduled for January 15, 2026 and January 16, 2026 and were to be held virtually.
- [5] The hearing for this Application is scheduled for April 1, 2026.
- [6] The Respondent will only agree to an in-person cross-examination because he alleges that the Applicant has a history of surreptitiously audio and/or video recording virtual meetings

despite being warned not to, and without prior authorization or consent. The Applicant has a history of posting these recordings publicly on multiple public websites.

- [7] As recently as December 2025 and January 2026, Mr. Ty continues to post information and documents related to the matters that are the subject of the within Application, including all documents served on Mr. Ty in the within proceeding, as well as recent emails exchanged with legal counsel regarding the dispute that forms the basis of this request.
- [8] The Respondent says that his livelihood has been affected as a result of the Applicant's "campaign of harassment" against him, and he is concerned about the impact of the possible public posting of his cross-examination.
- [9] The Respondent submits that allowing the cross-examinations to proceed virtually provides an opportunity for the Applicant to surreptitiously record the cross-examinations and share the recording publicly for an improper purpose. The Respondent submits that in-person examinations will minimize this risk.
- [10] Interestingly, on September 17, 2025, it was counsel for the Respondent who scheduled the virtual cross-examinations with the court reporter on January 15 and 16, 2026. Counsel for the Respondent sent an email to the Applicant stating the following:

Good morning Mr. Ty,  
Please be advised that we have scheduled the virtual cross-examinations with the court reporter on January 15 & 16, 2026 with a start time of 10:00 am for both days.  
A zoom link will be provided by the court reporter's office to you closer to the dates.  
Thank you,  
Dominique Mesina  
Lawyer  
Davidson Houle Allen LLP Condominium Law

- [11] On January 8, 2026, counsel for the Respondents served the Applicant with a Notice of Examination in order to cross-examine him on his affidavit sworn June 26, 2025, affidavit sworn June 30, 2025, and affidavit sworn December 15, 2025. The cross-examination was to be conducted virtually on January 16, 2026.

- [12] When I asked the Respondents’ counsel how in-person examinations would minimize this risk, counsel submitted that they would be able to visually see what is happening in the room. For example, they say they would be able to see if there is a recording device. Counsel did acknowledge that there may be hidden devices.
- [13] In my view, this does not alleviate the concern. It barely minimizes the concern. The Respondent’s position is that the Applicant “has a history of surreptitiously audio and/or video recording virtual meetings despite being warned not to, and without prior authorization or consent”. This does not warrant in-person, as the Applicant would still be able to *surreptitiously* record the cross-examination in person.
- [14] As RSJ MacLeod recently said, “We live in changed times. Videoconferences are now an established mainstream method of participating in court proceedings. Indeed, the court’s “presumptive guidelines to determine the mode of hearing in civil matters” contemplate that most routine court appearances in civil matters will take place virtually.” See: *Spiegelman v. Avantia et al*, 2025 ONSC 6970 at para. 6
- [15] Many court processes, from examining witnesses to civil pre-trials, are also conducted virtually. See: *Spiegelman v. Avantia et al*, 2025 ONSC 6970 at para. 12
- [16] In *Worsoff v. MTCC 1168*, 2021 ONSC 6493, Myers J. considered whether examinations for discovery should proceed virtually.
- [17] I appreciate that examinations for discovery and cross-examination for an application or motion are distinct procedures with particular purposes that govern their form. See *Ontario v. Rothmans Inc.*, 2011 ONSC 2504 and *Couchiching First Nation et al. v. The Corporation of the Town of Fort Frances et al.*, 2024 ONSC 172 at paras. 44, 45 and 49. However, Meyers J.’s considerations are relevant to the considerations before me today.
- [18] In the vast majority of cases, the method of attendance at an examination for discovery should be a matter of agreement. A party that insists on a particular method should have a good reason for declining to cooperate when someone else puts forward an alternative preference supported by a reason. In my view, parties are hard-put to show that there is a difference that actually matters practically in most examinations for discovery. See: *Worsoff v. MTCC 1168*, 2021 ONSC 6493 at para. 20

- [19] If all agree to attend in person, then the examination will be in person. But I do not agree that examinations for discovery need to default to in-person attendance because it is “better”. Counsel and parties should agree on the method of attendance that works for them in the circumstances. In each case, the court can balance the relevant factors and assess the balance of convenience. See: *Worsoff v. MTCC 1168*, 2021 ONSC 6493 para. 34
- [20] I am not persuaded that in-person cross-examinations provide any further protections than virtual cross-examinations. The Respondent was previously agreeable to virtual examinations and provided no potential safeguards that would be put in place if the cross-examinations were in person. Both parties are competent and comfortable with technology.
- [21] Virtual attendances in court proceedings promote access to justice. Litigants do not have to take a full day off work to travel, they do not have to battle traffic in downtown Ottawa, and they do not have to pay for parking/transportation.
- [22] Litigants are able to feel more relaxed in their home or the environment of their choosing. Cross-examinations can be stressful, and virtual proceedings (for people who are comfortable with technology) can help ease some stress and anxiety.
- [23] Similarly, if a lawyer or party can avoid travel time, they are able to accomplish other tasks while they wait to commence a virtual attendance. Costs are saved and everyone benefits.
- [24] I am not suggesting that cross-examinations have to be presumptively virtual.
- [25] I do acknowledge that virtual presence is certainly susceptible to abuse. Witnesses can have others present off-screen to coach them, for example. See: *Kaushal v. Vasudeva et al.*, 2021 ONSC 440. In the present case, surreptitious recording can occur. However, safeguards can be put in place. The discussion should be about putting safeguards in place, not defaulting to in-person processes.
- [26] In considering potential conflict between the parties, including surreptitious recording, there are benefits to virtual proceedings. For example, virtual proceedings minimize intimidation as there is no opportunity for conflict when coming to and from the examination room and during breaks. Similarly, any exchanges when coming to and from the examination room and during breaks would be eliminated, thereby lessening the interactions that may be recorded.

- [27] Turning to the factors in Rule 1.08(6), the following considerations are relevant:
1. The parties both acknowledge that facilities for virtual cross examinations was not an issue. In fact, that was the original manner in which they were scheduled.
  2. The evidence is important in this matter. However, it will not be compromised by a virtual attendance.
  3. The balance of convenience is for both parties to attend virtually, as originally agreed upon.
  4. Any risk of surreptitious recording can be addressed with specific orders.
- [28] [Rule 30.1.01\(3\)](#) sets out the Deemed undertaking rule. All parties and their lawyers are deemed to undertake not to use evidence or information to which this Rule applies for any purposes other than those of the proceeding in which the evidence was obtained. However, Rule 30.1.01(4) does not apply to Rule 34 examinations of an affidavit.
- [29] While the deemed undertaking rule does not apply in this case, the Applicant provided the Court and the Respondents' counsel with a verbal undertaking today that he would not record the proceeding or publish the transcripts.
- [30] Despite this, the Respondents continued to ask for an order for in-person cross-examinations.
- [31] The Applicant advised that he would not record or publish the transcripts because it would be a breach of Rule 34.19. The Respondent submitted that Rule 34.19 does not prohibit the recording of the examination.
- [32] [Rule 34.19\(1\)](#) reads as follows: On consent of the parties or by order of the court, an examination may be recorded by videotape or other similar means and the tape or other recording may be filed for the use of the court along with the transcript.
- [33] In my view, it is appropriate to read this rule that recording may only occur with the consent of the parties, or by order of the court. Therefore, recording by videotape or other similar means (including just surreptitious audio recording) would be a breach of this Rule.
- [34] Accordingly, the cross-examinations shall occur virtually, as previously agreed upon. However, in order to ensure that the Applicant does not surreptitiously record the cross-

examinations and does not publish either the recording or the transcripts, I make the following additional orders:

1. The cross-examinations shall not be recorded by the parties or anyone else except for the official recorder.
2. The transcripts shall not be published, distributed, or otherwise disseminated by either party except for the purposes of this proceeding.

[35] The timetable needs to be amended; however, the hearing date shall remain the same. On consent, the following timetable applies:

1. Cross-examinations shall be completed by February 27. The parties agreed that they will make all efforts for the cross-examinations to occur on February 25, 2026.
2. The Applicant shall serve his factum by March 13, 2026.
3. The Respondent shall serve their factum by March 20, 2026.

---

Associate Justice Kamal

**DATE:** February 10, 2026