

CITATION: Gresdal v. Kaczmarczyk, 2026 ONSC 2844
COURT FILE NO.: CV-25-00000153
DATE: 2026-05-14

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Devlin Gresdal, plaintiff
AND: Philip Kaczmarczyk, 1000116141 Ontario Corporation, Limited Partnership #1,
Limited Partnership #3
BEFORE: Mr Justice J.A. Ramsay
COUNSEL: Mahyar Makki for the plaintiff; Michael A. Katzman for the defendants
HEARD: May 14, 2026 at Kitchener

ENDORSEMENT

- [1] The defendants move to compel the plaintiff to complete his examination for discovery. A group of friends from university decided to work on a start-up company and started a private equity firm. The plaintiff alleges that he was pushed out of the company by the sole director of the two defendant corporations, the defendant Philip Kaczmarczyk, and he seeks damages in light of these allegations. There are therefore three defendants and one plaintiff. The defendant examined the plaintiff for 5.3 hours, then adjourned the examination without agreeing on a date. The defendant’s counsel said that he intended a total of 21 hours of examination, 7 hours per defendant. The plaintiff submits that the defendants have a right to 7 hours among them. He is willing to submit to a total of 9 hours of examination.
- [2] Prima facie, three defendants are entitled to no more than 7 hours each: Rule 31.05.1(1). A mechanical application of that subrule would result in this case in a total of 21 hours. But I do not think that the Rule means or intends such a result. The three defendants are identical in interest. They filed a joint statement of defence. They are represented by one lawyer. The case against one succeeds or fails against the others.
- [3] The plaintiff says that Rule 31.05.1(1) means that the defendants can only examine for 7 hours without consent or leave of the court. I am not prepared to go that far. But it says, “no party ... shall exceed.” Seven hours per party is an upper limit, which implies that the entitlement could be less. Ultimately, I have to examine the question in terms of whether the examination would be disproportionate, given the considerations set out in subrule (2).
- [4] The time requirements of the short motions list do not allow for an extensive analysis of the jurisprudence. Suffice it to say that I distinguish the cases relied upon by the defendant (*Osprey Capital Partners v. Gennium Pharma Inc.* 2010 ONSC 2338; *Frances v. TTC*

Insurance Company, 2023 ONSC 780; *Gorun v. Overland*, 2019 ONSC 4858). They all involved multiple parties who were separate in more than the technical sense. I note that Cullen J. in *Norland Farms (Algoma) Ltd. v. Co-Operators General Insurance Company*, 2021 ONSC 6959, paragraph 54, agreed with the position urged by the defendants but considered it absurd.

- [5] The facts are not that complicated. It would not be proportionate to ask the plaintiff about all 20,000 pages of documents. The amount of time that would be reasonably required is no more than the 9 hours which the plaintiff agrees to. The motion is dismissed. Costs of this motion are fixed at \$3,500 and are reserved to the trial judge.

J.A. Ramsay J.

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