

CITATION: ANUKRITI CREATIVES INC. v. RETHINK COMMUNICATIONS LP, 2026
ONSC 4314

COURT FILE NO.: CV-24-00714939-0000

DATE: Jul 28, 2026

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: ANUKRITI CREATIVES INC.; ANUKRITI Plaintiff(s)
GOSWAMI

AND:

RETHINK COMMUNICATIONS LP; MOLSON Defendant(s)
COORS BEVERAGE COMPANY

BEFORE: Associate Justice P.J. Barnes

COUNSEL: Anukriti Goswami (self-represented) for the Plaintiff

Natalia Sidlar for the Defendants

HEARD: July 15, 2026 (in-person)

ENDORSEMENT

Introduction

[1] The motion at bar is advanced by the plaintiff Ms. Goswami. She seeks leave of the Court pursuant to Rule 15.01(2) to represent the co-plaintiff corporation Anukriti Creatives Inc. (ACI) in the pending litigation.

[2] Ms. Goswami also seeks an Order pursuant to Rule 3.02, extending the 90-day period set out in the Order of Associate Justice Josefo dated August 18, 2025, for the plaintiff corporation to either obtain legal counsel, or leave of the Court for a non-lawyer to represent it in the pending action, until the primary relief noted above in paragraph 1 is determined on its merits.

[3] The defendants oppose Ms. Goswami's request for leave to represent ACI in the pending litigation. The basis for their position is grounded on the general principle that granting leave for a non-lawyer to represent a corporation pursuant to Rule 15.01(2) amounts to extraordinary relief and that the Court should not otherwise derogate from or water-down the criteria that the Court is obligated to consider when deciding whether to grant the leave that the plaintiff is seeking.

[4] On the issue of the secondary relief regarding the extension of the 90-day deadline set out in AJ Josefo's August 18, 2025 Order, the defendant concedes that if the plaintiff's primary relief is granted, then she should also be granted the extension as requested.

Background

[5] The underlying litigation involves a copyright infringement claim involving a series of five photographs taken by Ms. Goswami in her role as a professional photographer (and licensed for commercial use through her corporation ACI), which were used by the defendant Rethink Communications LP (in their role as an advertising agency for the co-defendant Molson Coors Beverage Company) in an online advertising campaign for the Molson Coors "Belgian Moon" beer brand.

[6] The Statement of Claim was issued on or about February 16, 2024, and was served on the defendants on or about February 27, 2024. The plaintiffs were originally represented by a Toronto law firm, but this firm removed itself from the record on August 18, 2025, after a breakdown in the solicitor-client relationship.

[7] Ms. Goswami subsequently filed a Notice of Intention to Act in Person (in her capacity as an individual plaintiff) on September 2, 2025. She further informed counsel for the defendants the same day that she would be bringing a motion seeking leave to represent her corporation ACI as soon as she could.

[8] Ms. Goswami attempted to have the within motion scheduled on an urgent basis (in order to comply with the 90-day deadline outlined in AJ Josefo's Order), but this request was rejected by the Court, and she was told to book the within motion in the normal course through the Calendly scheduling application. This motion was originally returnable before my colleague AJ Frank on June 18, 2026, who adjourned it to my long motions date of July 15, 2026, when it became apparent that the original time estimate to argue the motion was insufficient.

[9] The action has been in effective limbo since the late summer of 2025 (save and except for the activity involving the preparation for, and return of this motion), so that the matter of leave for Ms. Goswami to represent ACI could be determined on its merits.

[10] ACI is otherwise a closely held corporation, with Ms. Goswami holding 34% of its shares, and her parents Neeti Goswami and Sanjay Goswami each holding 33% of its shares. The company has no employees. Ms. Goswami serves as a Director for ACI (with her parents serving as the other two Directors) and presented a resolution by the Board of Directors (dated October 14, 2025) to the Court in the supporting affidavit confirming the Board's consent for her to represent the corporation in the pending action. Ms. Goswami otherwise acts as ACI's "directing mind" and manages the company's creative, commercial, and administrative functions. The corporation is effectively the corporate vehicle through which she derives all of her personal income.

[11] Ms. Goswami has not otherwise provided any tangible evidence in her motion materials that speaks to the financial ability/inability of ACI to retain legal counsel to represent it in the action. She has confirmed, however, that multiple alternative counsel (in the range of 28 lawyers)

have been consulted with a view to representing herself and ACI since her previous legal counsel removed themselves from the record in August 2025, but that about half of these inquiries have not been responded to. The lawyers who have responded have ultimately declined to go on record for ACI.

The Law

[12] The test the Court needs to apply when considering a Rule 15.01(2) motion is well-established and set out in *Extend-a-Call v. Granovski et al*, 2009 OJ No 2711, a decision of Boswell J.

[13] At paragraph 19 of *Extend-A-Call*, Mr. Justice Boswell outlined the following seven factors that the Court should consider when determining whether leave should be granted pursuant to Rule 15.01(2):

- (i) Whether the proposed representative has been duly authorized by the corporation to act as its legal representative;
- (ii) Whether the proposed representative has a connection to the corporation;
- (iii) The structure of the corporation in terms of shareholders, officers and directors and whether it is a closely held corporation;
- (iv) Whether the interests of shareholders, officers, directors, employees, creditors and other potential stakeholders are adequately protected by the granting of leave;
- (v) Whether the proposed representative is reasonably capable of comprehending the issues in the litigation and advocating on behalf of the corporation. The Court should not impose too high a threshold at this stage, given that the courts abound with self-represented litigants of varying skills. The proposed representative should, however, be reasonably capable of comprehending the issues and articulating the case on behalf of the corporation;
- (vi) Whether the corporation is financially capable of retaining counsel. Access to justice has been a concern troubling courts at all levels in Canada for some considerable time. It is fundamental to integrity of the courts and the reputation of the administration of justice that parties have reasonable access to our courts. If the refusal to grant leave would effectively bar a corporation from access to justice, this factor should be given considerable weight; and,
- (vii) Any other relevant factor specific to the circumstances of the individual case.

[14] In *Super Channel International Corp. v. Canada (Attorney General)*, 2024 ONSC 1439, Charney J. noted at paragraph 7 that the Court in *Ward v. 1121720 Ontario Ltd. a/o Havcare*

Investments Inc., 2015 ONSC 3873, had also previously considered the following three factors on a Rule 15.01(2) motion:

- a. The internal situation of the Corporation and whether the person seeking to represent the Corporation in court is a senior representative of the Corporation who has been duly authorized by the Board of Directors, who themselves are properly elected;
- b. The nature of the action and the issues, and whether it would be seriously unfair to the opposite party to have the case presented or defended by a non-solicitor; and
- c. Whether the proposed corporate representative will be able to properly carry out the duties of a litigant under the rules.

[15] Quoting directly from *Ward* decision, Justice Charney held at paragraph 8 of *Super Channel International Corp.* that the corporation bears the onus of showing the Court that granting of leave to a non-lawyer to represent it is justified. Further, it is incumbent on the corporation to satisfy the Court about the nature of its business, its financial ability/inability to retain and instruct counsel, and the ability of the individual who is being proposed as the representative to adequately advance the matter on behalf of the corporation.

Analysis - Extend-a-Call criteria

[16] With respect to the first four *Extend-a-Call* criteria outlined above in paragraph 13 (as well as criterion “a” of the three additional criteria outlined in the *Super Channel International Corporation* decision outlined above), counsel for the defendants effectively conceded during oral argument (or did not strenuously dispute) that the plaintiff likely satisfied these criteria.

[17] To wit, Ms. Goswami had unquestionably been authorized by ACI to represent it in the action, there was no dispute that she had a substantial connection to ACI and that it was a closely-held corporation, and further, that the interests of the company’s stakeholders were likely to be adequately protected if Ms. Goswami was to be granted leave to act as its representative (as ACI was the vehicle through which Ms. Goswami drew her livelihood and her best interests were inextricably linked to the corporation’s best interests).

[18] With respect to criteria (iii) specifically, I note that in cases where the proposed non-lawyer representative for the corporation is effectively the corporation’s alter ego, Courts have been more likely to grant leave to that individual to represent the corporation. In other words, “the more closely held the corporate shares are, the more applicable this principle is”. See *Super Channel International Corp.* at paragraph 10.

[19] The defendants’ arguments against the relief being sought by Ms. Goswami focussed primarily on criteria (v) and (vi) of the *Extend-a-Call* test, which in my view dovetail with criterion “b” and “c” of the *Super Channel International Corp.* factors noted above.

[20] In short, the defendants' position with respect to criteria (v) was that Ms. Goswami would be unable to effectively navigate the procedural and substantive aspects of the litigation, and that as a non-lawyer, she would also not be bound by the normal professional conduct standards required of legal counsel. The result of which would be an unnecessary prolongation of the litigation (premised largely on Ms. Goswami's purportedly objectionable conduct in her dealings with the defendants' counsel up to this point), which would impose unacceptable delay and costs on them.

[21] The defendants further argued that granting leave to Ms. Goswami to represent ACI in the litigation, in light of her purportedly objectionable conduct to date would run counter to the principle that the effective operation of the legal system is premised on the efforts of a trained and regulated body of lawyers, and further, that non-lawyer representatives need to show the Court that they can not only reasonably comprehend the issues that are germane to the litigation, but also conduct themselves in a professional and ethical manner. On this point I was directed by the defendants to the Court's decisions in *Stile Carpentry Ltd. v. 20044424 Ontario Inc.*, 2025 ONCA 669, at paragraph 5, and *1876029 Ontario Ltd. v. Smart Renovation Solutions et al.*, 2023 ONSC 1241 at paragraph 11(b), where leave for a non-lawyer representative to represent a corporation was denied by the Court in both instances.

[22] When considering criteria (v), I note that the materials provided to the Court by Ms. Goswami in support of her motion were of high quality, to the point where at first glance they appeared to be authored by a lawyer, or someone who had undergone formal training in legal research and writing. Ms. Goswami stated during questioning from the Court that her motion materials had been authored all on her own, with no formal assistance from legal counsel or a paralegal, although Pro Bono Ontario had provided her with some high-level guidance.

[23] Overall, Ms. Goswami's materials demonstrate, in the Court's view, a material understanding of the principles of legal writing and argument. Further, they also demonstrate that she very likely has the capacity to understand the key legal issues that are germane to her claim.

[24] On an administrative basis, Ms. Goswami further demonstrated her ability to schedule the within motion using the Calendly web application and also properly uploaded her motion materials to Case Center (the latter of which is a task that many staff in law firms and other legal departments have difficulty with on occasion).

[25] I further note that Ms. Goswami conducted herself in a composed and respectful manner in her interactions with the Court and opposing counsel during oral argument of the motion. In my view, her overall conduct on the return of the motion comfortably surpassed the relatively low bar or threshold that the Court must use as the proverbial "measuring stick" in determining whether a proposed non-lawyer representative is adequately capable of advocating on behalf of a corporate litigant.

[26] While counsel for the defendants went to some length in drawing the Court's attention to some borderline sharp conduct that Ms. Goswami had displayed in leading up to the return of the motion, as well as an error that was made by Ms. Goswami in filing a jury notice (which would

not be permitted for this type of action, and was ultimately vacated on consent), Ms. Goswami conceded during argument that as a proposed non-lawyer representative for ACI, she recognized that she would be bound by the applicable *Rules of Civil Procedure* and any other applicable statutes as the action progresses.

[27] Ms. Goswami further confirmed during questioning that she would also do her best to conduct herself in a manner consistent with the *Rules of Professional Conduct* (which she recognized that she would not technically be subject to as a non-lawyer) as the lawsuit proceeded forward, if she were granted leave to represent ACI. She further conceded during a pointed area of questioning that allegations she had made in her correspondence with opposing counsel about their conduct (specifically in relation to an inadvertent administrative error regarding the swearing of an affidavit for the within motion) were ultimately unfounded and not within the standard expected of legal counsel.

[28] These concessions, in my view, demonstrated a level of introspection that many self-represented litigants usually lack altogether. Moreover, one-off instances of inappropriate conduct are not inherently problematic, in my view, as even these can come from experienced legal counsel on occasion. Inappropriate behaviour on the part of a self-represented litigant (or counsel for that matter) will generally only attract the Court's attention when the impugned behaviour becomes sustained and/or repetitive.

[29] I am not otherwise convinced that the cases cited by the defendants in support of their position on criteria (v) of the *Extend-a-Call* criteria are properly analogous to the conduct of Ms. Goswami to date, and by extension, useful to their overall position.

[30] In *Stile Carpentry Ltd. v. 20044424 Ontario Inc.*, while the Court of Appeal noted at paragraph 8 that the proposed non-lawyer representative for the corporation had a "sophisticated understanding of commercial leases" (which was the subject matter of the underlying litigation), it was pointed out that he had nevertheless filed multiple factums with fabricated legal citations, which referenced non-existent caselaw. Moreover, the cases that were not fabricated were pointed to by the non-lawyer representative as authority for propositions that they did not even address. Hyperlinks provided to these authorities were otherwise linked to non-existent documents and quoted text from caselaw and statutes were noted to be "completely fabricated". The Appeal panel noted that if a lawyer were to act in such a manner, they would "rightly face severe consequences". Quite appropriately, leave of the non-lawyer to represent his corporation was denied.

[31] In *1876029 Ontario Ltd. v. Smart Renovation Solutions et al.* at paragraph 11b, the proposed non-lawyer representative for the corporation was found by Nieckarz J. to be unable to "grasp the legal issues as framed in the pleadings". While the litigation dealt with a relatively simple contract dispute in the content of a construction lien, the proposed non-lawyer representative proceeded to confuse the straightforwardness of the subject matter of the claim with unfounded allegations of fraud and other spurious allegations (that were not reflected in the pleadings, which were initially prepared by a lawyer), and was noted to *repeatedly* accuse the opposing counsel of misconduct where there was none apparent in the examples that were provided to the Court. These unfounded threats and allegations were found to detract from the "true issues

raised by the pleadings”, which would “only serve to increase costs, animosity, and time necessary for the litigation”.

[32] Justice Nieckarz further noted that where a proposed non-lawyer representative is attempting to properly comply with the *Rules of Civil Procedure* but nevertheless commits various missteps which could/would cause increased costs to represented parties, this in and of itself would not be a sufficient reason to deny leave to the non-lawyer representative. In the case that was before the Court in *1876029 Ontario Ltd.*, it was the non-lawyer’s missteps, combined with his aforementioned unethical and unfocussed conduct that led Her Honour to conclude that the proposed representative did not have a proper grasp of the issues in the litigation and would likely take the case in an unwarranted direction. Accordingly, leave was denied for the non-lawyer representative to represent his corporation.

[33] I find that Ms. Goswami’s materials on this motion and her conduct to date are not reasonably comparable or analogous to the material and litigant conduct that was before the Court of Appeal in *Stile Carpentry Ltd.*, as well as before Justice Nieckarz in *1876029 Ontario Ltd.*

[34] On the motion at bar, Ms. Goswami properly confirmed the authenticity of every authority cited in her materials and also provided the Court with a compendium of authorities (which is something that many lawyers themselves often fail to do on motions). Further, the authorities she cited in support of her position were genuine and not misstated.

[35] While there has been some purported excessive/aggressive communication between Ms. Goswami and the defendants’ counsel to date, as well as one unfounded ethical accusation by Ms. Goswami against counsel, this conduct does not rise, in my view, to the level that would give the Court concern that she would not have an adequate grasp of the issues, or would not be able to comport herself in an appropriate manner, if leave were to be granted to her to represent ACI in the pending litigation.

[36] Accordingly, I find that Ms. Goswami has, on balance, satisfied criteria (v) of the *Extend-a-Call* test.

[37] With respect to criteria (vi) of the *Extend-a-Call* test, the defendants further argued that as there was no evidence in the record regarding the financial capability (or incapability) of ACI to retain counsel, then based on the reasoning of Gareau J. in *The Corporation of the City of Elliott Lake v. United Bunkers Investors Corporation*, 2021 ONSC 5467 (at paragraph 8), the Court of Appeal’s reasoning in *GlycoBioSciences Inc. v. Industria Farmaceutica Andromaco S.A. et al*, 2024 ONCA 481 (at paragraphs 11 and 12), and the reasoning of Faieta J. in *Tarza Construction Services Corp v. Mamdeen et al*, 2025 ONSC 536 (at paragraph 6), an adverse inference should be drawn by the Court against ACI and Ms. Goswami, which should also serve to prevent leave being granted pursuant to Rule 15.01(2).

[38] With respect to criteria (vi) of the *Extend-a-Call* test (i.e. whether ACI is financially capable of retaining counsel), I am also unconvinced that the authorities cited by the defendants in support of their argument on this point are properly comparable to the facts that are before the Court in the motion at bar.

[39] In *The Corporation of the City of Elliot Lake v. United Bunkers Investors Corporation* at paragraph 8, Mr. Justice Gareau denied leave to the proposed non-lawyer representative to represent the corporation, but this was premised on His Honour's conclusion that multiple prongs of the *Extend-a-Call* test had not been met (as opposed to simply whether the corporation was financially capable of retaining counsel).

[40] While Justice Gareau noted that the defendant corporation had already engaged a lawyer with respect to other corporate matters, and that he was satisfied that it could afford to retain counsel with respect to the litigation that was before the Court, my learned colleague was also not satisfied that the proposed representative had the appropriate authorization of the corporation to act as its representative. Further, he was also concerned that the interest of the estate of a deceased shareholder was not adequately protected by an Order permitting the matter to proceed without the corporation having formal legal representation. Additional concern was expressed by His Honour about the proposed non-lawyer representative's capability of advancing the interests of the defendant corporation, given his reluctance/inability to move the litigation forward. Accordingly, leave pursuant to Rule 15.01(2) was denied.

[41] In *GlycoBioSciences Inc. v. Industria Farmaceutica Andromaco S.A. et al* at paragraph 12, while the Court of Appeal was "left with some doubt as to the nature of (the subject) corporation and its financial affairs", the corporation in question was not closely held (like ACI is) and the Appeal panel noted that this was not a case where access-to-justice concerns arose.

[42] Further, in *Tarza Construction Services Corp. v. Mamdeen et al*, part of the rationale used by the non-lawyer to justify his request to represent the corporation was based on an unspecific allegation of impecuniosity. Mr. Justice Faieta noted at paragraph 6 that there was "little evidence" before him to support the contention that the corporation could not afford a lawyer, and that no banking or other financial records had been produced by the corporation or the proposed representative that provided tangible evidence of that position.

[43] Justice Faieta further noted in *Tarza Construction Services Corp.* at paragraph 7 that the proposed representative's "ability to advance a legal argument appear(ed) to be quite weak", and that the administration of justice was not well-served by having a non-lawyer represent the corporation in these circumstances. As such, my learned colleague's refusal to grant leave pursuant to Rule 15.01(2) was not solely premised on the corporation's unproven financial inability to retain counsel but was also based on his concern that the proposed representative's ability to competently advance the company's position was doubtful.

[44] In the motion at bar, Ms. Goswami has not advanced an argument that leave should be granted due to any impecuniosity of ACI. To the contrary, she has implied that ACI has the financial wherewithal to retain counsel. However, she has been unsuccessful to date in finding a lawyer that has been willing to go on retainer.

[45] Furthermore, as I have outlined above with respect to my observations regarding the quality of Ms. Goswami's motion materials and her demeanor during the arguing of the motion, I am satisfied that she has demonstrated an ability to competently advance ACI's position, which is

unlike the situations that were before my learned colleagues in *The Corporation of the City of Elliot Lake*, *GlycoBioSciences Inc.*, and *Tarza Construction*. Accordingly, these decisions are clearly distinguishable from the facts that are before the Court in the motion at bar and in my view do not constitute persuasive authority that justifies the position of the defendants.

[46] I also note that with respect to the criteria of the financial ability/inability of a corporation to retain legal counsel, Courts have concluded that the failure of a corporation to provide this evidence is not fatal to its position on a Rule 15.01(2) motion and that it is less significant in the case of a one-individual corporation, or a similarly small, closely held corporation. See *Super Channel International Corp.* at paragraph 11.

[47] Further, in *Lamond v. Smith*, 2004 CanLii 6218, while Quinn J. noted at paragraph 9 that there existed authority supporting the proposition that leave pursuant to Rule 15.01(2) should not be generally encouraged, he saw no reason why this requirement “need apply to small, one-man companies”.

[48] Justice Quinn further noted in *Lamond* at paragraph 10 that while other cases have “expressed concern” about the unfairness that is faced by any represented party who needs to deal with a non-lawyer, he did not consider this to be a material consideration, as invariably, when one of the litigants is self-represented there is an increased burden not only on the opposite party/parties, but also on the Court.

[49] At paragraph 13 of *Lamond*, Justice Quinn held further that:

Impecuniosity may be one reason why leave should be granted in a motion under rule 15.01(2), but it is not a necessary reason. Frankly, I do not see why the ability or inability to afford a lawyer should be a relevant factor. The court would not question a self-represented individual about his or her finances and I fail to appreciate why the matter should be different with corporations. Some people and companies may think that they have better things to do with their money than to pay lawyers. They may be right; they may be wrong.

[50] I agree with Justice Quinn’s reasoning in *Lamond* and am content to follow it in the motion at bar. While my learned colleague concluded that leave pursuant to Rule 15.01(2) should not need to apply to one-person companies, this reasoning is just as applicable in my view to small, closely held corporations such as ACI, with limited directorships and where the proposed representative is the corporation’s effective controlling mind. Moreover, as ACI has not directly placed the issue of its financial wherewithal to retain legal counsel before the Court, I do not consider it to be a particularly relevant factor in the overall *Extend-a-Call* analysis due to its closely held status.

[51] For the sake of clarity, I find that impecuniosity in and of itself is not a mandatory threshold prerequisite that a small, closely held corporation needs to demonstrate in order for leave to be granted by a Court on a Rule 15.01(2) motion. It is rather one factor in a contextual balancing act that the Court must undertake in determining whether it is appropriate to grant leave to the non-lawyer representative.

[52] There will likely be an increased burden on the defendants in this case in any event, as there is no question that Ms. Goswami is entitled to represent herself in her personal capacity as the litigation progresses. Therefore, mandating that a lawyer represent ACI under the circumstances will likely not do much to lessen the increased litigation burden that the defendants will need to contend with unless that counsel were to also go on record for Ms. Goswami in her personal capacity. Accordingly, the concern expressed by the defendants on this point, similar to the comments of Justice Quinn noted above, in my view is not particularly persuasive.

[53] Otherwise, with respect to criteria (vii) of the *Extend-a-Call* test, I find that timely access to justice for the plaintiffs will be effectively impossible without granting the leave sought by Ms. Goswami. She has made multiple efforts to retain counsel to date (although none since the within motion was initially booked, as pointed out by the defendants' counsel), and all of her efforts thus far have reportedly been rebuffed.

[54] I am not willing to speculate as to why ACI has experienced such difficulty in retaining alternate legal counsel since its previous counsel was removed from the record in August 2025 but note that an outcome along the lines of what the defendants are seeking on this motion will likely end up bringing the action to a lengthy, indefinite halt.

[55] Having the underlying litigation "spin its wheels" while ACI seeks legal representation (that has proven very difficult to obtain thus far) is in neither party's interest, as the plaintiffs should be given the opportunity to advance the action in a timely manner, and the defendants deserve certainty that the action is headed towards an ultimate resolution.

[56] It is ultimately the Court's responsibility to "move the freight" of the litigation that comes before it, particularly as Rule 1.04(1) mandates "the just, most expeditious and least expensive determination of every civil proceeding on its merits."

[57] Accordingly, in my view, Ms. Goswami has satisfied all of the *Extend-a-Call* criteria on balance and is therefore granted leave pursuant to Rule 15.01(2) to act as ACI's representative so that the underlying litigation can proceed expeditiously. To that end, pursuant to Rule 3.02, I am further content to order an extension of the 90-day deadline imposed in AJ Josefo's August 18, 2025 solicitor removal Order to the date that Ms. Goswami and defendants' counsel submit the settled Order to the Court granting the relief sought (or in the alternative, the date that the Court settles the Order should the parties be unable to reach an agreement on its form and content).

[58] Regardless of the above, I am nevertheless alive to the concerns expressed by the defendants' counsel about Ms. Goswami's conduct in the litigation to date (particularly in light of her unfounded accusation with respect to a mistakenly unsigned affidavit being provided by defendants' counsel in the lead-up to the return of this motion), and the potential that her representation of ACI could become a significant barrier to the action moving forward in a reasonably timely manner. Accordingly, in my view, it is necessary to set up a guardrail to ensure that Ms. Goswami's representation of ACI going forward does not become an untenable burden on the defendants or the Court as the litigation progresses.

[59] To that end, I agree with the alternative argument advanced by the defendants that an appropriate Order in this case is to allow the Rule 15.01(2) relief that the plaintiff is seeking, but without prejudice to the defendants' right to bring a motion to review, withdraw, or impose conditions on the leave granted, should the circumstances of the case require.

[60] I note that there is precedent for this condition being imposed on a motion for Rule 15.01(2) relief, as it was also directed by Justice Charney at paragraph 16 of his decision in *Super Channel International Corp.*

[61] With the proverbial Sword of Damocles hanging over Ms. Goswami's authorized representative status, I expect she will recognize that the leave being granted by the Court is not absolute and is subject to review down the line if her litigation conduct on behalf of ACI going forward becomes excessively problematic and/or obstructionist.

Costs

[62] Both parties uploaded cost outlines to Case Centre, which I indicated during the argument of the motion that I would not look at until I had reached a decision on the merits of the motion. While I asked the parties to not mention anything about the specific quantum of costs that they were each seeking, I took submissions from both Ms. Goswami and defendants' counsel at the conclusion of the motion hearing why they thought that their partial indemnity rates should be preferred by the Court.

[63] Ms. Goswami's position was that she had effectively no choice but to spend a lot of time compiling her motion materials, and that her cost outline reflected what she thought was a reasonable amount owing to her if she were to be successful. Counsel for the defendants submitted that Ms. Goswami's cost outline was excessive and that her clients' responding cost outline was a more appropriate measuring stick for what should be awarded, even if Ms. Goswami ended up being completely successful on the motion.

[64] When I asked Ms. Goswami and counsel to submit what an appropriate cost award would be in the case of mixed success, counsel for the defendants indicated that the appropriate award would be that each party bear their own costs. Ms. Goswami did not expressly disagree with that principle but maintained that whoever had greater success on the motion should nevertheless get a proportionate share of their costs sought.

[65] In my view, there has been overall mixed success on this motion.

[66] While the plaintiff ultimately obtained the relief she was seeking, the Court did not provide her with an unqualified right to remain as ACI's representative.

[67] I also note that Ms. Goswami initially under booked the estimated time required for the arguing of this motion when she submitted the motion confirmation form to the Court on June 10, 2026.

[68] This motion initially came before Associate Justice Frank on June 18, 2026, which he adjourned to my available long motion date of July 15, 2026, when it became apparent that the time estimated for the argument of the motion (75 minutes) was insufficient. In AJ Frank's endorsement of the same date, he noted that the costs of that initial aborted motion attendance were reserved to me.

[69] Due to the initial underestimation by Ms. Goswami of the appropriate time that needed to be allocated towards argument of the motion, I am of the view that the defendants are owed their costs thrown away for the aborted June 18, 2026 motion attendance.

[70] While the plaintiff may have been more successful overall, she was ultimately seeking an indulgence of the Court with respect to Rule 15.01(2) relief, and owes the defendants for the costs thrown away for the aborted June 18 attendance, which in my view militates against a cost award being granted to her. Moreover, the relief awarded was not unqualified, and further, Ms. Goswami did not demonstrate that there had been any income opportunity lost by her arising from the time that she spent preparing her motion materials and attending on the return of this motion. As such, under the circumstances, there is no evidentiary basis for the awarding of costs to Ms. Goswami. See *Fong et al v. Chan et al*, [1999] O.J. No. 4600 (ON CA), at paragraph 26.

[71] Accordingly, I am exercising my discretion pursuant to Rule 57.01 and the relevant caselaw governing cost awards and ordering that both sides bear their own costs of this motion.

[72] A draft Order reflecting the terms of this endorsement may be sent by Ms. Sidlar or Ms. Goswami to my assistant trial coordinator (teanna.charlebois@ontario.ca) once its form and content have been agreed upon by both of them.

Associate Justice P.J. Barnes

Date: Jul 28, 2026