

CITATION: Premiere Construction Ltd. v. 444 Bronson Development Inc. et al. 2026, ONSC 4426

COURT FILE NO.: CV-24-94485

DATE: July 29, 2026

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Premiere Construction Ltd. v. 444 Bronson Development Inc. et al.

BEFORE: Associate Justice Kamal

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HEARD : July 29, 2026

CASE CONFERENCE ENDORSEMENT

- [1] This case conference concerns this action and two other actions: Court File Nos. CV-23-00091673 and CV-23-00093336.
- [2] The purpose of the conference was to determine whether the three actions should be heard one after another and proceed on a common timetable.

The Actions

- [3] The present action is a claim by Premiere Construction (“the Premiere Claim”) and a counterclaim by the Bronson Parties against Premiere and the TCU Parties. It seeks compensation from the Bronson Defendants for construction management services, project management services, labour costs and related expenses provided in connection with the

construction of a five-storey apartment building at 444 Bronson, Ottawa, Ontario (the “Project”).

- [4] The Bronson Defendants responded with a counterclaim that includes both a claim against Premiere and separate claims against the TCU Defendants. Bronson states that due to the mismanagement, negligence and defaults of Premiere and TCU Group, the Project completion was delayed by approximately 17 months and was more than \$6,800,000.00 over budget, including the overpayments received by Premiere.
- [5] CV-23-916723 is an oppression remedy application commenced by some of the TCU parties as against some of the Bronson Parties seeking declarations that various actions and conduct of the Bronson Parties was oppressive to the TCU Parties, amongst other findings and remedies (“the Oppression Claim”). The TCU Parties allege that the Bronson Parties took material actions on behalf of 444 Bronson without their consent or approval. These actions included withholding payments from project trades and service providers, including Premiere, resulting in legal proceedings against 444 Bronson; retaining legal counsel and commencing litigation on behalf of 444 Bronson; obtaining a new mortgage for the project; and entering into financial and construction agreements with project trades, including Premiere, to the detriment of 444 Bronson. The TCU Parties also state that they and the Bronson Parties have agreed to consent to an order converting the proceeding from an application to an action so that all three proceedings can proceed on the same procedural footing. The Bronson Parties have not filed a Notice of Appearance or otherwise responded to the application.
- [6] CV-23-93336 is a claim by some of the TCU Parties as against some of the Bronson Parties for payment for their consulting and management services on the Project. (“the TCU Claim”). They allege that TCU was retained by 444 Bronson to perform construction consulting and management services and to manage municipal planning and permitting requirements. They further allege that these services were separate from the construction management services provided by other contractors, including Premiere. The TCU Parties claim that some of the Bronson Parties instructed TCU to delay issuing invoices and that mortgage advances obtained from the Bank of Montreal and later the National Bank of Canada constituted trust funds under the Construction Act that were not paid to TCU. The Bronson Parties have filed a Statement of Defence and Counterclaim. They assert that no

payment is owed because TCU failed or refused to provide the services in question, requiring them to retain a third-party manager, identified as Premiere. They also claim \$700,000 in damages for breach of contract, representing the cost of retaining the third-party manager and other alleged damages.

Procedural History

- [7] This matter was before me for a case conference on January 2, 2026. On that date, **all parties** (including Premiere) agreed that I could deal with the issue of whether the three actions be heard one after another and proceed on a common timetable at the next case conference. I endorsed guidelines for that to occur.
- [8] The case conference was then before me on June 19, 2026.
- [9] On that date, Premiere Construction opposed my authority to make such an order at the case conference, despite previously consenting. In their case conference brief, they specifically state that a case conference is not the proper forum for the substantive relief sought by the TCU Defendants – again, despite previously consenting. They submitted that their junior counsel should not have consented at the previous case conference.
- [10] Counsel also submitted at the June 19, 2026 case conference that a motion to consolidate these three actions is not a motion that can fairly be addressed in two hours or less. I disagreed. As will be seen below, counsel did agree to have this heard in one hour.
- [11] In addition, the Case Conference Brief stated “In addition, if the Court were to order consolidation of the three actions at the case conference, such an order would be significant and substantive and would likely lead to an appeal, further delaying the Premiere Action and adding to the burden on the court system.” Essentially, counsel for Premiere threatened an appeal before even knowing the decision of this Court.
- [12] During the June 19, 2026 case conference, counsel for Premiere changed their position. They stated that it was not appropriate to make the determination based on the materials before me on June 19, 2026, although not generally opposing the authority to make an order at a case conference.
- [13] One of the issues was that I did not have the pleadings for all of the actions before me.

- [14] After a lengthy discussion about case law and the jurisdiction of an associate judge at a case conference, everyone agreed to have the issue addressed at another case conference as long as more substantial materials and the pleadings can be filed.
- [15] In my view, consolidation of proceedings may be a procedural order permitted to be made at a case conference as long as notice and procedural fairness are afforded. As noted by Justice Kaufman in *Grovum v. Kouznetsov*, 2025 ONSC 3899,:
- In appropriate cases and on notice, judges and associate judges have authority to issue directions, which can include substantive orders, during case conferences to enhance efficiency, accessibility, and fairness in the justice system. This flexibility reduces delays and procedural burdens, tailors procedures to the case's needs, and prevents unnecessary formalities from hindering timely resolution. Such authority also supports pragmatic case management, upholds proportionality and efficiency, and aligns with Rule 1.04, which mandates that the *Rules of Civil Procedure* be liberally construed to secure just, most expeditious, and least expensive resolution of civil proceedings on their merits.
- [16] In *Boni v. Gary Jonas Computing Ltd.*, 2025 ONSC 4038, Associate Justice Robinson reminded us that not everything requires a motion. Routine matters such as scheduling, disclosure disputes, or amendments to pleadings can be resolved quickly and inexpensively in the less formal conference setting. This ultimately benefits both the parties and the court by reducing backlog and facilitating access to justice.
- [17] A determination of whether multiple proceedings should proceed together (be heard one after another and on a common timetable) is a procedural order because it is the forum and process that is being adjudicated, not the parties' rights themselves. A consolidation order (or an order that matters proceed together) does not create, extinguish, or alter legal rights. Furthermore, it is an exercise of the court's control over its own process. The purpose of this determination is efficiency.
- [18] Furthermore, the legal tests for deciding whether to have matters proceed together are procedural considerations. When deciding whether to hear proceedings together, Courts examine factors such as whether there are overlapping factual issues, whether the same witnesses will testify, whether similar legal issues arise, whether inconsistent verdicts may

result, whether consolidation will save time and expense, and whether any party would suffer procedural prejudice. These are all procedural considerations. Notably absent are questions about whether a cause of action is legally valid, whether liability exists, or the amount of damages. The merits remain untouched.

- [19] Any prejudice from such a determination is procedural prejudice (e.g., costs, timelines, etc.), not substantive prejudice.
- [20] The case conference was adjourned to today, and the parties were permitted to file additional submissions (not evidence) and ensure the pleadings are sent to me for the case conference.
- [21] Considering the above procedural background, I make the following suggestions to counsel on civility:
 1. To use a colloquial expression, it is not appropriate to throw your junior counsel under the bus. In other words, it is not appropriate to blame your junior colleague in an effort to deflect criticism..
 2. Don't take an unreasonable position on a procedural issue, only to later consent. It is a waste of everyone's time and resources.
 3. Don't threaten to appeal a decision before the decision is even made.

Analysis

- [22] The primary issue is whether this Court should exercise its discretion under Rule 6.01(1) of the *Rules of Civil Procedure* to order that the Premiere Claim, the Oppression Claim and the TCU Claim be tried one after the other, subject to a common timetable.
- [23] Premiere has requested the court to consider an alternative question of whether the Bronson Parties' counterclaims against the TCU Parties in the context of the Premiere Claim ought to be severed off from the remainder of the Premiere Claim under Rule 6.1.01.

Positions of the Parties

- [24] TCU Defendants and Bronson Parties seek the order that the three actions be heard one after another and proceed on a common timetable.
- [25] TCU and Bronson submit that the three proceedings arise from the same project to develop and build a mixed-use apartment complex.

- [26] Primarily, Premiere opposed the request to have the actions heard one after another and proceed on a common timetable. Premiere submits it would be complicated and prejudicial for Premiere to be dragged into the three actions being heard one after another and proceeding on a common timetable. Premiere is not a shareholder of 444 Bronson Development Inc. or any TCU entity. Premiere was not a party to the Unanimous Shareholders Agreement (“USA”). Premiere’s claim does not require the Court to decide which of the TCU Defendants or Bronson Defendants breached their respective shareholder obligations or engaged in oppressive conduct, whether the TCU Defendants failed to fund project shortfalls or alternatively, are owed amounts under their own arrangements with the Bronson Defendants.
- [27] Premiere says the practical result of joining Premiere’s claim with the TCU disputes would be unfair and inefficient. Premiere would be required to participate in productions, discoveries, mediation, pre-trial steps and trial evidence directed primarily to disputes in which it has no legal stake. That approach would increase cost and delay without assisting the Court in deciding the limited issues between Premiere and the Bronson Defendants.
- [28] Premiere’s written submissions stated that there is no doubt that the TCU Claim, the Oppression Claim and the Bronson Counterclaim against the TCU Defendants in the Premiere Action should be heard together. However, the factors to be considered under Rule 6.01 demonstrate that the Premiere Action should not be heard together with the other proceedings.
- [29] Therefore, in the alternative, Premiere requested the court to consider whether the Bronson Parties’ counterclaims against the TCU Parties in the context of the Premiere Claim ought to be severed from the remainder of the Premiere Claim under Rule 6.1.01.

Tried One After the Other – Rule 6.01

- [30] Rule 6.01(1) of the *Rules of Civil Procedure* provides that the court may order that two or more proceedings be tried one after the other where two or more proceedings are pending and (a) they share a common question of fact or law, (b) the relief claimed in those proceedings arises out of the same transaction or occurrence, or (c) the Court finds any other reason justifying consolidation.
- [31] All parties agree that at least one of the gateway criteria is met.

- [32] If one or more of the criteria in 6.01(1) are met, the court must determine whether the balance of convenience favours consolidation, considering (i) the extent of the commonality between the facts and issues in the proceedings; (ii) the status or progress of each proceeding, and (iii) the convenience or inconvenience, in terms of time, money, due process and administration, of consolidating the proceedings. See *Windrift Adventures Inc. v. Ontario (Animal Case Review Board)*, 2023 ONCA 690 at paras 10-13.
- [33] The Court’s determination under Rule 6.01(1) is to be informed by section 138 of the *Courts of Justice Act*, which states: “As far as possible, multiplicity of legal proceedings shall be avoided.”
- [34] There are a number of factors that the court has considered in deciding whether to try two actions together. See *1014864 Ontario Ltd. v. 1721789 Ontario Inc.*, 2010 ONSC 3306, at para. 18:
- a. the extent to which the issues in each action are interwoven;
 - b. the extent to which the damages (or relief) sought is the same;
 - c. the extent of expected overlap in witnesses;
 - d. whether the parties are the same;
 - e. whether the lawyers are the same;
 - f. whether there is a risk of inconsistent findings or judgment if the actions are not joined;
 - g. whether a decision in one action, if kept separate and tried first, would likely put an end to the other actions or significantly narrow the issues for the other actions or significantly increase the likelihood of settlement;
 - h. the litigation status of each action;
 - i. the timing of the motion and the possibility of delay;
 - j. whether any of the parties will save costs or have their costs increased if the actions are tried together;
 - k. any advantage or prejudice the parties are likely to experience if the actions are kept separate or if they are to be tried together; and
 - l. whether the motion is brought on consent or over the objection of one or more parties.
- [35] The onus on the requesting party is to establish that a consolidation will:

- a) avoid a multiplicity of proceedings,
- b) promote expeditious and inexpensive determination of disputes, and
- c) avoid inconsistent judicial findings.

[36] The above list of factors is not exhaustive.

[37] In my view, the above-mentioned considerations are not a checklist to be tabulated with the highest score winning. Rather, it calls for the court to take a holistic view of the balance of convenience.

[38] I have reviewed the necessary pleadings for each of the proceedings.

[39] Premiere submitted that if the proceedings move forward on a common timetable, with common productions and discoveries, it would suffer the following prejudice:

- a. Premiere will receive substantial volumes of shareholder, financing and governance documents that are irrelevant to its payment claim;
- b. Premiere will be required to participate in examinations focused primarily on USA disputes and oppression allegations;
- c. mediation and pre-trial proceedings will necessarily focus on the broader disputes between the Bronson Defendants and the TCU Defendants; and
- d. Premiere's straightforward payment claim will be delayed while the parties complete procedural steps concerning issues in which Premiere has no substantive interest.

[40] I consider the factors set out in *1014864 Ontario Ltd* with the prejudice outlined by Premiere in mind.

[41] Applying the above considerations to this case:

- a. On the face of the pleadings, there is an overlap between the proceedings.
- b. The issues in each action are interwoven. All party groups are pointing the finger at each other as being responsible for some or part of the delays, deficiencies and cost overruns. These claims are interwoven, and there is no practical way to sever them.
- c. There are numerous common factual and legal issues among the parties, including the determination of the legal and contractual roles that each party assumed in relation to the Project; the nature and extent of their respective responsibilities and legal obligations; the duties owed by the parties to one another and whether any

such duties were breached; whether delays occurred during the Project and, if so, whether those delays resulted in associated cost overruns and which party bears responsibility for them; whether any aspect of the work was deficient and, if so, who is responsible for the alleged deficiencies; and whether there were cost overruns on the Project, including the causes of those overruns and the party or parties responsible for them.

- d. I agree with the TCU Defendants that fundamentally, all three proceedings relate to the same common question: who, as between the Bronson Defendants, the TCU Defendants, and/or Premiere, will be held responsible for the Project's delays, cost overruns, and construction deficiencies. To determine whether Premiere is entitled to the payment it seeks, the Court will need to decide: (i) Premiere's legal and contractual role in the Project; (ii) whether some or all of Premiere's multiple agreements with the Bronson Parties are binding and/or enforceable; (iii) whether the mortgage funds obtained by the Bronson Parties constitute trust funds under the Construction Act, and whether the Bronson Parties mismanaged those funds; (iv) whether Premiere overbilled and/or was overpaid by the Bronson Parties; and (v) whether Premiere caused delays and financial issues to the Project by virtue of negligent or deficient work. The vast majority of the above questions are squarely in issue in the TCU Claim and the Oppression Claim.
- e. The Bronson Defendants have issued counterclaims in each action on the basis that Premiere and/or the TCU Defendants negligently mismanaged their responsibilities on the Project and/or breached their respective agreements with 444 Bronson, amongst other causes of action.
- f. The parties seek damages from each other with respect to the Project's delays and financial issues. There is likely to be an overlap in the claims for damages.
- g. There is likely to be an overlap in witnesses. The key witnesses in each proceeding will be each party's owners and principals. Many of these witnesses are already named as parties to some or all of the proceedings.
- h. The parties and the lawyers are generally the same. While Premiere is not a party to the TCU Claim or Oppression Claim, it is a key fact witness.

- i. I am concerned that there is a risk of inconsistent findings on key issues including the legal and contractual roles of the parties, the duties the parties owed each other and whether those duties were breached, the consideration of delays and responsibility for any delays, and deficiencies. As an example provided by TCU, one trier of fact might find Premiere responsible for delays and deficiencies to the Project and reduce its claimed damages accordingly; another might attribute the same delays and/or deficiencies to one or some of the other parties.
- j. The source of the project's shortfalls is an issue in all proceedings and separate proceedings could lead to inconsistent findings.
- k. Each set of pleadings gives a slightly different version of events. I am concerned this would also lead to inconsistent findings.
- l. There would not be unreasonable delay. The proceedings are all at the same procedural stage. Pleadings have not closed in any of the proceedings.
- m. The parties will save costs and resources by having the actions proceed together. I appreciate that Premiere will be brought into the other proceedings. However, they would likely be giving evidence in the other proceedings. Therefore, any cost increase to it as a result of trying the proceedings together would not be extraordinary. By contrast, the cost savings to the Bronson Parties and the TCU Parties would be significant. I am mindful that having the matters proceed together may result in a lengthy trial. However, in my view, resources, time and costs will be saved instead of having three separate trials. It may also promote a global resolution. Overall, the system would benefit from saved costs and resources by the matters proceeding together.
- n. Premiere was concerned that it would receive substantial volumes of shareholder, financing and governance documents that are irrelevant to its payment claim. However, this can be addressed by organizing the productions and the affidavits of documents to ensure the productions are proportionate and organized.
- o. Similarly, Premiere's concern that it will be required to participate in examinations focused primarily on USA disputes and oppression allegations is not necessarily founded. The examinations and discoveries have been organized by counsel to ensure an efficient process.

- p. Premiere was concerned that it would have to participate in mediation and pre-trial proceedings that will focus on the broader disputes between the Bronson Defendants and the TCU Defendants. In my view, having the matters proceed together may also assist in a global resolution.
- q. With respect to delay, I do not believe a joint timetable would result in a delay.
- [42] In *Chartrand v. Feldman*, 2010 ONSC 122, the court considered competing motions seeking either the severance or consolidation of multiple proceedings arising from a construction project in Timmins, Ontario. The project involved the development of a Rona/Shoppers Drug Mart on property owned by the defendant, 1602724 Ontario Inc. The plaintiff, Chartrand Equipment, supplied certain services to the project. Other parties involved included Northern Logistics Inc., the project manager, and Gatrem Ltd., the construction supervisor.
- [43] Chartrand submitted that its action was essentially a claim for payment under a contract and was, therefore, simpler in nature than the claims involving the other parties. It argued that the remaining actions were broader in scope. After reviewing the statement of claim, the court rejected the characterization of the action as a straightforward contractual claim for money owing. In addition to asserting a contractual entitlement to payment, Chartrand advanced claims for breach of trust, unjust enrichment, and other causes of action.
- [44] Given that all of the proceedings arose from the same construction project and involved parties whose participation in the project overlapped in time, the court was more than satisfied that the requirements for an order under Rule 6.01(1) had been established.
- [45] The court emphasized the importance of avoiding multiplicity of proceedings, inconsistent findings, and unnecessary costs. The claims were found to be inextricably linked, involving common facts, legal issues, and parties. Trying the actions together would promote fairness and efficiency. The court ordered that the actions be tried together and established a timetable for pre-trial steps to ensure timely progress.
- [46] Having considered the law provided, including the criteria set out in the case law, I am of the view that they share a common question of fact or law and there are significant risks of inconsistent findings. Similarly, the relief sought in all three proceedings arises out of the common occurrences of the Project.

[47] It is appropriate for all three matters to be heard one after another and proceed on a common timetable.

Bifurcation - Rule 6.1.01

[48] I considered Premiere's alternative request as part of the request for the matters to be heard today.

[49] As I have found that it is appropriate that matters proceed one after another, it is not necessary to address the alternative request from Premiere to have Bronson Parties' counterclaims against the TCU Parties in the context of the Premiere Claim be severed from the remainder of the Premiere Claim under Rule 6.1.01. This was essentially a request for a partial bifurcation.

[50] However, if I am wrong about the matters proceeding together, I still do not agree with the alternative approach suggested by Premiere.

[51] Under Rule 6.1.01(1) of the *Rules of Civil Procedure*, the court may order a separate hearing on one or more issues in a proceeding, including separate hearings on the issues of liability and damages at a case conference under Rule 50.

[52] Rule 6.1.01(1) of the *Rules of Civil Procedure* reads as follows:

Separate Hearings

6.1.01 (1) The court may order a separate hearing on one or more issues in a proceeding, including separate hearings on the issues of liability and damages,

(a) on a party's motion, with or without the consent of the other parties; or

(b) at a conference under Rule 50, with the consent of the parties

[53] In deciding whether to exercise such discretion, the court is required to consider each of the 5 factors set out in Rule 6.1.01(2)(a) to (e).

[54] The factors under subrule (2) read as follows:

(2) In determining whether to order a separate hearing, the court shall consider,

(a) whether ordering a separate hearing will dispose of some or all of the issues, shorten or simplify the rest of the proceeding or result in a substantial saving of costs;

(b) whether the issues are clearly severable and can be heard separately without unduly repeating evidence or risking inconsistent findings of fact;

- (c) whether ordering a separate hearing would unduly prejudice or advantage a party, including the impact on any counterclaim, crossclaim or third or subsequent party claim or, in cases where a jury notice has been delivered, on a party's election to have the action heard by a jury;
- (d) the impact of ordering a separate hearing at the applicable stage in the proceeding; and
- (e) any other relevant matter.

- [55] The leading case law for the new Rule 6.1.01 includes *LaPointe v. Simcoe Muskoka Catholic District School Board*, 2024 ONSC 4040, and *Wheelans v. Kuss*, 2024 ONSC 6728.
- [56] In *Lapointe*, the court confirmed that the use of the word “will” in Rule 6.1.01(2)(a) [“a separate hearing will dispose of some or all of the issues” and “will shorten or simplify the rest of the proceeding”], as opposed to “may” or “could”, requires the moving party to decisively show a positive benefit.
- [57] Premiere seeks partial bifurcation. In my view, that would not only not shorten or simplify the rest of the proceedings, it would likely complicate and lengthen the proceeding. There would be duplicative evidence and resources spent across the proceedings.
- [58] Having considered all of the factors above, I am not satisfied that a separate hearing will dispose of some or all of the issues, shorten or simplify the rest of the proceedings, or result in a substantial saving of costs. The issues are not *clearly* severable.
- [59] I am more concerned that there would be a risk of inconsistent findings.
- [60] Accordingly, I am not prepared to order the alternative request of Premiere.
- [61] Counsel advised they can work on a common timetable. If they are unable to agree on a common timetable, counsel may arrange a special appointment before me through the Office of the Associate Judges.
- [62] If any party seeks costs and the parties are unable to agree on costs, the party seeking costs may file costs submissions of no more than 3 pages plus a costs outline and any offers to settle within 10 days of the release of this decision, and the other party may file responding costs submissions on the same terms within a further 10 days. A Reply, if any, is limited

to one page, to be filed within a further 5 days. All submissions shall be sent to my attention to the Office of the Associate Judges at MastersOfficeOttawa@ontario.ca.

Associate Justice Kamal