CITATION: RLS Wasaga Group Inc. v. The Town of Wasaga Beach, 2026 ONSC 6029
COURT FILE NO.: CV-19-00633136-0000
DATE: 2026-10-23

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SUPERIOR COURT OF JUSTICE - ONTARIO

RE: RLS WASAGA GROUP INC. v. THE CORPORATION OF THE TOWN OF WASAGA BEACH

BEFORE: ASSOCIATE JUSTICE D. MICHAEL BROWN

HEARD: October 20, 2026 [by videoconference]

COUNSEL: Michael Luzar, proposed representative for the moving party/plaintiff, appearing on his own behalf

E. Wargel, for the defendant

E N D O R S E M E N T

[1] This is a motion brought under Rule 15.01(2) by the plaintiff, RLS Wasaga Group Inc., seeking leave to be represented by its sole officer and director, Michael Luzar, who is not a lawyer. This motion is brought further to the June 8, 2026 order of Associate Justice McAfee removing Miller Thompson LLP as the plaintiff's lawyer of record and requiring the plaintiff to appoint a new lawyer or to obtain and serve on every other party an order under subrule 15.01(2) granting it leave to be represented by a person other than a lawyer within 30 days.

[2] The defendant, the Corporation of the Town of Wasaga Beach, opposes the plaintiff's motion and has served a "cross-motion" under Rule 15.04(13) seeking to dismiss the plaintiff's action for the plaintiff's failure to comply with the order of Associate Justice McAfee within 30 days of being served with the order. The defendant's cross-motion record includes an affidavit of Shelley Stuckless which was served on the plaintiff after the defendant had cross-examined Mr. Luzar on his affidavit sworn in support of the plaintiff's motion. The defendant also seeks leave under Rule 39.02(2) to rely on the Stuckless affidavit in response to the plaintiff's motion. For the reasons that follow, both the plaintiff's motion under Rule 15.01(2) and the defendant's cross-motion under Rule 15.04(13) are dismissed.

Defendant's cross-motion - Rule 15.04(13)

[3] This hearing date was originally scheduled for the hearing of a motion for a status hearing brought by the plaintiff. As a result of the order for the removal of the plaintiff's lawyer, on

September 15, 2026 the parties agreed to adjourn the motion for a status hearing *sine die*. On September 16, 2026, Mr. Luzar wrote to the court requesting that today's hearing date be used instead for the hearing of a motion by the plaintiff under Rule 15.01(2). The defendant agreed with this request. Court staff sent the following direction by email to the parties scheduling the plaintiff's motion for today:

> Associate Justice Brown has agreed to hear the plaintiff's motion for leave to be represented by a non-lawyer under Rule 15.01(2) on October 20, 2026 in place of the long motion for a status hearing on that day. The motion will be heard by Zoom video conference. Associate Justice Brown directs that the plaintiff serve and file its motion record for the Rule 15.01(2) motion by October 2, 2026. The defendant shall serve any responding motion record by October 9, 2026. Factums and other motion materials shall be served and filed in accordance with the Rules of Civil Procedure. Zoom coordinates and a Case Center link for the October 20 hearing will be provided by the court.

[4] The court's direction regarding today's hearing provided exclusively for the hearing of the plaintiff's motion. There was no request to the court relating to the hearing of a cross-motion.

[5] The Rules do not specifically provide for the bringing of a "cross-motion". A cross-motion is simply a motion brought by a responding party to the original motion that has been scheduled to be heard together with the original motion on the same date. A cross-motion must still be filed independently as a separate motion and scheduled for a hearing through the appropriate channels. That was not done in this case. The defendant merely included a copy of a notice of cross motion in its responding motion record. It did not file it as a new motion. The defendant did not consult the plaintiff about scheduling the cross-motion to be heard together with the plaintiff's motion today and took no steps to schedule the hearing of the cross-motion with the court office. As such the defendant's cross-motion is not properly before me today. I would dismiss the cross-motion for that reason alone.

[6] Even if the defendant's cross-motion was properly before me I would still dismiss it. The plaintiff's motion under Rule 15.01(2) was brought for the purpose of compliance with the Associate Justice McAfee's order for removal of the plaintiff's lawyer. Although the plaintiff's motion was served more than 30 days after the service of the removal order, this short delay in service of the motion caused no prejudice to the defendant. In fact, by scheduling the motion under Rule 15.01(2) to be heard in place of the status hearing motion on October 20, 2026, the plaintiff avoided the far more significant delay of at least 6-9 months that would have resulted had the plaintiff's motion been scheduled with the court in the normal course.

[7] In my view, the defendant's cross-motion under Rule 15.04(13), which was served after service of the plaintiff's motion, was premature in that it was brought while plaintiff's compliance with the removal order was still pending. The plaintiff cannot comply with the removal order until it has "obtained" an order of the court under Rule 15.01(2). The plaintiff's motion under Rule

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15.01(2) was scheduled for hearing on the earliest date reasonably available. I would dismiss the defendant's cross-motion on this basis as well.

[8] The defendant's cross motion under Rule 15.04(13) is dismissed. This dismissal is without prejudice to the defendant's ability to bring a new motion for dismissal in the event the plaintiff fails to comply with my order below that the plaintiff appoint a lawyer of record by December 31, 2026.

Rule 39.02(2) – Stuckless affidavit

[9] Rule 39.02(2) provides:

> 39.02 (2) A party who has cross-examined on an affidavit delivered by an adverse party shall not subsequently deliver an affidavit for use at the hearing or conduct an examination under rule 39.03 without leave or consent, and the court shall grant leave, on such terms as are just, where it is satisfied that the party ought to be permitted to respond to any matter raised on the cross-examination with evidence in the form of an affidavit or a transcript of an examination conducted under rule 39.03.

[10] The defendant cross-examined Mr. Luzar on his affidavit on October 2, 2026. The defendant served the affidavit of Shelley Stuckless on October 6, 2026. Per Rule 39.02(2), the defendant requires consent of the plaintiff or leave of the court to rely on the Stuckless affidavit on this motion.

[11] Shelley Stuckless is a law clerk with the defendant's law firm. The Stuckless affidavit is three pages long and pertains entirely to recent procedural steps taken in this action. The affidavit attaches court materials and correspondence exchanged between counsel for the parties in relation to an April 2025 motion by the defendants to strike requests to admit served by the plaintiff and in relation to the June 2026 motion by plaintiff's counsel for removal as lawyer of record. All of the attached documents are documents that were sent or received by the plaintiff or its lawyers in the course of the litigation.

[12] Although the Stuckless affidavit does not respond directly to issues raised in the cross-examination of Mr. Luzar, its admission on this motion does not prejudice the plaintiff. The court materials attached to the affidavit are not controversial. Mr. Luzar stated in his oral submissions that he was instructing the plaintiff's lawyers throughout this proceeding and he is aware of the materials. He submits that he has no objection to the defendant's reliance on the April 2025 motion record for the motion to strike the requests to admit. Leave is granted to the defendant for the use of, and reliance on, the Stuckless affidavit in the hearing of the plaintiff's motion under Rule 15.01(2).

Plaintiff's motion - Rule 15.01(2)

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[13] The Rules require that a corporation be represented by a lawyer. Leave will be granted for a non-lawyer to represent a corporation only in exceptional circumstances. As the Court of Appeal explained in *GlycoBioSciences Inc. (Glyco) v. Industria Farmaceutica Andromaco, S.A., de C.V. (Andromaco)*, 2024 ONCA 481:

> [6] In other words, the default position is that corporations must be represented in legal proceedings by a lawyer. The court may permit otherwise, but the granting of leave is exceptional. Leave is discretionary but cannot be granted in a manner that normalizes what the rule otherwise prohibits.
>
> [7] The rationale for the rule requiring representation by a lawyer is plain. A non-lawyer who is closely tied to the corporation granted leave under r. 15.01(2) is akin to a self-represented party, but the separate legal personhood of the corporation means, in effect, that the non-lawyer is providing legal services to another person, contrary to s. 26.1(1) of the Law Society Act, R.S.O. 1990, c. L.8. Moreover, non-lawyers are not bound by the Rules of Professional Conduct, nor are they subject to the personal financial consequences associated with cost orders that self-represented litigants face: *Leisure Farm Construction Limited v. Dalew Farms Inc. et.al.*, 2021 ONSC 105 at paras. 12-15. Permitting a non-lawyer to act also risks creating an undue burden on the respondents and the court. These considerations must be balanced with any concerns that may arise about access to justice, as discussed below.

[14] In *Extend-A-Call Inc. v. Granovski*, 2009 CanLII 33047 (ON SC), Justice Boswell set out the following non-exhaustive list of factors to be considered by the court when addressing a motion under Rule 15.01(2) [at para. 19]:

> 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;

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> (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.

[15] The corporation's financial ability to retain a lawyer is a significant factor as it raises access to justice issues. As Justice Boswell notes in *Extend-A-Call* a corporation's inability to afford a lawyer weighs heavily in favour of granting the motion. Conversely, if the court is not satisfied that the corporation lacks the financial means to retain a lawyer that weighs against granting the motion: *Tarza Construction Services Corp. o/a TCS Co. v. Mamdeen et al*, 2025 ONSC 536 (CanLII) at para 6; *Leblanc v. The Personal Insurance Co. et al.*, 2022 ONSC 5130 (CanLII) at paras 8-9

[16] A moving corporation claiming it lacks the financial ability to retain a lawyer must demonstrate this through banking records or other financial documentation. Bald statements of corporation's inability to pay a lawyer are insufficient: *Leblanc*, at para. 9; *Tarza*, at para 6.

Plaintiff's motion - Analysis

[17] Mr. Luzar is the sole officer, director and shareholder of the plaintiff, RLS Wasaga Group Inc. He has been authorized to represent the company by corporate resolution signed by him as the sole director. I agree with Mr. Luzar's submission that he is the "alter ego" of this closely held corporation. While this factor weighs in favour of granting the motion, it is not determinative.

[18] I am not satisfied that the plaintiff lacks the financial ability to retain a new lawyer. The only evidence led by the plaintiff on its finances is a bald statement in Mr. Luzar's affidavit that "RLS has not been able to retain replacement counsel because of its present financial circumstances and the cost of continuing this long-running litigation." The affidavit provides no further details of the "present financial circumstances" and attaches no financial documents.

[19] Mr. Luzar's affidavit is contradicted by his evidence on cross-examination. Mr. Luzar testified that he paid Miller Thompson's legal bills on the plaintiff's behalf throughout the retainer "through other finances that are under my control." There is no evidence that those other finances are no longer available to pay the legal fees of the plaintiff. Mr. Luzar's evidence on cross-examination is he has a personal net worth that "approaches $10 million".

[20] The evidence before me supports a finding that Mr. Luzar has the financial resources to continue funding the plaintiff's legal representation in this action. It is not unreasonable for him to continue to do so. As sole shareholder, officer and director of the corporation he will also be the primary beneficiary of any judgment or settlement in the plaintiff's favour. In my view, this factor weighs heavily against granting leave to the plaintiff to be represented by a non-lawyer.

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[21] Mr. Luzar's past conduct in this litigation raises concerns about his adherence to, and respect for, the *Rules of Civil Procedure* and the court's process. Contrary to Rule 15.01(2), Mr. Luzar commenced this action on the plaintiff's behalf without a lawyer in 2019. The defendant pointed out this deficiency in its Statement of Defence and Counterclaim served in February 2020. Notwithstanding having notice of the issue, Mr. Luzar did not retain a lawyer for the plaintiff and took no further steps to advance the litigation until April 2023, a delay of more than three years.

[22] Mr. Luzar's failure to comply with the Rules continued after the retainer of Miller Thompson LLP as his lawyers. Between April 10, 2025 and April 25, 2025, Mr. Luzar served twenty different individuals with Requests to Admit under the court file no. of this action. Although Miller Thompson was the lawyer of record at the time, the firm was not referenced in the Requests. Instead, the Requests directed the recipients to provide their responses to Mr. Luzar directly. It appears the Requests to Admit were served without Miller Thompson's knowledge.

[23] None of the Requests to Admit were served on the defendant itself - rather they were served on officers, employees and former employees of the defendant, as well as members of the public, none of whom were parties to the action. Not only were the Requests to Admit improperly served on non-parties to the action, most of the admissions sought bear no relation to the matters at issue in the action.

[24] Some of the Requests to Admit appear to have been intended solely to embarrass or harass employees of the defendant. For example, many of the Requests to Admit sought admissions from current or former defendant employees regarding their employment elsewhere, termination from previous positions, their salaries and their hiring process. The requests made to one of the defendant's employees concerned subjects such as his father's withdrawal or resignation from the practice of law after a Law Society investigation, his sister's legal practice, and his alleged childhood friendship with the mayor. The mayor for the defendant town was asked to admit that his daughter worked as a cleaning lady. In my view, many of the Requests to Admit were vexatious and an abuse of the court's process.

[25] Shortly after these Requests to Admit were served, the defendant brought a motion to strike these requests for being improper and frivolous, vexatious, and an abuse of court process, which was served on Miller Thompson as the lawyers for the plaintiff at that time. The plaintiff agreed to strike all of the Requests to Admit on consent, with costs payable to the defendant.

[26] Mr. Luzar was contrite in his oral submissions before me and acknowledged that sending the Requests to Admit was a mistake. He said it would not happen again. However, this is a case where actions speak louder than words. Mr. Luzar has demonstrated that he is prepared to use the court's process for improper or vexatious purposes even while the plaintiff was represented by a lawyer. This raises significant concerns regarding his potential conduct if he were to represent the plaintiff on his own without the assistance and guidance of a lawyer. In short, although Mr. Luzar is clearly capable of understanding the Rules of Civil Procedure and the plaintiff's obligations thereunder, given his past conduct, I am not persuaded that he will abide by those Rules and

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obligations if given the opportunity to represent the plaintiff. This is a relevant factor that also weighs heavily against the granting of leave.

Plaintiff's motion - disposition

[27] Given that the plainitff has the financial resources to retain a lawyer and given Mr. Luzar's past failure to respect and abide by the *Rules of Civil Procedure* and the court's process, I am exercising my discretion to refuse leave to the plaintiff to be represented by Mr. Luzar. The plaintiff's motion under Rule 15.01(2) is dismissed.

[28] As the plaintiff's motion is dismissed, the plaintiff will need to retain a lawyer to continue with this action. The deadline for appointing a lawyer of record pursuant to the June 8, 2026 removal order of Associate Justice McAfee has passed. In his oral submissions, Mr. Luzar stated that his assets were not liquid and that 30 days would be insufficient time to retain a lawyer for the plaintiff in the event the motion was dismissed. The plaintiff shall have until December 31, 2026 to appoint a new lawyer of record by serving a notice under subrule 15.03(2). If the plaintiff fails to appoint a new lawyer of record by December 31, 2026, the defendant may bring a motion to dismiss the plaintiff's action under subrule 15.04(17)(a).

Costs

[29] In costs submissions at the conclusion of the hearing, the defendant sought costs of the plaintiff's motion if dismissed on a partial indemnity scale in the amount of $6,197.77, based on its Bill of Costs, filed. Mr. Luzar submitted that he had no objection to paying this amount in costs if unsuccessful on the motion. The plaintiff shall pay to the defendant partial indemnity costs of the plaintiff's motion under Rule 15.01(2) fixed at $6,197.77 and payable within 30 days.

Status hearing

[30] The plaintiff's long motion for a status hearing, which was originally scheduled to be heard before me on October 20, 2026, was adjourned *sine die* pending the resolution of the plaintiff's legal representation. At the hearing on October 20, 2026, Mr. Luzar and counsel for the defendant advised that they were available for the status hearing motion on March 10, 2027. The plaintiff's long motion for a status hearing will therefore be heard before me on March 10, 2027 for a 3-hour virtual hearing, provided that the plaintiff appoints a new lawyer in accordance with this endorsement. Once the plaintiff's new lawyer has been appointed, the parties may request a case conference before me to set a timetable for the exchange of any remaining materials on the motion and to canvass alternative dates for the motion in the event that the plaintiff's new lawyer has a conflict with March 10, 2027.

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D. Michael Brown, Associate Judge

DATE: October 23, 2026

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