

COURT OF APPEAL FOR ONTARIO

CITATION: Tewari v. Hillyer, 2024 ONCA 705

DATE: 20240923

DOCKET: M55225 (COA-24-CV-0513)

Miller, Trotter and Copeland JJ.A.

BETWEEN

Gaurav Tewari

Plaintiff
(Appellant/Responding Party)

and

Michael Hillyer*, Wal-Mart, Inc.*, Wal-Mart Canada, Inc.*,
Tyson Foods, Inc.*, Tyson Foods Canada, Inc.*, Michael Clowers*,
Dawna Helin*, James Dawson Enterprises, Robert [Bill] Roskoskey,
CV-Tek, Inc., Multi-Sorb Technologies Inc. and
Mitsubishi Gas Chemical America, Inc.

Defendants (Respondents/
Moving Parties*)

Ian Breneman and Johann Annisette, for the respondents/moving parties

Gaurav Tewari, acting in person

Brendon Wong, for the respondent Multi-Sorb Technologies Inc.¹

Heard and released orally: September 20, 2024

REASONS FOR DECISION

¹ Mr. Wong appeared but made no written or oral submissions on behalf of Multi-Sorb Technologies Inc.

[1] The respondents move to quash the appeal on the basis that the order appealed from is interlocutory and the proper appeal route is to the Divisional Court, with leave, under s. 19(1)(b) of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 (the “CJA”).

[2] The order appealed from dismissed the appellant’s motion under rule 39.03 to compel the attendance for examination of two witnesses on a motion seeking to dismiss the appellant’s claim on jurisdictional grounds.

[3] The order appealed from is interlocutory. It does not finally dispose of any rights of the parties at issue in the litigation: *2602203 Ontario Inc. v. Bjian Design Inc.*, 2023 ONCA 81, at para. 16. As an interlocutory order, the proper appeal route is with leave to the Divisional Court: *CJA*, s. 19(1)(b). This court does not have jurisdiction to hear this appeal.

[4] The appellant asked that if the court quashed the appeal, we transfer it to the Divisional Court, pursuant to s. 110 of the *CJA*. An appeal to the Divisional Court would require an extension of time and leave to appeal. Those matters are better left to the Divisional Court to decide.

[5] The motion is granted and the appeal quashed. The appellant shall pay costs of the motion to the moving parties in the amount of \$5,000, all inclusive.

“B.W. Miller J.A.”
“Gary Trotter J.A.”
“J. Copeland J.A.”